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

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**FORM 8-K**

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**CURRENT REPORT**  
Pursuant to Section 13 OR 15(d)  
of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported) November 9, 2022

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**CONSTELLATION BRANDS, INC.**

(Exact name of registrant as specified in its charter)

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Delaware  
(State or other jurisdiction  
of incorporation)

001-08495  
(Commission  
File Number)

16-0716709  
(IRS Employer  
Identification No.)

207 High Point Drive, Building 100, Victor, NY 14564  
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code (585) 678-7100

Not Applicable  
(Former name or former address, if changed since last report.)

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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 (see General Instruction A.2. below):

- 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
Class A Common Stock	STZ	New York Stock Exchange
Class B Common Stock	STZ.B	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.

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## Introductory Note

On November 10, 2022, Constellation Brands, Inc. (“Constellation” or the “Company”) completed its previously announced reclassification (the “Reclassification”) of the Company’s common stock to eliminate its Class B Common Stock, par value \$0.01 per share (“Class B Common Stock”), effective at the time that the Company’s Amended and Restated Certificate of Incorporation (the “Amended and Restated Charter”) was duly filed with the Secretary of State of the State of Delaware on such date (the “Effective Time”), as contemplated by that certain Reclassification Agreement, dated as of June 30, 2022 (the “Reclassification Agreement”), by and among the Company, Richard Sands, Robert Sands, other members of the Sands family and certain of their related entities (the “Sands Family Stockholders”). Pursuant to the Reclassification, each share of Class B Common Stock issued and outstanding immediately prior to the Effective Time was reclassified, exchanged and converted into one share of Class A Common Stock, par value \$0.01 per share, of the Company (“Class A Common Stock”) and the right to receive \$64.64 in cash, without interest.

The sources of the funds for the approximately \$1.5 billion cash payment to the holders of Class B Common Stock in the Reclassification consisted of (i) \$1.0 billion in term loans under the Credit Agreement (as defined below); and (ii) approximately \$500.0 million in proceeds of borrowings under the Company’s commercial paper program.

The issuance of Class A Common Stock in connection with the Reclassification was registered under the Securities Act of 1933, as amended (the “Securities Act”), pursuant to the Company’s registration statement on Form S-4 (File No. 333-266434), filed with the Securities and Exchange Commission (the “SEC”) and declared effective on September 21, 2022 (the “Form S-4”).

### Item 1.01 Entry into a Material Definitive Agreement.

At the Effective Time, the Company and the Sands Family Stockholders entered into a Registration Rights Agreement, dated as of November 10, 2022 (the “Registration Rights Agreement”).

Pursuant to the Registration Rights Agreement, the Sands Family Stockholders will be provided certain rights relating to the registration of their common stock, including (1) a requirement that the Company use its reasonable best efforts to file with the SEC and have declared effective, as promptly as practicable following the execution of the Registration Rights Agreement, a “shelf” registration statement providing for the registration of the Sands Family Stockholders’ shares of common stock and (2) specified demand and piggyback registration rights.

The foregoing description of the Registration Rights Agreement is a summary, does not purport to be complete, and is qualified in its entirety by reference to the text of the Registration Rights Agreement, a copy of which is filed herewith as Exhibit 10.1 and is incorporated herein by reference.

### Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth in the Introductory Note of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

On November 10, 2022, the Company borrowed \$1.0 billion under the delayed draw term loan credit agreement (the “Credit Agreement”) dated as of August 9, 2022, by and among the Company, Bank of America, N.A., as administrative agent, and the lenders party thereto. The material terms of the Credit Agreement are described in Item 1.01 of Constellation’s Current Report on Form 8-K dated August 9, 2022, which description is incorporated herein by reference.

### Item 3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

The information set forth in the Introductory Note of this Current Report on Form 8-K is incorporated by reference into this Item 3.01.

In connection with the completion of the Reclassification, on November 10, 2022, the Company requested that the New York Stock Exchange (the “NYSE”) suspend trading of the Class B Common Stock, remove the Class B Common Stock from listing on the NYSE, and file with the SEC a notification of removal from listing on Form 25 with respect to the delisting of the Class B Common Stock and the deregistration of the Class B Common Stock under Section 12(b) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”). The Company intends to file with the SEC a certification on Form 15 requesting deregistration of the Class B Common Stock and suspending the Company’s reporting obligations under Sections 13 and 15(d) of the Exchange Act in respect of the Class B Common Stock. The Class B Common Stock, which trades under the ticker symbol “STZ.B”, will cease to be traded on the NYSE as of the close of trading on November 10, 2022. The Class A Common Stock will continue to trade on the NYSE under the ticker symbol “STZ” and will continue to be registered under Section 12(b) of the Exchange Act.

### Item 3.03 Material Modification to Rights of Security Holders.

The information set forth in the Introductory Note and Item 5.03 of this Current Report on Form 8-K is incorporated by reference into this Item 3.03.

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

The information set forth in the Introductory Note of this Current Report on Form 8-K is incorporated by reference into this Item 5.02.

Pursuant to the Reclassification Agreement, as of the Effective Time, (i) Mr. Robert Sands retired from his position as Executive Chairman of the Board and (ii) the board of directors of the Company (the “Board”) appointed him as Non-Executive Chairman of the Board. Also as of the Effective Time, Mr. Richard Sands retired from his position as Executive Vice Chairman of the Board, and he will continue to serve as a non-executive member of the Board.

In connection with such retirements, each of Messrs. Robert and Richard Sands will be entitled to receive the payments, benefits and other rights due upon a “retirement,” as set forth in Section 6 of their respective employment agreements with the Company, each dated as of May 21, 2008. These payments and benefits are described further in the Form S-4, are pre-existing obligations under their existing employment agreements and not newly negotiated or awarded benefits, and generally consist of, in the case of Messrs. Robert and Richard Sands:

- a lump sum cash payment equal to three times their base salary and three times the average annual bonus paid to each such person over the prior three fiscal years;
- payments equal to the total monthly cost of each such person’s medical and dental coverage in effect at the time of termination extending for 36 months;
- outplacement services for a period of up to 18 months; and
- continued personal use of the Company’s corporate aircraft, when not needed for business purposes, free of charge (except for personal income taxes triggered by such usage which shall be the responsibility of that person), at comparable levels to that provided over the three-year period prior to termination and continued participation in the Company’s annual product allowance program, in each case, for a period of three years following termination.

Further, upon retirement, each of Messrs. Robert and Richard Sands became eligible for continued vesting of stock option awards (provided they have remained employed through the first day of November of the year of grant) and a pro-rata bonus under the Company’s annual management incentive plan.

Each of Messrs. Robert and Richard Sands is currently eligible for retirement under the terms of his respective employment agreement with the Company and any other applicable plans of the Company, and accordingly would generally be entitled to these payments, benefits and other rights upon his resignation from employment, without regard to the consummation of the Reclassification.

As Non-Executive Chairman of the Board, Mr. Robert Sands will receive the compensation paid to non-management directors for service on the Board and its committees. However, as his service commenced outside the annual meeting timeframe, the amount of his annual cash Board retainer, his annual cash Board Chair retainer, and the number of shares subject to his annual stock option grants and restricted stock unit awards, will be prorated from the date his service commences to the scheduled date of the Company’s next annual meeting of stockholders at which directors are elected. Mr. Richard Sands will receive a pro-rated amount of the annual cash Board retainer, and the number of shares subject to his annual stock option grants and restricted stock unit awards will be prorated from the date his service commences to the scheduled date of the Company’s next annual meeting of stockholders at which directors are elected. A description of the non-management director compensation program, as of November 10, 2022, is filed herewith as Exhibit 10.2 and is incorporated herein by reference.

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

The information set forth in the Introductory Note of this Current Report on Form 8-K is incorporated by reference into this Item 5.03.

On November 10, 2022, the Company filed the Amended and Restated Charter with the Secretary of the State of Delaware, giving effect to the Reclassification, effective as of the Effective Time.

At the Effective Time, the Board also amended and restated the Company's By-Laws (the "Amended and Restated By-Laws") to implement certain conforming changes in connection with the Amended and Restated Charter and certain other changes to update the Amended and Restated By-Laws in accordance with best corporate practices. The amendments, among other things:

- adopt a majority voting standard for uncontested director elections, with a plurality voting carveout for contested director elections;
- include a requirement that stockholders nominating directors to the Board certify their compliance with the SEC's universal proxy rules;
- specify that special meetings of the Board may be called by a majority of the whole Board, as well as by the Chair of the Board, the Company's chief executive officer and certain officers of the Company;
- include revisions to the advance notice requirements for stockholders making director nominations, including (i) establishing clear eligibility requirements for requesting the Company's director and officer questionnaire and other nomination materials and providing that the Company has five business days to respond to such requests and (ii) enhancing the Company's ability to request supplemental information from Board nominees after the nomination deadline;
- clarify that a meeting of the Company's stockholders may be held in a hybrid format as opposed to solely in-person or remotely;
- provide for the chair of a meeting of the Company's stockholders to prescribe restrictions on the use of cellular phones, audio or video recording devices and similar devices at a meeting of the Company's stockholders;
- eliminate references to the Chair of the Board position as an officer of the Company and specify that the Chair of the Board has the customary duties and authority of a Chair of the Board;
- include conforming changes in response to certain amendments to the General Corporation Law of the State of Delaware that took effect on August 1, 2022, including (i) updating the methods for giving notice of adjourned stockholder meetings to address the adjournment of virtual meetings and (ii) eliminating the requirement that a stocklist be made available during meetings of the Company's stockholders; and
- eliminate gender-specific references throughout the Amended and Restated By-Laws, as well as references to the Vice Chairman of the Board position.

The foregoing descriptions of the Amended and Restated Charter and the Amended and Restated By-Laws are summaries, do not purport to be complete, and are qualified in their entirety by reference to the text of the Amended and Restated Charter and the Amended and Restated By-Laws, respectively, copies of which are filed herewith as Exhibits 3.1 and 3.2 and are incorporated herein by reference.

**Item 5.07 Submission of Matters to a Vote of Security Holders.**

A special meeting of the stockholders of the Company was held virtually on November 9, 2022 (the "Special Meeting") at which the Company's stockholders voted on the proposal set forth below relating to the Reclassification, as further described in detail in the definitive proxy statement/prospectus of the Company filed with the SEC on September 21, 2022, which was first mailed to the Company's stockholders on or about September 27, 2022 (the "Proxy Statement").

As of September 20, 2022, the record date for the Special Meeting (the "Record Date"), there were 161,224,102 shares of Class A Common Stock and 23,205,885 shares of Class B Common Stock outstanding and entitled to vote at the Special Meeting.

Proposal 1 described below (the "Reclassification Proposal") required that not less than 50.3% of the issued and outstanding shares of Class A Common Stock held by the Unaffiliated Class A Holders (as defined in the Proxy Statement) vote "FOR" such proposal. The Reclassification Proposal was also required to be approved and adopted by the affirmative vote of the holders of (a) a majority of the voting power of the issued and outstanding shares of Class A Common Stock and Class B Common Stock entitled to vote thereon, voting together as a single class and (b) a majority of the issued and outstanding shares of Class B Common Stock.

When holders of Class A Common Stock and holders of Class B Common Stock vote together as a single class, each holder of Class A Common Stock is entitled to one vote for each share of Class A Common Stock registered in such holder's name and each holder of Class B Common Stock is entitled to ten votes for each share of Class B Common Stock registered in such holder's name. When holders of Class A Common Stock and holders of Class B Common Stock vote as separate classes, holders of Class A Common Stock and Class B Common Stock are each entitled to one vote per share.

At the Special Meeting there were present virtually or represented by proxy, stockholders holding 133,739,445 shares of Class A Common Stock and 23,052,143 shares of Class B Common Stock, representing (i) approximately 92.6% of the votes entitled to be cast at the Special Meeting by the holders of all outstanding shares of Class A Common Stock and Class B Common Stock entitled to vote, (ii) approximately 99.3% of the issued and outstanding shares of Class B Common Stock and (iii) approximately 82.9% of the issued and outstanding shares of Class A Common Stock.

#### **Proposal 1 - Reclassification Proposal**

A proposal to approve and adopt the Amended and Restated Charter, which would effectuate the Reclassification, was approved as set forth below.

The Unaffiliated Class A Holders approved the proposal to adopt the Amended and Restated Charter, based on the following numbers of votes:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
115,277,091	11,006,108	129,476	0

The holders of issued and outstanding shares of Class A Common Stock and Class B Common Stock entitled to vote thereon, voting as a single class, approved the proposal to adopt the Amended and Restated Charter, based on the following numbers of votes:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
353,025,231	11,066,968	168,676	0

The holders of issued and outstanding shares of Class B Common Stock, with holders of Class B Common Stock having one (1) vote per share, approved the proposal to adopt the Amended and Restated Charter, based on the following numbers of votes:

<u>Votes For</u>	<u>Votes Against</u>	<u>Abstentions</u>	<u>Broker Non-Votes</u>
23,042,137	6,086	3,920	0

#### **Proposal 2 - Adjournment Proposal**

In light of the approval of Proposal 1, Proposal 2 described in the Proxy Statement (relating to the adjournment of the Special Meeting if necessary or appropriate) was rendered moot and was not presented at the Special Meeting.

#### **Item 7.01 Regulation FD Disclosure.**

On November 9, 2022, the Company issued a news release announcing the results of the stockholder vote on the Reclassification Proposal at the Special Meeting. A copy of the news release is furnished herewith as Exhibit 99.1 and is incorporated herein by reference.

On November 10, 2022, the Company issued a news release announcing the matters discussed in this Current Report on Form8-K. A copy of the news release is furnished herewith as Exhibit 99.2 and is incorporated herein by reference.

References to the Company's website and/or other social media sites or platforms in the news releases do not incorporate by reference the information on such websites, social media sites, or platforms into this Current Report on Form 8-K, and Constellation disclaims any such incorporation by reference. The information in the news releases attached as Exhibit 99.1 and Exhibit 99.2 are incorporated by reference into this Item 7.01 in satisfaction of the public disclosure requirements of Regulation FD. This information is "furnished" and not "filed" for purposes of Section 18 of the Exchange Act and is not otherwise subject to the liabilities of that section. Such information may be incorporated by reference in another filing under the Exchange Act or the Securities Act only if and to the extent such subsequent filing specifically references the information incorporated by reference herein.

**Item 8.01 Other Events.**

The information contained in Exhibit 99.3, which is incorporated by reference herein, is hereby provided to replace and supersede the description of the Company's capital stock included in the Company's Form 8-A filed with the SEC on October 4, 1999, as subsequently updated by the description of the Company's capital stock set forth in Exhibit 4.34 to the Company's Annual Report on Form 10-K for the fiscal year ended February 28, 2022, filed with the SEC on April 21, 2022, for purposes of SEC forms that require or allow a description of the Company's capital stock to be incorporated by reference from a registration statement or report filed under the Exchange Act.

**Item 9.01 Financial Statements and Exhibits.**

For the exhibits that are filed or furnished herewith, see the Index to Exhibits immediately following.

**INDEX TO EXHIBITS**

<b><u>Exhibit No.</u></b>	<b><u>Description</u></b>
(3)	ARTICLES OF INCORPORATION AND BYLAWS
(3.1)	<a href="#">Amended and Restated Certificate of Incorporation of Constellation Brands, Inc.</a>
(3.2)	<a href="#">Amended and Restated By-Laws of Constellation Brands, Inc.</a>
(10)	MATERIAL CONTRACTS
(10.1)	<a href="#">Registration Rights Agreement, dated as of November 10, 2022, by and among Constellation Brands, Inc. and the stockholders party thereto.</a>
(10.2)	<a href="#">Description of Compensation Arrangements, as of November 10, 2022, for Non-Management Directors.*</a>
(99)	ADDITIONAL EXHIBITS
(99.1)	<a href="#">News Release of Constellation Brands, Inc. dated November 9, 2022.</a>
(99.2)	<a href="#">News Release of Constellation Brands, Inc. dated November 10, 2022.</a>
(99.3)	<a href="#">Description of the Registrant's Securities Registered Pursuant to Section 12 of the Exchange Act.</a>
(104)	Cover Page Interactive Data File (embedded within the Inline XBRL document).

\* Designates management contract or compensatory plan or arrangement

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**Forward-Looking Statements**

This Current Report on Form 8-K contains forward-looking statements. All statements other than statements of historical fact are forward-looking statements. The word “expect,” and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain such identifying words. These statements may relate to future plans and objectives of management, as well as information concerning expected actions of third parties. All forward-looking statements involve risks and uncertainties that could cause actual results to differ materially from those set forth in, or implied by, such forward-looking statements.

The forward-looking statements are based on management’s current expectations and should not be construed in any manner as a guarantee that such results will in fact occur. All forward-looking statements speak only as of the date of this Current Report on Form 8-K and Constellation does not undertake any obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

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**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.

**CONSTELLATION BRANDS, INC.**

By: /s/ Garth Hankinson  
Garth Hankinson  
Executive Vice President and Chief Financial Officer

Date: November 10, 2022



**AMENDED AND RESTATED CERTIFICATE OF INCORPORATION**  
**OF**  
**CONSTELLATION BRANDS, INC.**

(Pursuant to Sections 242 and 245  
of the General Corporation Law of the State of Delaware)

Constellation Brands, Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware, hereby certifies as follows:

FIRST. The present name of the corporation is Constellation Brands, Inc. (the "Corporation").

The name under which the Corporation was originally incorporated was Canandaigua Wine Company, Inc.; and the date of filing of the original certificate of incorporation with the Secretary of State of the State of Delaware was December 4, 1972.

SECOND. This Amended and Restated Certificate of Incorporation of the Corporation restates and integrates, and also further amends, the provisions of the certificate of incorporation of the Corporation, as heretofore amended and restated.

THIRD. This Amended and Restated Certificate of Incorporation of the Corporation has been duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law of the State of Delaware.

FOURTH. The text of the certificate of incorporation of the Corporation, as heretofore amended, is hereby amended and restated in its entirety to read as follows:

1. Name. The name of the Corporation is Constellation Brands, Inc.

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

3. Purposes. The nature of business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

4. Capitalization: General Authorization

(i) The total number of shares of stock which the Corporation shall have authority to issue is (348,000,000) consisting of:

(a) Class A Common. Three Hundred Twenty-Two Million (322,000,000) shares designated as Class A Common Stock, having a par value of One Cent (\$.01) per share (the "Class A Common");

(b) Class 1 Common. Twenty-Five Million (25,000,000) shares designated as Class 1 Common Stock, having a par value of One Cent (\$.01) per share (the "Class 1 Common"); and

(c) Preferred Stock. One Million (1,000,000) shares designated as Preferred Stock, having a par value of One Cent (\$.01) per share (the "Preferred Stock").

(ii) Immediately upon the filing and effectiveness of this Amended and Restated Certificate of Incorporation with the Secretary of State of the State of Delaware (the "Effective Time"), automatically and without further action on the part of the Corporation or the holders of capital stock of the Corporation, each share of Class B Common Stock, having a par value of One Cent (\$.01) per share, of the Corporation (the "Former

Class B Common”), issued and outstanding or held by the Corporation as treasury stock as of immediately prior to the Effective Time shall be reclassified as, and be converted into, one (1) validly issued, fully paid and non-assessable shares of Class A Common (the “Stock Consideration”) and the right to receive \$64.64 in cash, without interest (the “Cash Consideration” and such reclassification, the “Class B Common Reclassification”). The procedures for exchanging or transferring, as applicable, the certificated and book-entry shares of Former Class B Common following the Effective Time and for receiving the Stock Consideration and the Cash Consideration upon such exchange or transfer are set forth in that certain Reclassification Agreement by and among the Corporation and the persons named therein, dated June 29, 2022, as it may be amended from time to time.

5. Rights and Limitations. The designations, powers, preferences and relative participation, optional or other special rights and the qualifications, limitations and restrictions thereof in respect of each class of capital stock of the Corporation are as follows:

(i) Class A Common and Class 1 Common. The Class A Common and Class 1 Common shall be identical in all respects and shall entitle the holders thereof to the same rights, privileges and limitations, except as otherwise provided herein. The relative rights, privileges and limitations are as follows:

(a) Voting Rights. The holders of Class A Common and Class 1 Common shall have the following rights:

(i) The holders of Class A Common and Class 1 Common shall be entitled to vote as separate classes on all matters as to which a class vote is now, or hereafter may be, required by law.

(ii) The number of authorized shares of Class 1 Common may be increased or decreased (but not below the number of shares thereof then outstanding) by holders of a majority of the voting power of the stock entitled to vote, voting as a single class, provided that the holders of Class A Common shall have one (1) vote per share and the holders of Class 1 Common shall have one (1) vote per share.

(iii) At every meeting of stockholders called for the election of directors, the holders of Class A Common, voting as a class, shall be entitled to elect all directors to be elected at such meeting. If, during the interval between annual meetings for the election of directors, the number of directors who have been elected shall, by reason of resignation, death, retirement, disqualification or removal, be reduced, the vacancy or vacancies in directors so created may be filled by a majority vote of the remaining directors then in office, even if less than a quorum, or by a sole remaining director. Any director so elected by the remaining directors to fill any such vacancy may be removed from office by the vote of the holders of a majority of the shares of the Class A Common.

(iv) In all matters not specified in Sections 5(i)(a)(i), 5(i)(a)(ii) and 5(i)(a)(iii), the holders of Class A Common shall be entitled to vote as a single class. The holders of Class 1 Common shall not be entitled to vote on any matter except as set forth in Section 5(i)(a)(i) and Section 5(i)(a)(ii).

(v) There shall be no cumulative voting of any shares of Class A Common or Class 1 Common.

(b) Dividends. Subject to the rights of the Class A Common and Class 1 Common set forth in Section 5(i)(c) hereof, the Board of Directors, acting in its sole discretion, may declare in accordance with law a dividend, payable in cash, in property or in securities of the Corporation, on either the Class A Common or Class 1 Common or on all of the Class A Common and Class 1 Common.

(c) Cash Dividends. The Board of Directors may, in its sole discretion, declare cash dividends payable only to holders of Class A Common or to the holders of Class A Common and Class 1 Common, but not only to holders of Class 1 Common. A cash dividend in any amount may be paid on the Class A Common if no cash dividend is to be paid on Class 1 Common. If a cash dividend is to be paid on the Class 1 Common, a cash dividend shall also be paid on the Class A Common in an amount per share

thereof which exceeds the amount of the cash dividend paid on each share of Class 1 Common by at least ten percent (10%) (rounded up, if necessary, to the nearest one-hundredth of a cent).

(d) Convertibility.

(i) Each holder of record of a share of Class 1 Common may, without cost to such holder and at such holder's option, convert shares of Class 1 Common into fully paid and nonassessable shares of Class A Common at the rate of one share of Class A Common for each share of Class 1 Common surrendered for conversion; provided, a holder of shares of Class 1 Common may only convert such shares if such holder immediately sells the shares of Class A Common received upon such conversion in either a transaction effected through the facilities of the stock exchange or other trading market on which the Class A Stock is then actively traded (a "Market Transaction") or a bona fide arm's-length transaction with an unrelated party (a "Qualifying Private Transaction") or in connection with any offering registered under the Securities Act of 1933, as amended (the "Securities Act"). Any such conversion may be effected by any holder of Class 1 Common by (x) surrendering (by electronic delivery or otherwise) at the office of the transfer agent for the Class A Common (the "Conversion Agent") such holder's shares of Class 1 Common to be converted, (y) delivering to the Conversion Agent a notice or other instructions (which may be written or given electronically through any automated transaction system maintained by the Conversion Agent) that such holder elects to convert all or a specified number of such shares of Class 1 Common, and (z) delivering to the Conversion Agent either (1) instructions to sell the shares of Class A Common issuable upon such conversion on behalf of such holder (which instructions may be given in accordance with any account agreement in place between such holder and the Conversion Agent), or (2) a certificate stating that such holder has sold the shares of Class A Common issuable upon such conversion in a Market Transaction or Qualifying Private Transaction or in connection with an offering registered under the Securities Act, together with a stock power or other transfer instructions identifying the person or persons in whose name the shares of Class A Common issuable upon such conversion are to be issued. Promptly thereafter, the Corporation shall issue and deliver the number of shares of Class A Common to which such holder shall be entitled as aforesaid in accordance with the instructions to sell or transfer instructions delivered to the Conversion Agent. Such conversion shall be made as of the close of business on the date of surrender and delivery to the Conversion Agent of the shares of Class 1 Common and all other materials required to be delivered to the Conversion Agent, and the person or persons entitled to receive the shares of Class A Common issuable on such conversion shall be treated for all purposes as the record holder or holders of such shares of Class A Common on such date.

(ii) The Corporation will at all times reserve and keep available, solely for the purpose of issue upon conversion of the outstanding shares of Class 1 Common, such number of shares of Class A Common as shall be issuable upon the conversion of all outstanding shares of Class 1 Common, provided that the foregoing shall not be considered to preclude the Corporation from satisfying its obligations in respect of the conversion of the outstanding shares of Class 1 Common by delivery of shares of Class A Common which are held in the treasury of the Corporation.

(e) Rights Upon Liquidation. Holders of Class A Common and Class 1 Common shall have identical rights in the event of liquidation, and shall be treated as a single class for purposes thereof.

(ii) Preferred Stock. Subject to the terms contained in any designation of a series of Preferred Stock, the Board of Directors is expressly authorized, at any time and from time to time, to fix, by resolution or resolutions, the following provisions for shares of any class or classes of Preferred Stock of the Corporation or any series of any class of Preferred Stock:

(a) the designation of such class or series, the number of shares to constitute such class or series which may be increased or decreased (but not below the number of shares of that class or series then outstanding) by resolution of the Board of Directors, and the stated value thereof if different from the par value thereof;

- (b) whether the shares of such class or series shall have voting rights, in addition to any voting rights provided by law, and, if so, the terms of such voting rights;
- (c) the dividends, if any, payable on such class or series, whether any such dividends shall be cumulative, and, if so, from what dates, the conditions and dates upon which such dividends shall be payable, and the preference or relation which such dividends shall bear to the dividends payable on any shares of stock of any other class or any other series of the same class;
- (d) whether the shares of such class or series shall be subject to redemption by the Corporation, and, if so, the times, prices and other conditions of such redemption;
- (e) the amount or amounts payable upon shares of such series upon, and the rights of the holders of such class or series in, the voluntary or involuntary liquidation, dissolution or winding up, or upon any distribution of the assets, of the Corporation;
- (f) whether the shares of such class or series shall be subject to the operation of a retirement or sinking fund and, if so, the extent to and manner in which any such retirement or sinking fund shall be applied to the purchase or redemption of the shares of such class or series for retirement or other corporate purposes and the terms and provisions relative to the operation thereof;
- (g) whether the shares of such class or series shall be convertible into, or exchangeable for, shares of stock of any other class or any other series of the same class or any other securities and, if so, the price or prices or the rate or rates of conversion or exchange and the method, if any, of adjusting the same, and any other terms and conditions of conversion or exchange;
- (h) the limitations and restrictions, if any, to be effective while any shares of such class or series are outstanding upon the payment of dividends or the making of other distributions on, and upon the purchase, redemption or other acquisition by the Corporation of the Common Stock or shares of stock of any other class or any other series of the same class;
- (i) the conditions or restrictions, if any, upon the creation of indebtedness of the Corporation or upon the issue of any additional stock, including additional shares of such class or series or of any other series of the same class or of any other class;
- (j) the ranking (be it pari passu, junior or senior) of each class or series vis-a-vis any other class or series of any class of Preferred Stock as to the payment of dividends, the distribution of assets and all other matters; and
- (k) any other powers, preferences and relative, participating, optional and other special rights, and any qualifications, limitations and restrictions thereof, insofar as they are not inconsistent with the provisions of this Amended and Restated Certificate of Incorporation, to the full extent permitted in accordance with the laws of the State of Delaware.

The powers, preferences and relative, participating, optional and other special rights of each class or series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding.

6. By-Laws. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly authorized to make, alter or repeal the By-Laws of the Corporation.

7. Liability of Directors. A member of the Corporation's Board of Directors shall not be personally liable to the Corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except for liability of the director (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law of the State of Delaware, relating to the payment of unlawful dividends or unlawful stock repurchases or redemptions, or (iv) for any transaction from which the director derived an improper personal benefit. If the General Corporation Law of the State of Delaware is

amended after approval by the stockholders of this Section 7 to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law of the State of Delaware, as so amended. Any repeal or modification of this Section 7 by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

#### 8. Indemnification.

(a) Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (hereinafter an "indemnitee"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by the General Corporation Law of the State of Delaware, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the indemnitee's heirs, executors and administrators; provided, however, that, except as provided in subsection (b) hereof with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. The right to indemnification conferred in this Section 8 shall be a contract right and shall include the right to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition (hereinafter an "advancement of expenses"), provided, however, that, if the General Corporation Law of the State of Delaware requires, an advancement of expenses incurred by an indemnitee in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnitee is not entitled to be indemnified for such expenses under this Section 8 or otherwise.

(b) Right of Indemnitee to Bring Suit. If a claim under subsection (a) of this Section 8 is not paid in full by the Corporation within sixty days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty days, the indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the indemnitee shall be entitled to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by the indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (ii) in any suit by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking the Corporation shall be entitled to recover such expenses upon final adjudication that, the indemnitee has not met the applicable standard of conduct set forth in the General Corporation Law of the State of Delaware. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such suit that indemnification of

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the indemnitee is proper in the circumstance because the indemnitee has met the applicable standard of conduct set forth in the General Corporation Law of the State of Delaware, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the indemnitee has not met such applicable standard of conduct, shall create a presumption that the indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the indemnitee, be a defense to such suit. In any suit brought by the indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Section 8 or otherwise shall be on the Corporation.

(c) Non-Exclusivity of Rights. The rights of indemnification and to the advancement of expenses conferred in this Section 8 shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, this Amended and Restated Certificate of Incorporation, bylaw, agreement, vote of stockholders or disinterested directors or otherwise.

(d) Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the General Corporation Law of the State of Delaware.

(e) Indemnification of Employees and Agents of the Corporation. The Corporation may, to the extent authorized from time to time by the Board of Directors, grant rights to indemnification, and to the advancement of expenses to any employee or agent of the Corporation to the fullest extent of the provisions of this Section 8 with respect to the indemnification and advancement of expenses of directors and officers of the Corporation.

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IN WITNESS WHEREOF, the undersigned has executed this Amended and Restated Certificate of Incorporation this 10<sup>th</sup> day of November, 2022.

**CONSTELLATION BRANDS, INC.**

By: /s/ James O. Bourdeau  
Name: James O. Bourdeau  
Title: Executive Vice President and Chief Legal Officer

**BY-LAWS**  
**OF**  
**CONSTELLATION BRANDS, INC.**  
(the "Corporation")  
(Amended and Restated on November 10, 2022)

ARTICLE I  
STOCKHOLDERS

Section 1.1. Annual Meetings. An annual meeting of stockholders shall be held for the election of directors at such date, time and place, if any, either within or without the State of Delaware, as may be designated by resolution of the Board of Directors from time to time. Any other proper business may be transacted at the annual meeting. The Board of Directors may, in its sole discretion, determine that an annual meeting of stockholders shall, in addition to or instead of a physical meeting, be held by means of remote communication (including virtually) as provided under the General Corporation Law of the State of Delaware. The Corporation may postpone, reschedule or cancel any annual meeting of stockholders previously scheduled by the Board of Directors.

Section 1.2. Special Meetings. Special meetings of stockholders for any purpose or purposes may be called at any time by the Board of Directors, or by a committee of the Board of Directors which has been duly designated by the Board of Directors, and whose powers and authority, as expressly provided in a resolution of the Board of Directors, include the power to call such meetings, but such special meetings may not be called by any other person or persons. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice. The Board of Directors may, in its sole discretion, determine that a special meeting of stockholders shall, in addition to or instead of a physical meeting, be held by means of remote communication (including virtually) as provided under the General Corporation Law of the State of Delaware. The Corporation may postpone, reschedule or cancel any special meeting of stockholders previously scheduled by the Board of Directors.

Section 1.3. Notice of Meetings. Whenever stockholders are required or permitted to take any action at a meeting, a notice of the meeting shall be given that shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided by law, the Corporation's Certificate of Incorporation (as it may be amended and/or restated from time to time, the "Certificate of Incorporation") or these By-Laws, the notice of any meeting shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at the meeting. If mailed, such notice shall be deemed to be given when deposited in the mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation.

Section 1.4. Adjournments. Any meeting of stockholders, annual or special, may adjourn from time to time to reconvene at the same or some other place, and notice need not be given of any such adjourned meeting if the time and place, if any, thereof, and the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting are announced at the meeting at which the adjournment is taken or 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. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.



Section 1.5. Quorum. The Corporation's authorized capital stock consists of Class A Common Stock (the "Class A Common"), Class 1 Common Stock (the "Class 1 Common") and Preferred Stock (the "Preferred Stock"). At each meeting of stockholders, except as otherwise provided by law, the Certificate of Incorporation or these By-Laws, the holders of shares representing a majority of the votes entitled to be cast at the meeting by the holders of all outstanding shares entitled to vote, present in person or by proxy, shall constitute a quorum. In the absence of a quorum, the chairperson of the meeting or the stockholders so present may adjourn the meeting from time to time in the manner provided in Section 1.4 of these By-Laws until a quorum shall attend. Such an adjournment by the stockholders so present may be approved by the affirmative vote of the holders of a majority of the votes entitled to be cast by the stockholders present or represented by proxy at such meeting notwithstanding that a quorum is not present. Shares of its own stock belonging to the Corporation or to another corporation, if a majority of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of any corporation to vote stock, including but not limited to its own stock, held by it in a fiduciary capacity.

Section 1.6. Organization. Meetings of stockholders shall be presided over (A) by the Chair of the Board, if any, or any person designated by the Chair of the Board, (B) in the absence of or failure to designate by the foregoing, by the Chief Executive Officer, (C) in the absence of the foregoing, by the President, (D) in the absence of the foregoing, by a chairperson designated by the Board of Directors, or (E) in the absence of such designation, by a chairperson chosen at the meeting. The Secretary or an Assistant Secretary shall act as secretary of the meeting, but in the absence of the Secretary or an Assistant Secretary, the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 1.7. Voting. At each meeting of stockholders (A) each holder of Class A Common present in person or represented by proxy at the meeting and entitled to vote on a matter shall be entitled to cast one (1) vote for each share of Class A Common held by such holder, (B) each holder of Class 1 Common present in person or represented by proxy at the meeting and entitled to vote on a matter shall be entitled to cast one (1) vote for each share of Class 1 Common held by such holder, and (C) each holder of Preferred Stock present in person or represented by proxy at the meeting shall be entitled to such voting rights as shall be provided for in the Certificate of Designations relating to the Preferred Stock held by such holder. Except as otherwise provided by law, Section 2.2 of these By-Laws pertaining to the election of directors, or the Certificate of Incorporation, all classes of stock entitled to vote with respect to a matter shall vote together as a single class. All matters presented to the stockholders at a meeting at which a quorum is present shall, unless a different or minimum vote is required by the Certificate of Incorporation, these By-Laws (including, but not limited to, Section 2.2 of these By-Laws pertaining to the election of the directors), the rules and regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation or its securities, in which case, such different or minimum vote shall be the applicable vote on the matter, be decided by the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter. Except as otherwise required by law or by the Certificate of Incorporation, the Board of Directors may require a larger vote upon any election or question.

Section 1.8. Proxies. Each stockholder entitled to vote at a meeting of stockholders may authorize another person or persons to act for such stockholder by proxy in any manner permitted by the General Corporation Law of the State of Delaware, but no such proxy shall be voted or acted upon after three (3) years 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. A stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person, by delivering to the Secretary of the Corporation a valid revocation of the proxy or by validly submitting another duly executed proxy bearing a later date.

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Section 1.9. Fixing Date for Determination of Stockholders of Record.

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

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

(C) Unless otherwise restricted by the Certificate of Incorporation, in order that the Corporation may determine the stockholders entitled to express consent to corporate action without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. If no record date for determining stockholders entitled to express consent to corporate action without a meeting is fixed by the Board of Directors, (1) when no prior action of the Board of Directors is required by law, the record date for such purpose shall be the first (1<sup>st</sup>) date on which a signed consent setting forth the action taken or proposed to be taken is delivered to the Corporation in accordance with applicable law, and (2) if prior action by the Board of Directors is required by law, the record date for such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 1.10. List of Stockholders Entitled to Vote. The Corporation shall prepare, no later than the tenth (10<sup>th</sup>) day before each meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder for any purpose germane to the meeting, during ordinary business hours, for a period of 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 meeting or (B) during ordinary business hours at the principal place of business of the Corporation. The stock ledger shall be the only evidence as to who are the stockholders entitled to examine the stock ledger, the list of stockholders or the books of the Corporation, or to vote in person or by proxy at any meeting of stockholders.

Section 1.11. Action by Consent of Stockholders. Unless otherwise restricted by the Certificate of Incorporation, any action required or permitted to be taken at any annual or special meeting of the stockholders may be taken without a meeting, without prior notice and without a vote, if a consent, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation in accordance with Section 228 of the General Corporation

Law of the State of Delaware. Prompt notice of the taking of the corporate action without a meeting by less than unanimous consent shall, to the extent required by law, be given to those stockholders who have not consented and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that consents signed by a sufficient number of holders to take the action were delivered to the Corporation.

Section 1.12. Inspectors of Election. The Board of Directors by resolution shall appoint one (1) or more inspectors of election, which inspector or inspectors may include individuals who serve the Corporation in other capacities, including, without limitation, as officers, employees, agents or representatives, to act at the meeting of stockholders or any adjournment thereof, and to make a written report thereof. One (1) or more persons may be designated as alternate inspectors to replace any inspector who fails to act. In the event that no inspector or alternate so appointed or designated is able to act at a meeting of stockholders, the chairperson of the meeting shall appoint one (1) or more inspectors to act at the meeting. Each inspector, before discharging such inspector's duties, shall take and sign an oath to execute faithfully the duties of inspector with strict impartiality and according to the best of such inspector's ability. The inspector or inspectors shall have the duties prescribed by law.

Section 1.13. Nominations and Business at Meetings of Stockholders.

(A) *Annual Meetings of Stockholders.*

(1) Nominations of persons for election to the Board of Directors of the Corporation and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders only (a) pursuant to the Corporation's notice of meeting (or any supplement thereto), (b) by or at the direction of the Board of Directors or at the direction of any committee thereof, or (c) by any stockholder of the Corporation who was a stockholder of record of the Corporation at the time the notice provided for in this Section 1.13 is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and who complies with the notice procedures set forth in this Section 1.13.

(2) For any nomination or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (c) of paragraph (A)(1) of this Section 1.13, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and any such proposed business (other than nominations of persons for election to the Board of Directors) must constitute a proper matter for stockholder action. To be timely, a stockholder's notice must be delivered to the Secretary of the Corporation at the principal executive offices of the Corporation not later than the close of business on the one hundred twentieth (120th) day, nor earlier than the close of business on the one hundred fiftieth (150th) day, prior to the first (1st) anniversary of 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 or if no annual meeting was held during the preceding year, notice by the stockholder must be so delivered 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 day on which public announcement of the date of such meeting is first made by the Corporation). In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a stockholder's notice as described above. The number of nominees a stockholder may nominate for election at the annual meeting (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the annual meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such annual meeting. A stockholder's notice to the Secretary shall set forth: (a) as to each person whom the stockholder proposes to nominate for election as a director (i) all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to and in accordance with Section 14(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and the rules and regulations promulgated thereunder, and (ii) such person's written consent to being named in the Corporation's proxy statement as a nominee of the

stockholder and to serving as a director if elected; (b) as to any other business that the stockholder proposes to bring before the annual meeting, a brief description of the business desired to be brought before the annual meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the By-Laws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the annual meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; (c) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (i) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (ii) the class or series and number of shares of the capital stock of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner, (iii) a description of any agreement, arrangement or understanding with respect to the nomination or proposal between or among such stockholder and/or such beneficial owner, any of their respective affiliates or associates, and any others acting in concert with any of the foregoing, including, in the case of a nomination, the nominee, (iv) a description of any agreement, arrangement or understanding (including any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, hedging transactions, and borrowed or loaned shares) that has been entered into as of the date of the stockholder's notice by, or on behalf of, such stockholder and such beneficial owners, whether or not such instrument or right shall be subject to settlement in underlying shares of capital stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder or such beneficial owner, with respect to securities of the Corporation, (v) a representation that the stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business or nomination, (vi) a representation whether the stockholder or the beneficial owner, if any, intends or is part of a group which intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the proposal or elect the nominee and/or (y) otherwise to solicit proxies or votes from stockholders in support of such proposal or nomination, (vii) any proxy (other than a revocable proxy given in response to a public proxy solicitation made pursuant to, and in accordance with, the Exchange Act), agreement, arrangement, understanding or relationship pursuant to which such stockholder or beneficial owner has or shares a right to, directly or indirectly, vote any shares of any class or series of capital stock of the Corporation, (viii) any rights to dividends or other distributions on the shares of any class or series of capital stock of the Corporation, directly or indirectly, owned beneficially by such stockholder or beneficial owner that are separated or separable from the underlying shares of the Corporation, (ix) any performance-related fees (other than an asset based fee) that such stockholder or beneficial owner, directly or indirectly, is entitled to based on any increase or decrease in the value of shares of any class or series of capital stock of the Corporation or any interests described in clause (c)(iv) of paragraph (A)(2) of this Section 1.13, and (x) any other information relating to such stockholder and beneficial owner, if any, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in an election contest pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder; and (d) the names and addresses of other stockholders (including beneficial owners) known by any of the stockholders giving the notice to support such nominations or other business proposal(s), 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). The foregoing notice requirements of this paragraph (A) of this Section 1.13 shall be deemed satisfied by a stockholder with respect to business other than a nomination if the stockholder has notified the Corporation of such stockholder's intention to present a proposal at an annual meeting in compliance with applicable rules and regulations promulgated under the Exchange Act and such stockholder's proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such annual meeting. The Corporation may also, as a condition to any such nomination or business being deemed properly brought before an annual meeting, require any stockholder or any proposed nominee to deliver to the Secretary, within five Business Days of any such request, such other information as may be reasonably be requested by the Corporation, including, without limitation, such other information as may be reasonably required by the Board of Directors, in its sole discretion, to determine (x) the eligibility of such proposed nominee to serve as a director of the Corporation, (y) whether such proposed

nominee qualifies as an “independent director” or “audit committee financial expert” under applicable law, securities exchange rule or regulation, or any publicly disclosed corporate governance guideline or committee charter of the Corporation and (z) that the Board of Directors determines, in its sole discretion, could be material to a reasonable stockholder’s understanding of the independence, or lack thereof, of such proposed nominee.

(3) Notwithstanding anything in the second (2nd) sentence of paragraph (A)(2) of this Section 1.13 to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation at the annual meeting is increased effective after the time period for which nominations would otherwise be due under paragraph (A)(2) of this Section 1.13 and there is no public announcement by the Corporation naming the nominees for the additional directorships at least ten (10) days before the last day a stockholder may deliver a notice of nominations in accordance with such sentence, a stockholder’s notice required by this Section 1.13 shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

(B) *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. Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation’s notice of meeting (1) by or at the direction of the Board of Directors or any committee thereof or (2) provided that the Board of Directors has determined that directors shall be elected at such meeting, by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 1.13 is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and upon such election and who complies with the notice procedures set forth in this Section 1.13. The number of nominees a stockholder may nominate for election at the special meeting (or in the case of a stockholder giving the notice on behalf of a beneficial owner, the number of nominees a stockholder may nominate for election at the special meeting on behalf of such beneficial owner) shall not exceed the number of directors to be elected at such special meeting. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one (1) or more directors to the Board of Directors, any such stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation’s notice of meeting, if the stockholder’s notice required by paragraph (A)(2) of this Section 1.13 shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred fiftieth (150th) day prior to such special meeting and not later than the close of business on the later of the one hundred twentieth (120th) day prior to such special meeting or the tenth (10th) day following the day on which the Corporation first makes a public announcement of the date of the special meeting at which directors are to be elected. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a stockholder’s notice as described above.

(C) *General.*

(1) Except as otherwise expressly provided in any applicable rule or regulation promulgated under the Exchange Act, only such persons who are nominated in accordance with the procedures set forth in this Section 1.13 shall be eligible to be elected at an annual or special meeting of stockholders of the Corporation to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 1.13. Except as otherwise provided by law, the chairperson of the meeting shall have the power and duty (a) to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the provisions of this Section 1.13 (including whether the stockholder or beneficial owner, if any, on whose behalf the nomination or proposal is made, solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies or votes in support of such stockholder’s nominee or proposal in compliance with such stockholder’s representation as required by clause (c)(vi) of paragraph (A)(2) of this Section 1.13) and (b) if any proposed nomination or business was not made or proposed in compliance with this

Section 1.13, to declare that such nomination shall be disregarded or that such proposed business shall not be transacted. Notwithstanding the foregoing provisions of this Section 1.13, unless otherwise required by law, if the stockholder (or a qualified representative of the stockholder) does not appear at the annual or special meeting of stockholders of the Corporation to present a nomination or proposed business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 1.13, to be considered a qualified representative of the stockholder, a person must be a duly authorized officer, manager or partner of such stockholder or must be authorized by a writing executed by such stockholder or an electronic transmission delivered by such stockholder to act for such stockholder as proxy at the meeting of stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of stockholders.

(2) For purposes of this Section 1.13, "public announcement" shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or other 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 and the rules and regulations promulgated thereunder.

(3) Notwithstanding the foregoing provisions of this Section 1.13, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations promulgated thereunder with respect to the matters set forth in this Section 1.13; provided, however, that any references in these By-Laws to the Exchange Act or the rules and regulations promulgated thereunder are not intended to and shall not limit any requirements applicable to nominations or proposals as to any other business to be considered pursuant to this Section 1.13 (including clause (c) of paragraph (A)(1) and paragraph (B) hereof), and compliance with clause (c) of paragraph (A)(1) and paragraph (B) of this Section 1.13 shall be the exclusive means for a stockholder to make nominations or submit other business (other than, as provided in the penultimate sentence of paragraph (A)(2) of this Section 1.13, business other than nominations brought properly under and in compliance with Rule 14a-8 of the Exchange Act, as may be amended from time to time). Nothing in this Section 1.13 shall be deemed to affect any rights (a) of stockholders to request inclusion of proposals or nominations in the Corporation's proxy statement pursuant to applicable rules and regulations promulgated under the Exchange Act or (b) of the holders of any series of Preferred Stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation or the Certificate of Designations relating to the Preferred Stock.

(4) In addition to the requirements set forth elsewhere in these By-Laws, to be eligible to be a nominee for election or re-election as a director of the Corporation, such proposed nominee or a person on such proposed nominee's behalf must deliver (with respect to a nomination made by a stockholder pursuant to this Section 1.13, in accordance with the time periods for delivery of timely notice under this Section 1.13), to the Secretary of the Corporation at the principal executive offices of the Corporation a completed and signed questionnaire with respect to the background and qualification of such proposed nominee and the background of any other person or entity on whose behalf the nomination is being made (which questionnaire shall be provided by the Secretary upon written request of any stockholder of record identified by name within five Business Days of such written request) and a written representation and agreement (in the form provided by the Secretary upon written request of any stockholder of record identified by name within five Business Days of such written request) that such proposed nominee (i) is not and will not become a party to (x) any agreement, arrangement or understanding with, and has not given any commitment or assurance to, any person or entity as to how such proposed 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 (y) any Voting Commitment that could limit or interfere 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 that has not been disclosed to the Corporation, and (iii) would be in compliance, if elected as a director of the Corporation, and will comply with, all applicable publicly disclosed corporate governance, code of

conduct and ethics, conflict of interest, confidentiality, corporate opportunities, trading and any other policies and guidelines of the Corporation applicable to directors.

(5) A stockholder providing notice of a proposed nomination for election to the Board (given pursuant to this Section 1.13) shall update and supplement such notice from time to time to the extent necessary so that the information provided or required to be provided in such notice shall be true and correct (x) as of the record date for the meeting and (y) as of the date that is fifteen (15) days prior to the meeting or any adjournment or postponement thereof. Any such update and supplement shall be delivered in writing to the Secretary of the Corporation at the principal executive offices of the Corporation not later than five (5) days after the record date for the meeting (in the case of any update and supplement required to be made as of the record date for the meeting) and not later than ten (10) days prior to the date for the meeting or any adjournment or postponement thereof (in the case of any update or supplement required to be made as of fifteen (15) days prior to the meeting or adjournment or postponement thereof). In addition, if the stockholder has delivered to the Corporation a notice of a proposed nomination for election to the Board of Directors (given pursuant to this Section 1.13), the stockholder shall deliver to the Corporation no later than ten (10) days prior to the date of the meeting or any adjournment or postponement thereof reasonable evidence that it has complied with the requirements of Rule 14a-19 of the Exchange Act.

Section 1.14. Conduct of Meetings. The date and time of the opening and the closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at the meeting by the chairperson of the meeting. The Board of Directors may adopt by resolution such rules and regulations for the conduct of the meeting of stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the Board of Directors, the chairperson of the meeting of stockholders shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairperson, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the chairperson of the meeting, may include, without limitation, the following: (A) the establishment of an agenda or order of business for the meeting; (B) rules and procedures for maintaining order at the meeting and the safety of those present; (C) limitations on attendance at or participation in the meeting to stockholders entitled to vote at the meeting, their duly authorized and constituted proxies or such other persons as the chairperson of the meeting shall determine; (D) restrictions on entry to the meeting after the time fixed for the commencement thereof; (E) limitations on the time allotted to questions or comments by participants; and (F) restrictions on the use of cell phones, audio or video recording devices and similar devices at the meeting. The chairperson of any meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if such chairperson should so determine, such chairperson shall so declare to the meeting and any such matter or business not properly brought before the meeting shall not be transacted or considered. Unless and to the extent determined by the Board of Directors or the chairperson of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

## ARTICLE II

### BOARD OF DIRECTORS

Section 2.1. Number: Qualifications. The Board of Directors shall consist of one (1) or more members, the number thereof to be determined from time to time by resolution of the Board of Directors. Directors need not be stockholders.

Section 2.2. Election: Resignation: Vacancies. Directors shall be elected at each annual meeting of stockholders and each director elected shall hold office for a term of one (1) year or until such director's

successor is elected and qualified, subject to such director's earlier death, resignation, disqualification or removal. Any director may resign at any time upon notice to the Corporation. At every meeting of stockholders called for the election of directors at which a quorum is present, each director shall be elected by the affirmative vote of the holders of a majority of the votes entitled to be cast by stockholders present in person or represented by proxy at the meeting and entitled to vote on the election of directors. For purposes of this Section 2.2, a majority of the votes entitled to be cast shall mean that the number of shares voted "for" a director's election exceeds 50% of the number of votes cast with respect to that director's election. Votes cast shall include votes "for" and votes "against" and exclude "abstentions" and "broker non-votes" with respect to that director's election. Notwithstanding the foregoing, directors shall be elected by a plurality of the votes entitled to be cast by the stockholders present in person or represented by proxy at the meeting and entitled to vote on the election of directors at any meeting of stockholders at which a quorum is present and for which (i) the Secretary of the Corporation receives notice that one (1) or more stockholders has nominated one (1) or more persons for election to the Board of Directors, which notice purports to be in compliance with the advance notice requirements for stockholder nominees set forth in these By-Laws, irrespective of whether the Board of Directors at any time determines that any such notice is not in compliance with such requirements, and (ii) such nomination or nominations have not been formally and irrevocably withdrawn by such stockholder(s) on or prior to the date that is ten (10) calendar days in advance of the date that the Corporation gives notice of the meeting to the stockholders. The Board of Directors has established procedures set forth in the Board of Directors' Corporate Governance Guidelines under which a director standing for re-election in an uncontested election must tender a resignation conditioned on the incumbent director's failure to receive the requisite vote. During the interval between annual meetings, any newly created directorship or any vacancy occurring in the Board of Directors for any cause may be filled by the members of the Board of Directors in accordance with the General Corporation Law of the State of Delaware.

Section 2.3. Regular Meetings. Regular meetings of the Board of Directors may be held at such places within or without the State of Delaware and at such times as the Board of Directors may from time to time determine, and if so determined notices thereof need not be given.

Section 2.4. Special Meetings. Special meetings of the Board of Directors may be held at any time or place within or without the State of Delaware whenever called by the Chair of the Board, Chief Executive Officer, President, any Vice President, the Secretary, or by a majority of the whole Board of Directors. Notice of a special meeting of the Board of Directors shall be given at least twenty-four (24) hours before the special meeting. Such notice shall be given personally, by mail, telephone, or electronic transmission.

Section 2.5. Remote Meetings Permitted. Members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting thereof by means of 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 2.5 shall constitute presence in person at such meeting.

Section 2.6. Quorum: Vote Required for Action. At all meetings of the Board of Directors a majority of the whole Board of Directors shall constitute a quorum for the transaction of business. Except in cases in which the Certificate of Incorporation, these By-Laws or applicable law otherwise provides, the vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 2.7. Organization. Meetings of the Board of Directors shall be presided over by the Chair of the Board, if any, or in the absence of the Chair of the Board, if any, by the Chief Executive Officer (if also a director), or in the absence of the Chief Executive Officer by the President (if also a director), or in the absence of the foregoing persons by a chairperson chosen at the meeting. The Secretary or an Assistant Secretary shall act as secretary of the meeting, but in their absence the chairperson of the meeting may appoint any person to act as secretary of the meeting.

Section 2.8. Action by Unanimous Consent of Directors. Unless otherwise restricted by the Certificate of Incorporation or these By-Laws, any action required or permitted to be taken at any meeting of the Board of



Directors, or of any committee thereof, may be taken without a meeting if all members of the Board of Directors or such committee, as the case may be, consent thereto in writing or by electronic transmission. After an action is taken, the consent or consents relating thereto shall be filed with the minutes of proceedings of the Board of Directors or committee in accordance with applicable law.

Section 2.9. Chair of the Board. The Board of Directors may appoint a Chair of the Board. If the Board of Directors appoints a Chair of the Board, the Chair of the Board shall have the customary duties and authority of a Chair of the Board.

### ARTICLE III COMMITTEES

Section 3.1. Committees. The Corporation hereby elects to be governed by Section 141(c)(2) of the General Corporation Law of the State of Delaware. The Board of Directors may designate one (1) or more committees, each committee to consist of one (1) or more of the directors of the Corporation. The Board of Directors may designate one (1) or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of the committee, 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 of Directors to act at the meeting in place of any such absent or disqualified member. Any such committee, to the extent permitted by law and to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it.

Section 3.2. Committee Rules. Unless the Board of Directors otherwise provides, each committee designated by the Board of Directors may make, alter and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board of Directors conducts its business pursuant to Article II of these By-Laws.

### ARTICLE IV OFFICERS

Section 4.1. Officers: Election: Qualifications: Term of Office: Resignation: Removal: Vacancies. The Board of Directors shall elect a President and Secretary. The Board of Directors may also choose a Chief Executive Officer, one (1) or more Vice Presidents, one (1) or more Assistant Secretaries, a Treasurer and one (1) or more Assistant Treasurers and may choose such other officers as it may deem necessary or desirable. Each such officer shall hold office for such term as may be prescribed by the Board of Directors, and until such officer's successor is elected and qualified or until such officer's earlier resignation or removal. Any officer may resign at any time upon written notice to the Corporation. The Board of Directors may remove any officer with or without cause at any time, but such removal shall be without prejudice to the contractual rights of such officer, if any, with the Corporation. Any number of offices may be held by the same person. Any vacancy occurring in any office of the Corporation by reason of death, resignation, removal or otherwise may be filled for the unexpired portion of the term by the Board of Directors.

Section 4.2. Powers and Duties of Officers. The officers of the Corporation shall have such powers and duties in the management of the Corporation as may be prescribed in a resolution of the Board of Directors and, to the extent not so provided, as generally pertain to their respective offices, subject to the control of the Board of Directors.

Section 4.3. Appointing Attorneys and Agents: Voting Securities of Other Entities. Unless otherwise provided by resolution adopted by the Board of Directors, the Chief Executive Officer, President or any Vice

President may from time to time appoint an attorney or attorneys or agent or agents of the Corporation, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities in any other corporation or other entity, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other corporation or other entity, or to consent in writing, in the name of the Corporation as such holder, to any action by such other corporation or other entity, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consents, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal or otherwise, all such written proxies or other instruments as such person may deem necessary or proper. Any of the rights set forth in this Section 4.3 which may be delegated to an attorney or agent may also be exercised directly by the Chief Executive Officer, President or any Vice President.

## ARTICLE V STOCK

Section 5.1. Certificates. The shares of the Corporation shall be represented by certificates, except to the extent that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the Corporation's stock shall be uncertificated shares. Any such resolution shall not apply to outstanding shares represented by a certificate until such certificate is surrendered to the Corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by or in the name of the Corporation by any two (2) authorized officers of the Corporation, including, but not limited to, the Chief Executive Officer, the President, any Vice President, the Treasurer, an Assistant Treasurer, the Secretary and an Assistant Secretary, certifying the class and number of shares owned by such holder in the Corporation. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent, or registrar at the date of issue.

Section 5.2. Lost, Stolen or Destroyed Stock Certificates: Issuance of New Certificates. The Corporation may issue a new certificate of stock in the place of any certificate theretofore issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate. If shares represented by a stock certificate alleged to have been lost, stolen or destroyed have become uncertificated shares, the Corporation may, in lieu of issuing a new certificate, cause such shares to be reflected on its books as uncertificated shares and may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to give the Corporation a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate.

Section 5.3. Transfers of Stock. Upon surrender to the Corporation or the transfer agent of the Corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Corporation to issue a new certificate or evidence of the issuance of uncertificated shares to the person entitled thereto, cancel the old certificate and record the transaction upon its books. Upon the receipt by the Corporation or the transfer agent of the Corporation of proper evidence of succession, assignment or authority to transfer with respect to uncertificated shares, it shall be the duty of the Corporation to record the transaction upon its books.

Section 5.4. Registered Stockholders. 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 provided by the laws of the State of Delaware.

Section 5.5. Transfer Agents; Registrars; Regulations. The Board of Directors may appoint a transfer agent and one (1) or more co-transfer agents and registrar and one (1) or more co-registrars and may make, or authorize any such agent to make, all such rules and regulations deemed expedient concerning the issue, transfer and registration of shares of stock of the Corporation.

ARTICLE VI  
MISCELLANEOUS

Section 6.1. Fiscal Year. The fiscal year of the Corporation shall be March 1 to the last day of February, unless otherwise determined by resolution of the Board of Directors.

Section 6.2. Seal. The corporate seal shall have the name of the Corporation inscribed thereon and shall be in such form as may be approved from time to time by the Board of Directors.

Section 6.3. Waiver of Notice of Meetings of Stockholders, Directors and Committees. Any waiver of notice, given by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at nor the purpose of any regular or special meeting of the stockholders, directors, or members of a committee of directors need be specified in a waiver of notice.

Section 6.4. Interested Directors; Quorum. No contract or transaction between the Corporation and one (1) or more of its directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one (1) or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board or committee thereof which authorizes the contract or transaction, or solely because any such director's or officer's votes are 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 of Directors or the committee, and the Board of Directors or committee in good faith authorizes the contract or transaction by the affirmative votes 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 of Directors, a committee thereof, or the stockholders. All directors, including interested directors, may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

Section 6.5. Form of Records. Any records administered by or on behalf of the Corporation in the regular course of its business, including its stock ledger, books of account, and minute books, may be kept on, or by means of, or be in the form of, any information storage device, method, or one (1) or more electronic networks or databases (including one (1) or more distributed electronic networks or databases), provided that the records so kept can be converted into clearly legible form within a reasonable time. The Corporation shall so convert any records so kept upon the request of any person entitled to inspect the same.

Section 6.6. Amendment of By-Laws. These By-Laws may be altered, amended or repealed, and new By-Laws made, by the Board of Directors, but the stockholders may make additional By-Laws and may alter and repeal any By-Laws whether adopted by them or otherwise.

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Section 6.7. Forum Selection.

(A) Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if such court does not have subject matter jurisdiction thereof, the federal district court of the State of Delaware) shall, to the fullest extent permitted by law, be the sole and exclusive forum for (1) any derivative action or proceeding brought on behalf of the Corporation, (2) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (3) any action asserting a claim arising pursuant to any provision of the General Corporation Law of the State of Delaware, the Certificate of Incorporation or these By-Laws (as either may be amended or restated) or as to which the General Corporation Law of the State of Delaware confers jurisdiction on the Court of Chancery of the State of Delaware, or (4) any action asserting a claim governed by the internal affairs doctrine.

(B) Unless the Corporation consents in writing to the selection of an alternative forum, the federal district courts of the United States of America shall, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act.

(C) Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 6.7.

## REGISTRATION RIGHTS AGREEMENT

OF

CONSTELLATION BRANDS, INC.

Dated as of November 10, 2022

This REGISTRATION RIGHTS AGREEMENT (this “Agreement”) is entered into as of November 10, 2022 (the “Effective Date”), by and among the Stockholders listed on Exhibit A hereto (each a “Stockholder” and, collectively, the “Stockholders”) and Constellation Brands, Inc., a Delaware corporation (the “Company”) and any Person who becomes a party hereto pursuant to Section 9(d). Capitalized terms used herein shall have the meaning assigned to such terms in the text of this Agreement or in Section 1.

**WHEREAS**, effective as of the Reclassification Effective Time, the Company completed a reclassification transaction (the “Reclassification”) pursuant to that certain Reclassification Agreement, dated as of June 30, 2022, by and among the Company and the other parties thereto (the “Reclassification Agreement”);

**WHEREAS**, in connection with the Reclassification, the Company has agreed to grant the Stockholders registration rights as set forth in this Agreement; and

**WHEREAS**, the Board of Directors of the Company has, among other things, approved and adopted, and determined to have the Company enter into, effective as of the consummation of the Reclassification, this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth, the parties hereto agree as follows:

AGREEMENT

1. **Definitions.** As used in this Agreement, the following capitalized terms shall have the following respective meanings:

“Affiliate” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with, such person.

“Agreement” has the meaning given to such term in the Preamble.

“Automatic Shelf Registration Statement” has the meaning given to such term in Section 2(d).

“Block Sale” means the sale of shares of Class A Common Stock to one or several purchasers in a registered transaction by means of a bought deal, a block trade or a direct sale.

“Board” means the board of directors of the Company.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which banks are required or authorized by law to be closed in New York City.

“Class 1 Common Stock” means the Class 1 common stock of the Company, par value \$0.01 per share.

“Class A Common Stock” means the Class A common stock of the Company, par value \$0.01 per share.

“Company” has the meaning given to such term in the Preamble.

“control” (including the terms “controlling”, “controlled by” and “under common control with”), with respect to the relationship between or among two or more Persons, means the possession, directly or indirectly, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee or executor, by contract or otherwise.

“Covered Person” has the meaning given to such term in Section 6(a).

“Demand Registration” has the meaning given to such term in Section 2(e).

“Demand Request” has the meaning defined in Section 2(e).

“Effective Date” has the meaning given to such term in the Preamble.

“Effective Period” has the meaning given to such term in Section 2(g).

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and any successor statute thereto and the rules and regulations of the SEC promulgated thereunder.

“FINRA” means the Financial Industry Regulatory Authority.

“Free Writing Prospectus” has the meaning given to such term in Section 4(a).

“Indemnified Party” has the meaning given to such term in Section 6(c).

“Indemnifying Party” has the meaning given to such term in Section 6(c).

“Losses” has the meaning given to such term in Section 6(a).

“Marketed Underwritten Offering” means (i) an Underwritten Offering pursuant to a Demand Registration where the plan of distribution contemplates a customary “road show” (including an “electronic road show”) or other substantial marketing effort by the Company and the underwriters or (ii) a Marketed Underwritten Shelf Offering.

“Marketed Underwritten Shelf Offering” has the meaning given to such term in Section 2(b).

“Person” means any individual, partnership, joint venture, corporation, limited liability company, trust, unincorporated organization, government or any department or agency thereof or any other entity.

“Piggyback Registration” has the meaning given to such term in Section 3(a).

“Piggybacking Holder” has the meaning given to such term in Section 2(h)(iii).

“Prospectus” means the prospectus included in any Registration Statement (including a prospectus that discloses information previously omitted from a prospectus filed as part of an effective Registration Statement in reliance upon Rule 430A promulgated under the Securities Act), as amended or supplemented by any prospectus supplement, relating to Registrable Securities, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such prospectus.

“Reclassification Agreement” has the meaning given to such term in the Recitals.

“Registration Expenses” has the meaning given to such term in Section 7.

“Registrable Securities” means, as of any date of determination, any shares of Class A Common Stock (including, for the avoidance of doubt, any such shares received on conversion of any Class 1 Common Stock) held by a Stockholder and any equity securities or other equity interests issued or issuable, directly or indirectly, with respect to the shares of Class A Common Stock by way of conversion or exchange thereof or stock dividends, stock splits or in connection with a combination of shares, reclassification, recapitalization, merger, consolidation or other reorganization or distribution. As to any particular Registrable Securities, once issued, such securities shall cease to be Registrable Securities when (i) they are disposed of pursuant to an effective Registration Statement under the Securities Act following the execution of this Agreement, (ii) they are sold to the public pursuant to Rule 144 or Rule 145 (or other exemption from registration under the Securities Act), (iii) they shall have ceased to be outstanding or (iv) they have been sold in a private transaction (other than to another Stockholder or Family-Related Person). Notwithstanding the foregoing, any Registrable Securities held by any Person that may be sold under Rule 144(b)(1)(i) without limitation under any of the other requirements of Rule 144 will be deemed not to be Registrable Securities if the Stockholders collectively own less than 3% of the outstanding Class A Common Stock.

“Registration Statement” means any registration statement of the Company filed with the SEC under the Securities Act which covers any of the Registrable Securities pursuant to the provisions of this Agreement, including any Prospectus, Free Writing Prospectus, amendments and supplements to such registration statement, including post-effective amendments, all exhibits and all material incorporated by reference or deemed to be incorporated by reference in such registration statement.

“Rule 144”, “Rule 145”, “Rule 405” and “Rule 415” mean, in each case, such rule promulgated under the Securities Act (or any successor provision) by the SEC, as the same may be amended from time to time, or any successor rule then in force.

“Sands Family” means Messrs. Robert and Richard Sands and other members of their extended family and related entities.

“SEC” means the U.S. Securities and Exchange Commission or any other federal agency at the time administering the Securities Act or the Exchange Act.

“Securities Act” means the Securities Act of 1933, as amended, and any successor statute thereto and the rules and regulations of the SEC promulgated thereunder.

“Selling Expenses” means all underwriting and brokerage discounts, selling commissions and transfer taxes, if any, applicable to any sales of Registrable Securities under any Registration Statement.

“Shelf Registration Statement” has the meaning given to such term in Section 2(a).

“Shelf Takedown” has the meaning given to such term in Section 2(b).

“Stockholder” or “Stockholders” has the meaning given to such term in the Preamble.

“Subsidiary” means (i) any corporation of which a majority of the securities entitled to vote generally in the election of directors thereof, at the time as of which any determination is being made, are owned by another entity, either directly or indirectly and (ii) any joint venture, general or limited partnership, limited liability company or other legal entity in which an entity is the record or beneficial owner, directly or indirectly, of a majority of the voting interests or the general partner.

“Underwritten Offering” means an offering registered under the Securities Act in which securities of the Company are sold to one or more underwriters on a firm-commitment basis for reoffering to the public.

“WildStar” has the meaning given to such term in Section 9(p).

“WKSJ” has the meaning given to such term in Section 2(d).

## 2. Registration Rights.

(a) **Shelf Registration.** The Company shall use its reasonable best efforts to file with the SEC and have declared effective, as promptly as practicable following the execution of this Agreement, a registration statement on Form S-3 or any comparable or successor form or forms or any similar short-form registration constituting a “shelf” registration statement providing for the registration of, and the sale by the Stockholders on a continuous or delayed basis of, all of the Registrable Securities, pursuant to Rule 415 or otherwise (a “Shelf Registration Statement”); provided that, notwithstanding anything to the contrary, the initial Shelf Registration Statement shall in any event be filed and declared effective no later than 30 days after the date hereof. The Company shall replace any Shelf Registration Statement at or before expiration with a successor effective registration statement on Form S-3 (or any comparable or successor form or forms or, if the Company is not eligible to file a registration statement on Form S-3, a successor effective registration statement on Form S-1 providing for the registration of, and the sale by the Stockholders on a continuous or delayed basis of, all of the Registrable Securities, pursuant to Rule 415 or otherwise) to the extent any Stockholders hold any Registrable Securities. Any such successor registration statement shall be considered a “Shelf Registration Statement” for the purposes of this Agreement. In the event the Company files a Shelf Registration Statement on Form S-1, the Company shall use its reasonable best efforts to convert it to a Shelf Registration Statement on Form S-1 to a registration statement on Form S-3 as soon as practicable after the Company is eligible to use Form S-3.

(b) **Shelf Takedowns.** Subject to the provisions of Section 2(c) hereof, the Stockholders shall be entitled, at any time and from time to time when a Shelf Registration Statement is effective, to sell Registrable Securities held by them pursuant to a Shelf Registration Statement (each, a “Shelf Takedown”). The number of Shelf Takedowns that the Stockholders may effect pursuant to this Section 2(b) shall not be limited, provided that the number of Underwritten Offerings where the plan of distribution contemplates a customary “road show” (including an “electronic road show”) or other substantial marketing effort by the Company and the underwriters (any such Underwritten Offering effected pursuant to a Shelf Takedown, a “Marketed Underwritten Shelf Offering”) shall be limited to a total of one in any calendar year (and any such Marketed Underwritten Shelf Offering shall cover at least \$100,000,000 worth of the then current value of shares of Class A Common Stock (including, for the avoidance of doubt, any such shares received on conversion of any Class 1 Common Stock)), it being understood, for the avoidance of doubt, any Block Sale effected pursuant to a Shelf Takedown shall not be considered a Marketed Underwritten Shelf Offering for the purposes hereof. Any Shelf Takedown may be made by and pursuant to any method or combination of methods legally available to the Stockholders (including an underwritten offering, a direct sale to purchasers, a sale to or through brokers, dealers or agents, a sale over the internet, Block Sales, derivative transactions with third parties, sales in connection with short sales and other hedging transactions). The Company shall comply with the applicable provisions of the Securities Act with respect to the disposition of all Registrable Securities covered by the Shelf Registration Statement in accordance with the intended methods of disposition by the Stockholders participating in such Shelf Takedown. If the Stockholders desire to sell any Registrable Securities pursuant to a Shelf Takedown, then WildStar shall deliver to the Company a written notice specifying the number of Registrable Securities the Stockholders desire to sell pursuant to such Shelf Takedown, and the Company will, as expeditiously as possible, subject to Section 2(i), consummate such Shelf Takedown.

(c) **Cooperation with Shelf Takedowns.** Upon receipt of prior written notice by WildStar that the Stockholders intend to effect a Shelf Takedown, the Company shall use its reasonable best efforts to cooperate in such Shelf Takedown, whether or not such Shelf Takedown constitutes an Underwritten Offering, by amending or supplementing the Prospectus related to such Shelf Registration Statement as may be reasonably requested by WildStar for so long as any Stockholders hold Registrable Securities; provided that the Company shall not be required to so cooperate in any Underwritten Offering that is a Block Sale pursuant to a Shelf Takedown if notice of such Underwritten Offering has not been delivered not less than three Business Days prior to the potential launch of such Block Sale.

(d) **Automatic Shelf Registration Statements.** To the extent the Company is a well-known seasoned issuer (as defined in Rule 405) (a “WKSI”) at a time when it is obligated to file a Shelf Registration Statement



pursuant to this Agreement, the Company shall file such Shelf Registration Statement as an automatic shelf registration statement (as defined in Rule 405) on Form S-3 (an “Automatic Shelf Registration Statement”) in accordance with the requirements of the Securities Act and the rules and regulations of the SEC thereunder, that covers the Registrable Securities. The Company shall pay the registration fee for all Registrable Securities to be registered pursuant to an Automatic Shelf Registration Statement at the time of filing of the Automatic Shelf Registration Statement and shall not elect to pay any portion of the registration fee on a deferred basis. The Company shall use its reasonable best efforts to remain a WKSI (and not to become an ineligible issuer (as defined in Rule 405)) during the period during which any Automatic Shelf Registration Statement is effective. If at any time following the filing of an Automatic Shelf Registration Statement when the Company is required to re-evaluate its WKSI status the Company determines that it is not a WKSI, the Company shall use its reasonable best efforts to post-effectively amend the Automatic Shelf Registration Statement to a Shelf Registration Statement that is not automatically effective or file a new Shelf Registration Statement.

(e) **Demand Rights.** In the event the Company ceases to be eligible to register Registrable Securities on FormS-3 or has failed to perform its obligations under Section 2(a) or otherwise does not have an effective Shelf Registration Statement, the Stockholders shall have the right on one occasion in any calendar year to require the Company to file a registration statement under the Securities Act in respect of all or a portion of Registrable Securities owned by the Stockholders (so long as such request covers at least \$100,000,000 (or \$50,000,000, in the case of a Block Sale) worth of the then current value of shares of Class A Common Stock (including, for the avoidance of doubt, any such shares received on conversion of any Class 1 Common Stock) or all of the shares of Class A Common Stock of the requesting Stockholder(s)), by causing WildStar to deliver to the Company written notice stating that such right is being exercised, specifying the number of Registrable Securities owned by the Stockholders to be included in such registration, and describing the intended method of distribution thereof (each, a “Demand Request” and any registration effected pursuant thereto, a “Demand Registration”). Upon receipt of a Demand Request in accordance herewith, the Company shall use reasonable best efforts (i) to file a Registration Statement registering for resale such number of Registrable Securities as requested to be so registered as promptly as reasonably practicable and in any event within 20 Business Days of such Demand Request and (ii) to cause such Demand Registration Statement to be declared effective by the SEC as promptly as reasonably practicable thereafter. Notwithstanding the foregoing, the Company shall not be required to file any Registration Statement pursuant to a Demand Request within 90 days after the effective date of a previous Demand Registration or of any previous Registration Statement in which the holders of Registrable Securities were given piggyback rights pursuant to Section 3 in which there was no reduction in the number of Registrable Securities to be included, and, in each case, in which the sale of the Registrable Securities included therein was consummated. The Company shall comply with the applicable provisions of the Securities Act with respect to the disposition of all Registrable Securities covered by the Demand Registration in accordance with the intended methods of disposition by the Stockholders.

(f) **Revocation of Notice.** At any time prior to the effective date of the Registration Statement relating to a Demand Registration or the “pricing” of any offering relating to a Shelf Takedown, WildStar, on behalf of the Stockholders who initiated such Demand Registration or Shelf Takedown, may revoke or withdraw such notice of a Demand Registration or Shelf Takedown, in each case by providing written notice to the Company. A notice of Demand Registration or Shelf Takedown that has been revoked or withdrawn shall count as one of the permitted Marketed Underwritten Shelf Offerings or Demand Registrations permitted pursuant to Section 2(a) and Section 2(e), respectively, only if such revocation or withdrawal (i) was not primarily caused by the Company’s breach of its obligations hereunder and (ii) is not in light of either (A) any fact, circumstance, event, change, effect or occurrence that individually or in the aggregate with all other facts or circumstances, events, changes, effects or occurrences has or had or is reasonably expected to have a material adverse effect on the Company or (B) any material adverse information concerning the Company that the Company had not publicly disclosed at least forty-eight (48) hours prior to such registration request or that the Company had not otherwise notified, in writing, WildStar prior to the time of such request. A request for a Marketed Underwritten Shelf Offering or Demand Registration shall not count against the number otherwise permitted if (i) after the applicable Prospectus supplement has been filed or Demand Registration Statement has become effective, the applicable

Registration Statement or the related offer, sale or distribution of Registrable Securities thereunder becomes the subject of any stop order, injunction or other order or restriction imposed by the SEC or any other governmental agency or court for any reason attributable to the Company and such interference is not thereafter eliminated so as to permit the completion of the contemplated distribution of Registrable Securities or (ii) in the case of an Underwritten Offering, the conditions specified in the related underwriting agreement, if any, are not satisfied or waived for any reason attributable to the Company, and as a result of any such circumstances described in clause (i) or (ii), less than all of the Registrable Securities covered by Prospectus supplement or the Demand Registration Statement are sold by the selling Stockholders pursuant thereto.

(g) **Continued Effectiveness.** The Company shall use its reasonable best efforts to keep (A) any Shelf Registration Statement filed pursuant to this Agreement continuously effective and usable for the resale of the Registrable Securities covered thereby until the earlier of (i) three (3) years from the effective date of such Shelf Registration Statement and (ii) the date on which all of the Registrable Securities covered by such Shelf Registration Statement have been sold pursuant to such Shelf Registration Statement and (B) any Registration Statement filed pursuant to a Demand Request effective for a period of at least 180 days after the effectiveness thereof or such shorter period during which all Registrable Securities included therein shall have actually been sold (such period, the “Effective Period”); provided, however, that in the event the Company suspends, postpones or delays the filing of a Registration Statement required to be filed pursuant to this Agreement, the Effective Period shall be extended by the duration of each such applicable suspension, postponement or delay.

(h) **Priority on Demand Registration or Shelf Takedown.** If any of the Registrable Securities registered pursuant to a Demand Request or a Shelf Takedown are to be sold in a Marketed Underwritten Offering, and the managing underwriter(s) advise WildStar that in its good faith opinion the total number or dollar amount of Registrable Securities proposed to be sold in such Marketed Underwritten Offering (including securities proposed to be included by other holders of securities entitled to include securities in such Registration Statement pursuant to incidental or piggyback registration rights), is such as to adversely affect the success of such offering, then there shall be included in such Marketed Underwritten Offering the number or dollar amount of Registrable Securities that in the good faith opinion of such managing underwriter(s) can be sold without adversely affecting such offering, and such number of Registrable Securities shall be allocated as follows:

- a. first, to the Stockholders requesting such registration pro rata on the basis of the percentage of Registrable Securities owned by each such Stockholder relative to the number of Registrable Securities owned by all such Stockholders, until with respect to each such Stockholder, all Registrable Securities requested for registration by such Holders have been included in such registration;
- b. second, the securities for which inclusion in such Registration Statement was requested by the Company, if any; and
- c. third, Class A Common Stock requested by other holders of Class A Common Stock (each, a “Piggybacking Holder”) to be included in such Marketed Underwritten Offering, on a pro rata basis or, in the case of this clause (c), in such other manner as such Piggybacking Holders shall agree.

Notwithstanding the foregoing, no securities other than securities held by the Stockholders shall be eligible for inclusion in the total number or dollar amount of Registrable Securities proposed to be sold in any Block Sale effected pursuant to Section 2(b) or Section 2(e) of this Agreement.

(i) **Postponements in Requested Registrations.** The Company may postpone, for up to 90 days from the date of the request, the filing or the effectiveness of a Registration Statement or suspend the use of a Prospectus that is part of a Shelf Registration Statement (and therefore suspend sales of the Registrable Securities) by providing written notice to WildStar if the following conditions are met: (i) the Company determines that the offer or sale of Registrable Securities would reasonably be expected to have a material adverse effect on any proposal or plan by the Company or any subsidiary to engage in any material acquisition of assets or stock (other than in the ordinary course of business) or any material merger, consolidation, tender offer,

recapitalization, reorganization, financing or other transaction involving the Company, (ii) upon advice of counsel, the sale of Registrable Securities pursuant to the Registration Statement would require disclosure of material non-public information not otherwise required to be disclosed under applicable law and either (x) the Company has a bona fide business purpose for preserving the confidentiality of such transaction or (y) disclosure would have a material adverse effect on the Company or the Company's ability to consummate such transaction, in each case under circumstances that would make it impractical or inadvisable to cause the Registration Statement (or such filings) to become effective or to promptly amend or supplement the Registration Statement on a post effective basis, as applicable; provided that the Company shall not be permitted to do so more than once in any 6-month period or for periods exceeding, in the aggregate, 120 days during any 12-month period. In the event that the Company exercises its rights under the preceding sentence, the Stockholders agree to suspend, promptly upon receipt of the notice referred to above, the use of any Prospectus relating to such registration in connection with any sale or offer to sell Registrable Securities until the earlier of the termination of such postponement period, the time that WildStar has received copies of a supplemented or amended Prospectus or prospectus supplement and the time WildStar is advised in writing by the Company that the use of the Prospectus and, if applicable, prospectus supplement may be resumed. If the Company so postpones the filing of a Prospectus or the effectiveness of a Registration Statement, WildStar, on behalf of the demanding Stockholder(s) shall be entitled to withdraw such request and, if such request is withdrawn, such registration request shall not count for the purposes of the limitations set forth in Section 2(e). The Company shall promptly give WildStar, on behalf of the Stockholders requesting registration thereof pursuant to this Section 2, written notice of any postponement made in accordance with this Section 2(i).

(j) **Registration Expenses.** The Company shall pay, and shall be responsible for, all Registration Expenses in connection with any registrations and offerings pursuant to this Section 2, including any underwritten offering, direct sales to purchasers, sales to or through brokers, dealers or agents, derivative transactions with third parties, sales in connection with short sales and other hedging transactions, that are effectuated pursuant to this Section 2; provided, however, that the Stockholders shall pay all Selling Expenses, if any, with respect to Registrable Securities sold by them.

(k) **Selection of Underwriters.** The lead underwriters of any Underwritten Offering effected pursuant to a Demand Registration or a Shelf Takedown shall be selected by WildStar, on behalf of the demanding or requesting Stockholders, subject to the consent, not to be unreasonably withheld, of the Company; provided that the Company may select the counsel for such lead underwriters that is acceptable to such underwriters and reasonably acceptable to the demanding or requesting Stockholders. If the Stockholders intend that the Registrable Securities requested to be covered by a Demand Registration shall be distributed by means of an Underwritten Offering, WildStar shall so advise the Company in writing. The right of any Stockholder to participate in an Underwritten Offering pursuant to this Section 2 will be conditioned upon such Stockholder's participation in such underwriting and the inclusion of such Stockholder's Registrable Securities in the underwriting and each such Stockholder will (together with the Company and any Piggybacking Holder distributing its securities through such underwriting) (i) enter into an underwriting agreement in customary form with the underwriter(s) selected for such underwriting (including pursuant to the terms of any over-allotment or "green shoe" option requested by the managing underwriter(s)), provided that no Stockholder shall be required to sell more than the number of Registrable Securities that such Stockholder has requested the Company to include in any registration) and (ii) complete, execute and deliver all customary questionnaires, powers of attorney, stock powers, custody agreements, indemnities, underwriting agreements and other documents and agreements reasonably required under the terms of such underwriting arrangements or as may be reasonably requested by the Company and the lead managing underwriter(s); provided, further, that no Stockholder shall be required to agree to any indemnification obligations on the part of such Stockholder that are greater than its obligations pursuant to Section 6. Notwithstanding the foregoing, if any Stockholder disapproves of the terms of the applicable underwriting, such Stockholder may elect to withdraw therefrom by written notice to the Company.

(l) **Confidentiality.** Each Stockholder agrees to treat as confidential the receipt of any suspension notice pursuant to Section 2(i) and the information contained therein, and not to disclose the information

contained in any such notice (or the existence thereof) without the prior written consent of the Company until such time as the information contained therein is or becomes available to the public generally (other than as a result of disclosure by such Stockholder in breach of the terms of this Agreement).

### **3. Piggyback Registrations.**

(a) **Right to Piggyback.** Whenever the Company proposes to register any of its securities for its own account or for the account of others (other than (x) a registration for the account of Stockholders pursuant to this Agreement or (y) in connection with registrations on Form S-4 or S-8 promulgated by the SEC or any successor or similar forms) and the registration form to be filed may be used for the registration or qualification for distribution of Registrable Securities (a "**Piggyback Registration**"), the Company will give prompt written notice (and in any event no less than twelve days prior to the anticipated filing date of the registration statement or Prospectus relating to the Piggyback Registration) to WildStar of its intention to effect such a registration and will include in such registration all Registrable Securities held by the Stockholders with respect to which the Company has received from WildStar, on behalf of the Stockholders, a written request for inclusion therein within ten days after the date of the Company's notice. Any Stockholder may withdraw its request for inclusion at any time prior to executing the underwriting agreement, or if none, prior to the applicable Registration Statement becoming effective. The Company may terminate or withdraw any registration under this **Section 3** prior to the effectiveness of such registration, whether or not the Stockholder has elected to include Registrable Securities in such registration, and, except for the obligation to pay Registration Expenses pursuant to **Section 3(c)**, the Company will have no liability to the Stockholder in connection with such termination or withdrawal solely by reason thereof.

(b) **Underwritten Registration.** If the registration referred to in **Section 3(a)** is proposed to be an Underwritten Offering, the Company will so advise WildStar as a part of the written notice given pursuant to **Section 3(a)**. In such event, the right of any Stockholder to registration pursuant to this **Section 3** will be conditioned upon such Stockholder's participation in such underwriting and the inclusion of such Stockholder's Registrable Securities in the underwriting, and any Stockholder that holds Registrable Securities that are to be sold in such offering will (together with the Company and any other holders distributing their securities through such underwriting) enter into an underwriting agreement in customary form with the underwriter or underwriters selected for such offering by the Company.

(c) **Piggyback Registration Expenses.** The Company will pay all Registration Expenses in connection with any Piggyback Registration, whether or not any registration or prospectus becomes effective or final; provided, however, that the Stockholders shall pay all Selling Expenses, if any, with respect to Registrable Securities sold by them.

(d) **Priority on Primary Registrations.** If a Piggyback Registration relates to a primary Underwritten Offering on behalf of the Company, and the managing underwriter(s) advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number which can be sold without adversely affecting the marketability of such offering, the Company will include in such registration or prospectus only such number of securities that in the opinion of such underwriters can be sold without adversely affecting the marketability of the offering, which securities will be so included in the following order of priority: (i) first, the securities the Company proposes to sell for its own account, (ii) second, the Registrable Securities requested to be included in such registration by the Stockholders on a pro rata basis relative to the total number of Registrable Securities requested to be included therein by all such Stockholders, until with respect to each such Stockholder, all Registrable Securities requested for registration by such Stockholders have been included in such registration and (iii) third, Class A Common Stock requested by any other persons to be included in the Piggyback Registration, on a pro rata basis relative to the total number of Registrable Securities requested to be included in the Piggyback Registration by such other requesting persons, or, in the case of this clause (iii), in such other manner as such other requesting persons shall agree.

(e) **Priority on Secondary Registrations.** If a Piggyback Registration relates to a secondary Underwritten Offering on behalf of other holders of the Company's securities, and the managing underwriter(s) advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number which can be sold without adversely affecting the marketability of the offering, the Company will include in such registration only such number of securities that in the opinion of such underwriters can be sold without adversely affecting the marketability of the offering, which securities will be so included in the following order of priority: (i) first, the securities requested to be included therein by the holder(s) making demand for such Underwritten Offering, together with any Registrable Securities requested to be included in such registration by the Stockholders on a pro rata basis relative to the total number of securities requested to be included therein by all such holders, until with respect to each such holder, all securities requested for registration by such holders have been included in such registration and (ii) second other securities requested to be included in such registration which, in the opinion of the underwriters, can be sold without any such adverse effect.

4. **Registration Procedures.** If and whenever the Company is required to effect the registration of any Registrable Securities under the Securities Act as provided in Section 2, the Company shall use its reasonable best efforts to effect such registration to permit the sale of such Registrable Securities in accordance with the intended method or methods of disposition thereof, and pursuant thereto the Company shall cooperate in the sale of such Registrable Securities and shall, as expeditiously as possible:

(a) prepare and file, in each case as promptly as practicable, with the SEC a Registration Statement or Registration Statements on such form as shall be available for the sale of the Registrable Securities by the Stockholders thereof or by the Company in accordance with the intended method or methods of distribution thereof, make all required filings with FINRA, and, if such Registration Statement is not automatically effective upon filing, use its reasonable best efforts to cause such Registration Statement to be declared effective as soon as practicable and to remain effective as provided herein; provided, however, that before filing a Registration Statement or Prospectus or any amendments or supplements thereto (including free writing prospectuses under Rule 433 (each a "Free Writing Prospectus")), the Company shall furnish or otherwise make available to WildStar, counsel to the Stockholders and the managing underwriter(s), if any, copies of all such documents proposed to be filed (including exhibits thereto), which documents will be subject to the reasonable review and comment of such counsel, and such other documents reasonably requested by such counsel, including any comment letter from the SEC, and, if requested by such counsel, provide such counsel reasonable opportunity to participate in the preparation of such Registration Statement and each Prospectus included therein and such other opportunities to conduct a reasonable investigation within the meaning of the Securities Act, including reasonable access to the Company's officers, accountants and other advisors. The Company shall not file any such Registration Statement or Prospectus, or any amendments or supplements thereto (including Free Writing Prospectuses) with respect to a Demand Registration to which WildStar or the managing underwriter(s), if any, shall reasonably object, in writing, on a timely basis, unless, in the opinion of the Company, such filing is necessary to comply with applicable law;

(b) prepare and file with the SEC such amendments and supplements to such Registration Statement and the Prospectus used in connection therewith and such Free Writing Prospectuses and Exchange Act reports as may be necessary to keep such Registration Statement continuously effective during the period provided herein and comply in all material respects with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement; and cause the related Prospectus to be supplemented by any Prospectus supplement as may be necessary to comply with the provisions of the Securities Act with respect to the disposition of the securities covered by such Registration Statement, and as so supplemented to be filed pursuant to Rule 424 (or any similar provisions then in force) under the Securities Act in each case, until such time as all of such securities have been disposed of in accordance with the intended method or methods of disposition by the seller or sellers thereof set forth in such Registration Statement;

(c) notify WildStar, its counsel and the managing underwriter(s) of any Underwritten Offering (i) when a Registration Statement, pre-effective amendment to any Registration Statement, Prospectus or any Prospectus

supplement or post-effective amendment or any Free Writing Prospectus has been filed, and, with respect to a Registration Statement or any post-effective amendment, when the same has become effective, (ii) of any request by the SEC or any other federal or state governmental authority for amendments or supplements to a Registration Statement or related Prospectus or for additional information, (iii) of the issuance by the SEC of any stop order suspending the effectiveness of such Registration Statement or the initiation or threatening of any proceedings for that purpose, (iv) if at any time the Company has reason to believe that the representations and warranties of the Company contained in any agreement (including any underwriting agreement) contemplated by Section 4(n) below cease to be true and correct, (v) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of such Registrable Securities for sale in any jurisdiction, or the initiation of any proceeding for such purpose, and (vi) of the happening of any event that makes any statement made in such Registration Statement or related Prospectus, Free Writing Prospectus, amendment or supplement thereto, or any document incorporated or deemed to be incorporated therein by reference, as then in effect, untrue in any material respect or that requires the making of any changes in such Registration Statement, Prospectus or documents so that, in the case of the Registration Statement, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, not misleading, and that in the case of the Prospectus, it will not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading (which notice shall notify WildStar only of the occurrence of such an event and shall provide no additional information regarding such event to the extent such information would constitute material non-public information);

(d) use its reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness of a Registration Statement, or the lifting of any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction at the earliest date reasonably practical;

(e) if requested by WildStar, or, in the case of an Underwritten Offering, the managing underwriter(s) of such Underwritten Offering, promptly include in a Prospectus supplement or post-effective amendment such information as WildStar or such managing underwriter(s), as the case may be, may reasonably request in order to facilitate the disposition of the Registrable Securities in accordance with the intended method or methods of distribution of such securities set forth in the Registration Statement and make all required filings of such Prospectus supplement or such post-effective amendment as soon as practicable after the Company has received such request; provided, however, that the Company shall not be required to take any actions under this Section 4(e) that, in the opinion of counsel for the Company, violate applicable law;

(f) deliver to WildStar, counsel to the selling Stockholders, and the underwriters, if any, without charge, as many copies of the Prospectus or Prospectuses (including each form of Prospectus) and each amendment or supplement thereto (including any Free Writing Prospectus) as such Persons may reasonably request from time to time in order to facilitate the disposition of the Registrable Securities in accordance with the intended method or methods of disposition thereof; and the Company, subject to the last paragraph of this Section 4, hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Stockholders of Registrable Securities and the underwriters, if any, in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any such amendment or supplement thereto;

(g) use its reasonable best efforts to register or qualify, or cooperate with WildStar, the underwriters, if any, and their respective counsel in connection with the registration or qualification (or exemption from such registration or qualification) of such Registrable Securities for offer and sale under the securities or blue sky laws of such jurisdictions within the United States as any seller or underwriter reasonably requests in writing and to keep each such registration or qualification (or exemption therefrom) effective during the period such Registration Statement is required to be kept effective and to take any other action that may be necessary or advisable to enable such Stockholders of Registrable Securities to consummate the disposition of such Registrable Securities in such jurisdiction in accordance with the intended method or methods of disposition

thereof; provided, however, that the Company will not be required to (i) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify, (ii) subject itself to taxation in any jurisdiction wherein it is not so subject or (iii) take any action that would subject it to general service of process in any such jurisdiction where it is not then so subject, in each case but for this [Section 4\(g\)](#);

(h) cooperate with WildStar and the managing underwriter(s), if any, to facilitate the timely preparation and delivery of certificates (not bearing any legends) representing Registrable Securities to be sold after receiving written representations from each Stockholder of such Registrable Securities that the Registrable Securities represented by the certificates so delivered by such Stockholder will be transferred in accordance with the Registration Statement, and enable such Registrable Securities to be in such denominations and registered in such names as the managing underwriter(s), if any, or WildStar may request at least two Business Days prior to any sale of Registrable Securities in a firm commitment public offering, but in any other such sale, within 10 Business Days prior to having to issue the securities;

(i) upon the occurrence of any event contemplated by [Section 4\(c\)\(vi\)](#) above, prepare a supplement or post-effective amendment to the Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Securities being sold thereunder, such Prospectus will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(j) provide and cause to be maintained a transfer agent and registrar for all such Registrable Securities from and after the effective date of such Registration Statement, and use reasonable best efforts to procure the cooperation of the Company's transfer agent in settling any offering or sale of Registrable Securities, including with respect to the transfer of physical stock certificates into book-entry form in accordance with any procedures reasonably requested by the Holders or any managing underwriter(s);

(k) use its reasonable best efforts to cause all shares of Registrable Securities covered by any Registration Statement to be listed on each primary national securities exchange (if any) on which shares of the particular class of Registrable Securities are at that time listed, and enter into such customary agreements, including a supplemental listing application and indemnification agreement in customary form;

(l) in the case of any Underwritten Offering in which any Stockholder participates, enter into an underwriting agreement containing such provisions (including provisions for indemnification, lockups, opinions of counsel and comfort letters), and take all such other customary and reasonable actions as the managing underwriters of such offering may request in order to facilitate the disposition of such Registrable Securities, including adding information requested by the managing underwriters to the Prospectus, and making such representations and warranties to the holders of such Registrable Securities and the underwriters, if any, with respect to the business of the Company and its material subsidiaries, and the Registration Statement, Prospectus and documents, if any, incorporated or deemed to be incorporated by reference therein, in each case, in form, substance and scope as are customarily made by issuers to underwriters in underwritten offerings, and, if true, confirm the same if and when requested;

(m) in the case of any Underwritten Offering in which any Stockholder participates, (A) make reasonably available, for inspection by the managing underwriters of such Underwritten Offering and one law firm and accounting firm acting for such managing underwriters, pertinent corporate documents and financial and other records of the Company and its subsidiaries and controlled Affiliates, (B) cause the Company's officers and employees to supply information reasonably requested by such managing underwriters or law firm or accounting firm in connection with such offering, (C) make the Company's independent auditor available for any such managing underwriters' due diligence and have them provide customary comfort letters to such underwriters in connection therewith and to each Stockholder selling Registrable Securities in such offering

(unless such accountants shall be prohibited from so addressing such letters by applicable standards of the accounting profession) and (D) cause the Company's outside counsel to furnish customary legal opinions and updates thereof (which legal opinions (in form, scope and substance) shall be reasonably satisfactory to the managing underwriter(s)) to such underwriters and to WildStar in connection therewith, covering the matters customarily covered in opinions requested in underwritten offerings and such other matters as may be reasonably requested by such counsel and underwriters; provided, however, that any such records and other information provided under clauses (A) and (B) above that is not generally publicly available shall be subject to such confidential treatment as is customary for underwriters' due diligence reviews;

(n) in the case of any Underwritten Offering in which any Stockholder participates, cause its management to use their reasonable best efforts to support the marketing of the Registrable Securities covered by the Registration Statement (including participation in such number of "road shows" as the underwriter(s) reasonably request, and in any management diligence meetings or teleconferences as the underwriter(s) or their counsel reasonably request);

(o) make available for inspection by a single representative of the selling Stockholders designated by WildStar and the managing underwriter(s), if any, and their respective attorneys or accountants, at the offices where normally kept, during reasonable business hours, financial and other records, pertinent corporate documents and properties of the Company, and cause the officers, directors and employees of the Company to supply all information in each case reasonably requested by any such representative, managing underwriter(s), attorney or accountant in connection with such Registration Statement;

(p) cooperate with each seller of Registrable Securities and each underwriter or agent participating in the disposition of such Registrable Securities and their respective counsel in connection with any filings required to be made with the FINRA; and

(q) otherwise use its reasonable best efforts to comply with all applicable rules and regulations of the SEC, and make available to its security holders, as soon as reasonably practicable, an earnings statement covering the period of at least twelve months beginning with the first day of the Company's first full calendar quarter after the effective date of any Registration Statement, which earnings statement will satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder.

The Company may require each Stockholder as to which any registration is being effected to furnish to the Company in writing such information required in connection with such registration regarding such seller and the distribution of such Registrable Securities as the Company may, from time to time, reasonably request and the Company may exclude from such registration the Registrable Securities of any Stockholder who unreasonably fails to furnish such information within a reasonable time after receiving such request.

If the Company files any Shelf Registration Statement for the benefit of the holders of any of its securities other than the Stockholders, the Company agrees that it shall use its reasonable best efforts to include in such registration statement such disclosures as may be required by Rule 430B under the Securities Act (referring to the unnamed selling security holders in a generic manner by identifying the initial offering of the securities to the Stockholders) in order to ensure that the Stockholders may be added to such Shelf Registration Statement at a later time through the filing of a Prospectus supplement rather than a post-effective amendment.

The Company agrees not to file or make any amendment to any Registration Statement with respect to any Registrable Securities, or any amendment of or supplement to the Prospectus or any Free Writing Prospectus used in connection therewith, that refers to any Stockholder covered thereby by name, or otherwise identifies such Stockholder as the holder of any securities of the Company, without first furnishing or otherwise making available to WildStar a copy of any such amendment or supplement no less than five Business Days prior to the filing of such amendment or supplement (unless and to the extent such amendment or supplement is required by law to be filed earlier, in which case the Company shall provide any notice as far in advance as practicable) and including all comments thereon reasonably and timely requested by WildStar.



Each Stockholder holding Registrable Securities agrees if such Stockholder has Registrable Securities covered by such Registration Statement that, upon receipt of any notice from the Company of the happening of any event of the kind described in Sections 4(c)(ii), 4(c)(iii), 4(c)(iv), 4(c)(v) and 4(c)(vi) hereof, such Stockholder will promptly discontinue disposition of such Registrable Securities covered by such Registration Statement or Prospectus until such Stockholder's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 4(i) hereof, or until it is advised in writing by the Company that the use of the applicable Prospectus may be resumed, and has received copies of any additional or supplemental filings that are incorporated or deemed to be incorporated by reference in such Prospectus; provided, however, that the time periods under Section 2 with respect to the length of time that the effectiveness of a Registration Statement must be maintained shall automatically be extended by the amount of time the Stockholder is required to discontinue disposition of such securities.

5. **Lock-Up Restrictions and Period.** The parties hereto acknowledge and agree that the Reclassification Agreement imposes transfer restrictions that apply during the Lock-Up Period (as defined therein), and any sale pursuant to a registration made pursuant to this Agreement shall comply with such restrictions (to the extent applicable).

6. **Indemnification.**

(a) **Indemnification by the Company.** The Company shall, without limitation as to time, indemnify and hold harmless, to the fullest extent permitted by law, each Stockholder of Registrable Securities whose Registrable Securities are covered by a Registration Statement or Prospectus, the officers, directors, partners, members, managers, shareholders, accountants, attorneys, agents and employees of each of them, each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) each such Stockholder and the officers, directors, partners, members, managers, shareholders, accountants, attorneys, agents and employees of each such controlling person, each underwriter, if any, and each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) such underwriter (each such person being referred to herein as a "Covered Person"), from and against any and all losses, claims, damages, liabilities, costs (including costs of preparation and reasonable attorneys' fees and any legal or other fees or expenses incurred by such party in connection with any investigation or proceeding), expenses, judgments, fines, penalties, charges and amounts paid in settlement (collectively, "Losses"), as incurred, arising out of or based upon any untrue or alleged untrue statement of a material fact contained in any Prospectus, Registration Statement or Free Writing Prospectus or any amendment thereof or supplement thereto or any document incorporated by reference therein or based on any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, or any violation by the Company of the Securities Act, the Exchange Act, any state securities law, or any rule or regulation thereunder applicable to the Company and relating to any action or inaction in connection with the related offering of Registrable Securities, and will reimburse each such Covered Person for any legal and any other expenses reasonably incurred in connection with investigating and defending or settling any such Loss, provided that the Company will not be liable in any such case to the extent that any such Loss arises out of or is based on any untrue or alleged untrue statement or omission or alleged omission by such Covered Person relating to such Covered Person or its Affiliates (other than the Company or any of its Subsidiaries), but only to the extent, that such untrue statement (or alleged untrue statement) or omission (or alleged omission) is made in such Registration Statement, Prospectus, Free Writing Prospectus or any amendment thereof or supplement thereto, or any document incorporated by reference therein, in each case in reliance upon and in conformity with written information furnished to the Company by such Covered Person with respect to such Covered Person for use therein. It is agreed that the indemnity agreement contained in this Section 6(a) shall not apply to amounts paid in settlement of any such Loss or action if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld).

(b) **Indemnification by Stockholder of Registrable Securities.** Each selling Stockholder agrees to indemnify, to the fullest extent permitted by law, severally and not jointly with any other Stockholders holding

Registrable Securities, the Company, its directors and officers and each Person who controls (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act) the Company and all other prospective sellers, from and against all Losses arising out of or based on any untrue statement or alleged untrue statement of a material fact contained in any such Registration Statement, Prospectus or Free Writing Prospectus or any amendment thereof or supplement thereto, or any document incorporated by reference therein, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse the Company, such directors, controlling persons and prospective sellers for any legal or any other expenses reasonably incurred in connection with investigating or defending any such Loss, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission is made in such Registration Statement, Prospectus or Free Writing Prospectus or any amendment thereof or supplement thereto, or any document incorporated by reference therein, in each case in reliance upon and in conformity with written information furnished to the Company by such Stockholder or any designee acting on behalf of such Stockholder, with respect to such Stockholder for inclusion in such Registration Statement, Prospectus or Free Writing Prospectus or any amendment thereof or supplement thereto, or any document incorporated by reference therein; provided, however, that the obligations of such Stockholder hereunder shall not apply to amounts paid in settlement of any such Losses (or actions in respect thereof) if such settlement is effected without the consent of such Stockholder (which consent shall not be unreasonably withheld).

(c) **Conduct of Indemnification Proceedings.** If any Person shall be entitled to indemnity hereunder (an “**Indemnified Party**”), such Indemnified Party shall give prompt notice to the party from which such indemnity is sought (the “**Indemnifying Party**”) of any claim or of the commencement of any proceeding with respect to which such Indemnified Party seeks indemnification or contribution pursuant hereto; provided, however, that the delay or failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party from any obligation or liability except to the extent that the Indemnifying Party has been materially prejudiced by such delay or failure. The Indemnifying Party shall have the right, exercisable by giving written notice to an Indemnified Party promptly after the receipt of written notice from such Indemnified Party of such claim or proceeding, to, unless in the Indemnified Party’s reasonable judgment a conflict of interest between such indemnified and indemnifying parties may exist in respect of such claim, assume, at the Indemnifying Party’s expense, the defense of any such claim or proceeding, with counsel reasonably satisfactory to such Indemnified Party; provided, however, that an Indemnified Party shall have the right to employ separate counsel in any such claim or proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless: (i) the Indemnifying Party agrees to pay such fees and expenses; or (ii) the Indemnifying Party fails promptly to assume, or in the event of a conflict of interest cannot assume, the defense of such claim or proceeding or fails to employ counsel reasonably satisfactory to such Indemnified Party; in which case the Indemnified Party shall have the right to employ counsel and to assume the defense of such claim or proceeding at the Indemnifying Party’s expense; provided, further, however, that the Indemnifying Party shall not, in connection with any one such claim or proceeding or separate but substantially similar or related claims or proceedings in the same jurisdiction, arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one firm of attorneys (together with appropriate local counsel) at any time for all of the Indemnified Parties, or for fees and expenses that are not reasonable. Whether or not such defense is assumed by the Indemnifying Party, such Indemnifying Party will not be subject to any liability for any settlement made without its consent (but such consent will not be unreasonably withheld). The Indemnifying Party shall not consent to entry of any judgment or enter into any settlement that (x) does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release, in form and substance reasonably satisfactory to the Indemnified Party, from all liability in respect of such claim or litigation for which such Indemnified Party would be entitled to indemnification hereunder or (y) involves the imposition of equitable remedies or the imposition of any obligations on the Indemnified Party or adversely affects such Indemnified Party other than as a result of financial obligations for which such Indemnified Party would be entitled to (and promptly after any such judgment or settlement receive) indemnification hereunder.

(d) **Contribution.** If the indemnification provided for in this Section 6 is unavailable to an Indemnified Party in respect of any Losses (other than in accordance with its terms), then each applicable Indemnifying Party,

in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Losses, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party, on the one hand, and such Indemnified Party, on the other hand, in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party, on the one hand, and Indemnified Party, on the other hand, shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, has been made (or omitted) by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent any such action, statement or omission. The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 6(d) were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in the immediately preceding paragraph. Notwithstanding the provisions of this Section 6(d), the maximum amount of liability in respect of such contribution will be limited, in the case of each seller of Registrable Securities, to an amount equal to the net proceeds actually received by such seller from the sale of Registrable Securities effected pursuant to such registration. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. Notwithstanding the foregoing, to the extent that the provisions on indemnification and contribution contained in the underwriting agreement entered into in connection with the underwritten public offering are in conflict with the foregoing provisions, the provisions in the underwriting agreement shall control.

(e) **Non-Exclusivity.** The obligations of the parties under this Section 6 shall be in addition to any liability which any party may otherwise have to any other party.

**7. Registration Expenses.** All fees and expenses incurred by the Company and the Stockholders in connection with any registration pursuant to this Agreement, including (i) all registration and filing fees (including fees and expenses (A) with respect to filings required to be made with the SEC, all applicable securities exchanges and/or FINRA and (B) of compliance with securities or blue sky laws, including any fees and disbursements of counsel for the underwriters in connection with blue sky qualifications of the Registrable Securities pursuant to Section 4(g)), (ii) printing expenses (including expenses of printing certificates for Registrable Securities in a form eligible for deposit with The Depository Trust Company and of printing Prospectuses if the printing of Prospectuses is requested by the managing underwriter(s), if any, of an Underwritten Offering, or by WildStar), (iii) messenger, telephone and delivery expenses of the Company, (iv) fees and disbursements of counsel for the Company and one counsel for the selling Stockholders in an amount not to exceed \$100,000 for the first offering hereunder and \$75,000 for any subsequent offering, (v) expenses of the Company incurred in connection with any "road show," including travels, meals and lodging (vi) fees and disbursements of all independent registered public accounting firms referred to in Section 4(m) hereof (including the expenses of any "cold comfort" letters required by this Agreement) and any other persons, including special experts retained by the Company, (vii) all expenses in connection with the preparation, printing and filing of any registration statement, any preliminary prospectus, final prospectus or free writing prospectus, any other offering document and amendments and supplements thereto and the mailing and delivering of copies thereof to the underwriters and dealers, (viii) all expenses associated with any listing of the Registrable Securities, (ix) any reasonable fees and disbursements of underwriters customarily paid by issuers or sellers of securities, and (x) Securities Act liability insurance or similar insurance if the Company so desires or the underwriters so require in accordance with then-customary underwriting practice, shall be borne by the Company whether or not any Registration Statement is filed or becomes effective (all such expenses, "**Registration Expenses**"). In addition, the Company shall pay its internal expenses (including all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit, the fees and expenses incurred in connection with the listing of the securities to be registered on any securities exchange on which similar securities issued by the Company are then listed and rating agency fees and the fees and expenses of any Person, including special experts, retained by the Company. The Company shall not be required to pay the Selling Expenses or, in respect of any Underwritten Offering, any fees or expenses for which the underwriter(s) are responsible.

8. **Rule 144.** With a view to making available to the Stockholders the benefits of certain rules and regulations of the SEC which may permit the sale of the Registrable Securities to the public without registration, the Company will:

(a) for so long as it is subject to the periodic reporting obligations of the Exchange Act, make and keep public information available, as those terms are understood and defined in Rule 144(c)(1) or any similar or analogous rule promulgated under the Securities Act, at all times after the effective date of this Agreement;

(b) for so long as it is subject to the periodic reporting obligations of the Exchange Act, file with the SEC, in a timely manner, all reports and other documents required of the Company under the Exchange Act; and

(c) furnish to the Stockholders forthwith upon request: (i) in the event the Company is no longer subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, a written statement by the Company as to its compliance with the reporting requirements of Rule 144 under the Securities Act and of the Exchange Act; (ii) in the event the Company is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, a copy of the most recent annual or quarterly report of the Company; and (iii) such other reports and documents as the Stockholders may reasonably request in availing themselves of any rule or regulation of the SEC allowing them to sell any such securities without registration; provided, however, that the Company shall be deemed to have furnished any such document if it shall have timely made such document available on the SEC's Electronic Data Gathering, Analysis and Retrieval System, or a successor system.

#### 9. **Miscellaneous.**

(a) **Termination.** The provisions of this Agreement (other than Sections 5 and 6) shall terminate upon the earliest to occur of (i) its termination by the written agreement of all parties hereto or their respective successors and assigns, (ii) the date on which all Stockholders cease to own any Registrable Securities and (iii) the dissolution, liquidation or winding up of the Company. Nothing herein shall relieve any party from any liability for the breach of any of the agreements set forth in this Agreement.

(b) **Holdback Agreement.** In connection with any Underwritten Offering (other than any Demand Registration or Shelf Takedown hereunder), each Stockholder will enter into a customary lock-up, holdback or similar agreement, if requested by the managing underwriter(s) of such offering, during the 10 days prior and the 90-day period beginning on the date of pricing of such offering and otherwise in a form reasonably acceptable to such Stockholder. Any such lock-up, holdback or similar agreement shall contain terms no more adverse in any material respect compared to similar agreements entered into with the Company and its directors and executive officers as well as holders of at least 5% of the Class A Common Stock, and the Stockholders shall only agree to be subject to such lock-up, holdback or similar agreement for only so long as the Company and its directors and executive officers as well as holders of at least 5% of the Class A Common Stock are similarly bound and no waiver has been granted to any such person. Notwithstanding anything herein to the contrary, the Stockholders shall not be required to agree not to (x) offer, sell, contract to sell or otherwise dispose any shares of capital stock to any Family-Related Person or otherwise in connection with any *bona fide* estate, family or tax planning (including in connection with the repayment of any debt, bequest or other obligations upon the death of any Stockholder or Family-Related Person) or (y) pledge, hypothecate or encumber any shares of capital stock to any third-party pledgee with respect to borrowings by the Stockholders or any Family-Related Persons and, in connection therewith, offer, sell, contract to sell or otherwise dispose of any shares of capital stock in connection with any exercise of remedies with respect thereto. The Company may impose stop-transfer instructions with respect to any Class A Common Stock subject to the restrictions set forth in this Section 9(b) until the the expiration of the lock-up period.

If any registration pursuant to Section 2 of this Agreement shall be in connection with any Underwritten Offering, the Company will not effect any public sale or distribution of any Class A Common Stock (or securities convertible into or exchangeable or exercisable therefor) (other than a registration statement (i) on Form S-4, Form S-8 or any successor forms promulgated for similar purposes or (ii) filed in connection

with any employee benefit or dividend reinvestment plan) for its own account, during the 10 days prior and the 90-day period beginning on the date of pricing of such offering.

(c) **Amendments and Waivers.** This Agreement may not be altered, amended or supplemented, except by an agreement in writing signed by the Company and WildStar (or any other person designated by the Stockholders pursuant to [Section 9\(p\)](#)). The failure of any party to enforce any of the provisions of this Agreement shall in no way be construed as a waiver of such provisions and shall not affect the right of such party thereafter to enforce each and every provision of this Agreement in accordance with its terms. WildStar, on behalf of any Stockholder, may waive (in writing) the benefit of any provision of this Agreement with respect to any Stockholder for any purpose. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Stockholders in any other respect or at any other time.

(d) **Successors, Assigns and Transferees.** This Agreement may not be assigned without the prior written consent of the Company. Notwithstanding the foregoing, (i) the Stockholders may assign any of its rights, interests and obligations hereunder, in whole or in part, to any Family-Related Person (as defined in the Reclassification Agreement), and (ii) in the event of any such assignment, such assignee shall agree in writing to be bound by the provisions of this Agreement, including the rights, interests and obligations so assigned by executing a joinder substantially in the form set forth in Exhibit B. Notwithstanding the foregoing, any notice (or Demand Request, as applicable) of WildStar, on behalf of a Stockholder to register Registrable Securities pursuant to a registration statement under the Securities Act pursuant to, and in accordance with, [Section 2\(b\)](#), [Section 2\(e\)](#) or [Section 3\(a\)](#) shall be deemed to include, and the Company shall register (subject to the limitations and conditions otherwise applicable to the Stockholder), any portion of such Registrable Securities that are transferred to any Family-Related Person prior to the execution of an underwriting agreement in connection with an Underwritten Offering, provided that the notice (or Demand Request, as applicable) described in [Section 2\(b\)](#), [Section 2\(e\)](#) or [Section 3\(a\)](#), as applicable, includes the identity of such Family-Related Person and the Registrable Securities held by such Family-Related Person to be included in such registration and the intended method of distribution thereof, and any other information reasonably requested by the Company and/or the managing underwriter(s) for inclusion in the applicable Registration Statement, Prospectus, Free Writing Prospectus or any amendment thereof or supplement thereto. In addition to the foregoing, the rights of WildStar under this Agreement are not otherwise transferable and shall cease and be of no further effect if WildStar ceases to be controlled by the Sands Family, in which event the Stockholders shall select a new representative to replace WildStar pursuant to [Section 9\(p\)](#).

(e) **Notices.** All notices, requests and other communications to any party hereunder shall be in writing (including email) and shall be given:

If to the Company, to:

Constellation Brands, Inc.  
207 High Point Drive, Building 100,  
Victor, NY, 14564  
Attention: James O. Bourdeau, Executive Vice President and Chief Legal Officer  
Email: jim.bourdeau@cbrands.com

with a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, NY 10022  
Attn: Eric L. Schiele, P.C.  
David M. Klein, P.C.  
Carlo Zenkner  
Email: eric.schiele@kirkland.com;  
dklein@kirkland.com;  
carlo.zenkner@kirkland.com

if to WildStar, on behalf of the Stockholders, to:

WildStar Partners LLC  
207 High Point Dr., Bldg. 100  
Victor, NY 14564  
Attention: Thomas M. Farace  
Phone: (585) 678-7344  
Email: tom.farace@wildstarpartners.com

with a copy (which shall not constitute notice) to:

Wachtell, Lipton, Rosen & Katz  
51 West 52nd Street  
New York, New York 10019  
Attention: Daniel A. Neff, Esq.  
David M. Silk, Esq.  
Victor Goldfeld, Esq.

Phone: (212) 403-1000  
Email: DANeff@wlrk.com; DMSilk@wlrk.com; VGolfeld@wlrk.com

or such other physical address or email address as such party may hereafter specify for the purpose by notice to the other parties hereto.

All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. on a Business Day in the place of receipt. Otherwise, any such notice, request or communication shall be deemed to have been received on the next succeeding Business Day in the place of receipt.

(f) **Further Assurances.** At any time or from time to time after the date hereof, the parties agree to cooperate with each other, and at the request of any other party, to execute and deliver any further instruments or documents and to take all such further action as the other party may reasonably request in order to evidence or effectuate the consummation of the transactions contemplated hereby and to otherwise carry out the intent of the parties hereunder.

(g) **No Inconsistent Agreements.** The Company shall not hereafter enter into any agreement with respect to its securities, including any other registration rights agreement, which is inconsistent with or violates the rights granted to the holders of Registrable Securities in this Agreement.

(h) **Entire Agreement; No Third-Party Beneficiaries.** This Agreement and the Reclassification Agreement (i) constitutes the entire agreement among the parties with respect to the subject matter of this Agreement and supersede any prior discussions, correspondence, negotiation, proposed term sheet, agreement, understanding or agreement and there are no agreements, understandings, representations or warranties between the parties other than those set forth or referred to in this Agreement and (ii) except as provided in Section 6 with respect to an Indemnified Party, is not intended to confer in or on behalf of any Person not a party to this Agreement (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

(i) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause or permit the application of laws of any jurisdictions other than those of the State of Delaware.

(j) **Submission to Jurisdiction; WAIVER OF JURY TRIAL.** Each of the parties hereto (i) irrevocably and unconditionally submits to the exclusive personal jurisdiction of the Court of Chancery of the

State of Delaware, or, if that court does not have jurisdiction, a federal or state court sitting in Wilmington, Delaware (and in each case, any appellate courts thereof) in any action or proceeding arising out of or relating to this Agreement, (ii) agrees that all claims in respect of such action or proceeding may be heard and determined in any such court, (iii) irrevocably and unconditionally agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court and (iv) agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Each party agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Each of the parties hereto irrevocably and unconditionally waives any defense of inconvenient forum to the maintenance of any action or proceeding so brought and waives any bond, surety or other security that might be required of any other party with respect thereto. Any party hereto may make service on another party by sending or delivering a copy of the process to the party to be served at the address and in the manner provided for the giving of notices in Section 9(c). Nothing in this Section 9(j), however, shall affect the right of any party to serve legal process in any other manner permitted by law. EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS OF ANY PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT THEREOF. EACH PARTY (A) MAKES THIS WAIVER VOLUNTARILY AND (B) ACKNOWLEDGES THAT SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS CONTAINED IN THIS SECTION 9(j).

(k) **Severability.** If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party hereto. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

(l) **Enforcement.** Each party hereto acknowledges that money damages would not be an adequate remedy in the event that any of the covenants or agreements in this Agreement are not performed in accordance with its terms, and it is therefore agreed that in addition to and without limiting any other remedy or right it may have, the non-breaching party will have the right to an injunction, temporary restraining order or other equitable relief in any court of competent jurisdiction enjoining any such breach and enforcing specifically the terms and provisions hereof. In any action or proceeding brought to enforce any provision of this Agreement, the successful party shall be entitled to recover reasonable attorneys' fees in addition to its costs and expenses and other available remedies.

(m) **No Recourse.** Notwithstanding anything that may be expressed or implied in this Agreement to the contrary, the Company and each Stockholder covenant, agree and acknowledge that no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement shall be had against any current or future director, officer, employee, shareholder, general or limited partner or member of any Stockholder or of any Affiliate or assignee thereof, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any statute, regulation or other applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any current or future director, officer, employee, shareholder, general or limited partner or member of any Stockholder or of any Affiliate or assignee thereof, as such for any obligation of any Stockholder under this Agreement or any documents or instruments delivered in connection with this Agreement for any claim based on, in respect of or by reason of such obligations or their creation.

(n) **Counterparts; Facsimile Signatures.** This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent executed and delivered by means of a photographic, photostatic, facsimile or similar reproduction of such signed writing using a facsimile machine or electronic mail will be treated in all manner and respects as an original agreement or instrument and will be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party hereto or to any such agreement or instrument will raise the use of a facsimile machine or electronic mail to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or electronic mail as a defense to the formation or enforceability of a contract and each such party forever waives any such defense. After the execution of this Agreement, any Family-Related Person holding shares of common stock of the Company may deliver to the other parties hereto a counterpart signature to this Agreement and in connection therewith shall be a "Stockholder" for all purposes of the Agreement.

(o) **Dividends, Recapitalizations, Etc.** If at any time or from time to time there is any change in the capital structure of the Company by way of a stock split, stock dividend, combination or reclassification, or through a merger, consolidation, reorganization or recapitalization, or by any other means, appropriate adjustment will be made in the provisions hereof so that the rights and privileges granted hereby will continue.

(p) **WildStar.** It is understood and agreed that WildStar Partners LLC ("WildStar") shall, subject to the last sentence of this [Section 9\(p\)](#), act as representative for, and on behalf of, the Stockholders and any other Family-Related Persons that agree to be bound by this Agreement, including by providing notice and instructions to the Company in respect of the exercise of registration rights on behalf of the Stockholders. The Company is entitled to rely upon such notice and instructions by WildStar, or any such designee(s), as if provided by the Stockholders or Family-Related Persons themselves, and all references herein to any requests or notices to be provided by the Stockholders shall be interpreted accordingly. In addition, the Company is entitled to provide any notice required hereunder to the Stockholders to WildStar on behalf of the Stockholders or Family-Related Persons, and such notices shall be considered given to the Stockholders or Family-Related Persons themselves, and all references herein to any requests or notices to be provided by the Company shall be interpreted accordingly. The Stockholders holding a majority of the Registrable Securities may designate a replacement to WildStar by providing written notice to the Company of such replacement Stockholder representative, and all references to WildStar hereunder will be deemed to refer to such replacement Stockholder representative.

(q) **Interpretation.** When a reference is made in this Agreement to Sections, Schedules or Annexes, such reference shall be to a Section of or Schedule or Annex to this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The term "party" shall be deemed to refer to either the Company, on the one hand, or the Stockholders, on the other hand, as the case may be. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation." Except as otherwise specified, any reference to a contract, instrument or other document as of a given date means the contract, instrument or other document as amended, supplemented and modified. Words in singular will be held to include the plural and vice versa and a word of one gender will be held to include the other genders as the context requires. The word "or" will not be exclusive. The phrases "the date of this Agreement" and "the date hereof" shall be deemed to refer to the date set forth on the first page this Agreement. The parties agree that this Agreement is the product of discussions and negotiations between the parties and their respective advisors, each of the parties was represented by counsel in connection therewith and, accordingly, this Agreement and any document generated in connection herewith shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any document to be drafted.

*[Remainder of page left intentionally blank]*



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IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**COMPANY:**

**CONSTELLATION BRANDS, INC.**

By: /s/ James O. Bourdeau

Name: James O. Bourdeau

Title: Executive Vice President and Chief Legal Officer

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**RICHARD SANDS**

By: /s/ Richard Sands

Name: Richard Sands

**ROBERT SANDS**

By: /s/ Robert Sands

Name: Robert Sands

**ABIGAIL BENNETT**

By: /s/ Abigail Bennett

Name: Abigail Bennett

**ZACHARY STERN**

By: /s/ Zachary Stern

Name: Zachary Stern

**RICHARD SANDS MASTER TRUST  
IN ITS CAPACITY AS SOLE MEMBER OF RES  
MASTER LLC**

By: /s/ Richard Sands

Name: Richard Sands

Title: Trustee

**ROBERT S. SANDS MASTER TRUST  
IN ITS CAPACITY AS SOLE MEMBER OF RSS  
MASTER LLC**

By: /s/ Robert Sands

Name: Robert Sands

Title: Trustee

**ASTRA LEGACY LLC**

By: /s/ Abigail Bennett

Name: Abigail Bennett

Title: President

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**WILDSTAR PARTNERS LLC**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

**WILDSTAR PARTNERS LLC  
IN ITS CAPACITY AS MANAGING GENERAL  
PARTNER OF RES BUSINESS HOLDINGS LP**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

**WILDSTAR PARTNERS LLC  
IN ITS CAPACITY AS MANAGING GENERAL  
PARTNER OF SER BUSINESS HOLDINGS LP**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

**WILDSTAR PARTNERS LLC  
IN ITS CAPACITY AS MANAGING GENERAL  
PARTNER OF RHT 2015 BUSINESS HOLDINGS LP**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

**WILDSTAR PARTNERS LLC  
IN ITS CAPACITY AS MANAGING GENERAL  
PARTNER OF RSS BUSINESS HOLDINGS LP**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

**WILDSTAR PARTNERS LLC  
IN ITS CAPACITY AS MANAGING GENERAL  
PARTNER OF SSR BUSINESS HOLDINGS LP**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

---

**WILDSTAR PARTNERS LLC  
IN ITS CAPACITY AS MANAGING GENERAL  
PARTNER OF RSS 2015 BUSINESS HOLDINGS LP**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

**WILDSTAR PARTNERS LLC  
IN ITS CAPACITY AS MANAGING GENERAL  
PARTNER OF RCT 2015 BUSINESS HOLDINGS LP**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

**WILDSTAR PARTNERS LLC  
IN ITS CAPACITY AS MANAGING GENERAL  
PARTNER OF RCT 2015 BUSINESS HOLDINGS LP,  
SOLE MEMBER OF RCT 2020 INVESTMENTS LLC**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

**WILDSTAR PARTNERS LLC  
IN ITS CAPACITY AS MANAGING GENERAL  
PARTNER OF A&Z 2015 BUSINESS HOLDINGS LP**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

**WILDSTAR PARTNERS LLC  
IN ITS CAPACITY AS MANAGING GENERAL  
PARTNER OF MAS BUSINESS HOLDINGS LP**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Chief Executive Officer

**NSDT 2009 STZ LLC**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Manager

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**NSDT 2011 STZ LLC**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Manager

**RSS BUSINESS MANAGEMENT LLC**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Secretary

**SSR BUSINESS MANAGEMENT LLC**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Secretary

**LES LAUREN HOLDINGS LLC**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Manager

**MES MACKENZIE HOLDINGS LLC**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Manager

**THE MARILYN SANDS MASTER TRUST**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Trustee

**SANDS FAMILY FOUNDATION**

By: /s/ Thomas M. Farace

Name: Thomas M. Farace

Title: Secretary

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**Exhibit A**

- RES Master LLC
- RES Business Holdings LP
- SER Business Holdings LP
- RHT 2015 Business Holdings LP
- RSS Master LLC
- RSS Business Holdings LP
- SSR Business Holdings LP
- RSS 2015 Business Holdings LP
- RCT 2015 Business Holdings LP
- RCT 2020 Investments LLC
- NSDT 2009 STZ LLC
- NSDT 2011 STZ LLC
- RSS Business Management LLC
- SSR Business Management LLC
- LES Lauren Holdings LLC
- MES Mackenzie Holdings LLC
- Abigail Bennett
- Zachary Stern
- A&Z 2015 Business Holdings LP\*
- Marilyn Sands Master Trust
- MAS Business Holdings LP
- Sands Family Foundation
- Richard Sands
- Robert Sands
- WildStar Partners LLC
- Astra Legacy LLC

**Exhibit B**

**JOINDER**

The undersigned is executing and delivering this Joinder pursuant to the Registration Rights Agreement dated as of \_\_\_\_\_, 20\_\_ (as amended, modified and supplemented from time to time, the "Registration Agreement"), among by and among Constellation Brands, Inc., a Delaware corporation (the "Company"), and the other persons named as parties therein (including pursuant to other Joinders). Capitalized terms used herein have the meaning set forth in the Registration Agreement.

By executing and delivering this Joinder to the Company, the undersigned hereby agrees to become a party to, to be bound by, and to comply with the provisions of, the Registration Agreement as a Stockholder in the same manner as if the undersigned were an original signatory to the Registration Agreement, and the undersigned will be deemed for all purposes to be a Stockholder and the undersigned's Class A Common Stock will be deemed for all purposes to be Registrable Securities under the Registration Agreement.

Accordingly, the undersigned has executed and delivered this Joinder as of the \_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Agreed and Accepted as of  
\_\_\_\_\_, 20\_\_:

**CONSTELLATION BRANDS, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**Description of Compensation Arrangements for Non-Management Directors**

As of November 10, 2022

The following is a description of the compensation arrangements for the non-management directors of Constellation Brands, Inc. The Company's annual compensation program for non-management directors for their service as directors consists of a board cash retainer, a non-executive board chair cash retainer, a lead director cash retainer, chair fees, restricted stock units, non-qualified stock options, an annual product allowance, and a matching charitable contribution program.

The board cash retainer consists of an annual retainer equal to \$100,000 paid in quarterly installments. The non-executive board chair cash retainer consists of an annual retainer equal to \$185,000 to be paid to the Board's non-executive chair, if any, payable in quarterly installments. The lead director cash retainer consists of a \$30,000 annual cash retainer to be paid to the Board's lead director, if any, payable in quarterly installments. The chair fees consist of annual fees of \$20,000 for the positions of chair of the Audit Committee and chair of the Human Resources Committee, and \$15,000 for the chair of the Corporate Governance and Responsibility Committee, which are paid in quarterly installments.

Long-term incentive awards in the form of stock options and restricted stock units granted under the Company's Long-Term Stock Incentive Plan are another element of non-management director compensation. As approved by the Board of Directors, each non-management director receives the following annually:

1. A non-qualified stock option grant with a grant date fair value of \$55,000 computed in accordance with FASB ASC Topic 718.
2. A restricted stock unit award with a grant date fair value of \$115,000. (Each restricted stock unit represents a contingent right to receive one share of the Company's Class A Common Stock.)

The value of long-term incentive awards is pro-rated for new directors. While the Board has the flexibility to determine at the time of each grant the vesting provisions for any grant, whether on-cycle or off-cycle, stock options generally vest six (6) months following the date of grant and restricted stock units generally vest on July 10<sup>th</sup> following the date of grant. The Long-Term Stock Incentive Plan, Amended and Restated as of July 18, 2017, is filed as Exhibit 10.4 to the Company's Current Report on Form 8-K dated July 18, 2017 and filed July 20, 2017.

Non-management directors are reimbursed for reasonable expenses incurred in connection with their attendance at Board and Committee meetings. They also receive an annual product allowance in the form of a \$10,000 cash payment and are eligible to participate in the Company's charitable matching contribution program whereby they can direct all or a portion of the Company's charitable matching contributions not in excess of \$5,000.

Members of the Board of Directors who are members of management serve without receiving any additional fees or other compensation for their service on the Board.





## CONSTELLATION BRANDS' STOCKHOLDERS APPROVE PREVIOUSLY ANNOUNCED ELIMINATION OF CLASS B COMMON STOCK

**VICTOR, N.Y., Nov. 9, 2022** – Constellation Brands (NYSE: STZ and STZ.B), a leading beverage alcohol company, announced that its stockholders approved and adopted at a special meeting held this afternoon an amended and restated charter, which will effectuate the previously announced elimination of Constellation's Class B Common Stock. Following completion of the transaction and cessation of trading in the Class B Common Stock, Constellation's publicly listed stock will consist of a single class of Class A Common Stock, with "one share, one vote" rights.

According to the preliminary results announced at the special meeting, subject to certification by the independent Inspector of Election, approximately 75% of the issued and outstanding shares of Class A Common Stock held by the unaffiliated Class A holders voted to approve the amended and restated charter. The final voting results will be reported in a Current Report on Form 8-K to be filed with the Securities and Exchange Commission after certification by Constellation's inspector of elections. Constellation currently anticipates that the reclassification will be completed prior to the opening of trading on the New York Stock Exchange on November 10, 2022.

"I want to thank our stockholders for their support and approval of this important transition to align the voting rights and economic interests of our common stock," said Bill Newlands, Constellation's President and CEO. "This change enhances Constellation's corporate governance profile and capital structure, enabling us to better meet the expectations of our existing stockholders and potentially appeal to a larger base of investors. Together with other meaningful governance improvements approved as part of the reclassification agreement, we now have an even stronger foundation to pursue our strategic growth initiatives and capital allocation priorities to build shareholder value."

As part of the reclassification transaction, the company plans to implement a number of previously announced corporate governance changes, consisting of the following:

- Robert and Richard Sands, who previously served as Executive Chairman of the Board and Executive Vice Chairman of the Board, respectively, will retire from their executive positions with Constellation upon completion of the transaction
- Robert Sands will become Non-Executive Chairman of the Board and Richard Sands will continue on as a non-executive Board member upon completion of the transaction
- The Sands family will initially have the right to nominate two members to the company's Board for the next 5 years so long as they own 10% or more of the issued and outstanding shares of Class A Common Stock, and to nominate one member to the company's Board for the next 5 years and beyond so long as they own 5% or more of the issued and outstanding shares of Class A Common Stock

- Holders of Class A Common Stock, who most recently were entitled to elect approximately 30% of the directors to be elected at the company's 2022 Annual Meeting of Stockholders, will now be entitled to elect all directors to be elected at future Annual Meetings of Stockholders and
- Certain standstill and lock-up provisions for the Sands family; limitations on the Sands family's, directors', and officers' ability to pledge Company common stock; a near-term rotation of the lead independent director position; and the transition to a majority vote standard for uncontested director elections.

#### **ABOUT CONSTELLATION BRANDS**

At Constellation Brands (NYSE: STZ and STZ.B), our mission is to build brands that people love because we believe sharing a toast, unwinding after a day, celebrating milestones, and helping people connect, are Worth Reaching For. It's worth our dedication, hard work, and the bold calculated risks we take to deliver more for our consumers, trade partners, shareholders, and communities in which we live and work. It's what has made us one of the fastest-growing large CPG companies in the U.S. at retail, and it drives our pursuit to deliver what's next.

Today, we are a leading international producer and marketer of beer, wine, and spirits with operations in the U.S., Mexico, New Zealand, and Italy. Every day, people reach for our high-end, iconic imported beer brands such as Corona Extra, Corona Light, Corona Premier, Modelo Especial, Modelo Negra, and Pacifico, our fine wine and craft spirits brands, including The Prisoner Wine Company, Robert Mondavi Winery, Casa Noble Tequila, and High West Whiskey, and our premium wine brands such as Meiomi, and Kim Crawford.

But we won't stop here. Our visionary leadership team and passionate employees from barrel room to boardroom are reaching for the next level, to explore the boundaries of the beverage alcohol industry and beyond. Join us in discovering what's Worth Reaching For.

#### **FORWARD-LOOKING STATEMENTS**

This press release contains forward-looking statements. All statements other than statements of historical fact are forward-looking statements. The word "expect," and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain such identifying words. These statements may relate to future plans and objectives of management and Constellation's Board of Directors, as well as information concerning expected actions of third parties. All forward-looking statements involve risks and uncertainties that could cause actual results to differ materially from those set forth in, or implied by, such forward-looking statements. No assurances can be given that any of the events anticipated by the forward-looking statements will transpire or occur.

The forward-looking statements are based on management's current expectations and should not be construed in any manner as a guarantee that such results will in fact occur. All forward-looking statements speak only as of the date of this press release and Constellation does not undertake any obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

Statements in this communication regarding Constellation and the reclassification transaction that are forward-looking, including projections as to the anticipated benefits of the proposed transaction, the impact of

the proposed transaction on Constellation's business and future corporate governance profile, capital structure, financial and operating results, strategic growth initiatives, and capital allocation priorities following the closing of the proposed transaction, and the closing date for the proposed transaction, are based on management's estimates, assumptions and projections, and are subject to significant uncertainties and other factors, many of which are beyond Constellation's control. These factors include, among other things, (1) any delays with respect to, or the failure to complete, the reclassification, (2) the ability to recognize the anticipated benefits of the reclassification, (3) Constellation's ability to execute successfully its strategic plans, and (4) the effect of the consummation of the proposed reclassification on the market price of the capital stock of Constellation. The foregoing review of important factors should not be construed as exhaustive and should be read in conjunction with the other cautionary statements that are included elsewhere. Additional information concerning risks that could cause actual future performance or events to differ from current expectations can be found in Constellation's filings with the Securities and Exchange Commission, including the risk factors discussed in Constellation's most recent Annual Report on Form 10-K for the fiscal year ended February 28, 2022 and Quarterly Report on Form 10-Q for the fiscal quarter ended August 31, 2022.

To learn more, visit [www.cbrands.com](http://www.cbrands.com) and follow us on [Twitter](#), [Instagram](#), and [LinkedIn](#).

**MEDIA CONTACTS**

Mike McGrew 773-251-4934 / [michael.mcgrew@cbrands.com](mailto:michael.mcgrew@cbrands.com)  
Amy Martin 585-678-7141 / [amy.martin@cbrands.com](mailto:amy.martin@cbrands.com)

**INVESTOR RELATIONS CONTACT**

Joseph Suarez 773-551-4397 / [joseph.suarez@cbrands.com](mailto:joseph.suarez@cbrands.com)



## CONSTELLATION BRANDS ANNOUNCES COMPLETION OF PREVIOUSLY ANNOUNCED ELIMINATION OF CLASS B COMMON STOCK

**VICTOR, N.Y., Nov. 10, 2022** – Constellation Brands (NYSE: STZ), a leading beverage alcohol company, announced today that it completed the previously announced reclassification transaction and eliminated its Class B Common Stock. Trading in the Class B Common Stock will cease after the markets close today, at which time Constellation’s publicly listed stock will consist solely of Class A Common Stock.

In connection with completing the transaction, the company has deposited for distribution the \$64.64 per share cash consideration, or approximately \$1.5 billion in aggregate, to holders of Class B Common Stock. Financing for the cash payment was provided through funding of the previously announced delayed draw term loan credit agreement and Constellation’s existing commercial paper program. The interest expense associated with this financing is expected to be \$80 - \$90 million on an annual basis based on current market rates. Giving effect to the interest expense associated with the financing, the company now expects interest expense for fiscal 2023 to be approximately \$390 - \$400 million. As part of the delayed draw term loan agreement, Constellation has the right to prepay the borrowing in whole or in part, without premium or penalty, ahead of its three-year maturity date.

In addition, upon completion of the transaction, Robert and Richard Sands, who previously served as Executive Chairman of the Board and Executive Vice Chairman of the Board, respectively, retired from their executive positions with Constellation. As a result of the retirement of Robert and Richard Sands from their executive positions, Constellation expects to realize an estimated \$15 - \$20 million in pretax annual compensation savings. The company anticipates to initially attain \$15 million of these annual savings in fiscal 2024 and to reach the estimated \$15 - \$20 million in run-rate savings within three years of the reclassification transaction as certain benefits accessible by Robert and Richard Sands are terminated.

Additional details with respect to the reclassification and related matters will be described in filings to be made by Constellation today with the Securities and Exchange Commission.

### ABOUT CONSTELLATION BRANDS

At Constellation Brands (NYSE: STZ), our mission is to build brands that people love because we believe sharing a toast, unwinding after a day, celebrating milestones, and helping people connect, are Worth Reaching For. It’s worth our dedication, hard work, and the bold calculated risks we take to deliver more for our consumers, trade partners, shareholders, and communities in which we live and work. It’s what has made us one of the fastest-growing large CPG companies in the U.S. at retail, and it drives our pursuit to deliver what’s next.

Today, we are a leading international producer and marketer of beer, wine, and spirits with operations in the U.S., Mexico, New Zealand, and Italy. Every day, people reach for our high-end, iconic imported beer brands such as Corona Extra, Corona Light, Corona Premier, Modelo Especial, Modelo Negra, and Pacifico, our fine wine and craft spirits brands, including The Prisoner Wine Company, Robert Mondavi Winery, Casa Noble Tequila, and High West Whiskey, and our premium wine brands such as Meiomi, and Kim Crawford.

But we won't stop here. Our visionary leadership team and passionate employees from barrel room to boardroom are reaching for the next level, to explore the boundaries of the beverage alcohol industry and beyond. Join us in discovering what's Worth Reaching For.

#### **FORWARD-LOOKING STATEMENTS**

This press release contains forward-looking statements. All statements other than statements of historical fact are forward-looking statements. The word "expect," and similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain such identifying words. These statements may relate to future plans and objectives of management and Constellation's Board of Directors, as well as information concerning expected actions of third parties. All forward-looking statements involve risks and uncertainties that could cause actual results to differ materially from those set forth in, or implied by, such forward-looking statements. No assurances can be given that any of the events anticipated by the forward-looking statements will transpire or occur.

The forward-looking statements are based on management's current expectations and should not be construed in any manner as a guarantee that such results will in fact occur. All forward-looking statements speak only as of the date of this press release and Constellation does not undertake any obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

Statements in this communication regarding Constellation and the reclassification transaction that are forward-looking, including projected costs and expenses, estimated cost savings, and the cessation of trading of the Class B Common Stock, are based on management's estimates, assumptions and projections, and are subject to significant uncertainties and other factors, many of which are beyond Constellation's control. These factors include, among other things, (1) the ability to recognize the anticipated benefits of the reclassification, (2) Constellation's ability to execute successfully its strategic plans, and (3) the effect of the consummation of the reclassification on the market price of the capital stock of Constellation. The foregoing review of important factors should not be construed as exhaustive and should be read in conjunction with the other cautionary statements that are included elsewhere. Additional information concerning risks that could cause actual future performance or events to differ from current expectations can be found in Constellation's filings with the Securities and Exchange Commission, including the risk factors discussed in Constellation's most recent Annual Report on Form 10-K for the fiscal year ended February 28, 2022 and Quarterly Report on Form 10-Q for the fiscal quarter ended August 31, 2022.

To learn more, visit [www.cbrands.com](http://www.cbrands.com) and follow us on [Twitter](#), [Instagram](#), and [LinkedIn](#).

#### **MEDIA CONTACTS**

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#### **INVESTOR RELATIONS CONTACT**

Joseph Suarez 773-551-4397 / [joseph.suarez@cbrands.com](mailto:joseph.suarez@cbrands.com)

**DESCRIPTION OF THE REGISTRANT'S SECURITIES  
REGISTERED PURSUANT TO SECTION 12 OF THE  
SECURITIES EXCHANGE ACT OF 1934**

*As of November 10, 2022, Constellation Brands, Inc. (“we”, “our”, “us”, the “Company” or the “Registrant”) had one class of securities registered under Section 12 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), our Class A common stock (par value \$0.01 per share). Our Class A common stock is listed on the New York Stock Exchange (the “NYSE”) under the symbol “STZ”. We also have issued and outstanding shares of Class 1 common stock (par value \$0.01). However, our Class 1 common stock is not registered under Section 12 of the Exchange Act and is not listed on any stock exchange. The following summary of the terms of our Class A common stock, inclusive of references to our Class 1 common stock, is based on our amended and restated certificate of incorporation (the “Amended and Restated Charter”) and our amended and restated by-laws (the “By-Laws”). This description is a summary, does not purport to be complete, and is qualified in its entirety by reference to the applicable provisions of our Amended and restated Charter and our By-Laws, both of which are filed as exhibits to the Current Report on Form 8-K, of which this Exhibit 99.3 is a part, and are incorporated by reference herein and the General Corporation Law of the State of Delaware (the “DGCL”). We encourage you to read the Amended and Restated Charter, the By-Laws and the applicable provisions of the DGCL for more information.*

**General**

Our authorized capital stock consists of 348,000,000 shares, of which (i) 322,000,000 shares are Class A common stock, par value \$0.01 per share (“Class A Common Stock”), (ii) 25,000,000 shares are Class 1 common stock, par value \$0.01 per share (“Class 1 Common Stock”), and (iii) 1,000,000 shares are preferred stock, par value \$0.01 per share.

**Dividend Rights**

Subject to preferences that may apply to shares of preferred stock outstanding at the time, the holders of shares of Class A Common Stock and Class 1 Common Stock are entitled to receive dividends in accordance with law if our board of directors (the “Board”), in its sole discretion, determines to declare dividends and only then at the times and in the amounts that our Board may determine. Notwithstanding the foregoing, if we declare and pay a cash dividend on Class 1 Common Stock, each share of Class A Common Stock will be paid a cash dividend in an amount at least 10% greater than the amount of the cash dividend per share paid on Class 1 Common Stock. Our Board may declare and pay a dividend on Class A Common Stock without paying any dividend on Class 1 Common Stock.

**Voting Rights**

Each holder of shares of Class A Common Stock is entitled to one vote per share on all matters requiring a vote of the stockholders, including, without limitation, the election of directors. The holders of shares of Class A Common Stock do not have cumulative voting rights. Except as otherwise required by any law or regulation applicable to the Company or its securities, by the rules or regulations of any stock exchange applicable to the Company or its securities, or by the Amended and Restated Charter or otherwise required by the By-Laws, all matters brought to a vote of stockholders are decided by the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter at a meeting at which a quorum is present.

Holders of Class 1 Common Stock are not entitled to vote except that such holders are entitled to vote as a separate class on matters with respect to which a separate class vote of holders of Class 1 Common Stock is required by law and are entitled to vote with respect to any increase or decrease in the authorized number of shares of Class 1 Common Stock as a single class with the holders of Class A Common Stock (in which case the holders of Class 1 Common Stock and Class A common stock are each entitled to one vote per share). The holders of shares of Class 1 Common Stock do not have cumulative voting rights.

Delaware law could require either holders of our Class A Common Stock or our Class 1 Common Stock to vote separately as a single class in the following circumstances:

- if we were to seek to amend our Amended and Restated Charter to increase the authorized number of shares of a class of stock (with respect to the shares of Class A Common Stock only), or to increase or decrease the par value of a class of stock, then that class may be required to vote separately to approve the proposed amendment; and
- if we were to seek to amend our Amended and Restated Charter to alter or change the powers, preferences, or special rights of the shares of a class of stock so as to affect them adversely, then that class may be required to vote separately to approve the proposed amendment.

### **Board of Directors**

The Board is comprised of a single class, elected annually by the holders of Class A Common Stock at any meeting of stockholders called for the election of directors at which a quorum is present (a quorum being the holders of shares representing a majority of the votes entitled to be cast at the meeting by the holders of all outstanding shares entitled to vote, present in person or by proxy). The directors are elected by the affirmative vote of the holders of a majority of the votes entitled to be cast by the stockholders who are present in person or represented by proxy at the meeting and entitled to vote on the election of directors. However, if one or more stockholders has delivered to the Secretary of the Company notice (which purports to be in compliance with the requirements of the By-Laws) of its intent to nominate one or more persons for election to the Board and such nomination(s) have not been formally and irrevocably withdrawn as of the 10th calendar day preceding the date the Company first gives its notice of meeting to the stockholders, then directors shall be elected by a plurality of the votes entitled to be cast by the stockholders who are present in person or represented by proxy at the meeting and entitled to vote on the election of directors.

### **Conversion of Class 1 Common Stock**

Each holder of a share of Class 1 Common Stock may, without cost and at their option, convert shares of Class 1 Common Stock into fully paid and non-assessable shares of Class A Common Stock on a one-for-one basis; provided, that, such conversion is permitted only if the holder immediately sells the Class A Common Stock acquired upon conversion in a market transaction to an unrelated party in a *bona fide* arm's-length transaction or in connection with any offering registered under the Securities Act of 1933, as amended (the "Securities Act"). The Company does not intend to list the Class 1 Common Stock on the NYSE or any other exchange. A holder wishing to sell shares of Class 1 Common Stock may convert such shares of Class 1 Common Stock into shares of Class A Common Stock immediately prior to a qualifying sale of the shares. The terms of the Class 1 Common Stock do not impose any transfer restrictions on shares of Class 1 Common Stock; however, shares of Class 1 Common Stock may be subject to restrictions on transfer imposed by applicable securities laws, as well as certain contractual transfer restrictions.

### **Rights Upon Liquidation**

Holders of shares of Class A Common Stock and Class 1 Common Stock are entitled to share pro rata in the distribution of our assets available for such purpose in the event of our liquidation, dissolution or winding up, after payment of, or provision for, creditors and distribution of, or provision for, preferential amounts and unpaid accumulated dividends to holders of preferred stock, if any.

### **Preemptive and Other Rights**

Holders of shares of Class A Common Stock and Class 1 Common Stock have no preemptive rights to subscribe for any additional securities which we may issue, and there are no redemption provisions or sinking fund provisions applicable to any such shares, nor are such shares subject to further calls or assessments.

### **Antitakeover Provisions**

Provisions of the DGCL, the Amended and Restated Charter and the By-Laws, which are summarized below, may have antitakeover effects and could delay, defer or prevent a tender offer, takeover attempt or other change of control transaction that a stockholder might consider in its best interest.

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### ***Delaware Law Antitakeover Statute***

The Company is subject to Section 203 of the DGCL. Section 203 prohibits a publicly held Delaware corporation from engaging in any “business combination” with any “interested stockholder” for a period of three years following the time that such person became an interested stockholder, unless:

- prior to the time the interested stockholder becomes an interested stockholder, the board of directors approved either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder;
- upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owns at least 85% of the outstanding voting stock (subject to certain exclusions of voting stock) at the time the transaction commenced; or
- at or subsequent to the time the interested stockholder became an interested stockholder, the business combination is approved by the board of directors and authorized at a meeting of the corporation’s stockholders (and not by written consent) by the affirmative vote of at least two-thirds of the outstanding voting stock that is not owned by the interested stockholder.

For purposes of Section 203, a “business combination” includes a merger, assets sale or other transaction resulting in a financial benefit to the interested stockholder, and an “interested stockholder” includes a person who, together with affiliates and associates, owns 15% or more of the corporation’s voting stock. These provisions may have the effect of delaying, deferring or preventing changes in control of the Company.

### ***Issuance of Undesignated Preferred Stock***

Our Board has the authority, without stockholder approval, to issue up to 1,000,000 shares of undesignated preferred stock with rights and preferences, to the extent not fixed by certain provisions set forth in the Amended and Restated Charter and subject to the terms contained in any designation of a series of preferred stock, designated from time to time by our Board. The powers, preferences and relative, participating, optional and other special rights of each class or series of preferred stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding. The existence of authorized but unissued shares of preferred stock would enable our Board to render more difficult or to discourage an attempt to obtain control of our Company by means of a merger, tender offer, proxy contest or other means.

### ***No Cumulative Voting***

The Amended and Restated Charter does not provide for cumulative voting.

### ***Size of Board of Directors and Vacancies***

The By-Laws provide that the total number of directors will be determined from time to time by our Board. The By-Laws further provide that during the interval between annual meetings, any newly created directorship or any vacancy occurring in our Board for any cause may be filled by the members of our Board in accordance with the DGCL.

### ***Amendment to By-Laws***

The By-Laws may be altered, amended or repealed or new by-laws may be made by the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the subject matter, at any annual or special meeting, or, by our Board.

### ***Special Stockholder Meetings; Notice Requirements***

A special meeting of stockholders for any purpose or purposes may be called at any time by our Board, or by a committee of our Board which has been duly designated by our Board, and whose powers and authority, as expressly provided in a resolution of our Board, include the power to call such meetings, but such special meetings may not be called by any other person or persons. The By-Laws also provide for advance notice procedures for



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stockholders seeking to bring business before our annual meeting of stockholders or to nominate candidates for election as directors at our annual meeting of stockholders. The By-Laws also specify certain requirements regarding the form and content of a stockholder's notice under the advance notice provision.

***Exclusive Forum for Certain Lawsuits***

The By-Laws provide that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if such court does not have subject matter jurisdiction thereof, the federal district court of the State of Delaware) will be, to the fullest extent permitted by law, the sole and exclusive forum for any (i) derivative action or proceeding brought on our behalf, (ii) action asserting a claim of breach of a fiduciary duty owed by any of our current or former directors, officers or our stockholders to us or our stockholders, (iii) action asserting a claim arising pursuant to any provision of the DGCL, the Amended and Restated Charter or the By-Laws or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware or (iv) action asserting a claim governed by the internal affairs doctrine. In addition, the By-Laws provide that, unless we consent in writing to the selection of an alternative forum, the federal district courts of the United States of America will, to the fullest extent permitted by law, be the sole and exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act. The By-Laws also provide that any person or entity purchasing or otherwise acquiring or holding any interest in shares of our capital stock will be deemed to have notice of and consented to this choice-of-forum provision.

This choice-of-forum provision in the By-Laws may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers and other employees, which may discourage lawsuits with respect to such claims, although our stockholders will not be deemed to have waived our compliance with federal securities laws and the rules and regulations thereunder. In addition, stockholders who do bring a claim in the Court of Chancery in the State of Delaware could face additional litigation costs in pursuing any such claim, particularly if they do not reside in or near Delaware.