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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): December 14, 2022

FORTUNE BRANDS INNOVATIONS, INC.
(Exact name of Registrant as Specified in Its Charter)

Delaware	**1-35166**	**62-1411546**
(State or Other Jurisdiction of Incorporation)	**(Commission File Number)**	**(IRS Employer Identification No.)**
520 Lake Cook Road **Deerfield, Illinois**		**60015-5611**
(Address of Principal Executive Offices)		**(Zip Code)**

Registrant's Telephone Number, Including Area Code: 847 484-4400

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Common Stock, par value $0.01 per share	FBIN	New York Stock Exchange

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§ 230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§ 240.12b-2 of this chapter).

Emerging growth company ☐

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

Item 1.01. Entry into a Material Definitive Agreement.

On December 14, 2022 (the "Distribution Date"), Fortune Brands Home & Security, Inc., now known as Fortune Brands Innovations, Inc., (the "Company") completed the previously announced legal and structural separation of MasterBrand, Inc. ("MasterBrand"), and the distribution of all of the outstanding shares of common stock, par value of $0.01 per share of MasterBrand, to the Company's stockholders (the "Distribution"). Each Company stockholder received one share of MasterBrand common stock for every one share of Company common stock held by such stockholder at 5:00 p.m. Central Time, on December 2, 2022.

On December 14, 2022, in connection with the Distribution, the Company entered into several agreements with MasterBrand setting forth the principal actions taken or to be taken in connection with the Distribution and governing the relationship of the parties following the Distribution, including the following:

- a Separation and Distribution Agreement;
- a Transition Services Agreement;
- a Tax Allocation Agreement; and
- an Employee Matters Agreement.

Summaries of the material terms and conditions of each of those agreements can be found in the section entitled "Certain Relationships and Related Party Transactions – Agreements with Fortune Brands" in MasterBrand's information statement, dated December 1, 2022 (the "Information Statement"), which was included as Exhibit 99.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 1, 2022, and which summaries are incorporated herein by reference. The summaries of those agreements do not purport to be complete and are qualified in their entirety by reference to the full text of the Separation and Distribution Agreement, Transition Services Agreement, Tax Allocation Agreement and Employee Matters Agreement, respectively, which are attached as Exhibits 2.1, 10.1, 10.2 and 10.3, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

Item 2.01. Completion of Acquisition or Disposition of Assets.

On the Distribution Date, the Company effected the Distribution and completed the separation of MasterBrand from the Company. As a result of the Distribution, MasterBrand became an independent, publicly-traded company, and the Company retained no ownership interest in MasterBrand. The Distribution was made without the payment of any consideration from, or the exchange of any shares by, the Company's stockholders. The information set forth under Item 1.01 above is incorporated into this Item 2.01 by reference.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

In connection with the Distribution, on December 14, 2022, R. David Banyard, Jr. assumed the role of Chief Executive Officer of MasterBrand and resigned from his role as an executive officer of the Company in order to assume his new role.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Changes in Fiscal Year

Name Change

On December 13, 2022, the Company filed with the Secretary of State of the State of Delaware an amendment to its Restated Certificate of Incorporation (the "Charter Amendment") to change its corporate name from "Fortune Brands Home & Security, Inc." to "Fortune Brands Innovations, Inc.," effective as of 12:01 a.m. Eastern Time on December 15, 2022 (the "Company Name Change"). Additionally, the board of directors of the Company amended the Amended and Restated Bylaws (the "Bylaws Amendment") to reflect the Company Name Change, effective as of 12:01 a.m. Eastern Time on December 15, 2022. The foregoing description of the Charter Amendment is not complete and is subject to, and qualified in its entirety by, the complete text of the Charter Amendment which is filed as Exhibit 3.1 to this Current Report on Form 8-K and incorporated by reference in this Item 5.03. The foregoing description of the Bylaws Amendment is not complete and is subject to, and qualified in its entirety by, the complete text of the Amended and Restated Bylaws, a conformed copy of which is filed as Exhibit 3.2 to this Current Report on Form 8-K and incorporated by reference in this Item 5.03.

New NYSE Ticker Symbol

Effective at the open of business on December 15, 2022, the Company's shares of common stock, par value $0.01 per share, began trading on the New York Stock Exchange under the new ticker symbol "FBIN".

Item 7.01. Regulation FD Disclosure.

On December 15, 2022, the Company issued a press release announcing the completion of the Distribution. The press release is filed as Exhibit No. 99.1 to this Current Report on Form 8-K and is incorporated herein by reference under this Item 7.01.

The information furnished pursuant to this Item 7.01, including Exhibit 99.1, shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 (the "Exchange Act") or otherwise subject to the liabilities under that section and shall not be deemed to be incorporated by reference into any filing of the Company under the Securities Act of 1933 or the Exchange Act, except as shall be expressly set forth in such a filing.

Item 9.01. Financial Statements and Exhibits.

(b) Pro forma financial information

The Company's unaudited pro forma condensed consolidated statements of operations for the nine months ended September 30, 2022 and for each of the years ended December 31, 2021, 2020 and 2019, the Company's unaudited pro forma condensed consolidated balance sheet as of September 30, 2022 and accompanying notes, is filed as Exhibit 99.2 hereto and is incorporated herein by reference.

(d) Exhibits

Exhibit No.	Description
2.1	Separation and Distribution Agreement, dated December 14, 2022, between Fortune Brands Home & Security, Inc. and MasterBrand, Inc.*
3.1	Certificate of Amendment to the Restated Certificate of Incorporation of Fortune Brands Home & Security, Inc.
3.2	Amended and Restated Bylaws of Fortune Brands Innovations, Inc. (Conformed Copy)
10.1	Transition Services Agreement, dated December 14, 2022, between Fortune Brands Home & Security, Inc. and MasterBrand, Inc.*
10.2	Tax Allocation Agreement, dated December 14, 2022, between Fortune Brands Home & Security, Inc. and MasterBrand, Inc.*
10.3	Employee Matters Agreement, dated December 14, 2022, between Fortune Brands Home & Security, Inc. and MasterBrand, Inc.*
99.1	Press Release dated December 15, 2022, issued by Fortune Brands Innovations, Inc.
99.2	Unaudited pro forma condensed consolidated financial information
104	The cover page from this Current Report on Form 8-K, formatted as Inline XBRL

* Certain schedules and exhibits to this Exhibit have been omitted in accordance with Item 601 of Regulation S-K.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

FORTUNE BRANDS INNOVATIONS, INC.

Date: December 15, 2022

By: /s/ Hiranda S. Donoghue
Name: Hiranda S. Donoghue
Title: Senior Vice President, General Counsel and Secretary

Exhibit 2.1

EXECUTION VERSION

SEPARATION AND DISTRIBUTION AGREEMENT

by and between

FORTUNE BRANDS HOME & SECURITY, INC.

and

MASTERBRAND, INC.

Dated as of December 14, 2022

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EXHIBITS

Exhibit A	Form of Cabinets Amended and Restated Bylaws
Exhibit B	Form of Cabinets Restated Certificate of Incorporation
Exhibit C	Form of Employee Matters Agreement
Exhibit D	Form of Tax Allocation Agreement
Exhibit E	Form of Transition Services Agreement

SCHEDULES

SEPARATION AND DISTRIBUTION AGREEMENT

This SEPARATION AND DISTRIBUTION AGREEMENT is made as of December 14, 2022 by and between Fortune Brands Home & Security, Inc., a Delaware corporation ("**Fortune Brands**") and MasterBrand, Inc., a Delaware corporation ("**Cabinets**"), and, as of the date hereof, a wholly-owned subsidiary of Fortune Brands.

WHEREAS, Fortune Brands, through the Cabinets Subsidiaries, is engaged in the Cabinets Business;

WHEREAS, the board of directors of Fortune Brands (the "**Fortune Brands Board**") has determined that it would be advisable and in the best interests of Fortune Brands and its stockholders for Fortune Brands to sell to Cabinets the Purchased Cabinets Assets;

WHEREAS, the Fortune Brands Board has determined that it would be advisable and in the best interests of Fortune Brands and its stockholders for Fortune Brands to distribute on a *pro rata* basis to the holders of shares of Fortune Brands' common stock, par value $0.01 per share ("**Fortune Brands Shares**"), without any consideration being paid by the holders of such Fortune Brands Shares, all of the outstanding shares of Cabinets' common stock, having a par value of $0.01 per share at the time of such distribution ("**Cabinets Shares**"), owned by Fortune Brands as of the Distribution Date (as hereinafter defined);

WHEREAS, it is the intention of the parties hereto that the Distribution (as defined herein) qualifies as a distribution described in Sections 355 of the Internal Revenue Code of 1986 (the "**Code**");

WHEREAS, it is the intention of the parties hereto that the Distribution qualify as tax-free to Fortune Brands under Section 355(c) of the Code and that, except for cash received in lieu of fractional Cabinets Shares (if any), the Distribution qualify as tax-free to Fortune Brands stockholders under Section 355(a) of the Code; and

WHEREAS, it is appropriate and desirable to set forth the principal transactions required to effect the Distribution and certain other agreements that will govern the relationship of Fortune Brands and Cabinets following the Distribution.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereto hereby agree as follows:

ARTICLE I
DEFINITIONS

SECTION 1.1 Definitions. As used in this Agreement, the following terms shall have the meanings set forth in this Section 1.1:

"**Access Period**" has the meaning set forth in Section 11.1(a).

"**Action**" means any action, claim, demand, suit, petition, arbitration, inquiry, subpoena, discovery request, proceeding or investigation by or before any arbitral body or any court, grand jury or other Governmental Authority or any arbitration or mediation tribunal or authority.

"**Affiliate**" means, with respect to any Person, any other Person that, at the time of determination, directly or indirectly Controls, is Controlled by or is under common Control with such Person. After the Distribution, Cabinets and Fortune Brands shall not be deemed to be under common Control for purposes hereof due solely to the fact that Cabinets and Fortune Brands have common stockholders.

"**Agent**" means Equiniti Trust Company, the distribution agent appointed by Fortune Brands to distribute Cabinets Shares pursuant to the Distribution.

"**Aggregate Proceeds**" has the meaning set forth in Section 3.2(a).

"**Agreement**" means this Separation and Distribution Agreement, as the same may be amended from time to time in accordance with its terms.

"**Arbitration Request**" has the meaning set forth in Section 12.3(a).

"**Assets**" shall mean, with respect to any Person, the assets, properties, claims and rights (including goodwill) of such Person, wherever located (including in the possession of vendors or other Third Parties or elsewhere), of every kind, character and description, whether real, personal or mixed, tangible, intangible or contingent, in each case whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of such Person, including rights and benefits pursuant to any contract, license, permit, indenture, note, bond, mortgage, agreement, concession, franchise, instrument, undertaking, commitment, understanding or other arrangement.

"**Cabinets**" has the meaning set forth in the first paragraph of this Agreement.

"**Cabinets Amended and Restated Bylaws**" means the amended and restated bylaws of Cabinets, the form of which is attached hereto as Exhibit A.

"**Cabinets Balance Sheet**" means the balance sheet of Cabinets as of September 25, 2022 included in the Information Statement.

"**Cabinets Board**" means the board of directors of Cabinets.

"**Cabinets Business**" means the business of manufacturing and selling kitchen and bathroom cabinets and vanities, as described more fully in the Form 10 Registration Statement. For the sake of clarity, Cabinets Business also includes any other business conducted by any Cabinets Party as of or prior to the date of this Agreement.

"**Cabinets Financial Instruments**" means all credit facilities, guaranties, foreign currency forward exchange Contracts, letters of credit and similar instruments primarily related to the Cabinets Business (determined in good faith by Parties based on the relative benefit of such instrument to the Cabinets Business and the Fortune Brands Business) under which any Fortune Brands Party has any primary, secondary, contingent, joint, several or other Liability, including those set forth on Schedule 1.1(a).

"**Cabinets Indemnified Parties**" has the meaning set forth in Section 10.3.

"**Cabinets Insured Party**" means any Cabinets Party that is a named insured, additional named insured or insured under any Shared Policy.

"**Cabinets Liabilities**" means, without duplication, (a) all Liabilities of the Cabinets Parties to the extent based upon or arising out of the Cabinets Business or the Purchased Cabinets Assets, (b) all Liabilities of the Fortune Brands Parties to the extent based upon or arising out of the Cabinets Business or the Purchased Cabinets Assets, (c) all Liabilities based upon or arising out of the Cabinets Financial Instruments and (d) all outstanding Liabilities included on the Cabinets Balance Sheet or in the notes thereto and all other Liabilities that are of a nature or type that would have resulted in such Liabilities being included as Liabilities on a consolidated balance sheet of Cabinets, or the notes thereto, as of the Effective Time (were such balance sheet and notes to be prepared) on a basis consistent with the determination of the nature and type of Liabilities included on the Cabinets Balance Sheet; it being understood that to the extent the amount of any Liability included on the Cabinets Balance Sheet or the notes thereto was an estimate thereof, the actual amount of such Liability (rather than the estimated amount) shall be deemed to be a Cabinets Liability for purposes of clause (d). Notwithstanding the foregoing (i) the allocation of Liabilities relating to Taxes shall be governed by the Tax Allocation Agreement and (ii) the allocation of Liabilities relating to the employment, employee benefits and employee compensation matters expressly covered by the Employee Matters Agreement shall be governed by the Employee Matters Agreement.

"**Cabinets LTIP**" shall have the meaning set forth in the Employee Matters Agreement.

"**Cabinets Parties**" means Cabinets, the Cabinets Subsidiaries, and any other Subsidiary of Cabinets (including those formed or acquired after the date hereof).

"**Cabinets Restated Certificate of Incorporation**" means the amended and restated certificate of incorporation of Cabinets, the form of which is attached hereto as Exhibit B.

"**Cabinets Shares**" has the meaning set forth in the Recitals.

"**Cabinets Subsidiaries**" means, collectively, Cabinets and each Subsidiary of Cabinets.

"**Canadian Cabinets Parties**" means each Subsidiary of Cabinets that is incorporated in Canada.

"**CEO Negotiation Request**" has the meaning set forth in Section 12.2.

"**Claims Administration**" means the processing of claims made under Policies, including the reporting of claims to the insurance carrier, management and defense of claims and providing for appropriate releases upon settlement of claims.

"**Claims Made Policies**" has the meaning set forth in Section 8.1(b).

"**Code**" has the meaning set forth in the Recitals.

"**Confidential Information**" means any of the following:

(a) any information that is competitively sensitive material to any Fortune Brands Party or Cabinets Party and not generally known to the public, including product planning information, marketing strategies, plans, consumer or customer relationships, consumer or customer profiles, sales estimates, business plans and internal performance results relating to the past, present or future business activities of any Fortune Brands Party or Cabinets Party or the consumers, customers, clients or suppliers of any of the foregoing;

(b) any scientific or technical information, design, process, procedure, formula or improvement that is commercially valuable and secret in the sense that its confidentiality affords any Fortune Brands Party or Cabinets Party a competitive advantage over its competitors; or

(c) any confidential or proprietary concepts, ideas, know-how, concepts, methods, processes, formulae, documentation, reports, data, specifications, computer software, source code, object code, flow charts, databases, inventions, trade secrets or other proprietary information, whether or not patentable or copyrightable.

Confidential Information includes all documents, inventions, substances, engineering and laboratory notebooks, drawings, diagrams, computer programs and data, specifications, bills of material, equipment, prototypes and models and any other tangible manifestation (including data in computer or other digital format) of the foregoing.

"**Contract**" means any written or oral contract, agreement, lease, license, sublicense, assignment, indemnity or other commitment, assurance, undertaking or arrangement that is binding on any Person or entity or any part of its property under applicable law, including any amendment thereto, invoice, purchase order, bid and quotation.

"**Control**" means, as to any Person, the direct or indirect power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by Contract or otherwise; and the terms "**Controlled by**" and "**under common Control**" have correlative meanings.

"**Conveyancing Instruments**" has the meaning set forth in Section 3.9.

"**Deferred Asset**" has the meaning set forth in Section 3.3(b)(ii).

"**Deferred Asset or Liability**" has the meaning set forth in Section 3.3(b)(ii).

"**Deferred Liability**" has the meaning set forth in Section 3.3(b)(ii).

"**Dispute**" has the meaning set forth in Section 12.1.

"**Distribution**" has the meaning set forth in Section 4.3.

"**Distribution Date**" means the date determined by the Fortune Brands Board in accordance with Section 4.1 as the date as of which the Distribution will be effected.

"**Effective Time**" has the meaning set forth in Section 4.3.

"**Employee Contract**" means any Contract between a Party and a current or former employee of any Party.

"**Employee Matters Agreement**" means the Employee Matters Agreement to be entered into between Fortune Brands and Cabinets, the form of which is attached hereto as Exhibit C.

"**Exchange Act**" means the Securities Exchange Act of 1934.

"**Expenses**" means any and all expenses incurred in connection with investigating, defending or asserting any claim, action, suit or proceeding incident to any matter indemnified against hereunder (including court filing fees, court costs, arbitration fees or costs, witness fees and reasonable fees and disbursements of legal counsel, investigators, expert witnesses, consultants, accountants and other professionals).

"**FIFO Basis**" means, with respect to the payment of Unrelated Claims pursuant to the same Shared Policy, the payment in full of each successful claim (regardless of whether a Fortune Brands Insured Party or a Cabinets Insured Party is the claimant) in the order in which such successful claim is approved by the insurance carrier, until the limit of the applicable Shared Policy is met.

"**Financing Arrangements**" has the meaning set forth in Section 3.2(a).

"**Form 10 Registration Statement**" means the registration statement on Form 10 filed by Cabinets with the SEC to effect the registration of the Cabinets Shares under the Exchange Act (including all amendments or supplements thereto, in each case filed with the SEC prior to the Distribution Date).

"**Form S-8 Registration Statement**" means the registration statement on Form S-8, as amended and supplemented, including all documents incorporated by reference, to effect the registration under the Securities Act of Cabinets Shares subject to stock-based awards granted to current officers, employees, directors and consultants of the Cabinets Parties pursuant to the Employee Matters Agreement.

"**Former Business**" means any corporation, partnership, entity, division, business unit or business within the definition of Rule 11-01(d) of Regulation S-X (in each case, including any assets and liabilities comprising the same) that has been sold, conveyed, assigned, transferred or otherwise disposed of or divested (in whole or in part) or the operations, activities or production of which has been discontinued, abandoned, completed or otherwise terminated (in whole or in part).

"**Fortune Brands**" has the meaning set forth in the first paragraph of this Agreement.

"**Fortune Brands Board**" has the meaning set forth in the Recitals.

"**Fortune Brands Business**" means all businesses and operations of the Fortune Brands Parties, other than the Cabinets Business, including any Former Businesses owned, in whole or in part, or operated, in whole or in part, by any of the Fortune Brands Parties, but excluding any Former Businesses owned, in whole or in part, or operated, in whole or in part, by any of the Cabinets Parties.

"**Fortune Brands Financial Instruments**" means all credit facilities, guaranties, foreign currency forward exchange Contracts, letters of credit and similar instruments that are not primarily related to the Cabinets Business (determined in good faith by Parties based on the relative benefit of such instrument to the Cabinets Business and the Fortune Brands Business) under which any Cabinets Party has any primary, secondary, contingent, joint, several or other Liability, including those set forth on Schedule 1.1(b).

"**Fortune Brands Indemnified Parties**" has the meaning set forth in Section 10.2.

"**Fortune Brands Insured Party**" means any Fortune Brands Party that is a named insured, additional named insured or insured under any Shared Policy.

"**Fortune Brands Liabilities**" means, without duplication, (a) all Liabilities of the Fortune Brands Parties to the extent based upon or arising out of the Fortune Brands Business, (b) all Liabilities of the Cabinets Parties to the extent based upon or arising out of the Fortune Brands Business and (c) all Liabilities based upon or arising out of the Fortune Brands Financial Instruments. Notwithstanding the foregoing (i) the Fortune Brands Liabilities shall not include any Cabinets Liabilities, (ii) the allocation of Liabilities relating to Taxes shall be governed by the Tax Allocation Agreement and (iii) the allocation of Liabilities relating to the employment, employee benefits and employee compensation matters expressly covered by the Employee Matters Agreement shall be governed by the Employee Matters Agreement.

"**Fortune Brands Parties**" means Fortune Brands and its Subsidiaries (including those formed or acquired after the date hereof), other than the Cabinets Parties.

"**Fortune Brands Shares**" has the meaning set forth in the Recitals.

"**Governmental Approvals and Consents**" means any notices, reports or other filings to be made with or to, or any consents, registrations, approvals, permits, clearances or authorizations to be obtained from, any Governmental Authority.

"**Governmental Authority**" means any U.S. federal, state or local, or any supra-national or non-U.S. government, political subdivision, governmental, regulatory or administrative authority, instrumentality, agency body or commission, self-regulatory organization or any court, tribunal or judicial or arbitral body.

"**Indemnified Party**" has the meaning set forth in Section 10.5(a).

"**Indemnifying Party**" has the meaning set forth in Section 10.5(a).

"**Indemnity Reduction Amounts**" has the meaning set forth in Section 10.5(a).

"**Information**" has the meaning set forth in Section 11.1(a).

"**Information Statement**" means the information statement included in the Form 10 Registration Statement, which information statement (or notice of internet availability thereof) is to be sent by Fortune Brands to its stockholders in connection with the Distribution (as the same may be amended or supplemented prior to the Distribution Date).

"**Intercompany Agreements**" means any Contract, other than this Agreement, any agreement or amendment thereto contemplated by Section 6.1 and the Transaction Agreements, between one or more of the Fortune Brands Parties, on the one hand, and one or more of the Cabinets Parties, on the other hand, entered into prior to the Distribution. For the avoidance of doubt, no Contract to which any Third Party is a party (including for the avoidance of doubt, any Shared Contract) shall be deemed an Intercompany Agreement.

"**JAMS Streamlined Rules**" has the meaning set forth in Section 12.3(a).

"**Liabilities**" means any and all claims, debts, demands, actions, causes of action, suits, damages, fines, penalties, obligations, prohibitions, accruals, accounts payable, reckonings, bonds, indemnities and similar obligations, agreements, promises, guarantees, make-whole agreements and similar obligations, and other liabilities and requirements, including all contractual obligations, whether absolute or contingent, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown, whenever arising, and including those arising under any law, Action, threatened or contemplated Action or any award of any arbitrator or mediator of any kind, and those arising under any Contract, including those arising under this Agreement or any Transaction Agreement, in each case, whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of any Person.

"**Losses**" means any and all losses, costs, obligations, liabilities, settlement payments, awards, judgments, fines, penalties, damages, deficiencies or other charges.

"**LTIP Shares**" has the meaning set forth in Section 2.1(c).

"**Marks**" has the meaning set forth in Section 6.7(a).

"**MBCI**" has the meaning set forth in Section 3.1(b).

"**MBC LLC**" has the meaning set forth in Section 3.1(c).

"**Mexican Cabinets Parties**" means each Subsidiary of Cabinets that is incorporated in Mexico.

"**NYSE**" means the New York Stock Exchange.

"**Occurrence Basis Policies**" has the meaning set forth in Section 8.1(b).

"**Officer Negotiation Request**" has the meaning set forth in Section 12.1.

"**Out-of-Pocket Expenses**" means expenses involving a payment to a Third Party (other than an employee of the party making the payment).

"**Party**" means a Fortune Brands Party or a Cabinets Party, as applicable.

"**Person**" means any individual, corporation, partnership, joint venture, limited liability company, entity, association, joint-stock company, trust, unincorporated organization or Governmental Authority.

"**Policies**" means all insurance policies, insurance Contracts and claim administration Contracts of any kind of the Fortune Brands Parties and their predecessors which were or are in effect at any time at or prior to the Effective Time (other than insurance policies, insurance Contracts and claim administration Contracts established in contemplation of the Distribution to cover only the Cabinets Parties after the Effective Time), including primary, excess and umbrella, commercial general liability, fiduciary liability, product liability, automobile, aircraft, property and casualty, business interruption, directors and officers liability, employment practices liability, workers' compensation, crime, errors and omissions, special accident, cargo and employee dishonesty insurance policies and captive insurance company arrangements, together with all rights, benefits and privileges thereunder, but excluding any policy offered pursuant to any "Fortune Brands Welfare Plan" (as such term is defined in the Employee Matters Agreement), and any other insurance policy funding an employee benefit plan.

"**Prime Rate**" means the rate that JPMorgan Chase Bank, N.A. (or any successor thereto or other major money center commercial bank agreed to by the parties hereto) announces from time to time as its prime lending rate, as in effect from time to time.

"**Privilege**" has the meaning set forth in Section 11.8(a).

"**Privileged Information**" has the meaning set forth in Section 11.8(a).

"**Purchased Cabinets Assets**" means, collectively, the assets set forth on Schedule 1.1(c).

"**Record Date**" means 5:00 p.m. Central Time on the date determined by the Fortune Brands Board as the record date for the Distribution.

"**Related Claims**" means a claim or claims against a Shared Policy made by one or more Cabinets Insured Parties, on the one hand, and one or more Fortune Brands Insured Parties, on the other hand, filed in connection with Losses suffered by either a Cabinets Insured Party or a Fortune Brands Insured Party, as the case may be, arising out of the same underlying transaction or series of transactions or event or series of events that have also given rise to Losses suffered by a Fortune Brands Insured Party or a Cabinets Insured Party, as the case may be, which Losses are the subject of a claim or claims by such Fortune Brands Insured Party or Cabinets Insured Party, as the case may be, against a Shared Policy.

"**Representatives**" means, with respect to any Person, any of such Person's directors, officers, employees, agents, consultants, advisors, accountants, attorneys and representatives.

"**SEC**" means the United States Securities and Exchange Commission.

"**Securities Act**" means the Securities Act of 1933.

"**Security Interest**" shall mean any mortgage, security interest, pledge, lien, charge, claim, option, right to acquire, voting or other restriction, right-of-way, covenant, condition, easement, encroachment, restriction on transfer, or other encumbrance of any nature whatsoever.

"**Shared Contract**" has the meaning set forth in Section 6.1(a).

"**Shared Policies**" has the meaning set forth in Section 8.1(b).

"**Sidley**" means Sidley Austin LLP.

"**Specified Transaction Agreement**" has the meaning set forth in Section 1.2(b)(ix).

"**Subsidiary**" means, when used with reference to any Person, any corporation or other organization whether incorporated or unincorporated of which at least a majority of the securities or interests having by the terms thereof ordinary voting power to elect at least a majority of the board of directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or Controlled by such Person; provided, however, that no corporation or other organization that is not directly or indirectly wholly-owned by any other Person shall be a Subsidiary of such other Person unless such other Person Controls, or has the right, power or ability to Control, that Person. After the Distribution, Fortune Brands and Cabinets shall not be deemed to be under common Control for purposes hereof due solely to the fact that Fortune Brands and Cabinets have common stockholders.

"**Tax**" and "**Taxes**" shall have the meaning set forth in the Tax Allocation Agreement.

"**Tax Allocation Agreement**" means the Tax Allocation Agreement to be entered into between Fortune Brands and Cabinets, the form of which is attached hereto as Exhibit D.

"**Third Party**" means a Person that is not an Affiliate of any party hereto.

"**Third-Party Claim**" has the meaning set forth in Section 10.6(a).

"**Third-Party Consents**" means any consent, approval or authorization to be obtained from any Person that is not a Governmental Authority.

"**Transaction Agreements**" means the Conveyancing Instruments, the Employee Matters Agreement, the Tax Allocation Agreement and the Transition Services Agreement.

"**Transition Services Agreement**" means the Transition Services Agreement to be entered into between Fortune Brands and Cabinets, the form of which is attached hereto as Exhibit E.

"**Unrelated Claim**" means any claim against a Shared Policy that is not a Related Claim.

SECTION 1.2 Interpretation.

(a) For purposes of this Agreement:

(i) the words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation;”

(ii) the word “or” is not exclusive;

(iii) the words “herein,” “hereunder,” “hereof,” “hereby,” “hereto” and words of similar import shall be deemed to be references to this Agreement as a whole and not to any particular Section or other provision hereof; and

(iv) relative to the determination of any period of time, “from” means “from and including,” “to” means “to but excluding” and “through” means “through and including.”

(b) In this Agreement, unless the context clearly indicates otherwise:

(i) words used in the singular include the plural and words used in the plural include the singular;

(ii) reference to any Person includes such Person’s successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(iii) reference to any Person’s “Affiliates” shall be deemed to mean such Person’s Affiliates following the Distribution;

(iv) reference to any gender includes the other gender;

(v) reference to any Article, Section, Exhibit or Schedule means such Article or Section of, or such Exhibit or Schedule to, this Agreement, as the case may be;

(vi) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;

(vii) reference to any law (including statutes and ordinances) means such law (including all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;

(viii) accounting terms used herein shall have the meanings ascribed to them by Fortune Brands and its Subsidiaries, including Cabinets, in its and their internal accounting and financial policies and procedures in effect immediately prior to the date of this Agreement;

(ix) if there is any conflict between the provisions of this Agreement and a Transaction Agreement that is not a Conveyancing Instrument (a “**Specified Transaction Agreement**”), the provisions of such Specified Transaction Agreement shall control unless explicitly stated otherwise therein;

(x) if there is any conflict between the provisions of this Agreement or any Specified Transaction Agreement and a Conveyancing Instrument, the provisions of this Agreement or such Specified Transaction Agreement, as applicable, shall control unless explicitly stated otherwise therein;

(xi) any portion of this Agreement obligating a party to take any action or refrain from taking any action, as the case may be, shall mean that such party shall also be obligated to cause its relevant Subsidiaries to take such action or refrain from taking such action, as the case may be; and

(xii) unless otherwise specified in this Agreement, all references to dollar amounts herein shall be in respect of lawful currency of the United States.

(c) The titles to Articles and headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement, and this Agreement and the Transaction Agreements shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

(d) The Exhibits and Schedules shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

ARTICLE II
ACTIONS PRIOR TO THE SEPARATION AND DISTRIBUTION

In order to effect the transactions contemplated by Article III and Article IV, the Fortune Brands Parties and the Cabinets Parties shall have taken or shall take the following actions prior to the Distribution:

SECTION 2.1 SEC and Other Securities Filings.

(a) Cabinets and Fortune Brands shall use their respective commercially reasonable efforts to cause (i) the Form 10 Registration Statement to become effective as soon as reasonably practicable and (ii) the Form S-8 Registration Statement to become effect on the Distribution Date. As soon as practicable after the Form 10 Registration Statement becomes effective, Fortune Brands shall mail the Information Statement (or notice of internet availability thereof) to the holders of record of Fortune Brands Shares.

(b) Fortune Brands and Cabinets shall take all such action as may be necessary or appropriate under state and foreign securities or “blue sky” laws in connection with the transactions contemplated by this Agreement.

(c) Fortune Brands and Cabinets have obtained approval for the listing on the NYSE, subject to official notice of issuance, of the Cabinets Shares, including the shares of Cabinets common stock, par value $0.01 per share, that are subject to issuance under the Cabinets LTIP (such shares subject to issuance under the Cabinets LTIP, the “**LTIP Shares**”).

(d) Fortune Brands has given the NYSE notice of the Record Date in compliance with Rule 10b-17 under the Exchange Act.

(e) Fortune Brands and Cabinets shall cooperate in preparing, filing with the SEC and causing to become effective any other registration statements or amendments or supplements thereto that are necessary or appropriate in order to effect the transactions contemplated hereby, or to reflect the establishment of, or amendments to, any employee benefit plans contemplated hereby or the Employee Matters Agreement.

SECTION 2.2 Governmental Approvals and Consents; Third-Party Consents. Prior to the Distribution, Fortune Brands and Cabinets will use their respective commercially reasonable efforts to obtain all Governmental Approvals and Consents and all Third-Party Consents that are required or appropriate in connection with the transactions contemplated by this Agreement.

SECTION 2.3 Additional Approvals. Fortune Brands shall cooperate with Cabinets in effecting, and if so requested by Cabinets, Fortune Brands shall, as the sole stockholder of Cabinets prior to the Distribution, ratify any actions that are reasonably necessary or desirable to be taken by Cabinets to effectuate the transactions contemplated by this Agreement in a manner consistent with the terms hereof.

SECTION 2.4 The Agent. Fortune Brands shall enter into a distribution agent agreement with the Agent or otherwise provide instructions to the Agent regarding the Distribution, such that the Agent, in its capacity as Fortune Brands' distribution agent and Cabinets' transfer agent, will distribute the Cabinets Shares in the manner described in Article IV.

SECTION 2.5 Governance Matters.

(a) Cabinets Charter and Bylaws. Prior to the Distribution, the Cabinets Board shall have approved and adopted the Cabinets Restated Certificate of Incorporation and the Cabinets Amended and Restated Bylaws, and Fortune Brands, as sole stockholder of Cabinets, shall have approved and adopted the Cabinets Restated Certificate of Incorporation.

(b) Cabinets Board. The Cabinets Board shall be reconstituted so that it consists of the persons set forth on Schedule 2.5(b) or, in the event of the death or inability or unwillingness of any of such persons to serve on the Cabinets Board, such other persons as shall be designated by the Fortune Brands Board. Each member of the reconstituted Cabinets Board shall, at the time of appointment to the Cabinets Board, be (i) designated as a Class I, Class II or Class III director and (ii) assigned to one or more committees of the Cabinets Board.

ARTICLE III
BUSINESS SEPARATION

SECTION 3.1 Additional Actions Prior to Distribution Date. Fortune Brands and Cabinets shall have taken the following actions in the following order prior to the Distribution Date:

(a) Incorporation of Cabinets. On July 27, 2022, Fortune Brands incorporated Cabinets as a Delaware corporation.

(b) Contribution of MasterBrand Cabinets. On July 27, 2022, Fortune Brands contributed to Cabinets all of Fortune Brands's right, title and interest in and to all of the issued and outstanding shares of capital stock of MasterBrand Cabinets, Inc. ("MBCI").

(c) Conversion of MasterBrand Cabinets. On July 27, 2022, MBCI converted to a limited liability company upon the filing of a certificate of conversion and a certificate of formation with the Secretary of State of the State of Delaware ("MBC LLC").

(d) Settlement of Canadian Intercompany Cash Management Loan Balances and Repatriation of Foreign Cash. All intercompany cash management loan balances between the Fortune Brands Parties, on one hand, and the Canadian Cabinets Parties, on the other hand, were settled as described on Schedule 3.1(d). MBC LLC repatriated a portion of the cash and cash equivalents of the Canadian Cabinets Party.

(e) Settlement of Mexican Intercompany Loan Balances. All intercompany loan balances between the Fortune Brands Parties, on one hand, and the Mexican Cabinets Parties, on the other hand, were settled as described on Schedule 3.1(e).

(f) United States Receivable Distributions. Certain receivables of certain Cabinets Parties were distributed, as set forth on Schedule 3.1(f).

(g) Purchase of Assets and Assumptions of Liabilities. Subject to Section 3.3(b), the Parties consummated the transactions contemplated by Section 3.3(a).

SECTION 3.2 Additional Actions on the Distribution Date But Prior to the Distribution. On the Distribution Date, Fortune Brands and Cabinets shall have taken the following actions in the following order prior to the Distribution:

(a) Borrowing. Cabinets shall borrow $955,000,000 (Nine Hundred Fifty Five Million dollars) in principal amount from one or more third party lenders (the "**Aggregate Proceeds**") pursuant to that certain Credit Agreement among Cabinets, as borrower, JPMorgan Chase Bank, N.A., as administrative agent, and the other parties named therein, dated November 18, 2022 (the "**Financing Arrangements**"). Cabinets shall direct that all or a portion of the Aggregate Proceeds be paid directly to Fortune Brands in accordance with Section 3.2(b).

(b) Distributions. Cabinets shall make the distributions set forth on Schedule 3.2(b) to Fortune Brands.

(c) Net Settlement of Intercompany Accounts. The Parties shall consummate the transactions contemplated by Section 3.4.

(d) Subdivision of Cabinets Common Stock to Accomplish the Distribution. Effective upon the effective time set forth in the Cabinets Restated Certificate of Incorporation filed with the Secretary of State of the State of Delaware, each Cabinets Share then issued and outstanding shall, in accordance with an Exchange Agreement and without any action on the part of the holder thereof, be converted and exchanged into new fully paid and non-assessable Cabinets Shares equal to the number necessary to effect the Distribution and having the rights and privileges set forth in the Cabinets Restated Certificate of Incorporation.

(e) Distribution. The Parties shall consummate the transactions contemplated by Section 4.3.

SECTION 3.3 Purchases of Assets and Assumptions of Liabilities.

(a) Purchases Prior to Effective Time. Subject to Section 3.3(b), the Parties shall execute such purchase agreements and instruments of assignment or transfer, and take such other corporate actions as are necessary to sell, transfer and convey to one or more Cabinets Parties all of the right, title and interest of the Fortune Brands Parties in, to and under all Purchased Cabinets Assets not already owned by a Cabinets Party in exchange for fair market value consideration payable in cash or cash equivalents, and to cause one or more Cabinets Parties to assume all of the Cabinets Liabilities to the extent such Liabilities would otherwise remain obligations of any Fortune Brands Party. Notwithstanding anything to the contrary, neither Party shall be required to transfer any information except as required by Section 3.8 or Article XI.

(b) Deferred Transfers and Assumptions.

(i) Nothing in this Agreement or in any Transaction Agreement shall be deemed to require the transfer of any Assets or the assumption of any Liabilities that by their terms or by operation of law cannot be transferred or assumed.

(ii) To the extent that any transfer of Assets or assumption of Liabilities contemplated by this Agreement or any Transaction Agreement is not consummated prior to the Effective Time as a result of an absence or non-satisfaction of any required Third-Party Consent, Governmental Approval and Consents or other condition (such Assets or Liabilities, a "**Deferred Asset**" or a "**Deferred Liability**," as applicable, and, collectively, a "**Deferred Asset or Liability**"), the Parties shall use commercially reasonable efforts to effect such transfers or assumptions as promptly following the Effective Time as practicable. If and when the Third-Party Consents, Governmental Approvals or other conditions, the absence or non-satisfaction of which gave rise to a Deferred Asset or Liability, are obtained or satisfied, the transfer or assumption of such Deferred Asset or Liability shall be effected in accordance with and subject to the terms of this Agreement or the applicable Transaction Agreement.

(iii) From and after the Effective Time until such time as a Deferred Asset or Liability is transferred or assumed, as applicable, (A) the Fortune Brands Party retaining such Deferred Asset shall thereafter hold such Deferred Asset for the use and benefit of the Cabinets Party entitled thereto (at the sole expense of the Cabinets Party entitled thereto) and (B) the Cabinets Party intended to assume such Deferred Liability shall pay or reimburse the Fortune Brands Party retaining such Deferred Liability for all amounts paid or incurred in connection with the retention of such Deferred Liability; it being agreed that the Fortune Brands Party retaining such Deferred Asset or Liability shall not be obligated, in connection with the foregoing clause (i) and clause (ii), to expend any money unless, at the choice of the Fortune Brands Party retaining such Deferred Asset or Liability, the necessary funds are advanced or agreed in writing to be reimbursed by the Cabinets Party entitled to such Deferred Asset or intended to assume such Deferred Liability, provided that, if the Fortune Brands Party retaining such Deferred Asset or Liability is requested by a third party to expend money with respect to such Deferred Asset or Liability, such Fortune Brands Party shall notify as promptly as practicable the Cabinets Party

intended to assume such Deferred Asset or Deferred Liability. The Fortune Brands Party retaining such Deferred Asset or Liability shall use its commercially reasonable efforts to notify in writing the Cabinets Party entitled to or intended to assume, as applicable, such Deferred Asset or Liability of the need for such expenditure and provide additional supporting details on such expenditure as reasonably requested by the Cabinets Party entitled to or intended to assume, as applicable, such Deferred Asset or Liability. In addition, the Fortune Brands Party retaining such Deferred Asset or Liability shall, insofar as reasonably practicable and to the extent permitted by applicable law, (x) treat such Deferred Asset or Liability in the ordinary course of business consistent with past practice, (y) promptly take such other actions as may be requested by the Cabinets Party entitled to such Deferred Asset or by the Cabinets Party intended to assume such Deferred Liability, at the expense of such Cabinets Party entitled to such Deferred Asset or by the Cabinets Party intended to assume such Deferred Liability, in order to place such Cabinets Party in the same position as if the Deferred Asset or Liability had been transferred or assumed, as applicable, as contemplated hereby, and so that all the benefits and burdens relating to such Deferred Asset or Liability, including possession, use, risk of loss, potential for gain, and control over such Deferred Asset or Liability, are to inure from and after the Effective Time to such Cabinets Party entitled to such Deferred Asset or intended to assume such Deferred Liability, and (z) hold itself out to third parties as agent or nominee on behalf of the Cabinets Party entitled to such Deferred Asset or intended to assume such Deferred Liability.

(iv) In furtherance of the foregoing, the Parties agree that, as of the Effective Time, each Cabinets Party shall be deemed to have acquired beneficial ownership of all of the Assets, together with all rights and privileges incident thereto, and shall be deemed to have assumed all of the Liabilities, and all duties, obligations and responsibilities incident thereto, that such Cabinets Party is entitled to acquire or intended to assume pursuant to the terms of this Agreement or the applicable Transaction Agreement.

(v) The Parties agree to treat, for all tax purposes, any Asset or Liability that is not transferred or assumed prior to the Effective Time and which is subject to the provisions of this Section 3.3(b), as (A) owned by the Cabinets Party to which such Asset was intended to be transferred or by the Cabinets Party which was intended to assume such Liability, as the case may be, from and after the Effective Time, (B) having not been owned by the Fortune Brands Party retaining such Asset or Liability, as the case may be, at any time from and after the Effective Time, and (C) having been held by the Fortune Brands Party retaining such Asset or Liability, as the case may be, only as agent or nominee on behalf of such Cabinets Party from and after the Effective Time until the date such Asset or Liability, as the case may be, is transferred to or assumed by such Cabinets Party. The Parties shall not take any position inconsistent with the foregoing unless otherwise required by applicable law (in which case, the Parties shall provide indemnification for any Taxes attributable to the Asset or Liability during the period beginning at the Effective Time and ending on the date of the actual transfer).

(c) Waiver of “Bulk-Sale” Compliance. The Cabinets Parties hereby waive compliance with the requirements and provisions of any “bulk-sale” or “bulk-transfer” laws of any jurisdiction that may otherwise be applicable with respect to the transfer or sale of any or all of the Purchased Cabinets Assets to any Cabinets Party.

SECTION 3.4 Intercompany Accounts. Except as contemplated by Section 3.1(d), Section 3.1(e) and Section 3.1(f), effective at the times set forth in Schedule 3.4, all intercompany cash management loan balances between the Fortune Brands Parties, on one hand, and the Cabinets Parties, on the other hand, shall be settled as described on Schedule 3.4.

SECTION 3.5 Termination of Existing Intercompany Agreements. Except as otherwise provided or contemplated by this Agreement, the Transaction Agreements or as set forth on Schedule 3.5, all Intercompany Agreements and all other intercompany arrangements and course of dealings, whether or not in writing and whether or not binding, in effect immediately prior to the Distribution shall be terminated and be of no further force and effect from and after the Effective Time; provided, however, that, for the avoidance of doubt, this Section 3.5 shall not terminate or affect this Agreement or any Transaction Agreement. If any Intercompany Agreement, intercompany arrangement or course of dealings is terminated pursuant to this Section 3.5 and, but for the mistake or oversight of either party hereto, would have been listed on Schedule 3.5, then, at the request of Fortune Brands or Cabinets made within 12 months following the Distribution Date, the relevant Parties shall consider in good faith after the Distribution to determine whether, notwithstanding such termination, such Intercompany Agreement, intercompany arrangement or course of dealings should continue following the Effective Time and, if the Parties agree that such Intercompany Agreement, intercompany arrangement or course of dealing should continue, the terms and conditions upon which the Parties may continue with respect thereto.

SECTION 3.6 Financial Instruments.

(a) Cabinets will, at its expense, use commercially reasonable efforts to take or cause to be taken such actions, and enter into (or cause the other Cabinets Parties to enter into) such agreements and arrangements, as shall be necessary to effect the release of and substitution for any Fortune Brands Party, not later than the Effective Time, from all primary, secondary, contingent, joint, several and other Liabilities in respect of Cabinets Financial Instruments to the extent related to the Cabinets Parties or the Cabinets Business (it being understood that all such Liabilities in respect of Cabinets Financial Instruments are Cabinets Liabilities), including the removal of any Security Interest on or in any asset owned by, or any equity of, any Fortune Brands Party that may serve as collateral or security for any such Cabinets Financial Instruments.

(b) Fortune Brands will, at its expense, use commercially reasonable efforts to take or cause to be taken such actions, and enter into (or cause the other Fortune Brands Parties to enter into) such agreements and arrangements, as shall be necessary to effect the release of and substitution for any Cabinets Party, not later than the Effective Time, from all primary, secondary, contingent, joint, several and other Liabilities in respect of Fortune Brands Financial Instruments to the extent not related to the Cabinets Parties or the Cabinets Business (it being understood that all such Liabilities in respect of Fortune Brands Financial Instruments are Fortune Brands Liabilities), including the removal of any Security Interest on or in any asset owned by, or any equity of, any Cabinets Party that may serve as collateral or security for any such Fortune Brands Financial Instruments.

(c) The parties' obligations under this Section 3.6 will continue to be applicable to all Cabinets Financial Instruments and Fortune Brands Financial Instruments identified at any time by Fortune Brands or Cabinets, whether before, at or after the Effective Time.

SECTION 3.7 Resignations; Transfer of Stock Held as Nominee.

(a) Fortune Brands will cause all of its employees and directors and all of the employees and directors of each other Fortune Brands Party to resign, effective not later than the Effective Time, from all boards of directors or similar governing bodies of Cabinets or any other Cabinets Party on which they serve, and from all positions as officers of Cabinets or any other Cabinets Party in which they serve. Cabinets will cause all of its employees and directors and all of the employees and directors of each other Cabinets Party to resign, effective not later than the Effective Time, from all boards of directors or similar governing bodies of Fortune Brands or any other Fortune Brands Party on which they serve, and from all positions as officers of Fortune Brands or any other Fortune Brands Party in which they serve. Notwithstanding the foregoing, the persons set forth on Schedule 3.7(a) shall not resign from any boards of directors or similar governing bodies of any Cabinets Party or any Fortune Brands Party.

(b) Fortune Brands will cause each of its employees, and each of the employees of each other Fortune Brands Party, who holds stock or similar evidence of ownership of any Cabinets Party as nominee for the parent of such Cabinets Party pursuant to the laws of the country in which such Cabinets Party is organized to transfer such stock or similar evidence of ownership to the Person so designated by Cabinets to be such nominee as of and after the Effective Time. Cabinets will cause each of its employees, and each of the employees of each other Cabinets Party, who holds stock or similar evidence of ownership of any Fortune Brands Party as nominee for such Fortune Brands Party pursuant to the laws of the country in which such Fortune Brands Party is organized to transfer such stock or similar evidence of ownership to the Person so designated by Fortune Brands to be such nominee as of and after the Effective Time.

(c) Fortune Brands will cause each of its employees and each of the employees of each other Fortune Brands Party to revoke or withdraw their express written authority, if any, to act on behalf of any Cabinets Party as an agent or representative therefor after the Effective Time. Cabinets will cause each of its employees and each of the employees of each other Cabinets Party to revoke or withdraw their express written authority, if any, to act on behalf of any Fortune Brands Party as an agent or representative therefor after the Effective Time. All authority (other than express written authority) of any employee of any Fortune Brands Party to act on behalf of any Cabinets Party, or of any employee of any Cabinets Party to act on behalf of any Fortune Brands Party, shall automatically be revoked and withdrawn as of immediately prior to the Effective Time with no further act on the part of any of the Fortune Brands Parties or Cabinets Parties.

SECTION 3.8 Provision of Corporate Records. Without limitation of the parties' rights and obligations pursuant to Article XI, prior to or as promptly as reasonably practicable after the Distribution:

(a) Fortune Brands shall deliver to Cabinets all corporate books and records of the Cabinets Parties and, upon request, copies of all corporate books and records of the Fortune Brands Parties to the extent relating to the Cabinets Business in the possession or control of any Fortune Brands Party, including in each case all active agreements, litigation files and government filings.

(b) Cabinets shall deliver to Fortune Brands all corporate books and records of the Fortune Brands Parties and, upon request, copies of all corporate books and records of the Cabinets Parties to the extent relating to the Fortune Brands Business in the possession or control of any Cabinets Party, including in each case all active agreements, litigation files and government filings.

SECTION 3.9 Delivery of Instruments of Conveyance. In order to effectuate the transactions contemplated by Article II and the foregoing provisions of this Article III, Fortune Brands and Cabinets shall execute and deliver, or cause to be executed and delivered, prior to or as of the Effective Time, such deeds, bills of sale, instruments of assumption, instruments of assignment, stock powers, certificates of title and other instruments of assignment, transfer, contribution, assumption, license and conveyance (collectively, the "**Conveyancing Instruments**") as Fortune Brands and Cabinets shall reasonably deem necessary or appropriate to effect such transactions.

SECTION 3.10 Bank Accounts; Cash Balances.

(a) The Parties shall use commercially reasonable efforts such that, on or prior to the Effective Time, the Fortune Brands Parties and the Cabinets Parties maintain separate bank accounts and separate cash management processes. Without limiting the generality of the foregoing, the Parties shall use commercially reasonable efforts to, (i) remove and replace the signatories of any bank or brokerage account owned by any Cabinet Party as of the Effective Time with individuals designated by Cabinets and (ii) if requested by Fortune Brands, remove and replace the signatories of any bank or brokerage account owned by any Fortune Brands Party as of the Effective Time with individuals designated by Fortune Brands.

(b) With respect to any outstanding checks issued or payments initiated by Fortune Brands, Cabinets, or any of their respective Subsidiaries prior to the Effective Time, such outstanding checks and payments shall be honored following the Distribution by the Party owning the account from which the payment was initiated, and such Party owning such account shall not have any claim with respect to such check.

(c) As between Fortune Brands and Cabinets all payments received after the Effective Time by either Party that relate to a business, Asset or Liability of the other Party shall be held by such Party for the use and benefit and at the expense of the Party entitled thereto. Each Party shall maintain an accounting of any such payments, and the Parties shall have a monthly reconciliation, whereby all such payments received by each Party are calculated and the net amount owed to Fortune Brands or Cabinets, as applicable, shall be paid over with a mutual right of set-off. If at any time the net amount owed to either Party exceeds $500,000, an interim payment of such net amount owed shall be made to the Party entitled thereto within five (5) Business Days of such amount exceeding $500,000. Notwithstanding the foregoing, neither Fortune Brands nor Cabinets shall act as collection agent for the other Party, nor shall either Party act as surety or endorser with respect to non-sufficient funds checks or funds to be returned in a bankruptcy or fraudulent conveyance action.

SECTION 3.11 Certain Matters Governed Exclusively by Transaction Agreements. Each of the Parties agrees that, except as explicitly provided in this Agreement or in any Transaction Agreement:

(a) The Tax Allocation Agreement shall exclusively govern all matters relating to Taxes between such parties, except to the extent (x) that tax matters relating to employee, other service provider and compensation and employee benefits-related matters are addressed in the Employee Matters Agreement or (y) otherwise expressly provided in the Tax Allocation Agreement.

(b) The Employee Matters Agreement shall exclusively govern the allocation of Assets and Liabilities related to employees, other service providers and employee compensation and benefits matters with respect to employees, service providers and former employees and service providers of members of both the Fortune Brands Parties and the Cabinets Parties, except to the extent (x) that compensation and benefits-related reimbursements are addressed in the Transition Services Agreement or (y) otherwise expressly provided in the Employee Matters Agreement (it being understood that any such Assets and Liabilities, as allocated pursuant to the Employee Matters Agreement, shall constitute Purchased Cabinets Assets, Cabinets Liabilities or Fortune Brands Liabilities, as applicable, for the purposes of Article X).

(c) The Transition Services Agreement shall exclusively govern all matters relating to the provision of certain services identified therein to be provided by each Party to the other on a transitional basis following the Distribution, except to the extent otherwise expressly provided in the Transition Services Agreement.

ARTICLE IV
THE DISTRIBUTION

SECTION 4.1 Record Date and Distribution Date. Subject to the terms and conditions of this Agreement, the Fortune Brands Board shall, in its sole and absolute discretion, establish the Record Date and the Distribution Date and any necessary or appropriate procedures in connection with the Distribution.

SECTION 4.2 Delivery of Cabinets Shares. Subject to the terms and conditions of this Agreement, Fortune Brands shall take such steps as are necessary or appropriate to permit the Cabinets Shares to be distributed in the manner described in this Article IV.

SECTION 4.3 The Distribution. Subject to the satisfaction or waiver of the conditions set forth in Section 7.1 and at the sole and absolute discretion of Fortune Brands, on the Distribution Date (but immediately following the consummation of the actions set forth in Section 3.2(d)), Fortune Brands shall cause the Agent to distribute to each holder of record of Fortune Brands Shares as of the Record Date (or, if such holder has sold its Fortune Brands Shares in the regular way market on or prior to the Distribution Date, to the transferee of such Fortune Brands Shares) by means of a *pro rata* dividend of one Cabinets Share for each Fortune Brands Share held of record by such holder (or such transferee) as of the Record Date (the "**Distribution**"); provided, however, that any fractional Cabinets Shares shall be treated as provided in Section 4.5. The Distribution shall be effective at 5:00 p.m., Central Time, on the Distribution Date (the "**Effective Time**").

SECTION 4.4 Delivery of Cabinets Shares. Each Cabinets Share distributed pursuant to Section 4.3 shall be validly issued, fully paid and nonassessable and free of preemptive rights. The Cabinets Shares distributed shall be distributed as uncertificated shares registered in book-entry form through the direct registration system. No certificates therefor shall be distributed. Fortune Brands shall cause the Agent to deliver an account statement to each holder of record of Cabinets Shares reflecting such holder's ownership interest in Cabinets Shares.

SECTION 4.5 Fractional Shares. No fractional Cabinets Shares will be distributed in the Distribution. Fortune Brands will direct the Agent to determine the number of whole Cabinets Shares and fractional Cabinets Shares allocable to each holder of record of Fortune Brands Shares as of the Record Date. Upon the determination by the Agent of such number of fractional Cabinets Shares, as soon as practicable after the Distribution Date, the Agent, acting on behalf of the holders thereof, shall aggregate all of such fractional shares (if any) and sell the whole shares obtained thereby for cash on the open market and shall thereafter promptly disburse to each such holder entitled thereto its ratable portion of the resulting cash proceeds, after making appropriate deductions of the amounts required to be withheld for United States federal income tax purposes, if any, and after deducting an amount equal to all brokerage fees and other costs attributed to the sale of fractional Cabinets Shares pursuant to this Section 4.5.

SECTION 4.6 Distribution at Fortune Brands' Discretion. The consummation of the transactions provided for in this Article IV shall only be effected after the Distribution has been declared by the Fortune Brands Board and after all of the conditions set forth in Section 7.1 have been satisfied or waived. Notwithstanding the foregoing, at any time prior to the Distribution, Fortune Brands, in its sole and absolute discretion, may determine not to consummate the Distribution.

ARTICLE V
NO REPRESENTATIONS AND WARRANTIES

SECTION 5.1 No Representations or Warranties. EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN ANY OTHER TRANSACTION AGREEMENT, NO FORTUNE BRANDS PARTY OR CABINETS PARTY MAKES ANY REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, TO ANY CABINETS PARTY OR FORTUNE BRANDS PARTY, AS APPLICABLE, OR ANY OTHER PERSON WITH RESPECT TO ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY, OR THE BUSINESS, ASSETS, CONDITION OR PROSPECTS (FINANCIAL OR OTHERWISE) OF, OR ANY OTHER MATTER INVOLVING, EITHER THE FORTUNE BRANDS BUSINESS OR THE CABINETS BUSINESS, OR THE SUFFICIENCY OF ANY ASSETS SOLD TO THE APPLICABLE PARTY, OR THE TITLE TO ANY SUCH ASSETS, OR THAT ANY REQUIREMENTS OF APPLICABLE LAW ARE COMPLIED WITH RESPECT TO THE DISTRIBUTION AND THE TRANSACTIONS CONTEMPLATED HEREBY. EACH OF THE FORTUNE BRANDS PARTIES AND THE CABINETS PARTIES SHALL TAKE ALL OF THE BUSINESS, ASSETS AND LIABILITIES TRANSFERRED TO OR ASSUMED BY IT PURSUANT TO THIS AGREEMENT OR ANY TRANSACTION

AGREEMENT ON AN "AS IS, WHERE IS" BASIS, AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A SPECIFIC PURPOSE OR OTHERWISE ARE HEREBY EXPRESSLY DISCLAIMED.

ARTICLE VI
CERTAIN COVENANTS

SECTION 6.1 Shared Contracts.

(a) Any Contract that relates to both the Fortune Brands Business and the Cabinets Business (each such Contract, a "**Shared Contract**") shall be handled as contemplated by Section 6.1(d) unless Fortune Brands determines, in its sole discretion, that it is desirable to partially assign such Shared Contract as contemplated by Section 6.1(b) or to amend such Shared Contract as contemplated by Section 6.1(c), or unless treatment of such Shared Contract is expressly covered by the Employee Matters Agreement or the Transition Services Agreement.

(b) If any Shared Contract can be partially assigned by its terms and Fortune Brands determines, in its sole discretion, that it is so desirable with respect to such Shared Contract, Fortune Brands shall assign such Shared Contract in part to Cabinets, or another Cabinets Party designated by Cabinets, so that the Cabinets Parties will be entitled to the benefits and rights relating to the Cabinets Business and will assume their related portion of any Liabilities under such Shared Contract. If any such partial assignment requires the consent or approval of any Third Party or any other required action, the partial assignment of such Shared Contract shall be effected in accordance with the terms of this Agreement, if and when such consent or approval is obtained or such other required action has been taken. Cabinets shall pay to Fortune Brands fair market consideration payable in cash in exchange for the partial assignment of such Shared Contract.

(c) If Fortune Brands determines, in its sole discretion, that it is so desirable with respect to any Shared Contract, from the Distribution Date to the two-year anniversary from the Distribution Date, Fortune Brands and Cabinets shall, and shall cause the applicable Fortune Brands Parties and Cabinets Parties to, cooperate and use commercially reasonable efforts, to (x) enter into an arrangement with the counterparty to such Shared Contract to amend such Shared Contract so as to delete all obligations therefrom (i) to the extent that such obligations relate to the Fortune Brands Business, and enter into a new Contract with the applicable counterparty which solely relates to the Fortune Brands Business, on substantially equivalent terms and conditions as are then in effect under such Shared Contract, or (ii) to the extent that such obligations relate to the Cabinets Business, and enter into a new Contract with the applicable counterparty which solely relates to the Cabinets Business, on substantially equivalent terms and conditions as are then in effect under such Shared Contract and (y) Cabinets shall pay to Fortune Brands fair market consideration payable in cash in exchange for the amendment of such Shared Contract.

(d) With respect to each Shared Contract that is not partially assigned or amended as contemplated by Section 6.1(b) or Section 6.1(c), from the Distribution Date to the two-year anniversary from the Distribution Date, Fortune Brands and Cabinets shall, and shall cause the applicable Fortune Brands Parties and Cabinets Parties to, cooperate in any lawful and reasonable arrangement, to the extent so permitted under the terms of such Shared Contract and applicable law:

(i) to provide the applicable Fortune Brands Party the benefits and obligations of any such Shared Contract with respect to the Fortune Brands Business, including subcontracting, licensing, sublicensing, leasing or subleasing to the Fortune Brands Party any or all of the rights and obligations with respect to such Shared Contract with respect to the Fortune Brands Business. In any such arrangement, the Fortune Brands Parties will, with respect to that portion of the Shared Contract relating to the Fortune Brands Business, (A) bear the sole responsibility for completion of the work or provision of goods and services, (B) bear all Taxes with respect thereto or arising therefrom, (C) be solely entitled to all benefits thereof, economic or otherwise, including the receipt of all goods and services thereunder, (D) be solely responsible for any amounts due thereunder, any warranty or breach thereof, any repurchase, indemnity and service obligations thereunder and any damages related to termination of such Shared Contract, (E) promptly reimburse the reasonable out-of-pocket costs and expenses of Cabinets and the applicable Cabinets Party related to such activities, (F) be entitled to continue to receive any correspondence or invoices delivered with respect to such Shared Contract and (G) be entitled to receive copies of all correspondence and invoices delivered to or by any Cabinets Party with respect to such Shared Contract; and

(ii) to provide the applicable Cabinets Party the benefits and obligations of any such Shared Contract with respect to the Cabinets Business, including subcontracting, licensing, sublicensing, leasing or subleasing to the Cabinets Party any or all of the rights and obligations with respect to such Shared Contract with respect to the Cabinets Business. In any such arrangement, the Cabinets Parties will, with respect to that portion of the Shared Contract relating to the Cabinets Business, (A) bear the sole responsibility for completion of the work or provision of goods and services, (B) bear all Taxes with respect thereto or arising therefrom, (C) be solely entitled to all benefits thereof, economic or otherwise, including the receipt of all goods and services thereunder, (D) be solely responsible for any amounts due thereunder, any warranty or breach thereof, any repurchase, indemnity and service obligations thereunder and any damages related to termination of such Shared Contract, (E) promptly reimburse the reasonable out-of-pocket costs and expenses of Fortune Brands and the applicable Fortune Brands Party related to such activities and (F) be entitled to receive copies of all correspondence and invoices delivered to or by any Fortune Brands Party with respect to such Shared Contract.

(e) With respect to each Shared Contract that is the subject of an arrangement contemplated by Section 6.1(d), Fortune Brands, on behalf of itself and each of the Fortune Brands Parties, shall indemnify, defend and hold harmless each of the Cabinets Parties from and against any and all Expenses or Losses incurred or suffered by one or more of the Cabinets Parties in connection with, relating to, arising out of or due to, directly or indirectly, that portion of the Shared Contract relating to the Fortune Brands Business. With respect to each Shared Contract that is the subject of an arrangement contemplated by Section 6.1(d), Cabinets, on behalf of itself and each of the Cabinets Parties, shall indemnify, defend and hold harmless each of the Fortune Brands Parties from and against any and all Expenses or Losses incurred or suffered by one or more of the Fortune Brands Parties in connection with, relating to, arising out of or due to, directly or indirectly, that portion of the Shared Contract relating to the Cabinets Business.

(f) No Fortune Brands Party or Cabinets Party shall be required to pay any consideration to any Third Party in connection with implementing the arrangements contemplated by this Section 6.1.

(g) The parties shall follow the procedures specified in Article XII in the event of any dispute regarding the rights and obligations of the Fortune Brands Parties or the Cabinets Parties with respect to any Shared Contract that is the subject of an arrangement contemplated by Section 6.1(d).

SECTION 6.2 Further Assurances. Each party shall use its commercially reasonable efforts, after the Distribution Date, to take, or cause to be taken, all actions, and to do, or cause to be done, all things reasonably necessary or advisable under applicable laws to consummate or make effective the transactions contemplated by this Agreement and each of the Transaction Agreements; provided, however, that no Fortune Brands Party or Cabinets Party shall be obligated under this Section 6.2 to pay any consideration, grant any concession or incur any Liability to any third Person.

SECTION 6.3 Receipt of Misdirected Assets. In the event that at any time and from time to time after the Effective Time, any Fortune Brands Party shall receive from a Third Party an Asset of the Cabinets Business (including any remittances from account debtors in respect of the Cabinets Business), such Fortune Brands Party shall promptly transfer such Asset to the appropriate Cabinets Party. In the event that at any time and from time to time after the Effective Time, any Cabinets Party shall receive from a Third Party an Asset of the Fortune Brands Business (including any remittances from account debtors in respect of the Fortune Brands Business), such Cabinets Party shall promptly transfer such Asset to the appropriate Fortune Brands Party. Each party hereto shall cooperate with the other party and use its commercially reasonable efforts to set up procedures and notifications as are reasonably necessary or advisable to effectuate the transfers contemplated by this Section 6.3.

SECTION 6.4 Late Payments. Except as expressly provided to the contrary in this Agreement or in any Transaction Agreement, any amount not paid when due pursuant to this Agreement or any Transaction Agreement (and any amounts billed or otherwise invoiced or demanded in writing and properly payable that are not paid within 30 days of the date of such bill, invoice or other written demand) shall accrue interest at a rate per annum equal to the Prime Rate.

SECTION 6.5 Certain Business Matters.

(a) Fortune Brands represents that as of the date hereof, Fortune Brands management does not intend for Fortune Brands to re-enter the Cabinets Business as conducted by Cabinets as of the Effective Time.

(b) Fortune Brands agrees that neither it nor any other Fortune Brands Party will, directly or indirectly, solicit, recruit or hire any employee of any Cabinets Party for a period of the earlier of (i) 12 months following the Distribution Date, (ii) the date on which any Cabinets Party terminates the employment of such employee or (iii) until six months after such employee terminates its employment with any Cabinets Party; provided, however, that nothing contained in this Section 6.5(b) shall prohibit any general solicitations of employment (including through the use of public advertisements, an independent employment agency or search firm or independent contractors) not specifically directed toward employees of any Cabinets Party.

(c) Cabinets agrees that neither it nor any other Cabinets Party will, directly or indirectly, solicit, recruit or hire any employee of any Fortune Brands Party for a period of the earlier of (i) 12 months following the Distribution Date, (ii) the date on which any Fortune Brands Party terminates the employment of such employee or (iii) until six months after such employee terminates its employment with any Fortune Brands Party; provided, however, that nothing contained in this Section 6.5(c) shall prohibit any general solicitations of employment (including through the use of public advertisements, an independent employment agency or search firm or independent contractors) not specifically directed toward employees of any Fortune Brands Party.

SECTION 6.6 Litigation.

(a) Fortune Brands agrees that, at all times from and after the Effective Time, if an Action relating primarily to the Fortune Brands Business is commenced by a Third Party naming either a Cabinets Party or both a Fortune Brands Party and a Cabinets Party as defendants thereto, then Fortune Brands shall use its commercially reasonable efforts to cause such Cabinets Party to be removed and dismissed from such Action; provided, however, that if Fortune Brands is unable to cause such Cabinets Party to be removed and dismissed from such Action, Fortune Brands and Cabinets shall cooperate and consult to the extent necessary or advisable with respect to such Action.

(b) Cabinets agrees that, at all times from and after the Effective Time, if an Action relating primarily to the Cabinets Business is commenced by a Third Party naming either a Fortune Brands Party or both a Fortune Brands Party and a Cabinets Party as defendants thereto, then Cabinets shall use its commercially reasonable efforts to cause such Fortune Brands Party to be removed and dismissed from such Action; provided, however, that if Cabinets is unable to cause such Fortune Brands Party to be removed and dismissed from such Action, Fortune Brands and Cabinets shall cooperate and consult to the extent necessary or advisable with respect to such Action.

(c) Fortune Brands and Cabinets agree that, at all times from and after the Effective Time, if an Action that does not relate primarily to the Cabinets Business or the Fortune Brands Business is commenced by a Third Party naming both a Fortune Brands Party and a Cabinets Party as defendants thereto, then Fortune Brands and Cabinets shall cooperate and consult to the extent necessary or advisable with respect to such Action.

SECTION 6.7 Signs; Use of Names. (a) Except as otherwise provided in the Transaction Agreements or as set forth on Schedule 6.7, on or prior to 180 days after the Distribution Date, the parties hereto, at the expense of the Fortune Brands Party or Cabinets Party that owns the tangible Assets, shall remove (or, if necessary, on an interim basis cover up) any and all exterior and interior signs and identifiers on Assets or properties owned or held by any Cabinets Party that show any affiliation with any Fortune Brands Party or the Fortune Brands Business, or on Assets or properties owned or held by any Fortune Brands Party that show any affiliation with any Cabinets Party or the Cabinets Business. Cabinets hereby grants to the Fortune Brands Parties, and Fortune Brands hereby grants to the Cabinets Parties, for a period not to exceed 180 days following the Distribution Date, a non-exclusive, non-transferable, fully-paid up and royalty-free license to use their respective corporate names (the "**Marks**"), solely as used as of the Effective Time on business cards, schedules, stationery, displays, signs, promotional materials, manuals, forms, computer software and other material used in their respective businesses. Notwithstanding the foregoing, Fortune Brands and Cabinets shall use reasonable efforts to change all references to the other Party's Marks as soon as practicable following the Effective Time.

(b) Except as otherwise provided in the Transaction Agreements, after 180 days following the Effective Time, (i) without the prior written consent of Cabinets, the Fortune Brands Parties shall not use or display the name "MasterBrand," or any variations thereof, or other trademarks, trade names, logos or identifiers using any of such names or otherwise owned by or licensed to any Cabinets Party that have not been assigned or licensed to a Fortune Brands Party, and (ii) without the prior written consent of Fortune Brands, the Cabinets Parties shall not use or display the name "Fortune Brands Home & Security, Inc.," "Fortune Brands Innovations, Inc." or any variations thereof, or other trademarks, trade names, logos or identifiers using any of such names or otherwise owned by or licensed to any Fortune Brands Party that have not been assigned or licensed to a Cabinets Party; provided, however, that notwithstanding the foregoing, nothing contained in this Agreement shall prevent any Party from using any other Party's name (including Fortune Brands Home & Security, Inc., Fortune Brands Innovations, Inc. and MasterBrand, Inc.) in (A) public filings with Governmental Authorities, (B) materials intended for distribution to either Party's stockholders or any other communication in any medium that describes the historical or current relationship between the Parties, including materials distributed to employees relating to the transition of employee benefit plans, or (C) historical documentation that is not shared with customers or the general public.

SECTION 6.8 Form S-8 Registration Statement. Effective no later than the Distribution Date, Cabinets shall file a Form S-8 Registration Statement for the purpose of registering the LTIP Shares for issuance under the Cabinets LTIP. Cabinets shall prepare and file with the SEC such amendments to the Form S-8 Registration Statement as may be necessary to keep the Form S-8 Registration Statement effective under the Securities Act and to keep registered LTIP Shares.

SECTION 6.9 Financial Instruments. After the Effective Time, (a) without the consent of the applicable Fortune Brands Party, Cabinets will not, and will not permit any Cabinets Party to, renew, extend, modify, amend or supplement any Cabinets Financial Instrument in any manner that would increase, extend or give rise to any Liability of any Fortune Brands Party under such Cabinets Financial Instrument and (b) without the consent of the applicable Cabinets Party, Fortune Brands will not, and will not permit any Fortune Brands Party to, renew, extend, modify, amend or supplement any Fortune Brands Financial Instrument in any manner that would increase, extend or give rise to any Liability of any Cabinets Party under such Fortune Brands Financial Instrument.

SECTION 6.10 Post-Effective Time Conduct. The Parties acknowledge that, after the Effective Time, each Party shall be independent of the other Party, with responsibility for its own actions and inactions and its own Liabilities relating to, arising out of or resulting from the conduct of its business, operations and activities following the Effective Time, except as may otherwise be provided in any Transaction Agreement, and each Party shall (except as otherwise provided in Article III) use commercially reasonable efforts to prevent such Liabilities from being inappropriately borne by the other Party.

ARTICLE VII
CONDITIONS TO THE DISTRIBUTION

SECTION 7.1 Conditions to the Distribution. The obligation of Fortune Brands to effect the Distribution is subject to the satisfaction or the waiver by Fortune Brands, in its sole and absolute discretion, of each of the following conditions:

(a) Approval by the Fortune Brands Board. This Agreement and the transactions contemplated hereby, including the declaration of the Distribution, shall have been duly approved by the Fortune Brands Board in accordance with applicable law and the Cabinets Restated Certificate of Incorporation, and Cabinets Amended and Restated Bylaws.

(b) Receipt of Opinion. Fortune Brands shall have received an opinion of Sidley (or other nationally recognized tax advisor), in form and substance satisfactory to Fortune Brands, confirming (together with the IRS Ruling (as defined in the Tax Allocation Agreement), if issued), among other things, the tax-free status of the Distribution for U.S. federal income tax purposes.

(c) Receipt of Solvency Conveyance Opinion. An independent firm acceptable to Fortune Brands, in its sole and absolute discretion, shall have delivered one or more opinions to the Fortune Brands Board confirming the solvency and financial viability of Fortune Brands and Cabinets, which opinions shall be in form and substance satisfactory to Fortune Brands, in its sole and absolute discretion, and shall not have been withdrawn or rescinded.

(d) SEC Filings and Approvals. The parties shall have prepared and Cabinets shall, to the extent required under applicable law, have filed with the SEC any such documentation that Fortune Brands determines, in its sole and absolute discretion, is necessary or desirable to effectuate the Distribution and the other transactions contemplated by this Agreement and the Transaction Agreements, and each party shall have obtained all necessary approvals from the SEC.

(e) State and Foreign Securities and "Blue Sky" Laws Approvals. Fortune Brands and Cabinets shall have received all permits, registrations and consents required under the securities or "blue sky" laws of states or other political subdivisions of the United States or of applicable foreign jurisdictions in connection with the Distribution.

(f) Effectiveness of Registration Statements; No Stop Order. The SEC shall have declared effective the Form 10 Registration Statement, and no stop order suspending the effectiveness of the Form 10 Registration Statement shall be in effect or, to the knowledge of either Fortune Brands or Cabinets, threatened by the SEC.

(g) Dissemination of Information Statement to Fortune Brands Stockholders. Prior to the Distribution, the parties hereto shall have prepared, and Fortune Brands shall have mailed to the holders of record of Fortune Brands Shares, the Information Statement (or notice of internet availability thereof).

(h) Approval of NYSE Listing Application. The NYSE shall have approved for listing, subject to official notice of issuance, the Cabinets Shares and the LTIP Shares.

(i) Aggregate Proceeds. The Financing Arrangements, in form and substance acceptable to Fortune Brands in its sole discretion, shall have been entered into and shall remain effective, Cabinets shall have received the Aggregate Proceeds and made the distributions set forth on Schedule 3.2(b) to Fortune Brands.

(j) Consents. Fortune Brands and Cabinets shall have received all material Governmental Approvals and Consents required to have been received prior to the Distribution and all material Third-Party Consents necessary to effect the Distribution and to permit the operation of the Cabinets Business after the Distribution Date.

(k) No Legal Restraint. No order, injunction, decree or regulation issued by any court or agency of competent jurisdiction or other legal restraint or prohibition preventing consummation of the Distribution or any of the transactions related thereto shall be in effect, and no other event outside the control of Fortune Brands shall have occurred or failed to occur that prevents the consummation of the Distribution or any of the transactions related thereto.

(l) Transaction Agreements. The Transaction Agreements shall have been duly executed and delivered by the parties thereto, and each Transaction Agreement shall be in full force and effect.

(m) No Other Events. No other events or developments shall have occurred that, in the judgment of the Fortune Brands Board, in its sole and absolute discretion, makes it inadvisable to effect the Distribution or the other transactions contemplated hereby.

SECTION 7.2 Fortune Brands Right Not to Close or to Terminate. The satisfaction of the foregoing conditions are for the sole benefit of Fortune Brands and shall not give rise to or create any duty on the part of Fortune Brands or the Fortune Brands Board to waive or not waive any such condition or to effect the Distribution, or in any way limit Fortune Brands' power of termination set forth in Section 13.3.

ARTICLE VIII
INSURANCE MATTERS

SECTION 8.1 Insurance.

(a) Coverage. Subject to the provisions of this Section 8.1 and such terms as Cabinets may reasonably agree prior to the Distribution Date with any current Fortune Brands insurance carrier for coverage beginning as of the Effective Time, coverage of the Cabinets Parties under all Policies shall cease as of the Effective Time. From and after the Effective Time, the Cabinets Parties will be responsible for obtaining and maintaining all insurance coverages in their own right. All Policies will be retained by the Fortune Brands Parties, together with all rights, benefits and privileges thereunder (including the right to receive any and all return premiums with respect thereto), except that Cabinets will have the rights in respect of Policies to the extent described in Section 8.1(b) and to the extent provided in any arrangement or agreement between Cabinets and any current Fortune Brands insurance carrier for coverage beginning as of the Effective Time.

(b) Rights Under Shared Policies. Subject to any arrangement or agreement between Cabinets and any current Fortune Brands insurance carrier for coverage beginning as of the Effective Time, from and after the Effective Time, the Cabinets Parties will have no rights with respect to any Policies, except that (i) Cabinets will have the right to assert claims (and Fortune Brands will use commercially reasonable efforts to assist Cabinets in asserting claims if so requested by Cabinets in writing) for any loss, liability or damage with respect to the Cabinets Business or the Purchased Cabinets Assets under Policies that include any Cabinets Party or any or all of the Cabinets Business or the Purchased Cabinets Assets within the definition of the named insured, additional named insured, additional insured or insured (excluding, for the avoidance of doubt, any group health and welfare insurance policies) ("**Shared Policies**") with third-party insurers which are "occurrence basis" insurance policies ("**Occurrence Basis Policies**") arising out of insured incidents occurring from the date coverage thereunder first commenced until the Effective Time to the extent that the terms and conditions of any such Occurrence Basis Policies and agreements relating thereto so allow, (ii) Cabinets will have the right to continue to prosecute claims with respect to the Cabinets Business properly asserted under Occurrence Basis Policies prior to the Effective Time to the extent that the terms and conditions of any such Occurrence Basis Policies and agreements relating thereto so allow (and Fortune Brands will use commercially reasonable efforts to assist Cabinets in asserting claims if so requested by Cabinets in writing) and (iii) Cabinets will have the right to continue to prosecute claims with respect to the Cabinets Business or the Purchased Cabinets Assets properly asserted with the insurer prior to the Effective Time (and Fortune Brands will use commercially reasonable efforts to assist Cabinets in asserting claims if so requested by Cabinets in writing) under Shared Policies with third-party insurers which are insurance policies written on a "claims made" basis ("**Claims Made Policies**") arising out of insured incidents occurring from the date coverage thereunder first commenced until the Effective Time to the extent that the terms and conditions of any such Claims Made Policies and agreements relating thereto so allow; provided, however, that in the case of clauses (i), (ii) and (iii), (iv) all of the Fortune Brands Parties' reasonable and documented Out-of-Pocket Expenses incurred in connection with their efforts to assist Cabinets in asserting or continuing to prosecute the claims described above are promptly paid by Cabinets following receipt by Cabinets of an invoice for such expenses, (v) subject to Section 8.1(c), the Fortune Brands Parties may, at any time, without liability or obligation to any Cabinets Party, amend, commute, terminate, buy-out, extinguish liability under or otherwise modify any Shared Policies (and such claims shall be subject to any such amendments, commutations, terminations, buy-outs, extinguishments and modifications), (vi) such claims will be subject to (and recovery thereon will be reduced by the amount of) any applicable deductibles, retentions or self-insurance provisions, and, with respect to any such deductibles, retentions or self-insurance provisions that require a payment by any Fortune Brands Party in respect thereof, Cabinets shall reimburse such Fortune Brands Party for such payment, (vii) such claims will be subject to (and recovery thereunder will be reduced by the amount of) any payment or reimbursement obligations of any Fortune Brands Party in respect thereof, (viii) Cabinets shall be responsible for and shall pay any claims handling expenses or residual Liability arising from such claims and (ix) such claims will be subject to exhaustion of existing sublimits and aggregate limits as provided in Section 8.1(d). Fortune Brands' obligation to use commercially reasonable efforts to assist Cabinets in asserting claims under applicable Shared Policies shall include using commercially reasonable efforts to assist Cabinets to establish its right to coverage under such Shared Policies (so long as all of the Fortune Brands Parties' Out-of-Pocket Expenses in connection therewith are promptly paid by Cabinets). No Fortune Brands Party will

bear any Liability for the failure of any insurer to pay any claim under any Shared Policy. Notwithstanding anything herein to the contrary, Fortune Brands shall not be required to take any action that would be reasonably likely to: (i) have an adverse impact on the then-current relationship between any Fortune Brands Party and the applicable insurance company; (ii) result in the applicable insurance company terminating or reducing coverage, or increasing the amount of any premium owed by any Fortune Brands Party under any Shared Policy; or (iii) otherwise compromise, jeopardize or interfere with the rights of any Fortune Brands Party under the applicable Shared Policies. It is understood that any Claims Made Policies may not provide any coverage to the Cabinets Parties for incidents occurring prior to the Effective Time but that are asserted with the insurance carrier after the Effective Time or any extended reporting period or extended discovery period, as applicable, in accordance with the terms of the applicable Policies.

(c) In the event that after the Effective Time any Fortune Brands Party proposes to amend, commute, terminate, buy-out, extinguish liability under or otherwise modify any Shared Policy under which Cabinets has or may in the future have rights to assert claims pursuant to Section 8.1(b) in a manner that would adversely affect any such rights of Cabinets in any material respect, (i) Fortune Brands will give Cabinets prior notice thereof and consult with Cabinets with respect to such action (it being understood that the decision to take any such action will be in the sole discretion of Fortune Brands), (ii) Fortune Brands will pay to Cabinets its equitable share (which shall be mutually agreed upon by Fortune Brands and Cabinets, acting reasonably, based on the amount of premiums paid by or allocated to the Cabinets Business in respect of the applicable Shared Policy), if any, of any net proceeds actually received by Fortune Brands from the insurer under the applicable Shared Policy as a result of such action by Fortune Brands (after deducting Fortune Brands' reasonable costs and expenses incurred in connection with such action), (iii) Cabinets will pay to Fortune Brands its equitable share (which shall be mutually agreed upon by Fortune Brands and Cabinets, acting reasonably, based on the amount of premiums paid by or allocated to the Cabinets Business in respect of the applicable Shared Policy), if any, of any net premium owed by Fortune Brands to the insurer under the applicable Shared Policy as a result of such action by Fortune Brands and (iv) in the event that any Fortune Brands Party proposes to terminate, buy-out or commute any Shared Policy, such Fortune Brands Party shall provide prompt written notice to Cabinets, and Cabinets shall not unreasonably object to or condition the proposed actions; provided that, if Cabinets has a reasonable basis to object, Cabinets may direct such Fortune Brands Party in writing to, and such Fortune Brands Party shall not, terminate, buy-out or commute such Shared Policy; provided further that Cabinets shall be responsible for all premiums, reinstatement payments and other costs associated with such Shared Policy.

(d) To the extent that the limits of any Shared Policy preclude payment in full of any Unrelated Claim filed by both a Fortune Brands Party and a Cabinets Party, the insurance proceeds available under such Shared Policy shall be paid to such Fortune Brands Party or such Cabinets Party on a FIFO Basis. In the event that both a Fortune Brands Party and a Cabinets Party file Related Claims under any Shared Policy, each of such Fortune Brands Party and such Cabinets Party shall receive a *pro rata* amount of the available insurance proceeds, based on the relationship the Loss incurred by each such Party bears to the total Loss to both such Parties from the occurrence or event underlying the Related Claims.

(e) Prior to and after the Distribution, the Parties shall cooperate in good faith to enter into assumption agreements on customary terms and conditions with third-party insurance providers that are consistent with the asset and liability allocations set forth in this Agreement.

SECTION 8.2 Administration and Reserves. (a) From and after the Effective Time, the Fortune Brands Parties will be responsible for the Claims Administration with respect to claims of the Fortune Brands Parties under Shared Policies. The Fortune Brands Parties shall use commercially reasonable efforts to ensure compliance with all of the applicable terms of such policies so as to minimize the risk of loss of coverage thereunder.

(b) From and after the Effective Time, the Cabinets Parties will be responsible for the Claims Administration with respect to claims of the Cabinets Parties under Shared Policies, and Fortune Brands shall provide appropriate instructions to the applicable insurance brokers under the Shared Policies to facilitate Claims Administration by Cabinets. The Cabinets Parties shall use commercially reasonable efforts to ensure compliance with all of the applicable terms of such policies so as to minimize the risk of loss of coverage thereunder.

(c) Any insurance or casualty reserves of the Fortune Brands Parties with respect to the Cabinets Business shall be transferred to Cabinets by such Fortune Brands Parties on or prior to the Effective Time.

SECTION 8.3 Insurance Premiums. From and after the Effective Time, Fortune Brands will pay all premiums, Taxes, assessments or similar charges (retrospectively-rated or otherwise) as required under the terms and conditions of the respective Shared Policies in respect of periods of coverage prior to the Effective Time, whereupon Cabinets will upon the request of Fortune Brands promptly reimburse Fortune Brands for that portion of such additional premiums and other payments paid by Fortune Brands as are reasonably determined by Fortune Brands to be attributable to the Cabinets Business. Notwithstanding the foregoing, to the extent that Cabinets has previously paid a premium (or has been allocated a portion of a premium by Fortune Brands) or satisfied a deductible amount under a Shared Policy, Cabinets shall not be required to pay such premium pursuant to the foregoing sentence or satisfy such deductible again if Cabinets makes a claim under such Shared Policy in accordance with this Article VIII.

SECTION 8.4 Agreement for Waiver of Conflict and Shared Defense. In the event that a Shared Policy provides coverage for both a Fortune Brands Party, on the one hand, and a Cabinets Party, on the other hand, relating to the same occurrence, Fortune Brands and Cabinets agree to defend jointly and to waive any conflict of interest necessary to the conduct of that joint defense. Nothing in this Section 8.4 will be construed to limit or otherwise alter in any way the indemnity obligations of the parties, including those created by this Agreement, by operation of law or otherwise.

SECTION 8.5 Non-Waiver of Rights to Coverage. An insurance carrier that would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto, or, solely by virtue of the provisions of this Article VIII, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurance carrier or any Third Party shall be entitled to a benefit (*i.e.*, a benefit such Person would not be entitled to receive had the Distribution not occurred or in the absence of the provisions of this Article VIII) by virtue of the provisions hereof.

ARTICLE IX
EXPENSES

SECTION 9.1 Expenses Incurred on or Prior to the Distribution Date.

(a) Fortune Brands and Cabinets will pay all Third Party fees, costs and expenses incurred in connection with the preparation, execution, delivery and implementation of this Agreement, any Transaction Agreement, the Form 10 Registration Statement, the Form S-8 Registration Statement and the Distribution and the consummation of the transactions contemplated hereby and thereby incurred on or prior to the Distribution Date in accordance with Schedule 9.1(a).

(b) If, after the Distribution Date, any Taxing Authority (as defined in the Tax Allocation Agreement) makes any determination, or offers any guidance or directive, that could reasonably be expected to adversely impact the Intended Tax Treatment (as defined in the Tax Allocation Agreement) or create any other adverse tax consequence relating to the transactions contemplated hereby, then Fortune Brands and Cabinets shall cooperate in good faith to take such actions as advisable to preserve the Intended Tax Treatment or avoid such adverse tax consequence, including the making of any cash payments with respect to any deemed transfers of value made between the Parties.

SECTION 9.2 Expenses Incurred or Accrued After the Distribution Date. Except as otherwise provided in this Agreement or any Transaction Agreement, Fortune Brands and Cabinets shall each bear its own costs and expenses incurred after the Distribution Date.

ARTICLE X
MUTUAL RELEASES; INDEMNIFICATION

SECTION 10.1 Release of Pre-Distribution Claims.

(a) Except as provided in Section 10.1(b) or on Schedule 10.1(a), effective as of the Effective Time,

(i) Fortune Brands, on behalf of itself and each of the Fortune Brands Parties and its and their respective successors and assigns, and, to the extent permitted by law, all Persons who at any time prior to the Effective Time have been shareholders, directors, officers, agents or employees of any Fortune Brands Party (in each case, in their respective capacities as such), does hereby release and forever discharge each of the Cabinets Parties and their respective successors and assigns and all Persons who at any time prior to the Effective Time have been Representatives of any Cabinets Party (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, from any and all demands, Actions and Liabilities whatsoever, whether at law or in equity (including any right of contribution), whether arising under any Contract, by operation of law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Effective Time, including in connection with the transactions and all other activities to implement the Distribution; and

(ii) Cabinets, on behalf of itself and each of the Cabinets Parties and its and their respective successors and assigns, does hereby release and forever discharge each of the Fortune Brands Parties and their respective successors and assigns and all Persons who at any time prior to the Effective Time have been Representatives of any Fortune Brands Party (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, from any and all demands, Actions and Liabilities whatsoever, whether at law or in equity (including any right of contribution), whether arising under any Contract, by operation of law or otherwise, existing or arising from any acts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Effective Time, including in connection with the transactions and all other activities to implement the Distribution.

(b) Nothing contained in Section 10.1(a) shall impair any right of any Person identified in Section 10.1(a) pursuant to this Agreement, any Transaction Agreement or any Employee Contract. Nothing contained in Section 10.1(a) shall release or discharge any Person from:

(i) any Liability or obligation (including any Liabilities or obligation provided in or resulting from any agreement of the Fortune Brands Parties and Cabinets Parties) that is specified in Schedule 10.1(b)(i), to the extent set forth therein;

(ii) any Liability, contingent or otherwise, assumed, transferred, assigned, retained or allocated to such Person in accordance with, or any other Liability of that Person under, this Agreement or any of the Transaction Agreements;

(iii) any Liability the release of which would result in the release of any Person other than a Fortune Brands Party or a Cabinets Party or their respective Representatives (in each case, in their respective capacities as such); or

(iv) any Liability or obligation provided in or resulting from any Employee Contract.

In addition, nothing contained in Section 10.1(a) shall release any Party from honoring its existing obligations to indemnify any Person who was a Representative of such Party, at or prior to the Effective Time, to the extent such Person becomes a named defendant in any Action involving such Party, and was entitled to such indemnification pursuant to then existing obligations (including under any applicable charter, bylaw or similar provision); provided, however, that to the extent applicable, Section 10.2 and Section 10.3 hereof shall determine whether any Party shall be required to indemnify the other in respect of such Liability.

(c) Fortune Brands shall not, and shall cause the other Fortune Brands Parties not to, make any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or indemnification, against any Cabinets Party or any other Person released pursuant to Section 10.1(a)(i), with respect to any Liability released pursuant to Section 10.1(a)(i); and Cabinets shall not, and shall cause the other Cabinets Parties not to, make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or indemnification, against any Fortune Brands Party or any other Person released pursuant to Section 10.1(a)(ii), with respect to any Liability released pursuant to Section 10.1(a)(ii).

(d) At any time, at the reasonable request of either party hereto, the other party hereto shall execute and deliver, or cause to be executed and delivered, releases reflecting the provisions hereof.

SECTION 10.2 Indemnification by Cabinets. Except as provided in Section 10.5 or in the Transaction Agreements, Cabinets shall indemnify, defend and hold harmless each of the Fortune Brands Parties, each of their respective Representatives and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "**Fortune Brands Indemnified Parties**"), from and against any and all Expenses or Losses incurred or suffered by one or more of the Fortune Brands Indemnified Parties in connection with, relating to or arising out of, directly or indirectly, any of the following:

(a) the failure by any Cabinets Party or any other Person to pay, perform or otherwise timely discharge any Cabinets Liability in accordance with its terms;

(b) any Cabinets Liability;

(c) the Cabinets Business as conducted (regardless of whether by Fortune Brands and its Subsidiaries, including the Cabinets Parties, or another Person) on, at any time prior to or at any time after the Effective Time;

(d) except to the extent provided in Section 10.3(d), any claim that the information included in the Form 10 Registration Statement or the Information Statement is or was false or misleading with respect to any material fact or omits or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading;

(e) except to the extent provided in Section 10.3(e), any claim that the information included in the Form S-8 Registration Statement or the prospectus forming a part thereof is or was false or misleading with respect to any material fact or omits or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading;

(f) the breach by any Cabinets Party of any covenant or agreement set forth in this Agreement, any Specified Transaction Agreement (unless such Specified Transaction Agreement expressly provides for separate or conflicting indemnification therein (which shall be controlling) or any Conveyancing Instrument; and

(g) any Cabinets Financial Instrument.

SECTION 10.3 Indemnification by Fortune Brands. Except as provided in Section 10.5 or in the Transaction Agreements, Fortune Brands shall indemnify, defend and hold harmless each of the Cabinets Parties, each of their respective Representatives and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "**Cabinets Indemnified Parties**"), from and against any and all Expenses or Losses incurred or suffered by one or more of the Cabinets Indemnified Parties in connection with, relating to or arising out of, directly or indirectly, any of the following items:

(a) the failure by any Fortune Brands Party or any other Person to pay, perform or otherwise timely discharge any Fortune Brands Liability in accordance with its terms;

(b) any Fortune Brands Liability;

(c) the Fortune Brands Business as conducted (regardless of whether by Fortune Brands and its Subsidiaries, including the Cabinets Parties, or another Person) on, at any time prior to or at any time after the Effective Time;

(d) solely with respect to the information contained in the Form 10 Registration Statement or the Information Statement that is set forth on Schedule 10.3(d) (and to the extent provided therein), any claim that the information included in the Form 10 Registration Statement or the Information Statement is or was false or misleading with respect to any material fact or omits or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading;

(e) solely with respect to the information contained in the Form S-8 Registration Statement or the prospectus forming a part thereof that is set forth on Schedule 10.3(e) (and to the extent provided therein), any claim that the information included in the Form S-8 Registration Statement or the prospectus forming a part thereof is or was false or misleading with respect to any material fact or omits or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading;

(f) the breach by any Fortune Brands Party of any covenant or agreement set forth in this Agreement, any Specified Transaction Agreement (unless such Specified Transaction Agreement expressly provides for separate or conflicting indemnification therein (which shall be controlling) or any Conveyancing Instrument; and

(g) any Fortune Brands Financial Instrument.

SECTION 10.4 Applicability of and Limitation on Indemnification. Except as expressly provided herein, the indemnity obligation under this Article X shall apply notwithstanding any investigation made by or on behalf of any Indemnified Party and shall apply without regard to whether the Loss or Expense for which indemnity is claimed hereunder is based on strict liability, absolute liability or any other theory of liability or arises as an obligation for contribution.

SECTION 10.5 Adjustment of Indemnifiable Losses.

(a) The amount that either party hereto (an "**Indemnifying Party**") is required to pay to any Person entitled to indemnification hereunder (an "**Indemnified Party**") shall be reduced by any insurance proceeds and other amounts actually recovered by or on behalf of such Indemnified Party (net of increased insurance premiums and charges related directly and solely to the related indemnifiable Expense or Loss incurred by the Indemnified Party in connection with seeking to collect and collecting such amounts) in reduction of the related Expense or Loss (such net amounts are referred to herein as "**Indemnity Reduction Amounts**"). Each of Fortune Brands and Cabinets shall use its commercially reasonable efforts to collect any proceeds under its respective available and applicable Third Party insurance policies to which it or any of its Subsidiaries is entitled, and each of Fortune Brands and Cabinets shall reasonably cooperate in connection with such other Party's efforts to collect any such proceeds; provided, however, that any such actions by an Indemnified Party will not relieve the Indemnifying Party of any of its obligations under this Agreement, including the Indemnifying Party's obligation to pay directly or reimburse the Indemnified Party for costs and expenses actually incurred by the Indemnified Party. If any Indemnity Reduction Amounts are received by or on behalf of an Indemnified Party in respect of an indemnifiable Expense or Loss for which indemnification is provided under this Agreement after the full amount of such indemnifiable Expense or Loss has been paid by an Indemnifying Party or after an Indemnifying Party has made a partial payment of such indemnifiable Expense or Loss and such Indemnity Reduction Amounts exceed the remaining unpaid balance of such indemnifiable Expense or Loss, then the Indemnified Party shall promptly remit to the Indemnifying Party an amount equal to the excess (if any) of (i) the amount theretofore paid by the Indemnifying Party in respect of such indemnifiable Expense or Loss over (ii) the amount of the indemnity payment that would have been due if such Indemnity Reduction Amounts in respect thereof had been received before the indemnity payment was made. The Indemnified Party agrees that the Indemnifying Party shall be subrogated to such Indemnified Party under any insurance policy.

(b) An insurer who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto, or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurer or any other Third Party shall be entitled to a "windfall" (*i.e.*, a benefit it would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification provisions hereof.

SECTION 10.6 Procedures for Indemnification of Third-Party Claims.

(a) If any Third Party shall make any claim or commence any arbitration proceeding or suit (each such claim, proceeding or suit being a "**Third-Party Claim**") against any one or more of the Indemnified Parties with respect to which an Indemnified Party intends to make any claim for indemnification against Cabinets under Section 10.2 or against Fortune Brands under Section 10.3, such Indemnified Party shall promptly, but in no event later than 15 days after receipt by the Indemnified Party of written notice of the Third-Party Claim, give written notice to the Indemnifying Party describing such Third-Party Claim in reasonable detail. Notwithstanding the foregoing, the failure of any Indemnified Party to provide notice in accordance with this Section 10.6(a) shall not relieve the related Indemnifying Party of its obligations under this Article X, except to the extent that such Indemnifying Party is actually prejudiced by such failure to provide notice.

(b) The Indemnifying Party shall have 30 days after receipt of the notice referred to in Section 10.6(a) to notify the Indemnified Party that it elects to conduct and control the defense of such Third-Party Claim; provided, however, that the Indemnifying Party shall not have the right to control the defense of any Third-Party Claim (i) to the extent such Third-Party Claim seeks criminal penalties or injunctive or other equitable relief (other than any such injunctive or other equitable relief that is solely incidental to the granting of money damages) or (ii) if the Indemnified Party has reasonably determined in good faith that the Indemnifying Party controlling such defense will affect the Indemnified Party in a material and adverse manner. If the Indemnifying Party does not give the foregoing notice, the Indemnified Party shall have the right to defend, contest, settle or compromise such Third-Party Claim in the exercise of its exclusive discretion subject to the provisions of this Section 10.6, and the Indemnifying Party shall, upon request from any of the Indemnified Parties, promptly pay to such Indemnified Parties in accordance with the other terms of this Section 10.6(b) the amount of any Expense or Loss subject to indemnification hereunder resulting from such Third-Party Claim. If the Indemnifying Party gives the foregoing notice within such 30-day period, the Indemnifying Party shall have the right to undertake, conduct and control, through counsel reasonably acceptable to the Indemnified Party, and at the Indemnifying Party's sole expense, the conduct and settlement of such Third-Party Claim, and the Indemnified Party shall cooperate with the Indemnifying Party in connection therewith; provided, however, that: (i) the Indemnifying Party shall use its reasonable best efforts to prevent any Security Interest to thereafter attach to any Asset of any Indemnified Party; (ii) the Indemnifying Party shall use its reasonable best efforts to prevent any injunction against any Indemnified Party; (iii) the Indemnifying Party shall permit the Indemnified Party and any counsel chosen by the Indemnified Party and reasonably acceptable to the Indemnifying Party to monitor such conduct or settlement and shall provide the Indemnified Party and any such counsel with such information regarding such Third-Party Claim as either of them may reasonably request (which request may be general or specific), but the fees and expenses of such counsel chosen by the Indemnified Party (but not more than one separate counsel for all Indemnified Parties similarly situated) shall be borne by the Indemnified Party unless (iv) the Indemnifying Party and the Indemnified Party shall have mutually agreed that the Indemnifying Party should pay for such counsel, (v) in the Indemnified Party's reasonable judgment a conflict of interest exists in respect of such Third-Party Claim or (vi) the Indemnifying Party shall have assumed responsibility for such Third-Party Claim with any reservations or exceptions; and (vii) the Indemnifying Party shall agree promptly to reimburse to the extent required under this Article X the Indemnified Party for the full amount of any Expense or Loss resulting from such Third-Party Claim.

(c) If the Indemnifying Party shall not have undertaken the conduct and control of the defense of any Third-Party Claim as provided in Section 10.6(b), the Indemnifying Party shall nevertheless be entitled through counsel chosen by the Indemnifying Party and reasonably acceptable to the Indemnified Party to monitor the conduct or settlement of such claim by the Indemnified Party, and the Indemnified Party shall provide the Indemnifying Party and such counsel with such information regarding such Third-Party Claim as either of them may reasonably request (which request may be general or specific), but all costs and expenses incurred in connection with such monitoring shall be borne by the Indemnifying Party.

(d) No Indemnifying Party will consent to any settlement, compromise or discharge (including the consent to entry of any judgment) of any Third-Party Claim without the Indemnified Party's prior written consent; provided, however, that such consent shall not be required if the judgment or settlement: (i) contains no finding or admission of Liability with respect to any such Indemnified Party; (ii) involves only monetary relief which the Indemnifying Party has agreed to

pay; (iii) does not involve a Governmental Authority; (iv) includes a full and unconditional release of the indemnitee or indemnitees or (v) provides for injunctive or other nonmonetary relief affecting the Indemnified Party or any of its Affiliates. Whether or not the Indemnifying Party shall have assumed the defense of a Third-Party Claim, the Indemnified Party will not (unless required by law) admit any liability with respect to, or settle, compromise or discharge, such Third-Party Claim without the Indemnifying Party's prior written consent (which consent will not be unreasonably withheld, conditioned or delayed).

(e) If the Indemnified Party determines in its reasonable good faith judgment that the Indemnifying Party is not contesting such Third-Party Claim in good faith or is not settling such Third-Party Claim in accordance with this Section 10.6, the Indemnified Party shall have the right to undertake control of the defense of such Third-Party Claim upon five (5) days written notice to the Indemnifying Party and thereafter to defend, contest, settle or compromise such Third-Party Claim in the exercise of its discretion, but in accordance with the applicable provisions of this Article X.

SECTION 10.7 Procedures for Indemnification of Direct Claims. Any claim for indemnification on account of an Expense or a Loss made directly by the Indemnified Party against the Indemnifying Party and that does not result from a Third-Party Claim shall be reasonably promptly asserted by written notice from the Indemnified Party to the Indemnifying Party specifically claiming indemnification hereunder. Such Indemnifying Party shall have a period of 45 days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such 45-day period, such Indemnifying Party shall be deemed to have refused to accept responsibility to provide indemnification with respect to such claim. If such Indemnifying Party does not respond within such 45-day period or does respond within such 45-day period and rejects such claim in whole or in part, such Indemnified Party shall be free to pursue resolution as provided in Article XIII.

SECTION 10.8 Contribution. If the indemnification provided for in this Article X is judicially determined to be unavailable (other than in accordance with the terms of this Agreement, in which case this Section 10.8 shall not apply) to an Indemnified Party in respect of any Losses or Expenses referred to herein, 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 Expense or Loss in such proportion as is appropriate to reflect the relative fault of the Cabinets Indemnified Parties, on the one hand, and the Fortune Brands Indemnified Parties, on the other hand, in connection with the conduct, statements or omissions that resulted in such Expense or Loss. Solely for purposes of determining relative fault pursuant to this Section 10.8, the relative fault of any Cabinets Indemnified Party, on the one hand, and of any Fortune Brands Indemnified Party, on the other hand, in the case of any Expense or Loss arising out of or related to information contained in the Form 10 Registration Statement, the Information Statement, the Form S-8 Registration Statement (including the related prospectus) or other securities law filing shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission of a material fact relates to information supplied by the Cabinets Business or a Cabinets Indemnified Party, on the one hand, or by the Fortune Brands Business or a Fortune Brands Indemnified Party, on the other hand. The information on Schedules 10.3(d) and 10.3(e) shall be deemed supplied by the Fortune Brands Business or the Fortune Brands Indemnified Parties. All other information in the Form 10 Registration Statement, the Information Statement and the Form S-8 Registration Statement (including the related prospectus) shall be deemed supplied by the Cabinets Business or the Cabinets Indemnified Parties.

SECTION 10.9 Remedies Cumulative. Subject to the provisions of Article IX and Section 10.11, the remedies provided in this Article X shall be cumulative and shall not preclude any assertion by an Indemnified Party of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

SECTION 10.10 Survival. All covenants and agreements of the parties contained in this Agreement relating to indemnification shall survive the Effective Time indefinitely, unless a specific survival or other applicable period is expressly set forth herein.

SECTION 10.11 Exclusivity of Tax Allocation Agreement. Notwithstanding anything to the contrary contained in this Agreement, the Tax Allocation Agreement shall be the exclusive agreement among any of the Parties with respect to indemnification in respect of Tax matters.

SECTION 10.12 Covenant Not to Sue. Each Party hereby covenants and agrees that none of it or any Person claiming through it shall bring suit or otherwise assert any claim against any Indemnified Party, or assert a defense against any claim asserted by any Indemnified Party, before any court, arbitrator, mediator or Governmental Authority anywhere in the world, alleging that: (a) the retention or assumption of any Cabinets Liabilities by any Cabinets Party on the terms and conditions set forth in this Agreement and the Transaction Agreements is void or unenforceable for any reason, (b) the retention or assumption of any Fortune Brands Liabilities by any Fortune Brands Party on the terms and conditions set forth in this Agreement and the Transaction Agreements is void or unenforceable for any reason, (c) the terms and provisions of any Transaction Agreements, including any indemnification obligations therein, are void or unenforceable for any reason, or (d) the provisions of Article III or this Article X are void or unenforceable for any reason.

ARTICLE XI
ACCESS TO INFORMATION AND SERVICES

SECTION 11.1 Agreement for Exchange of Information. (a) Subject to Section 11.1(b), and except as set forth in any Transaction Agreement, at all times from and after the Distribution Date for a period of six years (the "**Access Period**"), as soon as reasonably practicable after written request: (i) Fortune Brands shall afford to the Cabinets Parties and their authorized accountants, counsel and other designated representatives reasonable access during normal business hours to, or, at Cabinets' expense, provide copies of, all records, books, Contracts, instruments, data, documents and other information (collectively, "**Information**") in the possession or under the control of any Fortune Brands Party following the Distribution Date that relates to Cabinets, the Cabinets Business or the employees or former employees of the Cabinets Business; and (ii) Cabinets shall afford to the Fortune Brands Parties and their authorized accountants, counsel and other designated representatives reasonable access during normal business hours to, or, at Fortune Brands' expense, provide copies of, all Information in the possession or under the control of any Cabinets Party following the Distribution Date that relates to Fortune Brands, the Fortune Brands Business (including, for the avoidance of doubt, Fortune

Brands's captive insurance company) or the employees or former employees of the Fortune Brands Business; provided, however, that in the event that either Fortune Brands or Cabinets determines that any such provision of or access to Information would be commercially detrimental in any material respect, violate any law or agreement or waive any attorney-client privilege, the work product doctrine or other applicable privilege, the Parties shall take all reasonable measures to permit the compliance with such obligations in a manner that avoids any such harm or consequence (including, where appropriate, seeking a protective order); provided, further, that:

(x) to the extent specific information-sharing or knowledge-sharing provisions are contained in any of the Transaction Agreements, such other provisions (and not this Section 11.1(a)) shall govern; and

(y) the Access Period shall be extended with respect to requests related to any tax audit or proceeding or other third-party litigation or other dispute filed prior to the end of the Access Period until such litigation or dispute is finally resolved.

(b) Either party hereto may request Information under Section 11.1(a): only for one or more of the following purposes: (i) to comply with reporting, disclosure, filing or other requirements imposed on the requesting party or any of its Affiliates (including under applicable securities or Tax laws) by a Governmental Authority having jurisdiction over such requesting party or Affiliate thereof; (ii) for use in any other judicial, regulatory, administrative, Tax or other proceeding or in order to satisfy audit, accounting, claims defense, regulatory filings, litigation, Tax or other similar requirements (other than in connection with any action, suit or proceeding in which any Fortune Brands Party is adverse to any Cabinets Party); (iii) for use in compensation, benefit or welfare plan administration or other *bona fide* business purposes; or (iv) to comply with its obligations under this Agreement or any Transaction Agreement.

(c) Without limiting the generality of the foregoing, until the end of the first full Cabinets fiscal year occurring after the Distribution Date (and for a reasonable period of time afterwards as required for each party to prepare consolidated financial statements or complete a financial statement audit for the fiscal year during which the Distribution Date occurs), each party hereto shall use its commercially reasonable efforts to cooperate with the other party's Information requests to enable the other party to meet its timetable for dissemination of its earnings releases and financial statements and to enable such other party's auditors to timely complete their audit of the annual financial statements and review of the quarterly financial statements.

SECTION 11.2 Ownership of Information. Any Information owned by any Party that is provided to a requesting Party pursuant to Section 11.1 shall be deemed to remain the property of the providing Party. Unless specifically set forth herein, nothing contained in this Agreement shall be construed to grant or confer rights of license or otherwise in any such Information.

SECTION 11.3 Compensation for Providing Information. The party requesting Information agrees to reimburse the providing party for the reasonable Out-of-Pocket Expenses, if any, of gathering and copying such Information, to the extent that such Out-of-Pocket Expenses are incurred for the benefit of the requesting party.

SECTION 11.4 Retention of Records. To facilitate the possible exchange of Information pursuant to this Article XI after the Distribution Date, except as otherwise required or agreed in writing, or as otherwise provided in the Tax Allocation Agreement, the Parties agree to use commercially reasonable efforts to retain all Information in their respective possession or control on the Distribution Date for a period ending on the earlier of the sixth anniversary of the Distribution Date and the applicable period specified by the policies and procedures of Fortune Brands as in effect on the Distribution Date or such other policies and procedures as may reasonably be adopted by the applicable party after the Distribution Date; provided that, if Fortune Brands determines that Information in its possession belongs to Cabinets, Fortune Brands may arrange for the transfer of such Information to Cabinets by providing written notice to Cabinets, and Cabinets shall respond to any such notice within ten (10) business days that either it shall accept that transfer or it shall permit the destruction of such Information (with a non-response within such ten (10) business days being deemed an election by Cabinets to permit the destruction of the Information that are the subject of the notice from Fortune Brands). For the avoidance of doubt, Fortune Brands shall have no obligation to retain Information it determines as belonging to Cabinets that has been transferred from Fortune Brands to Cabinets prior to the Distribution or in accordance with this Section 11.4.

SECTION 11.5 Limitation of Liability. No Person required to provide information under this Article XI shall have any Liability to the other Party (a) if any historical Information exchanged or provided pursuant to this Agreement is found to be inaccurate, in the absence of gross negligence or willful misconduct by the party providing such Information or (b) if any Information is lost or destroyed despite using commercially reasonable efforts to comply with the provisions of Section 11.4. Notwithstanding anything in this Agreement to the contrary, neither Cabinets or any Cabinet Party, on the one hand, nor Fortune Brands or any Fortune Brands Party, on the other hand, shall be liable under this Agreement to the other for any indirect, incidental, punitive, exemplary, remote, speculative or similar damages in excess of compensatory damages of the other arising in connection with the transactions contemplated hereby (other than any such Liability with respect to a Third-Party Claim or any such Liability resulting from fraud).

SECTION 11.6 Production of Witnesses. At all times from and after the Distribution Date, each Party shall use commercially reasonable efforts to make available, or cause to be made available, to such other Party (without cost (other than reimbursement of actual and reasonable Out-of-Pocket Expenses) to, and upon prior written request of, the other party) its directors, officers, employees and agents as witnesses to the extent reasonably required by such other Party (giving consideration to business demands of such directors, officers, employees and agents) in connection with any legal, administrative or other proceeding (except in the case of any action, suit or proceeding in which any Fortune Brands Party is adverse to any Cabinets Party) in which the requesting party may from time to time be involved.

SECTION 11.7 Confidentiality. (a) From and after the Distribution Date, each of Fortune Brands and Cabinets shall hold, and shall cause their respective Subsidiaries and Affiliates, and use commercially reasonable efforts to cause their Representatives, to hold, in strict confidence, with at least the same degree of care that applies to Fortune Brands' confidential and

proprietary information pursuant to policies in effect as of the Distribution Date or such other procedures as may reasonably be adopted by the receiving party after the Distribution Date, all Confidential Information of the disclosing party or any of its Affiliates obtained by such receiving party prior to the Distribution Date, accessed by such receiving party pursuant to Section 11.1 or furnished to such receiving party by or on behalf of the disclosing party or any of its Affiliates pursuant to this Agreement or, to the extent not addressed in a Transaction Agreement, any agreement contemplated hereby, shall not use such Confidential Information (except as contemplated by this Agreement, such Transaction Agreement or any agreement contemplated hereby) and shall not release or disclose such Confidential Information to any other Person, except its Representatives, who shall be bound by the provisions of this Section 11.7 or similar confidentiality obligations; provided, however, that Fortune Brands and Cabinets and their respective Representatives may disclose or use such information if, and only to the extent that, (i) a disclosure of such information is compelled by judicial or administrative process or, based on advise of the receiving party's counsel, by other requirements of law (in which case such party will provide, to the extent reasonably practicable under the circumstances, advance written notice to the other party of its intent to make such disclosure), (ii) if it or any of its Affiliates are requested by a regulatory body or reliability organization to disclose any such Confidential Information, or (iii) the receiving party can show that such information (x) has been published or has otherwise become available to the general public as part of the public domain without breach of this Agreement, (y) has been furnished or made known to the receiving party without any obligation to keep it confidential by a Third Party under circumstances that are not known to the receiving party to involve a breach of the Third Party's obligations to a party hereto or (z) was developed independently of information furnished or made available to the receiving party as contemplated under this Agreement (except, in the case of each of (x), (y) and (z), to the extent that notwithstanding the foregoing, use or disclosure thereof would be prohibited by applicable law). Each of Fortune Brands and Cabinets, respectively, shall be responsible for any breach of this Section 11.7 by any of its Representatives to whom it has disclosed Confidential Information.

Notwithstanding the foregoing, in the event that any demand or request for disclosure of Confidential Information is made pursuant to the foregoing clauses (i) or (ii) above, the Party requested to disclose Confidential Information concerning another Party, shall, to the extent reasonably practicable and not prohibited by law, promptly notify such other Party of the existence of such request or demand and, to the extent commercially practicable, shall provide such other Party thirty (30) days (or such lesser period as is commercially practicable) to, at such other Party's own expense, seek an appropriate protective order or other remedy, which the Parties shall reasonably cooperate in obtaining. In the event that such appropriate protective order or other remedy is not obtained within a reasonable period of time, the Party that is required to disclose Confidential Information about such other Party shall furnish, or cause to be furnished, only that portion of the Confidential Information that is legally required or requested to be disclosed and shall use commercially reasonable efforts to ensure that confidential treatment is accorded such information.

(b) Notwithstanding the provisions of this Section 11.7, each of Fortune Brands and Cabinets will be deemed to have satisfied its obligations under Section 11.7(a) with respect to preserving the confidentiality of the other party's Confidential Information as long as it takes the same degree of care (but no less than a reasonable degree of care) that it takes to: (i) secure and maintain the confidentiality of its own similar information; (ii) protect its own similar information against anticipated threats or hazards; and (iii) protect against loss or theft or unauthorized access, copying, disclosure, loss, damage, modification or use of its own similar information.

(c) Each of Fortune Brands and Cabinets acknowledges that the disclosing party would not have an adequate remedy at law for the breach by the receiving party of any one or more of the covenants contained in this Section 11.7 and agrees that, notwithstanding Article XII and Section 13.2, the disclosing party shall, in addition to the other remedies that may be available to it, be entitled to an injunction to prevent actual or threatened breaches of this Section 11.7 and to enforce specifically the terms and provisions of this Section 11.7 in any court of competent jurisdiction. Notwithstanding anything to the contrary contained in this Agreement, the provisions of this Section 11.7 shall survive the Distribution Date indefinitely.

(d) This Section 11.7 shall not apply with respect to Confidential Information furnished to the receiving party or accessed by the receiving party pursuant to any Transaction Agreement, except to the extent that such Transaction Agreement incorporates the provisions of this Section 11.7 by reference.

(e) Notwithstanding the limitations set forth in this Section 11.7, with respect to financial and other information related to the Cabinets Parties for the periods during which such Cabinets Parties were Subsidiaries of Fortune Brands, in addition to fulfilling its periodic reporting obligations with the SEC as required by applicable law, Fortune Brands shall be permitted to disclose such information in its earnings releases, investor calls, rating agency presentations and other similar disclosures to the extent such information has customarily been included by Fortune Brands in such disclosures.

SECTION 11.8 Privileged Matters. (a) Each of Fortune Brands and Cabinets agrees to maintain, preserve and assert all privileges, including privileges arising under or relating to the attorney-client relationship (which shall include the attorney-client and work product privileges), not heretofore waived, that relate to the Cabinets Business or the Fortune Brands Business for any period prior to the Distribution Date (each a "**Privilege**"). Each party hereto acknowledges and agrees that any costs associated with asserting any Privilege shall be borne by the party requesting that such Privilege be asserted. Each party hereto agrees that neither it nor any of its Affiliates shall waive any Privilege that could be asserted by the other party hereto or any of its Affiliates under applicable law without the prior written consent of the other party. The rights and obligations created by this Section 11.8 shall apply to all information relating to the Fortune Brands Business or the Cabinets Business as to which, but for the Distribution, either party would have been entitled to assert or did assert the protection of a Privilege ("**Privileged Information**"), including (b) any and all information generated prior to the Distribution Date but which, after the Distribution, is in the possession of either party and (c) all information generated, received or arising after the Distribution Date that refers to or relates to Privileged Information generated, received or arising prior to the Distribution Date.

(d) Upon receipt by either party of any subpoena, discovery or other request that may call for the production or disclosure of Privileged Information or if either party obtains knowledge that any current or former employee of Fortune Brands, Cabinets or any of their respective Affiliates has received any subpoena, discovery or other request that may call for the production or disclosure of Privileged Information of the other party hereto or any of such other party's

Affiliates, such party shall notify promptly the other party of the existence of the request and shall provide the other party a reasonable opportunity to review the information and to assert any rights it may have under this Section 11.8 or otherwise to prevent the production or disclosure of Privileged Information. Each party agrees that it will not produce or disclose any information that may be covered by a Privilege of the other party or any of such other party's Affiliates under this Section 11.8 unless (i) the other party has provided its written consent to such production or disclosure (which consent shall not be unreasonably withheld, conditioned or delayed) or (ii) a court of competent jurisdiction has entered a final, nonappealable order finding that the information is not entitled to protection under any applicable Privilege.

(e) Fortune Brands' transfer of books and records and other information to Cabinets, and Fortune Brands' agreement to permit Cabinets to possess Privileged Information existing or generated prior to the Distribution Date, are made in reliance on Cabinets' agreement, as set forth in Section 11.7 and Section 11.8, to maintain the confidentiality of Privileged Information and to assert and maintain all applicable Privileges. The access to information being granted pursuant to Section 11.1, the agreement to provide witnesses and individuals pursuant to Section 11.6 and the transfer of Privileged Information to Cabinets pursuant to this Agreement shall not be deemed a waiver of any Privilege that has been or may be asserted under this Section 11.8 or otherwise. Nothing in this Agreement shall operate to reduce, minimize or condition the rights granted to Fortune Brands in, or the obligations imposed upon Cabinets by, this Section 11.8. Cabinets' transfer of books and records and other information to Fortune Brands, and Cabinets' agreement to permit Fortune Brands to possess Privileged Information existing or generated prior to the Distribution Date, are made in reliance on Fortune Brands' agreement, as set forth in Section 11.7 and Section 11.8, to maintain the confidentiality of Privileged Information and to assert and maintain all applicable Privileges. The access to information being granted pursuant to Section 11.1, the agreement to provide witnesses and individuals pursuant to Section 11.6 and the transfer of Privileged Information to Fortune Brands pursuant to this Agreement shall not be deemed a waiver of any Privilege that has been or may be asserted under this Section 11.8 or otherwise. Nothing in this Agreement shall operate to reduce, minimize or condition the rights granted to Cabinets in, or the obligations imposed upon Fortune Brands by, this Section 11.8.

SECTION 11.9 Financial Information Certifications. (a) Until the end of Fortune Brands's fiscal year occurring after the Distribution Date (and for a reasonable period of time afterwards as required for each Party to prepare consolidated financial statements or complete a financial statement audit for the fiscal year during which the Distribution Date occurs), the Parties shall cooperate with each other in such manner as is reasonably necessary to enable (i) the principal executive officer or officers, principal financial officer or officers and controller or controllers of each of the Parties to make the certifications required of them under Sections 302, 404 and 906 of the Sarbanes-Oxley Act of 2002 and (ii) the other Party to meet its timetable for dissemination of its earnings releases, financial statements and management's assessment of the effectiveness of its disclosure controls and procedures and its internal control over financial reporting in accordance with Items 307 and 308, respectively, of Regulation S-K promulgated under the Exchange Act.

(b) In order to enable the principal executive officer or officers, principal financial officer or officers and controller or controllers of Fortune Brands to make the certifications required of them under Section 302 of the Sarbanes-Oxley Act of 2002, within 30 days following the end of any fiscal quarter during which Cabinets was a Subsidiary of Fortune Brands, and within

60 days following the end of any fiscal year during which Cabinets was a Subsidiary of Fortune Brands, Cabinets shall provide a certification statement with respect of internal controls for corporate and shared services processes for such quarter, year or portion thereof to those certifying officers and employees of Fortune Brands, which certification shall be in substantially the same form as had been provided by officers or employees of Cabinets in certifications delivered prior to the Distribution Date (provided that such certification shall be made by Cabinets rather than individual officers or employees), or as otherwise agreed upon between the parties. Such certification statements shall also reflect any changes in certification statements necessitated by the transactions contemplated by this Agreement.

(c) In order to enable the principal executive officer or officers, principal financial officer or officers and controller or controllers of Cabinets to make the certifications required of them under Section 302 of the Sarbanes-Oxley Act of 2002, within 30 days following the end of any fiscal quarter during which Cabinets was a Subsidiary of Fortune Brands, and within 60 days following the end of any fiscal year during which Cabinets was a Subsidiary of Fortune Brands, Fortune Brands shall provide a certification statement with respect to testing of internal controls for corporate and shared services processes for such quarter, year or portion thereof to those certifying officers and employees of Cabinets, which certification shall be in substantially the same form as had been provided by officers or employees of Fortune Brands in certifications delivered to its principal executive officer, principal financial officer and controller prior to the Distribution Date (provided that such certification shall be made by Fortune Brands rather than individual officers or employees,) or as otherwise agreed upon between the parties. Such certification statements shall also reflect any changes in certification statements necessitated by the transactions contemplated by this Agreement.

ARTICLE XII
DISPUTE RESOLUTION

SECTION 12.1 Good Faith Officer Negotiation. Subject to Section 12.4, either Party seeking resolution of any dispute, controversy or claim arising out of or relating to this Agreement or any Transaction Agreement (including regarding whether any Liabilities are Cabinets Liabilities or the validity, interpretation, breach or termination of this Agreement or any Transaction Agreement) (a "**Dispute**"), shall provide written notice thereof to the other Party (the "**Officer Negotiation Request**"). Within forty-five (45) days after the delivery of the Officer Negotiation Request, the Parties shall attempt to resolve the Dispute through good faith negotiation. All such negotiations shall be conducted by the General Counsels of the Parties. All such negotiations shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the Parties are unable for any reason to resolve a Dispute within forty-five (45) days after receipt of the Officer Negotiation Request, and such forty-five (45)-day period is not extended by mutual written consent of the Parties, the Chief Executive Officers of the Parties shall enter into good faith negotiations in accordance with Section 12.2.

SECTION 12.2 CEO Negotiation. If any Dispute is not resolved pursuant to Section 12.1, the Party that delivered the Officer Negotiation Request shall provide written notice of such Dispute to the Chief Executive Officer of each of Cabinets and Fortune Brands (a "**CEO Negotiation Request**"). As soon as reasonably practicable following receipt of a CEO Negotiation Request, the Chief Executive Officers of Fortune Brands and Cabinets shall begin conducting good

faith negotiations with respect to such Dispute. All such negotiations shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the Chief Executive Officers of Cabinets and Fortune Brands are unable for any reason to resolve a Dispute within forty-five (45) days after receipt of a CEO Negotiation Request, and such forty five (45)-day period is not extended by mutual written consent of the Parties, the Dispute shall be submitted to arbitration in accordance with Section 12.3.

SECTION 12.3 Arbitration.

(a) In the event that a Dispute has not been resolved within forty five (45) days after the receipt of a CEO Negotiation Request in accordance with Section 12.2, or within such longer period as the Parties may agree in writing, then such Dispute shall, upon the written request of a Party (the "**Arbitration Request**"), be submitted to be finally resolved by binding arbitration. The JAMS Streamlined Arbitration Rules and Procedures ("**JAMS Streamlined Rules**") in effect at the time of the arbitration shall govern the arbitration, except as they may be modified herein or by mutual written agreement of the Parties. The arbitration shall be held in (i) Chicago, Illinois or (ii) such other place as the Parties may mutually agree in writing. Unless otherwise agreed by the Parties in writing, any Dispute to be decided pursuant to this Section 12.3 will be decided (x) before a sole arbitrator if the amount in dispute, inclusive of all claims and counterclaims, totals less than $10,000,000, or (y) by a panel of three (3) arbitrators if the amount in dispute, inclusive of all claims and counterclaims, totals $10,000,000 or more.

(b) The panel of three (3) arbitrators will be chosen as follows: (i) within fifteen (15) days from the date of the receipt of the Arbitration Request, each Party will name an arbitrator; and (ii) the two (2) Party-appointed arbitrators will thereafter, within thirty (30) days from the date on which the second (2nd) of the two (2) arbitrators was named, name a third (3rd), independent arbitrator who will act as chairperson of the arbitral tribunal. In the event that either Party fails to name an arbitrator within fifteen (15) days from the date of receipt of the Arbitration Request, then upon written application by either Party, that arbitrator shall be appointed pursuant to the JAMS Streamlined Rules. In the event that the two (2) Party-appointed arbitrators fail to appoint the third (3rd), then the third (3rd) independent arbitrator will be appointed pursuant to the JAMS Streamlined Rules. If the arbitration will be before a sole independent arbitrator, then the sole independent arbitrator will be appointed by agreement of the Parties within fifteen (15) days from the date of receipt of the Arbitration Request. If the Parties cannot agree to a sole independent arbitrator during such fifteen (15)-day period, then upon written application by either party, the sole independent arbitrator will be appointed pursuant to the JAMS Streamlined Rules.

(c) The arbitrator(s) will have the right to award, on an interim basis, or include in the final award, any relief that it deems proper in the circumstances, including money damages (with interest on unpaid amounts from the due date), injunctive relief (including specific performance) and attorneys' fees and costs; provided that the arbitrator(s) will not award any relief not specifically requested by the Parties and, in any event, will not award any indirect, incidental, punitive, exemplary, remote, speculative or similar damages in excess of compensatory damages of the other arising in connection with the transactions contemplated hereby (other than any such Liability with respect to a Third-Party Claim or any such Liability resulting from fraud). Upon selection of the arbitrator(s) following any grant of interim relief by a special arbitrator or court pursuant to Section 12.4, the arbitrator(s) may affirm or disaffirm that relief, and the Parties will

seek modification or rescission of the order entered by the court as necessary to accord with the decision of the arbitrator(s). The award of the arbitrator(s) shall be final and binding on the Parties, and may be enforced in any court of competent jurisdiction. The initiation of arbitration pursuant to this Article XII will toll the applicable statute of limitations for the duration of any such proceedings. Notwithstanding applicable state law, the arbitration and this agreement to arbitrate shall be governed by the Federal Arbitration Act, 9 U.S.C. § 1, *et seq*.

SECTION 12.4 Litigation and Unilateral Commencement of Arbitration. Notwithstanding the foregoing provisions of this Article XII, (a) a Party may seek preliminary provisional or injunctive judicial relief with respect to a Dispute without first complying with the procedures set forth in Section 12.1, Section 12.2 and Section 12.3 if such action is reasonably necessary to avoid irreparable damage, and (b) either Party may initiate arbitration before the expiration of the periods specified in Section 12.1, Section 12.2 and Section 12.3 if such Party has submitted an Officer Negotiation Request, a CEO Negotiation Request and/or an Arbitration Request and the other Party has failed to comply with Section 12.1, Section 12.2 and Section 12.3 in good faith with respect to such negotiation and/or the commencement and engagement in arbitration. In such event, the other Party may commence and prosecute such arbitration unilaterally in accordance with the provisions of the JAMS Streamlined Rules.

SECTION 12.5 Conduct During Dispute Resolution Process. Unless otherwise agreed in writing, the Parties shall continue to honor all commitments under this Agreement and each Transaction Agreement to the extent required by such agreements during the course of dispute resolution pursuant to the provisions of this Article XII, unless such commitments are the specific subject of the Dispute at issue.

SECTION 12.6 Dispute Resolution Coordination. Except to the extent otherwise provided in the Tax Allocation Agreement, the provisions of this Article XII (other than this Section 12.6) shall not apply with respect to the resolution of any dispute, controversy or claim arising out of or relating to Taxes or Tax matters (it being understood and agreed that the resolution of any dispute, controversy or claim arising out of or relating to Taxes or Tax matters shall be governed by the Tax Allocation Agreement).

ARTICLE XIII
MISCELLANEOUS

SECTION 13.1 Entire Agreement. This Agreement and the Transaction Agreements, including the Schedules and Exhibits referred to herein and therein, and the documents delivered pursuant hereto and thereto, contain the entire understanding of the parties hereto with regard to the subject matter contained herein or therein, and supersede all prior agreements, negotiations, discussions, understandings, writings and commitments between any of the Fortune Brands Parties, on the one hand, and any of the Cabinets Parties, on the other hand, with respect to such subject matter hereof or thereof.

SECTION 13.2 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws (as opposed to the conflicts of law provisions) of the State of Delaware.

SECTION 13.3 Submission to Jurisdiction; Waiver of Jury Trial. Each of Fortune Brands, on behalf of itself and each of the Fortune Brands Parties, and Cabinets, on behalf of itself and each of the Cabinets Parties, hereby irrevocably (a) submits in any Dispute to the exclusive jurisdiction of the United States District Court for the Northern District of Illinois and the jurisdiction of any court of the State of Illinois located in Chicago, Illinois, (b) waives any and all objections to jurisdiction that they may have under the laws of the State of Illinois or the United States, (c) agrees that service of any process, summons, notice or document by U.S. registered mail to its respective address set forth in Section 13.10 shall be effective service of process for any litigation brought against it in any such court and (d) UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE (AS DEFINED HEREIN).

SECTION 13.4 Amendment. This Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each of Fortune Brands and Cabinets.

SECTION 13.5 Waiver. Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof. Any such waiver shall be validly and sufficiently given for the purposes of this Agreement if, as to either party, it is in writing signed by an authorized representative of such party. The failure of either party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, or in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

SECTION 13.6 Partial Invalidity. Wherever possible, each provision hereof shall be construed in a manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provision hereof, unless such a construction would be unreasonable.

SECTION 13.7 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original instrument, but both of which shall be considered one and the same agreement, and shall become binding when the counterparts have been signed by and delivered to each of the parties hereto. Execution and delivery of this Agreement or any other documents pursuant to this Agreement by facsimile or other electronic means, including DocuSign or scanned pages, shall be deemed to be, and shall have the same legal effect as, execution by an original signature and delivery in person.

SECTION 13.8 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns; provided, however, that the rights and obligations of either party under this Agreement shall not be assignable by such party without the prior written consent of the other party. The successors and permitted assigns hereunder shall include any permitted assignee as well as the successors in interest to such permitted assignee (whether by merger, liquidation (including successive mergers or liquidations) or otherwise).

SECTION 13.9 Third-Party Beneficiaries. Except for Article X, this Agreement is solely for the benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein express or implied shall give or be construed to give to any other Person any legal or equitable rights hereunder.

SECTION 13.10 Notices. All notices, requests, claims, demands and other communications required or permitted hereunder shall be in writing and shall be deemed given or delivered (a) when delivered personally, (b) if transmitted by facsimile or e-mail, when confirmation of transmission is received if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient, (c) if sent by registered or certified mail, postage prepaid, return receipt requested, on the third business day after mailing or (d) if sent by nationally recognized overnight courier, on the first business day following the date of dispatch; and shall be addressed as follows:

If to Cabinets prior to the Effective Time, to:

Fortune Brands Home & Security, Inc.
520 Lake Cook Road
Deerfield, Illinois 60015
Attention: General Counsel
Email: hiranda.donoghue@FBHS.com

If to Cabinets at or after the Effective Time, to:

MasterBrand, Inc.
One MasterBrand Cabinets Drive
Jasper, Indiana 47546
Attention: General Counsel
Email: ahorton@masterbrand.com

If to Fortune Brands, to:

Fortune Brands Home & Security, Inc.
520 Lake Cook Road
Deerfield, Illinois 60015
Attention: General Counsel
Email: hiranda.donoghue@FBHS.com

or to such other address as such party may indicate by a notice delivered to the other party in accordance herewith.

SECTION 13.11 Performance. Fortune Brands will cause to be performed and hereby guarantees the performance of all actions, agreements and obligations set forth herein to be performed by any Fortune Brands Party. Cabinets will cause to be performed and hereby guarantees the performance of all actions, agreements and obligations set forth herein to be performed by any Cabinets Party.

SECTION 13.12 Force Majeure. No party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations under this Agreement results from any cause beyond its reasonable control and without its fault or negligence, including acts of God, acts of civil or military authority, embargoes, acts of terrorism, epidemics or pandemics, war, riots, insurrections, fires, explosions, earthquakes, floods, unusually severe weather conditions, labor problems or unavailability of parts, or, in the case of computer systems, any failure in electrical or air conditioning equipment. In the event of any such excused delay, the time for performance shall be extended for a period equal to the time lost by reason of the delay. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such force majeure condition and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement and the Transaction Agreements, as applicable, as soon as reasonably practicable.

SECTION 13.13 Termination. Notwithstanding anything to the contrary contained herein, this Agreement may be terminated and the Distribution abandoned at any time prior to the Distribution by and in the sole discretion of the Fortune Brands Board (or its designee) without the prior approval of any Person. In the event of such termination, this Agreement shall forthwith become void, and no party shall have any liability to any Person by reason of this Agreement.

SECTION 13.14 Limited Liability. Notwithstanding any other provision of this Agreement, no individual who is a stockholder, director, employee, officer, agent or representative of Cabinets or Fortune Brands, in such individual's capacity as such, shall have any liability in respect of or relating to the covenants or obligations of Cabinets or Fortune Brands, as applicable, under this Agreement or any Transaction Agreement or in respect of any certificate delivered with respect hereto or thereto, and, to the fullest extent legally permissible, each of Cabinets and Fortune Brands, for itself and its stockholders, directors, employees, officers and Affiliates, waives and agrees not to seek to assert or enforce any such liability that any such individual otherwise might have pursuant to applicable law.

SECTION 13.15 Survival. Except as otherwise expressly provided herein, all covenants, conditions and agreements of the parties hereto contained in this Agreement shall remain in full force and effect and shall survive the Distribution Date.

SECTION 13.16 Public Announcements. After the Distribution Date, no Fortune Brands Party or Cabinets Party shall make any public announcement in respect of this Agreement, the Transaction Agreements or the transactions contemplated hereby or thereby without the prior written consent of the other party (which consent shall not be unreasonably withheld, conditioned

or delayed), except (a) as may be required by law, rule or regulation (including those with respect to any stock exchange) applicable to such Fortune Brands Party or Cabinets Party (and only to the extent so required), (b) statements and communications describing the terms of this Agreement or any of the Transaction Agreements or to stockholders relating to the tax treatment of the transactions contemplated by this Agreement or any of the Transaction Agreements, (c) statements and communications that are not inconsistent with public statements or communications made by any of the Parties prior to the Distribution Date (or that were made after the Distribution Date in accordance with this Section 13.16) and (d) statements and communications that principally relate to such Party's own business, including with respect to the benefits obtained as a result of the Distribution. For the avoidance of doubt, statements and communications made to a Party's own employees or consultants or to a Governmental Authority shall not be considered public announcements for purposes of this Section 13.16.

* * * * *

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized representatives as of the date first above written.

FORTUNE BRANDS HOME & SECURITY, INC.

By: /s/ Nicholas I. Fink
Name: Nicholas I. Fink
Title: Chief Executive Officer

MASTERBRAND, INC.

By: /s/ R. David Banyard, Jr.
Name: R. David Banyard, Jr.
Title: President

[Signature Page to Separation and Distribution Agreement]

Exhibit 3.1

CERTIFICATE OF AMENDMENT

TO THE

RESTATED CERTIFICATE OF INCORPORATION

OF

FORTUNE BRANDS HOME & SECURITY, INC.

Fortune Brands Home & Security, Inc. (the "Corporation"), a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, does hereby certify:

FIRST: That the Board of Directors duly adopted resolutions proposing to amend the Restated Certificate of Incorporation of the Corporation, declaring said amendment to be advisable and in the best interests of the Corporation and its stockholders, which resolution setting forth the proposed amendment is as follows:

> **RESOLVED,** that pursuant to a Certificate of Amendment in the form approved by an officer of the Corporation, as evidenced by such officer's signature thereon, Article I of the Restated Certificate of Incorporation of the Corporation is hereby amended to read in its entirety as follows:
>
> "The name of the Corporation is Fortune Brands Innovations, Inc."

SECOND: That this Certificate of Amendment to the Restated Certificate of Incorporation has been duly adopted in accordance with Section 242 of the General Corporation Law of the State of Delaware.

THIRD: The foregoing amendment shall be effective as of 12:01 a.m., Eastern Time, on December 15, 2022.

* * * * * * *

IN WITNESS WHEREOF, this Certificate of Amendment to the Restated Certificate of Incorporation has been executed by a duly authorized officer of the Corporation on this 13th day of December, 2022.

By: /s/ Hiranda S. Donoghue
Name: Hiranda S. Donoghue
Title: Senior Vice President, General Counsel & Secretary

Exhibit 3.2

(Conformed copy reflecting all amendments as of December 12, 2022)

AMENDED AND RESTATED BYLAWS
OF
FORTUNE BRANDS INNOVATIONS, INC.
(hereinafter called the "**Corporation")**

ARTICLE I
MEETINGS OF STOCKHOLDERS

Section 1.1. Place of Meetings. Meetings of the stockholders shall be held at such time and place, if any, either within or without the State of Delaware, as shall be designated from time to time by the board of directors of the Corporation (the "Board"). The Board may, in its sole discretion, determine that a meeting shall not be held at any place, but shall instead be held solely by means of remote communication in accordance with Section 211(a) of the General Corporation Law of the State of Delaware, as amended (the "**DGCL**").

Section 1.2. Annual Meetings. The annual meeting of stockholders for the election of directors and for the transaction of such other business as may properly be brought before the meeting in accordance with these amended and restated bylaws of the Corporation (as amended from time to time in accordance with the provisions hereof, these "**Bylaws**") shall be held on such date and at such time as may be designated from time to time by the Board. The Board may postpone, reschedule or cancel any annual meeting of stockholders previously scheduled by the Board.

Section 1.3. Special Meetings. Unless otherwise required by law or by the certificate of incorporation of the Corporation (including the terms of any certificate of designation with respect to any series of preferred stock), as amended and restated from time to time (the "**Certificate of Incorporation**"), special meetings of the stockholders of the Corporation, for any purpose or purposes, may be called only by the Chairperson of the Board, the Chief Executive Officer or the Board. The ability of the stockholders to call a special meeting of stockholders is hereby specifically denied. At a special meeting of stockholders, only such business shall be conducted as shall be specified in the notice of meeting. The Board may postpone, reschedule or cancel any special meeting of stockholders.

Section 1.4. Notice. Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and time of the meeting, the record date for determining the stockholders entitled to vote at the meeting, if such date is different from the record date for determining stockholders entitled to notice of meeting, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed present in person and vote at such meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise required by law or the Certificate of Incorporation, written notice of any meeting shall be given either personally, by mail or by electronic transmission (as defined below) (if permitted under the circumstances by the DGCL) not less than ten (10) nor more than sixty (60) days before the date of the meeting, by or at the direction of the Board, the Chairperson of the Board or the Chief Executive Officer, to each stockholder entitled to vote at such meeting as of the record date for

determining stockholders entitled to notice of the meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail with postage thereon prepaid, addressed to the stockholder at the stockholder's address as it appears on the stock transfer books of the Corporation. If notice is given by means of electronic transmission, such notice shall be deemed to be given at the times provided in the DGCL. Any stockholder may waive notice of any meeting before or after the meeting. The attendance of a stockholder at any meeting shall constitute a waiver of notice at such meeting, except where the stockholder attends the meeting for the express purpose of objecting, and does so object, at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of stockholders need be specified in any waiver of notice unless so required by law. For purposes of these Bylaws, "**electronic transmission**" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

Section 1.5. Adjournments. Any meeting of stockholders may be adjourned or recessed from time to time to reconvene at the same or some other place, if any, by holders of a majority of the voting power of the Corporation's capital stock issued and outstanding and entitled to vote thereat, present in person or represented by proxy, though less than a quorum, or by any officer entitled to preside at or to act as secretary of such meeting, and notice need not be given of any such adjourned or recessed meeting (including an adjournment taken to address a technical failure to convene or continue a meeting using remote communication) if the time and place, if any, thereof, and the means of remote communication, if any, by which stockholders and proxy holders may be deemed to be present in person or represented by proxy and vote at such adjourned or recessed meeting, are (a) announced at the meeting at which the adjournment or recess is taken, (b) displayed during the time scheduled for the meeting, on the same electronic network used to enable stockholders and proxy holders to participate in the meeting by means of remote communication or (c) set forth in the notice of meeting given in accordance with these Bylaws. At the adjourned or recessed meeting, the Corporation may transact any business that might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, notice of the adjourned meeting in accordance with the requirements of Section 1.4 of these Bylaws 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 fixed for the adjourned meeting, the Board shall fix as the record date for determining stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote at the adjourned meeting and shall give notice of the adjourned meeting to each stockholder of record as of the record date so fixed for notice of such adjourned meeting.

Section 1.6. Quorum. Unless otherwise required by applicable law or the Certificate of Incorporation, the holders of a majority of the voting power of the Corporation's capital stock issued and outstanding and entitled to vote thereat, present in person, present by means of remote communication (if any) or represented by proxy, shall constitute a quorum at a meeting of stockholders. Where a separate vote by a class or classes or series is required, a majority of the voting power of the shares of such class or classes or series present in person, present by means

of remote communication (if any) or represented by proxy shall constitute a quorum entitled to take action with respect to such vote. If a quorum shall not be present or represented at any meeting of stockholders, either the chairperson of the meeting or the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, in the manner provided in Section 1.5 of these Bylaws, until a quorum shall be present or represented. A quorum, once established, shall not be broken by the withdrawal of enough votes to leave less than a quorum.

Section 1.7. Voting.

(a) Matters Other Than Election of Directors. Any matter brought before any meeting of stockholders, other than the election of directors, shall be decided by the affirmative vote of the holders of a majority of the voting power of the Corporation's capital stock present in person, present by means of remote communication (if any) or represented by proxy at the meeting and entitled to vote on such matter, voting as a single class, unless the matter is one upon which, by express provision of law, 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 matter. Except as provided in the Certificate of Incorporation, every stockholder having the right to vote shall have one vote for each share of stock having voting power registered in such stockholder's name on the books of the Corporation. Such votes may be cast in person, by means of remote communication (if any) or by proxy as provided in Section 1.10 of these Bylaws. The Board, in its discretion, or the director or officer of the Corporation presiding at a meeting of stockholders, in such person's discretion, may require that any votes cast at such meeting shall be cast by written ballot.

(b) Election of Directors. Except as provided in Section 5.4 of the Certificate of Incorporation, directors shall be elected by the vote of the majority of the votes cast (meaning the number of shares voted "for" a nominee must exceed the number of shares voted "against" such nominee) with "abstentions" and "broker non-votes" not counted as a vote cast either "for" or "against" that nominee's election at any meeting for the election of directors at which a quorum is present; provided, however, that in a Contested Election of Directors (as defined below) at such a meeting, directors shall be elected by a plurality of the votes cast on the election of directors (instead of by votes cast "for" or "against" a nominee). The term "**Contested Election of Directors**" shall mean an annual or special meeting of the Corporation with respect to which (i) the secretary of the Corporation (the "**Secretary**") receives a notice that a stockholder has nominated or intends to nominate a person for election to the Board in compliance with the requirements for stockholder nominees for director set forth in Section 1.16 of these Bylaws and (ii) such nomination has not been withdrawn by such stockholder on or prior to the tenth (10th) day before the Corporation first mails its notice of meeting for such meeting to the stockholders. Stockholders shall be entitled to cast votes "against" nominees for director unless plurality voting applies in the election of directors. If, with respect to an election of directors not constituting a Contested Election of Directors and for which a quorum is present, any incumbent director does not receive a majority of the votes cast, such director shall promptly tender a resignation following certification of the stockholder vote. Such resignation will be effective only upon the acceptance thereof by the Board. Such director shall continue in office until such resignation is accepted or, if not accepted, such director's successor shall have been elected and

qualified. The Nominating, Environmental, Social and Governance Committee (the "**Nominating Committee**") shall promptly consider the tendered resignation, and a range of possible responses based on the circumstances, if known, that led to the election results, and make a recommendation to the Board on whether to accept or reject the resignation or whether any other action should be taken with respect thereto. The Board will act on any such recommendation by the Nominating Committee within 90 days following certification of the stockholder vote and will promptly publicly disclose its decision and the rationale behind it in a filing with the Securities and Exchange Commission. Any director who tenders a resignation pursuant to this provision shall not participate in the Nominating Committee or Board recommendation or deliberations regarding whether to accept the resignation offer or take other action. If directors who have tendered resignations constitute a majority of the directors then in office, then, with respect to each tendered resignation, all directors, other than the director who tendered the particular resignation under consideration, may participate in the deliberations and action regarding whether to accept or reject the tendered resignation or to take other action with respect thereto.

Section 1.8. Voting of Stock of Certain Holders. Shares of stock of the Corporation standing in the name of another corporation or entity, domestic or foreign, and entitled to vote may be voted by such officer, agent or proxy as the bylaws or other internal regulations of such corporation or entity may prescribe or, in the absence of such provision, as the board of directors or comparable body of such corporation or entity may determine. Shares of stock of the Corporation standing in the name of a deceased person, a minor, an incompetent or a debtor in a case under Title 11, United States Code, and entitled to vote may be voted by an administrator, executor, guardian, conservator, debtor-in-possession or trustee, as the case may be, either in person or by proxy, without transfer of such shares into the name of the official or other person so voting. A stockholder whose shares of stock of the Corporation are pledged shall be entitled to vote such shares, unless on the transfer records of the Corporation such stockholder has expressly empowered the pledgee to vote such shares, in which case only the pledgee, or the pledgee's proxy, may vote such shares.

Section 1.9. Treasury Stock. Shares of stock of the Corporation belonging to the Corporation, or to another corporation a majority of the shares entitled to vote in the election of directors of which are held by the Corporation, shall not be voted at any meeting of stockholders of the Corporation and shall not be counted in the total number of outstanding shares for the purpose of determining whether a quorum is present. Nothing in this Section 1.9 shall limit the right of the Corporation to vote shares of stock of the Corporation held by it in a fiduciary capacity.

Section 1.10. Proxies. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy filed with the Secretary before or at the time of the meeting. No such proxy shall be voted or acted upon after eleven (11) months from its date, unless the proxy provides for a longer period. A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. Any stockholder directly or indirectly soliciting proxies from other stockholders may use any proxy card color other than white, which shall be reserved for exclusive use by the Board.

Section 1.11. No Consent of Stockholders in Lieu of Meeting. Except as otherwise expressly provided by the terms of any series of preferred stock permitting the holders of such series of preferred stock to act by written consent, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation, and, as specified by the Certificate of Incorporation, the ability of the stockholders to consent in writing to the taking of any action is specifically denied.

Section 1.12. List of Stockholders Entitled to Vote. The officer of the Corporation who has charge of the stock ledger of the Corporation shall prepare and make or have prepared and made, at least ten (10) days before every meeting of stockholders of the Corporation, a complete list of the stockholders entitled to vote at the meeting (provided, however, that if the record date for determining the stockholders entitled to vote is less than ten (10) days before the meeting date, the list shall reflect the stockholders entitled to vote as of the tenth (10^{th}) 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. Nothing in this Section 1.12 shall require the Corporation to include electronic mail addresses or other electronic contact information on such list. 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 (10) days ending on the day before the meeting date: (a) 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 (b) during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation.

Section 1.13. Record Date. In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining 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, but the Board 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 with the foregoing provisions of this Section 1.13 at the adjourned meeting.

Section 1.14. Organization and Conduct of Meetings. The Chairperson of the Board shall act as chairperson of meetings of stockholders. The Board may designate any officer or director of the Corporation to act as chairperson of any meeting in the absence of the Chairperson of the Board, and only the Board may further provide for determining who shall act as chairperson of any stockholders meeting in the absence of the Chairperson of the Board and such designee. The Board may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board, the chairperson of any meeting of stockholders shall have the right and authority to convene and (for any or no reason) to recess or adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairperson, are necessary, appropriate or convenient for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the chairperson of the meeting, may include the following: (a) the establishment of an agenda or order of business for the meeting; (b) the determination of when the polls shall open and close for any given matter to be voted on at the meeting; (c) rules, regulations and procedures for maintaining order at the meeting and the safety of those present; (d) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized proxies or such other persons as the chairperson of the meeting shall determine; (e) restrictions on entry to the meeting after the time fixed for the commencement thereof; (f) limitations on the time allotted to questions or comments by participants; (g) removal of any stockholder or any other individual who refuses to comply with meeting rules, regulations or procedures; (h) the conclusion, recess or adjournment of the meeting, regardless of whether a quorum is present, to a later date and time and at a place, if any, announced at the meeting; (i) restrictions on the use of audio and video recording devices, cell phones and other electronic devices; (j) rules, regulations or procedures for compliance with any state or local laws or regulations including those concerning safety, health and security; (k) procedures (if any) requiring attendees to provide the Corporation advance notice of their intent to attend the meeting and (l) any rules, regulations or procedures as the chairperson may deem appropriate regarding the participation by means of remote communication of stockholders and proxyholders not physically present at a meeting, whether such meeting is to be held at a designated place or solely by means of remote communication. Except to the extent determined by the Board or the person presiding at the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

Section 1.15. Inspectors of Election. In advance of any meeting of stockholders, the Board, by resolution, the Chairperson of the Board or the Chief Executive Officer shall appoint one or more inspectors 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 able to act at a meeting of stockholders, the chairperson of the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by applicable law, inspectors may be officers, employees or agents of the Corporation. Each inspector, before entering upon the discharge of the duties of inspector, 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 shall take charge of the polls 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 applicable law.

Section 1.16. Notice of Stockholder Proposals and Director Nominations.

(a) Annual Meetings of Stockholders. Nominations of persons for election to the Board and the proposal of business other than nominations to be considered by the stockholders may be made at an annual meeting of stockholders only: (i) pursuant to the Corporation's notice of meeting (or any supplement thereto) with respect to such annual meeting given by or at the direction of the Board (or any duly authorized committee thereof), (ii) as otherwise properly brought before such annual meeting by or at the direction of the Board (or any duly authorized committee thereof), (iii) by any stockholder of the Corporation who (A) is a stockholder of record at the time of the giving of the notice provided for in this Section 1.16 through the date of such annual meeting, (B) is entitled to vote at such annual meeting and (C) complies with the notice procedures set forth in this Section 1.16 or (iv) by an eligible stockholder with respect to the nomination of a director for election pursuant to and in compliance with Section 1.18 of these Bylaws. For the avoidance of doubt, compliance with the foregoing clause (iii) or (iv) shall be the exclusive means for a stockholder to make nominations, and compliance with the foregoing clause (iii) shall be the exclusive means for a stockholder to propose any other business (other than a proposal included in the Corporation's proxy materials pursuant to and in compliance with Rule 14a-8 under the Securities Exchange Act of 1934, as amended (such act, and the rules and regulations promulgated thereunder, the "**Exchange Act**")), at an annual meeting of stockholders.

(b) Timing of Notice for Annual Meetings. In addition to any other applicable requirements, for nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to Section 1.16(a)(iii) above, the stockholder must have given timely notice thereof in proper written form to the Secretary, and, in the case of business other than nominations, such business must be a proper matter for stockholder action. To be timely, such notice must be received by the Secretary at the principal executive offices of the Corporation not later than the Close of Business (as defined below) on the ninetieth (90th) day, or earlier than the one hundred twentieth (120th) day, prior to the first anniversary of the date of the preceding year's annual meeting of stockholders; provided, however, that if the date of the annual meeting of stockholders is more than thirty (30) days prior to, or more than sixty (60) days after, the first anniversary of the date of the preceding year's annual meeting or if no annual meeting was held in the preceding year, to be timely, a stockholder's notice must be so received not earlier than the one hundred twentieth (120th) day prior to such annual meeting and not later than the Close of Business on the later of (i) the ninetieth (90th) day prior to such annual meeting and (ii) the tenth (10th) day following the day on which public disclosure (as defined below) of the date of the meeting is first made by the Corporation. In no event shall the adjournment, recess, postponement, judicial stay or rescheduling of an annual meeting (or the public disclosure thereof) commence a new time period (or extend any time period) for the giving of notice as described above.

(c) Form of Notice. To be in proper written form, the notice of any stockholder of record giving notice under this Section 1.16 (each, a "**Noticing Party**") must set forth:

(i) as to each person whom such Noticing Party proposes to nominate for election or reelection as a director (each, a "**Proposed Nominee**"), if any:

(A) the name, age, business address and residential address of such Proposed Nominee;

(B) the principal occupation and employment of such Proposed Nominee;

(C) a written questionnaire with respect to the background and qualifications of such Proposed Nominee, completed by such Proposed Nominee in the form required by the Corporation (which form such Noticing Party shall request in writing from the Secretary prior to submitting notice and which the Secretary shall provide to such Noticing Party within ten (10) days after receiving such request);

(D) a written representation and agreement completed by such Proposed Nominee in the form required by the Corporation (which form such Noticing Party shall request in writing from the Secretary prior to submitting notice and which the Secretary shall provide to such Noticing Party within ten (10) days after receiving such request) providing that such Proposed Nominee: (I) is not and will not become a party to any agreement, arrangement or understanding with, and has not given any Voting Commitment (as defined in Section 1.18(f)(vii) but with "Proposed Nominee" replacing each use of the term "Stockholder Nominee") that has not been disclosed to the Corporation or any Voting Commitment that could limit or interfere with such Proposed Nominee's ability to comply, if elected as a director of the Corporation, with such Proposed Nominee's fiduciary duties under applicable law; (II) is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director or nominee that has not been disclosed to the Corporation; (III) will, if elected as a director of the Corporation, comply with all applicable rules of any securities exchanges upon which the Corporation's securities are listed, the Certificate of Incorporation, these Bylaws, all applicable publicly disclosed corporate governance, ethics, conflict of interest, confidentiality, stock ownership and trading policies and all other guidelines and policies of the Corporation generally applicable to directors (which other guidelines and policies will be provided to such Proposed Nominee within five (5) business days after the Secretary receives any written request therefor from such Proposed Nominee), and all applicable fiduciary duties under state law; (IV) consents to being named as a nominee in the Corporation's proxy statement and form of proxy for the meeting; (V) intends to serve a full term as a director of the Corporation, if elected; (VI) will provide facts, statements and other information in all communications with the Corporation and its stockholders that are or will be true and correct and that do not and will not omit to state any fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; and (VII) will tender his or her resignation as a director of the Corporation if the Board determines that such Proposed Nominee failed to comply with the provisions of this Section 1.16(c)(i)(D) in any material respect, provides such Proposed Nominee notice of any such determination and, if such non-compliance may be cured, such Proposed Nominee fails to cure such non-compliance within ten (10) business days after delivery of such notice to such Proposed Nominee;

(E) a description of all direct and indirect compensation and other material monetary agreements, arrangements or understandings, written or oral, during the past three (3) years, and any other material relationships, between or among such Proposed Nominee or any of such Proposed Nominee's affiliates or associates (each as defined below), on the one hand, and any Noticing Party or any Stockholder Associated Person (as defined below), on the other hand, including all information that would be required to be disclosed pursuant to Item 404 promulgated under Regulation S-K as if such Noticing Party and any Stockholder Associated Person were the "registrant" for purposes of such rule and the Proposed Nominee were a director or executive officer of such registrant;

(F) a description of any business or personal interests that could reasonably be expected to place such Proposed Nominee in a potential conflict of interest with the Corporation or any of its subsidiaries; and

(G) all other information relating to such Proposed Nominee or such Proposed Nominee's associates that would be required to be disclosed in a proxy statement or other filing required to be made by such Noticing Party or any Stockholder Associated Person in connection with the solicitation of proxies for the election of directors in a contested election or otherwise required pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (the Exchange Act and such rules and regulations, collectively, the "**Proxy Rules**");

(ii) as to any other business that such Noticing Party proposes to bring before the meeting:

(A) a reasonably brief description of the business desired to be brought before the meeting and the reasons for conducting such business at the meeting;

(B) the text of the proposal or business (including the complete text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend the Certificate of Incorporation or these Bylaws, the text of the proposed amendment); and

(C) all other information relating to such business that would be required to be disclosed in a proxy statement or other filing required to be made by such Noticing Party or any Stockholder Associated Person in connection with the solicitation of proxies in support of such proposed business by such Noticing Party or any Stockholder Associated Person pursuant to the Proxy Rules; and

(iii) as to such Noticing Party and each Stockholder Associated Person:

(A) the name and address of such Noticing Party and each Stockholder Associated Person (including, as applicable, as they appear on the Corporation's books and records);

(B) the class, series and number of shares of each class or series of capital stock (if any) of the Corporation that are, directly or indirectly, owned beneficially or of record (specifying the type of ownership) by such Noticing Party or any Stockholder Associated Person (including any rights to acquire beneficial ownership at any time in the future, whether such right is exercisable immediately or only after the passage of time or the fulfillment of a condition), the date or dates on which such shares were acquired, and the investment intent of such acquisition;

(C) the name of each nominee holder for, and number of, any securities of the Corporation owned beneficially but not of record by such Noticing Party or any Stockholder Associated Person and any pledge by such Noticing Party or any Stockholder Associated Person with respect to any of such securities;

(D) a complete and accurate description of all agreements, arrangements or understandings, written or oral, (including any derivative or short positions, profit interests, hedging transactions, forwards, futures, swaps, options, warrants, convertible securities, stock appreciation or similar rights, repurchase agreements or arrangements, borrowed or loaned shares and so-called "stock borrowing" agreements or arrangements) that have been entered into by, or on behalf of, such Noticing Party or any Stockholder Associated Person, the effect or intent of which is to mitigate loss, manage risk or benefit from changes in the price of any securities of the Corporation, or maintain, increase or decrease the voting power of such Noticing Party or any Stockholder Associated Person with respect to securities of the Corporation, whether or not such instrument or right shall be subject to settlement in underlying shares of capital stock of the Corporation and without regard to whether such agreement, arrangement or understanding is required to be reported on a Schedule 13D, 13F or 13G in accordance with the Exchange Act (any of the foregoing, a "**Derivative Instrument**");

(E) any substantial interest, direct or indirect (including any existing or prospective commercial, business or contractual relationship with the Corporation), by security holdings or otherwise, of such Noticing Party or any Stockholder Associated Person in the Corporation or any affiliate thereof, other than an interest arising from the ownership of Corporation securities where such Noticing Party or such Stockholder Associated Person receives no extra or special benefit not shared on a *pro rata* basis by all other holders of the same class or series;

(F) a complete and accurate description of all agreements, arrangements or understandings, written or oral, (I) between or among such Noticing Party and any of the Stockholder Associated Persons or (II) between or among such Noticing Party or any Stockholder Associated Person and any other person or entity (naming each such person or entity) including (x) any proxy, contract, arrangement, understanding or relationship pursuant to which such Noticing Party or any Stockholder Associated Person, directly or indirectly, has a right to vote any security of the Corporation (other than any revocable proxy given in response to a solicitation made pursuant to, and in accordance with, Section 14(a) of the Exchange Act by way of a solicitation statement filed on Schedule 14A), and (y) any understanding, written or oral, that such Noticing Party or any Stockholder Associated Person may have reached with any stockholder of the Corporation

(including the name of such stockholder) with respect to how such stockholder will vote such stockholder's shares in the Corporation at any meeting of the Corporation's stockholders or take other action in support of any Proposed Nominee or other business, or other action to be taken, by such Noticing Party or any Stockholder Associated Person;

(G) any rights to dividends on the shares of the Corporation owned beneficially by such Noticing Party or any Stockholder Associated Person that are separated or separable from the underlying shares of the Corporation;

(H) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership, limited liability company or similar entity in which such Noticing Party or any Stockholder Associated Person (I) is a general partner or, directly or indirectly, beneficially owns an interest in a general partner of such general or limited partnership or (II) is the manager, managing member or, directly or indirectly, beneficially owns an interest in the manager or managing member of such limited liability company or similar entity;

(I) any significant equity interests or any Derivative Instruments in any principal competitor of the Corporation held by such Noticing Party or any Stockholder Associated Person;

(J) any direct or indirect interest of such Noticing Party or any Stockholder Associated Person in any contract or arrangement with the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation (including any employment agreement, collective bargaining agreement or consulting agreement);

(K) a description of any material interest of such Noticing Party or any Stockholder Associated Person in the business proposed by such Noticing Party, if any, or the election of any Proposed Nominee;

(L) a representation that (I) neither such Noticing Party nor any Stockholder Associated Person has breached any contract or other agreement, arrangement or understanding with the Corporation except as disclosed to the Corporation pursuant hereto and (II) such Noticing Party and each Stockholder Associated Person has complied, and will comply, with all applicable requirements of state law and the Exchange Act with respect to the matters set forth in this Section 1.16;

(M) a complete and accurate description of any performance-related fees (other than asset-based fees) to which such Noticing Party or any Stockholder Associated Person may be entitled as a result of any increase or decrease in the value of the Corporation's securities or any Derivative Instruments, including any such fees to which members of any Stockholder Associated Person's immediate family sharing the same household may be entitled;

(N) a description of the investment strategy or objective, if any, of such Noticing Party or any Stockholder Associated Person who is not an individual;

(O) all information that would be required to be set forth in a Schedule 13D filed pursuant to Rule 13d-1(a) under the Exchange Act or an amendment pursuant to Rule 13d-2(a) under the Exchange Act if such a statement were required to be filed under the Exchange Act by such Noticing Party or any Stockholder Associated Person, or such Noticing Party's or any Stockholder Associated Person's associates, (regardless of whether such person or entity is actually required to file a Schedule 13D) including a description of any agreement that would be required to be disclosed by such Noticing Party, any Stockholder Associated Person or any of their respective associates pursuant to Item 5 or Item 6 of Schedule 13D;

(P) a certification that such Noticing Party and each Stockholder Associated Person has complied with all applicable federal, state and other legal requirements in connection with such Noticing Party's or Stockholder Associated Person's acquisition of shares of capital stock or other securities of the Corporation and such Noticing Party's or Stockholder Associated Person's acts or omissions as a stockholder of the Corporation, if such Noticing Party or Stockholder Associated is or has been a stockholder of the Corporation;

(Q) (I) if the Noticing Party (or the beneficial owner(s) on whose behalf such Noticing Party is submitting a notice to the Corporation) is not a natural person, the identity of each natural person associated with such Noticing Party (or beneficial owner(s)) responsible for the formulation of and decision to propose the business or nomination to be brought before the meeting (such person or persons, the "**Responsible Person**"), the manner in which such Responsible Person was selected, any fiduciary duties owed by such Responsible Person to the equity holders or other beneficiaries of such Noticing Party (or beneficial owner(s)), the qualifications and background of such Responsible Person and any material interests or relationships of such Responsible Person that are not shared generally by any other record or beneficial holder of the shares of any class or series of the capital stock of the Corporation and that reasonably could have influenced the decision of such Noticing Party (or beneficial owner(s)) to propose such business or nomination to be brought before the meeting and (II) if the Noticing Party (or the beneficial owner(s) on whose behalf such Noticing Party is submitting a notice to the Corporation) 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 any other record or beneficial holder of the shares of any class or series of the capital stock of the Corporation and that reasonably could have influenced the decision of such Noticing Party (or beneficial owner(s)) to propose such business or nomination to be brought before the meeting; and

(R) all other information relating to such Noticing Party or any Stockholder Associated Person, or such Noticing Party's or any Stockholder Associated Person's associates, that would be required to be disclosed in a proxy statement or other filing required to be made in connection with the solicitation of proxies in support of the business proposed by such Noticing Party, if any, or for the election of any Proposed Nominee in a contested election or otherwise pursuant to the Proxy Rules;

provided, however, that the disclosures in the foregoing subclauses (A) through (R) shall not include any such disclosures with respect to the ordinary course business activities of any broker, dealer, commercial bank, trust company or other nominee who is a Noticing Party solely as a result of being the stockholder directed to prepare and submit the notice required by these Bylaws on behalf of a beneficial owner.

(iv) a representation that such Noticing Party intends to appear in person or cause a Qualified Representative (as defined below) of such Noticing Party to appear in person at the meeting to bring such business before the meeting or nominate any Proposed Nominees, as applicable, and an acknowledgment that, if such Noticing Party (or a Qualified Representative of such Noticing Party) does not appear to present such business or Proposed Nominees, as applicable, at such meeting, the Corporation need not present such business or Proposed Nominees for a vote at such meeting, notwithstanding that proxies in respect of such vote may have been received by the Corporation;

(v) a complete and accurate description of any pending or, to such Noticing Party's knowledge, threatened legal proceeding in which such Noticing Party or any Stockholder Associated Person is a party or participant involving the Corporation or, to such Noticing Party's knowledge, any current or former officer, director, affiliate or associate of the Corporation;

(vi) identification of the names and addresses of other stockholders (including beneficial owners) known by such Noticing Party to support the nomination(s) or other business proposal(s) submitted by such Noticing Party and, to the extent known, the class and number of all shares of the Corporation's capital stock owned beneficially or of record by such other stockholder(s) or other beneficial owner(s); and

(vii) a representation from such Noticing Party as to whether such Noticing Party or any Stockholder Associated Person intends or is part of a group that intends to (A) solicit proxies in support of the election of any Proposed Nominee in accordance with Rule 14a-19 under the Exchange Act or (B) engage in a solicitation (within the meaning of Exchange Act Rule 14a-1(l)) with respect to the nomination or other business, as applicable, and if so, the name of each participant (as defined in Item 4 of Schedule 14A under the Exchange Act) in such solicitation.

(d) Additional Information. In addition to the information required pursuant to the foregoing provision of this Section 1.16, the Corporation may require any Noticing Party to furnish such other information as the Corporation may reasonably require to determine the eligibility or suitability of a Proposed Nominee to serve as a director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such Proposed Nominee, under the listing standards of each securities exchange upon which the Corporation's securities are listed, any applicable rules of the Securities and Exchange Commission, any publicly disclosed standards used by the Board in selecting nominees for election as a director and for determining and disclosing the independence of the Corporation's

directors, including those applicable to a director's service on any of the committees of the Board, or the requirements of any other laws or regulations applicable to the Corporation. If requested by the Corporation, any supplemental information required under this paragraph shall be provided by a Noticing Party within ten (10) days after it has been requested by the Corporation. In addition, the Board may require any Proposed Nominee to submit to interviews with the Board or any committee thereof, and such Proposed Nominee shall make himself or herself available for any such interviews within ten (10) days following any reasonable request therefor from the Board or any committee thereof.

(e) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting (or any supplement thereto). Nominations of persons for election to the Board may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (or any supplement thereto) (i) by or at the direction of the Board (or any duly authorized committee thereof) or (ii) provided that one or more directors are to be elected at such meeting pursuant to the Corporation's notice of meeting, by any stockholder of the Corporation who (A) is a stockholder of record on the date of the giving of the notice provided for in this Section 1.16(e) through the date of such special meeting, (B) is entitled to vote at such special meeting and upon such election and (C) complies with the notice procedures set forth in this Section 1.16(e). In addition to any other applicable requirements, for director nominations to be properly brought before a special meeting by a stockholder pursuant to the foregoing clause (ii), such stockholder must have given timely notice thereof in proper written form to the Secretary. To be timely, such notice must be received by the Secretary at the principal executive offices of the Corporation not earlier than the one hundred twentieth (120th) day prior to such special meeting and not later than the Close of Business on the later of (x) the ninetieth (90th) day prior to such special meeting and (y) the tenth (10th) day following the day on which public disclosure of the date of the meeting is first made by the Corporation. In no event shall an adjournment, recess, postponement, judicial stay or rescheduling of a special meeting (or the public disclosure 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 written form, such notice shall include all information required pursuant to Section 1.16(c) above, and such stockholder and any Proposed Nominee shall comply with Section 1.16(d) above, as if such notice were being submitted in connection with an annual meeting of stockholders.

(f) General.

(i) No person shall be eligible for election as a director of the Corporation unless the person is nominated in accordance with the procedures set forth in this Section 1.16 or Section 1.18 below, and no business shall be conducted at a meeting of stockholders of the Corporation except business brought in accordance with the procedures set forth in this Section 1.16. The number of nominees a stockholder may nominate for election at a meeting may not exceed the number of directors to be elected at such meeting and for the avoidance of doubt, no stockholder shall be entitled to make additional or substitute nominations following the expiration of the time periods set forth in Section 1.16(b) or Section 1.16(e), as applicable. Notwithstanding the foregoing provisions of this Section 1.16, unless otherwise required by law, if the Noticing Party (or a Qualified Representative of the Noticing Party) proposing a nominee for director or

business to be conducted at a meeting does not appear at the meeting of stockholders of the Corporation to present such nomination or propose such business, such proposed nomination shall be disregarded or such proposed business shall not be transacted, as applicable, and no vote shall be taken with respect to such nomination or proposed business, notwithstanding that proxies with respect to such vote may have been received by the Corporation. Except as otherwise provided by law, the chairperson of a meeting shall have the power and the duty to determine whether a nomination or any business proposed to be brought before the meeting has been made in accordance with the procedures set forth in these Bylaws, and, if the chairperson of the meeting determines that any proposed nomination or business was not properly brought before the meeting, the chairperson shall declare to the meeting that such nomination shall be disregarded or such business shall not be transacted, and no vote shall be taken with respect to such nomination or proposed business, in each case, notwithstanding that proxies with respect to such vote may have been received by the Corporation.

(ii) A Noticing Party shall update such Noticing Party's notice provided under the foregoing provisions of this Section 1.16, if necessary, such that the information provided or required to be provided in such notice shall be true and correct as of (A) the record date for determining the stockholders entitled to receive notice of the meeting and (B) the date that is ten (10) business days prior to the meeting (or any postponement, rescheduling or adjournment thereof), and such update shall (I) be received by the Secretary at the principal executive offices of the Corporation (x) not later than the Close of Business five (5) business days after the record date for determining the stockholders entitled to receive notice of such meeting (in the case of an update required to be made under clause (A)) and (y) not later than the Close of Business seven (7) business days prior to the date for the meeting or, if practicable, any postponement, rescheduling or adjournment thereof (and, if not practicable, on the first practicable date prior to the date to which the meeting has been postponed, rescheduled or adjourned) (in the case of an update required to be made pursuant to clause (B)), (II) be made only to the extent that information has changed since such Noticing Party's prior submission and (III) clearly identify the information that has changed since such Noticing Party's prior submission. For the avoidance of doubt, any information provided pursuant to this Section 1.16(f)(ii) shall not be deemed to cure any deficiencies or inaccuracies in a notice previously delivered pursuant to this Section 1.16 and shall not extend the time period for the delivery of notice pursuant to this Section 1.16. If a Noticing Party fails to provide such written update within such period, the information as to which such written update relates may be deemed not to have been provided in accordance with this Section 1.16.

(iii) If any information submitted pursuant to this Section 1.16 by any Noticing Party nominating individuals for election or reelection as a director or proposing business for consideration at a stockholder meeting shall be inaccurate in any material respect (as determined by the Board or a committee thereof), such information shall be deemed not to have been provided in accordance with this Section 1.16. Any such Noticing Party shall notify the Secretary in writing at the principal executive offices of the Corporation of any inaccuracy or change in any information submitted pursuant to this Section 1.16 (including if any Noticing Party or any Stockholder Associated Person no longer intends to solicit proxies in accordance with the representation made pursuant to Section

1.16(c)(vii)(B)) within two (2) business days after becoming aware of such inaccuracy or change, and any such notification shall clearly identify the inaccuracy or change, it being understood that no such notification may cure any deficiencies or inaccuracies with respect to any prior submission by such Noticing Party. Upon written request of the Secretary on behalf of the Board (or a duly authorized committee thereof), any such Noticing Party shall provide, within seven (7) business days after delivery of such request (or such other period as may be specified in such request), (A) written verification, reasonably satisfactory to the Board, any committee thereof or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by such Noticing Party pursuant to this Section 1.16 and (B) a written affirmation of any information submitted by such Noticing Party pursuant to this Section 1.16 as of an earlier date. If a Noticing Party fails to provide such written verification or affirmation within such period, the information as to which written verification or affirmation was requested may be deemed not to have been provided in accordance with this Section 1.16.

(iv) If (A) any Noticing Party or any Stockholder Associated Person provides notice pursuant to Rule 14a-19(b) under the Exchange Act with respect to any Proposed Nominee and (B) (1) such Noticing Party or Stockholder Associated Person subsequently either (x) notifies the Corporation that such Noticing Party or Stockholder Associated Person no longer intends to solicit proxies in support of the election of such Proposed Nominee in accordance with Rule 14a-19(b) under the Exchange Act or (y) fails to comply with the requirements of Rule 14a-19(a)(2) or Rule 14a-19(a)(3) under the Exchange Act and (2) no other Noticing Party or Stockholder Associated Person that has provided notice pursuant to Rule 14a-19(b) under the Exchange Act with respect to such Proposed Nominee (x) intends to solicit proxies in support of the election of such Proposed Nominee in accordance with Rule 14a-19(b) under the Exchange Act and (y) has complied with the requirements of Rule 14a-19(a)(2) or Rule 14a-19(a)(3) under the Exchange Act, then the nomination of such Proposed Nominee shall be disregarded and no vote on the election of such Proposed Nominee shall occur (notwithstanding that proxies in respect of such vote may have been received by the Corporation). Upon request by the Corporation, if any Noticing Party provides notice pursuant to Rule 14a-19(b) under the Exchange Act, such Noticing Party shall deliver to the Secretary, no later than five business days prior to the applicable meeting date, reasonable evidence that the requirements of Rule 14a-19(a)(3) under the Exchange Act have been satisfied.

(v) In addition to complying with the foregoing provisions of this Section 1.16, a stockholder shall also comply with all applicable requirements of state law and the Exchange Act with respect to the matters set forth in this Section 1.16. Nothing in this Section 1.16 shall be deemed to affect any rights of (A) stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act, (B) stockholders to request inclusion of nominees in the Corporation's proxy statement pursuant to the Proxy Rules or (C) the holders of any series of preferred stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

(vi) Any written notice, supplement, update or other information required to be delivered by a stockholder to the Corporation pursuant to this Section 1.16 must be given by personal delivery, by overnight courier or by registered or certified mail, postage prepaid, to the Secretary at the Corporation's principal executive offices.

(vii) For purposes of these Bylaws, (A) "**affiliate**" and "**associate**" each shall have the respective meanings set forth in Rule 12b-2 under the Exchange Act; (B) "**beneficial owner**" or "**beneficially owned**" shall have the meaning set forth for such terms in Section 13(d) of the Exchange Act; (C) "**Close of Business**" shall mean 5:00 p.m. Eastern Time on any calendar day, whether or not the day is a business day; (D) "**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 Section 13, 14 or 15(d) of the Exchange Act; (E) a "**Qualified Representative**" of a Noticing Party means (I) a duly authorized officer, manager or partner of such Noticing Party or (II) a person authorized by a writing executed by such Noticing Party (or a reliable reproduction or electronic transmission of the writing) delivered by such Noticing Party to the Corporation prior to the making of any nomination or proposal at a stockholder meeting stating that such person is authorized to act for such Noticing Party as proxy at the meeting of stockholders, which writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, must be produced at the meeting of stockholders; and (F) "**Stockholder Associated Person**" shall mean, with respect to a Noticing Party and if different from such Noticing Party, any beneficial owner of shares of stock of the Corporation on whose behalf such Noticing Party is providing notice of any nomination or other business proposed, (I) any person directly or indirectly controlling, controlled by or under common control with such Noticing Party or beneficial owner(s), (II) any member of the immediate family of such Noticing Party or beneficial owner(s) sharing the same household, (III) any person or entity who is a member of a "group" (as such term is used in Rule 13d-5 under the Exchange Act (or any successor provision at law)) with, or is otherwise known by such Noticing Party or other Stockholder Associated Person to be acting in concert with, such Noticing Party, such beneficial owner(s) or any other Stockholder Associated Person with respect to the stock of the Corporation, (IV) any affiliate or associate of such Noticing Party, such beneficial owner(s) or any other Stockholder Associated Person, (V) if such Noticing Party or any such beneficial owner is not a natural person, any Responsible Person, (VI) any participant (as defined in paragraphs (a)(ii)-(vi) of Instruction 3 to Item 4 of Schedule 14A) with such Noticing Party, such beneficial owner(s) or any other Stockholder Associated Person with respect to any proposed business or nominations, as applicable, (VII) any beneficial owner of shares of stock of the Corporation owned of record by such Noticing Party or any other Stockholder Associated Person (other than a stockholder that is a depositary) and (VIII) any Proposed Nominee.

Section 1.17. Exchange Act; State Law. In addition to complying with the provisions of Section 1.16 above, a stockholder shall also comply with all applicable requirements of state law and the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in such section. Nothing in Section 1.16 above shall be deemed to affect any rights of (a) stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act, (b) stockholders to request inclusion of nominees in the Corporation's proxy statement pursuant to the Proxy Rules or Section 1.18 below or (c) the holders of any series of preferred stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

Section 1.18. Proxy Access for Director Nominations.

(a) Proxy Access Eligibility. Whenever the Board solicits proxies with respect to the election of directors at an annual meeting of stockholders, subject to the provisions of this Section 1.18, the Corporation shall include in its proxy statement for such annual meeting, in addition to any persons nominated for election by the Board or any committee thereof, the name, together with the Required Information (as hereinafter defined), of any person nominated for election (the "**Stockholder Nominee**") to the Board by a stockholder or group of no more than twenty (20) stockholders that satisfies the requirements of this Section 1.18 (the "**Eligible Stockholder**") and that expressly elects at the time of providing the notice required by this Section 1.18 (the "**Notice of Proxy Access Nomination**") to have such nominee included in the Corporation's proxy materials pursuant to this Section 1.18. For purposes of this Section 1.18, the "**Required Information**" that the Corporation will include in its proxy statement is (i) the information provided to the Secretary of the Corporation concerning the Stockholder Nominee and the Eligible Stockholder that is required to be disclosed in the Corporation's proxy statement pursuant to the Proxy Rules and (ii) if the Eligible Stockholder so elects, a Supporting Statement (as hereinafter defined). The Required Information must be provided with the Notice of Proxy Access Nomination. Nothing in this Section 1.18 shall limit the Corporation's ability to solicit against any Stockholder Nominee or include in its proxy materials the Corporation's own statements or other information relating to any Eligible Stockholder or Stockholder Nominee, including any information provided to the Corporation pursuant to this Section 1.18.

(b) Maximum Number of Stockholder Nominees. The maximum number of Stockholder Nominees nominated by all Eligible Stockholders that will be included in the Corporation's proxy materials with respect to an annual meeting of stockholders shall not exceed the greater of (i) two (2) or (ii) twenty percent (20%) of the number of directors in office as of the last day on which a Notice of Proxy Access Nomination may be delivered pursuant to and in accordance with this Section 1.18 (the "**Final Proxy Access Nomination Date**") or, if such amount is not a whole number, the closest whole number below twenty percent (20%). In the event that one or more vacancies for any reason occurs on the Board after the Final Proxy Access Nomination Date but before the date of the annual meeting and the Board resolves to reduce the size of the Board in connection therewith, the maximum number of Stockholder Nominees included in the Corporation's proxy materials shall be calculated based on the number of directors in office as so reduced. The maximum number of Stockholder Nominees provided for in this Section 1.18 for any annual meeting shall be reduced by (i) the number of directors (if any) in office as of the Final Proxy Access Nomination Date who were included in the Corporation's proxy materials as a Stockholder Nominee for any of the two (2) preceding annual meetings of stockholders (including any individual counted as a Stockholder Nominee pursuant to the immediately succeeding sentence) and whom the Board decides to nominate for re-election to the Board at such annual meeting and (ii) the number of individuals (if any) who will be included in the Corporation's proxy statement as nominees recommended by the Board pursuant to an agreement, arrangement or other understanding with a stockholder or group of stockholders (other than any such agreement, arrangement or understanding entered into in a connection with an acquisition of capital stock from the Corporation by such stockholder or

group of stockholders). For purposes of determining when the maximum number of Stockholder Nominees provided for in this Section 1.18 has been reached, each of the following persons shall be counted as one of the Stockholder Nominees: (A) any individual nominated by an Eligible Stockholder for inclusion in the Corporation's proxy materials pursuant to this Section 1.18 whose nomination is subsequently withdrawn and (B) any individual nominated by an Eligible Stockholder for inclusion in the Corporation's proxy materials pursuant to this Section 1.18 whom the Board decides to nominate for election to the Board. Any Eligible Stockholder submitting more than one Stockholder Nominee for inclusion in the Corporation's proxy materials pursuant to this Section 1.18 shall rank such Stockholder Nominees based on the order in which the Eligible Stockholder desires such Stockholder Nominees to be selected for inclusion in the Corporation's proxy materials. In the event that the number of Stockholder Nominees submitted by Eligible Stockholders pursuant to this Section 1.18 exceeds the maximum number of Stockholder Nominees provided for in this Section 1.18, the highest ranking Stockholder Nominee who meets the requirements of this Section 1.18 from each Eligible Stockholder will be selected for inclusion in the Corporation's proxy materials until the maximum number is reached, going in order of the amount (largest to smallest) of shares of stock of the Corporation each Eligible Stockholder disclosed as owned in its Notice of Proxy Access Nomination. If the maximum number is not reached after the highest ranking Stockholder Nominee who meets the requirements of this Section 1.18 from each Eligible Stockholder has been selected, then the next highest ranking Stockholder Nominee who meets the requirements of this Section 1.18 from each Eligible Stockholder will be selected for inclusion in the Corporation's proxy materials, and this process will continue as many times as necessary, following the same order each time, until the maximum number is reached.

(c) Required Shares and Minimum Holding Period. In order to make a nomination pursuant to this Section 1.18, an Eligible Stockholder must have continuously owned (as hereinafter defined) for at least three (3) years as of the date the Notice of Proxy Access Nomination is delivered to the Secretary of the Corporation in accordance with this Section 1.18 (the "**Minimum Holding Period**") a number of shares of stock of the Corporation that represents at least three percent (3%) of the voting power of the shares of stock of the Corporation entitled to vote in the election of directors (the "**Required Shares**") and must continue to own the Required Shares through the date of the annual meeting. For purposes of this Section 1.18, an Eligible Stockholder shall be deemed to "**own**" only those outstanding shares of stock of the Corporation as to which the stockholder possesses both:

(i) the full voting and investment rights pertaining to the shares and

(ii) the full economic interest in (including the opportunity for profit from and risk of loss on) such shares, provided that the number of shares calculated in accordance with the immediately preceding clauses (i) and (ii) shall not include any shares: (A) sold by such stockholder or any of its affiliates in any transaction that has not been settled or closed, (B) borrowed by such stockholder or any of its affiliates for any purposes or purchased by such stockholder or any of its affiliates pursuant to an agreement to resell or (C) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar instrument or agreement entered into by such stockholder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or

with cash based on the notional amount or value of shares of outstanding stock of the Corporation, if, in any such case, such instrument or agreement has, or is intended to have, the purpose or effect of: (1) reducing in any manner, to any extent or at any time in the future, such stockholder's or its affiliates' full right to vote or direct the voting of any such shares and/or (2) hedging, offsetting or altering to any degree any gain or loss realized or realizable from maintaining the full economic ownership of such shares by such stockholder or affiliate. A stockholder shall "**own**" shares held in the name of a nominee or other intermediary so long as the stockholder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. A person's ownership of shares shall be deemed to continue during any period in which (i) the stockholder has loaned such shares, provided that the person has the power to recall such loaned shares on five (5) business days' notice or (ii) the stockholder has delegated any voting power by means of a proxy, power of attorney or other instrument or arrangement which is revocable at any time by the stockholder. The terms "**owned**," "**owning**" and other variations of the word "**own**" shall have correlative meanings. Whether outstanding shares of the stock of the Corporation are "**owned**" for these purposes shall be determined by the Board or any committee thereof. For purposes of this Section 1.18, the term "**affiliate**" or "**affiliates**" shall have the meaning ascribed thereto under the General Rules and Regulations under the Exchange Act.

(d) Requirements for a Group.

(i) Whenever the Eligible Stockholder consists of a group of stockholders: (A) a group of funds under common management and control shall be treated as one stockholder, (B) each provision in this Section 1.18 that requires the Eligible Stockholder to provide any written statements, representations, undertakings, agreements or other instruments or to meet any other conditions shall be deemed to require each stockholder (including each individual fund that is a member of a group of funds treated as one stockholder) that is a member of such group to provide such statements, representations, undertakings, agreements or other instruments and to meet such other conditions (except that the members of such group may aggregate their shareholdings in order to meet the three percent (3%) ownership requirement of the "**Required Shares**" definition), (C) a breach of any obligation, agreement or representation under this Section 1.18 by any member of such group shall be deemed a breach by the Eligible Stockholder and (D) the Notice of Proxy Access Nomination must designate one member of the group for purposes of receiving communications, notices and inquiries from the Corporation and otherwise authorize such member to act on behalf of all members of the group with respect to all matters relating to the nomination under this Section 1.18 (including withdrawal of the nomination).

(ii) Whenever the Eligible Stockholder consists of a group of stockholders aggregating their shareholdings in order to meet the three percent (3%) ownership requirement of the "**Required Shares**" definition in clause (c) of this Section 1.18: (A) such ownership shall be determined by aggregating the lowest number of shares continuously owned by each such stockholder during the Minimum Holding Period and (B) the Notice of Proxy Access Nomination must indicate, for each such stockholder, such lowest number of shares continuously owned by such stockholder during the Minimum Holding Period.

(iii) Any group of funds whose shares are aggregated for purposes of constituting an Eligible Stockholder must, within five (5) business days after the date of the Notice of Proxy Access Nomination, provide documentation reasonably satisfactory to the Corporation that demonstrates that the funds are under common management and investment control. No person may be a member of more than one group of stockholders constituting an Eligible Stockholder with respect to any annual meeting. For the avoidance of doubt, a stockholder may withdraw from a group of stockholders constituting an Eligible Stockholder at any time prior to the annual meeting and if, as a result of such withdrawal, the Eligible Stockholder no longer owns the Required Shares, the nomination shall be disregarded as provided in clause (j)(1)(H) of this Section 1.18.

(e) Deadline for Notice of Proxy Access Nomination. Nominations by stockholders pursuant to this Section 1.18, must be made pursuant to timely notice to the Secretary of the Corporation in accordance with this Section 1.18. To be timely, a Notice of Proxy Access Nomination must be delivered to or mailed to and received by the Secretary of the Corporation at the principal executive offices of the Corporation not earlier than the close of business on the one hundred fiftieth (150th) day nor later than the close of business on the one hundred twentieth (120th) day prior to the first anniversary of the date (as stated in the Corporation's proxy materials) the definitive proxy statement was first made available to stockholders in connection with the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than thirty (30) days before or more than seventy (70) days after such anniversary date, a Notice of Proxy Access Nomination to be timely must be received not earlier than the close of business on the one hundred fiftieth (150th) day prior to such annual meeting and not later than the close of business on the later of the one hundred twentieth (120th) day prior to such annual meeting or the tenth (10th) day following the date on which notice of the date of the meeting was mailed or public disclosure of the meeting was made, whichever first occurs. In no event shall the adjournment or postponement of an annual meeting, or the public announcement of such an adjournment or postponement, commence a new time period (or extend any time period) for the giving of a Notice of Proxy Access Nomination pursuant to this Section 1.18.

(f) Requirements for Notice of Proxy Access Nomination. To be in proper form for purposes of this Section 1.18, the Notice of Proxy Access Nomination must include or be accompanied by the following:

(i) the information and representations that would be required to be set forth in a stockholder's notice of a nomination pursuant to Section 1.16 of these Bylaws,

(ii) the written consent of each Stockholder Nominee to be named in the proxy statement as a nominee and to serve as a director if elected, in form and substance reasonably satisfactory to the Corporation,

(iii) in form and substance reasonably satisfactory to the Corporation, one or more written statements from the record holder of the Required Shares (and from each intermediary through which the Required Shares are or have been held during the Minimum Holding Period) verifying that the Eligible Stockholder owns, and has owned continuously for the Minimum Holding Period, the Required Shares, and the Eligible Stockholder's agreement to provide one or more written statements from the record holder and such intermediaries verifying the Eligible Stockholder's continuous ownership of the Required Shares through the record date for determining the stockholders entitled to receive notice of the annual meeting, which statements must be provided within five (5) business days after the record date,

(iv) a copy of the Schedule 14N that has been filed with the Securities and Exchange Commission as required by Rule 14a-18 under the Exchange Act,

(v) a representation in form and substance reasonably satisfactory to the Corporation that the Eligible Stockholder: (A) will continue to hold the Required Shares through the date of the annual meeting, (B) acquired the Required Shares in the ordinary course of business and not with the intent to change or influence control at the Corporation, and does not presently have such intent, (C) has not nominated and will not nominate for election to the Board at the annual meeting any person other than the Stockholder Nominee(s) it is nominating pursuant to this Section 1.18, (D) has not engaged and will not engage in, and has not and will not be a "participant" in another person's, "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act in support of the election of any individual as a director at the annual meeting other than its Stockholder Nominee(s) or a nominee of the Board, (E) has not distributed and will not distribute to any stockholder of the Corporation any form of proxy for the annual meeting other than the form distributed by the Corporation, (F) has complied and will comply with all laws and regulations applicable to solicitations and the use, if any, of soliciting material in connection with the annual meeting, (G) will file with the Securities and Exchange Commission any solicitation or other communication with the Corporation's stockholders relating to the meeting at which the Stockholder Nominee will be nominated, regardless of whether any such filing is required under Regulation 14A of the Exchange Act or whether any exemption from filing is available for such solicitation or other communication under Regulation 14A of the Exchange Act and (H) has provided and will provide facts, statements and other information in all communications with the Corporation and its stockholders that are or will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make such information, in light of the circumstances under which it was or will be made or provided, not misleading,

(vi) an undertaking in form and substance reasonably satisfactory to the Corporation that the Eligible Stockholder agrees to: (A) assume all liability stemming from any legal or regulatory violation arising out of communications with the stockholders of the Corporation by the Eligible Stockholder, its affiliates and associates or their respective agents and representatives, either before or after providing a Notice of Proxy Access Nomination pursuant to this Section 1.18, or out of the facts, statements or

other information that the Eligible Stockholder or its Stockholder Nominee(s) provided to the Corporation in connection with the inclusion of such Stockholder Nominee(s) in the Corporation's proxy materials, and (B) indemnify and hold harmless the Corporation and each of its directors, officers and employees individually against any liability, loss or damages in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of any nomination submitted by the Eligible Stockholder pursuant to this Section 1.18, and

(vii) a written representation and agreement in form and substance reasonably satisfactory to the Corporation from each Stockholder Nominee that such Stockholder Nominee: (A) is not and will not become a party to (1) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such Stockholder Nominee, if elected as a director of the Corporation will act or vote on any issue or question (a "**Voting Commitment**") that has not been disclosed to the Corporation or (2) any Voting Commitment that could limit or interfere with such Stockholder Nominee's ability to comply, if elected as a director of the Corporation, with such Stockholder Nominee's fiduciary duties under applicable law, (B) has not been during the past three (3) years, is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a Stockholder Nominee that has not been disclosed to the Corporation, and is not and will not become a party to any agreement, arrangement or understanding with any person other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director, (C) has read, would be in compliance with if elected as a director of the Corporation and will comply with the Corporation's code of business conduct, corporate governance guidelines, share ownership guidelines, insider trading policy, confidentiality and any other policies or guidelines of the Corporation applicable to directors, and (D) will make such other acknowledgments, enter into such agreements and provide such information as the Board requires of all directors, including promptly submitting all completed and signed questionnaires required of the Corporation's directors.

(g) Additional Information that May be Required. In addition to the information required pursuant to clause (f) of this Section 1.18 or any other provision of these Bylaws, the Corporation also may require each Stockholder Nominee to furnish any other information: (i) that may reasonably be requested by the Corporation to determine whether the Stockholder Nominee would be independent under the rules and listing standards of the principal United States securities exchange(s) upon which the common stock of the Corporation is listed or traded, any applicable rules of the Securities and Exchange Commission or any publicly disclosed standards used by the Board in determining and disclosing the independence of the Corporation's directors (collectively, the "**Independence Standards**"), (ii) that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such Stockholder Nominee, or (iii) that may reasonably be required to determine the eligibility of such Stockholder Nominee to serve as a director of the Corporation.

(h) Supporting Statement. The Eligible Stockholder may, at its option, provide to the Secretary of the Corporation, at the time the Notice of Proxy Access Nomination is provided, a written statement, not to exceed 500 words, in support of the Stockholder Nominee(s)' candidacy (a "**Supporting Statement**"). Only one Supporting Statement may be submitted by an Eligible Stockholder (including any group of stockholders together constituting an Eligible Stockholder) in support of its Stockholder Nominee(s). Notwithstanding anything to the contrary contained in this Section 1.18, the Corporation may omit from its proxy materials any information or Supporting Statement (or portion thereof) that it believes would violate any applicable law or regulation.

(i) Eligible Stockholder and Stockholder Nominee Duty to Update. In the event that any information provided by an Eligible Stockholder or a Stockholder Nominee to the Corporation or its stockholders ceases to be true and correct in all material respects or omits a material fact necessary to make such information, in light of the circumstances under which it was made or provided, not misleading, such Eligible Stockholder or Stockholder Nominee, as the case may be, shall promptly notify the Secretary of the Corporation of any defect in such previously provided information and of the information that is required to correct any such defect; it being understood that providing such notification shall not be deemed to cure any such defect or limit the remedies available to the Corporation relating to any such defect (including the right to omit a Stockholder Nominee from its proxy materials pursuant to this Section 1.18). In addition, any person providing any information pursuant to this Section 1.18 shall further update and supplement such information, if necessary, so that all such information shall be true and correct as of the record date for determining the stockholders entitled to receive notice of the annual meeting and as of the date that is ten (10) business days prior to such annual meeting or any adjournment or postponement thereof, and such update and supplement (or a written certification that no such updates or supplements are necessary and that the information previously provided remains true and correct as of the applicable date) shall be delivered to or mailed to and received by the Secretary at the principal executive offices of the Corporation not later than five (5) business days after the record date for determining the stockholders entitled to receive notice of such annual meeting (in the case of the update and supplement required to be made as of the record date), and not later than seven (7) business days prior to the date of the annual meeting or any adjournment or postponement thereof (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting).

(j) Other Reasons to Exclude Stockholder Nominee.

(i) Notwithstanding anything to the contrary contained in this Section 1.18 the Corporation shall not be required to include, pursuant to this Section 1.18, a Stockholder Nominee in its proxy materials: (A) for any meeting of stockholders for which the Secretary of the Corporation receives notice that the Eligible Stockholder or any other stockholder intends to nominate one or more persons for election to the Board pursuant to the advance notice requirements for stockholder nominees set forth in Section 1.16 of these Bylaws, (B) if such Stockholder Nominee would not be an independent director under the Independence Standards, as determined by the Board or any committee thereof, (C) if such Stockholder Nominee's election as a member of the Board would

cause the Corporation to be in violation of these Bylaws, the Certificate of Incorporation, the rules and listing standards of the principal United States securities exchange(s) upon which the common stock of the Corporation is listed or traded or any applicable state or federal law, rule or regulation, (D) if such Stockholder Nominee is or has been, within the past three (3) years, an officer or director of a competitor, as defined in Section 8 of the Clayton Antitrust Act of 1914, (E) who is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in such a criminal proceeding within the past ten (10) years, (F) if such Stockholder Nominee is subject to any order of the type specified in Rule 506(d) of Regulation D promulgated under the Securities Act of 1933, as amended, (G) if such Stockholder Nominee or the Eligible Stockholder who nominated such Stockholder Nominee provides any facts, statements or other information to the Corporation or its stockholders required or requested pursuant to this Section 1.18 that is not true and correct in all material respects or that omits a material fact necessary to make such information, in light of the circumstances in which it is made or provided, not misleading, or (H) if such Stockholder Nominee or the Eligible Stockholder who nominated such Stockholder Nominee otherwise contravenes any of the agreements or representations made by such Stockholder Nominee or Eligible Stockholder or fails to comply with its obligations pursuant to this Section 1.18.

(ii) Notwithstanding anything to the contrary contained in this Section 1.18, if either: (A) a Stockholder Nominee and/or the applicable Eligible Stockholder breaches any of its or their obligations, agreements or representations under this Section 1.18, or (B) the Stockholder Nominee otherwise becomes ineligible for inclusion in the Corporation's proxy materials pursuant to this Section 1.18 or dies, becomes disabled or is otherwise disqualified from being nominated for election or serving as a director of the Corporation, in each case under this clause (ii) as determined by the Board, any committee thereof or the chairperson of the annual meeting, then: (1) the Corporation may omit or, to the extent feasible, remove the information concerning such Stockholder Nominee and the related Supporting Statement from its proxy materials and/or otherwise communicate to its stockholders that such Stockholder Nominee will not be eligible for election at the annual meeting, (2) the Corporation shall not be required to include in its proxy materials for that annual meeting any successor or replacement nominee proposed by the applicable Eligible Stockholder or any other Eligible Stockholder, and (3) the Board or the chairperson of the annual meeting shall declare such nomination to be invalid, such nomination shall be disregarded notwithstanding that proxies in respect of such vote may have been received by the Corporation and the named proxies will not vote any proxies received from stockholders with respect to such Stockholder Nominee. In addition, if the Eligible Stockholder (or a representative thereof) does not appear at the annual meeting to present any nomination pursuant to this Section 1.18 such nomination shall be disregarded as provided in the immediately preceding clause (3).

(k) Resubmission of Stockholder Nominee. Any Stockholder Nominee who is included in the Corporation's proxy materials for a particular annual meeting of stockholders but either (i) withdraws from or becomes ineligible or unavailable for election at the annual meeting or (ii) does not receive at least twenty five percent (25%) of the votes cast in favor of such Stockholder Nominee's election, will be ineligible to be a Stockholder Nominee pursuant to this Section 1.18 for the next two (2) annual meetings of stockholders.

(l) Exclusivity. This Section 1.18 provides the exclusive method for a stockholder to include nominees for election to the Board in the Corporation's proxy materials.

ARTICLE II
DIRECTORS

Section 2.1. Number. The number of directors that shall constitute the entire Board shall not be less than five (5) nor more than fifteen (15). Within such limit, the number of members of the entire Board shall be fixed, from time to time, exclusively by the Board, subject to the rights of the holders of any series of preferred stock with respect to the election of directors, if any.

Section 2.2. Duties and Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by law, the Certificate of Incorporation or these Bylaws required to be exercised or done by the stockholders.

Section 2.3. Meetings. The Board may hold meetings, both regular and special, either within or without the State of Delaware. Regular meetings of the Board may be held without notice at such time and at such place as may from time to time be determined by the Board. Special meetings of the Board may be called by the Chairperson of the Board (if there be one), the Chief Executive Officer or the Board and shall be held at such place, on such date and at such time as he, she or they shall specify.

Section 2.4. Notice. Notice of any meeting of the Board stating the place, date and time of the meeting shall be given to each director by mail posted not less than five (5) days before the date of the meeting, by nationally recognized overnight courier deposited not less than two (2) days before the date of the meeting or by email, facsimile or other means of electronic transmission delivered or sent not less than twenty-four (24) hours before the date and time of the meeting, or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances. If mailed or sent by overnight courier, such notice shall be deemed to be given at the time when it is deposited in the United States mail with first class postage prepaid or deposited with the overnight courier. Notice by facsimile or other electronic transmission shall be deemed given when the notice is transmitted. Any director may waive notice of any meeting before or after the meeting. The attendance of a director at any meeting shall constitute a waiver of notice of such meeting, except where the director attends the meeting for the express purpose of objecting, and does so object, at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in any notice or waiver of notice of such meeting, unless so required by law. A meeting may be held at any time without notice if all of the directors are present or if those not present waive notice of the meeting in accordance with Section 5.6 of these Bylaws.

Section 2.5. Chairperson of the Board. The Chairperson of the Board shall be chosen from among the directors and may be the Chief Executive Officer. Except as otherwise provided by law, the Certificate of Incorporation or Section 2.6 or Section 2.7 of these Bylaws, the Chairperson of the Board shall preside at all meetings of stockholders and of the Board. The Chairperson of the Board shall have such other powers and duties as may from time to time be assigned by the Board.

Section 2.6. Lead Director. If the Chairperson of the Board does not qualify as independent in accordance with the applicable rules of any securities exchanges upon which the Corporation's securities are listed, the Independent Directors (as defined below) shall appoint a Lead Director. The Lead Director shall be one of the directors who has been determined by the Board to be an "independent director" (any such director, an "**Independent Director**"). The Lead Director shall preside at all executive sessions of the Board and any other meeting of the Board at which the Chairperson of the Board is not present and have such other responsibilities, and perform such duties, as may from time to time be assigned to him or her by the Board.

Section 2.7. Organization. At each meeting of the Board, the Chairperson of the Board, or, in the Chairperson's absence, the Lead Director (if any), or, in the Lead Director's absence, a director chosen by a majority of the directors present, shall act as chairperson. The Secretary shall act as secretary at each meeting of the Board. In case the Secretary shall be absent from any meeting of the Board, an assistant secretary shall perform the duties of secretary at such meeting; and in the absence from any such meeting of the Secretary and all assistant secretaries, the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 2.8. Resignations and Removals of Directors. Any director of the Corporation may resign at any time, by giving notice in writing or by electronic transmission to the Chairperson of the Board, the Chief Executive Officer or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the occurrence of some other event, and, unless otherwise specified in such notice, the acceptance of such resignation shall not be necessary to make it effective. Subject to the rights of holders of any series of preferred stock with respect to the election of directors, a director may be removed from office by the stockholders of the Corporation only for cause.

Section 2.9. Quorum. At all meetings of the Board, a majority of directors constituting the Board shall constitute a quorum for the transaction of business, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board. If a quorum shall not be present at any meeting of the Board, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting of the time and place of the adjourned meeting, until a quorum shall be present.

Section 2.10. Actions of the Board by Written Consent. Any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting, if all the members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or electronic transmission are filed with the minutes of proceedings of the Board or committee.

Section 2.11. Telephonic Meetings. Members of the Board, or any committee thereof, may participate in a meeting of the Board or such committee by means of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this Section 2.11 shall constitute presence in person at such meeting.

Section 2.12. Committees. The Board may designate one or more committees, each committee to consist of two or more of the directors of the Corporation and, to the extent permitted by law, to have and exercise such authority as may be provided for in the resolutions creating such committee, as such resolutions may be amended from time to time. 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 any such committee. In the absence or disqualification of a member of a committee, and in the absence of a designation by the Board of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any absent or disqualified member. Each committee shall keep regular minutes and report to the Board when required. A majority of directors present at any committee meeting at which a quorum is present may determine such committee's action and fix the time and place of its meetings, unless the Board shall otherwise provide. Subject to any limitations provided in the Board resolutions establishing a committee of the Board, the Board shall have the power at any time to fill vacancies in, to change the membership of or to dissolve any such committee.

Section 2.13. Compensation. The Board shall have the authority to fix the compensation of directors. The directors shall be paid their reasonable expenses, if any, of attendance at each meeting of the Board or any committee thereof and may be paid a fixed sum for attendance at each such meeting and an annual retainer or salary for service as director or committee member, payable in cash or securities. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Directors who are full-time employees of the Corporation shall not receive any compensation for their service as director.

Section 2.14. Interested Directors. 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 the Corporation's 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 or committee thereof that authorizes the contract or transaction, or solely because any such director's or officer's vote is counted for such purpose if: (a) the material facts as to the director's or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the Board or the committee and the Board or committee in good faith authorizes the contract or transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; (b) the material facts as to the director's or officer's relationship or 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 (c) the contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified by the Board, a committee thereof or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee that authorizes the contract or transaction.

ARTICLE III
OFFICERS

Section 3.1. General. The officers of the Corporation shall be chosen by the Board and shall be a Chief Executive Officer, a Chief Financial Officer, a Secretary and a Treasurer. The Board, in its discretion, may also appoint a President, a Controller and one or more Executive Vice Presidents, Senior Vice Presidents, Vice Presidents, Assistant Secretaries, Assistant Treasurers and such other officers as the Board from time to time may deem appropriate. The Chief Executive Officer, in his or her discretion, may also appoint any other officers as the Chief Executive Officer from time to time may deem appropriate, other than any Executive Officers (as defined under the Exchange Act). Any two or more offices may be held by the same person, but no officer may act in more than one capacity where action of two or more officers is required. The officers of the Corporation need not be stockholders of the Corporation.

Section 3.2. Duties; Term. The officers of the Corporation shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board or, if provided in the following sections of this Article III, by the Chief Executive Officer, and each officer of the Corporation shall hold office until such officer's successor is elected and qualified, or until such officer's earlier death, resignation or removal. Any officer may be removed at any time by the Board, and any officer appointed by the Chief Executive Officer may be removed at any time by the Chief Executive Officer. Any officer may resign upon notice given in writing or electronic transmission to the Chief Executive Officer or the Secretary. Such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the occurrence of some other event. Any vacancy occurring in any office of the Corporation shall be filled in the manner prescribed in this Article III for the regular election to such office.

Section 3.3. Voting Securities Owned by the Corporation. Powers of attorney, proxies, waivers of notice of meeting, consents and other instruments relating to securities owned by the Corporation may be executed in the name of and on behalf of the Corporation by the Chief Executive Officer or any other officer authorized to do so by the Board, and any such officer may, in the name of and on behalf of the Corporation, take all such action as any such officer may deem advisable to vote in person or by proxy at any meeting of security holders of any corporation in which the Corporation may own securities and at any such meeting shall possess and may exercise any and all rights and power incident to the ownership of such securities and which, as the owner thereof, the Corporation might have exercised and possessed if present. The Board may, by resolution, from time to time confer like powers upon any other person or persons.

Section 3.4. Chief Executive Officer. The Chief Executive Officer shall, subject to the control of the Board, have general supervision over the business of the Corporation and shall direct the affairs and policies of the Corporation. The Chief Executive Officer may also serve as the Chairperson of the Board or as President, if so elected by the Board. The Chief Executive Officer shall also perform such other duties and may exercise such other powers as may from time to time be assigned to such officer by these Bylaws or by the Board.

Section 3.5. President. The President shall act in a general executive capacity and shall assist the Chief Executive Officer in the administration and operation of the Corporation's business and general supervision of its policies and affairs. The President shall, in the absence of or because of the inability to act of the Chief Executive Officer, perform all duties of the Chief Executive Officer, unless another officer has been expressly designated to do so by the Board. The President shall also perform such other duties and may exercise such other powers as may from time to time be assigned to such officer by these Bylaws, the Board or the Chief Executive Officer.

Section 3.6. Chief Financial Officer. The Chief Financial Officer shall be the principal financial officer of the Corporation. The Chief Financial Officer shall also perform such other duties and may exercise such other powers as may from time to time be assigned to such officer by the Board or the Chief Executive Officer.

Section 3.7. Executive Vice Presidents, Senior Vice Presidents and Vice Presidents. The Executive Vice Presidents (if any), Senior Vice Presidents (if any) and such other Vice Presidents as shall have been chosen by the Board or appointed by the Chief Executive Officer shall have such powers and shall perform such duties as shall be assigned to them by the Board or the Chief Executive Officer.

Section 3.8. Secretary. The Secretary shall give the requisite notice of meetings of stockholders and directors and shall record the proceedings of such meetings, shall have the custody of the seal of the Corporation and shall affix it or cause it to be affixed to such instruments as require the seal and attest it and, besides the Secretary's powers and duties prescribed by law, shall have such other powers and perform such other duties as shall be provided in these Bylaws or shall at any time be assigned to such officer by the Board or the Chief Executive Officer.

Section 3.9. Controller. The Controller shall have charge of the accounting affairs of the Corporation and shall also perform such other duties and may exercise such other powers as may from time to time be assigned to such officer by the Board, the Chief Executive Officer or the Chief Financial Officer.

Section 3.10. Treasurer. The Treasurer shall exercise general supervision over the receipt, custody and disbursement of corporate funds. The Treasurer shall cause the funds of the Corporation to be deposited in such banks as may be authorized by the Board or in such banks as may be designated as depositaries in the manner provided by resolution of the Board. The Treasurer shall have such other powers and perform such other duties as shall be provided in these Bylaws or shall at any time be assigned to such officer by the Board or the Chief Executive Officer.

Section 3.11. Assistant Secretaries. Assistant Secretaries, if there be any, shall assist the Secretary in the discharge of the Secretary's duties, shall have such powers and perform such other duties as shall at any time be assigned to them by the Board or the Chief Executive Officer and, in the absence or disability of the Secretary, shall perform the duties of the Secretary's office, subject to the control of the Board or the Chief Executive Officer.

Section 3.12. Assistant Treasurers. Assistant Treasurers, if there be any, shall assist the Treasurer in the discharge of the Treasurer's duties, shall have such powers and perform such other duties as shall at any time be assigned to them by the Board or the Chief Executive Officer and, in the absence or disability of the Treasurer, shall perform the duties of the Treasurer's office, subject to the control of the Board or the Chief Executive Officer.

Section 3.13. Other Officers. Such other officers as the Board or the Chief Executive Officer may appoint shall perform such duties and have such powers as from time to time may be assigned to them by the Board or the Chief Executive Officer. The Board may delegate to any other officer of the Corporation the power to choose such other officers and to prescribe their respective duties and powers.

ARTICLE IV
STOCK

Section 4.1. Uncertificated Shares. Unless otherwise provided by resolution of the Board, each class or series of shares of the Corporation's capital stock shall be issued in uncertificated form pursuant to the customary arrangements for issuing shares in such form. Shares shall be transferable only on the books of the Corporation by the holder thereof in person or by attorney upon presentment of proper evidence of succession, assignation or authority to transfer in accordance with the customary procedures for transferring shares in uncertificated form.

Section 4.2. Record Date. 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 the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be the close of business on the day on which the Board adopts the resolution relating thereto.

Section 4.3. Record Owners. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise required by law.

Section 4.4. Transfer and Registry Agents. The Corporation may from time to time maintain one or more transfer offices or agencies and registry offices or agencies at such place or places as may be determined from time to time by the Board.

ARTICLE V
MISCELLANEOUS

Section 5.1. Contracts. The Board may authorize any officer or officers or any agent or agents to enter into any contract or execute and deliver any instrument or other document in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 5.2. Disbursements. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers or such other person or persons as the Board may from time to time designate.

Section 5.3. Fiscal Year. The fiscal year of the Corporation shall end on the 31st day of December in each year or on such other day as may be fixed from time to time by resolution of the Board.

Section 5.4. Corporate Seal. The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization and the words "Corporate Seal, Delaware." The seal
may be used by causing it or a facsimile thereof to be impressed or affixed or otherwise reproduced.

Section 5.5. Offices. The Corporation shall maintain a registered office inside the State of Delaware and may also have other offices outside or inside the State of Delaware. The books and records of the Corporation may be kept (subject to any applicable law) outside the State of Delaware at the principal executive offices of the Corporation or at such other place or places as may be designated from time to time by the Board.

Section 5.6. Waiver of Notice. Whenever any notice is required to be given to any stockholder or director of the Corporation under the provisions of the DGCL or these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, or a waiver by electronic transmission by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the stockholders or any regular or special meeting of the Board or committee thereof need be specified in any waiver of notice of such meeting unless so required by law.

ARTICLE VI
AMENDMENTS

Section 6.1. Amendments. Subject to Article VII below, these Bylaws may be adopted, amended, altered or repealed by the Board or by the stockholders by the affirmative vote of the holders of at least 75% of the voting power of all then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

* * *

Adopted as of December 12, 2022.

Exhibit 10.1

EXECUTION VERSION

TRANSITION SERVICES AGREEMENT

This TRANSITION SERVICES AGREEMENT, dated as of December 14, 2022 (this "Agreement"), is by and between Fortune Brands Home & Security, Inc., a Delaware corporation ("Fortune Brands"), and MasterBrand, Inc., a Delaware corporation ("Cabinets").

W I T N E S S E T H

WHEREAS, subject to the terms and conditions of that certain Separation and Distribution Agreement, dated as of December 14, 2022 (the "Separation and Distribution Agreement"), by and between Fortune Brands and Cabinets, Fortune Brands has agreed to distribute to holders of shares of Fortune Brands common stock, par value $0.01 per share, all of the outstanding shares of Cabinets' common stock, par value $0.01 per share, owned by Fortune Brands as of the Distribution Date (as defined in the Separation and Distribution Agreement); and

WHEREAS, following such distribution, each party has agreed to provide (in such capacity, a "Provider") to the other party (in such capacity, a "Recipient"), certain transition services in connection with the operation of its and their businesses after the Distribution Date, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and covenants set forth herein, the parties hereto hereby agree as follows:

ARTICLE I
DEFINITIONS AND INTERPRETATION

SECTION 1.1 Definitions. Capitalized terms used but not defined in this Agreement shall have the meanings ascribed to such terms in the Separation and Distribution Agreement. For purposes of this Agreement, the following terms shall have the following meanings and shall be equally applicable to the singular and plural forms:

(a) "**Business Day**" means any calendar day that is not a Saturday, Sunday or legal holiday in New York City.

(b) "**Provider Parties**" means Provider and its Subsidiaries (including those formed or acquired after the date hereof), other than the Recipient Parties.

(c) "**Recipient Business**" means where (i) Fortune Brands is Recipient, the Fortune Brands Business and (ii) Cabinets is Recipient, the Cabinets Business.

(d) "**Recipient Parties**" means Recipient, any Subsidiary of Recipient (including those formed or acquired after the date hereof), and solely in the case of Cabinets, the Transferred Subsidiaries.

SECTION 1.2 Interpretation. The headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement. In this Agreement: (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation;" (b) the word "or" is not exclusive; and (c) the words "herein," "hereunder," "hereof," "hereto" and words of similar import shall be deemed to be references to this Agreement as a whole and not to any particular Section or other provision hereof. Unless the context clearly indicates otherwise: (i) words used in the singular include the plural and words used in the plural include the singular; (ii) reference to any Section or Schedule means such Section of, or such Schedule to, this Agreement, as the case may be; and (iii) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

ARTICLE II
SERVICES

SECTION 2.1 Provision of Services.

(a) Subject to the terms and conditions of this Agreement, Provider shall provide, or cause to be provided, to the Recipient Parties, solely for the benefit of the Recipient Business in the ordinary course of business, the services described on Schedule A (the "Services"), the terms of which are incorporated herein by reference. No Recipient Party shall resell, subcontract, license, sublicense or otherwise transfer any of the Services to any Person whatsoever or permit use of any of the Services by any Person other than by the Recipient Parties directly in connection with the conduct of the Recipient Business in the ordinary course of business. Provider shall exercise reasonable care to ensure that the manner in which it performs or provides the Services does not have any adverse effect on the name, trading image, goodwill or business of any Recipient Party.

SECTION 2.2 Additional Services. If, following the Distribution Date, it shall come to the attention of Recipient that any service or facility provided by any Provider Party prior to the Distribution Date to or for any Recipient Party and not covered hereby is not being performed or made available after the Distribution Date and Recipient considers that the relevant service or facility is necessary or desirable for the effective operation of the Recipient Business, it may notify Provider giving full details of the relevant service or facility, and Provider and Recipient shall cooperate and negotiate in good faith to the extent reasonably practicable with a view to such service or facility being provided on reasonable commercial terms.

SECTION 2.3 Standard of Performance; Priority.

(a) Provider shall use commercially reasonable efforts to provide, or cause to be provided, to the Recipient Parties, each Service in a manner generally consistent with the manner and level of care with which such Service was provided to the Recipient Parties immediately prior to the Distribution Date (or, with respect to any Service not provided by any Provider Party

to any Recipient Party prior to the Distribution Date, generally consistent with the manner and level of care with which such Service is performed by any Provider Party on behalf of any other Provider Party), unless otherwise specified in this Agreement or Schedule A. Notwithstanding the foregoing, Provider shall have no obligation hereunder to provide to any Recipient Party (i) any improvements, upgrades, updates, substitutions, modifications or enhancements to any of the Services unless otherwise specified on Schedule A or (ii) any Service to the extent that the need for such Service arises, directly or indirectly, from the acquisition by any Recipient Party, outside the ordinary course of business, of any assets of, or any equity interest in, any Person.

(b) Provider shall use commercially reasonable efforts not to establish priorities in favor of the Provider Parties, on the one hand, and to the detriment of the Recipient Parties, on the other hand, as to the provision of any Service solely based on the fact that the Recipient Parties are no longer affiliated with Provider, and Provider shall use commercially reasonable efforts to provide the Services, or cause the Services to be provided, within a time frame so as not to materially disrupt the Recipient Business. Notwithstanding the foregoing, Recipient acknowledges and agrees that one or more of the Provider Parties may be providing to other Provider Parties services similar to the Services provided hereunder, or services that involve the same resources as those used to provide the Services, and that Provider shall have the right to establish reasonable priorities as between the Provider Parties, on the one hand, and the Recipient Parties, on the other hand, as to the provision of any Service if Provider determines that such priorities are necessary to avoid any adverse effect on any of the Provider Parties. If any such priorities are established, Provider shall notify Recipient as soon as reasonably practicable of any Services that will be delayed as a result of such prioritization and will use commercially reasonable efforts to minimize the duration and impact of such delays.

(c) Unless otherwise specifically set forth on Schedule A, the Recipient Parties' use of the Services shall be consistent with past practice.

(d) Notwithstanding anything to the contrary contained herein, in no event shall any Service include (i) any service that would be or otherwise becomes unlawful for Provider to provide or (ii) the exercise of business judgment or general management for any Recipient Party.

SECTION 2.4 Provider Employees Performing Services. Notwithstanding anything to the contrary contained in Section 2.1 (but subject to the last sentence of this Section 2.4), Provider shall have the exclusive right to select, employ, pay, supervise, administer, direct and discharge any of its employees who perform the Services. Provider shall be responsible for paying such employees' compensation and providing to such employees any benefits. With respect to each Service, Provider shall use commercially reasonable efforts to have qualified individuals participate in the provision of such Service; provided, however, that (a) Provider shall not be obligated to have any individual participate in the provision of any Service if Provider determines that such participation would adversely affect any Provider Party and (b) no Provider Party shall be required to continue to employ any particular individual during the applicable Service Period.

SECTION 2.5 Compliance with Law. Each party hereto shall, and shall cause each of its Affiliates to, comply with all applicable laws, rules, ordinances and regulations of any governmental entity or regulatory agency governing the Services to be provided hereunder.

Neither party hereto shall take, or permit any of its Affiliates to take, any action in violation of any applicable law, rule, ordinance or regulation that could result in liability being imposed on the other party hereto or any of such other party's Affiliates.

SECTION 2.6 Temporary Nature of Services. Recipient acknowledges that the purpose of this Agreement is to enable it to receive the Services on an interim basis. Accordingly, at all times from and after the Distribution Date, Recipient shall use commercially reasonable efforts to (a) make or obtain, or cause to be made or obtained, any filings, registrations, approvals, permits or licenses; (b) implement, or cause to be implemented, any systems; (c) purchase, or cause to be purchased, any equipment; and (d) take, or cause to be taken, any and all other actions, in each case necessary or advisable to enable Recipient or an Affiliate thereof to provide the Services for the relevant Recipient Parties as soon as reasonably practicable, and in any event prior to the expiration of the relevant Service Periods. For the avoidance of doubt, Recipient acknowledges and agrees that Provider shall not be required to provide any Service for a period longer than the applicable Service Period unless otherwise agreed by the parties in writing.

ARTICLE III
FEES AND PAYMENTS

SECTION 3.1 Fees for the Services.

(a) As compensation for the Services, Recipient shall pay Provider, in accordance with this Agreement, all amounts as set forth on Schedule A and in Section 3.1(b). Except as otherwise provided in this Agreement, the amount of any monthly fee shall be prorated if the corresponding Services were provided for only a portion of a given month.

(b) In addition to the compensation set forth on Schedule A, Provider shall be entitled to reimbursement at actual cost without markup for reasonable and customary out-of-pocket expenses incurred in connection with the performance of the Services pursuant to this Agreement.

SECTION 3.2 Invoices.

(a) Provider shall submit statements of account to Recipient within ten (10) days after the end of each month with respect to all amounts payable by Recipient to Provider hereunder (the "Invoiced Amount"), setting out the Services provided by reference to Schedule A and the amount billed to Recipient as a result of providing such Services (together with, in arrears, any Commingled Invoice Statements (as defined below) and any other invoices for Services provided by third parties, in each case setting out the Services provided by the applicable third parties by reference to Schedule A).

(b) Provider may cause any third-party service provider to which amounts are payable by or for the account of Recipient in connection with the Services to issue a separate invoice to Recipient for such amounts. Recipient shall pay or cause to be paid any such separate third-party invoice in accordance with the payment terms thereof. Any third-party invoices that aggregate Services for the benefit of the Recipient Parties, on the one hand, with services not for the benefit of the Recipient Parties, on the other hand (each, a "Commingled Invoice"), shall be

separated by Provider. Provider shall prepare a statement indicating that portion of the invoiced amount of such Commingled Invoice that is attributable to Services rendered for the benefit of the Recipient Parties (the "Commingled Invoice Statement"). As promptly as practicable after the preparation thereof, Provider shall deliver such Commingled Invoice Statement and a copy of the Commingled Invoice to Recipient. Provider shall not be required to use its own funds for payments to any third-party service provider providing any of the Services or to satisfy any payment obligation of any Recipient Party to any third-party service provider; provided, however, that if Provider does use its own funds for any such payments to any third-party service provider, Recipient shall reimburse Provider for such payments as invoiced by Provider within thirty (30) days following the date of delivery of such invoice from Provider.

SECTION 3.3 Invoice Disputes. In the event that Recipient in good faith disputes an invoice submitted by Provider, Recipient may withhold payment of any amount subject to the dispute; provided, however, that (a) Recipient will continue to pay all undisputed amounts in accordance with the terms hereof and (b) Recipient will notify Provider, in writing, of any disputed amounts and the reason for any dispute by the due date for payment of the invoice containing any disputed amounts. In the event of a dispute regarding the amount of any invoice, or portion thereof, the parties hereto will use reasonable efforts to resolve such dispute within thirty (30) days after Recipient delivers written notification of such dispute to Provider. Each party hereto will provide full supporting documentation concerning any disputed amount or invoice within thirty (30) days after Recipient delivers written notification of the dispute. Unpaid fees that are under good faith dispute will not be considered a basis for default hereunder. To the extent that a dispute regarding the amount of any invoice cannot be resolved pursuant to this Section 3.3, the dispute resolution procedures set forth in Section 7.1 shall apply.

SECTION 3.4 Time of Payment.

(a) Subject to Section 3.4(b), Recipient shall pay the Invoiced Amount to Provider in United States dollars by wire transfer of immediately available funds to an account specified by Provider in the relevant invoice, or in such other manner as specified by Provider in writing, within thirty (30) days after the date of delivery to Recipient of the applicable statement of account; provided, however, that if Recipient, in good faith and upon reasonable grounds disputes any invoiced item in accordance with Section 3.3, payment of such item may be made after resolution of such dispute.

(b) Unless Provider and Recipient otherwise agree in writing, where Services are provided to a Recipient Party outside of the United States by a Person located in the same country, amounts shall be billed and paid in the local currency of the entity providing the Services. Unless Provider and Recipient otherwise agree in writing, if payments are to be made between legal entities not within the same country, such amounts shall be billed and paid in United States dollars. To the extent necessary, local currency conversion shall be based on Provider's internal exchange rate for the then-current month.

(c) If Recipient does not make any payment required under the provisions of this Agreement to Provider when due in accordance with the terms hereof, Provider shall, at its option, charge Recipient interest on the unpaid amount at the prime rate charged by JPMorgan Chase Bank, N.A. (or its successor). In addition, Recipient shall reimburse Provider for all costs of collection of overdue amounts, including any reimbursement required under Section 3.2(b) and any reasonable attorneys' fees.

(d) Recipient shall, within thirty (30) days after the date of delivery to Recipient of any Commingled Invoice Statement, pay or cause to be paid the amount set forth on such Commingled Invoice Statement to the third-party service provider and shall concurrently deliver evidence of such payment to Provider. Recipient acknowledges and agrees that it shall be responsible for any interest or other amounts in respect of any portion of any Commingled Invoice that Recipient is required to pay pursuant to any Commingled Invoice Statement to the extent such interest or other amounts are attributable to Recipient's failure to pay any such Commingled Invoice Statement in accordance with this Section 3.4(d).

SECTION 3.5 Taxes. Any amounts payable under this Agreement are exclusive of any goods and services taxes, value added taxes, sales taxes or similar taxes (collectively, "Sales Taxes") now or hereinafter imposed on the performance or delivery of Services, and an amount equal to such Sales Taxes so chargeable shall, subject to receipt of a valid receipt or invoice as required below in this Section 3.5, be paid by Recipient to Provider in addition to the amounts otherwise payable under this Agreement. In each case where an amount in respect of Sales Tax is payable by Recipient in respect of a Service provided by any Provider Party, Provider shall furnish in a timely manner a valid Sales Tax receipt or invoice to Recipient in the form and manner required by applicable law to allow Recipient to recover such Sales Tax to the extent allowable under such law. The parties hereto shall use commercially reasonable efforts to cooperate to minimize any Sales Tax payable with respect to the Services.

ARTICLE IV
TERM AND TERMINATION

SECTION 4.1 Term. The performance of the Services shall commence on the Distribution Date and shall continue with respect to each Service until the relevant date set forth on Schedule A with respect to such Service (each, a "Service Period"), unless such period is earlier terminated in accordance with the terms hereof.

SECTION 4.2 Termination by Recipient.

(a) Recipient will have no obligation to continue to use any of the Services and, except as otherwise specified on Schedule A, Recipient may terminate any Service by giving Provider at least thirty (30) days' prior notice of Recipient's desire to terminate such Service. To the extent possible, Recipient will give such notice at the beginning of a month to terminate the Service as of the beginning of the next month to avoid the need to prorate any monthly payment charges. As soon as reasonably practicable following receipt of any such notice, Provider will advise Recipient in writing as to whether termination of such Service will (i) require the termination or partial termination of, or otherwise affect the provision of, any other Services or (ii) result in any early termination costs (which will be limited to third-party costs that Provider actually incurs). If either will be the case, Recipient may withdraw its termination notice within five (5) Business Days after the receipt of such notice from Provider. If Recipient does not withdraw the termination notice within such period, such termination will be final. Upon such termination, Recipient's obligation to pay for such Service(s) will terminate, and Provider will

cease, or cause its Affiliates or third-party service providers to cease, providing the terminated Service(s); provided, however, that Recipient shall reimburse Provider for the reasonable termination costs actually incurred by Provider resulting from Recipient's early termination of such Services that are owed to third-party service providers. Provider shall use commercially reasonable efforts to mitigate such termination costs.

(b) Recipient may terminate this Agreement as of the end of any month provided that (i) Recipient has given Provider at least thirty (30) days prior notice and (ii) Recipient reimburses Provider for any reasonable out-of-pocket expenses or costs actually incurred by Provider due to such termination.

SECTION 4.3 Termination for Breach. Either party hereto shall have, in addition to any other rights and remedies such party may have, the right to terminate this Agreement on thirty (30) days' prior notice to the other party hereto, if such other party shall have materially breached or defaulted in the performance of any provision of this Agreement; provided, however, that if it is possible for such breach or default to be cured and the party receiving such notice of termination shall cure such breach or default within thirty (30) days after receipt of such notice, then this Agreement shall continue in full force and effect and provided further that such termination shall only apply to those Services in respect of which the defaulting Party is in material breach and shall be without prejudice to the provision or receipt of all other Services, which shall remain in full force and effect notwithstanding such termination.

SECTION 4.4 Termination for Insolvency. Either party hereto shall have the right, notwithstanding any other provisions of this Agreement, and in addition to any other rights and remedies such party may have, to terminate this Agreement forthwith and at any time upon notice to the other party hereto if: (a) the other party hereto becomes insolvent; (b) the other party hereto files a petition in bankruptcy or insolvency; (c) the other party hereto is adjudicated bankrupt or insolvent; (d) the other party hereto files any petition or answer seeking reorganization, readjustment or arrangement of such other party's business under any law relating to bankruptcy or insolvency; (e) a receiver, trustee or liquidator is appointed for any of the property of the other party hereto and within sixty (60) days thereof such other party fails to secure a dismissal thereof; (f) the other party hereto makes any assignment for the benefit of creditors; or (g) there is a government expropriation of any material portion of the assets of the other party hereto.

SECTION 4.5 Effect of Expiration or Earlier Termination.

(a) In any event, no expiration or earlier termination of this Agreement shall prejudice the right of either party hereto to recover any payment due at the time of termination, cancelation or expiration (or any payment accruing as a result thereof), nor shall it prejudice any cause of action or claim of either party hereto accrued or to accrue by reason of any breach or default by the other party hereto. Upon expiration or termination of this Agreement, (i) Recipient shall immediately cease use of all Services and (ii) each party will return or destroy the Confidential Information of the other party.

(b) **Survival**. Notwithstanding anything to the contrary contained herein, Section 4.5, Section 5.2, Article III, Article VI and Article VII of this Agreement shall survive the expiration or earlier termination of this Agreement.

ARTICLE V
COOPERATION AND CONFIDENTIALITY, INTELLECTUAL PROPERTY

SECTION 5.1 Cooperation; Access.

(a) Recipient shall, and shall cause each of the Recipient Parties to, permit Provider and its Representatives access, on Business Days during hours that constitute regular business hours for Recipient and upon reasonable prior request, to the premises of the Recipient Parties and such data, books, records and personnel designated by Recipient and the Recipient Parties as involved in receiving or overseeing the Services as Provider may reasonably request for the purposes of providing the Services. Provider shall provide Recipient, upon reasonable prior notice, such documentation relating to the provision of the Services as Recipient may reasonably request for the purposes of confirming any Invoiced Amount or other amount payable pursuant to any Commingled Invoice Statement or otherwise pursuant to this Agreement. Any documentation so provided to Provider pursuant to this Section 5.1(a) shall be subject to the confidentiality obligations set forth in Section 5.2.

(b) Provider shall provide the Recipient Parties with such advice, assistance and information in connection with the performance of the Services as Recipient may from time to time reasonably require. Provider and Recipient shall also liaise as appropriate to ensure that the Services are carried out in accordance with the provisions of Schedule A, and where reasonably practicable Provider shall comply with any instructions that Recipient shall reasonably issue from time to time concerning the manner in which the Services shall be provided to the Recipient Parties.

(c) Recipient and Provider shall keep each other informed of any special requirements applicable to the carrying out of the Services. To the extent reasonably necessary and appropriate, Provider shall promptly take steps where reasonably practicable to comply with such special requirements. If these steps shall result in any increase or reduction in the actual cost to Provider of providing the relevant Services, then the fees payable pursuant to Section 3.1 shall be increased or reduced by Provider accordingly.

SECTION 5.2 Confidentiality.

(a) Each party hereto shall treat in confidence all documents, materials and other information that it shall have obtained regarding the other party and any of its Subsidiaries (and in the case of Recipient, including Transferred Subsidiaries), during the course of the performance of this Agreement and the transactions contemplated by this Agreement ("Confidential Information"). Confidential Information of a party hereto shall not be communicated by the other party hereto to any third party (other than such other party's Representatives who have a need to know such Confidential Information). Each party hereto shall not, and shall cause any other Person to whom it discloses Confidential Information of the other party to not, use or disclose such Confidential Information except for the purpose of exercising its rights and performing its obligations set forth in this Agreement. Each party hereto shall be responsible for any breach of this Section 5.2 by any of its Representatives to whom it has disclosed Confidential Information of the other party.

(b) The obligation of each party hereto with respect to the Confidential Information of the other party hereto shall not apply to any documents, materials or other information that:

(i) is on the date hereof in such party's possession; provided that such documents, materials or other information is not known to such party to be subject to another confidentiality agreement with, or other obligation of secrecy to, the other party or any other Person and such documents, materials or other information may be disclosed pursuant to the Separation and Distribution Agreement;

(ii) is on the date hereof or hereafter becomes available to the public other than as a result of a disclosure, directly or indirectly, by such party or Persons to whom such party provides or provided such Confidential Information;

(iii) is on the date hereof or hereafter becomes available to such party on a non-confidential basis from a source other than the other party or any of the other party's affiliates' or Representatives provided that (a) such source is not known by the receiving party (after due inquiry) to be subject to a confidentiality agreement with, or other obligation of secrecy to, the disclosing party or any third party, and (b) such documents, materials or other information may be disclosed pursuant to the Separation and Distribution Agreement; or

(iv) can be shown by such party to have been independently developed by such party without access to or use of such documents, materials or other information and such documents, materials or other information may otherwise be disclosed pursuant to the Separation and Distribution Agreement.

(c) The foregoing confidentiality and nondisclosure obligations shall not apply to the extent any Confidential Information of a party hereto is required to be disclosed by applicable law or regulatory body; provided that, in such event, the party required to disclose such information provides the other party hereto with prompt advance notice of such required disclosure (to the extent permitted by applicable law) so that such other party shall have the opportunity, if it so desires, to seek a protective order or other appropriate remedy. If such appropriate protective order or other remedy is not obtained within a reasonable period of time, the party that is required to disclose Confidential Information of the other party hereto shall furnish, or cause to be furnished, only that portion of the Confidential Information that is legally required or requested to be disclosed and shall use commercially reasonable efforts to ensure that confidential treatment is accorded such Confidential Information.

SECTION 5.3 Intellectual Property. Recipient grants to the Provider Parties a limited, non-exclusive, fully paid-up, nontransferable, revocable license, without the right to sublicense, for the term of this Agreement to use all intellectual property owned by or, to the extent permitted by the applicable license, licensed to Recipient or any other Recipient Parties solely to the extent necessary for the Provider Parties to perform the Services. All rights not granted herein are reserved.

ARTICLE VI
LIMITATION OF LIABILITY, INDEMNIFICATION AND REMEDIES

SECTION 6.1 No Warranty; Exclusive Remedy.

(a) Provider and Recipient both acknowledge and agree that Provider has agreed to provide or cause to be provided the Services hereunder as an accommodation to Recipient. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED (INCLUDING WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION), ARE MADE BY ANY OF THE PROVIDER PARTIES WITH RESPECT TO THE PROVISION OF SERVICES UNDER THIS AGREEMENT AND, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ALL SUCH REPRESENTATIONS AND WARRANTIES ARE HEREBY WAIVED AND DISCLAIMED.

(b) Other than in the event of fraud, willful misconduct, bad faith or gross negligence on the part of any Provider Party for which Recipient shall have a right to seek indemnity hereunder (and without limiting the indemnification rights under Section 6.3(b)), the sole and exclusive remedy of any Recipient Party with respect to any and all Losses caused by or arising from the performance or non-performance of any Service by Provider (either directly or indirectly) will be the termination of this Agreement in accordance with Section 4.2; provided, however, that, if capable of being performed or re-performed and if requested by Recipient, Provider shall perform or re-perform, as applicable, or will cause one or more of its Affiliates or third-party service providers to perform or re-perform, as applicable, any Service that does not comply with the requirements and level of service set forth on Schedule A and in Section 2.3.

SECTION 6.2 Limitation of Liability.

(a) EXCEPT AS PROVIDED IN SECTION 6.2(b), NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT WILL ANY PROVIDER PARTY OR ANY RECIPIENT PARTY BE LIABLE UNDER ANY CIRCUMSTANCES OR LEGAL THEORY FOR LOSSES RELATED TO INCONVENIENCE, DOWNTIME, INTEREST, COST OF CAPITAL, FRUSTRATION OF ECONOMIC OR BUSINESS EXPECTATIONS, LOST PROFITS, LOST REVENUES, LOST SAVINGS, LOSS OF USE, TIME, DATA OR GOODWILL, OR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL, COLLATERAL OR CONSEQUENTIAL DAMAGES, REGARDLESS OF WHETHER SUCH LOSSES ARE FORESEEABLE; PROVIDED, HOWEVER, THAT TO THE EXTENT AN INDEMNIFIED PARTY IS REQUIRED TO PAY ANY LOSSES RELATED TO INCONVENIENCE, DOWNTIME, INTEREST, COST OF CAPITAL, FRUSTRATION OF ECONOMIC OR BUSINESS EXPECTATIONS, LOST PROFITS, LOST REVENUES, LOST SAVINGS, LOSS OF USE, TIME, DATA OR GOODWILL, OR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL, COLLATERAL OR CONSEQUENTIAL DAMAGES TO A PERSON WHO IS NOT A PROVIDER PARTY OR A RECIPIENT PARTY IN CONNECTION WITH A THIRD-PARTY CLAIM, SUCH LOSSES WILL CONSTITUTE DIRECT LOSSES NOT SUBJECT TO THE LIMITATION SET FORTH IN THIS SECTION 6.2(a).

(b) The limitations set forth in Section 6.2(a) shall not apply to Losses that arise as the result of fraud, willful misconduct, bad faith or gross negligence of Provider, Recipient or anyone performing Services pursuant to this Agreement.

SECTION 6.3 Indemnification. Notwithstanding anything to the contrary contained in this Agreement and without limiting the indemnification rights of the parties hereto set forth in the Separation and Distribution Agreement:

(a) except insofar as a claim, demand, suit or recovery relates to fraud, willful misconduct, bad faith or gross negligence of any Provider Party, Recipient will, and will cause its Affiliates to, indemnify and hold harmless the Provider Parties and their respective employees, officers, directors and agents (collectively, the "Provider Indemnified Parties") from and against any Losses (including reasonable expenses of investigation and attorneys' fees incurred or suffered by the Provider Indemnified Parties) arising out of any claim made against any Provider Party by a third party to the extent caused by or resulting from any of the Services rendered pursuant to the terms of this Agreement; provided, however, that the foregoing will not limit the indemnification obligations of Provider under Section 6.3(b); and

(b) except insofar as a claim, demand, suit or recovery relates to fraud, willful misconduct, bad faith or gross negligence of any Recipient Party, Provider will, and will cause its Affiliates to, indemnify and hold harmless the Recipient Parties and their respective employees, officers, directors and agents (collectively, the "Recipient Indemnified Parties") from and against any Losses (including reasonable expenses of investigation and attorneys' fees incurred or suffered by the Recipient Indemnified Parties) arising out of the performance of any Service by a third-party service provider on behalf of Provider, but only to the extent Provider is indemnified or otherwise compensated by such third-party service provider for any breach of its obligations to Provider with respect to the provision of such Service and, in such event, only on a *pro rata* basis taking into account all Provider Parties similarly affected.

SECTION 6.4 Remedies. The parties hereto agree that irreparable damage may occur if any provision of this Agreement is not performed in accordance with its specific terms or is otherwise breached. Each of the parties hereto shall be entitled to seek equitable relief to prevent or remedy breaches of this Agreement, without proof of actual damages and without the necessity of posting a bond, including in the form of an injunction or injunctions or orders for specific performance in respect of such breaches.

ARTICLE VII
MISCELLANEOUS

SECTION 7.1 Dispute Resolution. Executive officers of each of Provider and Recipient will meet as expeditiously as possible to resolve any dispute directly or indirectly arising out of or in relation to this Agreement or the validity, interpretation, construction, performance, breach or enforceability of this Agreement, and any dispute that is not so resolved within thirty (30) days shall be resolved in accordance with the provisions of Section 12.2 and Section 12.3 of the Separation and Distribution Agreement, which shall apply *mutatis mutandis* to this Agreement.

SECTION 7.2 Assignment. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. No party hereto may assign this Agreement or any of its rights or delegate any of its obligations under this Agreement without the written consent of the other party hereto, which consent may be withheld in such other party's sole and absolute discretion and any assignment or attempted assignment in violation of the foregoing will be null and void; provided, however, that Provider may delegate its duties hereunder to such Affiliates or third-party service providers as may be qualified to provide the Services and provided further that Provider has provided at least forty-five (45) days' advance notice to Recipient prior to any such delegation of any duties hereunder, and if Recipient reasonably objects to any such delegation, Provider will reasonably assist in the process of transitioning such service to Recipient or Recipient's designee prior to, and in lieu of, any such delegation.

SECTION 7.3 Relationship of the Parties. The parties hereto are independent contractors, and neither party hereto is an employee, partner or joint venturer of the other. Under no circumstances shall any of the employees of a party hereto be deemed to be employees of the other party hereto for any purpose. Neither party hereto shall have the right to bind the other to any agreement with a third party nor to represent itself as a Partner or joint venturer of the other by reason of this Agreement.

SECTION 7.4 Third-Party Beneficiaries. Except for Section 6.3, this Agreement is solely for the benefit of the parties hereto and their respective successors and permitted assigns, and nothing herein express or implied shall give or be construed to give to any other Person any legal or equitable rights hereunder.

SECTION 7.5 Force Majeure. Neither party hereto shall be in default of this Agreement by reason of its delay in the performance of, or failure to perform, any of its obligations hereunder (other than the payment of money) if such delay or failure is caused by acts of God, acts of civil or military authority, embargoes, acts of terrorism, epidemics, pandemic, war, riots, insurrections, fires, explosions, earthquakes, floods, unusually severe weather conditions, labor problems or unavailability of parts, or, in the case of computer systems, any failure in electrical or air conditioning equipment or other events that arise from circumstances beyond the reasonable control of such party. In the event of any such excused delay, the time for performance shall be extended for a period equal to the time lost by reason of the delay; provided that in no event shall Provider be required to provide any Services to Recipient for longer than twenty four (24) months after the date of this Agreement.

SECTION 7.6 Miscellaneous. Except as otherwise expressly set forth in this Agreement, the provisions of Article XII of the Separation and Distribution Agreement other than the provisions thereof relating to assignability, third-party beneficiaries, force majeure and termination shall apply *mutatis mutandis* to this Agreement.

* * * * * * *

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

FORTUNE BRANDS HOME & SECURITY, INC.

By: /s/ Nicholas I. Fink
Name: Nicholas I. Fink
Title: Chief Executive Officer

MASTERBRAND, INC.

By: /s/ R. David Banyard, Jr.
Name: R. David Banyard, Jr.
Title: President

[Signature Page to Transition Services Agreement]

Exhibit 10.2

EXECUTION VERSION

TAX ALLOCATION AGREEMENT

by and between

FORTUNE BRANDS HOME & SECURITY, INC.

and

MASTERBRAND, INC.

Dated as of December 14, 2022

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EXHIBITS

SCHEDULES

TAX ALLOCATION AGREEMENT

This TAX ALLOCATION AGREEMENT (this "**Agreement**") is made as of December 14, 2022, by and between Fortune Brands Home & Security, Inc., a Delaware corporation ("**Fortune Brands**"), and MasterBrand, Inc., a Delaware corporation ("**Cabinets**"), and, as of the date hereof, a wholly-owned subsidiary of Fortune Brands. Fortune Brands and Cabinets are referred to herein as "**Parties**" or each individually as a "**Party**."

WHEREAS, Fortune Brands, through Cabinets, is engaged in the business of designing, manufacturing and selling cabinets and related products and components, as described more fully in the Form 10 Registration Statement (as defined herein);

WHEREAS, the board of directors of Fortune Brands (the "**Fortune Brands Board**") has determined that it would be advisable and in the best interests of Fortune Brands and its stockholders for Fortune Brands to distribute on a *pro rata* basis to the holders of shares of Fortune Brands' common stock, par value $0.01 per share ("**Fortune Brands Shares**"), without any consideration being paid by the holders of such Fortune Brands Shares, all of the outstanding shares of Cabinets common stock, par value $0.01 per share ("**Cabinets Shares**"), owned by Fortune Brands as of the Distribution Date (as defined herein) as further described in the Separation and Distribution Agreement by and between Fortune Brands and Cabinets (the "**Separation and Distribution Agreement**"), dated December 14, 2022;

WHEREAS, in connection with and prior to the Distribution, the Parties have taken or intend to take the actions described in Exhibit A (collectively, the "**Plan of Separation**"), including, (i) the contribution by Fortune Brands to Cabinets of all of the outstanding stock of MasterBrand Cabinets, Inc. ("**MBCI**"), a Delaware corporation, and, immediately thereafter, the conversion of MBCI to a Delaware limited liability company in a transaction that, together with the contribution, is intended to qualify as a reorganization within the meaning of Section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended (the "**Code**"), (ii) one or more distributions by Cabinets to Fortune Brands (potentially consisting of cash, accounts receivable, and/or a newly issued note) in transactions intended to qualify as distributions to which Section 301 and Treasury Regulation Section 1.1502-13(f)(2)(ii) apply; and (iii) the exchange by Fortune Brands of all of its existing shares of Cabinets common stock, par value $1.00 per share, for the Cabinets Shares to be distributed in the Distribution in a transaction intended to qualify as a recapitalization within the meaning of Section 368(a)(1)(E) of the Code that will trigger the application of Treasury Regulation Section 1.1502-19(d) to eliminate any excess loss account in blocks of Cabinets Shares (the tax treatment described in clauses (i)-(iii), together with the tax treatment described in the following recital, collectively, the "**Intended Tax Treatment**");

WHEREAS, it is the intention of the Parties that the distribution of Cabinets Shares to the stockholders of Fortune Brands, except for cash received in lieu of any fractional Cabinets Shares, will qualify as tax-free under Section 355(a) of the Code to such stockholders and as tax-free to Fortune Brands under Section 355(c) of the Code; and

WHEREAS, in connection with the Plan of Separation, the Parties desire to set forth their agreement with respect to tax matters for taxable periods prior to and including the Distribution Date, in line with the following: (i) Cabinets is responsible for and shall pay all Taxes

attributable to the Cabinets Business and will indemnify Fortune Brands for these Taxes, (ii) Fortune Brands is responsible for and shall pay all Taxes to the extent such taxes are not attributable to the Cabinets Business and will indemnify Cabinets for these Taxes, (iii) the Parties will cooperate to efficiently settle Audits, (iv) the Parties are restricted from taking certain actions that could cause the Distribution or certain internal transactions undertaken in anticipation of the Distribution to fail to qualify for the Intended Tax Treatment, and either Party may be responsible for any taxes imposed as a result of the failure of the Distribution or the internal transactions to qualify for the Intended Tax Treatment if such failure is attributable to certain post-distribution actions taken by that Party or in respect of that Party's shareholders, and (v) the Parties will cooperate fully and share information with respect to the tax matters covered herein.

NOW, THEREFORE, in consideration of the foregoing and the terms, conditions, covenants and provisions of this Agreement, each of the Parties mutually covenants and agrees as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

SECTION 1.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

"**Active Business**" means the business conducted by each of the Active Business Entities as of the Distribution Date.

"**Active Business Entities**" means MasterBrand, Inc., MasterBrand Cabinets, LLC, MasterBrand Home Products, LLC, MasterBrand Online LLC, Norcraft Holding LLC, Norcraft Companies, Inc., Norcraft Companies LLC, Norcraft GP, L.L.C., Norcraft Holdings, L.P., Norcraft Capital Corp., Norcraft Intermediate GP, L.L.C., Norcraft Intermediate Holdings, L.P., Norcraft Companies, L.P., Norcraft Finance Corp., Panther Transport, Inc., KCMB Nova Scotia Corp., MBCI Canada Holdings Corp., Kitchen Craft of Canada, NHB Industries Limited, Woodcrafters UK Co. Ltd., Woodcrafters Home Products GmbH, MI Service Company LLC, Woodcrafters Home Products, S de RL de CV, and Woodcrafters Mexico Holding, S de RL de CV..

"**Affiliate**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Agreement**" has the meaning set forth in the preamble hereto.

"**Audit**" means any audit (including a determination of the status of qualified and non-qualified employee benefit plans), assessment of Taxes, other examination by or on behalf of any Taxing Authority (including notices), proceeding, or appeal of such a proceeding relating to Taxes, whether administrative or judicial, including proceedings relating to competent authority determinations initiated by a Party or any of its Subsidiaries.

"**Business Day**" means any day other than a Saturday, Sunday or a day on which banks are required to be closed in Chicago, Illinois.

"**Cabinets**" has the meaning set forth in the first paragraph of this Agreement.

"**Cabinets Allocable Audit Portion**" means the amount of any additional Taxes due and payable that are attributable to a Pre-Distribution Tax Period or the portion of a Straddle Tax Period ending on the Distribution Date that are not reported on a Tax Return filed for such Pre-Distribution Tax Period or Straddle Tax Period to the extent such Taxes are attributable to any Cabinets-Fortune Brands Entities. The determination of the amount of additional Taxes due and payable that are attributable to the Cabinets-Fortune Brands Entities shall be calculated on a "with and without basis," by calculating the amount of the excess (if any) of (a) the net amount of Taxes due and payable pursuant to a Final Determination, over (b) the net amount of Taxes that would be due and payable from the Final Determination that are not attributable to the operations conducted through the Cabinets Business; provided, however, that (a) and (b) shall be determined by ignoring any available losses, deductions, allowances or credits of the Fortune Brands Parties that are permitted or allowed as a result of consolidated, combined, unitary, group, or similar relief of the Parties (or their Subsidiaries).

"**Cabinets Allocable Portion**" means, with respect to a Tax Return filed after the Distribution Date for either a Pre-Distribution Tax Period or Straddle Tax Period, the amount of Taxes due and payable, after taking into account all prior payments, including estimated payments, for such Pre-Distribution Tax Period or Straddle Tax Period attributable to any Cabinets-Fortune Brands Entity. The determination of the amount of Taxes due and payable that are attributable to the Cabinets-Fortune Brands Entities for a given Tax Return shall be calculated on a "with and without basis," by calculating the amount of the excess (if any) of (a) the net amount of Taxes shown as due and payable on such Tax Return as filed, over (b) the net amount of Taxes that would be shown as due and payable on such Tax Return if such Tax Return were recalculated excluding the Cabinets-Fortune Brands Entities; provided, however, that (a) and (b) shall be determined by ignoring any available losses, deductions, allowances or credits of Fortune Brands that are permitted or allowed as a result of consolidated, combined, unitary, group, or similar relief of the Parties (or their Subsidiaries). To the extent the Cabinets Allocable Portion is determined to be less than zero (for example, due to an overpayment of estimated taxes by a Cabinets Party to a Fortune Brands Party), such amount shall be treated as a Refund to which Cabinets is entitled as of the due date of the applicable Tax Return.

"**Cabinets Business**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Cabinets-Fortune Brands Entities**" mean each of the Cabinets Parties that has filed or is required to file, with respect to itself, its predecessor or any of its assets, any Tax Return on a consolidated, combined, unitary, group, or other basis with any Fortune Brands Party.

"**Cabinets Parties**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Cabinets Shares**" has the meaning set forth in the recitals to this Agreement.

"**Cabinets Subsidiaries**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Cabinets Tainting Act**" has the meaning set forth in Section 5.1(b).

"**Code**" has the meaning set forth in the recitals to this Agreement.

"**Correlative Adjustment**" means a disallowance of an item of deduction, loss or credit (or an increase of an item of income or gain) attributable to a Party or that Party's Subsidiaries, that is included in a Tax Return for a Pre-Distribution Tax Period or the portion of a Straddle Tax Period ending on the Distribution Date, and that directly results in a correlative increase of an item of deduction, loss or credit (or reduction of an item of income or gain) with respect to another Party or that Party's Subsidiaries with respect to a Tax Return for a Pre-Distribution Tax Period or a Straddle Tax Period**.**

"**Correlative Detriment**" has the meaning set forth in Section 4.1(b).

"**CPR**" has the meaning set forth in Section 12.2(b).

"**Dispute**" has the meaning set forth in Section 12.2(a).

"**Distribution**" has the meaning set forth in Section 4.3 of the Separation and Distribution Agreement.

"**Distribution Date**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Distribution Taxes**" mean any and all Taxes (a) required to be paid by or imposed on a Party or any of its Subsidiaries resulting from, or directly arising in connection with, the failure of the Distribution to qualify as a distribution described in Section 355(a) of the Code (or the failure to qualify under or the application of corresponding provision of the Laws of other jurisdictions); (b) required to be paid by or imposed on a Party or any of its Subsidiaries resulting from, or directly arising in connection with, the failure of the stock distributed in the Distribution to constitute "qualified property" for purposes of Sections 355(d) and 355(e) of the Code (or any corresponding provision of the Laws of other jurisdictions); or (c) required to be paid by or imposed on a Party or any of its Subsidiaries resulting from, or directly arising in connection with, the failure of any transaction undertaken in connection with or pursuant to the Plan of Separation to qualify for the Intended Tax Treatment, in whole or in part.

"**Distribution Tax-Related Losses**" shall mean (a) all Distribution Taxes imposed pursuant to any Final Determination; (b) all reasonable accounting, legal and other professional fees and court costs incurred in connection with such Distribution Taxes; and (c) all reasonable costs and expenses and all damages associated with shareholder litigation or controversies and any amount paid by any Party in respect of the liability of shareholders, whether paid to a shareholder or to the IRS or any other Taxing Authority, in each case, resulting from the failure of the Distribution or any other transaction contemplated by the IRS Ruling or any Tax Opinion to have the Intended Tax Treatment.

"**Due Date**" means the date (taking into account all valid extensions) upon which a Tax Return is required to be filed with or Taxes are required to be paid to a Taxing Authority, whichever is applicable.

"**Effective Time**" has the meaning set forth in Section 4.3 of the Separation and Distribution Agreement.

"**Employee Matters Agreement**" means the Employee Matters Agreement by and between Fortune Brands and Cabinets, dated as December 14, 2022.

"**Estimated Tax Return**" has the meaning set forth in Section 2.1(c)(iv).

"**Final Determination**" means the final resolution of liability for any Tax for any taxable period, by or as a result of:

(a) a final decision, judgment, decree or other order by any court of competent jurisdiction that can no longer be appealed;

(b) a final settlement with the IRS, a closing agreement or accepted offer in compromise under Sections 7121 or 7122 of the Code, or a comparable agreement under the Laws of other jurisdictions, which resolves the liability for the Taxes addressed in such agreement for any taxable period;

(c) any allowance of a refund or credit in respect of an overpayment of Tax, but only after the expiration of all periods during which such refund may be recovered by the jurisdiction imposing the Tax; or

(d) any other final disposition, including by reason of the expiration of the applicable statute of limitations.

"**Form 10 Registration Statement**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Fortune Brands Board**" has the meaning set forth in the recitals to this Agreement.

"**Fortune Brands**" has the meaning set forth in the first paragraph of this Agreement.

"**Fortune Brands Business**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Fortune Brands Parties**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Fortune Brands Shares**" has the meaning set forth in the recitals to this Agreement.

"**Fortune Brands Tainting Act**" has the meaning set forth in Section 5.1(a).

"**Income Taxes**" mean:

(a) all Taxes based upon, measured by, or calculated with respect to (i) net income or profits (including, any capital gains, minimum tax or any Tax on items of tax preference, but not including sales, use, real, or personal property, gross or net receipts, value added, excise, leasing, transfer or similar Taxes), or (ii) multiple bases (including, corporate franchise, doing business and occupation Taxes) if one or more bases upon which such Tax is determined is described in clause (a)(i) above; and

(b) any related interest and any penalties, additions to such Tax or additional amounts imposed with respect thereto by any Taxing Authority.

"**Income Tax Returns**" mean all Tax Returns that relate to Income Taxes.

"**Indemnified Party**" means the Party which is or may be entitled pursuant to this Agreement to receive any payments (including reimbursement for Taxes or costs and expenses) from another Party.

"**Indemnifying Party**" means the Party which is or may be required pursuant to this Agreement to make indemnification or other payments (including reimbursement for Taxes and costs and expenses) to another.

"**Intended Tax Treatment**" has the meaning set forth in the recitals to this Agreement.

"**IRS**" means the United States Internal Revenue Service or any successor thereto, including its agents, representatives, and attorneys.

"**IRS Ruling**" means the requests submitted to the IRS for all private letter rulings to be obtained by Fortune Brands from the IRS in connection with the Plan of Separation, and any supplemental materials submitted to the IRS relating thereto, and the IRS private letter rulings received by Fortune Brands with respect to the Plan of Separation.

"**Law**" means any U.S. or non-U.S. federal, national, supranational, state, provincial, local or similar statute, law, ordinance, regulation, rule, code, administrative pronouncement, order, requirement or rule of law (including common law), or any income tax treaty.

"**Mediation Request**" has the meaning set forth in Section 12.2(b).

"**Non-Income Tax Returns**" mean all Tax Returns other than Income Tax Returns.

"**Non-Income Taxes**" mean all Taxes other than Income Taxes.

"**Party**" has the meaning set forth in the first paragraph of this Agreement.

"**Person**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Plan of Separation**" has the meaning set forth in the recitals to this Agreement.

"**Post-Distribution Income Tax Returns**" mean, collectively, all Income Tax Returns required to be filed by a Party or any of its Subsidiaries for a Post-Distribution Tax Period.

"**Post-Distribution Ruling**" has the meaning set forth in Section 5.4.

"**Post-Distribution Tax Period**" means a Tax year beginning and ending after the Distribution Date.

"**Pre-Distribution Income Tax Returns**" mean, collectively, all Income Tax Returns required to be filed by a Party or any of its Subsidiaries for a Pre-Distribution Tax Period.

"**Pre-Distribution Non-Income Tax Returns**" mean, collectively, all Non-Income Tax Returns required to be filed by a Party or any of its Subsidiaries for a Pre-Distribution Tax Period.

"**Pre-Distribution Tax Period**" means a Tax year beginning and ending on or before the Distribution Date.

"**Pre-Distribution U.S. Income Tax Audit**" means any Audit of any U.S. federal, state, or local Income Tax Return filed, or allegedly required to be filed, for any Pre-Distribution Tax Period or Straddle Tax Period which includes a Cabinets-Fortune Brands Entity**.**

"**Preparing Party**" has the meaning set forth in Section 2.1(a).

"**Prime Rate**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Procedure**" has the meaning set forth in Section 12.2(b).

"**Proposed Acquisition Transaction**" means a transaction or series of transactions (or any agreement, understanding, arrangement, or substantial negotiations within the meaning of Section 355(e) of the Code and the Treasury Regulations promulgated thereunder, to enter into a transaction or series of related transactions), as a result of which Cabinets would merge or consolidate with any other Person, or as a result of which any Person or any group of Persons would (directly or indirectly) acquire, or have the right to acquire (through an option or otherwise), from Cabinets or one or more holders of its stock, any amount of stock of Cabinets that would, when combined with any other changes in ownership of the stock of Cabinets, comprise more than 40 percent of (a) the value of all outstanding stock of Cabinets as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series, or (b) the total combined voting power of all outstanding stock of Cabinets as of the date of such transaction, or in the case of a series of transactions, the date of the last transaction of such series. For purposes of determining whether a transaction constitutes an indirect acquisition for purposes of the first sentence of this definition, any recapitalization or other action resulting in a shift of voting power or any redemption of shares of stock shall be treated as an indirect acquisition of shares of stock by the non-exchanging shareholders. Notwithstanding the foregoing, a Proposed Acquisition Transaction shall not include (i) the adoption by Cabinets of a shareholder rights plan, or (ii) issuances by Cabinets that satisfy Safe Harbor VIII (relating to acquisitions in connection with a person's performance of services) or Safe Harbor IX

(relating to acquisitions by a retirement plan of an employer) of Treasury Regulation Section 1.355-7(d). This definition and the application thereof is intended to monitor compliance with Section 355(e) of the Code and the Treasury Regulations promulgated thereunder and shall be interpreted accordingly by the Parties in good faith.

"**Qualified Tax Counsel**" means any law firm or accounting firm of national reputation approved by Fortune Brands, which approval shall not be unreasonably withheld, conditioned or delayed.

"**Refund**" means any refund of Taxes (including any overpayment of Taxes that can be refunded or, alternatively, applied to future Taxes payable), including any interest paid on or with respect to such refund of Taxes; provided, however, the amount of the refund of Taxes shall be net of any Taxes imposed by any Taxing Authority on the receipt of the refund.

"**Relative Values**" means the relative equity values of Fortune Brands and Cabinets determined in accordance with the following: (a) for Fortune Brands, such value shall be determined by multiplying (i) the average value of Fortune Brands common stock for the three Business Days following the Distribution Date, computed for each day by averaging the intraday high and intraday low trading price, by (ii) the total number of shares of Fortune Brands common stock outstanding on such date, and (b) for Cabinets, such value shall be determined by multiplying (i) the average value of the Cabinets common stock for the three Business Days following the Distribution Date, computed for each day by averaging the intraday high and intraday low trading price, by (ii) the total number of shares of Cabinets common stock outstanding on such date.

"**Restricted Period**" means the period beginning at the Effective Time and ending on the two-year anniversary of the day after the Distribution Date.

"**Restricted Person**" means any Person that had in effect at any time during the two-year period preceding the Distribution Date, a confidentiality agreement with any Fortune Brands Party or Cabinets Party in respect of the potential acquisition of any of the Active Businesses and each of such Person's Affiliates, successors and assigns.

"**Section 336(e) Election**" has the meaning set forth in Section 2.4.

"**Separation and Distribution Agreement**" has the meaning set forth in the recitals to this Agreement.

"**Straddle Period Income Tax Returns**" mean, collectively, all Income Tax Returns required to be filed by a Party or any of its Subsidiaries for a Straddle Tax Period.

"**Straddle Period Non-Income Tax Returns**" mean, collectively, all Non-Income Tax Returns required to be filed by a Party or any of its Subsidiaries for a Straddle Tax Period.

"**Straddle Tax Period**" means a Tax year beginning on or before the Distribution Date and ending after the Distribution Date.

"**Subsidiary**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Tainting Act**" has the meaning set forth in Section 5.3.

"**Tax**" or "**Taxes**" whether used in the form of a noun or adjective, means taxes on or measured by income, franchise, gross receipts, sales, use, excise, payroll, personal property, real property, ad-valorem, value-added, goods and services, leasing, leasing use, unclaimed property or other taxes, levies, imposts, duties, charges, or withholdings of any nature. Whenever the term "Tax" or "Taxes" is used it shall include penalties, fines, additions to tax and interest thereon.

"**Tax Advisors**" means Sidley Austin LLP and Ernst & Young LLP.

"**Tax Attributes**" mean for U.S. federal, state, local, and non-U.S. Income Tax purposes, earnings and profits, tax basis, net operating and capital loss carryovers or carrybacks, alternative minimum Tax credit carryovers or carrybacks, general business credit carryovers or carrybacks, income tax credits or credits against income tax, disqualified interest and excess limitation carryovers or carrybacks, overall foreign losses, research and experimentation credit base periods, and all other items that are determined or computed on an affiliated group basis (as defined in Section 1504(a) of the Code determined without regard to the exclusion contained in Section 1504(b)(3) of the Code), or similar Tax items determined under applicable Tax law.

"**Tax Benefit**" means the reduction in Taxes resulting from the payment by a Party (or its Subsidiaries) of amounts that are indemnified by the other Party under this Agreement or the Separation and Distribution Agreement.

"**Tax Opinions**" mean those certain Tax opinions and supporting memoranda rendered by the Tax Advisors to Fortune Brands in connection with the Plan of Separation.

"**Tax Package**" means:

(a) a pro forma Tax Return relating to the operations of any Cabinets Party that is required to be included in an Income Tax Return that is required to be filed by any Fortune Brands Party; and

(b) all information relating to the operations of the Cabinets Parties that is reasonably necessary to prepare and file such pro forma Tax Return consistent with past practices.

"**Tax Representation Letter**" means any letter containing certain representations and covenants issued by Fortune Brands or any of its Subsidiaries to the Tax Advisors in connection with the Tax Opinions.

"**Tax Returns**" mean any return, report, certificate, form or similar statement or document (including any related or supporting information or schedule attached thereto and any information return, amended tax return, claim for refund, or declaration of estimated Tax) required to be supplied to, or filed with, a Taxing Authority in connection with the determination, assessment or collection of any Tax or the administration of any Laws relating to any Taxes.

"**Taxing Authority**" means any governmental authority or any subdivision, agency, commission, or authority thereof or any quasi-governmental or private body having jurisdiction over the assessment, determination, collection, or imposition of any Tax (including the IRS).

"**Transaction Agreements**" has the meaning set forth in Section 1.1 of the Separation and Distribution Agreement.

"**Treasury Regulations**" mean the final and temporary (but not proposed) income tax and administrative regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"**Unqualified Tax Opinion**" means an unqualified reasoned "will" opinion of Qualified Tax Counsel, which opinion is reasonably acceptable to Fortune Brands, and upon which each of the Parties may rely to confirm that a transaction (or transactions) will not result in Distribution Taxes, including confirmation in accordance with Circular 230 or otherwise that may be provided for purposes of avoiding any applicable penalties or additions to Tax for purposes of this definition. For purposes hereof, an opinion is "reasoned" if it describes the reasons for the conclusions, including the facts and analysis supporting the conclusions.

"**U.S.**" means the United States.

SECTION 1.2 Interpretation.

(a) For purposes of this Agreement:

(i) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation;"

(ii) the word "or" is not exclusive;

(iii) the words "herein," "hereunder," "hereof," "hereby," "hereto" and words of similar import shall be deemed to be references to this Agreement as a whole and not to any particular Section or other provision hereof; and

(iv) relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including."

(b) In this Agreement, unless the context clearly indicates otherwise:

(i) words used in the singular include the plural and words used in the plural include the singular;

(ii) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(iii) reference to any Person's "Affiliates" shall be deemed to mean such Person's Affiliates following the Distribution;

(iv) reference to any gender includes the other gender;

(v) reference to any Article, Section, Exhibit or Schedule means such Article or Section of, or such Exhibit or Schedule to, this Agreement, as the case may be;

(vi) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;

(vii) reference to any Law means such Law (including all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;

(viii) accounting terms used herein shall have the meanings ascribed to them by Fortune Brands and its Subsidiaries, including Cabinets, in its and their internal accounting and financial policies and procedures in effect immediately prior to the date of this Agreement;

(ix) if there is any conflict between the provisions of this Agreement and the Separation and Distribution Agreement or any of the other Transaction Agreements, the provisions of this Agreement shall control with respect to all matters related to Taxes or Tax Returns of the Fortune Brands Parties or the Cabinets Parties unless explicitly stated otherwise herein or therein;

(x) any portion of this Agreement obligating a Party to take any action or refrain from taking any action, as the case may be, shall mean that such Party shall also be obligated to cause its relevant Subsidiaries to take such action or refrain from taking such action, as the case may be; and

(xi) unless otherwise specified in this Agreement, all references to dollar amounts herein shall be in respect of lawful currency of the United States.

(c) The titles to Articles and headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement, and this Agreement and the Transaction Agreements shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted.

(d) The Exhibits and Schedules shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein.

ARTICLE II

PREPARATION AND FILING OF TAX RETURNS

SECTION 2.1 Responsibility of Parties to Prepare and File Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns.

(a) General. To the extent not previously filed and subject to the rights and obligations of each of the Parties set forth herein, Schedule 2.1(a) sets forth the Parties (each, a "**Preparing Party**") that are responsible for preparing or causing to be prepared all Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns. Unless otherwise provided in this Agreement, the Preparing Party is responsible for the costs and expenses associated with such preparation. The Party responsible, or whose Affiliate is responsible, for filing a Pre-Distribution Income Tax Return or Straddle Period Income Tax Return under applicable Law shall timely file or cause to be timely filed such Income Tax Returns with the applicable Taxing Authority. Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns shall be prepared and filed in a manner (i) consistent with the past practice of the Parties and their Subsidiaries unless otherwise modified by a Final Determination or permitted by applicable Law; and (ii) consistent with (and the Parties and their Subsidiaries shall not take any position inconsistent with) the IRS Ruling, the Tax Representation Letters, the Tax Opinions and the Intended Tax Treatment. No Parties shall take any actions inconsistent with the assumptions (including items of income, gain, deduction, loss and credit) made in determining all estimated or advance payments of Income Tax on or prior to the Distribution Date.

(b) Tax Package. To the extent not previously provided, the Party other than the Preparing Party shall (at its own cost and expense), to the extent that a Pre-Distribution Income Tax Return or a Straddle Period Income Tax Return includes items of that Party or its Subsidiaries, prepare and provide or cause to be prepared and provided to the Preparing Party a Tax Package relating to that Pre-Distribution Income Tax Return or Straddle Period Income Tax Return in accordance with Schedule 2.1(b). In the event a Party does not fulfill its obligations pursuant to this Section 2.1(b), the Preparing Party shall be entitled, at the sole cost and expense of the other Party, to prepare or cause to be prepared the information required to be included in the Tax Package for purposes of preparing any such Pre-Distribution Income Tax Return or Straddle Period Income Tax Return.

(c) Procedures Relating to the Review and Filing of Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns.

(i) In the case of Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns, to the extent not previously filed, no later than 20 Business Days prior to the Due Date of each such Tax Return (reduced to 10 Business Days for state or local Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns), the Preparing Party shall make available or cause to be made available drafts of relevant excerpts (or pro forma versions) of such Tax Return (together with all related work papers) to the other Party to the extent such Tax Return and work papers (or portions thereof) relate to such other Party (it being understood that the Preparing Party may redact sensitive information on any such Tax Return not related to the other Party). Subject to the restrictions in the preceding sentence, the other Party

shall have access to any and all data and information reasonably necessary for the preparation of all such Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns and the Parties shall cooperate fully in the preparation and review of such Tax Returns. Subject to the preceding sentence, no later than 10 Business Days after receipt of such Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns (reduced to 5 Business Days for state or local Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns), the other Party shall have a right to object to such Pre-Distribution Income Tax Return or Straddle Period Income Tax Return (or items with respect thereto) by written notice to the Preparing Party; such written notice shall contain such disputed item (or items) and the basis for its objection.

(ii) With respect to a Pre-Distribution Income Tax Return or Straddle Period Income Tax Return submitted by the Preparing Party to the other Party pursuant to Section 2.1(c)(i), if the other Party does not object by proper written notice described in Section 2.1(c)(i), such Pre-Distribution Income Tax Return or Straddle Period Income Tax Return shall be deemed to have been accepted and agreed upon, and to be final and conclusive, for purposes of this Section 2.1(c)(ii). If a Party does object by proper written notice described in Section 2.1(c)(i), the Parties shall act in good faith to resolve any such dispute as promptly as practicable; provided, however, that, notwithstanding anything to the contrary contained herein, if the Parties have not resolved the disputed item or items by the date 5 Business Days prior to the Due Date of such Pre-Distribution Income Tax Return or Straddle Period Income Tax Return, such Tax Return shall be filed as prepared pursuant to this Section 2.1 (revised to reflect all initially disputed items that the Parties have agreed upon prior to such date).

(iii) In the event that a Pre-Distribution Income Tax Return or Straddle Period Income Tax Return is filed that includes any disputed item for which proper notice was given pursuant to this Section 2.1(c) that was not finally resolved and agreed upon, such disputed item (or items) shall be resolved in accordance with Section 12.2. In the event that the resolution of such disputed item (or items) in accordance with Section 12.2 with respect to a Pre-Distribution Income Tax Return or a Straddle Period Income Tax Return is inconsistent with such Pre-Distribution Income Tax Return or Straddle Period Income Tax Return as filed, the Preparing Party (with cooperation from the other Party) shall, as promptly as practicable, amend such Tax Return to properly reflect the final resolution of the disputed item (or items). In the event that the amount of Taxes shown to be due and owing on a Pre-Distribution Income Tax Return or Straddle Period Income Tax Return is adjusted as a result of a resolution pursuant to Section 12.2, proper adjustment shall be made to the amounts previously paid or required to be paid in accordance with Article III in a manner that reflects such resolution.

(iv) Notwithstanding anything to the contrary in this Section 2.1, in the case of any Income Tax Return for estimated Taxes ("**Estimated Tax Return**") for a Pre-Distribution Tax Period, to the extent not previously filed, as soon as practicable prior to the Due Date of each such Estimated Tax Return, the Preparing Party shall make available or cause to be made available drafts of relevant excerpts (or pro forma versions) of such Estimated Tax Return (together with all related work papers) to the other Party to the extent such Estimated Tax Return and work papers (or portions thereof) relate to such other Party (it being understood that the Preparing Party may redact sensitive information on any such Estimated Tax Return not related to the other Party). Subject to the restrictions in the preceding sentence, the other Party shall have access to any and all data and information necessary for the preparation of such Estimated

Tax Returns and the Parties shall cooperate fully in the preparation and review of such Estimated Tax Returns in a manner consistent with past practice. Subject to the preceding sentence, a Party shall have a right to object by written notice to the other Party (and such written notice shall contain such disputed item (or items) and the basis for the objection) and the principles of Section 2.1(c)(ii) shall apply to such Estimated Tax Return.

(v) For the avoidance of doubt, Section 2.1(c) shall only apply to Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns which could reasonably result in both Parties becoming responsible for a payment of Taxes pursuant to Article III or a payment to the other Party pursuant to Section 9.3.

SECTION 2.2 Responsibility of Parties to Prepare and File Pre-Distribution Non-Income Tax Returns and Straddle Period Non-Income Tax Returns. To the extent not previously filed and subject to the rights and obligations of each of the Parties set forth herein, Schedule 2.2 sets forth the Parties that are responsible for preparing or causing to be prepared all Pre-Distribution Non-Income Tax Returns and Straddle Period Non-Income Tax Returns. The Party responsible for filing a Pre-Distribution Non-Income Tax Return or Straddle Period Non-Income Tax Return shall prepare and timely file or cause to be prepared and timely filed that Tax Return (at that Party's own cost and expense) with the applicable Taxing Authority. Pre-Distribution Non-Income Tax Returns and Straddle Period Non-Income Tax Returns shall be prepared and filed in a manner consistent with the past practice of the Parties and their Subsidiaries unless otherwise modified by a Final Determination or permitted by applicable Law.

SECTION 2.3 Responsibility of Parties to Prepare and File Post-Distribution Income Tax Returns and Non-Income Tax Returns. The Party or its Subsidiary responsible under applicable Law for filing a Post-Distribution Income Tax Return or a Non-Income Tax Return (other than a Pre-Distribution Non-Income Tax Return or Straddle Period Non-Income Tax Return addressed under Section 2.2) shall prepare and timely file or cause to be prepared and timely filed that Tax Return (at that Party's own cost and expense).

SECTION 2.4 Time of Filing Tax Returns; Manner of Tax Return Preparation. Unless otherwise required by a Taxing Authority pursuant to a Final Determination, the Parties shall prepare and file or cause to be prepared and filed all Tax Returns and take all other actions in a manner consistent with (and shall not take any position inconsistent with) any assumptions, representations, warranties, covenants, and conclusions provided by the Parties (or any of their Subsidiaries) in connection with the Plan of Separation, the IRS Ruling, the Tax Representation Letter and the Tax Opinions.

SECTION 2.5 Section 336(e) Election. Fortune Brands shall be entitled, in its sole discretion, to make a timely protective election under and in accordance with Section 336(e) of the Code and the Treasury Regulations issued thereunder with respect to the Distribution for Cabinets and each Cabinets entity that is a domestic corporation for U.S. federal income tax purposes (a "**Section 336(e) Election**"). Fortune Brands shall provide a copy of the contents of any Section 336(e) Election and any agreements or filings required in connection with a Section 336(e) Election to Cabinets. Cabinets shall take any action reasonably requested by Fortune Brands in connection with the filing of a Section 336(e) Election. It is intended that a Section 336(e) Election have no effect unless the Distribution is a "qualified stock disposition" either

because (i) the Distribution is not a transaction described in Treasury Regulations Section 1.336-1(b)(5)(i)(B) or (ii) Treasury Regulations Section 1.336-1(b)(5)(ii) applies to the Distribution. If and to the extent the Distribution is such a qualified stock disposition and Fortune Brands is responsible for the resulting Distribution Tax-Related Losses (including any Taxes attributable to the Section 336(e) Election), (x) Fortune Brands shall be entitled to periodic payments from Cabinets equal to the tax savings arising from the step-up in tax basis resulting from the Section 336(e) Election and (y) the Parties shall negotiate in good faith the terms of a tax receivable agreement to govern the calculation of such payments; provided that any such tax saving in clause (x) shall be determined using a "with and without" methodology (treating any deductions or amortization attributable to the step-up in tax basis resulting from the Section 336(e) Election as the last items claimed for any taxable year, including after the utilization of any available net operating loss carryforwards.

ARTICLE III

RESPONSIBILITY FOR PAYMENT OF TAXES

SECTION 3.1 Responsibility of Fortune Brands for Taxes. Except as otherwise provided in this Agreement (including Section 3.2(c)), Fortune Brands shall be liable for and shall pay or cause to be paid the following Taxes:

(a) to the applicable Taxing Authority, any Taxes due and payable on all Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns that Fortune Brands is required to file or cause to be filed with such Taxing Authority pursuant to Section 2.1;

(b) to the applicable Taxing Authority, any Taxes due and payable on all Pre-Distribution Non-Income Tax Returns and Straddle Period Non-Income Tax Returns that Fortune Brands is required to file or cause to be filed with such Taxing Authority pursuant to Section 2.2; and

(c) to the applicable Taxing Authority, any Taxes due and payable on all Post-Distribution Income Tax Returns and Non-Income Tax Returns that Fortune Brands is required to file or cause to be filed with such Taxing Authority pursuant to Section 2.3.

SECTION 3.2 Responsibility of Cabinets for Taxes. Except as otherwise provided in this Agreement, Cabinets shall be liable for and shall pay or cause to be paid the following Taxes:

(a) to the applicable Taxing Authority, any Taxes due and payable on all Pre-Distribution Income Tax Returns and Straddle Period Income Tax Returns that Cabinets is required to file or cause to be filed with such Taxing Authority pursuant to Section 2.1;

(b) to the applicable Taxing Authority, any Taxes due and payable on all Pre-Distribution Non-Income Tax Returns and Straddle Period Non-Income Tax Returns that Cabinets is required to file or cause to be filed with such Taxing Authority pursuant to Section 2.2;

(c) to the applicable Taxing Authority, any Taxes due and payable on all Post-Distribution Income Tax Returns and Non-Income Tax Returns that Cabinets is required to file or cause to be filed with such Taxing Authority pursuant to Section 2.3; and

(d) to Fortune Brands, the Cabinets Allocable Portion computed with respect to the Cabinets-Fortune Brands Entities.

SECTION 3.3 Timing of Payments of Taxes. All Taxes required to be paid or caused to be paid by a Party to a Taxing Authority pursuant to this Article III shall be paid or caused to be paid by such Party on or prior to the Due Date of such Taxes. All amounts required to be paid by one Party to another Party pursuant to this Article III shall be paid or caused to be paid by such first Party to such other Party in accordance with Article VIII.

ARTICLE IV

REFUNDS, CARRYBACKS AND AMENDED TAX RETURNS

SECTION 4.1 Refunds.

(a) Each Party (and its Subsidiaries) (the "**Claiming Party**") shall be entitled to Refunds that relate to Taxes for which it (or its Subsidiaries) is liable hereunder.

(b) Notwithstanding Section 4.1(a), to the extent a claim for a Refund results in a Correlative Detriment to the other Party (or its Subsidiaries), any such Refund that is received by the Claiming Party (or its Subsidiaries) shall, and only to the extent thereof, be paid proportionately to the other Party (or its Subsidiaries) that incurs such Correlative Detriment. A "**Correlative Detriment**" is an increase in a Tax of a Party (or its Subsidiaries) that occurs as a result of the Tax position that is the basis for a claim for Refund by the Claiming Party or for a Final Determination. For the avoidance of doubt, a Correlative Detriment does not include an item that results in a temporary increase in a Tax of a Party (or its Subsidiaries) that will be recovered through a deduction under Section 162 of the Code or a similar provision of Law in one or more subsequent years or recovered through amortization or depreciation deductions allowed under Sections 167, 168, or 197 of the Code or similar provisions of Law.

(c) Any Refund or portion thereof to which a Claiming Party is entitled pursuant to this Section 4.1 that is received or deemed to have been received as described herein by the other Party (or its Subsidiaries) shall be paid by such other Party to the Claiming Party in immediately available funds in accordance with Article VIII. To the extent a Party (or its Subsidiaries) applies or causes to be applied an overpayment of Taxes as a credit toward or a reduction in Taxes otherwise payable (or a Taxing Authority requires such application in lieu of a Refund) and such Refund, if received, would have been payable by such Party to the Claiming Party pursuant to this Section 4.1, such Party shall be deemed to have actually received a Refund to the extent thereof on the date on which the overpayment is applied to reduce Taxes otherwise payable.

SECTION 4.2 Carrybacks. Each of the Parties shall be permitted (but not required) to carryback (or to cause its Subsidiaries to carryback) a Tax Attribute realized in a Post-Distribution Tax Period or a Straddle Tax Period to a Pre-Distribution Tax Period or a

Straddle Tax Period only if such carryback cannot reasonably result in the other Party (or its Subsidiaries) being liable for additional Taxes. If a carryback could reasonably result in the other Party (or its Subsidiaries) being liable for additional Taxes, such carryback shall be permitted only if such Party consents to such carryback. Notwithstanding anything to the contrary in this Agreement, any Party that has claimed (or caused one or more of its Subsidiaries to claim) a Tax Attribute carryback shall be liable for any Taxes that become due and payable as a result of the subsequent adjustment, if any, to the carryback claim.

SECTION 4.3 Amended Tax Returns.

(a) Notwithstanding Section 2.1, any Party that is entitled to file an amended Tax Return for a Pre-Distribution Tax Period or a Straddle Tax Period shall be permitted to prepare and file such amended Tax Return at its own cost and expense; provided, however, that such amended Tax Return shall be prepared in a manner (i) consistent with the past practice of the Parties (and their Subsidiaries) unless otherwise modified by a Final Determination or permitted by applicable Law; and (ii) consistent with (and the Parties and their Subsidiaries shall not take any position inconsistent with) the IRS Ruling, the Tax Representation Letter, the Tax Opinions and the Intended Tax Treatment. Notwithstanding anything to contrary contained herein, if such amended Tax Return could reasonably result in the other Party becoming responsible for a payment of Taxes pursuant to Article III or a payment to a Party pursuant to Section 9.3, then such amended Tax Return shall be permitted only if the consent of such other Party is obtained. The consent of such other Party shall not be unreasonably withheld, conditioned or delayed and shall be deemed to be obtained in the event that a Party (or its Subsidiary) is required to file an amended Tax Return as a result of an Audit adjustment that arose in accordance with Article IX.

(b) A Party (or its Subsidiary) that is entitled to file an amended Tax Return for a Post-Distribution Tax Period shall be permitted to do so without the consent of the other Party.

(c) A Party that is permitted (or whose Subsidiary is permitted) to file an amended Tax Return shall not be relieved of any liability for payments pursuant to this Agreement notwithstanding that the Party consented to the filing of such amended Tax Return giving rise to such liability.

ARTICLE V

DISTRIBUTION TAXES

SECTION 5.1 Liability for Distribution Taxes. In the event that Distribution Taxes become due and payable to a Taxing Authority pursuant to a Final Determination, then, notwithstanding anything to the contrary in this Agreement:

(a) if such Distribution Taxes are attributable to a Tainting Act of any Fortune Brands Party (a "**Fortune Brands Tainting Act**"), then Fortune Brands shall be responsible for any Distribution Tax-Related Losses;

(b) if such Distribution Taxes are attributable to a Tainting Act of any Cabinets Party (a "**Cabinets Tainting Act**"), then Cabinets shall be responsible for any Distribution Tax-Related Losses;

(c) if such Distribution Taxes are attributable to both a Fortune Brands Tainting Act and a Cabinets Tainting Act, then (i) Fortune Brands shall be responsible for any Distribution Tax-Related Losses if the Fortune Brands Tainting Act occurs prior to the Cabinets Tainting Act and (ii) Cabinets shall be responsible for any Distribution Tax-Related Losses if the Cabinets Tainting Act occurs prior to the Fortune Brands Tainting Act; and

(d) if such Distribution Taxes are not attributable to a Fortune Brands Tainting Act or a Cabinets Tainting Act or are attributable to both a Fortune Brands Tainting Act and Cabinets Tainting Act that occurred simultaneously, then responsibility for Distribution Taxes shall be apportioned between the Parties based upon their Relative Values.

SECTION 5.2 Payment for Use of Tax Attributes.

(a) If Cabinets would have been responsible under Section 5.1 for Distribution Taxes but for the use of Tax Attributes that are attributable to any Fortune Brands Party, then Cabinets shall pay to Fortune Brands the amount of Distribution Taxes that did not become due and payable as a result of the use of such Tax Attributes.

(b) If Fortune Brands would have been responsible under Section 5.1 for Distribution Taxes but for the use of Tax Attributes that are attributable to any Cabinets Party, then Fortune Brands shall pay to Cabinets the amount of Distribution Taxes that did not become due and payable as a result of the use of such Tax Attributes.

(c) The amount of Distribution Taxes shall be calculated by assuming that (i) no Tax Attribute or other item of income, loss, deduction or credit applies to reduce the amount of the Distribution Tax and (ii) the Distribution Tax is determined at the highest applicable rate of Tax for a corporate taxpayer in the applicable jurisdiction.

SECTION 5.3 Definition of Tainting Act. For purposes of this Agreement, a "Tainting Act" is:

(a) any act, or failure or omission to act, by or with respect to any Party following the Distribution that results in any Fortune Brands Party being responsible for Distribution Taxes pursuant to a Final Determination, regardless of whether such act or failure to act (i) is covered by a Post-Distribution Ruling or Unqualified Tax Opinion, or (ii) occurs during or after the Restricted Period; or

(b) the direct or indirect acquisition of all or a portion of the stock of any Party (or any transaction or series of related transactions that is deemed to be such an acquisition for purposes of Section 355(e) of the Code and the Treasury Regulations promulgated thereunder) by any means whatsoever by any Person, including pursuant to an issuance of stock by any Party.

SECTION 5.4 Limits on Proposed Acquisition Transactions and Other Transactions During Restricted Period. During the Restricted Period, Cabinets shall not:

(a) enter into, or permit to be entered into on its behalf, any agreement, understanding, arrangement, or substantial negotiations (within the meaning of Section 355(e) of the Code and the Treasury Regulations promulgated thereunder) with a Restricted Person regarding a Proposed Acquisition Transaction;

(b) enter into any Proposed Acquisition Transaction, approve any Proposed Acquisition Transaction for any purpose, or allow any Proposed Acquisition Transaction to occur;

(c) merge or consolidate with any other Person or liquidate or partially liquidate or approve or allow any merger, consolidation, liquidation, or partial liquidation of any of the Active Business Entities (other than a merger, consolidation or liquidation undertaken in connection with any internal restructuring as long as such action does not cause the Cabinets "separate affiliated group" (as defined in Section 355(b)(3) of the Code) to cease conducting the Active Business being conducted by such Active Business Entity;

(d) approve or allow (i) the sale or other transfer (to an Affiliate or otherwise) of any Active Business (other than a sale or other transfer undertaken in connection with any internal restructuring transaction so long as such action does not cause the Cabinets separate affiliated group to cease conducting the Active Business), or (ii) the discontinuance, cessation, or a material change in, any Active Business;

(e) approve or allow the sale, issuance, or other disposition (to an Affiliate or otherwise), directly or indirectly, of any share of, or other equity interest or an instrument convertible into an equity interest in, any of the Active Business Entities (other than a sale, issuance or other disposition undertaken in connection with any internal restructuring transaction as long as such action does not cause the Cabinets separate affiliated group to cease conducting the Active Business being conducted by such Active Business Entity);

(f) sell or otherwise dispose of more than 40 percent of its consolidated gross or net assets, or approve or allow the sale or other disposition (to an Affiliate or otherwise) of more than 40 percent of its consolidated gross or net assets or more than 40 percent of the consolidated gross or net assets of any of the Active Business Entities (in each case, excluding sales in the ordinary course of business and measured based on fair market values as of the Distribution Date);

(g) amend its certificate of incorporation (or other organizational documents), or take any other action or approve or allow the taking of any action, whether through a stockholder vote or otherwise, affecting the voting rights of Cabinets;

(h) issue shares of a new class of nonvoting stock or approve or allow Cabinets to issue shares of a new class of nonvoting stock;

(i) purchase, directly or through any Affiliate, any of its outstanding stock after the Distribution, other than through stock purchases meeting the requirements of Section 4.05(1)(b) of Revenue Procedure 96-30 (without regard to the effect of Revenue Procedure 2003-48 on Revenue Procedure 96-30);

(j) take any action or fail to take any action, or permit any other Cabinets Party to take any action or fail to take any action, that is inconsistent with any representation or covenant made in the IRS Ruling or in any Tax Representation Letter, or that is inconsistent with any ruling or opinion in the IRS Ruling or the Tax Opinions; or

(k) take any action or permit any other Cabinets Party to take any action (including any transactions with a third-party or any transaction with any Cabinets Party) that, individually or in the aggregate (taking into account other transactions described in this Section 5.4) would be reasonably likely to jeopardize the Intended Tax Treatment;

provided, however, that Cabinets shall be permitted to take such action or one or more actions set forth in the foregoing clauses (a) through (j) if, prior to taking any such actions, Cabinets shall (1) have received a favorable private letter ruling from the IRS that confirms that such action or actions will not result in Distribution Taxes, taking into account such actions and any other relevant transactions in the aggregate (a "**Post-Distribution Ruling**"), in form and substance satisfactory to Fortune Brands in its discretion, which discretion shall be reasonably exercised in good faith solely to prevent the imposition on Fortune Brands, or responsibility for payment by Fortune Brands, of Distribution Taxes or (2) have received an Unqualified Tax Opinion that confirms that such action or actions will not result in Distribution Taxes, taking into account such actions and any other relevant transactions in the aggregate, in form and substance satisfactory to Fortune Brands, acting reasonably and in good faith solely to prevent the imposition on Fortune Brands, or responsibility for payment by Fortune Brands, of Distribution Taxes. Cabinets shall provide a copy of the Post-Distribution Ruling or the Unqualified Tax Opinion described in this paragraph to Fortune Brands as soon as practicable prior to taking or failing to take any action set forth in the foregoing clauses (a) through (j). Fortune Brands's evaluation of a Post-Distribution Ruling or Unqualified Tax Opinion may consider, among other factors, the appropriateness of any underlying assumptions, representations, and covenants made in connection with such Post-Distribution Ruling or Unqualified Tax Opinion. Cabinets shall bear all costs and expenses of securing any such Post-Distribution Ruling or Unqualified Tax Opinion and shall reimburse Fortune Brands for all reasonable out-of-pocket costs and expenses that Fortune Brands may incur in good faith in seeking to obtain or evaluate any such Post-Distribution Ruling or Unqualified Tax Opinion.

SECTION 5.5 IRS Ruling, Tax Representation Letters, and Tax Opinions; Consistency. Each Party represents that the information and representations furnished by it (or its Subsidiaries) in or with respect to the IRS Ruling, the Tax Representation Letters, or the Tax Opinions are accurate and complete as of the Effective Time. Each Party covenants (1) to use its best efforts, and to cause its Subsidiaries to use their best efforts, to verify that such information and representations are accurate and complete as of the Effective Time; and (2) if, after the Effective Time, any Party obtains information indicating, or otherwise becomes aware, that any such information or representations is or may be inaccurate or incomplete, to promptly inform the other Party. Except in accordance with Section 5.4, no Fortune Brands Party or Cabinets Party shall take any action or fail to take any action, or permit any other Fortune Brands Party or Cabinets Party to take any action or fail to take any action, that is or is reasonably likely to be inconsistent with the IRS Ruling, the Tax Representation Letters, or the Tax Opinions.

SECTION 5.6 Timing of Payment of Distribution Tax-Related Losses. All amounts required to be paid by one Party to the other Party pursuant to this Article V shall be paid or caused to be paid by one Party to the other Party in accordance with Article VIII.

ARTICLE VI

EMPLOYEE BENEFIT MATTERS

SECTION 6.1 Income Tax Deductions in Respect of Certain Equity Awards and Incentive Compensation.

(a) Entitlement to Deduction. For all Post-Distribution Tax Periods, solely the Party (or its Subsidiary) that currently employs the relevant individual or, if such individual is not currently employed by a Party, the Party (or its Subsidiary) that most recently employed such individual, at the time of the vesting, exercise, disqualifying disposition, payment or other relevant taxable event, as appropriate, in respect of the equity awards and other incentive compensation described in Article VI of the Employee Matters Agreement, shall be entitled to claim any Income Tax deduction arising after the Distribution Date in respect of such equity awards and other incentive compensation on its respective Tax Return.

(b) Withholding and Reporting. The Party (or its Subsidiary) that claims the deduction described in Section 6.1(a) shall be responsible for all applicable Taxes (including withholding and excise taxes) and shall satisfy, or shall cause to be satisfied, all applicable Tax reporting obligations in respect of the equity awards and other incentive compensation that gives rise to the deduction. The Parties shall cooperate (and shall cause their Subsidiaries to cooperate) so as to permit the Party (or Subsidiary thereof) claiming such deduction described in Section 6.1(a) to discharge any applicable Tax withholding and Tax reporting obligations, including the appointment of the Party claiming the deduction (or its Subsidiary) as the withholding and reporting agent if that Party (or any of its Subsidiaries) is not otherwise required or permitted to withhold and report under applicable Law.

ARTICLE VII

INDEMNIFICATION

SECTION 7.1 Indemnification Obligations of Fortune Brands. Fortune Brands shall indemnify each of the Cabinets Parties and hold them harmless from and against:

(a) all Taxes and other amounts for which Fortune Brands is responsible under this Agreement; and

(b) all Taxes and reasonable out-of-pocket costs for advisors and other expenses attributable to a breach of any representation, covenant or obligation of Fortune Brands under this Agreement.

SECTION 7.2 Indemnification Obligations of Cabinets. Cabinets shall indemnify each of the Fortune Brands Parties and hold them harmless from and against:

(a) all Taxes and other amounts for which Cabinets is responsible under this Agreement; and

(b) all Taxes and reasonable out-of-pocket costs for advisors and other expenses attributable to a breach of any representation, covenant or obligation of Cabinets under this Agreement.

ARTICLE VIII

PAYMENTS

SECTION 8.1 Payments

(a) General. Unless otherwise provided in this Agreement, in the event that an Indemnifying Party is required to make a payment to an Indemnified Party pursuant to this Agreement:

(i) Aggregate Payments of Less than $500,000. If such payments are in the aggregate less than $500,000 (five hundred thousand dollars) during the calendar quarter, the Indemnified Party shall deliver written notice of the payments to the Indemnifying Party in accordance with Section 12.11 on the first business day of the calendar quarter following the calendar quarter in which the obligation giving rise to the indemnification payment must be satisfied, and the Indemnifying Party shall be required to make payment to the Indemnified Party within 10 Business Days after notice of such payment is delivered to the Indemnifying Party.

(ii) Payments Equal to or Greater than $500,000. If such payments are in the aggregate equal to or greater than $500,000 (five hundred thousand dollars) during the calendar quarter, the Indemnified Party shall deliver written notice of the payments to the Indemnifying Party in accordance with Section 12.11 during the calendar quarter in which the obligation giving rise to the indemnification payment must be satisfied, and the Indemnifying Party shall be required to make payment to the Indemnified Party within 10 Business Days after delivery of the written notice that resulted in aggregate payments for the calendar quarter equaling $500,000 (five hundred thousand dollars) or greater.

(b) Procedural Matters. The written notice delivered to the Indemnifying Party in accordance with Section 12.11 shall show the amount due and owing together with a schedule calculating in reasonable detail such amount (and shall include any relevant Tax Return, statement, bill or invoice related to Taxes, costs, expenses or other amounts due and owing). All payments required to be made by one Party to the other Party pursuant to this Section 8.1 shall be made by electronic, same day wire transfer. Payments shall be deemed made when received. If the Indemnifying Party fails to make a payment to the Indemnified Party within the time period set forth in Section 8.1(a), such Indemnifying Party shall be considered to be in breach of its covenants and obligations established in this Section 8.1 and the Indemnifying Party shall pay to the Indemnified Party (i) interest that accrues (at a rate equal to the Prime Rate) on the amount of such payment from the time that such payment was due to the

Indemnified Party until the date that payment is actually made to the Indemnified Party; and (ii) any costs or expenses (other than consequential damages) incurred by the Indemnified Party to secure such payment or to satisfy the Indemnifying Party's portion of the obligation giving rise to the indemnification payment.

(c) Right of Setoff. It is expressly understood that an Indemnifying Party is hereby authorized to set off and apply any and all amounts required to be paid to an Indemnified Party pursuant to this Section 8.1 against any and all of the obligations of the Indemnified Party to the Indemnifying Party arising under Section 8.1 of this Agreement that are then either due and payable or past due, irrespective of whether such Indemnifying Party has made any demand for payment with respect to such obligations.

SECTION 8.2 Treatment of Payments under this Agreement and the Separation and Distribution Agreement. In the absence of any change in Tax treatment under the Code or other applicable Tax Law, any payments made by a Party under this Agreement or the Separation and Distribution Agreement shall be reported for Tax purposes by the payor and the recipient as adjustments to the distributions made by Cabinets to Fortune Brands immediately prior to the Distribution (but only to the extent the payment does not relate to a Tax allocated to the payor in accordance with Section 1552 of the Code or the regulations thereunder or Treasury Regulation Section 1.1502-33(d) (or under corresponding principles of other applicable Tax Laws)) or as payments of assumed or retained liabilities, as appropriate.

SECTION 8.3 Tax Gross Up. If, notwithstanding the manner in which payments were reported, there is an Income Tax incurred by a Party as a result of its receipt of a payment pursuant to this Agreement or the Separation and Distribution Agreement, as applicable, such payment shall be appropriately adjusted so that the amount of such payment, reduced by the amount of Income Taxes payable with respect to the receipt thereof (but taking into account all Tax Benefits resulting from the payment of such Income Taxes), shall equal the amount of the payment that the Party receiving such payment would otherwise be entitled to receive pursuant to this Agreement or the Separation and Distribution Agreement, as applicable.

SECTION 8.4 Interest or Expenses. Anything herein to the contrary notwithstanding, to the extent the Indemnifying Party makes a payment of interest or other expense reimbursement to the Indemnified Party under this Agreement or the Separation and Distribution Agreement, the interest payment shall be treated as an expense under Section 162 or Section 163 of the Code, as applicable, to the Indemnifying Party (deductible to the extent provided by Law) and as income by the Indemnified Party (includible in income to the extent provided by Law). The amount of the payment of interest or other expense reimbursement shall not be adjusted under Section 8.3 to take into account any associated Tax Benefit to the Indemnifying Party or Tax detriment to the Indemnified Party.

ARTICLE IX

AUDITS

SECTION 9.1 Notice. Within 10 Business Days after a Party or any of its Affiliates receives a written notice from a Taxing Authority of the existence of an Audit that

may require indemnification pursuant to this Agreement, that Party shall notify the other Party of such receipt and send such notice to the other Party in accordance with Section 12.11. The failure of one Party to notify the other Party of an Audit shall not relieve such other Party of any liability or obligation that it may have under this Agreement, except to the extent that the Indemnifying Party's rights under this Agreement are materially prejudiced by such failure.

SECTION 9.2 Audit Administration.

(a) Administering Party. Subject to Sections 9.2(b) and 9.2(c):

(i) Fortune Brands and its Subsidiaries shall administer and control all Pre-Distribution U.S. Income Tax Audits.

(ii) Audits other than Pre-Distribution U.S. Income Tax Audits shall be administered and controlled by the Party or Subsidiary thereof that is primarily liable under applicable Law to pay to the applicable Taxing Authority the Taxes resulting from such Audits.

(b) Administration and Control; Cooperation.

(i) Except as provided in Section 9.2(b)(ii), Fortune Brands shall have sole responsibility for administration and control (including settlement authority) over all Pre-Distribution U.S. Income Tax Audits; provided that Cabinets shall have the right to participate in such Audit pursuant to Section 9.2(c), but only to the extent that such Audit relates to Taxes for which Cabinets would be liable under Section 9.3(a)(ii).

(ii) To the extent that issues in a Pre-Distribution Income Tax Audit would result in Cabinets having a liability under Section 9.3(a)(ii) in excess of $5,000,000, Fortune Brands shall not accept or enter into a settlement without the consent of Cabinets (which consent shall not be unreasonably withheld, conditioned or delayed) or, if such consent is not obtained, if a reasonable Person which wholly owned both Fortune Brands and Cabinets would not, acting prudently, accept or enter into such settlement.

(c) Participation Rights; Information Sharing. With respect to any Pre-Distribution U.S. Income Tax Audit, Cabinets's participation rights shall consist of the right to attend all material conferences and participate in all material conversations with the Taxing Authority relating to issues related to Cabinets. Fortune Brands shall provide on a timely basis to Cabinets copies of all documents, including all correspondence with the Taxing Authority, which relates to Cabinets. In addition, Fortune Brands shall provide Cabinets all submissions to the Taxing Authority which relate to Cabinets at least 2 Business Days in advance of submitting to the Taxing Authority to allow Cabinets the opportunity to review and comment on the proposed submission.

(d) Costs and Expenses. Each Party (or its Subsidiaries) shall be responsible for its own costs and expenses (including all costs and expenses of calculating Taxes and other amounts payable and any reporting obligations that arise out of an Audit, such as the reporting of any Audit adjustments to the various U.S. states) incurred with respect to a Pre-Distribution U.S. Income Tax Audit.

SECTION 9.3 Payment of Audit Amounts.

(a) Pre-Distribution U.S. Income Tax Audits. In connection with any Final Determination with respect to a Pre-Distribution U.S. Income Tax Audit:

(i) Fortune Brands shall be liable for and shall pay or cause to be paid to the applicable Taxing Authority the additional Taxes due and payable as a result of such Final Determination that are attributable to a Pre-Distribution Tax Period or the portion of a Straddle Tax Period ending on the Distribution Date.

(ii) Cabinets shall be liable for and shall pay or cause to be paid to the applicable Taxing Authority or Fortune Brands (as the case may be) an amount equal to the Cabinets Allocable Audit Portion of the additional Taxes due and payable as a result of such Final Determination that are attributable to a Pre-Distribution Tax Period or the portion of a Straddle Tax Period ending on the Distribution Date.

(b) Audits Other than Pre-Distribution U.S. Income Tax Audits. In connection with any Final Determination with respect to an Audit other than a Pre-Distribution U.S. Income Tax Audit:

(i) Fortune Brands shall be liable for and shall pay or cause to be paid to the applicable Taxing Authority the amount due and payable as a result of such Final Determination to the extent Fortune Brands is responsible for such amounts under this Agreement.

(ii) Cabinets shall be liable for and shall pay or cause to be paid to the applicable Taxing Authority the amount due and payable as a result of such Final Determination to the extent Cabinets is responsible for such amounts under this Agreement.

(c) Adjustments to Refunds. Notwithstanding Section 9.3(a) or 9.2(b), if a Final Determination with respect to an Audit includes an adjustment to a Refund previously received by a Party (or its Subsidiary) in accordance with Section 4.1, such Party shall pay any Taxes that become due and payable as a result of such adjustment.

(d) Payment Procedures.

(i) Preliminary Determination. In connection with any Final Determination with respect to an Audit that results in an amount to be paid pursuant to Section 9.3(a), Fortune Brands shall, within 30 Business Days following a final resolution of such Audit, submit in writing to Cabinets a preliminary determination (calculated and explained in detail reasonably sufficient to enable Cabinets to fully understand the basis for such determination and to permit Cabinets to satisfy its financial reporting requirements) of the portion of such amount to be paid by each of the Parties pursuant to Section 9.3(a), as applicable.

(ii) Access to Data. Fortune Brands shall have access to all data and information necessary to calculate such amounts and Cabinets shall cooperate fully in the determination of such amounts.

(iii) Objection Rights. Within 20 Business Days following the receipt by Cabinets of the information described in Section 9.3(d)(i), Cabinets shall have the right to object only to the calculation of the amount of the payment (but not the basis for the payment) by written notice to Fortune Brands; such written notice shall contain such disputed item or items and the basis for the objection. If Cabinets does not object by proper written notice to Fortune Brands within such 20 day period, the calculation of the amounts due and owing from Cabinets shall be deemed to have been accepted and agreed upon, and final and conclusive, for purposes of Section 9.3(d). If Cabinets objects by proper written notice to Fortune Brands within such time period, the Parties shall act in good faith to resolve any such dispute as promptly as practicable, and if any such dispute is not resolved within 30 days, such dispute shall be deemed not to have been resolved pursuant to Section 12.2(a) and shall be resolved in accordance with Section 12.2(b). Notwithstanding any pending dispute with respect to the Cabinets Allocable Audit Portion, Fortune Brands is responsible for paying to the applicable Taxing Authority under applicable Law amounts owed pursuant to a Final Determination and shall make such payments to such Taxing Authority prior to the due date for such payments. Cabinets shall reimburse Fortune Brands in accordance with Article VIII for the portion of such payments for which Cabinets is liable (including interest thereon determined pursuant to Section 8.1(b) commencing from the date Fortune Brands made the payment described in the preceding sentence), if any, pursuant to this Section 9.3.

SECTION 9.4 Correlative Adjustments. If a Pre-Distribution U.S. Income Tax Audit results in a Final Determination that causes a Correlative Adjustment to one Party (or its Subsidiary) and a corresponding Tax Benefit to the other Party (or its Subsidiary), such other Party shall pay the amount of the Tax Benefit to the first Party.

ARTICLE X

COOPERATION AND EXCHANGE OF INFORMATION

SECTION 10.1 Cooperation and Exchange of Information. The Parties shall each cooperate fully (and each shall cause its respective Subsidiaries to cooperate fully) and in a timely manner (considering the other Party's normal internal processing or reporting requirements) with all reasonable requests from the other Party, or from an agent, representative, or advisor to the other Party, in connection with the preparation and filing of Tax Returns, claims for Refund, Audits, determinations of Tax Attributes and the calculation of Taxes or other amounts required to be paid hereunder, and any applicable financial reporting requirements of a Party or any Subsidiary thereof, in each case, related or attributable to or arising in connection with Taxes or Tax Attributes of either Party or Subsidiary thereof. Such cooperation shall include:

(a) the retention until the expiration of the applicable statute of limitations or, if later, until the expiration of all relevant Tax Attributes (in each case taking into account all waivers and extensions), and the provision upon request, of copies of Tax Returns of the Parties and their respective Subsidiaries for periods up to and including the Distribution Date, books, records (including information regarding ownership and Tax basis of property), documentation, and other information relating to such Tax Returns, including accompanying schedules, related work papers, and documents relating to rulings or other determinations by Taxing Authorities;

(b) the execution of any document that may be necessary or reasonably helpful in connection with any Audit of either of the Parties or their respective Subsidiaries, or the filing of a Tax Return or Refund claim of the Parties or any of their respective Subsidiaries (including the signature of an officer of a Party or any Subsidiary thereof);

(c) at the other Party's sole cost and expense, the use of the Party's reasonable best efforts to obtain any documentation and provide additional facts, insights or views as requested by the other Party that may be necessary or reasonably helpful in connection with any of the foregoing (including any information contained in Tax or other financial information databases); and

(d) at the other Party's sole cost and expense, the use of the Party's reasonable best efforts to obtain any Tax Returns (including accompanying schedules, related work papers, and documents), documents, books, records, or other information that may be necessary or helpful in connection with any Tax Returns of any of the other Party or any Subsidiary thereof.

Each Party shall make its and its Subsidiaries' employees and facilities available on a reasonable and mutually convenient basis in connection with the foregoing matters. Except as explicitly provided in this Agreement, no reimbursement shall be made for costs and expenses incurred by the Parties as a result of cooperating pursuant to this Section 10.1.

SECTION 10.2 Retention of Records. Subject to Section 10.1, if either of the Parties or their respective Subsidiaries intends to dispose of any documentation (including documentation that is being retained pursuant to IRS guidelines, such as Revenue Procedure 98-25 and Revenue Procedure 97-22) relating to the Taxes of the Parties or their respective Subsidiaries for which the other Party may be responsible pursuant to the terms of this Agreement (including Tax Returns, books, records, documentation, and other information, accompanying schedules, related work papers, and documents relating to rulings or other determinations by Taxing Authorities), such Party shall or shall cause written notice to the other Party describing the documentation to be destroyed or disposed of 60 Business Days prior to taking such action. The other Party may arrange to take delivery of the documentation described in the notice at its expense during the succeeding 60 day period.

SECTION 10.3 Confidentiality. For the avoidance of doubt, to the extent applicable, the obligations imposed pursuant to the Separation and Distribution Agreement (including those specified in Section 11.8 of the Separation and Distribution Agreement) with respect to confidentiality shall apply with respect to any information relating to Tax matters.

ARTICLE XI

ALLOCATION OF TAX ATTRIBUTES AND OTHER TAX MATTERS

SECTION 11.1 Allocation of Tax Attributes. Fortune Brands shall advise Cabinets in writing of the amount (if any) of any Tax Attributes which Fortune Brands determines, in its sole and absolute discretion exercised in good faith, shall be allocated or apportioned to the Cabinets Parties under applicable Tax Law. Cabinets and the Cabinets Parties shall prepare all Tax Returns in accordance with such written notice. Cabinets agrees that it shall not dispute Fortune Brands' determination of Tax Attributes.

SECTION 11.2 Third Party Tax Indemnities and Benefits.

(a) Notwithstanding anything to the contrary in this Agreement, to the extent that pursuant to any agreement to which any Cabinets Party is a party, any Cabinets Party has the right to indemnification by any Person (other than any Cabinets Party or Fortune Brands Party) with respect to Taxes that arise or are attributable to a period (or portion thereof) ending on or prior to the Distribution Date, Cabinets shall be responsible for such Taxes and shall be entitled to receive all Tax indemnities related thereto.

(b) Notwithstanding anything to the contrary in this Agreement, to the extent that pursuant to any agreement to which any Fortune Brands Party is a party, any Fortune Brands Party has the right to indemnification by any Person (other than any Cabinets Party or Fortune Brands Party) with respect to Taxes that arise or are attributable to a period (or portion thereof) ending on or prior to the Distribution Date, Fortune Brands shall be responsible for such Taxes and shall be entitled to receive all Tax indemnities related thereto.

SECTION 11.3 Allocation of Tax Items. All determinations (whether for purposes of preparing Tax Returns or for purposes of determining a Party's responsibility for Taxes under this Agreement) regarding the allocation of Tax items between the portion of a Straddle Tax Period that ends on the Distribution Date and the portion of such Straddle Tax Period that begins the day after the Distribution Date shall be made pursuant to the principles of Treasury Regulations Section 1.1502-76(b) or of a corresponding provision under the Laws of the applicable taxing jurisdiction; provided, however, that Tax items may be ratably allocated to the extent provided by and pursuant to the principles of Treasury Regulations Section 1.1502-76(b)(2)(ii). Any such allocation of Tax items shall initially be determined by Fortune Brands. To the extent that Cabinets disagrees with such determination, the dispute shall be resolved pursuant to the provisions of Section 12.2.

ARTICLE XII

MISCELLANEOUS

SECTION 12.1 Entire Agreement; Exclusivity. This Agreement, including the Schedules and Exhibits referred to herein contains the entire understanding of the Parties with regard to the subject matter contained herein, and supersedes all prior agreements, negotiations, discussions, understandings, writings and commitments between any of the Fortune Brands Parties, on the one hand, and any of the Cabinets Parties, on the other hand, with respect to all matters related to Taxes or Tax Returns of the Fortune Brands Parties or the Cabinets Parties. Except as specifically set forth in the Separation and Distribution Agreement or any other Transaction Agreement, all matters related to Taxes or Tax Returns of any of the Fortune Brands Parties or the Cabinets Parties shall be governed exclusively by this Agreement.

SECTION 12.2 Dispute Resolution; Mediation.

(a) Subject to Section 12.2(c), either Party seeking resolution of any dispute, controversy or claim arising out of or relating to this Agreement, or the validity, interpretation, breach or termination of this Agreement (a "**Dispute**"), shall provide written notice thereof to the other Party, and following delivery of such notice, the Parties shall attempt in good faith to negotiate a resolution of the Dispute. The negotiations shall be conducted by executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the subject matter of the Dispute. All such negotiations shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the Parties are unable for any reason to resolve a Dispute within 30 days after the delivery of such notice, the Dispute shall be submitted to mediation in accordance with Section 12.2(b).

(b) Any Dispute not resolved pursuant to Section 12.2(a) shall, at the written request of any Party (a "**Mediation Request**"), be submitted to non-binding mediation in accordance with the then current International Institute for Conflict Prevention and Resolution ("**CPR**") Mediation Procedure (the "**Procedure**"), except as modified herein. The mediation shall be held in Chicago, Illinois. The parties shall have 20 days from receipt by a party (or parties) of a Mediation Request to agree on a mediator. If no mediator has been agreed upon by the parties within 20 days of receipt by a party (or parties) of a Mediation Request, then any party may request (on written notice to the other party), that the CPR appoint a mediator in accordance with the Procedure. All mediation pursuant to this clause shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence, and no oral or documentary representations made by the parties during such mediation shall be admissible for any purpose in any subsequent proceedings. No Party shall disclose or permit the disclosure of any information about the evidence adduced or the documents produced by any other party in the mediation proceedings or about the existence, contents or results of the mediation without the prior written consent of such other party except in the course of a judicial or regulatory proceeding or as may be required by Law or requested by a Governmental Authority or securities exchange. Before making any disclosure permitted by the preceding sentence, the party intending to make such disclosure shall, to the extent reasonably practicable, give the other party reasonable written notice of the intended disclosure and afford the other party a reasonable opportunity to protect its interests. If the Dispute has not been resolved within 60 days of the appointment of a mediator, or within 90 days of receipt by a party (or parties) of a Mediation Request (whichever occurs sooner), or within such longer period as the parties may agree to in writing, then any party may file an action on the Dispute in any court having jurisdiction in accordance with Section 12.4.

(c) Notwithstanding the foregoing provisions of this Section 12.2, (i) any party may seek preliminary provisional or injunctive judicial relief without first complying with procedures set forth in Section 12.2(a) and Section 12.2(b) if such action is necessary to avoid irreparable damage and (ii) either party my initiate litigation before the expiration of the periods specified in Section 12.2(b) if such party has submitted a Mediation Request and the other party has failed to participate.

SECTION 12.3 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws (as opposed to the conflicts of law provisions) of the State of Delaware.

SECTION 12.4 Submission to Jurisdiction; Waiver of Jury Trial. Each of Fortune Brands and Cabinets, on behalf of itself and each of its Affiliates, hereby irrevocably (a) submits in any Dispute to the exclusive jurisdiction of the United States District Court for the Northern District of Illinois and the jurisdiction of any court of the State of Illinois located in Chicago, Illinois, (b) waives any and all objections to jurisdiction that they may have under the Laws of the State of Illinois or the United States, (c) agrees that service of any process, summons, notice or document by U.S. registered mail to its respective address set forth in Section 12.11 shall be effective service of process for any litigation brought against it in any such court and (d) UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE (AS DEFINED HEREIN).

SECTION 12.5 Amendment. This Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each of Fortune Brands and Cabinets.

SECTION 12.6 Waiver. Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof. Any such waiver shall be validly and sufficiently given for the purposes of this Agreement if, as to either party, it is in writing signed by an authorized representative of such party. The failure of either party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, or in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

SECTION 12.7 Partial Invalidity. Wherever possible, each provision hereof shall be construed in a manner as to be effective and valid under applicable Law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent of such invalidity, illegality or unenforceability without invalidating the remainder of such invalid, illegal or unenforceable provision or provisions or any other provision hereof, unless such a construction would be unreasonable.

SECTION 12.8 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original instrument, but both of which shall be considered one and the same agreement, and shall become binding when the counterparts have been signed by and delivered to each of the Parties. Execution and delivery of this Agreement or any other documents pursuant to this Agreement by facsimile or other electronic means, including DocuSign or scanned pages, shall be deemed to be, and shall have the same legal effect as, execution by an original signature and delivery in person.

SECTION 12.9 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns; provided, however, that the rights and obligations of either party under this Agreement shall not be assignable by such party without the prior written consent of the other party. The successors and permitted assigns hereunder shall include any permitted assignee as well as the successors in interest to such permitted assignee (whether by merger, liquidation (including successive mergers or liquidations) or otherwise).

SECTION 12.10 Third-Party Beneficiaries. This Agreement is solely for the benefit of the Parties and their respective Subsidiaries, Affiliates, successors and permitted assigns, and nothing herein express or implied shall give or be construed to give to any other Person any legal or equitable rights hereunder.

SECTION 12.11 Notices. All notices, requests, claims, demands and other communications required or permitted hereunder shall be in writing and shall be deemed given or delivered (a) when delivered personally, (b) if transmitted by facsimile or e-mail, when confirmation of transmission is received, (c) if sent by registered or certified mail, postage prepaid, return receipt requested, on the third Business Day after mailing or (d) if sent by nationally recognized overnight courier, on the first Business Day following the date of dispatch; and shall be addressed as follows:

If to Fortune Brands, to:

Fortune Brands Home & Security, Inc.
510 Lake Cook Road
Deerfield, Illinois 60015
Attention: General Counsel
Email: hiranda.donoghue@FBHS.com

If to Cabinets, to:

MasterBrand, Inc.
One MasterBrand Cabinets Drive
Jasper, Indiana 47546
Attention: General Counsel
Email: ahorton@masterbrand.com

or to such other address as such party may indicate by a notice delivered to the other party.

SECTION 12.12 Performance. Fortune Brands will cause to be performed and hereby guarantees the performance of all actions, agreements and obligations set forth herein to be performed by any Fortune Brands Party. Cabinets will cause to be performed and hereby guarantees the performance of all actions, agreements and obligations set forth herein to be performed by any Cabinets Party.

SECTION 12.13 Force Majeure. No party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations under this Agreement results from any cause beyond its reasonable control and without its fault or negligence, including acts of God, acts of civil or military authority, embargoes, acts of terrorism, epidemics, war, riots, insurrections, fires, explosions, earthquakes, floods, unusually severe weather conditions, labor problems or unavailability of parts, or, in the case of computer systems, any failure in electrical or air conditioning equipment. In the event of any such excused delay, the time for performance shall be extended for a period equal to the time lost by reason of the delay.

SECTION 12.14 Termination. Notwithstanding anything to the contrary contained herein, this Agreement may be terminated at any time prior to the Distribution by and in the sole discretion of the Fortune Board without the prior approval of any Person. In the event of such termination, this Agreement shall forthwith become void, and no Party shall have any liability to any Person by reason of this Agreement.

SECTION 12.15 Limited Liability. Notwithstanding any other provision of this Agreement, no individual who is a stockholder, director, employee, officer, agent or representative of Cabinets or Fortune Brands, in such individual's capacity as such, shall have any liability in respect of or relating to the covenants or obligations of Cabinets or Fortune Brands, as applicable, under this Agreement and, to the fullest extent legally permissible, each of Cabinets and Fortune Brands, for itself and its stockholders, directors, employees, officers and Affiliates, waives and agrees not to seek to assert or enforce any such liability that any such individual otherwise might have pursuant to applicable Law.

SECTION 12.16 Survival. Except as otherwise expressly provided herein, all covenants, conditions and agreements of the Parties contained in this Agreement shall remain in full force and effect and shall survive the Distribution Date.

SECTION 12.17 No Circumvention. Each Party agrees not to directly or indirectly take any actions, act in concert with any Person who takes any action, or cause or allow any of its Subsidiaries to take any actions (including the failure to take any reasonable action) such that the resulting effect is to materially undermine the effectiveness of any of the provisions of this Agreement (including adversely affecting the rights or ability of any Party to successfully pursue indemnification or payment pursuant to the provisions of this Agreement).

SECTION 12.18 Changes in Law. If, due to any change in applicable Law or regulations or their interpretation by any Governmental Authority having jurisdiction subsequent to the date hereof, performance of any provision of this Agreement or any transaction contemplated hereby shall become impracticable or impossible, the Parties shall use their commercially reasonable best efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such provision.

SECTION 12.19 Authority. Each of the Parties represents to the other Party that (a) it has the corporate power (corporate or otherwise) and authority to execute, deliver and perform this Agreement, (b) the execution, delivery and performance of this Agreement by it have been duly authorized by all necessary corporate or other action, (c) it has duly and validly executed and delivered this Agreement, and (d) this Agreement is a legal, valid, and binding obligation, enforceable against it in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium, or other similar Laws affecting creditors' rights generally and general equity principles.

SECTION 12.20 Tax Allocation Agreements. All Tax sharing, indemnification and similar agreements, written or unwritten, as between any of the Fortune Brands Parties, on the one hand, and any of the Cabinets Parties, on the other hand (other than this Agreement or in any other Transaction Agreement), shall automatically terminate as of the Distribution Date and, after the Distribution Date, no Party to any such Tax sharing, indemnification or similar agreement shall have any further rights or obligations under any such agreement.

SECTION 12.21 No Duplication; No Double Recovery. Nothing in this Agreement is intended to confer or impose upon any Party a duplicative right, entitlement, obligation, or recovery with respect to any matter arising out of the same facts and circumstances.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives as of the date first written above.

FORTUNE BRANDS HOME & SECURITY, INC.

By: /s/ Nicholas I. Fink
Name: Nicholas I. Fink
Title: Chief Executive Officer

MASTERBRAND, INC.

By: /s/ R. David Banyard, Jr.
Name: R. David Banyard, Jr.
Title: President

Exhibit 10.3

EXECUTION VERSION

EMPLOYEE MATTERS AGREEMENT

THIS EMPLOYEE MATTERS AGREEMENT is made as of December 14, 2022 by and between Fortune Brands Home & Security, Inc., a Delaware corporation ("**Fortune Brands**"), and MasterBrand, Inc., a Delaware corporation ("**Cabinets**"), and, as of the date hereof, a wholly-owned subsidiary of Fortune Brands.

WHEREAS, Fortune Brands and Cabinets have entered into a Separation and Distribution Agreement dated as of December 14, 2022 (the "**Distribution Agreement**") pursuant to which Fortune Brands will distribute on a *pro rata* basis to the holders of shares of Fortune Brands' common stock, par value $0.01 per share ("**Fortune Brands Shares**"), without any consideration being paid by the holders of such Fortune Brands Shares, all of the outstanding shares of Cabinets common stock, par value $0.01 per share ("**Cabinets Shares**"), owned by Fortune Brands as of the Distribution Date (as defined in the Distribution Agreement); and

WHEREAS, in connection with the Distribution, Fortune Brands and Cabinets desire to enter into this Employee Matters Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and in the Distribution Agreement, the parties hereto agree as follows:

Article I. DEFINITIONS

Section 1.01 Definitions. Unless otherwise defined herein, each capitalized term shall have the meaning specified for such term in the Distribution Agreement. As used in this Agreement:

(a) **"Adjusted Fortune Brands Option"** has the meaning set forth in Section 6.01(b) of this Agreement.

(b) **"Adjusted Fortune Brands RSU Award"** has the meaning set forth in Section 6.02(b) of this Agreement.

(c) **"Agreement"** means this Employee Matters Agreement together with those parts of the Distribution Agreement referenced herein and all schedules hereto and all amendments, modifications and changes hereto and thereto.

(d) **"Business Employee"** means (i) each individual who immediately prior to the Distribution is employed by a Cabinets Party, including each Fortune Brands Transferred Employee, but excluding any Cabinets Transferred Employee, and (ii) each former employee of a Fortune Brands Party or a Cabinets Party whose last employment with any of such parties prior to termination was with a Cabinets Party.

(e) "**Cabinets**" has the meaning set forth in the recitals of this Agreement.

(f) "**Cabinets DCP**" has the meaning set forth in Section 3.04(a) of this Agreement.

(g) "**Cabinets Employee**" means a person who is employed by a Cabinets Party immediately following the Distribution.

(h) "**Cabinets Pension Plan**" means the MasterBrand Cabinets, Inc. Pension Plan.

(i) **"Cabinets Post-Distribution Stock Price"** means the per share price of Cabinets Shares immediately after the Distribution, which shall be equal to the volume weighted average price of Cabinets common stock on the trading day immediately following the Distribution Date.

(j) "**Cabinets RSP**" has the meaning set forth in Section 3.01(a) of this Agreement.

(k) **"Cabinets Service Provider"** means (i) each Cabinets Employee, and (ii) each other individual who is engaged to provide services to a Cabinets Party as an individual independent contractor, consultant or director (and not engaged to provide services to a Fortune Brands Party) as of immediately following the Distribution.

(l) "**Cabinets Supplemental Plan**" means the MasterBrand Cabinets, Inc. Supplemental Retirement Plan.

(m) **"Cabinets Transferred Employee"** means each employee of a Cabinets Party listed on Exhibit A hereto whose employment shall be transferred to a Fortune Brands Party immediately prior to the Distribution Date.

(n) "**Cabinets Union Savings Plan**" means the MasterBrand Cabinets, Inc. Union Employees Savings Plan.

(o) "**Cafeteria Plan**" means any plan or portion of a plan which is intended to be a cafeteria plan under Section 125 of the Code or is a flexible spending account.

(p) **"COBRA"** has the meaning set forth in Section 4.04 of this Agreement.

(q) **"COBRA Participants"** has the meaning set forth in Section 4.04 of this Agreement.

(r) **"Code"** means the Internal Revenue Code of 1986, as amended.

(s) **"Compensation Committee"** means the Compensation Committee of the Fortune Brands Board of Directors or the Compensation Committee of the Cabinets Board of Directors, as the case may be.

(t) **"DB Master Trust"** has the meaning set forth in Section 3.02 of this Agreement.

(u) **"DC Master Trust"** has the meaning set forth in Section 3.01(b) of this Agreement.

(v) **"Director Deferred Shares"** has the meaning set forth in Section 3.04(b) of this Agreement.

(w) **"Distribution Agreement"** has the meaning set forth in the recitals of this Agreement.

(x) **"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended.

(y) **"Former Cabinets Employee"** means an individual who (i) experienced a termination of employment with a Cabinets Party on or prior to the Distribution Date, and (ii) has not been rehired by any Cabinets Party or Fortune Brands Party as of the Distribution Date.

(z) **"Fortune Brands"** has the meaning set forth in the recitals of this Agreement.

(aa) **"Fortune Brands DCP"** means the Fortune Brands Home & Security, Inc. Deferred Compensation Plan.

(bb) **"Fortune Brands Director DCP"** means the Fortune Brands Home & Security, Inc. Directors' Deferred Compensation Plan.

(cc) **"Fortune Brands LTIPs"** means the Fortune Brands Home & Security, Inc. 2011 Long-Term Incentive Plan, the Fortune Brands Home & Security, Inc. 2013 Long-Term Incentive Plan, and the Fortune Brands Home & Security, Inc. 2022 Long-Term Incentive Plan.

(dd) **"Fortune Brands Non-ERISA Benefit Arrangement"** means any Non-ERISA Benefit Arrangement sponsored or maintained by a Fortune Brands Party.

(ee) **"Fortune Brands Options"** means stock options granted under the Fortune Brands LTIPs.

(ff) "**Fortune Brands Plan**" means any Pension Plan, Cafeteria Plan or Welfare Plan sponsored or maintained by a Fortune Brands Party.

(gg) **"Fortune Brands Post-Distribution Stock Price"** means the per share price of Fortune Brands Shares immediately after the Distribution, which shall be equal to the volume weighted average price of Fortune Brands Shares on the trading day immediately following the Distribution Date.

(hh) **"Fortune Brands Pre-Distribution Stock Price"** means the per share price of Fortune Brands Shares immediately prior to the Distribution, which shall be equal to the volume weighted average price of Fortune Brand Shares on the trading day immediately prior to the Distribution Date.

(ii) **"Fortune Brands RSUs"** means restricted stock units granted under any of the Fortune Brands LTIPs, including any restricted stock unit which has been deferred under the Fortune Brands DCP.

(jj) **"Fortune Brands Shares"** has the meaning set forth in the recitals of this Agreement.

(kk) "**Fortune Brands SRP Participant**" has the meaning set forth in Section 3.03 of this Agreement.

(ll) **"Fortune Brands Supplemental Plan"** means the Fortune Brands Home & Security, Inc. Supplemental Retirement Plan.

(mm) **"Fortune Brands Transferred Employee"** means each employee of a Fortune Brands Party or any of its Affiliates (other than Cabinets or any Cabinets Subsidiary) listed on Exhibit B hereto whose employment shall be transferred to a Cabinets Party immediately prior to the Distribution Date.

(nn) **"Fortune Brands Welfare Plans"** means a Welfare Plan sponsored or maintained by a Fortune Brands Party.

(oo) **"Intrinsic Value"** means (a) in the case of a Fortune Brands Option immediately prior to the Distribution, the difference between the Fortune Brands Pre-Distribution Stock Price and the per share exercise price of such Fortune Brands Option, (b) in the case of an Adjusted Fortune Brands Option immediately after the Distribution, the difference between the Fortune Brands Post-Distribution Stock Price and the per share exercise price of such Adjusted Fortune Brands Option and (c) in the case of a Substitute Cabinets Option immediately after the Distribution, the difference between the Cabinets Post-Distribution Stock Price and the per share exercise price of such Substitute Cabinets Option, in each case multiplied by the number of Fortune Brands Shares or Cabinets Shares, as the case may be, subject to such option.

(pp) **"Invoiced Amount"** has the meaning set forth in the Transition Services Agreement.

(qq) **"IRS"** means the Internal Revenue Service.

(rr) **"Non-ERISA Benefit Arrangement"** means any contract, agreement, policy, practice, program, plan, trust or arrangement, other than a Pension Plan, Cafeteria Plan or Welfare Plan, providing for benefits, perquisites or compensation of any nature to any Cabinets Employee, or to any family member, dependent or beneficiary of any such Cabinets Employee, including tuition reimbursement, supplemental unemployment, vacation, sick, personal or bereavement days, holidays, retirement, deferred compensation, profit sharing, bonus, stock-based compensation or other forms of incentive compensation.

(ss) **"Pension Plan"** means any pension plan as defined in Section 3(2) of ERISA.

(tt) **"Plan Effective Date"** means January 1, 2023.

(uu) **"Record Date"** means December 2, 2022.

(vv) **"Transition Services Agreement"** means that Transition Services Agreement, dated as of the date hereof, by and between Fortune Brands and Cabinets.

(ww) **"Welfare Plan"** means any employee welfare plan as defined in Section 3(1) of ERISA (other than a plan or any portion of a plan intended to be a cafeteria plan under Section 125 of the Code or is a flexible spending account).

Section 1.02 Rules of Construction. In this Agreement, unless the context clearly indicates otherwise:

(a) words used in the singular include the plural and words used in the plural include the singular;

(b) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement;

(c) reference to any Person's "Affiliates" shall be deemed to mean such Person's Affiliates following the Distribution;

(d) reference to any gender includes the other gender;

(e) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation;"

(f) references to any Article, Section or schedule means such Article or Section of, or such schedule to, this Agreement, as the case may be;

(g) the words "herein," "hereunder," "hereof," "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Section or other provision hereof;

(h) reference to any agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and by this Agreement;

(i) reference to any law (including statutes and ordinances) means such law (including all rules and regulations promulgated thereunder) as amended, modified, codified or reenacted, in whole or in part, and in effect at the time of determining compliance or applicability;

(j) relative to the determination of any period of time, “from” means “from and including,” “to” means “to but excluding” and “through” means “through and including;”

(k) accounting terms used herein shall have the meanings ascribed to them by Fortune Brands and its Subsidiaries, including Cabinets, in its and their internal accounting and financial policies and procedures in effect immediately prior to the date of this Agreement;

(l) if there is any conflict between the provisions of the Distribution Agreement and this Agreement, the provisions of this Agreement shall control with respect to the subject matter hereof; if there is any conflict between the provisions of the body of this Agreement and any schedule hereto, the provisions of the body of this Agreement shall control unless explicitly stated otherwise in such schedule;

(m) titles to Articles and headings of Sections contained in this Agreement have been inserted for convenience of reference only and shall not be deemed to be a part of or to affect the meaning or interpretation of this Agreement;

(n) any portion of this Agreement obligating a party to take any action or refrain from taking any action, as the case may be, shall mean that such party shall also be obligated to cause its relevant Subsidiaries to take such action or refrain from taking such action, as the case may be;

(o) unless otherwise specified in this Agreement, all references to dollar amounts herein shall be in respect of lawful currency of the United States; and

(p) this Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

Article II. ASSIGNMENT OF EMPLOYEES

Effective immediately prior to the Distribution Date, (i) the employment of the Fortune Brands Transferred Employees by the Fortune Brands Parties shall be transferred to, and thereupon the employment of the Fortune Brands Transferred Employees shall commence with, a Cabinets Party; and (ii) the employment of the Cabinets Transferred Employees by the Cabinets Parties shall be transferred to, and thereupon the employment of the Cabinets Transferred Employees shall commence with, a Fortune Brands Party. If it is determined after the Distribution Date that any employees were not properly assigned and transferred to the appropriate employer prior to the Distribution Date or that it is necessary or appropriate to assign and transfer an employee performing services pursuant to the Transition Services Agreement to the other group, the Parties shall cooperate in good faith to effect such assignment and transfer after the Distribution Date. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall create any obligation on the part of any Fortune Brands Party or Cabinets Party to continue the employment of any employee for any definite period following the Distribution Date or to change the employment status of any employee from “at will.”

Article III. PENSION, RETIREMENT AND DEFERRED COMPENSATION PLANS

Section 3.01 Defined Contribution Plans.

(a) **Establishment of Cabinets Retirement Savings Plan.** On or before, but effective as of the Plan Effective Date, Cabinets shall adopt, establish and maintain a 401(k) retirement savings plan and trust for the benefit of eligible employees of the Cabinets Parties, which is intended to be qualified under Section 401(a) of the Code and exempt from federal income tax under Section 501(a) of the Code (the "**Cabinets RSP**"). As soon as practicable after the adoption of the Cabinets RSP, Cabinets shall, to the extent the Cabinets RSP and related trust are not eligible to rely upon an existing favorable IRS opinion or advisory letter to such effect, submit an application for determination to the IRS for a determination that the Cabinets RSP is qualified under Section 401(a) of the Code and that the related trust is exempt from federal income tax under Section 501(a) of the Code, and shall take any actions not inconsistent with Cabinet's other general commitments contained in this Agreement and make any amendments necessary to receive such determination. As of the Plan Effective Date, each Cabinets Employee employed by the Cabinets Parties who was, immediately prior to the Distribution, eligible to participate in the Fortune Brands Home & Security Retirement Savings Plan or the Fortune Brands Home & Security Hourly Retirement Savings Plan shall be eligible to participate in the Cabinets RSP, which shall recognize the service of such Cabinets Employee with Fortune Brands and its Subsidiaries in accordance with Section 7.05.

(b) **Transfer from Fortune Brands Trust.** On or about the Plan Effective Date , Fortune Brands shall cause the Fortune Brands Home & Security, Inc. Master Defined Contribution Trust (the "**DC Master Trust**") to transfer to the trust established under the Cabinets RSP assets having a value as of the applicable valuation date that is equal to the value of the account balances of, and liabilities with respect to, all Business Employees with an account balance under the Fortune Brands Home & Security Retirement Savings Plan or the Fortune Brands Home & Security Hourly Employee Retirement Savings Plan as of such valuation date. In addition, on or about the Plan Effective Date, a pro rata share of all unallocated amounts shall be transferred from the DC Master Trust to the trust established by Cabinets under the Cabinets RSP, determined based upon the ratio of the sum of the account balances of the Business Employees described in the immediately preceding sentence as of the applicable valuation date to the sum of all account balances held in the DC Master Trust as of such valuation date. Such transferred assets shall be in cash or in kind, including shares of securities, promissory notes evidencing outstanding plan loans, Fortune Brands Shares or Cabinets Shares, and such transfer shall be made in accordance with Section 414(l) of the Code. Liabilities under any qualified domestic relations orders (as defined in Section 414(p) of the Code) received with respect to any accounts transferred to the Cabinets RSP shall be transferred to and assumed by the Cabinets RSP at the time such assets attributable to such accounts are transferred. Cabinets shall assume and thereafter be solely responsible for all then existing and future employer liabilities related to such Business Employees under the Cabinets RSP and the administration thereof and, except as provided in Section 3.01(a), the Fortune Brands Parties shall have no liability whatsoever therefor.

(c) **Cabinets Union Savings Plan**. Following the Distribution Date, one of the Cabinets Parties shall continue to be the plan sponsor of the Cabinets Union Savings Plan. Following the Distribution Date, the Fortune Brands Parties shall have no liability or obligation with respect to the Cabinets Union Savings Plan or any participants or former participants in the Cabinets Union Savings Plan with respect to their participation therein

Section 3.02 **Defined Benefit Pension Plans**. Following the Distribution Date, one of the Cabinets Parties shall continue to be the plan sponsor of the Cabinets Pension Plan. Prior to the Distribution Date, (i) the Cabinets Parties shall establish one or more trusts to be a source of providing benefits under the Cabinets Pension Plan and (ii) Fortune Brands shall cause the assets held in the Fortune Brands Home & Security, Inc. Master Retirement Trust (the **"DB Master Trust"**) and allocated to the subaccounts for the Cabinets Pension Plan to be transferred to the trust established by the Cabinets Parties. Following the date of the transfer contemplated by the immediately preceding sentence, the Fortune Brands Parties shall have no liability or obligation with respect to the Cabinets Pension Plan or any participants or former participants in the Cabinets Pension Plan with respect to their participation therein.

Section 3.03 **Supplemental Retirement Plans**. Following the Distribution Date, the Cabinets Parties shall continue to sponsor and maintain the Cabinets Supplemental Plan. The Cabinets Parties shall be solely responsible for all liabilities and shall fully perform, pay and discharge all obligations, when such obligations become due, to the Business Employees under the Cabinets Supplemental Plan. With respect to each Cabinets Employee who was a participant in the Fortune Brands Supplemental Plan and has an account under such plan (each, a "**Fortune Brands SRP Participant**"), (a) no later than the Distribution Date, Fortune Brands shall provide Cabinets with a list of payment events applicable to each Fortune Brands SRP Participant and (b) on or after the Distribution Date, Cabinets shall, or shall cause the applicable Cabinets Party to, notify Fortune Brands of the occurrence of (a) any payment event with respect to a Fortune Brands SRP Participant under the Fortune Brands Supplemental Plan, and (b) the "separation from service" under Section 409A of the Code of any Fortune Brands SRP Participant, whether or not such separation from service is a payment event, in each case, as promptly as practicable but in no event later than thirty (30) days following such the occurrence of such payment event or separation from service, as applicable, and shall promptly provide to Fortune Brands any other relevant information reasonably requested by Fortune Brands in writing for purposes of administering the Fortune Brands Supplemental Plan with respect to the Fortune Brands SRP Participants. The Distribution will not constitute a "change in control" for purposes of the Cabinets Supplemental Plan or the Fortune Brands Supplemental Plan.

Section 3.04 **Deferred Compensation Plans**.

(a) Effective as of the Distribution Date, a member of the Cabinets Parties shall adopt, establish and maintain a nonqualified deferred compensation plan for the benefit of employees of the Cabinets Parties (the "**Cabinets DCP**") which shall have substantially the same terms and conditions as the Fortune Brands DCP. As of the Distribution Date, Cabinets shall, or shall cause a member of the Cabinets Parties to, assume and thereafter be solely responsible for all existing and future liabilities relating to Cabinets Employees' (and any beneficiary's thereof) (i) benefits and notional account balances accrued under the Fortune Brands DCP as of immediately prior to the Distribution Date, as applicable, and (ii) benefits and notional account balances that accrue under the Cabinets DCP on or after the Distribution Date, as applicable; provided, that to the extent such an individual's

account is invested in notional Fortune Brands Shares, then (x) such individual participant's account shall be credited with the number of Cabinets Shares equal to the number of Cabinets Shares that would have been distributed to the individual participant if the notional Fortune Brands Shares held in the individual's account had been issued and outstanding, and (y) the notional Fortune Brands Shares credited to such individual participant's account shall be deemed to have been sold as of the Distribution Date, based on the value of such shares as of the Distribution Date, and reinvested in the default investment fund maintained under the Cabinets DCP. All deferral and distribution elections made by Cabinets Employees under the Fortune Brands DCP shall, to the extent applicable, be transferred to, and be in full force and effect under, the Cabinets DCP, and for such purpose, and subject to Section 409A of the Code, any distributions payable upon a Cabinets Employee's separation from service shall be payable upon his or her separation from service with the Cabinets Parties. All beneficiary designations made by Cabinets Employees and beneficiaries thereof under the Fortune Brands DCP shall, to the extent applicable, be transferred to, and be in full force and effect under, the Cabinets DCP until such beneficiary designations are replaced or revoked by the Cabinets Employee (or the beneficiary of such individual) who made the beneficiary designation. Following the Distribution Date, the Fortune Brands Parties shall have no liability or obligation with respect to the benefits accrued by such Cabinets Employees or by beneficiaries thereof under the Fortune Brands DCP or with respect to any benefits accrued under the Cabinets DCP.

(b) Effective as of the Distribution Date, with respect to any Fortune Brands Shares which have been notionally credited to the account of any non-employee director of the Fortune Brands Board of Directors under the Fortune Brands Director DCP (such shares, the "**Director Deferred Shares**"), such Director Deferred Shares shall be adjusted such that (i) any such non-employee director who is a Cabinets Service Provider will be notionally credited with the number of deferred Cabinets Shares equal to the number of Cabinets Shares that would have been distributed to such non-employee director if the number of Director Deferred Shares had instead been issued and outstanding, and (ii) for any individual who will serve as a non-employee director on both the Fortune Brands Board of Directors and the Cabinets Board of Directors effective as of the Distribution Date, such individuals will be notionally credited with deferred Cabinets Shares equivalent to the dividend of one (1) Cabinets Share for each Director Deferred Share held by such individual as of the Record Date, and such deferred Cabinets Shares shall be subject to the same terms and conditions applicable to the Director Deferred Shares.

Article IV. WELFARE PLANS

Section 4.01 **Establishment of Cabinets Welfare Plans**. Effective as of the Plan Effective Date, a member of the Cabinets Parties shall adopt, establish and maintain Welfare Plans for the benefit of Cabinets Employees that have substantially the same terms as conditions as the Fortune Brands Welfare Plans (the "**Cabinets Welfare Plans**").

Section 4.02 **Coverage of Cabinets Employees**. Fortune Brands shall cause each Cabinets Employee who satisfies the eligibility requirements of the Fortune Brands Welfare Plans (excluding any portion of such plans which is intended to be a cafeteria plan under Section 125 of the Code or is a flexible spending account) to remain eligible under such plan through

December 31, 2022 as long as each such individual otherwise continues to satisfy the eligibility requirements of such plan. As of the Plan Effective Date, each Cabinets Employee, including each Fortune Brands Transferred Employee, shall become eligible to participate in the Cabinets Welfare Plans established by Cabinets effective as of the Plan Effective Date for their participation, subject to the terms of such plans. To the extent applicable to any Cabinets Welfare Plans in which Cabinets Employees become eligible as of the Plan Effective Date that provide benefits similar to the benefits that had been provided to such employees under a Fortune Brands Welfare Plan immediately prior to such date, Cabinets shall cause the Cabinets Welfare Plans to recognize all coverage and contribution elections most recently made by such Cabinets Employees under the Fortune Brands Welfare Plans prior to the Plan Effective Date and shall apply such elections under the Cabinets Welfare Plans for the plan year beginning as of the Plan Effective Date, in each case to the extent practicable and in accordance with the terms of the Cabinets Welfare Plans. All beneficiary designations made by Cabinets Employees under the Fortune Brands Welfare Plans shall, to the extent applicable and permitted by applicable law, be transferred to, and be in full force and effect under, the Cabinets Welfare Plans until such beneficiary designations are replaced or revoked by the Cabinets Employee who made the beneficiary designation.

Section 4.03 Welfare Plan Liabilities.

(a) **Cabinets Welfare Plans**. As of the Plan Effective Date, the Cabinets Parties and the Cabinets Welfare Plans, as applicable, shall assume, retain and be responsible for all claims for welfare benefits (and for any liabilities arising as a result of such claims) incurred with respect to any Cabinets Employee (and, if applicable, such Cabinets Employee's participating spouse and/or dependents) or Former Cabinets Employee on or after the Plan Effective Date under the Cabinets Welfare Plans (the "**Welfare Liabilities**"), and none of the Fortune Brands Parties or the Fortune Brands Welfare Plans shall assume or retain any such liabilities.

(b) **Fortune Brands Welfare Plans**. The Fortune Brands Welfare Plans shall continue to be responsible for all claims for welfare benefits (and for any liabilities arising as a result of such claims) incurred with respect to any Cabinets Employee or Former Cabinets Employee prior to the Plan Effective Date under such plan, whether such claims have been paid or remain unpaid as of such date, and the Cabinets Welfare Plans shall not assume any such liabilities; provided, however, that with respect to any such liabilities which are incurred under the Fortune Brands Welfare Plans, to the extent unpaid as of the Distribution Date, the Cabinets Parties shall provide reimbursement for any such amounts which constitute Invoiced Amounts in accordance with the terms of the Transition Services Agreement.

(c) **Claims Incurred**. Claims for health, dental and vision benefits shall be considered to be incurred prior to the applicable determination date if the services related to such claims were provided prior to such date. Claims for all other welfare benefits (including life, long-term disability, and short-term disability) shall be considered to be incurred prior to the applicable determination date if the date of loss or the date on which the disability or death occurred was prior to such date.

Section 4.04 COBRA and HIPAA Liabilities. From and after the Plan Effective Date, the Cabinets Parties and the Cabinets Welfare Plans shall be responsible for the continuation coverage requirements under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("**COBRA**"), and the portability requirements under the Health Insurance Portability and Accountability Act of 1996 with respect to all Business Employees and their qualified beneficiaries. Prior to the Plan Effective Date, the Fortune Brands Parties and the Fortune Brands Welfare Plans shall be solely responsible for providing continued health coverage required by COBRA to (a) Former Cabinets Employees and their qualifying beneficiaries who experience a COBRA qualifying event (as defined in Section 4980B of the Code) under the applicable Fortune Brands Welfare Plan, and (b) Cabinets Employees and their qualifying beneficiaries who experience a COBRA qualifying event, in each case, under the applicable Fortune Brands Welfare Plan on or prior to the Plan Effective Date (individuals in (a) and (b) collectively, the "**COBRA Participants**"), and following the Distribution Date, the Cabinets Parties shall reimburse the Fortune Brands Parties for any unpaid claims or obligations incurred under the Fortune Brands Welfare Plans as a result of such COBRA coverage, to the extent such amounts constitute Invoiced Amounts, in accordance with the terms of the Transition Services Agreement.

Section 4.05 Stop Loss Adjustment. Pursuant to the self-funded stop-loss arrangement maintained as of immediately prior to the Distribution Date among the Fortune Brands Parties and the Cabinets Parties, not later than 60 days after the Distribution Date, Fortune Brands and Cabinets shall determine, for health claims arising prior to the Distribution Date, the allocation of such claims among the Fortune Brands Parties and the Cabinets Parties, and true up payments shall be made among such parties in accordance with such stop-loss arrangement as though the plan year ended on the Plan Effective Date. Each of the Fortune Brands Parties and the Cabinets Parties shall be responsible separately for the stop-loss coverage of claims arising under their respective group health plans on and after the Plan Effective Date.

Article V. NON-ERISA BENEFIT ARRANGEMENTS

Section 5.01 Cabinets Non-ERISA Benefit Arrangements. Following the Distribution Date, the Cabinets Parties shall continue to be the plan sponsor of each Non-ERISA Benefit Arrangement sponsored by the Cabinets Parties for the benefit of the Cabinets Employees immediately prior to the Distribution Date. Following the Distribution Date, the Fortune Brands Parties shall have no liability or obligation with respect to such arrangements or any participants or former participants in such arrangements with respect to their participation therein.

Article VI. EQUITY COMPENSATION PLANS

Section 6.01 Stock Options.

(a) **Options Held by Cabinets Service Providers.** Fortune Brands and Cabinets shall take any and all action as shall be necessary or appropriate, including approval of the provisions of this Section 6.01(a) by the Cabinets Board of Directors and the Fortune Brands Compensation Committee, so that each Fortune Brands Option, whether vested or unvested, held at the close of business on the Distribution Date by any Cabinets Service Provider (or any transferee thereof) shall be, pursuant to the terms of the applicable Fortune Brands LTIP and the applicable Cabinets equity compensation plan (the **"Cabinets LTIP"**) and this Agreement, replaced with a substitute option to purchase Cabinets Shares granted under the Cabinets LTIP (a **"Substitute Cabinets Option"**), pursuant to which:

(i) the Intrinsic Value of each Substitute Cabinets Option immediately after the Distribution shall be equal to the Intrinsic Value of the corresponding Fortune Brands Option immediately prior to the Distribution;

(ii) the ratio of the per share exercise price of each Substitute Cabinets Option to the Cabinets Post-Distribution Stock Price shall not exceed the ratio of the per share exercise price of the corresponding Fortune Brands Option to the Fortune Brands Pre-Distribution Stock Price; and

(iii) the Substitute Cabinets Option shall become exercisable and terminate based on the holder's service with the Cabinets Parties.

Each Substitute Cabinets Option shall have the same terms and conditions as the corresponding Fortune Brands Option, except as provided herein. It is intended that the adjustment and substitution set forth herein shall satisfy the requirements of Section 424 of the Code and avoid treatment as nonqualified deferred compensation subject to Section 409A of the Code.

(b) **Options Held by Persons Other Than Cabinets Service Providers**. Fortune Brands shall take any and all action as shall be necessary or appropriate, including approval of the provisions of this Section 6.01(b) by the Fortune Brands Compensation Committee, so that each Fortune Brands Option held at the close of business on the Distribution Date by any person who is not a Cabinets Service Provider (or any transferee of such person) shall be replaced pursuant to the terms of the Fortune Brands LTIPs and this Agreement with an adjusted Fortune Brands Option ("**Adjusted Fortune Brands Options**"), pursuant to which:

(i) the Intrinsic Value of each Adjusted Fortune Brands Option immediately after the Distribution shall be equal to the Intrinsic Value of the corresponding Fortune Brands Option immediately prior to the Distribution; and

(ii) the ratio of the per share exercise price of each Adjusted Fortune Brands Option to the Fortune Brands Post-Distribution Stock Price shall not exceed the ratio of the per share exercise price of the corresponding Fortune Brands Option to the Fortune Brands Pre-Distribution Stock Price.

Each Adjusted Fortune Brands Option shall have the same terms and conditions as the corresponding Fortune Brands Option, except as provided herein. It is intended that the adjustment set forth herein shall satisfy the requirements of Section 424 of the Code and avoid treatment as nonqualified deferred compensation subject to Section 409A of the Code.

Section 6.02 Restricted Stock Units.

(a) **RSUs Held by Cabinets Service Providers.** Except with respect to Fortune Brands RSUs which have been deferred under the Fortune Brands DCP, treatment of which is set forth in Section 3.04 above, Fortune Brands and Cabinets shall take any and all action as shall be necessary or appropriate, including approval of the provisions of this Section 6.02(a) by the Cabinets Board of Directors and the Fortune Brands Compensation Committee pursuant to the terms of the applicable Fortune Brands LTIP, the applicable Cabinets LTIP and this Agreement, so that each Fortune Brands RSU held at the close of business on the Distribution Date by any Cabinets Service Provider shall be replaced with a substitute Cabinets restricted stock unit award granted under the Cabinets LTIP (**"Substitute**

Cabinets RSU Award"). The number of Cabinets restricted stock units subject to the Substitute Cabinets RSU Award will be equal to the number of Fortune Brands restricted stock units subject to the Fortune Brands RSU Award held by the participant at the close of business on the Distribution Date multiplied by a fraction, the numerator of which is the Fortune Brands Pre-Distribution Stock Price, and the denominator of which is the Cabinets Post-Distribution Stock Price. Each Substitute Cabinets RSU Award shall vest and be payable based on the holder's employment with the Cabinets Parties. Each Substitute Cabinets RSU Award shall have the same terms and conditions as the corresponding Fortune Brands RSU Award, except as provided herein.

(b) **RSUs Held by Persons Other Than Cabinets Service Providers.** Fortune Brands shall take any and all action as shall be necessary or appropriate, including approval of the provisions of this Section 6.02(b) by the Fortune Brands Compensation Committee pursuant to the terms of the applicable Fortune Brands LTIP and this Agreement, so that each Fortune Brands RSU Award held at the close of business on the Distribution Date by any person who is not a Cabinets Service Provider, including any Director Deferred Shares (except as provided in Section 3.04(b)), shall be adjusted (**"Adjusted Fortune Brands RSU Award"**). The number of Fortune Brands restricted stock units subject to the Adjusted Fortune Brands RSU Award will be equal to the number of Fortune Brands restricted stock units subject to the Fortunate Brands RSU Award held by the holder at the close of business on the Distribution Date multiplied by a fraction, the numerator of which is the Fortune Brands Pre-Distribution Stock Price, and the denominator of which is the Fortune Brands Post-Distribution Stock Price. Each Adjusted Fortune Brands RSU Award shall have the same terms and conditions as the corresponding Fortune Brands RSU Award, except as provided herein.

Section 6.03 Performance Share Awards.

(a) **Performance Share Awards Held by Cabinets Service Providers.** Fortune Brands and Cabinets shall take any and all action as shall be necessary or appropriate, including approval of the provisions of this Section 6.03(a) by the Cabinets Board of Directors pursuant to the terms of the applicable Cabinets LTIP and this Agreement, so that each Fortune Brands performance share award held at the close of business on the Distribution Date by any Cabinets Service Provider will be replaced with a Substitute Cabinets RSU Award granted under the Cabinets LTIP. For purposes of determining the number of Cabinets restricted stock units subject to the Substitute Cabinets RSU Award, the number of pre-Distribution Fortune Brands RSUs that are considered earned with respect to such performance share award shall be determined by the Fortune Brands Compensation Committee based upon projected performance results through the end of the applicable performance period, calculated based on actual performance from the beginning of the applicable performance period through the end of the fiscal quarter immediately preceding the Distribution Date and expected performance, as determined by the Fortune Brands Compensation Committee, through the remainder of the applicable performance period had the Distribution not occurred. Each Substitute Cabinets RSU Award shall have a vesting period ending on the last day of the performance period applicable to the corresponding Fortune Brands performance share award to which it relates based on the holder's service with the Cabinets Parties, and shall have the same terms and conditions as the corresponding Fortune Brands performance share award, except as provided herein.

(b) **Performance Share Awards Held by Persons Other Than Cabinets Service Providers.** Fortune Brands shall take any and all action as shall be necessary or appropriate, including approval of the provisions of this Section 6.03(b) by the Fortune Brands Compensation Committee pursuant to the terms of the applicable Fortune Brands LTIP and this Agreement, so that each Fortune Brands performance share award held at the close of business on the Distribution Date by any person who is not a Cabinets Service Provider will be replaced with an Adjusted Fortune Brands RSU Award granted under the applicable Fortune Brands LTIP. For purposes of determining the number of Fortune Brands restricted stock units subject to the Adjusted Fortune Brands RSU Award, the number of pre-Distribution Fortune Brands RSUs that are considered earned with respect to such performance share award shall be determined by the Fortune Brands Compensation Committee based upon projected performance results through the end of the applicable performance period, calculated based on actual performance from the beginning of the applicable performance period through the end of the fiscal quarter immediately preceding the Distribution Date and expected performance, as determined by the Fortune Brands Compensation Committee, through the remainder of the applicable performance period had the Distribution not occurred. Each Adjusted Fortune Brands RSU Award shall have a vesting period ending on the last day of the performance period applicable to the corresponding Fortune Brands performance share award to which it relates based on the holder's service with the Cabinets Parties, and shall have the same terms and conditions as the corresponding Fortune Brands performance share award, except as provided herein.

Section 6.04 Approval and Terms of Equity Awards. By approval of the Cabinets Board of Directors and the Fortune Brands Compensation Committee pursuant to Sections 6.01, 6.02, and 6.03, Cabinets, as issuer of substitute and replacement awards provided hereunder, and Fortune Brands, as sole shareholder of Cabinets, shall adopt and approve, respectively, the issuance of the substitute and replacement options and other awards provided for herein. Except as set forth above, the terms of the Fortune Brands LTIPs and of the outstanding equity compensation awards held by participants under the Fortune Brands LTIPs and the substitute Cabinets equity awards shall be subject to the terms of such plans and applicable award agreements, except that references in such outstanding substitute and replacement Cabinets awards to "Board" and "Committee" shall mean the Board, Compensation Committee or any other designated committee of Cabinets (as applicable) and references to the "Company" shall mean Cabinets. Notwithstanding the foregoing, substitute awards made under the Cabinets LTIP pursuant to Cabinets' obligations under this Agreement shall take into account all employment and service with both Fortune Brands and Cabinets, and their respective Subsidiaries and Affiliates, for purposes of determining when such awards vest and terminate.

Section 6.05 No Change in Control. The Distribution will not constitute a "change in control" for purposes of Fortune Brands equity awards that are outstanding as of the Distribution Date.

Article VII. COMPENSATION MATTERS AND GENERAL BENEFIT MATTERS

Section 7.01 Cessation of Participation in Fortune Brands Plans and Non-ERISA Benefit Arrangements. Except as otherwise provided in this Agreement or as required by the terms of any Fortune Brands Plan or Fortune Brands Non-ERISA Benefit Arrangement, or by applicable law, Fortune Brands and Cabinets shall take any and all action as shall be necessary or appropriate so that participation in Fortune Brands Plans and Fortune Brands Non-ERISA Benefit Arrangements by all Cabinets Employees shall terminate as of the close of business on the Distribution Date and the Cabinets Parties shall cease to be participating employers under the terms of such Fortune Brands Plans and Fortune Brands Non-ERISA Benefit Arrangements as of such time.

Section 7.02 Assumption of Certain Employee Related Obligations. Except as otherwise provided in this Agreement, effective as of the close of business on the Distribution Date, Cabinets shall assume, and no Fortune Brands Party shall have any further liability for, the following agreements, obligations and liabilities, and Cabinets shall indemnify, defend and hold harmless each of the Fortune Brands Indemnified Parties from and against any and all Expenses or Losses incurred or suffered by one or more of the Fortune Brands Indemnified Parties in connection with, relating to, arising out of or due to, directly or indirectly, any of the following:

(a) all agreements entered into between any Fortune Brands Party and any independent contractor providing services to the extent they are related to the Cabinets Business;

(b) all collective bargaining agreements, collective agreements, trade union agreements or works council agreements entered into between any Fortune Brands Party and any union, works council or other body to the extent they are related to the Business Employees;

(c) all wages, salary, incentive compensation, commissions and bonuses payable to Business Employees on or after the Distribution Date, without regard to when such wages, salary, incentive compensation, commissions or bonuses are or may have been earned;

(d) all moving expenses and obligations related to relocation, repatriation, transfers or similar items incurred by or owed to any Business Employee;

(e) all immigration-related, visa, work application or similar rights, obligations and liabilities to the extent they are related to any Business Employees; and

(f) all liabilities and obligations whatsoever of the Transferred Business with respect to claims made by or with respect to Business Employees, or any other to the extent their employment duties related to the Transferred Business, relating to any employee benefit plan, program or policy not otherwise retained or assumed by Fortune Brands pursuant to this Agreement, including such liabilities relating to actions or omissions of or by the Cabinets Parties or any officer, director, employee or agent thereof prior to the Distribution Date.

Section 7.03 Restrictive Covenants in Employment and Other Agreements. To the extent permitted under applicable law, following the Distribution, the Cabinets Parties shall be considered to be successors to the Fortune Brands Parties for purposes of all agreements containing restrictive covenants (including confidentiality and non-competition provisions) between any Fortune Brands Party and any Business Employee executed prior to the Distribution Date such that each Fortune Brands Party and each Cabinets Party shall all enjoy the rights and benefits under such agreements, with respect to their respective business operations; provided, however, that (a) in no event shall any Fortune Brands Party be permitted to enforce the restrictive covenant agreements against any Business Employees in their capacity as employees of any Cabinets Party, and (b) in no event shall any Cabinets Party be permitted to enforce the restrictive covenant agreements against any Fortune Brands employees in their capacity as employees of any Fortune Brands Party.

Section 7.04 Severance. Effective as of the Distribution Date, Cabinets will establish a severance plan on substantially the same terms and conditions as the Fortune Brands Home & Security, Inc. United States Severance Plan. Effective as of the Distribution Date, Cabinets shall assume, and Fortune Brands shall have no liability or obligation with respect to the severance benefits provided to Business Employees. Following the Distribution Date, Cabinets shall be solely responsible for administering and paying all benefits under the applicable severance plans, policies or agreements with Business Employees, including Business Employees whose employment terminated prior to the Distribution Date for an eligible reason under such policies or in accordance with such agreements, and Cabinets shall indemnify each of the Fortune Brands Parties for any amounts payable to Business Employees under such plans, policies and agreements. It is not intended that any Fortune Brands Transferred Employee or Cabinets Transferred Employee will be eligible for termination or severance payments or benefits from any Fortune Brands Party as a result of the transfer or change of employment from Fortune Brands to any Cabinets Party or vice versa. Notwithstanding the preceding sentence, in the event that any such termination or severance payments or benefits become payable on account of such transfer, change or the refusal of a Fortune Brands Transferred Employee to accept employment with any Cabinets Party, Cabinets shall indemnify each of the Fortune Brands Parties for the amount of such termination or severance payments or benefits. In the event that any such termination or severance payments or benefits become payable on account of such transfer, change or the refusal of a Cabinets Transferred Employee to accept employment with any Fortune Brands Party, Fortune Brands shall indemnify each of the Cabinets Parties for the amount of such termination or severance payments or benefits.

Section 7.05 Past Service Credit. With respect to all Business Employees, as of the Distribution Date, the Cabinets Parties shall recognize all service recognized under the comparable Fortune Brands Plans and Fortune Brands Non-ERISA Benefit Arrangements for purposes of determining eligibility, participation, vesting and calculation of benefits under comparable plans and programs maintained by the Cabinets Parties, provided that there shall be no duplication of benefits for Business Employees under such Cabinets Party plans and programs. Fortune Brands will provide to Cabinets copies of any records available to Fortune Brands to document such service, plan participation and membership and cooperate with Cabinets to resolve any discrepancies or obtain any missing data for purposes of determining benefit eligibility, participation, vesting and calculation of benefits with respect to the Cabinets Employees. With respect to retaining, destroying, transferring, sharing, copying and permitting access to all such information, Fortune Brands and Cabinets shall each comply with all applicable laws, regulations and internal policies and each party shall indemnify and hold harmless the other party from and against any and all liability, claims, actions and damages that arise from a failure (by the indemnifying party) to so comply with all applicable laws, regulations and internal policies applicable to such information.

Section 7.06 Accrued Vacation Days Off. Effective as of the Distribution Date, the Cabinets Parties shall recognize and assume all liability for all vacation, holiday, sick leave, flex days and personal days off, including banked vacation or sick leave, accrued by Cabinets Employees as of the Distribution Date, and the Cabinets Parties shall credit each Cabinets Employee with such days off accrual.

Section 7.07 Leaves of Absence. The Cabinets Parties shall continue to apply all leave of absence policies as in effect immediately prior to the Distribution to inactive Cabinets Employees who are on an approved leave of absence as of the Distribution Date. Leaves of absence taken by Cabinets Employees prior to the Distribution Date shall be deemed to have been taken as employees of Cabinets.

Section 7.08 Fortune Brands Assets. Except as otherwise set forth herein, Fortune Brands shall retain all reserves, bank accounts, trust funds or other balances maintained with respect to Fortune Brands' Non-ERISA Benefit Arrangements.

Section 7.09 Further Cooperation; Personnel Records; Data Sharing. The parties shall provide each other such records and information as reasonably necessary or appropriate to carry out their obligations under law, this Agreement, or for the purposes of administering their respective plans and policies, including without limitation information relating to the vesting, exercise and employment status of persons holding equity compensation awards in the common stock of the other party. Each party shall be responsible for the accuracy of records and information provided to the other party pursuant to this Section 7.09, and shall indemnify such other party for any losses caused by inaccurate information that it has provided. Subject to applicable law, all information and records regarding employment and personnel matters of Cabinets Employees shall be accessed, retained, held, used, copied and transmitted after the Distribution Date by Cabinets in accordance with all laws and policies relating to the collection, storage, retention, use, transmittal, disclosure and destruction of such records. Access to such records after the Distribution Date will be provided to Fortune Brands in accordance with Article XI of the Distribution Agreement. Notwithstanding the foregoing, Fortune Brands shall retain reasonable access to those records necessary for Fortune Brands' continued administration of any plans or programs on behalf of Business Employees after the Distribution Date, and Cabinets shall retain reasonable access to those records necessary for Cabinet's administration of any equity award or other compensation or benefit payable or administered by the Cabinets Parties after the Distribution Date, provided that such access shall be limited to individuals who have a job-related need to access such records. Fortune Brands shall also retain copies of all confidentiality and non-compete agreements with any Cabinets Employee in which Fortune Brands has a valid business interest. With respect to retaining, destroying, transferring, sharing, copying and permitting access to all such information, Fortune Brands and Cabinets shall each comply with all applicable laws, regulations and internal policies, and each party shall indemnify and hold harmless the other party from and against any and all liability, claims, actions, and damages that arise from a failure (by the indemnifying party) to so comply with all applicable laws, regulations and internal policies applicable to such information.

Article VIII. GENERAL PROVISIONS

Section 8.01 Employment and Plan Rights. Notwithstanding anything to the contrary in this Agreement, the Parties expressly acknowledge and agree that (a) this Agreement is not intended to create an employment-related contract between any of the Fortune Brands Parties or the Cabinets Parties, on the one hand, and any employee or service provider, on the other, nor may any current or former employee or service provider rely on this Agreement as the basis for any breach of any employment-related contract claim against any of the Fortune Brands Parties or Cabinets Parties, (b) nothing in this Agreement shall be deemed or construed to require any of the Fortune Brands Parties or Cabinets Parties to continue to employ any particular employee or service provider for any period before or after the Distribution Date, (c) nothing in this Agreement shall be deemed or construed to limit the right of the Fortune Brands Parties or Cabinets Parties to terminate the employment of any employee or service provider at any time before or after the Distribution Date and (d) nothing in this Agreement shall be construed as establishing or amending any Pension Plan, Welfare Plan or Non-ERISA Benefit Arrangement, or any other plan, policy, agreement or arrangement for the benefit of any employee or any other person.

Section 8.02 Confidentiality. Each party agrees that any information conveyed or otherwise received by or on behalf of a party in conjunction herewith is confidential and is subject to the terms of the confidentiality provisions set forth in Section 11.7 of the Distribution Agreement.

Section 8.03 Administrative Complaints/Litigation. Except as otherwise provided in this Agreement, following the Distribution Date, the Cabinets Parties shall assume, and be solely liable for, the handling, administration, investigation and defense of actions, including ERISA, occupational safety and health, employment standards, union grievances, wrongful dismissal, discrimination or human rights and unemployment compensation claims, asserted at any time against the Fortune Brands Parties or the Cabinets Parties by any Business Employee (including any dependent or beneficiary of any Business Employee), or any other person to the extent such actions or claims arise out of or relate to employment or the provision of services (whether as an employee, contractor, consultant or otherwise) to or with the Cabinets Business.

Section 8.04 Reimbursement and Indemnification. Except as otherwise set forth herein, the parties hereto agree to reimburse each other, within 30 days of receipt from the other party of appropriate verification, for all costs and expenses which each may incur on behalf of the other as a result of any of the Welfare Plans, Pension Plans and Non-ERISA Benefit Arrangements and, as contemplated by Section 7.04, any termination or severance payments or benefits. All liabilities retained, assumed or indemnified against by Cabinets pursuant to this Agreement, and all liabilities retained, assumed or indemnified against by Fortune Brands pursuant to this Agreement, shall in each case shall be subject to the indemnification procedures set forth in Article X of the Distribution Agreement.

Section 8.05 Entire Agreement. This Agreement, including any schedules hereto and the sections of the Distribution Agreement referenced herein, constitutes the entire agreement between the Parties with respect to the subject matter contained herein, and supersedes all prior agreements, negotiations, discussions, understandings, writings and commitments between the Parties with respect to such subject matter.

Section 8.06 Choice of Law. This Agreement shall be governed by and construed and enforced in accordance with the substantive laws of the State of Delaware, as though all acts and omissions related hereto occurred in Delaware.

Section 8.07 Amendment. This Agreement shall not be amended, modified or supplemented except by a written instrument signed by an authorized representative of each of Fortune Brands and Cabinets.

Section 8.08 Waiver. Any term or provision of this Agreement may be waived, or the time for its performance may be extended, by the party or parties entitled to the benefit thereof. Any such waiver shall be validly and sufficiently given for the purposes of this Agreement if, as to any party, it is in writing signed by an authorized representative of such party. The failure of any party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, or in any way to affect the validity of this Agreement or any part hereof or the right of any party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

Section 8.09 Partial Invalidity. Wherever possible, each provision hereof shall be interpreted in such a manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision or provisions shall be ineffective to the extent, but only to the extent, of such invalidity, illegality or unenforceability without invalidating the remainder of such provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

Section 8.10 Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original instrument, but all of which shall be considered one and the same agreement, and shall become binding when one or more counterparts have been signed by and delivered to each of the Parties. Execution and delivery of this Agreement or any other documents pursuant to this Agreement by facsimile or other electronic means, including DocuSign or scanned pages, shall be deemed to be, and shall have the same legal effect as, execution by an original signature and delivery in person.

Section 8.11 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns; provided, however, that the rights and obligations of either party under this Agreement shall not be assignable by such party without the prior written consent of the other party. The successors and permitted assigns hereunder shall include any permitted assignee as well as the successors in interest to such permitted assignee (whether by merger, liquidation (including successive mergers or liquidations) or otherwise).

Section 8.12 Notices. All notices or other communications under this Agreement shall be in writing and shall be deemed to be duly given when delivered or mailed in accordance with the terms of Section 13.10 of the Distribution Agreement.

Section 8.13 Performance. Each party shall cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth herein to be performed by any Affiliate of such party.

Section 8.14 No Public Announcement. Neither Fortune Brands nor Cabinets shall, without the approval of the other, make any press release or other public announcement concerning the transactions contemplated by this Agreement, except as and to the extent that either party shall be so obligated by law or the rules of any regulatory body, stock exchange or quotation system, in which case the other party shall be advised and the parties shall use commercially reasonable efforts to cause a mutually agreeable release or announcement to be issued; provided, however, that the foregoing shall not preclude communications or disclosures necessary to implement the provisions of this Agreement or to comply with applicable law, accounting and SEC disclosure obligations or the rules of any stock exchange.

Section 8.15 Limited Liability. Notwithstanding any other provision of this Agreement, no individual who is a stockholder, director, employee, officer, agent or representative of a Cabinets Party or a Fortune Brands Party, in its capacity as such, shall have any liability in respect of or relating to the covenants or obligations of such party under this Agreement, and, to the fullest extent legally permissible, each of Cabinets and Fortune Brands, for itself and its respective stockholders, directors, employees, officers and Affiliates, waives and agrees not to seek to assert or enforce any such liability that any such Person otherwise might have pursuant to applicable law.

Section 8.16 Mutual Drafting. This Agreement shall be deemed to be the joint work product of Fortune Brands and Cabinets and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

Section 8.17 Dispute Resolution. The Parties agree that any dispute, controversy or claim between them with respect to the matters covered hereby shall be governed by and resolved in accordance with the procedures set forth in Article XII of the Distribution Agreement.

Section 8.18 No Third-Party Beneficiaries. No Business Employee or other current or former employee of the Fortune Brands Parties or Cabinets Parties (or his/her spouse, dependent or beneficiary), or any other person not a party to this Agreement, shall be entitled to assert any claim hereunder. The provisions of this Agreement are solely for the benefit of the Parties and their respective Affiliates, successors and permitted assigns and shall not confer upon any third Person any remedy, claim, liability, reimbursement or other right in excess of those existing without reference to this Agreement.

Section 8.19 Effect if Distribution Does Not Occur. Notwithstanding anything in this Agreement to the contrary, if the Distribution Agreement is terminated prior to the Distribution Date, this Agreement shall be of no further force and effect.

* * * * *

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their names by a duly authorized officer as of the date first written above.

FORTUNE BRANDS HOME & SECURITY, INC.

By: /s/ Nicholas I. Fink
Name: Nicholas I. Fink
Title: Chief Executive Officer

MASTERBRAND, INC.

By: /s/ R. David Banyard, Jr.
Name: R. David Banyard, Jr.
Title: President

[Signature Page to Employee Matters Agreement]

Exhibit 99.1

Fortune Brands Completes Separation of MasterBrand

Company announces effectiveness of Fortune Brands Innovations, Inc. name and FBIN stock ticker

DEERFIELD, Ill – December 15, 2022 – Fortune Brands Innovations, Inc. (NYSE: FBIN or "Fortune Brands" or the "Company"), an industry-leading home, security and commercial building products company, announced it successfully completed the previously announced spin-off of its Cabinets business, MasterBrand, Inc. ("MasterBrand"), creating two independent, publicly traded companies. In addition, the Company's previously announced name change to Fortune Brands Innovations, Inc. and stock ticker change to FBIN became effective.

"Since we announced the intent to separate, our teams have been hard at work ensuring that both Fortune Brands and MasterBrand are prepared for future success and growth opportunities. I am proud today to say that we have successfully met that goal," said Fortune Brands Chief Executive Officer Nicholas Fink. "I'm so impressed with what our teams have accomplished and excited for the future of both these companies, as this separation represents a catalyst to pursue our unique paths for growth and create increased value for consumers, customers and shareholders."

The separation was completed through the distribution of all outstanding shares of MasterBrand common stock to Fortune Brands common stockholders of record as of 5:00 p.m., Central Time, on Friday, December 2, 2022 (the "Record Date"). The distribution of MasterBrand shares was completed at 5:00 p.m., Central Time, on Wednesday, December 14, 2022, with Fortune Brands common stockholders receiving one share of MasterBrand common stock for every share of Fortune Brands' common stock held on the Record Date.

Beginning on December 15, the Company's name is Fortune Brands Innovations, Inc., and shares of the Company will trade on the New York Stock Exchange under the symbol "FBIN" and MasterBrand will begin "regular way" trading under the symbol "MBC".

Leading up to the separation, the Company has outlined its go-forward path and strategy as Fortune Brands Innovations. Underpinned by leading brands, Fortune Brands operates in the three high-growth categories of water, outdoors and security, powered by secular tailwinds including water management, connected products, outdoor living, material conversion, sustainability, safety and wellness.

About Fortune Brands Innovations

Fortune Brands Innovations, Inc. (NYSE: FBIN), headquartered in Deerfield, Ill., is a brand, innovation and channel leader focused on exciting, supercharged categories in the home products, security and commercial building markets. The Company's growing portfolio of brands includes Moen, House of Rohl, Aqualisa, Therma-Tru, Larson, Fiberon, Master Lock and SentrySafe and it is made up of more than 12,000 associates. To learn more about FBIN, its brands and environmental, social and governance (ESG) commitments, visit www.FBIN.com.

CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

This press release contains certain “forward-looking statements” made within the meaning of the Private Securities Litigation Reform Act of 1995. Forward-looking statements include all statements that are not historical statements of fact and those regarding our intent, belief, or expectations, including, but not limited to: general business strategies, market potential, anticipated future financial performance, the potential of our brands, the housing market and other matters. Statements preceded by, followed by or that otherwise include the words “believes”, “positioned”, “expects”, “estimates”, “plans”, “look to”, “outlook”, “intend”, and similar expressions or future or conditional verbs such as “will”, “should”, “would”, “may” and “could” are generally forward-looking in nature and not historical facts. Where, in any forward-looking statement, we express an expectation or belief as to future results or events, such expectation or belief is based on the current plans and expectations of our management. Although we believe that these statements are based on reasonable assumptions, they are subject to numerous factors, risks and uncertainties that could cause actual outcomes and results to be materially different from those indicated in such statements, including, but not limited to: the expected benefits and costs of the spin-off transaction; the tax-free nature of the spin-off; general business and economic conditions; our reliance on the North American repair and remodel and new home construction activity levels; our reliance on key customers and suppliers; our ability to maintain our strong brands and to develop innovative products while maintaining our competitive positions; our ability to improve organizational productivity and global supply chain efficiency; our ability to obtain raw materials and finished goods in a timely and cost-effective manner; the impact of sustained inflation, including global commodity and energy availability and price volatility; the impact of trade-related tariffs and risks with uncertain trade environments or changes in government and industry regulatory standards; our ability to attract and retain qualified personnel and other labor constraints; the uncertainties relating to the impact of COVID-19 on the Company’s business and results; our ability to achieve the anticipated benefits of our strategic initiatives; our ability to successfully execute our acquisition strategy and integrate businesses that we have and may acquire; and the other factors discussed in our securities filings, including in Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2021, filed with the Securities and Exchange Commission. The forward-looking statements included in this release are made as of the date hereof, and except as required by law, we undertake no obligation to update, amend or clarify any forward-looking statements to reflect events, new information or circumstances occurring after the date of this release.

Source: Fortune Brands Innovations, Inc.

INVESTOR CONTACT:
Investor.Questions@fbhs.com

MEDIA CONTACT:
Media.Relations@fbhs.com

Exhibit 99.2

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED FINANCIAL INFORMATION

The following unaudited pro forma condensed consolidated financial information should be read in conjunction with our historical consolidated financial statements and accompanying notes.

On December 14, 2022 (the "Distribution Date"), Fortune Brands Innovations, Inc. (the "Company", "Fortune Brands", "we", "our", or "us") a Delaware corporation, completed the previously announced separation of its cabinets business into a separate, independent publicly traded company, MasterBrand, Inc. ("Cabinets", or "MasterBrand"). The separation was structured as a spin-off (the "Spin-off"), which was completed by means of distribution in which each holder of record of Fortune Brands shares, as of 5:00 pm, Central Time, on December 2, 2022 (the "Record Date"), received a pro rata dividend of one Cabinets share, par value $0.01 per share, for each Fortune Brands share held as of the Record Date. Immediately prior to the distribution, Fortune Brands received a one-time $940 million cash payment from MasterBrand. Following the distribution, MasterBrand became an independent public company trading under the symbol "MBC" on the New York Stock Exchange, and Fortune Brands retains no ownership interest in MasterBrand. Fortune Brands will no longer consolidate MasterBrand into its financial results (the entire transaction being referred to as the "Separation").

The unaudited pro forma condensed consolidated financial information has been derived from the Company's historical consolidated financial statements and gives effect to the Separation. The unaudited pro forma condensed consolidated statements of operations for the nine months ended September 30, 2022, and for each of the years ended December 31, 2021, 2020 and 2019 reflect the Company's operating results as if the Separation had occurred as of January 1, 2019. The unaudited pro forma condensed consolidated balance sheet as of September 30, 2022, reflects the Company's financial position as if the Separation had occurred on such date. After the date of the Separation, the historical financial results of MasterBrand will be reflected in our consolidated financial statements as discontinued operations under U.S. generally accepted accounting principles ("GAAP") for all periods.

The unaudited pro forma condensed consolidated financial information has been prepared based upon the best available information and management estimates and is subject to the assumptions and adjustments described below and in the accompanying notes to the unaudited pro forma condensed consolidated financial information. The pro forma financial information is not intended to be a complete presentation of the Company's financial position or results of operations had the Separation occurred as of and for the periods presented. In addition, the unaudited pro forma condensed consolidated financial information is provided for illustrative and informational purposes only and is not necessarily indicative of the Company's future results of operations or financial condition had the Separation been completed on the dates assumed. The actual financial position and results of operations may differ significantly from the pro forma amounts reflected herein due to a variety of factors. Management believes these assumptions and adjustments are reasonable, given the information available at the filing date.

The "Historical Fortune Brands" column in the unaudited pro forma condensed consolidated financial information reflects our historical condensed consolidated financial statements for each of the periods presented and does not reflect any adjustments related to the Separation and related transactions.

The "MasterBrand Discontinued Operations" column in the unaudited pro forma condensed consolidated financial information gives effect to the Separation and has been prepared consistent with the guidance for discontinued operations, ASC 205-20 Presentation of Financial Statements – Discontinued Operations ("ASC 205-20"), under U.S. GAAP. Therefore, the Company did not allocate any of our general corporate overhead expenses to the discontinued operation. As such, the unaudited pro forma condensed consolidated financial information does not reflect what our results of operations would have been on a stand-alone basis and is not necessarily indicative of future results of operations. In addition, our current estimates for discontinued operations are preliminary and actual results could differ from these estimates as the Company finalizes the discontinued operations accounting to be reported in the Company's 2022 Annual Report on Form 10-K.

The "Transaction Accounting Adjustments" column in the unaudited pro forma condensed consolidated financial information is based on currently available information and assumptions management believes are, under the circumstances and given the information available at this time, reasonable, and best reflect the Separation on the Company's financial condition and results of operations.

The pro forma financial information includes the impact of the Tax Allocation Agreement. We considered the impact of the Transition Services Agreement and the Employee Matters Agreement and determined that no further pro forma adjustments were necessary as the agreements are not expected to have a material impact on the unaudited pro forma condensed consolidated balance sheet as of September 30, 2022 or the unaudited pro forma condensed consolidated statements of income for the year ended December 31, 2021 and the nine months ended September 30, 2022.

Unaudited Pro Forma Condensed Consolidated Statement of Income
For the Nine Months Ended September 30, 2022
(in millions, except per share amounts)

(In millions, except per share amounts)	Nine Months Ended September 30, 2022		
	Historical Fortune Brands	MasterBrand Discontinued Operations (Note 1)	Pro Forma Fortune Brands
NET SALES	$6,082.0	$ (2,491.1)	$ 3,590.9
Cost of products sold	3,895.9	(1,765.7)	2,130.2
Selling, general and administrative expenses	1,259.4	(448.8)	810.6
Amortization of intangible assets	48.9	(13.2)	35.7
Asset impairment charges	26.0	(26.0)	—
Restructuring charges	33.1	(10.9)	22.2
OPERATING INCOME	818.7	(226.5)	592.2
Interest expense	85.4	(29.5)	55.9
Other expense (income), net	(3.6)	(1.5)	(5.1)
Income from continuing operations before income taxes	736.9	(195.5)	541.1
Income taxes	159.8	(56.6)	103.2
Income after tax	577.1	(138.9)	438.2
Equity in losses of affiliate	—	—	—
NET INCOME	577.1	(138.9)	438.2
Less: Noncontrolling interests	—	—	—
NET INCOME ATTRIBUTABLE TO FORTUNE BRANDS	$ 577.1	$ (138.9)	$ 438.2
BASIC EARNINGS PER COMMON SHARE	$ 4.40		$ 3.34
DILUTED EARNINGS PER COMMON SHARE	$ 4.37		$ 3.32
Basic average number of shares outstanding	131.2		131.2
Diluted average number of shares outstanding	132.1		132.1

See accompanying notes to unaudited pro forma condensed consolidated financial information.

Unaudited Pro Forma Condensed Consolidated Statement of Income
For the Year Ended December 31, 2021
(in millions, except per share amounts)

(In millions, except per share amounts)	Year Ended December 31, 2021				
	Historical Fortune Brands	MasterBrand Discontinued Operations (Note 1)	Transaction Accounting Adjustments	Note 2	Pro Forma Fortune Brands
NET SALES	$7,656.1	$ (2,855.3)	$ —		$4,800.8
Cost of products sold	4,909.1	(2,068.7)	—		2,840.4
Selling, general and administrative expenses	1,579.0	(485.5)	—		1,093.5
Amortization of intangible assets	64.1	(17.8)	—		46.3
Asset impairment charges	—	—	—		—
Restructuring charges	13.5	(4.2)	—		9.3
OPERATING INCOME	1,090.4	(279.1)	—		811.3
Interest expense	84.4	(30.7)	—		53.7
Other expense (income), net	0.9	(0.4)	(4.0)	(d)	(3.5)
Income from continuing operations before income taxes	1,005.1	(248.0)	4.0		761.1
Income taxes	232.7	(58.2)	1.0	(d)	175.5
Income after tax	772.4	(189.8)	3.0		585.6
Equity in losses of affiliate	—	—	—		—
NET INCOME	772.4	(189.8)	3.0		585.6
Less: Noncontrolling interests	—	—	—		—
NET INCOME ATTRIBUTABLE TO FORTUNE BRANDS	$ 772.4	$ (189.8)	3.0		$ 585.6
BASIC EARNINGS PER COMMON SHARE	$ 5.62				$ 4.26
DILUTED EARNINGS PER COMMON SHARE	$ 5.54				$ 4.20
Basic average number of shares outstanding	137.5				137.5
Diluted average number of shares outstanding	139.5				139.5

See accompanying notes to unaudited pro forma condensed consolidated financial information.

Unaudited Pro Forma Condensed Consolidated Statement of Income
For the Year Ended December 31, 2020
(in millions, except per share amounts)

(In millions, except per share amounts)	Year Ended December 31, 2020		
	Historical Fortune Brands	MasterBrand Discontinued Operations (Note 1)	Pro Forma Fortune Brands
NET SALES	$6,090.3	$ (2,469.3)	$3,621.0
Cost of products sold	3,925.9	(1,769.0)	2,156.9
Selling, general and administrative expenses	1,282.6	(434.3)	848.3
Amortization of intangible assets	42.0	(17.8)	24.2
Asset impairment charges	22.5	(9.5)	13.0
Restructuring charges	15.9	(5.5)	10.4
OPERATING INCOME	801.4	(233.2)	568.2
Interest expense	83.9	(29.4)	54.5
Other expense (income), net	(13.3)	(2.2)	(15.5)
Income from continuing operations before income taxes	730.8	(201.6)	529.2
Income taxes	168.8	(51.8)	117.0
Income after tax	562.0	(149.8)	412.2
Equity in losses of affiliate	7.6	—	7.6
NET INCOME	554.4	(149.8)	404.6
Less: Noncontrolling interests	1.3	—	1.3
NET INCOME ATTRIBUTABLE TO FORTUNE BRANDS	$ 553.1	$ (149.8)	$ 403.3
BASIC EARNINGS PER COMMON SHARE	$ 3.99		$ 2.91
DILUTED EARNINGS PER COMMON SHARE	$ 3.94		$ 2.88
Basic average number of shares outstanding	138.7		138.7
Diluted average number of shares outstanding	140.2		140.2

See accompanying notes to unaudited pro forma condensed consolidated financial information.

Unaudited Pro Forma Condensed Consolidated Statement of Income
For the Year Ended December 31, 2019
(In millions, except per share amounts)

(In millions, except per share amounts)	Year Ended December 31, 2019		
	Historical Fortune Brands	MasterBrand Discontinued Operations (Note 1)	Pro Forma Fortune Brands
NET SALES	$5,764.6	$ (2,388.7)	$3,375.9
Cost of products sold	3,712.2	(1,697.0)	2,015.2
Selling, general and administrative expenses	1,256.3	(444.7)	811.6
Amortization of intangible assets	41.4	(17.8)	23.6
Asset impairment charges	41.5	(41.5)	—
Restructuring charges	14.7	(10.2)	4.5
OPERATING INCOME	698.5	(177.5)	521.0
Interest expense	94.2	(42.0)	52.2
Other expense (income), net	29.0	(9.5)	19.5
Income from continuing operations before income taxes	575.3	(126.0)	449.3
Income taxes	144.0	(33.6)	110.4
Income after tax	431.3	(92.4)	338.9
Equity in losses of affiliate	—	—	—
NET INCOME	431.3	(92.4)	338.9
Less: Noncontrolling interests	(0.6)	—	(0.6)
NET INCOME ATTRIBUTABLE TO FORTUNE BRANDS	$ 431.9	$ (92.4)	$ 339.5
BASIC EARNINGS PER COMMON SHARE	$ 3.09		$ 2.43
DILUTED EARNINGS PER COMMON SHARE	$ 3.06		$ 2.40
Basic average number of shares outstanding	139.9		139.9
Diluted average number of shares outstanding	141.3		141.3

See accompanying notes to unaudited pro forma condensed consolidated financial information.

Unaudited Pro Forma Condensed Consolidated Balance Sheet
As of September 30, 2022
(in millions)

(In millions)	As of September 30, 2022 Historical Fortune Brands	MasterBrand Discontinued Operations (Note 1)	Transaction Accounting Adjustments	Note 2	Pro Forma Fortune Brands
ASSETS					
Current assets					
Cash and cash equivalents	$ 345.3	$ (38.6)	$ 940.0	(b)	$ 1,246.7
Accounts receivable less allowances for discounts and credit losses	936.1	(326.0)	—		610.1
Inventories	1,502.3	(416.2)	—		1,086.1
Other current assets	223.9	(64.1)	22.0	(c)	181.8
TOTAL CURRENT ASSETS	3,007.6	(844.9)	962.0		3,124.7
Property, plant and equipment, net of accumulated depreciation	1,097.7	(341.2)	—		756.5
Operating lease assets	177.0	(55.2)	—		121.8
Goodwill	2,546.2	(924.3)	—		1,621.9
Other intangible assets, net of accumulated amortization	1,375.9	(374.3)	—		1,001.6
Other assets	211.2	(21.9)	4.0	(d)	193.3
TOTAL ASSETS	$ 8,415.6	$ (2,561.8)	$ 966.0		$ 6,819.8
LIABILITIES AND EQUITY					
Current liabilities					
Short-term debt	600.3	—	—		600.3
Accounts payable	672.6	(209.9)	—		462.7
Other current liabilities	775.0	(303.3)	51.6	(a), (d)	523.3
TOTAL CURRENT LIABILITIES	2,047.9	(513.2)	51.6		1,586.3
Long-term debt	2,786.9	—	—		2,786.9
Deferred income taxes	222.7	(105.1)	—		117.6
Accrued defined benefit plans	62.3	(7.5)	—		54.8
Operating lease liabilities	142.4	(43.3)	—		99.1
Other non-current liabilities	123.3	(5.8)	—		117.5
TOTAL LIABILITIES	5,385.5	(674.9)	51.6		4,762.2
Equity					
Common stock	1.9	(0.0)	—		1.9
Paid-in capital	3,058.9	(552.1)	940.0	(b)	3,446.8
Accumulated other comprehensive loss	(2.2)	14.3	—		12.1
Retained earnings	3,277.0	(1,349.1)	(25.6)	(a), (c), (d)	1,902.3
Treasury stock	(3,305.5)	—	—		(3,305.5)
TOTAL FORTUNE BRANDS EQUITY	3,030.1	(1,886.9)	914.4		2,057.6
TOTAL LIABILITIES AND EQUITY	$ 8,415.6	$ (2,561.8)	$ 966.0		$ 6,819.8

See accompanying notes to unaudited pro forma condensed consolidated financial information.

Notes to the Unaudited Condensed Consolidated Financial Statements

Note 1: Basis of Presentation

The unaudited pro forma condensed consolidated financial information has been prepared from Fortune Brands' historical accounting records and in accordance with Article 11 of SEC Regulation S-X Pro Forma Financial Information.

The MasterBrand discontinued operations reflects associated assets, liabilities, and stockholders' equity and results of operations attributable to MasterBrand which were included in the Company's historical consolidated financial statements in accordance with ASC 205-20. Included within the results of MasterBrand discontinued operations is a voluntary allocation of Fortune Brands' consolidated interest expense based on MasterBrand's proportionate share of consolidated net assets and related income tax impacts based on statutory tax rates relevant to the MasterBrand business. The amounts exclude the following:

i. General corporate overhead costs which were historically allocated to MasterBrand that do not meet the requirements to be presented in discontinued operations. Such allocations included labor and non-labor costs related to the Company's corporate support functions (e.g., administration, human resources, finance, accounting, tax, information technology, corporate development, legal, among others) that historically provided support to MasterBrand.

ii. The impact of intercompany activity that was eliminated in consolidation.

Note 2: Transaction Accounting Adjustments

(a) Reflects the accrual for an estimated $50.6 million of non-recurring transaction costs expected to be incurred after September 30, 2022 in connection with the completion of the Separation, primarily related to investment bank fees, third-party advisor fees, legal and professional fees and other costs directly related to the Separation. These additional non-recurring costs have not been reflected in the unaudited Pro Forma Condensed Consolidated Statements of Operations as they will be reflected in Income (loss) from discontinued operations in the Company's consolidated financial statements in the period such transaction costs are incurred.

(b) Reflects a cash payment, in the form of a dividend, by MasterBrand to Fortune Brands in the amount of $940.0 million in connection with the Separation.

(c) Reflects an adjustment to Other Current Assets of $22.0 million for an estimated reimbursement to Fortune Brands for MasterBrand's portion of the consolidated 2022 U.S. federal income tax liability under the Tax Allocation Agreement that was reflected as an intercompany receivable due from MasterBrand prior to the Separation.

(d) Reflects the establishment of a $4.0 million indemnification asset pursuant to the Tax Allocation Agreement related to uncertain tax positions associated with the historical MasterBrand business. The tax impact of this pro forma adjustment resulted in an incremental income tax expense of $1.0 million, with a corresponding increase to the current tax liability based on a 25% combined state and federal statutory rate.