

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

FORM S-3

REGISTRATION STATEMENT UNDER  
THE SECURITIES ACT OF 1933

**PLBY GROUP, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**37-1958714**

(I.R.S. Employer Identification Number)

**10960 Wilshire Blvd., Suite 2200  
Los Angeles, CA 90024  
(310) 424-1800**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Ben Kohn  
Chief Executive Officer  
10960 Wilshire Blvd., Suite 2200  
Los Angeles, CA 90024  
(310) 424-1800**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

*Copies to:*

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(310) 424-1800**

**Approximate date of commencement of proposed sale to the public:** From time to time after this Registration Statement becomes effective.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ☐

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 (the "Securities Act"), other than securities offered only in connection with dividend or interest reinvestment plans, check the following box: ☒

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Securities and Exchange Commission pursuant to Rule 462(e) under the Securities Act, check the following box. ☐

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. ☐

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

Large accelerated filer ☒  
Non-accelerated filer ☐

Accelerated filer ☐  
Smaller reporting company ☐  
Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act. ☐

**The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to such Section 8(a), may determine.**

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**The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION  
DATED SEPTEMBER 2, 2022**

**PROSPECTUS**

**\$250,000,000**

**PLBY GROUP, INC.**

**Common Stock  
Preferred Stock  
Depository Securities  
Debt Securities  
Warrants  
and  
Units**

We may offer, issue and sell, together or separately:

- shares of our common stock;
- shares of our preferred stock, which may be issued in one or more series;
- depository receipts, representing fractional shares of our preferred stock, which are called depository shares;
- debt securities, which may be issued in one or more series and which may be senior debt securities or subordinated debt securities;
- warrants to purchase shares of our common stock, shares of our preferred stock or our debt securities; and
- units.

We will provide the specific prices and terms of these securities in one or more supplements to this prospectus at the time of offering. You should read this prospectus and any accompanying prospectus supplement carefully before you make your investment decision.

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**This prospectus may not be used to sell securities unless accompanied by a prospectus supplement.**

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**INVESTING IN OUR COMMON STOCK INVOLVES RISKS THAT ARE DESCRIBED IN THE “*RISK FACTORS*” SECTION BEGINNING ON PAGE 2 OF THIS PROSPECTUS AND PART 1A, “*RISK FACTORS*” BEGINNING ON PAGE 11 OF OUR ANNUAL REPORT ON FORM 10-K FOR THE FISCAL YEAR ENDED DECEMBER 31, 2021, FILED WITH THE SEC ON MARCH 16, 2022, WHICH IS INCORPORATED BY REFERENCE HEREIN, AS WELL AS THE OTHER INFORMATION INCLUDED AND INCORPORATED BY REFERENCE HEREIN, TO READ ABOUT FACTORS YOU SHOULD CONSIDER BEFORE DECIDING TO INVEST IN OUR SECURITIES.**

We may offer securities through underwriting syndicates managed or co-managed by one or more underwriters or dealers, through agents or directly to purchasers. These securities also may be resold by selling securityholders. If required, the prospectus supplement for each offering of securities will describe the plan of distribution for that offering. For general information about the distribution of securities offered, please see “Plan of Distribution” in this prospectus.

Our common stock is listed on the Nasdaq Global Market (the “Nasdaq”) under the trading symbol “PLBY.” Each prospectus supplement will indicate whether the securities offered thereby will be listed on any securities exchange.

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Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of the securities to be issued under this prospectus or determined if this prospectus or any accompanying prospectus supplement is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is September 2, 2022.

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## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement on Form S-3 that we filed with the Securities and Exchange Commission (the “SEC”) using a “shelf” registration process. Under this shelf registration process, we may from time to time sell any combination of the securities described in this prospectus in one or more offerings for an aggregate offering price of up to \$250,000,000.

We have not authorized anyone to provide you with any information or to make any representations other than those contained in this prospectus or any applicable prospectus supplement prepared by or on behalf of us or to which we have referred you. We do not take responsibility for, and can provide no assurance as to the reliability of, any other information that others may give you. We will not make an offer to sell these securities in any jurisdiction where the offer or sale is not permitted.

We may also provide a prospectus supplement, free-writing prospectus or, if appropriate, a post-effective amendment, to the registration statement to add information to, or update or change information contained in, this prospectus. You should read both this prospectus and any applicable prospectus supplement, free-writing prospectus or post-effective amendment to the registration statement together with the additional information to which we refer you in the sections of this prospectus entitled “*Where You Can Find More Information*” and “*Incorporation of Certain Documents by Reference*.”

On February 10, 2021, we consummated the transactions contemplated by that certain Agreement and Plan of Merger, dated as of September 30, 2020 (the “Merger Agreement”), by and among Mountain Crest Acquisition Corp (“MCAC”), MCAC Merger Sub Inc. (“Merger Sub”), and Playboy Enterprises, Inc., a Delaware corporation (“Playboy”), and Suying Liu (solely for purposes of Section 7.2 and Article XI of the Merger Agreement). Pursuant to the terms of the Merger Agreement, Playboy merged with and into Merger Sub, with Playboy surviving the merger as a wholly-owned subsidiary of MCAC (the “Business Combination”), and MCAC changed its name to “PLBY Group, Inc.” upon consummation of the Business Combination.

Unless the context indicates otherwise, references in this prospectus to the “Company,” “PLBY,” “we,” “us,” “our” and similar terms refer to PLBY Group, Inc. and its consolidated subsidiaries, including Playboy.

References to “MCAC” refer to our predecessor company prior to the consummation of the Business Combination. Upon consummation of the Business Combination, MCAC, who was the legal acquirer, was treated as the “acquired” company for financial reporting purposes and Playboy was treated as the accounting predecessor of MCAC for SEC purposes. All references to historical financial information of PLBY Group, Inc. in this prospectus prior to the Business Combination refer to the historical financial information of Playboy unless the context otherwise requires.

In addition, in this prospectus “RT-ICON” means RT-ICON Holdings LLC, a Delaware limited liability company, together with its affiliates and its and their successors and assigns (other than the Company and its subsidiaries).

## RISK FACTORS

Investing in our Common Stock involves risks. You should carefully review the risk factors contained under the heading “*Risk Factors*” in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021 and any risk factors that we may describe in our Quarterly Reports on Form 10-Q or Current Reports on Form 8-K filed subsequently to the Annual Report on Form 10-K, which risk factors are incorporated by reference in this prospectus, the information contained under the heading “*Cautionary Note Regarding Forward-Looking Statements*” in this prospectus or under any similar heading in any applicable prospectus supplement or in any document incorporated herein or therein by reference, any specific risk factors discussed under the caption “*Risk Factors*” in any applicable prospectus supplement or in any document incorporated herein or therein by reference and the other information contained in, or incorporated by reference in, this prospectus or any applicable prospectus supplement before making an investment decision. The risks and uncertainties described in our SEC filings are not the only ones facing us. Additional risks and uncertainties not presently known to us, or that we currently see as immaterial, may also harm our business. If any such risks and uncertainties actually occur, our business, financial condition, results of operations, cash flows and prospects could be materially and adversely affected, the market price of our Common Stock could decline and you could lose all or part of your investment. See “*Incorporation of Certain Documents by Reference*” and “*Cautionary Note Regarding Forward-Looking Statements*.”

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains statements that are forward-looking and as such are not historical facts. These statements are based on the expectations and beliefs of the management of the Company in light of historical results and trends, current conditions and potential future developments, and are subject to a number of factors and uncertainties that could cause actual results to differ materially from forward-looking statements. These forward-looking statements include all statements other than historical fact, including statements about our future performance and opportunities; benefits of acquisitions and corporate transactions; statements of the plans, strategies and objectives of management for future operations; and statements regarding future economic conditions or performance. When used in this prospectus, words such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “might,” “plan,” “possible,” “potential,” “predict,” “project,” “should,” “strive,” “would” and similar expressions may identify forward-looking statements, and include the assumptions that underlie such statements, but the absence of these words does not mean that a statement is not forward-looking. When we discuss our strategies and/or plans, we are making projections, forecasts or forward-looking statements. Such statements are based on the beliefs of, as well as assumptions made by and information currently available to, our management.

The forward-looking statements contained in this prospectus are based on current expectations and beliefs concerning future developments and their potential effects on the Company. There can be no assurance that future developments affecting the Company will be those that the Company has anticipated. These forward-looking statements involve significant risks and uncertainties that could cause the actual results to differ materially from those discussed in the forward-looking statements. Factors that may cause such differences include, but are not limited to: (1) the impact of the COVID-19 pandemic on the Company’s business and acquisitions; (2) the inability to maintain the listing of the shares of our Common Stock on Nasdaq; (3) the risk that the Company’s acquisitions or any proposed transactions disrupt the Company’s current plans and/or operations, including the risk that the Company does not complete any such proposed transactions or achieve the expected benefits from them; (4) the ability to recognize the anticipated benefits of acquisitions, commercial collaborations, commercialization of digital assets and proposed transactions, which may be affected by, among other things, competition, the ability of the Company to grow and manage growth profitably, and retain its key employees; (5) costs related to being a public company, acquisitions, commercial collaborations and proposed transactions; (6) changes in applicable laws or regulations; (7) the possibility that the Company may be adversely affected by global hostilities, supply chain disruptions or other economic, business, and/or competitive factors; (8) risks relating to the uncertainty of the projected financial information of the Company; (9) risks related to the organic and inorganic growth of the Company’s businesses, and the timing of expected business milestones; and (10) other risks and uncertainties indicated in our Annual Report on Form 10-K, including those under “*Item 1A. Risk Factors.*” Should one or more of these risks or uncertainties materialize, or should any of the Company’s assumptions prove incorrect, actual results may vary in material respects from those projected in these forward-looking statements. The Company cautions that the foregoing list of factors is not exclusive, and readers should not place undue reliance upon any forward-looking statements.

Forward-looking statements included in this prospectus only as of the date of this prospectus or any earlier date specified for such statements. We do not undertake any obligation to update or revise any forward-looking statements to reflect any change in our expectations or any change in events, conditions, or circumstances on which any such statement is based, except as may be required under applicable law. All subsequent written or oral forward-looking statements attributable to the Company or persons acting on the Company’s behalf are qualified in their entirety by this Cautionary Note Regarding Forward-Looking Statements.



## SUMMARY OF THE PROSPECTUS

This summary highlights selected information appearing elsewhere in this prospectus. Because it is a summary, it may not contain all of the information that may be important to you. To understand this offering fully, you should read this entire prospectus carefully, including the information set forth under the heading “*Risk Factors*” and our financial statements and related notes included in this prospectus or incorporated by reference into this prospectus, any applicable prospectus supplement and the documents to which we have referred to in the “*Incorporation of Certain Documents by Reference*” section below.

### Company Overview

We are a large, global consumer lifestyle company marketing our brands through a wide range of direct-to-consumer products, licensing initiatives, digital subscriptions and content, and location-based entertainment. We reach millions of consumers worldwide with products across four key market categories: Sexual Wellness, including lingerie and intimacy products; Style and Apparel, including a variety of apparel and accessories products for men and women; Gaming and Lifestyle, such as digital gaming, hospitality and spirits; and Beauty and Grooming, including fragrance, skincare, grooming and cosmetics for women and men.

We have three reportable segments: Licensing, Direct-to-Consumer, and Digital Subscriptions and Content. The Licensing segment derives revenue from trademark licenses for third-party consumer products, online gaming and location-based entertainment businesses. The Direct-to-Consumer segment derives its revenue from sales of consumer products sold directly to consumers through our own online channels or through third-party retailers. The Digital Subscriptions and Content segment derives revenue from the subscription of Playboy programming which is distributed through various channels, including websites and domestic and international TV, and from sales of tokenized digital art and collectibles.

### Our Strategy

We aim to build the leading pleasure and leisure lifestyle platform for all people around the world. Our commercial strategy is to capture high consumer lifetime value while maintaining low consumer acquisition costs. We do this by building direct relationships with our customers through our owned-and-operated digital commerce and digital offerings and by utilizing our significant organic reach for marketing efficiency.

We are focused on three key growth pillars: first, accelerating our direct-to-consumer commerce business, where we target an 18-34-year-old consumer base with Sexual Wellness and Apparel offerings. Second, strategically expanding our licensing business in key categories and territories with a focus on China, India and gaming. In addition, we use our licensing business as a marketing tool and brand builder for us, in particular through our high-end designer collaborations and our large-scale partnerships with partners such as PacSun. Third, investing in new emerging growth opportunities, with a focus on scalable digital products and services, that deliver recurring or long tail revenue and allow us to generate significant returns over a three-to-five-year time horizon.

*centerfold.com*, our new creator-led platform dedicated to creative freedom, artistic expression and sex positivity, is the cornerstone of our digital strategy in 2022. Creators can set up their own subscription or membership services, directly message with their fans and interact with consumers in other ways. As we expand, we plan to offer creators services that only Playboy can, including the ability to tap into our merchandise design, production and distribution capabilities, artist collaborations, merchandise collaborations with Playboy and Honey Birdette, and access NFTs and blockchain tools.

Lastly, building on our acquisitions of Yandy in December 2019, TLA Acquisition Corp., the owner of the Lovers brand, in March 2021, Honey Birdette (Aust) Pty Limited, owner of the luxury lingerie brand Honey Birdette, in August 2021, and GlowUp Digital Inc., owner of the Dream web platform which has become our *centerfold.com* content-creator platform, in October 2021, we will continue to identify and assess potentially advantageous merger, acquisition and investment opportunities. Utilizing the flexibility of our operating cash flow, and management expertise, we may pursue additional acquisitions or other strategic opportunities to complement and accelerate our organic growth.

## **Our Team**

We seek to recruit, retain, and incentivize highly talented existing and future employees. We believe that creating a respectful and inclusive environment where team members can be themselves and be supported is critical to attracting, developing and retaining talent. A set of fundamental values guides our thinking and actions both inside the Company and as we pursue our mission through our interaction with our consumers and our partners around the world. We created these values with the goal of holding ourselves accountable, of preserving what is special, and to inspire and guide ourselves moving forward as we grow and take on new challenges. We believe staying true to these values will drive the long-term value we create in consumers' lives.

## **Intellectual Property**

We own various trademarks, copyrights and software comprising our intellectual property holdings, including, without limitation, the "Playboy" name, the "RABBIT HEAD DESIGN" logo, the "Yandy" name, the "Lovers" name, the "Honey Birdette" name and the "Centerfold" name.

We currently have active trademark registrations in more than 150 countries for our key trademarks, including variations of the PLAYBOY and the RABBIT HEAD DESIGN logo, which are typically the core intellectual property we license pursuant to our licensing agreements and use on our branded consumer products. Trademark registrations typically allow us to exclusively use or permit licensed use of the marks in the product categories in which they are registered. These registrations are typically valid for 10 years from the original date of registration or the date of renewal. When these registrations become due for renewal, we typically renew them unless the registrations have become redundant due to overlapping coverage from other existing registered marks or they cover marks or categories that we no longer actively use or have plans to use in the future. Most jurisdictions allow for an unlimited number of renewals provided that the criteria to apply for renewal are met in the applicable jurisdiction.

## **Corporate Information**

Our principal executive office is located at 10960 Wilshire Blvd, Suite 2200, Los Angeles, California 90024 and our telephone number is (310) 424-1800. We maintain a website at [www.plbygroup.com](http://www.plbygroup.com). The information on any websites or web platforms of the Company is not incorporated by reference in this prospectus or any accompanying prospectus supplement, and you should not consider it a part of this prospectus or any accompanying prospectus supplement.

## USE OF PROCEEDS

Except as otherwise set forth in any accompanying prospectus supplement, we expect to use the net proceeds from the sale of securities for general corporate purposes, including the financing of our operations, the possible repayment of indebtedness, and possible business acquisitions. We have not determined the amount of net proceeds to be used specifically for such purposes. As a result, management will retain broad discretion over the allocation of net proceeds.

## SECURITIES WE MAY OFFER

This prospectus contains summary descriptions of the securities we may offer from time to time. These summary descriptions are not meant to be complete descriptions of each security. The particular terms of any security will that we offer be described in the applicable prospectus supplement and/or any related free writing prospectus.

## DESCRIPTION OF CAPITAL STOCK

The following summary of the material terms of our Common Stock is not intended to be a complete summary of the rights and preferences of such Common Stock and is qualified by reference to our Second Amended and Restated Certificate of Incorporation (for purposes of this section, the “Certificate of Incorporation”), our Amended and Restated Bylaws (for purposes of this section, the “Bylaws”) and each of the agreements containing registration rights (the “Registration Rights Agreements”). We urge you to read each of the Certificate of Incorporation, the Bylaws, the Registration Rights Agreements in their entirety for a complete description of the rights and preferences of our Common Stock.

### Authorized Capital Stock

Our Certificate of Incorporation authorized the issuance of 155,000,000 shares, consisting of 150,000,000 shares of Common Stock, and 5,000,000 shares of preferred stock, \$0.0001 par value (the “Preferred Stock”).

### Common Stock

#### *Ranking*

The voting, dividend and liquidation rights of the holders of our Common Stock are subject to and qualified by the rights of the holders of the Preferred Stock of any series as may be designated by the board of directors of the Company (the “Board”) upon any issuance of the Preferred Stock of any series.

#### *Voting*

Except as otherwise required by law or our Certificate of Incorporation, each holder of record of Common Stock, as such, shall have one vote for each share of Common Stock which is outstanding in his, her or its name on the books of the Company on all matters on which stockholders are entitled to vote generally. Except as otherwise required by law or our Certificate of Incorporation (including any Preferred Stock Designation), the holders of outstanding shares of Common Stock shall have the exclusive right to vote for the election of directors and for all other purposes. Notwithstanding any other provision of our Certificate of Incorporation to the contrary, the holders of Common Stock shall not be entitled to vote on any amendment to our Certificate of Incorporation (including any Preferred Stock Designation) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon pursuant to our Certificate of Incorporation (including any Preferred Stock Designation) or the Delaware General Corporation Law (the “DGCL”).

#### *Dividends*

Subject to the rights of the holders of Preferred Stock, holders of shares of Common Stock shall be entitled to receive such dividends and distributions and other distributions in cash, stock or property of the Company when, as and if declared thereon by the Board from time to time out of assets or funds of the Company legally available therefor.

#### *Liquidation, Dissolution and Winding Up*

Subject to the rights of the holders of Preferred Stock, shares of Common Stock shall be entitled to receive the assets and funds of the Company available for distribution in the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or involuntary. A liquidation, dissolution or winding up of the affairs of the Company, as such terms are used in Section B(4) of our Certificate of Incorporation, shall not be deemed to be occasioned by or to include any consolidation or merger of the Company with or into any other person or a sale, lease, exchange or conveyance of all or a part of its assets.

### *No Preemptive, Conversion or Redemption Rights*

The holders of shares of Common Stock have no preemptive rights and no right to convert their Common Stock into other securities. There are no redemption or sinking fund provisions applicable to our Common Stock under the Company's existing Certificate of Incorporation or its Bylaws.

## **Preferred Stock**

### *Issuance of Preferred Stock*

Shares of Preferred Stock may be issued from time to time in one or more series. The Board is hereby authorized to provide by resolution or resolutions from time to time for the issuance, out of the unissued shares of Preferred Stock, of one or more series of Preferred Stock, without stockholder approval, by filing a certificate pursuant to the applicable law of the State of Delaware (a "Preferred Stock Designation"), setting forth such resolution and, with respect to each such series, establishing the number of shares to be included in such series, and fixing the voting powers, full or limited, or no voting power of the shares of such series, and the designation, preferences and relative, participating, optional or other special rights, if any, of the shares of each such series and any qualifications, limitations or restrictions thereof. The powers, designation, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations and restrictions thereof, if any, may differ from those of any and all other series at any time outstanding. The authority of the Board with respect to each series of Preferred Stock shall include, but not be limited to, the determination of the following:

- the designation of the series, which may be by distinguishing number, letter or title;
- the number of shares of the series, which number the Board may thereafter (except where otherwise provided in the Preferred Stock Designation) increase or decrease (but not below the number of shares thereof then outstanding);
- the amounts or rates at which dividends will be payable on, and the preferences, if any, of, shares of the series in respect of dividends, and whether such dividends, if any, shall be cumulative or noncumulative;
- the dates on which dividends, if any, shall be payable;
- the redemption rights and price or prices, if any, for shares of the series;
- the terms and amount of any sinking fund, if any, provided for the purchase or redemption of shares of the series;
- the amounts payable on, and the preferences, if any, of, shares of the series in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company;
- whether the shares of the series shall be convertible into or exchangeable for, shares of any other class or series, or any other security, of the Company or any other corporation, and, if so, the specification of such other class or series or such other security, the conversion or exchange price or prices or rate or rates, any adjustments thereof, the date or dates at which such shares shall be convertible or exchangeable and all other terms and conditions upon which such conversion or exchange may be made;
- restrictions on the issuance of shares of the same series or any other class or series;
- the voting rights, if any, of the holders of shares of the series generally or upon specified events; and
- any other powers, preferences and relative, participating, optional or other special rights of each series of Preferred Stock, and any qualifications, limitations or restrictions of such shares, all as may be determined from time to time by the Board and stated in the Preferred Stock Designation for such Preferred Stock.

Without limiting the generality of the foregoing, the Preferred Stock Designation of any series of Preferred Stock may provide that such series shall be superior or rank equally or be junior to any other series of Preferred Stock to the extent permitted by law.

On each of May 16, 2022 and August 8, 2022, the Company issued 25,000 shares of Preferred Stock, designated as “Series A Preferred Stock,” as described in the Company’s Current Report on Form 8-K filed with the SEC on May 17, 2022 and the Company’s Quarterly Report on Form 10-Q filed with the SEC on August 9, 2022, each of which is incorporated by reference into this prospectus. As of August 8, 2022, all of the Company’s 50,000 shares of Series A Preferred Stock were issued and outstanding.

#### **Anti-Takeover Effects of Delaware Law and the Certificate of Incorporation and Bylaws**

The Company has expressly opted out of Section 203 of the DGCL. However, our Certificate of Incorporation contains similar provisions providing that the Company may not engage in certain “business combinations” with any “interested stockholder” for a three-year period following the time that the stockholder became an interested stockholder, unless:

- prior to such time, the Board 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 owned at least 85% of the voting stock of the Company outstanding at the time the transaction commenced, excluding for purposes of determining the voting stock outstanding (but not the outstanding voting stock owned by the interested stockholder) those shares owned by (a) persons who are directors and also officers and (b) employee stock plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or
- at or subsequent to such time, the business combination is approved by the Board and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of at least 66 2/3% of the outstanding voting stock of the Company which is not owned by the interested stockholder.

Generally, a “business combination” includes a merger, asset or stock sale or certain other transactions resulting in a financial benefit to the interested stockholder. Subject to certain exceptions, an “interested stockholder” is a person who, together with that person’s affiliates, owns or within the previous three years owned, 15% or more of the Company’s voting stock.

Under certain circumstances, this provision will make it more difficult for a person who would be an “interested stockholder” to effect various business combinations with a corporation for a three-year period. This provision may encourage companies interested in acquiring the Company to negotiate in advance with the Company’s Board because the Company’s stockholder approval requirement would be avoided if the Company’s Board approves either the business combination or the transaction which results in the stockholder becoming an interested stockholder. These provisions also may have the effect of preventing changes in the Company’s Board and may make it more difficult to accomplish transactions which stockholders may otherwise deem to be in their best interests.

Our Certificate of Incorporation provides that RT-ICON and its affiliates, any of its respective direct or indirect transferees of at least 15% of the outstanding shares of the Company’s Common Stock, and any group as to which such persons are a part, do not constitute “interested stockholders” for purposes of this provision.

In addition, our Certificate of Incorporation does not provide for cumulative voting in the election of directors. The Company’s Board is empowered to elect a director to fill a vacancy created by the expansion of the Board or the resignation, death or removal of a director in certain circumstances.

Authorized shares of Common Stock and Preferred Stock are available for future issuances without stockholder approval and could be utilized for a variety of corporate purposes, including future offerings to raise additional capital, acquisitions and employee benefit plans. The existence of authorized but unissued and unreserved Common Stock and Preferred Stock could render more difficult or discourage an attempt to obtain control of the Company by means of proxy contest, tender offer, merger or otherwise.

#### **Special Meeting, Action by Written Consent and Advance Notice Requirements for Stockholder Proposals**

Except as otherwise required by law, our Certificate of Incorporation or our Bylaws, written or printed notice of the meeting of the stockholders stating the place, day and hour of the meeting and, in case of a special meeting, stating the purpose or purposes for which the meeting is called, and in case of a meeting held by remote communication stating such means, shall be delivered not less than 10 nor more than 60 days before the date of the meeting, either personally, or by mail, or if prior consent has been received by a stockholder by electronic transmission, by or at the direction of the Chairman or the President, the Secretary, or the persons calling the meeting, to each stockholder of record entitled to vote at such meeting. Without limiting the manner by which notice otherwise may be given to stockholders, any notice shall be effective if given by a form of electronic transmission consented to (in a manner consistent with the DGCL) by the stockholder to whom the notice is given. If notice is given by mail, such notice shall be deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Company. If notice is given by electronic transmission, such notice shall be deemed given at the time specified in Section 232 of the DGCL.

Our Bylaws also provide that unless otherwise restricted by our Certificate of Incorporation or our Bylaws, any action required or permitted to be taken at any meeting of our Board or of any committee thereof may be taken without a meeting, if all members of our Board or of such committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of our Board or committee.

In addition, our Bylaws require advance notice procedures for stockholder proposals to be brought before an annual meeting of the stockholders, including the nomination of directors. Stockholders at an annual meeting may only consider the proposals specified in the notice of meeting or brought before the meeting by or at the direction of the Board, or by a stockholder of record on the record date for the meeting, who is entitled to vote at the meeting and who has delivered a timely written notice in proper form to our secretary, of the stockholder's intention to bring such business before the meeting.

These provisions could have the effect of delaying until the next stockholder meeting any stockholder actions, even if they are favored by the holders of a majority of our outstanding voting securities.

#### **Amendment to the Certificate of Incorporation and Bylaws**

Our Certificate of Incorporation provides that so long as RT-ICON and its affiliates own, in the aggregate, at least 50% in voting power of our Common Stock, any amendment, alteration, change, addition, or repeal of our Certificate of Incorporation requires an affirmative vote of a majority of the then- outstanding shares of Common Stock entitled to vote thereon. At any time when RT-ICON and its affiliates beneficially own, in the aggregate, less than 50% of our outstanding Common Stock, our Certificate of Incorporation requires the affirmative vote by the holders of at least 66 2/3% of our outstanding Common Stock for any amendment, alteration, change, addition, or repeal of our Certificate of Incorporation; *provided* that, irrespective of RT-ICON ownership, the affirmative vote of holders of at least 66 2/3% of our outstanding Common Stock is required to amend certain provisions of our Certificate of Incorporation, including those provisions changing the size of the Board, the removal of certain directors, the availability of action by majority written consent of the stockholders or the restriction on business combinations with interest stockholders, among others.

The provisions of the DGCL, our Certificate of Incorporation and Bylaws could have the effect of discouraging others from attempting hostile takeovers and, as a consequence, they may also inhibit temporary fluctuations in the market price of our Common Stock that often result from actual or rumored hostile takeover attempts. These provisions may also have the effect of preventing changes in our management. It is possible that these provisions could make it more difficult to accomplish transactions that stockholders may otherwise deem to be in their best interests.

## **Exclusive Forum**

Our Certificate of Incorporation provides that, unless we consent in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will, with certain limited exceptions, be the sole and exclusive forum for any stockholder (including any beneficial owner) to bring (a) any derivative action or proceeding brought on behalf of the Company, (b) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Company or the Company's stockholders, (c) any action asserting a claim against the Company, its directors, officers or employees arising pursuant to any provision of the DGCL or the charter or bylaws, or (d) any action asserting a claim against the Company, its directors, officers or employees governed by the internal affairs doctrine. Subject to the provisions in the preceding sentence, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint, claim or proceeding asserting a cause of action arising under the Securities Exchange Act of 1934, as amended (the "Exchange Act") or the Securities Act of 1933, as amended (the "Securities Act"). Furthermore, Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the Securities Act or the rules and regulations thereunder. Stockholders cannot waive compliance with the federal securities laws and the rules and regulations thereunder. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of our capital stock shall be deemed to have notice of and consented to the forum provisions in Certificate of Incorporation.

## **Limitations on Liability and Indemnification of Officers and Directors**

The DGCL authorizes corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breaches of directors' fiduciary duties, subject to certain exceptions. Our Certificate of Incorporation includes a provision that, to the fullest extent permitted by the DGCL, eliminates the personal liability of directors to us or our stockholders for monetary damages for any breach of fiduciary duty as a director. The effect of these provisions will be to eliminate the rights of us and our stockholders, through stockholders' derivative suits on our behalf, to recover monetary damages from a director for breach of fiduciary duty as a director, including breaches resulting from grossly negligent behavior. However, exculpation will not apply to any director if the director has acted in bad faith, knowingly or intentionally violated the law, authorized illegal dividends or redemptions or derived an improper benefit from his or her actions as a director.

Further, our Certificate of Incorporation and our Bylaws provide that we must indemnify and advance expenses to our directors and officers to the fullest extent authorized by the DGCL. We also are expressly authorized to carry directors' and officers' liability insurance providing indemnification for our directors, officers and certain employees for some liabilities. We believe that these indemnification and advancement provisions and insurance are useful to attract and retain qualified directors and officers.

The limitation of liability, indemnification and advancement provisions in our Certificate of Incorporation and Bylaws may discourage stockholders from bringing a lawsuit against directors for breach of their fiduciary duty. These provisions also may have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our stockholders. In addition, your investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions.

There is currently no pending material litigation or proceeding involving any of our directors, officers or employees for which indemnification is sought.

## **Transfer Agent**

The transfer agent for our Common Stock is Continental Stock Transfer & Trust Company.

## **Listing of Common Stock**

Our Common Stock is listed on the Nasdaq Global Market under the symbol "PLBY."



## DESCRIPTION OF DEPOSITARY SECURITIES

We may offer depositary receipts representing fractional shares of our Preferred Stock, rather than full shares of Preferred Stock. The shares of Preferred Stock represented by depositary shares will be deposited under a depositary agreement between us and a bank or trust company that meets certain requirements and is selected by us (the “Bank Depositary”). Each owner of a depositary share will be entitled to all the rights and preferences of the Preferred Stock represented by the depositary share.

The description in an accompanying prospectus supplement of any depositary shares we offer will not necessarily be complete and will be qualified in its entirety by reference to the applicable depositary agreement, which will be filed with the SEC if we offer depositary shares. For more information on how you can obtain copies of any depositary agreement if we offer depositary shares, see “*Where You Can Find More Information.*” We urge you to read the applicable depositary agreement and any accompanying prospectus supplement in their entirety.

### **Dividends and Other Distributions**

If we pay a cash distribution or dividend on a series of Preferred Stock represented by depositary shares, the Bank Depositary will distribute such dividends to the record holders of such depositary shares. If the distributions are in property other than cash, the Bank Depositary will distribute the property to the record holders of the depositary shares. However, if the Bank Depositary determines that it is not feasible to make the distribution of property, the Bank Depositary may, with our approval, sell such property and distribute the net proceeds from such sale to the record holders of the depositary shares.

### **Redemption of Depositary Shares**

If we redeem a series of Preferred Stock represented by depositary shares, the Bank Depositary will redeem the depositary shares from the proceeds received by the Bank Depositary in connection with the redemption. The redemption price per depositary share will equal the applicable fraction of the redemption price per share of the Preferred Stock. If fewer than all the depositary shares are redeemed, the depositary shares to be redeemed will be selected by lot or pro rata as the Bank Depositary may determine.

### **Voting the Preferred Stock**

Upon receipt of notice of any meeting at which the holders of the Preferred Stock represented by depositary shares are entitled to vote, the Bank Depositary will mail the notice to the record holders of the depositary shares relating to such Preferred Stock. Each record holder of these depositary shares on the record date, which will be the same date as the record date for the Preferred Stock, may instruct the Bank Depositary as to how to vote the Preferred Stock represented by such holder’s depositary shares. The Bank Depositary will endeavor, insofar as practicable, to vote the amount of the Preferred Stock represented by such depositary shares in accordance with such instructions, and we will take all action that the Bank Depositary deems necessary in order to enable the Bank Depositary to do so. The Bank Depositary will abstain from voting shares of the Preferred Stock to the extent it does not receive specific instructions from the holders of depositary shares representing such Preferred Stock.

### **Amendment and Termination of the Depositary Agreement**

The form of depositary receipt evidencing the depositary shares and any provision of the depositary agreement may be amended by agreement between the Bank Depositary and us. However, any amendment that materially and adversely alters the rights of the holders of depositary shares will not be effective unless such amendment has been approved by the holders of at least a majority of the depositary shares then outstanding. The depositary agreement may be terminated by the Bank Depositary or us only if (1) all outstanding depositary shares have been redeemed or (2) there has been a final distribution in respect of the Preferred Stock in connection with any liquidation, dissolution or winding up of our company and such distribution has been distributed to the holders of depositary receipts.

**Withdrawal of Preferred Stock**

Except as may be provided otherwise in an accompanying prospectus supplement, upon surrender of depositary receipts at the principal office of the Bank Depositary, subject to the terms of the depositary agreement, the owner of the depositary shares may demand delivery of the number of whole shares of Preferred Stock and all money and other property, if any, represented by those depositary shares. Partial shares of Preferred Stock will not be issued. If the depositary receipts delivered by the holder evidence a number of depositary shares in excess of the number of depositary shares representing the number of whole shares of Preferred Stock to be withdrawn, the Bank Depositary will deliver to such holder at the same time a new depositary receipt evidencing the excess number of depositary shares. Holders of withdrawn Preferred Stock may not thereafter deposit those shares under the depositary agreement or receive depositary receipts evidencing depositary shares therefor.

## DESCRIPTION OF DEBT SECURITIES

The following is a summary of some general terms and provisions of debt securities that we may offer by this prospectus. Because it is a summary, it does not contain all of the information that may be important to you. If you want more information, you should read the form of indenture which we have filed as an exhibit to the registration statement of which this prospectus is a part. If we issue debt securities, we will file any final indenture, and any supplemental indenture or officer's certificate related to the particular series of debt securities issued, with the SEC, and you should read those documents for further information about the terms and provisions of such debt securities. See "*Where You Can Find More Information*." This summary is also subject to and qualified by reference to the descriptions of the particular terms of our debt securities to be described in the applicable prospectus supplement and/or any free writing prospectus. The applicable prospectus supplement and/or any free writing prospectus may add to, update or change the terms of such debt securities from those described below.

The debt securities sold under this prospectus will be direct obligations of the Company, unless otherwise stated in a prospectus supplement. Such debt securities may be secured or unsecured, and may be senior or subordinated indebtedness, in each case as stated in a prospectus supplement. Our debt securities will be issued under an indenture between us and a trustee. The indenture will be subject to and governed by the Trust Indenture Act. The statements made in this prospectus relating to the indenture and the debt securities to be issued under the indenture are summaries of certain anticipated provisions of the indenture and are not complete.

### General

We may issue debt securities that are "senior," "senior subordinated" or "junior subordinated." The debt securities that we refer to as "senior" will be direct obligations of the Company and will be equal in priority with our other indebtedness that is not subordinated, without giving effect to collateral arrangements. We may issue debt securities that may be subordinated in right of payment to the prior payment in full of our senior debt, as defined in the applicable prospectus supplement, and may be equal in priority with our other senior subordinated indebtedness, if any, without giving effect to collateral arrangements. We refer to these as "senior subordinated" debt securities. We may also issue debt securities that may be subordinated in right of payment to the senior subordinated debt securities. These would be "junior subordinated" debt securities.

We may issue debt securities without limit as to aggregate principal amount, in one or more series, in each case as we establish in one or more supplemental indentures or officer's certificates. We need not issue all debt securities of one series at the same time. Unless we otherwise provide, we may reopen a series, without the consent of the holders of the series, for issuances of additional debt securities of that series.

We anticipate that the indenture will provide that we may, but need not, designate more than one trustee under the indenture, each with respect to one or more series of debt securities. The trustee under the indenture may resign or be removed with respect to one or more series of debt securities, and we may appoint a successor trustee to act with respect to any such series.

The applicable prospectus supplement and/or any free writing prospectus will describe the specific terms relating to the series of debt securities we will offer, including, where applicable, the following:

- the title and series designation and whether they are senior debt securities, senior subordinated debt securities or junior subordinated debt securities;
- the aggregate principal amount of the debt securities offered and any limit on the aggregate principal amount of that series that may be authenticated and delivered;
- the percentage of the principal amount at which we will issue the debt securities and, if other than the principal amount of the debt securities, the portion of the principal amount of the debt securities payable upon maturity of the debt securities;
- the stated maturity date;
- any fixed or variable interest rate or rates per annum;

- whether such interest will be payable in cash or additional debt securities of the same series or will accrue and increase the aggregate principal amount outstanding of such series;
- the place where principal, premium, if any, and interest will be payable and where the debt securities can be surrendered for transfer, exchange or conversion;
- the date from which interest may accrue and any interest payment dates and any related record dates;
- any sinking fund requirements;
- any provisions for redemption or repurchase, including the redemption or repurchase price;
- whether the debt securities are denominated or payable in U.S. dollars, a foreign currency or units of two or more currencies;
- whether the amount of payments of principal of or premium, if any, or interest on the debt securities may be determined with reference to an index, formula or other method and the manner in which such amounts shall be determined;
- the events of default and covenants of the debt securities, to the extent different from or in addition to those described in this prospectus;
- whether we will issue the debt securities in certificated or book-entry form;
- whether the debt securities will be in registered or bearer form and, if in registered form, the denominations, if other than a minimum denomination of \$2,000 and integral multiples of \$1,000 in excess thereof, and, if in bearer form, the denominations and terms and conditions relating thereto;
- whether we will issue any of the debt securities in permanent global form and, if so, the terms and conditions, if any, upon which interests in the global debt security may be exchanged, in whole or in part, for the individual debt securities represented by the global debt security;
- any addition or change to the provisions relating to the legal defeasance or covenant defeasance provisions of, or the satisfaction and discharge of, the debt securities;
- whether we will pay additional amounts on the debt securities in respect of any tax, assessment or governmental charge and, if so, whether we will have the option to redeem the debt securities instead of making this payment;
- the guarantee provisions, if any, relating to the debt securities;
- the subordination provisions, if any, relating to the debt securities;
- any restriction or condition on the transferability of debt securities;
- any addition or change to the provisions related to compensation and reimbursement of the trustee which applies to the debt securities;
- any addition or change to the provisions related to supplemental indentures both with and without the consent of the holders;
- provisions, if any, granting special rights to holders upon the occurrence of specified events;

- any addition or change to the events of default which applies to any debt securities and any change in the right of the trustee or the requisite holders of such debt securities to declare the principal amount thereof due and payable pursuant to the indenture; and
- any other terms of debt securities of such series (which terms will not be inconsistent with the provisions of the Trust Indenture Act, but may modify, amend, supplement or delete any of the terms of the indenture, including those described in this prospectus or any applicable prospectus supplement and/or free writing prospectus, with respect to such series).

We will describe in the applicable prospectus supplement and/or free writing prospectus any material U.S. federal income tax considerations applicable to the debt securities offered by such prospectus supplement.

We may issue debt securities at less than the principal amount payable at maturity. We refer to these debt securities as “original issue discount” debt securities. If material or applicable, we will describe in the applicable prospectus supplement special U.S. federal income tax considerations applicable to original issue discount debt securities.

Except as may be described in any prospectus supplement and/or free writing prospectus, the indenture will not contain any provisions that would limit our ability to incur indebtedness or that would afford holders of the debt securities protection in the event of a highly leveraged or similar transaction involving us. You should review carefully the applicable prospectus supplement and/or free writing prospectus for information with respect to events of default and covenants applicable to the debt securities being offered.

### **Denominations and Interest**

Unless otherwise described in the applicable prospectus supplement and/or free writing prospectus, we will issue debt securities of any series that are registered debt securities in a minimum denomination of \$2,000 and integral multiples of \$1,000 in excess thereof.

Unless otherwise specified in the applicable prospectus supplement and/or free writing prospectus, we will pay the interest, principal and any premium at the corporate trust office of the trustee or, at our option, we may make payment of interest by check mailed to the address of the person entitled to the payment as it appears in the applicable register or by wire transfer of funds to that person at an account maintained within the United States or, in the case of global debt securities, in accordance with the procedures of the depositary for such debt securities.

### **Certain Covenants**

If debt securities are issued, the indenture, as supplemented for a particular series of debt securities, will contain certain covenants for the benefit of the holders of such series of debt securities, which will be applicable (unless waived or amended) so long as any of the debt securities of such series are outstanding, unless stated otherwise in the prospectus supplement. The specific terms of the covenants, and summaries thereof, will be set forth in the prospectus supplement relating to such series of debt securities.

### **SEC Reports**

The indenture provides that we agree to file with the trustee, within 15 days after we file the same with the SEC, copies of the annual reports and of the information, documents, and other reports, if any, that we are required to file with the SEC pursuant to Section 13 or Section 15(d) of the Exchange Act or pursuant to Section 314 of the Trust Indenture Act. Such information, documents and other reports shall be deemed filed with the trustee at the time such information, documents and other reports are publicly filed with the SEC.

### **Merger, Consolidation or Sale of Assets**

The indenture provides that we shall not merge, consolidate or amalgamate with or into any other person or sell, transfer, assign, lease, convey or otherwise dispose of all or substantially all of our property in any one transaction or series of related transactions unless:

- (1) The Company shall be the surviving person (the “Surviving Person”) or the Surviving Person (if other than the Company) formed by such merger, consolidation or amalgamation or to which such sale, transfer, assignment, lease, conveyance or disposition is made shall be a person organized and existing under the laws of the U.S., any State thereof or the District of Columbia,

(2) the Surviving Person (if other than the Company) expressly assumes, by supplemental indenture in form reasonably satisfactory to the trustee, executed and delivered to the trustee by such Surviving Person, the due and punctual payment of the principal of, and premium, if any, and interest on, all the notes, according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of the indenture to be performed by the Company,

(3) immediately before and immediately after giving effect to such transaction or series of related transactions, no default or event of default shall have occurred and be continuing, and

(4) The Company shall deliver, or cause to be delivered, to the trustee, an officer's certificate and an opinion of counsel, each stating that such transaction and the supplemental indenture, if any, in respect thereto comply with this covenant and that all conditions precedent in the indenture relating to such transaction have been complied with.

For the purposes of this covenant, the sale, transfer, assignment, lease, conveyance or other disposition of all the property of one or more subsidiaries of the Company, which property, if held by the Company instead of such subsidiaries, would constitute all or substantially all the property of the Company on a consolidated basis, shall be deemed to be the transfer of all or substantially all the property of the Company.

Notwithstanding the foregoing, (i) any subsidiary may merge, consolidate or amalgamate with or into or sell, transfer, assign, lease, convey or otherwise dispose of all or substantially all its property to the Company or another subsidiary and (ii) the Company may merge with an affiliate incorporated solely for the purpose of and with the sole effect of reincorporating or reorganizing the Company in another state of the United States.

#### **Events of Default**

Each of the following constitutes an event of default with respect to a particular series of debt securities:

(1) a default in the payment of principal of or premium, if any, on any debt security of such series when due at its maturity, upon optional redemption, upon required repurchase or otherwise,

(2) our failure to pay interest on any debt security of such series within 30 days of when such amount becomes due and payable,

(3) our failure to comply with any of our covenants or agreements in the indenture (other than a covenant or agreement that does not apply to such series of debt securities) or any debt security of such series (other than a failure that is subject to the foregoing clause (1) or (2)) and our failure to cure (or obtain a waiver of) such default and such failure continues for 90 days after written notice is given to us as provided below,

(4) certain events of bankruptcy, insolvency or reorganization affecting us with respect to such series, and

(5) any other event of default described as may be specified in the applicable prospectus supplement with respect to such series.

A default under clause (3) with respect to a particular series of debt securities is not an event of default with respect to such debt securities until the trustee or the holders of not less than 25% in aggregate principal amount of the debt securities of such series then outstanding notify us of the default and we do not cure such default within the time specified after receipt of such notice. Such notice must specify the default, demand that it be remedied and state that such notice is a "Notice of Default."

If an event of default with respect to a particular series of debt securities (other than an event of default resulting from certain events involving bankruptcy, insolvency or reorganization with respect to us with respect to such series) shall have occurred and be continuing, the trustee or the holders of not less than 25% in aggregate principal amount of the debt securities of such series then outstanding may declare, by notice to us in writing (and to the trustee, if given by holders of such debt securities of such series) specifying the event of default, to be immediately due and payable the principal amount of all the debt securities of such series then outstanding, *plus* accrued but unpaid interest to the date of acceleration. After any such acceleration, but before a judgment or decree based on acceleration is obtained by the trustee, the registered holders of a majority in aggregate principal amount of the debt securities of such series then outstanding may, under certain circumstances, rescind and annul such acceleration and waive such event of default if all events of default with respect to such series, other than the nonpayment of accelerated principal, premium or interest, have been cured or waived as provided in the indenture. In case an event of default with respect to a particular series of debt securities resulting from certain events of bankruptcy, insolvency or reorganization with respect to us with respect to such series shall occur, the principal amount of all of the debt securities of such series then outstanding, *plus* accrued and unpaid interest, with respect to the debt securities of such series shall be due and payable immediately without any declaration or other act on the part of the trustee or the holders of the debt securities of such series.

If we exercise our legal defeasance option with respect to the debt securities of a particular series, payment of the debt securities of such series may not be accelerated because of an event of default with respect thereto. If we exercise the covenant defeasance option with respect to the debt securities of a particular series, payment of the debt securities of such series may not be accelerated because of an event of default specified in clause (3) (with respect to the restrictive covenants applicable to the debt securities of such series) or clause (5) (as it may be specified in the terms of the debt securities of such series).

Subject to the provisions of the indenture relating to the duties of the trustee in case an event of default shall occur and be continuing, the trustee will be under no obligation to exercise any of its rights or powers under the indenture at the request or direction of any of the holders of the debt securities of any series, unless such holders shall have offered to the trustee indemnity or security reasonably satisfactory to it against any loss, liability or expense. Subject to such provisions for the indemnification of the trustee, the holders of a majority in aggregate principal amount of the debt securities of a particular series then outstanding will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the trustee or exercising any trust or power conferred on the trustee with respect to the debt securities of such series.

No holder of debt securities of any series will have any right to institute any proceeding with respect to the indenture, or for the appointment of a receiver or trustee, or for any remedy thereunder, unless:

- (1) such holder has previously given to the trustee written notice of a continuing event of default with respect to the debt securities of such series,
- (2) the holders of at least 25% in aggregate principal amount of the debt securities of such series then outstanding have made a written request and offered indemnity to the trustee reasonably satisfactory to it to institute such proceeding as trustee, and
- (3) the trustee shall not have received from the holders of a majority in aggregate principal amount of the debt securities of such series then outstanding a written direction inconsistent with such request and shall have failed to institute such proceeding within 60 days.

However, such limitations do not apply to a suit instituted by a holder of any debt security for enforcement of payment of the principal of, and premium, if any, or interest on, such debt security on or after the respective due dates expressed in such debt security.

The indenture provides that if a default with respect to the debt securities of a particular series occurs and is continuing and is known to the trustee, the trustee must send, by first class mail (or, in the case of global debt securities, electronically through the procedures of the depositary for such global debt securities), to each holder of debt securities of such series notice of the default within 90 days after it occurs. The trustee may withhold the notice if and so long as it in good faith determines that withholding notice is in the interest of the holders of the debt securities of such series.

The indenture requires us to furnish to the trustee, within 120 days after the end of each fiscal year, a written statement of an officer regarding compliance with the indenture. Within 30 days after the occurrence of any default or event of default, we are required to deliver to the trustee written notice in the form of an officer's certificate a statement specifying its status and what actions we are taking or propose to take with respect thereto.

### **Modification and Waiver**

Modifications and amendments of the indenture may be made by us for such series of debt securities and the trustee with the consent of the holders of a majority in aggregate principal amount of the outstanding debt securities of the series affected by such modification or amendment.

No such modification or amendment may, without the consent of the holder of each outstanding debt security affected thereby,

- reduce the percentage of principal amount of debt securities the holders of which must consent to an amendment, modification, supplement or waiver,
- reduce the rate of or extend the time of payment for interest on such debt security,
- reduce the principal amount or extend the stated maturity of such debt security,
- reduce the redemption price of such debt security or add redemption provisions to such debt security,
- make such debt security payable in money other than that stated in the indenture or the debt security, or
- impair the right to receive, and to institute suit for the enforcement of, any payment with respect to such debt security.

Without the consent of any holder, we and the trustee may amend the indenture to, among other things, provide for the assumption by a successor of our obligations under the indenture as permitted thereunder; establish the forms or terms of debt securities of any series; provide for the issuance of additional debt securities of any series, subject to any limitations set forth in the terms of such series; add guarantees or security with respect to any series of debt securities or confirm and evidence the release, termination or discharge of any guarantee or security interest in accordance with the indenture; comply with the requirements of the SEC in connection with the qualification and maintenance of qualification under the Trust Indenture Act and comply with the rules of any applicable securities depository; conform the text of the indenture or the debt securities or any future subsidiary guarantees to any description thereof in this prospectus or any prospectus supplement and/or free writing prospectus; cure any ambiguity, omission, defect or inconsistency; add to, change or eliminate any of the provisions, so long as such addition, change or elimination does not apply to any debt security of any existing series of debt securities entitled to the benefit of such provision or modify the rights of the holder of any such debt security with respect to such provision or such addition, change or elimination only becomes effective when there is no such debt security outstanding; or make any other change that does not adversely affect the rights of any holder in any material respect.

The holders of a majority in principal amount of the outstanding debt securities of a particular series affected may waive compliance by us with certain restrictive provisions of the indenture with respect to such series. The holders of a majority in principal amount of the outstanding debt securities of a particular series may waive any past default with respect to such series under the indenture, except a default in the payment of accelerated principal, premium, if any, or interest, if any, and certain covenants and provisions of the indenture which cannot be amended without the consent of the holder of each outstanding debt security of such series.



## Governing Law

Any issued debt securities and the indenture will be governed by the laws of the State of New York.

## Regarding the Trustee

The indenture provides that, except during the continuance of an event of default, the trustee will perform only such duties as are specifically set forth in the indenture. During the existence of an event of default, the trustee will exercise such rights and powers vested in it under the indenture and use the same degree of care and skill in its exercise as a prudent person would exercise under the circumstances in the conduct of such person's own affairs.

The indenture and provisions of the Trust Indenture Act that are incorporated by reference therein contain limitations on the rights of the trustee, should it become one of our creditors, to obtain payment of claims in certain cases or to realize on certain property received by it in respect of any such claim as security or otherwise. The trustee is permitted to engage in other transactions with us or any of our affiliates; *provided, however*, that if it acquires any conflicting interest (as defined in the indenture or in the Trust Indenture Act), it must eliminate such conflict or resign.

Each trustee may resign or be removed with respect to one or more series of debt securities provided that a successor trustee is appointed to act with respect to such series. In the event that two or more persons are acting as trustee with respect to different series of debt securities under the indenture, each of the trustees will be a trustee of a trust separate and apart from the trust administered by any other trustee.

## Defeasance

We may terminate at any time all our obligations with respect to the debt securities of a particular series and the indenture as it applies to such series, which we refer to as "legal defeasance," except for certain obligations, including those respecting the defeasance trust and obligations to register the transfer or exchange of the debt securities of such series, to replace mutilated, destroyed, lost or stolen debt securities of such series and to maintain a registrar and paying agent in respect of the debt securities of such series. We may also terminate at any time our obligations with respect to the restrictive covenants applicable to the debt securities of a particular series, which we refer to as "covenant defeasance." We may exercise the legal defeasance option notwithstanding our prior exercise of the covenant defeasance option.

The legal defeasance option or the covenant defeasance option with respect to the debt securities of a particular series may be exercised only if:

- (1) we irrevocably deposit in trust with the trustee money or U.S. Government obligations or a combination thereof for the payment of principal of and interest on the debt securities of such series to maturity that is sufficient (based on a certificate, report or opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants in the United States in the case of U.S. Government obligations) to pay principal and interest when due on all the debt securities of such series to maturity,
- (2) no default or event of default with respect to the debt securities of such series has occurred and is continuing on the date of such deposit (other than, if applicable, a default or event of default with respect to the debt securities of such series resulting from the borrowing of funds and any funds related thereto to be applied to such deposits and any similar and substantially concurrent deposit relating to other indebtedness and the granting of liens in connection therewith),
- (3) such legal defeasance or covenant defeasance does not constitute a default under any other material agreement binding us (other than, if applicable, a default resulting from the borrowing of funds and any funds related thereto to be applied to such deposits and any similar and substantially concurrent deposit relating to other indebtedness and the granting of liens in connection therewith),

(4) in the case of the legal defeasance option, we deliver to the trustee an opinion of counsel stating that:

(a) we have received from, or there has been provided by, the IRS a ruling, or

(b) since the date of the indenture there has been a change in the applicable U.S. federal income tax law,

to the effect, in either case, that, and based thereon such opinion of counsel shall confirm that, the holders of the debt securities of such series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such legal defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such legal defeasance had not occurred,

(5) in the case of the covenant defeasance option, we deliver to the trustee an opinion of counsel to the effect that the holders of the debt securities of such series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such covenant defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such covenant defeasance had not occurred, and

(6) we deliver to the trustee an officer's certificate and an opinion of counsel, each stating that all conditions precedent to the legal defeasance or covenant defeasance, as applicable, relating to the debt securities of such series have been complied with as required by the indenture.

### **Discharge of the Indenture**

When (i) we deliver to the trustee all outstanding debt securities of a particular series (other than debt securities replaced because of mutilation, loss, destruction or wrongful taking) for cancellation or (ii) all outstanding debt securities of a particular series have become due and payable, whether at maturity or as a result of the sending of a notice of redemption as described above (or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements satisfactory to the trustee for the giving of notice of redemption), and we irrevocably deposit with the trustee funds sufficient to pay at maturity or upon redemption all outstanding debt securities of such series, including principal of, premium if any, and interest thereon, and if in either case we pay all other sums related to the debt securities of such series payable under the indenture by us, then the indenture shall, subject to certain surviving provisions, cease to be of further effect with respect to the debt securities of such series. The trustee shall acknowledge satisfaction and discharge of the indenture with respect to the debt securities of such series on our demand accompanied by an officer's certificate and an opinion of counsel.

### **Subordination**

We will describe in the applicable prospectus supplement and/or free writing prospectus the terms and conditions, if any, upon which any series of senior subordinated debt securities or junior subordinated debt securities is subordinated to debt securities of another series or to our other indebtedness. The terms will include a description of:

- the "senior indebtedness" with respect to the debt securities being offered;
- the restrictions, if any, on payments to the holders of the debt securities being offered while a default with respect to the senior indebtedness is continuing;
- the restrictions, if any, on payments to the holders of the debt securities being offered following an event of default with respect to such debt securities; and
- provisions requiring holders of the debt securities being offered to remit payments to holders of senior indebtedness.

### **Global Debt Securities**

We may issue the debt securities of a series in whole or in part in the form of one or more registered global debt securities that we will deposit with a depository or with a nominee for a depository identified in the applicable prospectus supplement and registered in the name of such depository or nominee. In such case, we will issue one or more registered global debt securities denominated in an amount equal to the aggregate principal amount of all of the debt securities of the series to be issued and represented by such registered global debt security or securities.

Unless and until it is exchanged in whole or in part for debt securities in definitive registered form, a registered global debt security may not be transferred except as a whole:

- by the depositary for such registered global debt security to its nominee;
- by a nominee of the depositary to the depositary or another nominee of the depositary; or
- by the depositary or its nominee to a successor of the depositary or a nominee of the successor.

The prospectus supplement relating to a series of debt securities will describe the specific terms of the depositary arrangement with respect to any portion of such series represented by a registered global debt security. We currently anticipate that the following provisions will apply to all depositary arrangements for debt securities:

- ownership of beneficial interests in a registered global debt security will be limited to persons that have accounts with the depositary for the registered global debt security, those persons being referred to as “participants,” or persons that may hold interests through participants;
- upon the issuance of a registered global debt security, the depositary for the registered global debt security will credit, on its book-entry registration and transfer system, the participants’ accounts with the respective principal amounts of the debt securities represented by the registered global debt security beneficially owned by the participants;
- any underwriters, dealers or agents participating in the distribution of the debt securities will designate the accounts to be credited; and
- ownership of any beneficial interest in the registered global debt security will be shown on, and the transfer of any ownership interest will be effected only through, records maintained by the depositary for the registered global debt security (with respect to interests of participants) and on the records of participants (with respect to interests of persons holding through participants).

The laws of some jurisdictions may require that certain purchasers of securities take physical delivery of the securities in definitive form. These laws may limit the ability of those persons to own, transfer or pledge beneficial interests in registered global debt securities.

So long as the depositary for a registered global debt security, or its nominee, is the registered owner of the registered global debt security, the depositary or the nominee, as the case may be, will be considered the sole owner or holder of the debt securities represented by the registered global debt security for all purposes under the indenture. Except as set forth below, owners of beneficial interests in a registered global debt security:

- will not be entitled to have the debt securities represented by a registered global debt security registered in their names;
- will not receive or be entitled to receive physical delivery of the debt securities in the definitive form; and
- will not be considered the owners or holders of the debt securities under the indenture.

Accordingly, each person owning a beneficial interest in a registered global debt security must rely on the procedures of the depositary for the registered global debt security and, if the person is not a participant, on the procedures of a participant through which the person owns its interest, to exercise any rights of a holder under the indenture.

We understand that under currently existing industry practices, if we request any action of holders or if an owner of a beneficial interest in a registered global debt security desires to give or take any action that a holder is entitled to give or take under the indenture, the depositary for the registered global debt security would authorize the participants holding the relevant beneficial interests to give or take the action, and those participants would authorize beneficial owners owning through those participants to give or take the action or would otherwise act upon the instructions of beneficial owners holding through them.

We will make payments of principal of and premium, if any, and interest, if any, on debt securities represented by a registered global debt security registered in the name of a depository or its nominee to the depository or its nominee, as the case may be, as the registered owners of the registered global debt security. Neither we nor the trustee or any other agent of us or the trustee will be responsible or liable for any aspect of the records relating to, or payments made on account of, beneficial ownership interests in the registered global debt security or for maintaining, supervising or reviewing any records relating to the beneficial ownership interests.

We expect that the depository for any debt securities represented by a registered global debt security, upon receipt of any payments of principal and premium, if any, and interest, if any, in respect of the registered global debt security, will immediately credit participants' accounts with payments in amounts proportionate to their respective beneficial interests in the registered global debt security as shown on the records of the depository. We also expect that standing customer instructions and customary practices will govern payments by participants to owners of beneficial interests in the registered global debt security held through the participants, as is now the case with the securities held for the accounts of customers in bearer form or registered in "street name." We also expect that any of these payments will be the responsibility of the participants.

No registered global debt security may be exchanged in whole or in part for debt securities registered, and no transfer of a registered global debt security in whole or in part may be registered, in the name of any person other than the depository for such registered global debt security, unless (i) such depository notifies us that it is unwilling or unable to continue as depository for such registered global debt security or has ceased to be a clearing agency registered under the Exchange Act, and we fail to appoint an eligible successor depository within 90 days, (ii) an event of default shall have occurred and be continuing with respect to debt securities of such series, (iii) we determine (subject to the depository's procedures) not to have the debt securities of such series represented by a global debt security, or (iv) circumstances, if any, exist in addition to or in lieu of the foregoing as have been specified for that purpose in an applicable prospectus supplement. In any such case, the affected registered global debt security may be exchanged in whole or in part for debt securities in definitive form and the applicable trustee will register any such debt securities in such name or names as such depository directs.

We currently anticipate that certain registered global debt securities will be deposited with, or on behalf of, The Depository Trust Company, or DTC, and will be registered in the name of Cede & Co., as the nominee of DTC. DTC has advised us that DTC is a limited purpose trust company organized under the Banking Law of the State of New York, a "banking organization" within the meaning of the Banking Law of the State of New York, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code and a "clearing agency" registered pursuant to the provisions of Section 17A of the Exchange Act. DTC holds securities that its participants, or direct participants, deposit with DTC. DTC also facilitates the post-trade settlement among direct participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between direct participants' accounts. This eliminates the need for physical movement of securities certificates. Direct participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies and clearing corporations that clear through or maintain a custodial relationship with a direct participant, either directly or indirectly. The information in this paragraph concerning DTC and DTC's book-entry system has been obtained from sources that we believe to be reliable, but we take no responsibility for the accuracy thereof. In the event registered global debt securities are deposited with, or on behalf of, a depository other than DTC, we will describe additional or differing terms of the depository arrangements in the applicable prospectus supplement relating to that particular series of debt securities.

We may also issue bearer debt securities of a series in the form of one or more global debt securities, referred to as “bearer global debt securities.” We currently anticipate that we will deposit these bearer global debt securities with a common depositary for Euroclear Bank S.A./N.V. and Clearstream Banking, société anonyme, or with a nominee for the depositary identified in the prospectus supplement relating to that series. The prospectus supplement relating to a series of debt securities represented by a bearer global debt security will describe the specific terms and procedures, including the specific terms of the depositary arrangement and any specific procedures for the issuance of debt securities in definitive form in exchange for a bearer global debt security, with respect to the portion of the series represented by a bearer global debt security.

Neither we nor the trustee assumes any responsibility for the performance by DTC or any other depositary or its participants of their respective obligations, including obligations that they have under the rules and procedures that govern their operations.

None of the Company, or any underwriter, dealer, agent, trustee or any applicable paying agent will have any responsibility or liability for any aspect of the records relating to or payments made on account of, beneficial interests in a global debt security, or for maintaining, supervising or reviewing any records.

## DESCRIPTION OF WARRANTS

We may issue warrants for the purchase of shares of our Common Stock, shares of Preferred Stock or our debt securities. We may issue warrants independently or together with other securities, and they may be attached to or separate from the other securities. Each series of warrants will be issued under a separate warrant agreement that we will enter into with a bank or trust company, as warrant agent, as detailed in an accompanying prospectus supplement. The warrant agent will act solely as our agent in connection with the warrants and will not assume any obligation, or agency or trust relationship, with you.

### General

We may issue warrants for the purchase of shares of our Common Stock, shares of Preferred Stock or our debt securities. We may issue warrants independently or together with other securities, and they may be attached to or separate from the other securities. Each series of warrants will be issued under a separate warrant agreement that we will enter into with a bank or trust company, as warrant agent, as detailed in an accompanying prospectus supplement. The warrant agent will act solely as our agent in connection with the warrants and will not assume any obligation, or agency or trust relationship, with you.

The prospectus supplement relating to a particular issue of warrants will describe the terms of those warrants, including, when applicable:

- the offering price;
- the currency or currencies, including composite currencies, in which the purchase price and/or exercise price of the warrants may be payable;
- the number of warrants offered;
- the exercise price and the amount of securities you will receive upon exercise;
- the procedure for exercise of the warrants and the circumstances, if any, that will cause the warrants to be automatically exercised;
- the rights, if any, we have to redeem the warrants;
- the date on which the right to exercise the warrants will commence and the date on which the warrants will expire;
- the name of the warrant agent; and
- any other material terms of the warrants.

After warrants expire, they will become void. The prospectus supplement may provide for the adjustment of the exercise price of the warrants.

Warrants may be exercised at the appropriate office of the warrant agent or any other office indicated in an accompanying prospectus supplement. Before the exercise of warrants, holders will not have any of the rights of holders of the securities purchasable upon exercise and will not be entitled to payments made to holders of those securities.

The description in an accompanying prospectus supplement of any warrants we offer will not necessarily be complete and will be qualified in its entirety by reference to the applicable warrant agreement, which will be filed with the SEC if we offer warrants. For more information on how you can obtain copies of any warrant agreement if we offer warrants, see “*Where You Can Find More Information.*” We urge you to read the applicable warrant agreement and any accompanying prospectus supplement in their entirety.

## DESCRIPTION OF UNITS

We may issue units comprised of two or more of the securities described in this prospectus, in any combination. Each unit will be issued so that the holder of the unit is also the holder of each security included in the unit. Thus, the holder of a unit will have the rights and obligations of a holder of each included security. The units or the unit or other agreement, if any, under which a unit is issued may provide that the securities included in the unit may not be held or transferred separately at any time, or at any time before a specified date.

The prospectus supplement relating to a particular issue of units will describe, among other things:

- the securities comprising the units, including whether and under what circumstances those securities may be held or transferred separately;
- any material provisions related to the issuance, payment, settlement, transfer or exchange of the units or of the securities comprising the units; and
- any other material provisions of the units or governing unit or other agreement, if any.

## PLAN OF DISTRIBUTION

We and any selling security holder may offer and sell the securities covered by this prospectus from time to time, in one or more transactions, at market prices prevailing at the time of sale, at prices related to market prices, at a fixed price or prices subject to change, at varying prices determined at the time of sale or at negotiated prices, by a variety of methods, including the following:

- through agents;
- to or through underwriters;
- in “at the market offerings,” within the meaning of Rule 415(a)(4) under the Securities Act, to or through a market maker or into an existing trading market, on an exchange or otherwise;
- through brokers or dealers;
- directly by us or any selling security holders to purchasers, including through a specific bidding, auction or other process; or
- through a combination of any of these methods of sale.

Registration of the securities covered by this prospectus does not mean that those securities necessarily will be offered or sold.

In effecting sales, brokers or dealers engaged by us may arrange for other brokers or dealers to participate. Broker-dealer transactions may include:

- purchases of the securities by a broker-dealer as principal and resales of the securities by the broker-dealer for its account pursuant to this prospectus;
- ordinary brokerage transactions; or
- transactions in which the broker-dealer solicits purchasers.

In addition, we and any selling security holder may sell any securities covered by this prospectus in private transactions or under Rule 144 of the Securities Act rather than pursuant to this prospectus.

We may sell offered securities through agents designated by us from time to time. Any agent in the offer or sale of the securities for which this prospectus is delivered will be named, and any commissions payable by us to that agent will be set forth, in the applicable prospectus supplement. Unless indicated in such prospectus supplement, the agents will have agreed to use their reasonable best efforts to solicit purchases for the period of their appointment.

In connection with the sale of securities covered by this prospectus, broker-dealers may receive commissions or other compensation from us in the form of commissions, discounts or concessions. Broker-dealers may also receive compensation from purchasers of the securities for whom they act as agents or to whom they sell as principals or both. Compensation as to a particular broker-dealer may be in excess of customary commissions or in amounts to be negotiated. In connection with any underwritten offering, underwriters may receive compensation in the form of discounts, concessions or commissions from us or from purchasers of the securities for whom they act as agents. Underwriters may sell the securities to or through dealers, and such dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters and/or commissions from the purchasers for whom they may act as agents. Any underwriters, broker-dealers agents or other persons acting on our behalf that participate in the distribution of the securities may be deemed to be “underwriters” within the meaning of the Securities Act, and any profit on the sale of the securities by them and any discounts, commissions or concessions received by any of those underwriters, broker-dealers agents or other persons may be deemed to be underwriting discounts and commissions under the Securities Act.

In connection with the distribution of the securities covered by this prospectus or otherwise, we or any selling stockholder may enter into hedging transactions with broker-dealers or other financial institutions. In connection with such transactions, broker-dealers or other financial institutions may engage in short sales of our securities in the course of hedging the positions they assume with us or any selling stockholder. We or any selling stockholder may also sell securities short and deliver the securities offered by this prospectus to close out our short positions. We or any selling security holder may also enter into option or other transactions with broker-dealers or other financial institutions, which require the delivery to such broker-dealer or other financial institution of securities offered by this prospectus, which securities such broker-dealer or other financial institution may resell pursuant to this prospectus, as supplemented or amended to reflect such transaction. We or any selling security holder may also from time to time pledge our securities pursuant to the margin provisions of our customer agreements with our brokers. Upon our default, the broker may offer and sell such pledged securities from time to time pursuant to this prospectus, as supplemented or amended to reflect such transaction.



At any time a particular offer of the securities covered by this prospectus is made, a revised prospectus or prospectus supplement, if required, will be distributed which will set forth the aggregate amount of securities covered by this prospectus being offered and the terms of the offering, including the name or names of any underwriters, dealers, brokers or agents, any discounts, commissions, concessions and other items constituting compensation from us and any discounts, commissions or concessions allowed or reallocated or paid to dealers. Such prospectus supplement, and, if necessary, a post-effective amendment to the registration statement of which this prospectus forms a part, will be filed with the SEC to reflect the disclosure of additional information with respect to the distribution of the securities covered by this prospectus. In order to comply with the securities laws of certain states, if applicable, the securities sold under this prospectus may only be sold through registered or licensed broker-dealers. In addition, in some states the securities may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from registration or qualification requirements is available and is satisfied.

In connection with an underwritten offering, we and any selling stockholder would execute an underwriting agreement with an underwriter or underwriters. Unless otherwise indicated in the revised prospectus or applicable prospectus supplement, such underwriting agreement would provide that the obligations of the underwriter or underwriters are subject to certain conditions precedent, and that the underwriter or underwriters with respect to a sale of the covered securities will be obligated to purchase all of the covered securities, if any such securities are purchased. We or any selling security holder may grant to the underwriter or underwriters an option to purchase additional securities at the public offering price, less any underwriting discount, as may be set forth in the revised prospectus or applicable prospectus supplement. If we or any selling security holder grants any such option, the terms of that option will be set forth in the revised prospectus or applicable prospectus supplement.

To the extent that we make sales through one or more underwriters or agents in at the market offerings, we will do so pursuant to the terms of a sales agency financing agreement or other at the market offering arrangement between us and the underwriters or agents. If we engage in at the market sales pursuant to any such agreement, we will issue and sell our securities through one or more underwriters or agents, which may act on an agency basis or on a principal basis. During the term of any such agreement, we may sell securities on a daily basis in exchange transactions or otherwise as we agree with the underwriters or agents. The agreement will provide that any securities sold will be sold at prices related to the then prevailing market prices for our securities. Therefore, exact figures regarding proceeds that will be raised or commissions to be paid cannot be determined as of the date of this prospectus. Pursuant to the terms of the agreement, we may agree to sell, and the relevant underwriters or agents may agree to solicit offers to purchase, blocks of our common stock or other securities. The terms of each such agreement will be set forth in more detail in a prospectus supplement.

Underwriters, agents, brokers or dealers may be entitled, pursuant to relevant agreements entered into with us, to indemnification by us or any selling security holder against certain civil liabilities, including liabilities under the Securities Act that may arise from any untrue statement or alleged untrue statement of a material fact, or any omission or alleged omission to state a material fact in this prospectus, any supplement or amendment hereto, or in the registration statement of which this prospectus forms a part, or to contribution with respect to payments which the underwriters, agents, brokers or dealers may be required to make.

## **LEGAL MATTERS**

The validity of our securities offered hereby will be passed upon for us by Skadden, Arps, Slate, Meagher & Flom LLP, Los Angeles, California.

## EXPERTS

The consolidated financial statements of PLBY Group, Inc. as of and for the year ended December 31, 2021 and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2021, incorporated by reference in this prospectus and in the registration statement have been so incorporated in reliance on the reports of BDO USA, LLP, an independent registered public accounting firm, incorporated herein by reference, given on the authority of said firm as experts in auditing and accounting. The report on the effectiveness of internal control over financial reporting expresses an adverse opinion on the effectiveness of the Company's internal control over financial reporting as of December 31, 2021.

The financial statements of Playboy Enterprises, Inc. ("Legacy Playboy") as of and for the year ended December 31, 2020 incorporated by reference in this prospectus and elsewhere in the registration statement have been so incorporated by reference in reliance upon the report of Prager Metis CPAs LLP, independent registered public accountants, upon the authority of said firm as experts in accounting and auditing.

The consolidated financial statements of Honey Birdette (Aust) Pty Limited and its subsidiaries as of and for the fiscal year ended June 27, 2021 incorporated by reference herein the registration statement in reliance upon the report of KPMG, independent auditors, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

The liability of KPMG in relation to the performance of their professional services to Honey Birdette (Aust) Pty Limited, including, without limitation, KPMG's audits of the financial statements, is limited under the Chartered Accountants Australia and New Zealand Professional Standards Scheme (NSW) approved by the New South Wales Professional Standards Council pursuant to the Professional Standards Act of 1994 of the State of New South Wales, including the Treasury Legislation Amendment (Professional Standards) Act 2004 of Australia (the "Accountants Scheme"). The Accountants Scheme limits civil liability of KPMG to a maximum amount of A\$75 million. The Accountants Scheme does not limit liability for breach of trust, fraud or dishonesty.

## **WHERE YOU CAN FIND MORE INFORMATION**

We are subject to the reporting requirements of the Exchange Act, and its rules and regulations. The Exchange Act requires us to file reports, proxy statements and other information with the SEC. The SEC maintains a web site that contains reports, proxy statements and other information regarding issuers that file electronically with the SEC. These materials may be obtained electronically by accessing the SEC's website at <http://www.sec.gov>.

We make available, free of charge on our website, our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, proxy statements and amendments to these reports filed or furnished pursuant to Section 13(a), 14 or 15(d) of the Exchange Act, as soon as reasonably practicable after we electronically file these documents with, or furnish them to, the SEC. These documents are posted on our website at [www.plbygroup.com](http://www.plbygroup.com). Any references in this prospectus to our website are inactive textual references only, and the information contained on or that can be accessed through our website (except for the SEC filings expressly incorporated by reference herein) is not incorporated in, and is not a part of, this prospectus.

## INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE

The SEC allows us to “incorporate by reference” into this prospectus information we file with the SEC in other documents. This means that we can disclose important information to you by referring to another document we filed with the SEC. The information relating to us contained in this prospectus should be read together with the information in the documents incorporated by reference.

We incorporate by reference the documents listed below that we have previously filed with the SEC (other than any document or portion of any document furnished or deemed furnished and not filed in accordance with SEC rules, including Items 2.02 and 7.01 of Form 8-K and Item 9.01 related thereto):

- [Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the SEC on March 16, 2022](#), and related [Form 10-K/A filed with the SEC on April 22, 2022](#);
- Quarterly Reports on Form 10-Q for the quarterly periods ended March 31, 2022 and June 30, 2022, filed with the SEC on [May 10, 2022](#) and [August 9, 2022](#), respectively, and related Form 10-Q/A filed with the SEC on [May 27, 2022](#);
- Portions of the [Definitive Proxy Statement on Schedule 14A, filed with the SEC on May 10, 2022](#), that are incorporated by reference into Part III of our [Annual Report on Form 10-K for the fiscal year ended December 31, 2021](#), filed with the SEC on March 16, 2022;
- The description of the Company’s Common Stock contained in the Company’s Registration Statement on [Form 8-A filed with the SEC on June 4, 2020 \(File No. 001-39312\)](#), pursuant to Section 12(b) of the Exchange Act, including any amendments or reports filed for the purpose of updating such description, including the description of the Company’s Common Stock included as [Exhibit 4.1](#) to the Company’s Annual Report on Form 10-K filed with the SEC on March 16, 2022; and
- Current Report on Form 8-K, filed with the SEC on [October 21, 2021](#), [March 25, 2022](#), [March 30, 2022](#), [May 17, 2022](#), [June 10, 2022](#) and [September 1, 2022](#).

We are also incorporating by reference all documents subsequently filed by the registrant pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to the termination of the offering (including those documents filed after the date of the initial registration statement and prior to effectiveness of the registration statement) shall be deemed to be incorporated by reference, other than any document or portion of any document furnished or deemed furnished and not filed in accordance with SEC rules, including Items 2.02 and 7.01 on Form 8-K and Item 9.01 related thereto.

The information incorporated by reference is considered to be part of this prospectus, and information that we file later with the SEC and incorporate by reference in this prospectus will automatically update and supersede this previously filed information, as applicable, including information in previously filed documents or reports that have been incorporated by reference into this prospectus. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus.

We will provide, without charge, to each person, including any beneficial owner, to whom a copy of this prospectus is delivered, upon written or oral request of such person, a copy of any or all of the documents incorporated by reference in this prospectus, other than exhibits to such documents unless such exhibits are specifically incorporated by reference into such documents. Requests may be made by telephone at (310) 424-1800, or by sending a written request to PLBY Group, Inc., 10960 Wilshire Blvd., Suite 2200, Los Angeles, CA 90024, Attention: Secretary.

You should rely only on the information incorporated by reference or provided in this prospectus or any supplement. We have not authorized anyone else to provide you with different information. You should not assume that the information in this prospectus or any supplement is accurate as of any date other than the date on the front of those documents or as of any earlier date as of which such information is given.

## Part II—INFORMATION NOT REQUIRED IN PROSPECTUS

### Item 14. Other Expenses of Issuance and Distribution

The following table sets forth the estimated expenses to be borne by the registrant in connection with the issuance and distribution of the securities being registered hereby.

Securities and Exchange Commission registration fee	\$	23,175.00
FINRA filing fee		*
Legal fees and expenses		*
Accounting fees and expenses		*
Printing fees and expenses		*
Transfer agent and trustee fees		*
Miscellaneous		*
Total	\$	23,175.00

\* Estimated expenses not presently known

### Item 15. Indemnification of Directors and Officers

Section 145 of the DGCL provides that a Delaware corporation may indemnify any person who was, is or is threatened to be made, party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation), by reason of the fact that such person is or was an officer, director, employee or agent of such corporation or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, provided such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the corporation's best interests and, with respect to any criminal action or proceeding, had no reasonable cause to believe that their conduct was illegal. A Delaware corporation may indemnify any persons who were or are a party to any threatened, pending or completed action or suit by or in the right of the corporation by reason of the fact that such person is or was a director, officer, employee or agent of another corporation or enterprise. The indemnity may include expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit, provided such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the corporation's best interests; *provided* that no indemnification is permitted without judicial approval if the officer, director, employee or agent is adjudged to be liable to the corporation. Where an officer or director is successful on the merits or otherwise in the defense of any action referred to above, the corporation must indemnify such officer or director against the expenses which such officer or director has actually and reasonably incurred.

Section 145 further authorizes a corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or enterprise, against any liability asserted against such person and incurred by such person in any such capacity, or arising out of their status as such, whether or not the corporation would otherwise have the power to indemnify such person under Section 145.

Section 102(b)(7) of the DGCL allows a corporation to provide in its certificate of incorporation that a director of the corporation will not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except where the director breached the duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit.

Our Certificate of Incorporation limits the liability of, and indemnifies, its directors and officers to the fullest extent permitted under the DGCL. Our Certification of Incorporation further provides that an indemnified person is entitled, subject to certain limitations, to advancement, direct payment, or reimbursement of reasonable expenses (including attorneys' fees and disbursements) in advance of the final disposition of the proceeding.

We have entered into indemnification agreements with our directors and executive officers. These indemnification agreements, among other things, require us to indemnify our directors and officers for certain expenses, including attorneys' fees, judgments, fines, and settlements incurred by a director or officer in any action or proceeding arising out of their services as one of our directors or officers or any other company or enterprise to which the person provides services as our request. The form of Indemnification Agreement was filed as Exhibit 10.26 to our Current Report on Form 8-K filed on February 16, 2021.

We have also obtained insurance policies under which, subject to the limitations of the policies, our directors and officers are insured against liability for actions taken in their capacity as directors and officers. We also maintain a general liability insurance policy, which covers certain liabilities of directors and officers.

Our Bylaws include the provisions relating to advancement of expenses and indemnification rights consistent with those set forth in our Certificate of Incorporation. In addition, our Bylaws provide for a right of indemnity to bring a suit in the event a claim for indemnification or advancement of expenses is not paid in full by us within a specified period of time. Our Bylaws also permit us to purchase and maintain insurance, at our expense, to protect us and/or any director, officer, employee or agent of ours or another entity, trust or other enterprise against any expense, liability or loss, whether or not we would have the power to indemnify such person against such expense, liability or loss under the DGCL.

Our Bylaws include the provisions relating to advancement of expenses and indemnification rights consistent with those set forth in our Certificate of Incorporation. In addition, our bylaws provide for a right of indemnity to bring a suit in the event a claim for indemnification or advancement of expenses is not paid in full by us within a specified period of time. Our bylaws also permit us to purchase and maintain insurance, at our expense, to protect us and/or any director, officer, employee or agent of our corporation or another entity, trust or other enterprise against any expense, liability or loss, whether or not we would have the power to indemnify such person against such expense, liability or loss under the DGCL.

Any repeal or amendment of provisions of our bylaws affecting indemnification rights, whether by our Board, stockholders or by changes in applicable law, or the adoption of any other provisions inconsistent therewith, will (unless otherwise required by law) be prospective only, except to the extent such amendment or change in law permits us to provide broader indemnification rights on a retroactive basis, and will not in any way diminish or adversely affect any right or protection existing thereunder with respect to any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision.

## Item 16. Exhibits

The following exhibits are filed as a part of this registration statement:

Exhibit No.	Description
1.1*	Form of Underwriting Agreement.
<a href="#">2.1</a>	<a href="#">Agreement and Plan of Merger, dated as of September 30, 2020, by and among Mountain Crest Acquisition Corp., MCAC Merger Sub Inc., Suying Liu and Playboy Enterprises, Inc. (incorporated by reference to Annex A to MCAC's Definitive Proxy Statement file with the SEC on January 21, 2021).</a>
<a href="#">2.2</a>	<a href="#">Share Purchase Agreement, dated June 28, 2021, by and among PLBY Group, Inc., PLBY Australia Pty Ltd, Honey Birdette (Aust) Pty Limited, the sellers party thereto, and Ray Itaoi, as the sellers' representative (incorporated by reference to Exhibit 2.1 of PLBY's Current Report on Form 8-K filed with the SEC on June 29, 2021).</a>
<a href="#">2.3</a>	<a href="#">Agreement and Plan of Merger, dated October 15, 2021, by and among PLBY Group, Inc., PB Global Merger Sub Inc., GlowUp Digital Inc. and Michael Dow, solely as representative of the stockholders of GlowUp Digital Inc. (incorporated by reference to Exhibit 10.1 of PLBY's Current Report on Form 8-K filed with the SEC on October 18, 2021).</a>
<a href="#">3.1</a>	<a href="#">Second Amended and Restated Certificate of Incorporation of PLBY Group, Inc. (incorporated by reference to Exhibit 3.1 of PLBY's Form 8-K filed with the SEC on February 16, 2021).</a>
<a href="#">3.2</a>	<a href="#">Amended and Restated Bylaws of PLBY Group, Inc. (incorporated by reference to Exhibit 3.2 to PLBY's Form 8-K filed with the SEC on February 16, 2021).</a>

<b>Exhibit No.</b>	<b>Description</b>
<a href="#"><u>3.3</u></a>	<a href="#"><u>Certificate of Designation of the Series A Preferred Stock (incorporated by reference to Exhibit 3.1 to PLBY's Form 8-K filed with the SEC on May 17, 2022).</u></a>
<a href="#"><u>4.1</u></a>	<a href="#"><u>Form of Indenture for senior debt securities or subordinated debt securities between PLBY Group, Inc. and Delaware Trust Company, as trustee.</u></a>
4.2*	Form of Depositary Agreement (including form of Depositary Receipt).
4.3*	Form of Certificate of Designations.
4.4*	Form of Warrant Agreements.
4.5*	Form of Unit Certificate.
4.6*	Form of Preferred Stock Certificate.
<a href="#"><u>5.1</u></a>	<a href="#"><u>Opinion of Skadden, Arps, Slate, Meagher &amp; Flom LLP.</u></a>
<a href="#"><u>23.1</u></a>	<a href="#"><u>Consent of BDO USA, LLP.</u></a>
<a href="#"><u>23.2</u></a>	<a href="#"><u>Consent of Prager Metis CPAs LLP.</u></a>
<a href="#"><u>23.3</u></a>	<a href="#"><u>Consent of KPMG.</u></a>
<a href="#"><u>24.1</u></a>	<a href="#"><u>Power of Attorney (incorporated by reference to the signature page hereto).</u></a>
<a href="#"><u>25.1</u></a>	<a href="#"><u>Statement of Eligibility of Trustee on Form T-1.</u></a>
<a href="#"><u>107</u></a>	<a href="#"><u>Filing Fee Table.</u></a>

\* To be filed, if necessary, by amendment or as an exhibit to a document to be incorporated or deemed to be incorporated by reference in this registration statement, including a Current Report on Form 8-K.

#### **Item 17. Undertakings**

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and



- (iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*Provided, however,* that paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the SEC by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

- (2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:
  - (A) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and
  - (B) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii) or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. *Provided, however,* that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.
- (5) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities:

The undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

  - (i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
  - (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
  - (iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
  - (iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

- (6) That, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (7) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.
- (8) To file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the SEC under Section 305(b)(2) of the Act.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Los Angeles, State of California, on September 2, 2022.

### PLBY GROUP, INC.

By: /s/ Ben Kohn  
Name: Ben Kohn  
Title: Chief Executive Officer

## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Ben Kohn and Lance Barton and each or any one of them, his, her or their true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him, her or them and in his, her or their name, place and stead, in any and all capacities, to sign any and all amendments to this registration statement, and to sign any registration statement relating to the offering covered by this registration statement and filed pursuant to Rule 462 under the Securities Act of 1933, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully for all intents and purposes as he, she or they might or could do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents, or his, her or their substitute or substitutes may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Ben Kohn</u> Ben Kohn	Chief Executive Officer, President and Director (Principal Executive Officer)	September 2, 2022
<u>/s/ Lance Barton</u> Lance Barton	Chief Financial Officer, (Principal Financial Officer)	September 2, 2022
<u>/s/ Florus Beuting</u> Florus Beuting	Chief Accounting Officer, (Principal Accounting Officer)	September 2, 2022
<u>/s/ Suhail Rizvi</u> Suhail Rizvi	Chairman of the Board	September 2, 2022
<u>/s/ Tracey Edmonds</u> Tracey Edmonds	Director	September 2, 2022
<u>/s/ James Yaffe</u> James Yaffe	Director	September 2, 2022
<u>/s/ Juliana F. Hill</u> Juliana F. Hill	Director	September 2, 2022

**[Form of Senior/Subordinated Indenture]**

**PLBY GROUP, INC.**

**as Issuer and**

**DELAWARE TRUST COMPANY**

**as Trustee**

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**INDENTURE**

**Dated as of [ ]**

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**CROSS-REFERENCE TABLE\***

<b>Trust Indenture Act Section</b>		<b>Indenture Section</b>
310	(a)(1)	7.10
	(a)(2)	7.10
	(a)(3)	Not Applicable
	(a)(4)	Not Applicable
	(a)(5)	7.10
	(b)	7.10
311	(c)	Not Applicable
	(a)	7.11
	(b)	7.11
312	(c)	Not Applicable
	(a)	2.08
	(b)	11.03
313	(c)	11.03
	(a)	7.06
	(b)(1)	Not Applicable
	(b)(2)	7.06
	(c)	7.06
	(d)	7.06
314	(a)	4.02; 4.03
	(b)	Not Applicable
	(c)(1)	11.04
	(c)(2)	11.04
	(c)(3)	Not Applicable
	(d)	Not Applicable
	(e)	11.05
	(f)	Not Applicable
315	(a)	7.01
	(b)	7.05
	(c)	7.01
	(d)	7.01
	(e)	6.11
316	(a) (last sentence)	2.11
	(a)(1)(A)	6.05
	(a)(1)(B)	6.04
	(a)(2)	Not Applicable
	(b)	6.07
	(c)	2.14
317	(a)(1)	6.08
	(a)(2)	6.09
	(b)	2.06
318	(a)	11.01
	(b)	Not Applicable
	(c)	11.01



\* This Cross-Reference Table is not part of the Indenture.

## **EXHIBITS**

Exhibit A      FORM OF SECURITY

Exhibit B      FORM OF SUPPLEMENTAL INDENTURE TO BE DELIVERED BY SUBSEQUENT GUARANTORS

**INDENTURE** dated as of [ ], between PLBY GROUP, INC., a Delaware corporation, and DELAWARE TRUST COMPANY, a Delaware trust company, as trustee.

## **RECITALS**

Each of the parties hereto covenants and agrees, for the equal and ratable benefit of the Holders of the securities issued from time to time under this Indenture (the “Securities”), as follows:

## **ARTICLE ONE.**

### **DEFINITIONS AND INCORPORATION BY REFERENCE**

#### **SECTION 1.01. Definitions.**

For all purposes under this Indenture and any supplemental indenture hereto, except as otherwise expressly provided or unless the context otherwise requires, the following terms shall have the following meanings:

“Affiliate” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “control” (including, with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), when used with respect to any Person, shall mean the power to direct or cause the direction of the management or policies of such Person, directly or indirectly, whether through the ownership of voting securities, by agreement or otherwise.

“Agent” means any Registrar, Paying Agent or co-registrar.

“Bankruptcy Law” means Title 11, U.S. Code or any similar federal or state law for the relief of debtors.

“Board of Directors” means the board of directors of the Company, or any authorized committee of the Board of Directors.

“Board Resolution” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been adopted by the Board of Directors or pursuant to authorization by the Board of Directors and to be in full force and effect on the date of the certificate.

“Business Day” means any day other than a Legal Holiday.

“Clearstream” means Clearstream Banking, société anonyme, or any successor thereto.

“Company” means PLBY Group, Inc., and any and all successors thereto.

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“Company Order” means a written order signed in the name of the Company by two Officers, one of whom must be the Company’s principal executive officer, principal financial officer or principal accounting officer and delivered to the Trustee.

“Corporate Trust Office of the Trustee” shall be the address of the Trustee specified in Section 11.02 hereof or such other address as to which the Trustee may give notice to the Company.

“Default” means any event that is, or after notice or passage of time or both would be, an Event of Default.

“Depository” means, with respect to any Securities issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depository with respect to such Securities, and any and all successors thereto appointed as Depository hereunder and having become such pursuant to the applicable provision of this Indenture.

“Dollar” means a dollar or other equivalent unit in such coin or currency of the United States as at the time shall be legal tender for the payment of public and private debt.

“DTC” means The Depository Trust Company or any of its successors.

“Euroclear” means Euroclear Bank S.A./N.V., as operator of the Euroclear System, or any successor thereto.

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

“GAAP” means generally accepted accounting principles in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board.

“Global Security” means a Security in the form of a global security as delivered to the Depository.

“Guarantee” means a guarantee, if any, of all or any part of any Series of Securities pursuant to the terms set forth in any a Board Resolution, a supplemental indenture to this Indenture, or an Officer’s Certificate.

“Guaranteed Series of Securities” means a Series of Securities, the obligations of the Company with respect to which are guaranteed by one or more Guarantors.

“Guarantor” means, with respect to a Guaranteed Series of Securities, each Person, if any, which provides a Guarantee of such Series under this Indenture; provided, however, that upon the release and discharge of any Person from its Guarantee with respect to a Guaranteed Series of Securities in accordance with this Indenture, such Person shall cease to be a Guarantor with respect to such Guaranteed Series of Securities.

“Holder” means a Person in whose name a Security is registered on the Registrar’s books.

“Indenture” means this Indenture, as amended or supplemented from time to time. The term “Indenture” shall also include the terms of a particular Series of Securities established pursuant to Section 2.02 hereof.

“Interest Payment Date,” when used with respect to any Series of Securities, means the date specified in such Securities for the payment of any installment of interest on such Securities.

“Legal Holiday” means a Saturday, Sunday or other day on which banking institutions in New York State are authorized or required by law to close. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on the amount so payable during the intervening period. If a record date is a Legal Holiday, the record date shall not be affected.

“Maturity,” when used with respect to any Security or installment of principal thereof, means the date on which the principal of such Security or such installment of principal becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption, notice of option to elect repayment or otherwise.

“Officer” means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or Clerk, any Assistant Secretary, or any Vice-President of such Person. The term Officer of any Guarantor has a correlative meaning.

“Officer’s Certificate” means a certificate signed on behalf of the Company or a Guarantor by two Officers of the Company or the Guarantor, as applicable, one of whom must be the principal executive officer, the principal financial officer or the principal accounting officer of the Company or the Guarantor, as applicable, that meets the requirements of Sections 11.04 and 11.05 hereof.

“Opinion of Counsel” means an opinion from legal counsel, that meets the requirements of Section 11.04 hereof (which may be subject to customary assumptions and qualifications). The counsel may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

“Original Issue Discount Security” means any Security that provides for an amount less than the stated principal amount thereof to be due and payable upon declaration of acceleration of the Maturity thereof pursuant to Section 6.02. As used herein, “principal” with respect to an Original Issue Discount Security or any Series thereof, including for purposes of Article Six, means the portion thereby specified in the terms of such Security as then due and payable.

“Participant” means, with respect to the Depositary, Euroclear or Clearstream, a Person who has an account with the Depositary, Euroclear or Clearstream, respectively (and, with respect to DTC, shall include Euroclear or Clearstream) as indirect participants.

“Person” means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

“Redemption Date,” when used with respect to any Security to be redeemed, shall mean the date specified for redemption of such Security in accordance with the terms of such Security and this Indenture.

“Redemption Price,” when used with respect to any Security to be redeemed, means the price at which it is to be redeemed pursuant to the terms of such Security and this Indenture (not including accrued and unpaid interest to, but not including, the Redemption Date).

“Regular Record Date,” when used with respect to any Series of Securities, means the date specified in such Securities for the determination of Holders entitled to receive payment of an installment of interest on such Securities on the next succeeding Interest Payment Date.

“Responsible Officer” means, with respect to the Trustee, any vice president, assistant vice president, trust officer, assistant trust officer or any other officer of the Trustee assigned by the Trustee to administer its corporate trust matters and who customarily performs functions similar to those performed by such Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such Person’s knowledge of and familiarity with the particular subject and who shall have direct responsibility for administration of this Indenture.

“SEC” means the Securities and Exchange Commission.

“Securities” has the meaning assigned to it in the recitals of this Indenture.

“Securities Act” means the Securities Act of 1933, as amended.

“Senior Debt,” when used with respect to the Subordinated Securities of any Series, shall have the meaning established pursuant to clause (x) of Section 2.02 with respect to the Subordinated Securities of such Series.

“Series” or “Series of Securities” means each series of debentures, notes or other debt instruments of the Company created pursuant to Section 2.02 hereof.

“Significant Subsidiary” means any Subsidiary that would be a “significant subsidiary” of the Company within the meaning of Rule 1-02 under Regulation S-X promulgated by the SEC.

“Special Record Date” for the payment of any Defaulted Interest on the Securities means a date fixed by the Trustee pursuant to Section 2.15 hereof.

“Stated Maturity,” when used with respect to any Security, means the date specified in such Security as the fixed date on which an amount equal to the principal amount of such Security is due and payable.

“Subordinated Securities” means Securities that by the terms established pursuant to clause (x) Section 2.02 are subordinated in right of payment to Senior Debt of the Company.

“Subordination Provisions,” when used with respect to the Subordinated Securities of any Series, shall have the meaning established pursuant to clause (x) of Section 2.02 with respect to the Subordinated Securities of such Series.

“Subsidiary” of any Person means any corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person.

“TIA” means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbb) and the rules and regulations thereunder as in effect on the date on which this Indenture is qualified under the TIA, except as provided in Section 9.03.

“Trustee” means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

“U.S. Government Obligations” means direct obligations (or certificates representing an ownership interest in such obligations) of the United States of America (including any agency or instrumentality thereof) for the payment of which the full faith and credit of the United States of America is pledged and which are not callable or redeemable at the issuer’s option.

#### SECTION 1.02. Other Definitions.

Act	11.06(a)
Covenant Defeasance	8.03
Custodian	6.01(7)
Defaulted Interest	2.15
Event of Default	6.01
Legal Defeasance	8.02
Notice of Default	6.01(3)
Paying Agent	2.06
Registrar	2.06
Surviving Guarantor	5.02(1)
Surviving Person	5.01(a)
Trustee	8.05

SECTION 1.03. Incorporation by Reference of Trust Indenture Act. This Indenture is subject to the mandatory provisions of the TIA, which are incorporated by reference in and made a part of this Indenture. The following TIA terms used in this Indenture have the following meanings:

“obligor” on the Securities and any Guarantees means the Company and any Guarantors, respectively, and any successor obligor upon the Securities and any Guarantees, respectively.

All other terms used in this Indenture that are defined by the TIA, defined by the TIA’s reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

SECTION 1.04. Rules of Construction. Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;
- (3) “or” is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular;
- (5) provisions apply to successive events and transactions;
- (6) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement or successor sections or rules adopted by the SEC from time to time;
- (7) unless the context otherwise requires, any reference to an “Article,” “Section” or “clause” refers to an Article, Section or clause, as the case may be, of this Indenture; and
- (8) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not any particular Article, Section, clause or other subdivision.

## **ARTICLE TWO.**

### **THE SECURITIES**

SECTION 2.01. Issuable in Series. The aggregate principal amount of Securities that may be authenticated and delivered under this Indenture is unlimited. The Securities may be issued in one or more Series. All Securities of a Series shall be identical except as may be set forth in a Board Resolution, a supplemental indenture or an Officer’s Certificate pursuant to Section 2.02 detailing the adoption of the terms thereof pursuant to the authority granted under a Board Resolution. In the case of Securities of a Series to be issued from time to time, the Board Resolution, supplemental indenture or Officer’s Certificate pursuant to Section 2.02 may provide for the method by which specified terms (including interest rate, Maturity, record date or date from which interest shall accrue) are to be determined. Securities may differ between Series in respect of any matters.



The Securities of each Series shall be in substantially the forms set forth in Exhibit A hereto or in such other form (including temporary or permanent global form) as shall be established by or pursuant to a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or Depository therefor or as may, consistently herewith, be determined by the Officer executing such Securities as evidenced by his or her execution of such Securities.

Any certificated Securities shall be printed, lithographed or engraved or produced by any combination of these methods or may be produced in any other manner; provided that such method is permitted by the rules of any securities exchange on which such Securities may be listed, all as determined by the Officer executing such Securities as evidenced by his or her execution of such Securities.

SECTION 2.02. Establishment of Terms of Series of Securities. At or prior to the issuance of any Securities within a Series, the following shall be established (as to the Series generally, in the case of Subsection 2.02(a) and either as to such Securities within the Series or as to the Series generally in the case of the other subsections of this Section 2.02) by a Board Resolution, a supplemental indenture or an Officer's Certificate pursuant to authority granted under a Board Resolution:

(a) the title of the Securities of the Series (which shall distinguish the Securities of the Series from Securities of any other Series, except to the extent that additional Securities of an existing Series are being issued);

(b) any limit upon the aggregate principal amount of the Securities of the Series which may be authenticated and delivered under this Indenture (except for Securities authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, other Securities of the Series pursuant to Section 2.09, 2.10, 2.12, 2.13, 3.06 or 9.05 and except for any Securities which, pursuant to Section 2.05, are deemed never to have been authenticated and delivered hereunder);

(c) the Person to whom any interest on a Security of the Series shall be payable, if other than the Person in whose name that Security (or one or more predecessor Securities) is registered at the close of business on the Regular Record Date for such interest and the extent to which, or the manner in which, any interest payable on a temporary Global Security on an Interest Payment Date will be paid if other than in the manner provided in Section 2.13;

(d) the date or dates on which the principal of any Securities of the Series is payable;

(e) the rate or rates at which the Securities of the Series shall bear interest, if any, or the method by which such rate shall be determined, the date or dates from which such interest shall accrue, or the method by which such date or dates shall be determined, the Interest Payment Dates on which any such interest shall be payable and the Regular Record Date for any such interest payable on any Interest Payment Date;

- (f) the place or places where the principal of, premium, if any, and interest on any Securities of the Series shall be payable;
- (g) the period or periods within which, the price or prices at which and the terms and conditions upon which any Securities of the Series may be redeemed, in whole or in part, at the option of the Company;
- (h) the obligation, if any, of the Company to redeem or purchase any Securities of the Series pursuant to any sinking fund or analogous provisions or at the option of the Holder thereof and the period or periods within which, the price or prices at which and the terms and conditions upon which any Securities of the Series shall be redeemed or purchased, in whole or in part, pursuant to such obligation;
- (i) if other than minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof, the denominations in which Securities of such Series shall be issuable;
- (j) whether the amount of payments of principal of, premium, if any, or interest on the Securities of the Series may be determined with reference to an index, formula or other method (which index, formula or method may be based, without limitation, on one or more interest rate, currency, commodity, equity or other indices), and the manner in which such amounts shall be determined;
- (k) the currency or currencies, including composite currencies, in which payment of the principal of, premium, if any, and interest on any Securities of the Series shall be payable, if other than the currency of the United States of America;
- (l) if the principal of, premium, if any, and interest on the Securities of the Series are to be payable, at the election of the Company or a Holder thereof, in a currency or currencies, including composite currencies, other than that or those in which the Securities are stated to be payable, the currency or currencies in which payment of the principal of, premium, if any, and interest on Securities of such Series as to which such election is made shall be payable, the periods within which and the terms and conditions upon which such election is to be made and the amount so payable (or the manner in which such amount shall be determined);
- (m) if other than the principal amount thereof, the portion of the principal amount of any Securities of the Series which shall be payable upon declaration of acceleration of the Maturity thereof pursuant to Section 6.02;
- (n) if the principal amount payable at the Stated Maturity of any Securities of the Series will not be determinable as of any one or more dates prior to the Stated Maturity, the amount which shall be deemed to be the principal amount of such Securities as of any such date for any purpose thereunder or hereunder, including the principal amount thereof which shall be due and payable upon any Maturity other than the Stated Maturity or which shall be deemed to be outstanding as of any date prior to the Stated Maturity (or, in any such case, the manner in which such amount deemed to be the principal amount shall be determined);

(o) any addition to or change in the provisions related to satisfaction and discharge or Covenant Defeasance or Legal Defeasance in Article Eight, or the inapplicability of such Articles or provisions therein to the Securities of such Series;

(p) if applicable, that any Securities of the Series shall be issuable in whole or in part in the form of one or more temporary or permanent Global Securities and, in such case, the respective Depositaries for such Global Securities, the form of any legend or legends which shall be borne by any such Global Security in addition to or in lieu of that set forth in Exhibit A and any circumstances in addition to or in lieu of those set forth in Section 2.09 in which any such Global Security may be exchanged in whole or in part for Securities registered, and any transfer of such Global Security in whole or in part may be registered, in the name or names of Persons other than the Depositary for such Global Security or a nominee thereof;

(q) any addition to or change in the Events of Default which applies to any Securities of the Series and any change in the right of the Trustee or the requisite Holders of such Securities to declare the principal amount thereof due and payable pursuant to Section 6.02;

(r) any addition to or change in the provisions set forth in Article Four which applies to Securities of the Series;

(s) if applicable, that the Securities of the Series are convertible into or exchangeable for any securities of any Person (including the Company), the period or periods within which, the price or prices at which and the terms and conditions upon which, and the limitations and restrictions, if any, upon which, any Securities of the Series shall be so convertible or exchangeable, and any additions or changes to this Indenture, if any, to permit or facilitate such conversion or exchange;

(t) the place or places where any Securities of the Series may be surrendered for registration of transfer, where Securities of the Series may be surrendered for exchange, where Securities of the Series that are convertible or exchangeable may be surrendered for conversion or exchange, as applicable, and where notices and demands to or upon the Company in respect of the Securities of the Series and this Indenture may be served;

(u) the form of the Securities of such Series;

(v) whether the Securities of such Series are to be issued as Original Issue Discount Securities and the amount of discount with which such Securities may be issued;

(w) the terms of any Guarantee, if any, of the payment of principal, premium, if any, and interest with respect to the Securities of such Series and any changes to the provisions of this Indenture (including provisions relating to seniority or subordination of such Guarantees and the release of such Guarantees) and any additions or changes to this Indenture to permit or facilitate such Guarantees;

(x) if any Securities of the Series are Subordinated Securities, the terms pursuant to which the Securities of such Series will be made subordinate in right of payment to Senior Debt and the definition of such Senior Debt with respect to such Series (in the absence of an express statement to the effect that the Securities of such Series are subordinate in right of payment to all such Senior Debt, the Securities of such Series shall not be subordinate to Senior Debt and shall not constitute Subordinated Securities); and, in the event that the Securities of such Series are Subordinated Securities, such Board Resolution, supplemental indenture or Officer's Certificate, as the case may be, establishing the terms of such Series shall expressly state which articles, sections or other provisions thereof constitute the "Subordination Provisions" with respect to the Securities of such Series;

(y) if any payment or other obligations on Securities of such Series are to be secured by any property, the nature of such security and provisions related thereto;

(z) any restriction or condition on the transferability of the Securities of such Series;

(aa) any addition or change in the provisions related to compensation and reimbursement of the Trustee which applies to Securities of such Series;

(bb) provisions, if any, granting special rights to Holders of Securities of such Series upon the occurrence of specified events;

(cc) any addition or change in the provisions related to supplemental indentures set forth in Article Nine which applies to Securities of such Series;

(dd) the percentage of the principal amount at which we will issue the Securities, and, if other than the principal amount of the Securities, the portion of the principal amount of the Securities payable upon Maturity of the Securities;

(ee) whether such interest will be payable in cash or additional Securities of the same Series or will accrue and increase the aggregate principal amount outstanding of such Series; and

(ff) any other terms of the Securities of such Series (which terms shall not be inconsistent with the provisions of the TIA, but may modify, amend, supplement or delete any of the terms of this Indenture with respect to such Series).

If any of the terms of the Securities are established by action taken pursuant to a Board Resolution, a copy of any appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officer's Certificate setting forth the terms of the Securities.

SECTION 2.03. Securities in Global Form. Securities issued as a Global Security shall represent such of the outstanding Securities as specified therein and any such Global Security may provide that it shall represent the aggregate principal amount of outstanding Securities from time to time endorsed thereon or otherwise notated on the books and records of the Registrar and that the aggregate principal amount of outstanding Securities represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Security to reflect the aggregate principal amount of any increase or decrease in the amount of outstanding Securities represented thereby shall be made by the Trustee in such manner and upon instructions given by the Holder thereof.

Global Securities may be issued in either registered or bearer form and in either temporary or permanent form. Permanent Global Securities will be issued in certificated form.

Notwithstanding the provisions of Sections 2.15 or 4.01 hereof or any other provision of this Indenture, payment of principal of and any interest on any Global Security shall be made to the Depositary or its nominee, as the case may be, as the sole registered owner and holder of any Global Security for all purposes under this Indenture.

The Company initially appoints DTC to act as the Depositary for the Securities.

SECTION 2.04. Denominations. Unless otherwise provided as contemplated by Section 2.02 with respect to the Securities of any Series, any Securities of such Series, other than Securities issued in global form (which may be of any denomination), shall be issuable in minimum denominations of \$2,000 and integral multiples of \$1,000 in excess thereof.

SECTION 2.05. Execution, Authentication, Delivery and Dating. An Officer shall execute the Securities for the Company by manual or facsimile signature in the name and on behalf of the Company. If an Officer whose signature is on a Security no longer holds that office at the time a Security is authenticated, the Security shall nevertheless be valid.

A Security shall not be valid until authenticated by the manual signature of the Trustee. The signature shall be conclusive evidence that the Security has been authenticated under this Indenture.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Securities executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities; and the Trustee in accordance with such Company Order shall authenticate and deliver such Securities upon the Trustee's receipt of the following (upon which the Trustee shall be fully protected in relying, subject to Section 7.02):

- (1) the Board Resolution, supplemental indenture or Officer's Certificate establishing the terms of the Securities of that Series pursuant to Section 2.02;
- (2) an Officer's Certificate complying with Sections 11.04 and 11.05 (which may be part of or separate from any Officer's Certificate pursuant to the preceding clause (1)); and
- (3) an Opinion of Counsel complying with Sections 11.04 and 11.05 stating that such Securities, when completed by appropriate insertions and executed and delivered by the Company to the Trustee for authentication in accordance with this Indenture, authenticated and delivered by the Trustee in accordance with this Indenture and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and binding obligations of the Company, enforceable in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization and other similar laws of general applicability relating to or affecting the enforcement of creditors' rights, to general equitable principles and to such other customary assumptions and qualifications.

Notwithstanding the foregoing, the Trustee shall have the right to decline to authenticate and deliver any Security:

(1) if the Trustee, being advised by counsel, determines that such action may not be lawfully taken; or (2) if the Trustee in good faith determines that such action would expose the Trustee to personal liability to Holders of any outstanding Securities.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual signature of an authorized signatory, and such certificate and signature upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder. The Trustee's certificate of authentication shall be in substantially the following form:

This is one of the Securities referred to in the within-mentioned Indenture.

Delaware Trust Company, as Trustee

By: \_\_\_\_\_  
Authorized Signatory

Each Security shall be dated the date of its authentication.

SECTION 2.06. Registrar and Paying Agent. The Company shall maintain, with respect to the Securities of each Series, an office or agency where the Securities of such Series may be presented for registration of transfer or for exchange ("Registrar") and an office or agency where the Securities of such Series may be presented for payment ("Paying Agent"). The Registrar shall keep a register of the Securities of each Series and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent or Registrar of a Series of Securities without notice to any Holder. The Company shall notify the Trustee of a Series of Securities in writing of the name and address of any Agent for such Series not a party to this Indenture. If the Company fails to appoint or maintain another entity as Registrar or Paying Agent of a Series of Securities, the Trustee for such Series shall act as such. The Company or any of its Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent for all Securities issued under this Indenture.

SECTION 2.07. Paying Agent to Hold Money in Trust. The Company shall require each Paying Agent (other than the Trustee) of a Series of Securities to agree in writing that the Paying Agent will hold in trust for the benefit of Holders of Securities of the applicable Series or the Trustee of the applicable Series all money held by the Paying Agent for the payment of principal of, premium, if any, on or interest on the Securities of such Series, and will notify the Trustee of such Series of any Default by the Company in making any such payment. While any such Default continues, the Trustee of such Series may require a Paying Agent of such Series to pay all money held by it to the Trustee of such Series. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by such Paying Agent. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Subsidiary of the Company) shall have no further liability for the money. If the Company or a Subsidiary of the Company acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders of the applicable Series all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Paying Agent for the Securities.

SECTION 2.08. Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders of Securities and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each Interest Payment Date and at such other times as the Trustee may reasonably request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of the Securities and the Company shall otherwise comply with TIA § 312(a).

SECTION 2.09. Registration, Registration of Transfer and Exchange. Upon surrender for registration of transfer of any Securities at an office or agency of the Company designated pursuant to Section 4.07 hereof for such purpose, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denominations, of a like aggregate principal amount. The Company shall not charge a service charge for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to pay all taxes, assessments or other governmental charges that may be imposed in connection with the transfer or exchange of the Securities from the Holder requesting such transfer or exchange (other than any exchange of a temporary Security for a permanent Security not involving any change in ownership or any exchange pursuant to Section 2.15, 3.06 or 9.05 hereof, not involving any transfer).

Notwithstanding any other provisions (other than the provisions set forth in the fourth paragraph) of this Section 2.09, a Global Security representing all or a portion of the Securities may not be transferred except as a whole by the Depositary to a nominee of such Depositary, by a nominee of the Depositary to the Depositary or another nominee of the Depositary, or by the Depositary or its nominee to a successor of the Depositary or a nominee of the successor. Any holder of a beneficial interest in a Global Security shall, by acceptance of such beneficial interest, agree that transfers of beneficial interests in such Global Security may be effected only through a book-entry system maintained by (a) the Holder of such Global Security (or its agent) or (b) any holder of a beneficial interest in such Global Security, and that ownership of a beneficial interest in such Global Security shall be required to be reflected in a book-entry.

Each Global Security is exchangeable for Securities in certificated form only if (i) the Depositary notifies the Company that it is no longer willing or able to act as a depositary for the Global Securities or ceases to be a clearing agency registered under the Exchange Act, and the Company has not appointed a successor depositary within 90 days of that notice or becoming aware that the Depositary is no longer so registered, (ii) an event of default has occurred and is continuing, and the Depositary requests the issuance of certificated Securities, (iii) the Company determines (subject to the Depositary's procedures) not to have the Securities represented by a Global Security, or (iv) circumstances, if any, exist in addition to or in lieu of the foregoing as have been specified in an applicable supplemental indenture. In any such event the Company will issue, and the Trustee, upon receipt of a Company Order for the authentication and delivery of certificated Securities, will authenticate and deliver, Securities in certificated form in exchange for such Global Security. In any such instance, an owner of a beneficial interest in either Global Security will be entitled to physical delivery in certificated form of Securities equal in principal amount to such beneficial interest and to have such Securities registered in its name. Securities so issued in certificated form will be issued in registered form only, without coupons.

Upon the exchange of a Global Security for Securities in certificated form, such Global Security shall be cancelled by the Trustee. All cancelled Global Securities held by the Trustee shall be disposed of by the Trustee in accordance with its customary procedures and a certificate of their destruction delivered to the Company upon the Company's written request. Securities in certificated form issued in exchange for a Global Security pursuant to this Section 2.09 shall be registered in such names and in such authorized denominations as the Depositary for such Global Security, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Trustee in writing. The Trustee shall deliver such Securities as instructed in writing by the Depositary.

At the option of the Holders of certificated Securities, certificated Securities may be exchanged for other certificated Securities of any authorized denomination or denominations of a like aggregate principal amount and tenor, upon surrender of the certificated Securities to be exchanged at such office or agency. Whenever any certificated Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the certificated Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Registrar duly executed, by the Holder thereof or his or her attorney duly authorized in writing.



The Company shall not be required (i) to issue, register the transfer of or exchange any Securities during a period beginning 15 Business Days before the sending of a notice of redemption of such Securities to be redeemed and ending at the close of business on the day of the sending of the relevant notice of redemption or (ii) to register the transfer of or exchange any Security so selected for redemption, in whole or in part, except the unredeemed portion of any Security being redeemed in part.

SECTION 2.10. Replacement Securities. If any mutilated Security is surrendered to the Trustee or the Company or the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Security, the Company shall issue and the Trustee, upon receipt of a Company Order, shall authenticate a replacement Security if the Trustee's requirements are met. An indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Security is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Security (including, with limitation, attorneys' fees and expenses and disbursements in replacing such Security). In the event any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company may pay such Security instead of issuing a new Security in replacement thereof.

Every replacement Security is an additional obligation of the Company and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Securities duly issued hereunder.

The provisions of this Section 2.10 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 2.11. Outstanding Securities. The Securities outstanding at any time are all the Securities authenticated by the Trustee except for those cancelled by it, those delivered to it for cancellation, those reductions in the interest in a Global Security effected by the Trustee in accordance with the provisions hereof, those paid pursuant to Section 2.10 hereof and those described in this Section 2.11 as not outstanding. Except as set forth in Section 2.12 hereof, a Security does not cease to be outstanding because the Company or an Affiliate of the Company holds the Security. Subject to the foregoing, in determining whether the Holders of the requisite principal amount of outstanding Securities have given or concurred in any request, demand, authorization, direction, notice, consent or waiver hereunder (including, without limitation, determinations pursuant to Articles Six and Nine hereof), only Securities outstanding at the time of such determination shall be considered in any such determination.

If a Security is replaced pursuant to Section 2.10 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser.

If the principal amount of any Security is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary of the Company or an Affiliate of any thereof) holds, on a Redemption Date or at Maturity, money sufficient to pay Securities payable on that date, then on and after that date such Securities shall be deemed to be no longer outstanding and shall cease to accrue interest.

SECTION 2.12. When Securities Disregarded. For purposes of determining whether the Holders of the requisite principal amount of Securities have taken any action under this Indenture, Securities owned by the Company or any Affiliate of the Company shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Securities which a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded. Subject to the foregoing, only Securities outstanding at the time shall be considered in any such determination.

SECTION 2.13. Temporary Securities. Until certificates representing Securities are ready for delivery, the Company may prepare and the Trustee, upon receipt of a Company Order, shall authenticate temporary Securities. Temporary Securities shall be substantially in the form of certificated Securities but may have variations that the Company considers appropriate for temporary Securities and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Securities in exchange for temporary Securities.

Holders of temporary Securities shall be entitled to all of the benefits of this Indenture as permanent Securities.

SECTION 2.14. Cancellation. The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange or payment. The Trustee shall cancel all Securities surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall dispose of cancelled Securities according to its normal operating procedures (subject to the record retention requirement of the Exchange Act). The Company may not issue new Securities to replace Securities that it has paid or that have been delivered to the Trustee for cancellation.

SECTION 2.15. Payment of Interest. Interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the person in whose name that Security (or one or more predecessor Securities) is registered at the close of business on the Regular Record Date for such interest.

If the Company defaults in a payment of interest on the Securities which is payable (“Defaulted Interest”), it shall pay the Defaulted Interest in any lawful manner plus, to the extent lawful, interest payable on the Defaulted Interest, to the Persons who are Holders on a subsequent Special Record Date, in each case at the rate provided in the Securities. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on the Securities and the date of the proposed payment. The Company shall fix or cause to be fixed each such Special Record Date and payment date, provided that no such Special Record Date shall be less than 10 days prior to the related payment date for such Defaulted Interest. At least 15 days before the Special Record Date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall send or cause to be sent, by first class mail (or, in the case of any Global Securities, electronically through the customary procedures of the Depositary), a notice that states the Special Record Date, the related payment date and the amount of such interest to be paid.

Subject to the foregoing provisions of this Section 2.15 and Section 2.09 hereof, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

SECTION 2.16. Persons Deemed Owners. Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of and (and subject to Sections 2.09 and 2.15 hereof) interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and none of the Company, the Trustee or any agent of the Company or the Trustee shall be affected by notice to the contrary.

None of the Company, the Trustee or any agent of the Company or the Trustee will have any responsibility or liability for any aspect of the Depositary's records relating to or payments made on account of beneficial ownership interests of a Security in global form or for maintaining, supervising or reviewing any of the Depositary's records relating to such beneficial ownership interests.

SECTION 2.17. Computation of Interest. Except as otherwise specified for a Series of Securities, interest on the Securities of each Series shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

SECTION 2.18. CUSIP Numbers. The Company, in issuing the Securities, may use "CUSIP" numbers (if then generally in use) and, if so, the Trustee shall use CUSIP numbers in notices of redemption as a convenience to Holders; provided that any such notice may state that no representation is made as to the correctness or accuracy of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will as promptly as practicable notify the Trustee in writing of any change in the CUSIP numbers.

### **ARTICLE THREE.**

#### **REDEMPTION AND PREPAYMENT**

SECTION 3.01. Notices to Trustee. The Company may, with respect to any Series of Securities, reserve the right to redeem and pay the Series of Securities, or may covenant to redeem and pay the Series of Securities, or any part thereof, prior to the Stated Maturity thereof at such time and on such terms as provided for in such Series of Securities. If a Series of Securities is redeemable and the Company wants or is obligated to redeem prior to the Stated Maturity thereof all or part of such Series of Securities pursuant to the terms of such Securities, it shall notify the Trustee of the paragraph of the Securities and/or Section of this Indenture (or Board Resolution, supplemental indenture or Officer's Certificate) pursuant to which the redemption shall occur, the Redemption Date and the principal amount of Securities of such Series to be redeemed plus accrued interest, if any, to but not including the Redemption Date and the Redemption Price. The Company shall give such notice to the Trustee at least five days before the Company gives, or requests that the Trustee give, notice of such redemption pursuant to Section 3.03 (or such shorter notice as may be acceptable to the Trustee).

SECTION 3.02. Selection of Securities to be Redeemed. Unless otherwise indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02, if less than all of the Securities of a Series are to be redeemed or purchased in an offer to purchase at any time, the Trustee shall select the Securities of such Series to be redeemed or purchased (1) in compliance with the requirements of the principal national securities exchange, if any, on which the Securities of such Series are then listed, and (2) otherwise on a pro rata basis, by lot or by such other method as the Trustee shall deem fair and appropriate.

Unless otherwise indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02, no Securities of \$2,000 of principal amount or less will be redeemed in part. Except as provided in the preceding sentence, provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption. The Trustee shall make the selection from outstanding Securities of a Series not previously called for redemption.

If any Security is to be redeemed in part only, the notice of redemption that relates to such Security shall state the portion of the principal amount of that Security to be redeemed. A new Security in principal amount equal to the unredeemed portion of the original Security presented for redemption will be issued in the name of the Holder thereof upon cancellation of the original Security. Notices of redemption may be subject to the satisfaction of one or more conditions precedent to the extent so indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02; otherwise, a notice of redemption may not be conditional. Subject to the satisfaction of any conditions precedent to such redemption (to the extent so indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02), Securities called for redemption become irrevocably due on the date fixed for redemption at the applicable Redemption Price, plus accrued and unpaid interest to, but not including, the Redemption Date. On and after the Redemption Date, unless the Company defaults in paying the applicable Redemption Price, interest ceases to accrue or accrete on Securities or portions of them called for redemption. If a redemption is subject to the satisfaction of one or more conditions precedent (to the extent so indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02), the Redemption Date may be delayed by the Company until such time as any or all such conditions shall be satisfied (or waived by the Company in its sole discretion), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Company in its sole discretion) by the Redemption Date, or by the Redemption Date so delayed. In such case, references herein to "Redemption Date" mean the original Redemption Date or the Redemption Date so delayed.

SECTION 3.03. Notice of Redemption. At least 10 days but not more than 60 days (provided that such period may be longer in the case of a redemption in connection with a Legal Defeasance, Covenant Defeasance or satisfaction and discharge pursuant to Article Eight) before a Redemption Date, the Company shall send or cause to be sent, by first class mail (or, in the case of any Global Securities, electronically through the customary procedures of the Depository), a notice of redemption to each Holder whose Securities are to be redeemed at its registered address. The notice shall identify the Series of Securities, and the principal amount of Securities of such Series, to be redeemed and shall state:

- (1) the Redemption Date;
- (2) the Redemption Price or the calculation of the Redemption Price, in each case, including interest accrued and unpaid to the date fixed for redemption;
- (3) if any Security is being redeemed in part, the portion of the principal amount of such Security to be redeemed and that, after the Redemption Date upon surrender of such Security, a new Security or Securities in principal amount equal to the unredeemed portion shall be issued upon cancellation of the original Security;
- (4) the name and address of the Paying Agent;
- (5) that Securities called for redemption must be surrendered to the Paying Agent to collect the Redemption Price;
- (6) any conditions precedent to such redemption and, that in the Company's discretion, the Redemption Date may be delayed until such time (including more than 60 days after the date the notice of redemption was sent) as any or all such conditions shall be satisfied (or waived by the Company in its sole discretion), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Company in its sole discretion) by the Redemption Date, or by the Redemption Date so delayed, or such notice may be rescinded at any time in the Company's sole discretion if in the good faith judgement of the Company any or all of such conditions will not be satisfied;
- (7) that, unless the Company defaults in paying such Redemption Price, interest on Securities (or portion thereof) called for redemption ceases to accrue on and after the Redemption Date;
- (8) the paragraph of the Securities and/or provision of this Indenture or any supplemental indenture pursuant to which the Securities called for redemption are being redeemed;

(9) the CUSIP number and “ISIN,” if any, printed on the Securities being redeemed; and

(10) that no representation is made as to the correctness or accuracy of the CUSIP number or ISIN, if any, contained in such notice or printed on the Securities and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers.

At the Company’s written request, the Trustee shall give the notice of redemption in the Company’s name and at its expense; provided, however, that the Company shall have delivered to the Trustee, at least five days prior to the date that notice is to be given (or such shorter notice as may be acceptable to the Trustee), an Officer’s Certificate pursuant to Section 2.02 requesting that the Trustee give such notice and setting forth the information to be stated in such notice as required by this Section 3.03.

SECTION 3.04. Effect of Notice of Redemption. Once notice of redemption is sent in accordance with Section 3.03 hereof, subject to the satisfaction of any conditions precedent to such redemption, Securities called for redemption become irrevocably due and payable on the Redemption Date at the Redemption Price plus accrued and unpaid interest to, but not including, the Redemption Date. Any redemption may, in the Company’s discretion, be subject to satisfaction of one or more conditions precedent, and, in the Company’s discretion, the Redemption Date may be delayed until such time (including more than 60 days after the date the notice of redemption was sent) as any or all such conditions shall be satisfied (or waived by the Company in its sole discretion), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Company in its sole discretion) by the Redemption Date, or by the Redemption Date so delayed, or such notice may be rescinded at any time in the Company’s sole discretion if in the good faith judgement of the Company any or all of such conditions will not be satisfied.

Failure to give notice or any defect in the notice to any Holder shall not affect the validity of the notice to any other Holder.

SECTION 3.05. Deposit of Redemption Price. On or before 10:00 a.m. (New York City time) on the Redemption Date, the Company shall deposit with the Trustee or with the Paying Agent (or, if the Company or a Subsidiary of the Company is the Paying Agent, shall segregate and hold in trust) money sufficient to pay the Redemption Price of, and accrued interest on, all Securities to be redeemed on that date, other than Securities or portions of Securities called for redemption that have been delivered by the Company to the Trustee for cancellation. The Trustee or the Paying Agent shall as promptly as practicable return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the Redemption Price of, and accrued interest on, all Securities to be redeemed. If such money is then held by the Company in trust and is not required for such purpose it shall be discharged from such trust. In addition, if any money deposited with the Trustee or with the Paying Agent, or held by the Company, in respect of any redemption of Securities remains unclaimed for two years after the applicable Redemption Date, such money shall be handled in accordance with Section 8.06.

If the Company complies with the provisions of the preceding paragraph, on and after the Redemption Date, interest shall cease to accrue on the Securities or the portions of the Securities called for redemption. If a Security is redeemed on or after a Regular Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest shall be paid to the Person in whose name such Security was registered at the close of business on such Regular Record Date. If any Security called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the Redemption Date until such principal is paid, and, to the extent lawful, on any interest not paid on such unpaid principal, in each case at the rate provided in the Securities.

SECTION 3.06. Securities Redeemed in Part. Upon surrender of a Security that is redeemed in part, the Company shall execute and, upon the Company's written request, the Trustee shall authenticate for the Holder (at the Company's expense) a new Security equal in principal amount to the unredeemed portion of the Security surrendered.

SECTION 3.07. Sinking Fund. Unless otherwise indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02, the Securities will not have the benefit of any sinking fund.

## ARTICLE FOUR.

### COVENANTS

SECTION 4.01. Payment of Securities. The Company covenants and agrees for the benefit of the Holders of each Series of Securities that it will duly and punctually make all payments of principal of, premium, if any, on and interest, if any, on the Securities of such Series on the dates and in the manner provided in such Series of Securities and this Indenture. Such payments shall be considered made on the date due if on such date the Trustee or the Paying Agent holds, in accordance with this Indenture, money sufficient to make all payments of principal of, premium, if any, on and interest, if any, then due on the Securities of such Series.

SECTION 4.02. SEC Reports. Unless otherwise indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02, the Company agrees to file with the Trustee, within 15 days after it files the same with the SEC, copies of the annual reports and of the information, documents, and other reports, if any, that it is required to file with the SEC pursuant to Section 13 or Section 15(d) of the Exchange Act or pursuant to TIA § 314. All required information, documents and other reports referred to in this Section 4.02 shall be deemed filed with the Trustee at the time such information, documents and other reports are publicly filed with the SEC, provided, however, that the Trustee shall have no obligation whatsoever to determine whether or not such information, documents or reports have been so filed.

Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

SECTION 4.03. Compliance Certificate. The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company an Officer's Certificate stating that in the course of the performance by the signers of their duties as Officers of the Company they would normally have knowledge of any Default and whether or not the signers know of any Default that occurred during such period. If they do, the certificate shall describe the Default, its status and what action the Company is taking or proposes to take with respect thereto.

SECTION 4.04. Further Instruments and Acts. The Company shall execute and deliver to the Trustee such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

SECTION 4.05. Existence. Subject to Article Five hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect:

(1) its existence in accordance with its organizational documents (as the same may be amended from time to time); and

(2) the rights (charter and statutory), licenses and franchises of the Company; provided, however, that the Company shall not be required to preserve any such right, license or franchise if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole.

SECTION 4.06. Calculation of Original Issue Discount. If any Series of Securities is issued as Original Issue Discount Securities, the Company shall file with the Trustee promptly at the end of each calendar year (i) a written notice specifying the amount of original issue discount (including daily rates and accrual periods) accrued on outstanding Securities of such Series as of the end of such year and (ii) such other specific information relating to such original issue discount with respect to the Securities of such Series as may then be relevant under the Internal Revenue Code of 1986, as amended from time to time.

SECTION 4.07. Maintenance of Office or Agency. The Company shall maintain an office or agency (which may be an office of the Trustee, an affiliate of the Trustee or Registrar) where the Securities may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company also may from time to time designate one or more other offices or agencies where the Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency for such purposes. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.



Unless otherwise indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02, with respect to any Global Security, the Corporate Trust Office for the Trustee shall be the place of payment where such Global Security may be presented or surrendered for payment or for registration of transfer or exchange, or where successor Securities may be delivered in exchange therefor; provided, however, that any such payment, presentation, surrender or delivery effected pursuant to the procedures of the Depositary for such Global Security shall be deemed to have been effected at the place of payment for such Global Security in accordance with the provisions of this Indenture.

Unless otherwise indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02, the Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.06 hereof.

## ARTICLE FIVE.

### SUCCESSOR COMPANIES

SECTION 5.01. Merger, Consolidation or Sale of Assets of the Company. Unless otherwise indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02, the Company shall not merge, consolidate or amalgamate with or into any other Person or sell, transfer, assign, lease, convey or otherwise dispose of all or substantially all of its property in one transaction or series of related transactions unless:

- (a) the Company shall be the surviving Person (the "Surviving Person") or the Surviving Person (if other than the Company) formed by such merger, consolidation or amalgamation or to which such sale, transfer, assignment, lease, conveyance or disposition is made shall be a Person organized and existing under the laws of the United States of America, any State thereof or the District of Columbia;
- (b) the Surviving Person (if other than the Company) expressly assumes, by supplemental indenture in the form reasonably satisfactory to the Trustee, executed and delivered to the Trustee by such Surviving Person, the due and punctual payment of the principal of, and premium, if any, and interest on, all Securities of all Series then outstanding, according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of this Indenture to be performed by the Company;
- (c) immediately before and immediately after giving effect to such transaction or series of related transactions, no Default or Event of Default shall have occurred and be continuing; and
- (d) the Company shall deliver, or cause to be delivered, to the Trustee, an Officer's Certificate and an Opinion of Counsel, each stating that such transaction and the supplemental indenture, if any, in respect thereto comply with this Section 5.01 and that all conditions precedent in this Indenture relating to such transaction have been complied with.

For the purposes of this Section 5.01, the sale, transfer, assignment, lease, conveyance or other disposition of all the property of one or more Subsidiaries of the Company, which property, if held by the Company instead of such Subsidiaries, would constitute all or substantially all the property of the Company on a consolidated basis, shall be deemed to be the transfer of all or substantially all the property of the Company.

SECTION 5.02. Merger, Consolidation or Sale of Assets of Guarantors. If a particular Series of Securities is a Guaranteed Series of Securities, as indicated in a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02 establishing such Series of Securities, this Section 5.02 shall apply to each Guarantor of such Guaranteed Series of Securities.

Unless the Guarantee of the applicable Guarantor is permitted to be released in connection with such transaction pursuant to Section 10.04, such Guarantor shall not merge, consolidate or amalgamate with or into any other person or sell, transfer, assign, lease, convey or otherwise dispose of all or substantially all its property in any one transaction or series of related transactions unless:

(1) such Guarantor shall be the surviving person (the "Surviving Guarantor") or the Surviving Guarantor (if other than such Guarantor) formed by such merger, consolidation or amalgamation or to which such sale, transfer, assignment, lease, conveyance or disposition is made shall be a corporation, limited partnership or limited liability company organized and existing under the laws of the U.S., any State thereof or the District of Columbia;

(2) the Surviving Guarantor (if other than such Guarantor) expressly assumes, by supplemental indenture in the form reasonably satisfactory to the Trustee, executed and delivered to the Trustee by such Surviving Guarantor, such Guarantor's guarantee of the due and punctual payment of the principal of, and premium, if any, and interest on, all the Securities outstanding, according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of this Indenture to be performed by such Guarantor;

(3) immediately before and immediately after giving effect to such transaction or series of related transactions, no Default or Event of Default shall have occurred and be continuing; and

(4) the Company shall deliver, or cause to be delivered, to the Trustee, an Officer's Certificate and an Opinion of Counsel, each stating that such transaction and the supplemental indenture, if any, in respect thereto comply with this Section 5.02 and that all conditions precedent in this Indenture relating to such transaction have been complied with.

SECTION 5.03. Surviving Person Substituted. (a) In case of any such consolidation, amalgamation, merger, sale, conveyance, assignment, transfer, lease or other disposition and upon the assumption by the successor entity, by supplemental indenture, executed and delivered to the Trustee and reasonably satisfactory in form to the Trustee, of the due and punctual payment of the principal of, premium, if any, and interest on all of the Securities of each Series then outstanding and the due and punctual performance of all of the covenants and conditions of this Indenture or established with respect to such Securities of Series then outstanding pursuant to Section 2.02 to be performed by the Company or a Guarantor, as the case may be, such successor entity shall succeed to and be substituted for and may exercise every right and power of the Company or a Guarantor, as the case may be, with respect to each Series of Securities then outstanding under this Indenture, with the same effect as if it had been named as the Company or a Guarantor, as the case may be, herein, and thereupon the predecessor entity shall be relieved of all obligations and covenants under this Indenture and the Securities.

(b) In case of any such consolidation, amalgamation, merger, sale, conveyance, assignment, transfer, lease or other disposition such changes in phraseology and form (but not in substance) may be made in the Securities thereafter to be issued as may be appropriate.

(c) Notwithstanding the provisions of this Article Five, (i) any Subsidiary may merge, consolidate or amalgamate with or into or sell, transfer, assign, lease, convey or otherwise dispose of all or substantially all its property to the Company or another Subsidiary (or, with respect to any Guaranteed Series of Securities, another Guarantor) and (ii) the Company may merge with an Affiliate incorporated solely for the purpose of and with the sole effect of reincorporating or reorganizing the Company in another state of the United States.

## ARTICLE SIX.

### DEFAULTS AND REMEDIES

SECTION 6.01. Events of Default. Unless otherwise indicated for a particular Series of Securities by a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02, each of the following constitutes an "Event of Default" with respect to a Series of Securities:

(1) Default in the payment of principal of or premium, if any, on any Security of such Series when due at its Maturity, upon optional redemption, upon required repurchase or otherwise;

(2) Default in the payment of interest when due on the Securities of such Series within 30 days of when such amount becomes due and payable;

(3) the Company fails to comply with any of its covenants or agreements in the Securities of such Series or this Indenture with respect to such Series of Securities (other than a covenant or agreement that does not apply to such Series of Securities, or a failure that is subject to the foregoing clauses (1) or (2)) and such failure to cure (or obtain a waiver of) such default continues for 90 consecutive days after receipt by the Company of written notice of the Default by the Trustee or the Holders of at least 25% in aggregate principal amount of the Securities of such Series then outstanding, which notice must specify the Default, demand that it be remedied and state that such notice is a "Notice of Default";

(4) the Company or, in the case of any Guaranteed Series of Securities only, any Guarantor of such Guaranteed Series of Securities that constitutes a Significant Subsidiary (or group of Guarantors that together constitute a Significant Subsidiary), pursuant to or within the meaning of any Bankruptcy Law:

- (A) commences a voluntary case;
- (B) consents to the entry of an order for relief against it in an involuntary case;
- (C) consents to the appointment of a Custodian of it or for all or substantially all of its property; or
- (D) makes a general assignment for the benefit of its creditors;

or takes any comparable action under any foreign laws relating to insolvency;

(5) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or, in the case of any Guaranteed Series of Securities, any Guarantor of such Guaranteed Series of Securities that constitutes a Significant Subsidiary (or group of Guarantors that together constitute a Significant Subsidiary), in an involuntary case;

(B) appoints a Custodian of the Company or, in the case of any Guaranteed Series of Securities, any Guarantor of such Guaranteed Series of Securities that constitutes a Significant Subsidiary (or group of Guarantors that together constitute a Significant Subsidiary), or for all or substantially all of its property; or

(C) orders the winding up or liquidation of the Company or, in the case of any Guaranteed Series of Securities, any Guarantor of such Guaranteed Series of Securities that constitutes a Significant Subsidiary (or group of Guarantors that together constitute a Significant Subsidiary);

or any similar relief is granted under any foreign laws and the order or decree remains unstayed and in effect for 60 consecutive days;

(6) in the case of any Guaranteed Series of Securities, except as permitted pursuant to Section 10.04, any Guarantee of a Guarantor of such Guaranteed Series of Securities that constitutes a Significant Subsidiary (or group of Guarantors that together constitute a Significant Subsidiary) shall be held in any judicial proceeding to be unenforceable or invalid or shall cease for any reason to be in full force and effect, or, in the case of any Guaranteed Series of Securities, any Guarantor of such Guaranteed Series of Securities that constitutes a Significant Subsidiary (or group of Guarantors that together constitute a Significant Subsidiary), or any person acting on its behalf, should deny or disaffirm its obligations under its Guarantee; or

(7) any other event of default described as may be specified in the applicable supplemental indenture with respect to such Series of Securities.

The foregoing will constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

The term “Custodian” means, for the purposes of this Article Six, any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

The Company shall deliver to the Trustee, within 30 days after the occurrence thereof, written notice in the form of an Officer’s Certificate of any event which with the giving of notice or the lapse of time or both would become an Event of Default, its status and what action the Company is taking or proposes to take with respect thereto.

SECTION 6.02. Acceleration. (a) If an Event of Default with respect to any Series of Securities at the time outstanding (other than an Event of Default specified in Section 6.01(4) or (5) with respect to the Company or, in the case of a Guaranteed Series of Securities, any Guarantor) occurs and is continuing, the Trustee or the Holders of not less than 25% in aggregate principal amount of the outstanding Securities of such Series by notice to the Company in writing (and to the Trustee, if given by Holders of the Securities of such Series) specifying the Event of Default, may declare the principal amount of, premium, if any, and accrued and unpaid interest to, but not including, the date of acceleration on all the Securities of such Series to be due and payable. Upon such a declaration, such amounts shall be due and payable immediately. If an Event of Default specified in Section 6.01(4) or (5) with respect to the Company or, in the case of a Guaranteed Series of Securities, any Guarantor occurs, the principal amount of, premium, if any, and accrued and unpaid interest to, but not including, the date of such Event of Default on all the Securities of such Series shall ipso facto become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder of the Securities of such Series.

(b) At any time after the principal of the Securities of a Series shall have been so declared due and payable (or shall have become immediately due and payable), and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided, the Holders of a majority in aggregate principal amount of the Securities of such Series then outstanding, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences, and waive such Event of Default, if any and all Events of Default under this Indenture with respect to such Series of Securities, other than the nonpayment of accelerated principal, premium, if any, or interest, if any, on Securities of such Series that shall not have become due by their terms, shall have been cured or waived as provided in Section 6.04. No such rescission shall extend to any subsequent Default or amend any contractual right consequent thereto.

SECTION 6.03. Other Remedies. If an Event of Default with respect to any Series of Securities occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of the principal amount of, premium, if any, and accrued and unpaid interest on the Securities of such Series or to enforce the performance of any provision of such Series of Securities or this Indenture.

The Trustee may institute and maintain a suit or legal proceeding even if it does not possess any of the Securities or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any contractual right or remedy set forth in this Indenture accruing upon an Event of Default with respect to any Series of Securities shall not amend such contractual right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative.

SECTION 6.04. Waiver of Past Defaults. The Holders of a majority in principal amount of the Securities of any Series by written notice to the Trustee may waive an existing Default with respect to such Series of Securities and its consequences except a continuing Default in the payment of the principal amount of, premium, if any, and accrued and unpaid interest on a Security of such Series. When a Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or amend any contractual right consequent thereto. For the avoidance of doubt, subject to Section 6.02 hereof and this Section 6.04, the Holders of a majority in aggregate principal amount of the then outstanding Securities of a Series may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration, with respect to such Series of Securities.

SECTION 6.05. Control by Majority. The Holders of a majority in aggregate principal amount of the then outstanding Securities of a Series may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee with respect to the Securities of such Series. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, subject to Section 7.01, that the Trustee determines is unduly prejudicial to the rights of any other Holder of the Securities of such Series or that would subject the Trustee to personal liability; provided, however, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action hereunder, the Trustee shall be entitled to indemnity reasonably satisfactory to it against all losses and expenses caused by taking or not taking such action.

SECTION 6.06. Limitation on Suits. Except to enforce the right to receive payment of the principal amount of, premium, if any, and accrued and unpaid interest on a Security of a Series when due, as provided in Section 6.07, no Holder of a Security of any Series may pursue any remedy with respect to this Indenture or the Securities of such Series unless:

- (1) the Holder previously gave the Trustee written notice stating that an Event of Default with respect to such Series of Securities is continuing;
- (2) the Holders of at least 25% in aggregate principal amount of the outstanding Securities of such Series make a written request to the Trustee to pursue the remedy;
- (3) such Holder or Holders of the Securities of such Series offer to the Trustee security or indemnity reasonably satisfactory to it to the Trustee against any loss, liability or expense;
- (4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of security or indemnity; and
- (5) the Holders of a majority in aggregate principal amount of the outstanding Securities of such Series do not give the Trustee a written direction inconsistent with the request during such 60-day period.

It is understood and intended and expressly covenanted by the taker and holder of every Security, with every other taker and holder with the Trustee that a Holder of Securities of any Series may not use this Indenture to prejudice the rights of another Holder of the Securities of such Series or to obtain a preference or priority over another Holder of the Securities of such Series (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

SECTION 6.07. Rights of Holders to Receive Payment. Notwithstanding any other provision of this Indenture, the contractual right of any Holder to receive payment of the principal amount of, premium, if any, and accrued and unpaid interest on the Securities held by such Holder, on or after their Maturity, or to bring suit for the enforcement of any such payment on or after their Maturity, shall not be amended without the consent of such Holder.

SECTION 6.08. Collection Suit by Trustee. If an Event of Default specified in Section 6.01(1) or (2) occurs and is continuing with respect to a Series of Securities, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal, premium, if any, and interest, if any, then due and owing on the Securities of such Series (together with interest on any unpaid interest to the extent lawful) and the amounts provided for in Section 7.07.

SECTION 6.09. Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations, may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.07.

SECTION 6.10. Priorities. If the Trustee collects any money or property pursuant to this Article Six with respect to the Securities of a Series, it shall pay out the money or property in the following order:

FIRST: to the Trustee for amounts due under Section 7.07;

SECOND: to Holders of the Securities of such Series for amounts due and unpaid on the Securities of such Series for the principal amount of, premium, if any, and accrued and unpaid interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Securities for the principal amount of, premium, if any, and accrued and unpaid interest, respectively; and

THIRD: to the Company or to such party as a court of competent jurisdiction shall direct, including, for any Guaranteed Series of Securities, any Guarantor of such Series.

The Trustee may fix a record date and payment date for any payment to Holders of a Series of Securities pursuant to this Section 6.10. At least 15 days before such record date, the Trustee shall send by first class mail (or, in the case of any Global Securities, electronically through the customary procedures of the Depositary) to each Holder of such Series of Securities and the Company a notice that states the record date, the payment date and amount to be paid.

SECTION 6.11. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing, by any party litigant in the suit, of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07 or a suit by Holders of more than 10% in principal amount of the then outstanding Securities of any Series.

SECTION 6.12. Waiver of Stay or Extension Laws. Neither the Company nor, in the case of any Guaranteed Series of Securities, any Guarantor (to the extent the Company or such Guarantor may lawfully do so) shall at any time insist upon, plead, or in any manner whatsoever claim to take the benefit or advantage of, any stay or extension law, wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Company and each Guarantor (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.



**ARTICLE SEVEN.**

**TRUSTEE**

SECTION 7.01. Duties of Trustee. (a) If an Event of Default has occurred and is continuing with respect to any Series of Securities, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in its exercise thereof as a prudent Person would exercise or use under the circumstances in the conduct of such Person's own affairs.

(b) Except during the continuance of an Event of Default with respect to such Series of Securities:

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture with respect to the Securities of such Series, as modified or supplemented by a Board Resolution, a supplemental indenture hereto or an Officer's Certificate pursuant to Section 2.02 and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may, with respect to the Securities of such Series, conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with any remedy available to the Trustee, or by exercising any trust or power conferred upon the Trustee under this Indenture, or with a direction received by it pursuant to Section 6.05.

- Section. (d) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section.
- Company. (e) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company.
- (f) Money held in trust by the Trustee need not be segregated from funds except to the extent required by law.
- (g) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds to believe that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.
- (h) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section and to the provisions of the TIA.
- SECTION 7.02. Rights of Trustee. (a) The Trustee may conclusively rely on any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.
- (b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officer's Certificate or Opinion of Counsel.
- (c) The Trustee may act through agents or attorneys and shall not be responsible for the misconduct or negligence of any agent or attorney appointed with due care.
- (d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers; provided, however, that the Trustee's conduct does not constitute willful misconduct or negligence.
- (e) The Trustee may consult with counsel of its choice, and the advice or opinion of counsel with respect to legal matters relating to this Indenture and the Securities, shall be full and complete authorization and protection from liability in respect to any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.
- (f) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default with respect to any Series of Securities unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Securities of such Series and this Indenture. Except for a Default under Section 6.01(1) or (2) hereof, the Trustee shall not be charged with actual knowledge of any Event of Default or Default with respect to a Series of Securities unless the Trustee is notified in writing of such Default or Event of Default by the Company or the Holders of at least 25% in the aggregate principal amount of all Securities of such Series then outstanding.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including without limitation, its right to be indemnified, are extended to and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder.

(i) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders shall have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by the Trustee in compliance with such request or direction.

(j) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the sole cost of the Company and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(k) The Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(l) In no event shall the Trustee be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(m) The Trustee may request that the Company deliver a certificate setting forth the names of individuals or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

(n) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

(o) The Trustee may earn compensation in the form of short-term interest ("float") on items like uncashed distribution checks (from the date issued until the date cashed), funds that the Trustee is directed not to invest, deposits awaiting investment direction or received too late to be invested overnight in previously directed investments.

SECTION 7.03. Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar or co-Paying Agent may do the same with like rights. However, the Trustee must comply with Sections 7.10 and 7.11.

SECTION 7.04. Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Securities of any Series, it shall not be accountable for the Company's use of the proceeds from the Securities of any Series, and it shall not be responsible for any statement of the Company in this Indenture, in the Securities of any Series, or in any document executed in connection with the sale of the Securities of any Series, other than those set forth in the Trustee's certificate of authentication.

SECTION 7.05. Notice of Defaults. If a Default with respect to any Series of Securities occurs and is continuing and if it is actually known to a Responsible Officer of the Trustee, the Trustee shall send by first class mail (or, in the case of any Global Securities, electronically through the customary procedures of the Depository) to each Holder of the Securities of such Series notice of the Default within 90 days after it occurs. The Trustee may withhold the notice if and so long as it in good faith determines that withholding the notice is in the interests of Holders of the Securities of such Series.

SECTION 7.06. Reports by Trustee to Holder. If required by § 313(a) of the TIA within 60 days after each April 15 following the date of initial issuance of Securities under this Indenture, for so long as Securities remain outstanding, the Trustee shall send by first class mail (or, in the case of any Global Securities, electronically through the customary procedures of the Depository) to each Holder a brief report dated as of such reporting date that complies with § 313(a) of the TIA. The Trustee shall also comply with § 313(b) of the TIA.

A copy of each report at the time of its sending to Holders shall be filed with the SEC and each stock exchange (if any) on which the Securities are listed. The Company agrees to notify promptly the Trustee in writing whenever the Securities become listed on any stock exchange and of any delisting thereof.

SECTION 7.07. Compensation and Indemnity. The Company shall pay to the Trustee from time to time such compensation for its services (including, if necessary, compensation for extraordinary services) as the Company and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts. The Company shall indemnify each of the Trustee and any predecessor Trustee against any and all loss, liability, damage, claim (whether asserted by the Company, a Guarantor, if any, any Holder or any other Person) or expense (including reasonable attorneys' fees and expenses) incurred by or in connection with the administration of this trust and the performance of its duties hereunder or in connection with enforcing the provisions of this Section 7.07; provided that the Company need not reimburse any expense or indemnify against any loss, liability, damage, claim or expense incurred by an indemnified party through such party's own negligence or willful misconduct. The Trustee shall notify the Company of any claim for which it may seek indemnity promptly upon obtaining actual knowledge thereof; provided, however, that any failure so to notify the Company shall not relieve the Company of its indemnity obligations hereunder.

To secure the Company's payment obligations in this Section 7.07, the Trustee shall have a lien prior to the Securities of any Series on all money or property held or collected by the Trustee other than money or property held in trust to pay the principal of and interest and any additional payments on the Securities of such Series.

When the Trustee incurs expenses after the occurrence of a Default specified in Section 6.01(4) or (5) with respect to the Company, the expenses are intended to constitute expenses of administration under the Bankruptcy Law. The Company's payment obligations pursuant to this Section 7.07 shall survive the satisfaction or discharge of this Indenture or the resignation or removal of the Trustee.

SECTION 7.08. Replacement of Trustee. The Trustee may resign at any time with respect to any Series of Securities by so notifying the Company. The Holders of a majority in principal amount of the Securities of a Series may remove the Trustee with respect to such Series of Securities and may appoint a successor Trustee with respect to such Series of Securities by so notifying the Trustee and the Company in writing not less than 30 days prior to the effective date of such removal. The Company shall remove the Trustee if:

- (a) the Trustee fails to comply with Section 7.10;
- (b) the Trustee is adjudged bankrupt or insolvent;
- (c) a receiver or other public officer takes charge of the Trustee or its property; or
- (d) the Trustee otherwise becomes incapable of acting.

If, with respect to one or more Series of Securities, the Trustee resigns, is removed by the Company or is removed by the Holders of a majority in principal amount of the Securities of such Series and such Holders do not reasonably promptly appoint a successor Trustee or if a vacancy exists in the office of Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Company shall promptly appoint a successor Trustee with respect to such Series of Securities. In the event that two or more Persons are acting as Trustee with respect to different Series of Securities under this Indenture, each of the Trustees will be a Trustee of a trust separate and apart from the trust administered by any other Trustee.

A successor Trustee with respect to a Series of Securities shall deliver a written acceptance of its appointment to the retiring Trustee of such Series of Securities and to the Company. Thereupon the resignation or removal of the retiring Trustee with respect to such Series of Securities shall become effective, and the successor Trustee with respect to such Series of Securities shall have all the rights, powers and duties of the Trustee under this Indenture, and thereupon the duties and obligations of the predecessor with respect to such Series of Securities shall cease and terminate. The successor Trustee with respect to a Series of Securities shall send by first class mail (or, in the case of any Global Securities, electronically through the customary procedures of the Depositary) a notice of its succession to Holders of the Securities of such Series. The retiring Trustee with respect to such Series of Securities shall promptly, upon the payment of the fees and expenses owed to the retiring Trustee, transfer all property held by it as Trustee to the successor Trustee with respect to such Series of Securities, subject to the lien provided for in Section 7.07.

If a successor Trustee with respect to a Series of Securities does not take office within 60 days after the retiring Trustee with respect to such Series of Securities resigns or is removed, the retiring Trustee or the Holders of 10% in principal amount of the Securities of such Series may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor Trustee with respect to such Series of Securities.

If the Trustee fails to comply with Section 7.10, any Holder of the Securities of any Series may petition any court of competent jurisdiction for the removal of the Trustee with respect to such Series of Securities and the appointment of a successor Trustee with respect to such Series of Securities.

Notwithstanding the replacement of the Trustee with respect to any Series of Securities pursuant to this Section 7.08, the Company's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee with respect to such Series of Securities.

**SECTION 7.09. Successor Trustee by Merger.** If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture, any of the Securities of any Series shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Securities so authenticated; and if at that time any of the Securities of any Series shall not have been authenticated, any such successor to the Trustee may authenticate such Securities either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Securities or in this Indenture provided that the certificate of the Trustee shall have.

**SECTION 7.10. Eligibility; Disqualification.** The Trustee shall at all times satisfy the requirements of TIA § 310(a). Any Trustee which acquires a conflicting interest (as defined under TIA § 310(b)) must eliminate such interest or resign. The Trustee shall have a combined capital and surplus of at least \$50,000,000 as set forth in its most recent published annual report of condition. The Trustee shall comply with TIA § 310(b); provided, however, that there shall be excluded from the operation of TIA § 310(b)(1) any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Company are outstanding if the requirements for such exclusion set forth in TIA § 310(b)(1) are met.

SECTION 7.11. Preferential Collection of Claims Against Company. The Trustee shall comply with TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or has been removed shall be subject to TIA § 311(a) to the extent indicated.

## ARTICLE EIGHT.

### LEGAL DEFEASANCE, COVENANT DEFEASANCE AND SATISFACTION AND DISCHARGE

SECTION 8.01. Option to Effect Legal Defeasance or Covenant Defeasance. The Company may, at the option of its Board of Directors evidenced by a resolution set forth in an Officer's Certificate, at any time, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Securities of any Series upon compliance with the conditions set forth below in this Article Eight.

SECTION 8.02. Legal Defeasance and Discharge. Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02 with respect to a Series of Securities, the Company and the Guarantors (if any) of such Series of Securities shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from their respective obligations with respect to all outstanding Securities of such Series and all Guarantees (if any) of such Series on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Company shall be deemed to have paid and discharged the entire debt represented by the outstanding Securities of such Series, which shall thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in (a) and (b) below, and to have satisfied all its other obligations under the Securities of such Series and this Indenture with respect to such Series of Securities, including obligations of the Guarantors, if any (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which shall survive until otherwise terminated or discharged hereunder with respect to such Series of Securities:

- (a) the Company's obligations with respect to the Securities of such Series under Sections 2.06, 2.07, 2.08, 2.09 and 2.10;
- (b) the rights, powers, trusts, duties and immunities of the Trustee of such Series of Securities hereunder and the Company's obligations in connection therewith under Article Two and Article Seven (including, but not limited to, the rights of the Trustee and the duties of the Company under Section 7.07, which shall survive despite the satisfaction in full of all obligations hereunder); and
- (c) Sections 8.01, 8.02, 8.05, 8.06 and 8.07.

If the Company exercises its option under this Section 8.02 with respect to one or more Series of Securities, payment of such Series of Securities may not be accelerated. Subject to compliance with this Article Eight, the Company may exercise its option under this Section 8.02 with respect to any Series of Securities notwithstanding the prior exercise of its option under Section 8.03 hereof with respect to any Series of Securities.

SECTION 8.03. Covenant Defeasance. Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03 with respect to any Series of Securities, the Company shall, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released (a) from its obligations under the covenants contained in Section 4.02 and Section 4.05, and any covenants provided pursuant to clause (r) of Section 2.02 or added pursuant to Section 9.01, and Section 5.01 and Section 5.02 of this Indenture and (b) from the operation of Section 6.01(3) of this Indenture with respect to such covenants, and any Events of Default provided pursuant to clause (q) of Section 2.02 or added pursuant to Section 9.01, the bankruptcy provisions in Sections 6.01(4) and Section 6.01(5) of this Indenture with respect to any Guarantors of such Series and Section 6.01(7) (and such Sections shall not constitute an Event of Default with respect to the Securities) of this Indenture, as applicable to such Series (hereinafter, "Covenant Defeasance"), and the Securities of such Series shall thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders of the Securities of such Series (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Securities shall not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Securities of such Series and any Guarantees (if any) of such Series of Securities, the Company and the Guarantors, if any, may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01 hereof with respect to such Series of Securities, but, except as specified above, the remainder of this Indenture and the Securities of such Series shall be unaffected thereby.

SECTION 8.04. Conditions to Legal or Covenant Defeasance. The following shall be the conditions to the application of either Section 8.02 or 8.03 hereof to the outstanding Securities of any Series:

In order to exercise either Legal Defeasance or Covenant Defeasance with respect to a Series of Securities:

(1) the Company must irrevocably deposit in trust with the Trustee money or U.S. Government Obligations or a combination thereof for the payment of principal of and interest on the Securities of such Series to the Stated Maturity or redemption, as the case may be, of such Securities, as will be sufficient (based on a certificate, report or opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants in the United States in the case of U.S. Government Obligations) to pay principal and interest when due on all the Securities of such Series to the Stated Maturity or redemption, as the case may be, of such Series;



(2) no Default or Event of Default with respect to the Securities of such Series shall have occurred and be continuing on the date of such deposit (other than, if applicable, a Default or Event of Default with respect to the Securities of such Series resulting from the borrowing of funds and any funds related thereto to be applied to such deposit and any similar and substantially concurrent deposit relating to other indebtedness and the granting of liens in connection therewith);

(3) such Legal Defeasance or Covenant Defeasance does not constitute a default under any material agreement (other than this Indenture) binding on the Company (other than, if applicable, a default resulting from the borrowing of funds and any funds related thereto to be applied to such deposit and any similar and substantially concurrent deposit relating to other indebtedness and the granting of liens in connection therewith);

(4) in the case of Legal Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel stating that (i) the Company has received from, or there has been provided by, the Internal Revenue Service a ruling, or (ii) since the date of this Indenture there has been a change in the applicable federal income tax law, in either case to the effect, in either case, that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the Securities of such Series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(5) in case of Covenant Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of the Securities of such Series will not recognize income, gain or loss for federal income tax purposes as a result of such covenant defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred; and

(6) the Company shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent to the Legal Defeasance or Covenant Defeasance, as applicable, relating to the Securities of such Series as contemplated by this Article Eight have been complied with.

SECTION 8.05. Deposited Money and U.S. Government Obligations to be Held in Trust; Other Miscellaneous Provisions. Subject to Section 8.06 hereof, all money and noncallable U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 or Section 8.08 hereof in respect of the outstanding Securities of any Series shall be held in trust and applied by the Trustee, in accordance with the provisions of the Securities of such Series and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of the Securities of such Series of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or noncallable U.S. Government Obligations deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Securities of such Series.

Anything in this Article Eight to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any money or noncallable U.S. Government Obligations held by it as provided in Section 8.04 hereof which, based on a certificate, report or opinion of a nationally recognized investment bank, appraisal firm or firm of independent public accountants in the United States delivered to the Trustee (which may be the certificate, report or opinion under Section 8.04(1) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance with respect to the applicable Series of Securities.

SECTION 8.06. Repayment to Company. Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Security and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its request or, if then held by the Company, shall be discharged from such trust; and the Holder of such Security shall thereafter look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

SECTION 8.07. Reinstatement. If the Trustee or Paying Agent is unable to apply any Dollars or noncallable U.S. Government Obligations in accordance with Section 8.02, 8.03 or 8.08 hereof, as the case may be, with respect to a Series of Securities by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's obligations under this Indenture and the Securities of such Series shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.02, 8.03 or 8.08 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02, 8.03 or 8.08 hereof, as the case may be; provided, however, that, if the Company makes any payment of principal of, premium, if any, or interest on any Security following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of the Securities to receive such payment from the money held by the Trustee or Paying Agent.

SECTION 8.08. Satisfaction and Discharge of Indenture. If at any time: (a) the Company shall have delivered to the Trustee for cancellation all Securities of a Series theretofore authenticated (other than any Securities of such Series that shall have been mutilated, lost, destroyed or stolen and that shall have been replaced or paid as provided in Section 2.10 and Securities of such Series for whose payment money and/or U.S. Government Obligations have theretofore been deposited in trust or segregated and held in trust by the Company and thereupon repaid to the Company or discharged from such trust, as provided in Section 8.06); or (b) any Securities of any Series not theretofore delivered to the Trustee for cancellation shall have become due and payable, or are by their terms to become due and payable within one year or are to be called for redemption within one year under arrangements reasonably satisfactory to the Trustee for the giving of notice of redemption, and the Company irrevocably deposits with the Trustee, in trust, for the benefit of the Holders of the Securities, cash in United States Dollars, noncallable U.S. Government Obligations, or a combination thereof, in such amounts as will be sufficient to pay at Maturity or upon redemption all Securities of such Series not theretofore delivered to the Trustee for cancellation, including principal of, premium, if any, and interest due or to become due on the Securities of such Series to such Maturity or date fixed for redemption, as the case may be, and if the Company shall also pay or cause to be paid all other sums payable hereunder with respect to the Securities of such Series by the Company, and shall have delivered to the Trustee an Opinion of Counsel and an Officer's Certificate, each stating that all conditions precedent relating to the satisfaction and discharge of this Indenture with respect to the Securities of such Series have been complied with, then this Indenture shall thereupon cease to be of further effect with respect to the Securities of such Series and any Guarantees of the Securities of such Series except for:

(a) in the case of clause (b) above, the Company's obligations with respect to the Securities of such Series under Sections 2.06, 2.07, 2.08, 2.09 and 2.10;

(b) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's obligations in connection therewith (including, but not limited to, the rights of the Trustee and the duties of the Company under Section 7.07, which shall survive despite the satisfaction in full of all obligations hereunder); and

(c) Sections 8.05, 8.06, 8.07 and 8.08,

each of which shall survive until the Securities of such Series have been paid in full (thereafter, the Company's obligations in Section 7.07 only shall survive).

Upon the Company's exercise of this Section 8.08, the Trustee, on demand of the Company and at the cost and expense of the Company, shall execute proper instruments acknowledging satisfaction of and discharging this Indenture with respect to such Series of Securities.

#### ARTICLE NINE.

#### AMENDMENTS

SECTION 9.01. Without Consent of Holders. The Company and the Trustee may amend or supplement this Indenture or the Securities of any Series without the consent of any Holder:

(a) to evidence the succession of another Person to the Company or any Guarantor pursuant to Article Five and the assumption by such successor of the Company's or such Guarantor's covenants, agreements and obligations in this Indenture and in the Securities;

- (b) to establish the forms or terms of the Securities of any Series;
- (c) to provide for the issuance of additional Securities of any Series, subject to any limitations set forth in the terms of such Series;
- (d) to add Guarantees or security with respect to the Securities of any Series or confirm and evidence the release, termination or discharge of any Guarantee or security interest in accordance with this Indenture;
- (e) to comply with the requirements of the SEC in connection with the qualification and maintenance of qualification under the TIA and comply with the rules of any applicable securities depository;
- (f) to conform the text of this Indenture or the Securities of any Series or any Guarantees to any description of the Indenture, the Securities or any Guarantees contained in the prospectus or any prospectus supplement and/or free writing prospectus relating to the offer and sale of the Securities of any Series;
- (g) to surrender any right or power conferred upon the Company or any Guarantor by this Indenture, to add to the covenants of the Company or any Guarantor such further covenants, restrictions, conditions or provisions for the protection of the Holders of the Securities of any Series as the Board of Directors of the Company shall consider to be for the protection of the Holders of the Securities of such Series, and to make the occurrence, or the occurrence and continuance, of a default in respect of any such additional covenants, restrictions, conditions or provisions a Default or an Event of Default under this Indenture with respect to the Securities of any Series; provided, however, that with respect to any such additional covenant, restriction, condition or provision, such amendment may provide for a period of grace after default, which may be shorter or longer than that allowed in the case of other Defaults, may provide for an immediate enforcement upon such Default, may limit the remedies available to the Trustee upon such Default or may limit the right of Holders of a majority in aggregate principal amount of the Securities of such Series to waive such default;
- (h) to cure any ambiguity, omission, defect or inconsistency or correct or supplement any provision contained in this Indenture, in any supplemental indenture or in any Securities that may be defective or inconsistent with any other provision contained therein or in any applicable prospectus, prospectus supplement and/or freewriting prospectus or offering document with respect to such Series of Securities;
- (i) to convey, transfer, assign, mortgage or pledge any property to or with the Trustee, or to make such other provisions in regard to matters or questions arising under this Indenture as shall not materially adversely affect the interests of any Holders of the Securities of such Series;
- (j) to add or to change any of the provisions of this Indenture to provide that Securities of such Series in bearer form may be registrable as to principal, to change or eliminate any restrictions on the payment of principal or premium, if any, with respect to Securities in registered form or of principal, premium, if any, or interest with respect to Securities in bearer form, or to permit Securities in registered form to be exchanged for Securities in bearer form, so as to not adversely affect the interests of the Holders or any coupons of the Securities in any material respect or permit or facilitate the issuance of Securities in uncertificated form;

(k) to make any change not otherwise specified in this Section 9.01 that does not adversely affect the rights of any Holder in any material respect;

(l) to add to, change, or eliminate any of the provisions of this Indenture with respect to the Securities, so long as any such addition, change or elimination not otherwise permitted under this Indenture shall (A) neither apply to the Securities created prior to the execution of such supplemental indenture and entitled to the benefit of such provision nor modify the rights of the Holders of any such Securities with respect to the benefit of such provision or (B) become effective only when there are no such Securities outstanding;

(m) to evidence and provide for the acceptance of appointment by a successor or separate Trustee with respect to the Securities and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of this Indenture by more than one Trustee; or

(n) to establish the form or terms of the Securities and coupons pursuant to Article Two.

SECTION 9.02. With Consent of Holders. The Company and the Trustee may amend this Indenture or the Securities without notice to any Holder but with the written consent of the Holders of a majority in aggregate principal amount of the Securities then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Securities) affected by such amendment. However, without the consent of each Holder affected, an amendment may not:

(1) reduce the percentage of principal amount of the Securities whose Holders must consent to an amendment, modification, supplement or waiver;

(2) reduce the rate of or extend the time for payment of interest on the Securities;

(3) reduce the principal amount of or change the Stated Maturity of any Security;

(4) reduce the Redemption Price of any Security or add redemption provisions to any Security;

(5) make any Security payable in money other than that stated in this Indenture or the Security;

(6) if the Securities are guaranteed by any Guarantor, other than in accordance with this Indenture, eliminate any existing Guarantee of such Securities; or

(7) amend the contractual right to receive, and to institute suit for the enforcement of, any payment with respect to the Securities.

It shall not be necessary for the consent of the Holders under this Section to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof. After an amendment under this Section becomes effective, the Company shall send or cause to be sent, by first class mail (or, in the case of any Global Securities, electronically through the customary procedures of the Depositary), to all affected Holders a notice briefly describing such amendment. The failure to give such notice to all such Holders, or any defect therein, shall not impair or affect the validity of an amendment under this Section.

SECTION 9.03. Compliance with Trust Indenture Act. Every amendment or supplement to this Indenture or the Securities shall comply with the TIA as then in effect.

SECTION 9.04. Revocation and Effect of Consents and Waivers. A consent to an amendment or a waiver by a Holder of a Security shall bind the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent or waiver is not made on the Security. However, any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Security or portion of the Security if the Trustee receives the notice of revocation before the date the amendment or waiver becomes effective. After an amendment or waiver becomes effective, it shall bind every Holder. An amendment or waiver becomes effective once both (i) the requisite number of consents have been received by the Company or the Trustee and (ii) such amendment or waiver has been executed by the Company and the Trustee.

The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to give their consent or take any other action described above or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then notwithstanding the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date.

SECTION 9.05. Notation on or Exchange of Securities. If an amendment changes the terms of the Securities, the Trustee may require the Holder of the Security to deliver it to the Trustee. The Trustee may place an appropriate notation on the Security regarding the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Security shall issue and the Trustee shall authenticate a new Security that reflects the changed terms. Failure to make the appropriate notation or to issue a new Security shall not affect the validity of such amendment.

SECTION 9.06. Trustee to Sign Amendments. The Trustee shall sign any amendment authorized pursuant to this Article Nine if the amendment does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment the Trustee shall receive indemnity reasonably satisfactory to it and (subject to Section 7.02) shall receive, and be fully protected in conclusively relying upon, an Officer's Certificate and an Opinion of Counsel stating that such amendment is authorized or permitted by this Indenture.

SECTION 9.07. Payment for Consent. Neither the Company nor any Affiliate of the Company shall, directly or indirectly, pay or cause to be paid any consideration, whether by way of interest, fee or otherwise, to any Holder for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Securities unless such consideration is offered to be paid to all Holders, ratably, that so consent, waive or agree to amend in the time frame set forth in solicitation documents relating to such consent, waiver or agreement.

## **ARTICLE TEN.**

### **GUARANTEES**

This Article Ten shall apply only to a Series of Securities that is indicated in a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02 as having Guarantees and only for so long as, and to the extent of, such Guarantees.

SECTION 10.01. Guarantee. Subject to the provisions of this Article Ten, each Guarantor in respect of any Securities of a Guaranteed Series of Securities hereby jointly and severally unconditionally guarantees (subject to Section 10.04), on a senior unsecured basis, to each Holder of a Security of such Series authenticated and delivered by the Trustee and to the Trustee and its successors, irrespective of (i) the validity and enforceability of this Indenture, the Securities of such Series or the obligations of the Company or any other Guarantors to the Holders of the Securities of such Series or the Trustee hereunder or thereunder or (ii) the absence of any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or default of a Guarantor, that: (a) the principal of, premium, if any, interest and defaulted interest with respect to the Securities of such Series shall be duly and punctually paid in full when due, whether at Maturity, by acceleration or otherwise, and interest on the overdue principal and (to the extent permitted by law) interest or defaulted interest with respect to the Securities of such Series and all other obligations of the Company or any Guarantor to the Holders of the Securities of such Series or the Trustee hereunder or thereunder and all other obligations under this Indenture with respect to the Securities of such Series shall be promptly paid in full or performed, all in accordance with the terms of this Indenture and thereof and (b) in case of any extension of time of payment or renewal of any Securities of such Series or any of such other obligations, the same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at the Stated Maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Company to the Holders of the Securities of such Series, for whatever reason, each Guarantor shall be obligated to pay, or to perform or cause the performance of, the same immediately. An Event of Default under this Indenture or the Securities of such Series shall constitute an event of default under the Guarantee, and shall entitle the Holders of the Securities of such Series or the Trustee to accelerate the obligations of the Guarantors of the Securities of such Series hereunder in the same manner and to the same extent as the obligations of the Company.

Each Guarantor, by execution of this Indenture or supplemental indenture in substantially the form of Exhibit B hereto, as applicable, waives the benefit of diligence, presentment, demand for payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that such Guarantee shall not be discharged except by complete performance of the obligations contained in this Indenture and such Guarantee. The Guarantee is a guarantee of payment and not of collection. If any Holder or the Trustee is required by any court or otherwise to return to the Company or to any Guarantor, or any custodian, trustee, liquidator or other similar official acting in relation to the Company or such Guarantor, any amount paid by the Company or such Guarantor to the Trustee or such Holder of any Securities of a Guaranteed Series of Securities, the Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect. Each Guarantor further agrees that, as between it, on the one hand, and the Holders of the Securities of such Series and the Trustee, on the other hand, (a) subject to this Article Ten, the Maturity of the obligations guaranteed hereby may be accelerated as provided in Article Six of this Indenture for the purposes of the Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby and (b) in the event of any acceleration of such obligations as provided in Article Six of this Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purpose of such Guarantee.

The Guarantee shall remain in full force and effect and continue to be effective should any petition be filed by or against the Company for liquidation or reorganization, should the Company become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of the Company's assets, and shall, to the fullest extent permitted by law, continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Securities of a Guaranteed Series of Securities are pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee on the Securities of such Series, whether as a "voidable preference," "fraudulent transfer" or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Securities of such Series shall, to the fullest extent permitted by law, be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

No shareholder, partner, manager, member, director, officer, employee, agent or incorporator, past, present or future, of any Guarantor, as such, shall have any personal liability under this Guarantee by reason of his, her or its status as such partner, manager, member shareholder, director, officer, employee, agent or incorporator.

SECTION 10.02. Limitation of Guarantee. The obligations of each Guarantor are limited to the maximum amount as shall, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Guarantor under the Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law. Each Guarantor that makes a payment or distribution under a Guarantee shall be entitled to a contribution from each other Guarantor in a pro rata amount based on the net assets of each Guarantor, determined in accordance with GAAP.



SECTION 10.03. Waiver of Subrogation. Each Guarantor, by execution of this Indenture or a supplemental indenture in substantially the form of Exhibit B hereto, waives to the extent permitted by law any claim or other rights which it may now or hereafter acquire against the Company that arise from the existence, payment, performance or enforcement of such Guarantor's obligations under this Indenture, including, without limitation, any right of subrogation, reimbursement, exoneration, indemnification, and any right to participate in any claim or remedy of any Holder of the Securities of a Guaranteed Series of Securities against the Company, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including, without limitation, the right to take or receive from the Company, directly or indirectly, in cash or other property or by set-off or in any other manner, payment on account of such claim or other rights. If any amount shall be paid to any Guarantor in violation of the preceding sentence and the Securities of such Series shall not have been paid in full, such amount shall have been deemed to have been paid to such Guarantor for the benefit of, and held in trust for the benefit of, the Holders of the Securities of such Series, and shall forthwith be paid to the Trustee for the benefit of such Holders to be credited and applied upon the Securities of such Series, whether matured or unmatured, in accordance with the terms of this Indenture. Each Guarantor, by execution of this Indenture, shall acknowledge that it shall receive direct and indirect benefits from the financing arrangements contemplated by this Indenture and that the waiver set forth in this Section 10.03 is knowingly made in contemplation of such benefits.

SECTION 10.04. Release of Guarantee. Any Guarantee shall be automatically and unconditionally released: (i) upon the sale or other disposition (including by way of consolidation or merger), in one transaction or a series of related transactions, of a majority of the total voting power of the capital stock or other interests of such Guarantor (other than to the Company or any Affiliate of the Company); or (ii) upon the sale or disposition of all or substantially all the property of such Guarantor (other than to any Affiliate of the Company other than another Guarantor). A Guarantee also shall be released with respect to a Guaranteed Series of Securities as provided in the Board Resolution, supplemental indenture or Officer's Certificate establishing such Series pursuant to Section 2.02. Any Guarantee, with respect to a Guaranteed Series of Securities, also will be released if the Company exercises its Legal Defeasance or its Covenant Defeasance option with respect to such Series as set forth in Article Eight, or if the Company's obligations under this Indenture with respect to such Series are discharged as set forth in Section 8.08. The Company will give written notice as promptly as practicable to the Trustee of the automatic release of any Guarantee pursuant to this Section 10.04. At the Company's written request, the Trustee will execute and deliver any documents, instructions or instruments evidencing any such release.

## **ARTICLE ELEVEN.**

### **MISCELLANEOUS**

SECTION 11.01. Trust Indenture Act Controls. If any provision of this Indenture limits, qualifies or conflicts with another provision which is required to be included in this Indenture by the TIA, the required provision shall control.

SECTION 11.02. Notices. Any notice or communication shall be in writing (including facsimile and PDF transmission) and delivered in person or sent by first class mail (or, in the case of any Global Securities, electronically through the customary procedures of the Depositary) addressed as follows:

If to the Company or any Guarantor:

PLBY Group, Inc.  
10960 Wilshire Blvd., Suite 200  
Los Angeles, California 90024  
Phone Number: (310) 424-1800  
Attention: General Counsel

If to the Trustee:

Delaware Trust Company  
251 Little Falls Drive  
Wilmington, DE 19808  
Attn: Corporate Trust Services  
Email: Lici.Zhu@delawaretrust.com  
trust@delawaretrust.com

The Company, any Guarantor or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication mailed to a Holder shall be mailed to the Holder at the Holder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

Failure to send a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is sent in the manner provided above, it is duly given, whether or not the addressee receives it.

SECTION 11.03. Communication by Holders with Other Holders. Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

SECTION 11.04. Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take or refrain from taking any action under this Indenture, the Company shall furnish to the Trustee:

(1) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(2) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

SECTION 11.05. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture shall include:

- (1) a statement that the individual making such certificate or opinion has read such covenant or condition;
- (2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (3) a statement that, in the opinion of such individual, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (4) a statement as to whether or not, in the opinion of such individual, such covenant or condition has been complied with.

SECTION 11.06. Acts of Holders. (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “Act” of Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to such officer the execution thereof. Where such execution is by a signer acting in a capacity other than such signer’s individual capacity, such certificate or affidavit shall also constitute sufficient proof of such signer’s authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of bearer securities may be proved by the production of such bearer securities or by a certificate executed by any trust company, bank, banker or other depository, wherever situated, if such certificate shall be deemed by the Trustee to be satisfactory, showing that at the date therein mentioned such Person had on deposit with such depository, or exhibited to it, the bearer securities therein described; or such facts may be proved by the certificate or affidavit of the Person holding such bearer securities, if such certificate or affidavit is deemed by the Trustee to be satisfactory. The Trustee and the Company may assume that such ownership of any bearer security continues until (i) another such certificate or affidavit bearing a later date issued in respect of the same bearer security is produced, (ii) such bearer security is produced to the Trustee by some other Person, (iii) such bearer security is surrendered in exchange for a registered security or (iv) such bearer security is no longer outstanding. The ownership of bearer securities may also be proved in any other manner which the Trustee deems sufficient.

(d) The ownership of registered securities shall be proved by the register maintained by the Registrar.

(e) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of a Security shall bind every future Holder of the same Security and the holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such a Security.

(f) If the Company shall solicit from the Holders any request, demand, authorization, direction, notice, consent, waiver or other Act, the Company may, at its option, by or pursuant to a Board Resolution, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, waiver or other Act, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on such record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of outstanding Securities have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, waiver or other Act, and for that purpose the outstanding Securities shall be computed as of such record date; provided that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

(g) The Depositary, as a Holder, may appoint agents and otherwise authorize Participants to give or take any request, demand, authorization, direction, notice, consent, waiver or other action which a Holder is entitled to give or take under this Indenture.

SECTION 11.07. Rules by Trustee, Paying Agent and Registrar. The Trustee may make reasonable rules for action by or a meeting of Holders. The Registrar and the Paying Agent may make reasonable rules for their functions.

SECTION 11.08. Governing Law.

**THIS INDENTURE, THE SECURITIES AND THE GUARANTEES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY, THE GUARANTORS, THE HOLDERS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

SECTION 11.09. No Recourse Against Others. No shareholder, partner, manager, member, director, officer, employee, agent or incorporator, as such, of the Company or any Guarantor, shall have any liability for any obligations of the Company under the Securities, the Guarantees or this Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Security (including the Guarantees), each Holder shall waive and release all such liability. This waiver and release shall be part of the consideration for the issuance of the Securities.

SECTION 11.10. Successors. All agreements of the Company in this Indenture and the Securities shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 11.11. Multiple Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy of the Indenture is enough to prove this Indenture. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

SECTION 11.12. Table of Contents; Headings. The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

SECTION 11.13. Severability. If any provision in this Indenture is deemed unenforceable, it shall not affect the validity or enforceability of any other provision set forth herein, or of the Indenture as a whole.

SECTION 11.14. Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, pandemics, epidemics, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 11.15. USA PATRIOT Act. The parties hereto acknowledge that in accordance with Section 326 of the USA PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

SECTION 11.16. Electronic Transactions. The parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

## **ARTICLE TWELVE.**

### **SUBORDINATION**

This Article Twelve shall apply only to a Series of Securities that is indicated in a Board Resolution, supplemental indenture or Officer's Certificate pursuant to Section 2.02 as being Subordinated Securities and only for so long as, and to the extent of, such Subordinated Securities.

SECTION 12.01. Agreement to Subordinate. The Company covenants and agrees, and each Holder of Subordinated Securities of any Series by such Holder's acceptance thereof, likewise covenants and agrees, that the payment of the principal of (and premium, if any) and interest, if any, on, and mandatory sinking fund payments, if any, in respect of each and all of the Subordinated Securities of such Series shall be expressly subordinated, to the extent and in the manner provided in the Subordination Provisions established with respect to the Subordinated Securities of such Series pursuant to clause (x) of Section 2.02 hereof, in right of payment to the prior payment in full of all Senior Debt with respect to such Series.

SECTION 12.02. Liquidation, Dissolution, Bankruptcy. Upon any payment or distribution of the assets of the Company upon a total or partial liquidation, dissolution or winding up of the Company or in a bankruptcy, reorganization, insolvency, receivership or similar proceeding relating to the Company or its property:

(a) the holders of Senior Debt will be entitled to receive payment in full in cash, or such payment shall be duly provided for the satisfaction of the holders of the Senior Debt, before the Holders of the Subordinated Securities are entitled to receive any payment of principal of or interest on the Subordinated Securities, except that Holders of the Subordinated Securities may receive and retain shares of stock and any debt securities that are subordinated to the Senior Debt to at least the same extent as the Subordinated Securities; and (b) until the Senior Debt is paid in full in cash, or such payment shall be duly provided for the satisfaction of the holders of the Senior Debt, any distribution (other than distributions specified in clause (a) above that may be retained by Holders of the Subordinated Securities) to which Holders of the Subordinated Securities would be entitled but for this Article Twelve will be made to holders of the Senior Debt as their interests may appear.

SECTION 12.03. Effect of Legal Defeasance, Covenant Defeasance or Satisfaction and Discharge on Subordination Provisions. Unless otherwise expressly established pursuant to Section 2.02 with respect to the Subordinated Securities of any Series, the provisions of Section 12.01 hereof, insofar as they pertain to the Subordinated Securities of such Series, and the Subordination Provisions established pursuant to clause (x) of Section 2.02 with respect to such Series, are hereby expressly made subject to the provisions for legal defeasance, covenant defeasance and satisfaction and discharge set forth in Article Eight hereof and, anything to the contrary notwithstanding, upon the effectiveness of legal defeasance, covenant defeasance or satisfaction and discharge pursuant to Article Eight with respect to the Securities of such Series, such Securities shall thereupon cease to be so subordinated and shall no longer be subject to the provisions of Section 12.01 or the Subordination Provisions established pursuant to clause (x) of Section 2.02 with respect to such Series and, without limitation to the foregoing, all moneys, U.S. Government Obligations and other securities or property deposited with the Trustee (or other qualifying trustee) in trust in connection with such legal defeasance, covenant defeasance or satisfaction and discharge, as the case may be, and all proceeds therefrom may be applied to pay the principal of, premium, if any, and interest, if any, on, and mandatory sinking fund payments, if any, with respect to the Securities of such Series as and when the same shall become due and payable notwithstanding the provisions of Section 12.01 or the Subordination Provisions.

SECTION 12.04. Notice to Trustee. The Company shall give prompt written notice to the Trustee of any fact known to the Company which would prohibit the making of any payment to or by the Trustee in respect of the Subordinated Securities. Failure to give such notice shall not affect the subordination of the Securities to Senior Debt. Notwithstanding the provisions of this or any other provision of this Indenture, the Trustee shall not be charged with knowledge of the existence of any facts which would prohibit the making of any payment to or by the Trustee in respect of the Subordinated Securities, unless and until the Trustee shall have received written notice thereof from the Company or a holder of Senior Debt or from any trustee or agent therefor; and, prior to the receipt of any such written notice, the Trustee shall be entitled in all respects to assume that no such facts exist; provided, however, that if a Responsible Officer of the Trustee shall not have received, at least two Business Days prior to the date upon which by the terms hereof any such money may become payable for any purpose, the notice with respect to such money provided for in this Section 12.04, then, anything herein contained to the contrary notwithstanding, the Trustee shall have full power and authority to receive such money and to apply the same to the purpose for which such money was received and shall not be affected by any notice to the contrary which may be received by it within two Business Days prior to such date.

The Trustee shall be entitled to conclusively rely on the delivery to it of a written notice by a person representing himself to be a holder of Senior Debt (or a trustee or agent on behalf of such holder) to establish that such notice has been given by a holder of Senior Debt (or a trustee or agent on behalf of any such holder). In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any person as a holder of Senior Debt to participate in any payment or distribution pursuant to this Article Twelve, the Trustee may request such person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Debt held by such person, the extent to which such person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of such person under this Article, and if such evidence is not furnished, the Trustee may defer any payment which it may be required to make for the benefit of such person pursuant to the terms of this Indenture pending judicial determination as to the rights of such person to receive such payment.

SECTION 12.05. Trustee Not Fiduciary For Holders of Senior Debt. The Trustee shall not be deemed to owe any duty to the holders of Senior Debt and, subject to the provisions of Section 7.01, shall not be liable to any such holders if the Trustee shall in good faith mistakenly pay over or distribute to Holders of Subordinated Securities or to the Company or to any other person cash, property or securities to which any holders of Senior Debt shall be entitled by virtue of this Article Twelve or otherwise. With respect to the holders of Senior Debt, the Trustee undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in this Article and no implied covenants or obligations with respect to holders of Senior Debt shall be read into this Indenture against the Trustee.

SECTION 12.06. Rights of Trustee as Holder of Senior Debt; Preservation of Trustee's Rights. The Trustee or any Authenticating Agent in its individual capacity shall be entitled to all the rights set forth in this Article Twelve with respect to any Senior Debt which may at any time be held by it, to the same extent as any other holder of Senior Debt, and nothing in this Indenture shall deprive the Trustee or any Authenticating Agent of any of its rights as such holder.

Nothing in this Article Twelve shall apply to claims of, or payments to, the Trustee under or pursuant to Section 7.07.

*[Signature Pages Follow]*



IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

PLBY GROUP, INC.

By: \_\_\_\_\_  
Name:  
Title:

[Indenture - Signature Page]

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DELAWARE TRUST COMPANY, as Trustee

By: \_\_\_\_\_  
Name:  
Title:

[Indenture - Signature Page]

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**Exhibit A**

**[see attached]**

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[FORM OF FACE OF SECURITY]

[Global Securities Legend]

THIS SECURITY IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION (“DTC”), NEW YORK, NEW YORK OR A NOMINEE OF DTC, WHICH MAY BE TREATED BY THE COMPANY, THE TRUSTEE AND ANY AGENT THEREOF AS OWNER AND HOLDER OF THIS SECURITY FOR ALL PURPOSES.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF DTC TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR’S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

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[ ] % [Title of Securities] due [ ]

CUSIP:

ISIN:

\$

No.

PLBY GROUP, INC. promises to pay to CEDE & CO. or registered assigns, the principal sum: \$[ ] ( [ ]MILLION DOLLARS AND NO CENTS), as such amount may be increased or decreased as set forth in the Schedule of Increase or Decrease in Principal Amount of Global Security attached hereto, on .

Interest Payment Dates: and , commencing on .

Record Dates: and .

Additional provisions of this Security are set forth on the other side of this Security.

*[Signature Pages Follow]*

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IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed.

PLBY GROUP, INC.

By \_\_\_\_\_  
Name:  
Title:

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**TRUSTEE'S CERTIFICATE OF AUTHENTICATION**

This is one of the Securities of the Series designated therein referred to in the within-mentioned Indenture.

Date of authentication:

Delaware Trust Company, as Trustee

By \_\_\_\_\_  
Authorized Signatory

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[FORM OF REVERSE SIDE OF SECURITY]

PLBY GROUP, INC. [ ]% [Title of Securities] due [ ]

1. Indenture

This Security is one of a duly authorized issue of Securities of the Company, designated as its [ ]% [Title of Securities] due [ ] (herein called the “Securities”), issued and to be issued under an indenture, dated as of (herein called the “Indenture”), between PLBY GROUP, INC., a Delaware corporation (such company, and its successors and assigns under the Indenture hereinafter referred to, being herein called the “Company”), and Delaware Trust Company, as trustee (the “Trustee”), to which the Indenture and all indentures supplemental thereto, Board Resolutions and Officer’s Certificates relevant to the Securities reference is hereby made for a complete description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company and the Holders of the Securities. Capitalized terms used but not defined in this Security shall have the meanings ascribed to them in the Indenture.

Each Security is subject to, and qualified by, all such terms as set forth in the Indenture, certain of which are summarized herein, and each Holder of a Security is referred to the corresponding provisions of the Indenture for a complete statement of such terms. To the extent that there is any inconsistency between the summary provisions set forth in the Securities and the Indenture, the provisions of the Indenture shall govern.

2. Interest

The Company promises to pay interest on the principal amount of this Security at the rate per annum shown above. The Company will pay interest semiannually on and of each year, commencing .. Interest on the Securities will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from . Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

3. Paying Agent, Registrar and Service Agent

Initially, the Trustee will act as Paying Agent, registrar and service agent. The Company may appoint and change any Paying Agent, registrar or co-registrar and service agent without notice. The Company or any of its Subsidiaries may act as Paying Agent, registrar, co-registrar or service agent.

4. Defaults and Remedies; Waiver

If an Event of Default with respect to any Securities at the time outstanding (other than an Event of Default specified in Section 6.01(4) or (5) of the Indenture with respect to the Company or, in the case of a Guaranteed Series of Securities, any Guarantor) occurs and is continuing, the Trustee or the Holders of not less than 25% in aggregate principal amount of the outstanding Securities by notice to the Company in writing (and to the Trustee, if given by Holders of the Securities) specifying the Event of Default, may declare the principal amount of, premium, if any, and accrued and unpaid interest to, but not including, the date of acceleration on all the Securities to be due and payable. Upon such a declaration, such amounts shall be due and payable immediately. If an Event of Default specified in Section 6.01(4) or (5) of the Indenture with respect to the Company or, in the case of a Guaranteed Series of Securities, any Guarantor occurs, the principal amount of, premium, if any, and accrued and unpaid interest to, but not including, the date of such Event of Default on all the Securities shall *ipso facto* become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder of the Securities.

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At any time after the principal of the Securities shall have been so declared due and payable (or shall have become immediately due and payable), and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as provided in the Indenture, the Holders of a majority in aggregate principal amount of the Securities then outstanding, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences, and waive such Event of Default, if any and all Events of Default under the Indenture with respect to the Securities, other than the nonpayment of accelerated principal, premium, if any, or interest, if any, on Securities that shall not have become due by their terms, shall have been cured or waived as provided in Section 6.04 of the Indenture. No such rescission shall extend to any subsequent Default or amend any contractual right consequent thereto.

The Holders of a majority in principal amount of the Securities by written notice to the Trustee may waive an existing Default with respect to the Securities and its consequences except a continuing Default in the payment of the principal amount of, premium, if any, and accrued and unpaid interest on a Security. When a Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or amend any contractual right consequent thereto. For the avoidance of doubt, subject to this paragraph and Section 6.02 of the Indenture, the Holders of a majority in aggregate principal amount of the then outstanding Securities may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration, with respect to the Securities.

Holders of the Securities may not enforce the Indenture or the Securities except as provided in the Indenture. The Holders of a majority in aggregate principal amount of the then outstanding Securities may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee with respect to the Securities. However, the Trustee may refuse to follow any direction that conflicts with law or the Indenture, or subject to Section 7.01 of the Indenture, that the Trustee determines is unduly prejudicial to the rights of any other Holder of the Securities or that would subject the Trustee to personal liability; provided, however, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. Prior to taking any action hereunder, the Trustee shall be entitled to indemnity reasonably satisfactory to it against all losses and expenses caused by taking or not taking such action.

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## 5. Amendment

The Indenture permits, with certain exceptions as therein provided, the amendment of the Indenture or this Security and the modification of the rights and obligations of the Company or any Guarantor, if any, and the rights of the Holders of the Securities under the Indenture at any time by the Company or any Guarantor, if any, and the Trustee without notice to any Holder but with the written consent of the Holders of a majority in aggregate principal amount of the Securities then outstanding (including consents obtained in connection with a tender offer or exchange offer for the Securities) affected thereby. The Indenture also contains provisions permitting the Holders of a majority in principal amount of the Securities by written notice to the Trustee to waive an existing Default with respect to the Securities and its consequences except a continuing Default in the payment of the principal amount of, premium, if any, and accrued and unpaid interest on a Security. A consent to an amendment or a waiver by a Holder of a Security shall bind the Holder and every subsequent Holder of that Security or portion of the Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent or waiver is not made on the Security.

## 6. Obligations Absolute

No reference herein to the Indenture and no provision of this Security or of the Indenture shall amend the contractual obligation of the Company, which is absolute and unconditional, to pay the principal of, premium, if any, or interest on this Security at the place, at the respective times, at the rate and in the coin or currency herein prescribed.

## 7. [Sinking Fund]

The Securities will not have the benefit of any sinking fund.]

## 8. Denominations; Transfer; Exchange

The Securities are issuable in registered form without coupons in minimum denominations of \$2,000 principal amount and integral multiples of \$1,000 in excess thereof. When Securities are presented to the Registrar or a co-registrar with a request to register a transfer or to exchange them for an equal principal amount of Securities, the Registrar shall register the transfer or make the exchange in the manner and subject to the limitations provided in the Indenture, without payment of any service charge but with payment of a sum sufficient to cover any transfer tax or other governmental charge that may be imposed in connection with any registration or exchange of Securities.

The Company and the Registrar shall not be required (a) to issue, register the transfer of or exchange any Securities during a period beginning at the opening of business 15 days before the day of the sending of a notice of redemption of Securities selected for redemption and ending at the close of business on the day of such sending or (b) to register the transfer or exchange of Securities selected, called or being called for redemption as a whole or the portion being redeemed of any such Securities selected, called or being called for redemption in part.

## 9. Further Issues

The Company may from time to time, without the consent of the Holders of the Securities and in accordance with the Indenture, provide for the issuance of additional Securities.

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10. [Optional Redemption]

The Securities may be redeemed at the Company's option, upon notice as set forth in the Indenture, in whole at any time or in part from time to time, on the terms set forth in the Indenture.]

11. Persons Deemed Owners

The ownership of Securities shall be proved by the register maintained by the Registrar.

12. No Recourse Against Others

No shareholder, partner, manager, member, director, officer, employee, agent or incorporator, as such, of any Company [or any Guarantor] shall have any liability for any obligations of the Company under the Securities or the Indenture [or a Guarantor under its Guarantee] or the Indenture or for any claim based on, in respect of or by reason of such obligations or their creation. By accepting a Security, each Holder shall waive and release all such liability. This waiver and release shall be part of the consideration for the issuance of the Securities.

13. Discharge and Defeasance

Subject to certain conditions set forth in the Indenture, the Company at any time may terminate some or all of its obligations under the Securities and the Indenture with respect to the Securities if the Company deposits with the Trustee money and/or U.S. Government Obligations for the payment of principal of, premium, if any, and interest on the Securities to redemption or Maturity, as the case may be.

14. Unclaimed Money

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on any Security and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its request or, if then held by the Company, shall be discharged from such trust. Thereafter the Holder of such Security shall look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

15. [Guarantee]

The payment by the Company of the principal of, and premium, if any, and interest on, the Securities is guaranteed on a joint and several basis by each of the Guarantors to the extent set forth in the Indenture.]

16. Trustee Dealings with the Company

Subject to certain limitations imposed by the TIA, the Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar or co-Paying Agent may do the same with like rights.

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17. Abbreviations

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

18. CUSIP Numbers

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Securities and has directed the Trustee to use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Securities or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

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## ASSIGNMENT FORM

For value received hereby sell(s), assign(s) and transfer(s) unto (please insert social security or other identifying number of assignee) the within Security, and hereby irrevocably constitutes and appoints attorney to transfer the said Security on the books of the Company, with full power of substitution in the premises.

Dated:

Signature(s)

Signature(s) must be guaranteed by an Eligible Guarantor Institution with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15.

Signature  
Guarantee

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**INCREASES OR DECREASES IN PRINCIPAL  
AMOUNT OF GLOBAL SECURITY**

The initial principal amount of this Global Security is \$ . The following increases or decreases in this Global Security have been made:

<b>Date of Increase or Decrease</b>	<b>Amount of Decrease in Principal Amount of this Global Security</b>	<b>Amount of Increase in Principal Amount of this Global Security</b>	<b>Remaining Principal Amount of this Global Security Following such Decrease or Increase</b>	<b>Signature of Authorized Signatory of Trustee or Custodian</b>

**EXHIBIT B**  
**[see attached]**

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FORM OF SUPPLEMENTAL INDENTURE  
TO BE DELIVERED BY SUBSEQUENT GUARANTORS

Supplemental Indenture (this “Supplemental Indenture”), dated as of \_\_\_\_\_, among \_\_\_\_\_ (the “Subsidiary Guarantor”), a subsidiary of PLBY Group, Inc. (or its permitted successor), a Delaware corporation (the “Company”), the Company and Delaware Trust Company, as trustee under the Indenture referred to below (the “Trustee”).

W I T N E S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture dated as of [\_\_\_], (the “Indenture”), providing for the issuance of [\_\_\_]% [Title of Security] due [\_\_\_] (the “Securities”);

WHEREAS, this Indenture provides that under certain circumstances the Subsidiary Guarantor shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Subsidiary Guarantor shall unconditionally guarantee (subject to Section 10.04 of the Indenture) all of the Company’s Obligations under the Securities and the Indenture on the terms and conditions set forth herein (the “Security Guarantee”); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Subsidiary Guarantor, the Company and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Securities as follows:

1. *Capitalized Terms.* Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. *Agreement to Guarantee.* The Subsidiary Guarantor hereby agrees as follows:

(a) Along with all Subsidiary Guarantors named in the Indenture, to jointly and severally Guarantee to each Holder of a Security authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, that:

(i) the principal of, premium, if any, interest and defaulted interest with respect to the Securities shall be duly and punctually paid in full when due, whether at maturity, by acceleration or otherwise, and interest on the overdue principal and (to the extent permitted by law) interest or defaulted interest with respect to the Securities and all other obligations of the Company or any Subsidiary Guarantor to the Holders of the Securities or the Trustee hereunder or thereunder and all other obligations under the Indenture with respect to the Securities shall be promptly paid in full or performed, all in accordance with the terms of this Indenture and thereof; and

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(ii) in case of any extension of time of payment or renewal of any Securities or any of such other obligations, the same shall be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Company to the Holders of the Securities, for whatever reason, each Subsidiary Guarantor shall be obligated to pay, or to perform or cause the performance of, the same immediately..

(b) The obligations of the Subsidiary Guarantor hereunder shall be unconditional, irrespective of the validity, regularity or enforceability of the Securities or the Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Securities with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor.

(c) The following is hereby waived: diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever.

(d) This Security Guarantee shall not be discharged except by complete performance of the obligations contained in the Securities and the Indenture, and the Subsidiary Guarantor accepts all obligations of a Guarantor under this Indenture.

(e) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Subsidiary Guarantors, or any Custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Subsidiary Guarantors, any amount paid by either to the Trustee or such Holder, this Security Guarantee, to the extent theretofore discharged, shall be reinstated in full force and effect.

(f) The Subsidiary Guarantor shall not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby.

(g) As between the Subsidiary Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 of the Indenture for the purposes of this Security Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (y) in the event of any declaration of acceleration of such obligations as provided in Article 6 of the Indenture, such obligations (whether or not due and payable) shall forthwith become due and payable by the Subsidiary Guarantors for the purpose of this Security Guarantee.

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(h) The Subsidiary Guarantors shall have the right to seek contribution from any non-paying Subsidiary Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Subsidiary Guarantee.

(i) Pursuant to Section 10.03 of the Indenture, after giving effect to any maximum amount and any other contingent and fixed liabilities that are relevant under any applicable bankruptcy or fraudulent conveyance laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under Article 10 of the Indenture, this new Security Guarantee shall be limited to the maximum amount permissible such that the obligations of such Guarantor under this Security Guarantee will not constitute a fraudulent transfer or conveyance.

(j) This Security Guarantee is a guarantee of payment and not of collection.

3. *Execution and Delivery.* Each Subsidiary Guarantor agrees that the Security Guarantees shall remain in full force and effect notwithstanding any failure to endorse on each Security a notation of such Security Guarantee.

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4. *Merger, Consolidation or Sale of Assets of Subsidiary Guarantor.* Unless the Subsidiary Guarantee of the applicable Subsidiary Guarantor is permitted to be released in connection with such transaction pursuant to Section 10.04 of the Indenture, such Subsidiary Guarantor shall not merge, consolidate or amalgamate with or into any other person or sell, transfer, assign, lease, convey or otherwise dispose of all or substantially all its property in any one transaction or series of related transactions unless:

(a) such Subsidiary Guarantor shall be the surviving person (the “Surviving Guarantor”) or the Surviving Guarantor (if other than such Subsidiary Guarantor) formed by such merger, consolidation or amalgamation or to which such sale, transfer, assignment, lease, conveyance or disposition is made shall be a corporation, limited partnership or limited liability company organized and existing under the laws of the U.S., any State thereof or the District of Columbia;

(b) the Surviving Guarantor (if other than such Subsidiary Guarantor) expressly assumes, by supplemental indenture in the form of Exhibit B to the Indenture, executed and delivered to the Trustee by such Surviving Guarantor, such Subsidiary Guarantor’s guarantee of the due and punctual payment of the principal of, and premium, if any, and interest on, all the Securities outstanding, according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of this Indenture to be performed by such Subsidiary Guarantor;

(c) immediately before and immediately after giving effect to such transaction or series of related transactions, no Default or Event of Default shall have occurred and be continuing; and

(d) the Company shall deliver, or cause to be delivered, to the Trustee, an Officer’s Certificate and an Opinion of Counsel, each stating that such transaction and the supplemental indenture, if any, in respect thereto comply with Section 5.02 of the Indenture and that all conditions precedent in the Indenture relating to such transaction have been complied with.

Notwithstanding the provisions of Section 5.02 of the Indenture, any Subsidiary may merge, consolidate or amalgamate with or into or sell, transfer, assign, lease, convey or otherwise dispose of all or substantially all its property to the Company or a Subsidiary Guarantor.

5. *Releases.* Any Subsidiary Guarantee executed pursuant to Section 4.09 of the Indenture (including, without limitation, any Subsidiary Guarantee of the Securities issued as of the Issue Date), shall be automatically and unconditionally released upon the release of the guarantee or the obligation that resulted in Section 4.09 of the Indenture becoming applicable (other than by reason of payment under such guarantee) without any action required on the part of the Trustee or any Holder of the Securities upon such Subsidiary Guarantor ceasing to guarantee or be an obligor with respect to the Revolving Credit Facility or a guarantor or obligor under any other Credit Facility Debt or Capital Markets Debt of the Company or any of the Subsidiary Guarantors. In addition, any Subsidiary Guarantee of the Indenture shall be automatically and unconditionally released upon: (i) upon the sale or other disposition (including by way of consolidation or merger), in one transaction or a series of related transactions, of a majority of the total voting power of the capital stock or other interests of such Subsidiary Guarantor (other than to the Company or any Affiliate of the Company); or (ii) upon the sale or disposition of all or substantially all the property of such Subsidiary Guarantor (other than to any Affiliate of the Company other than another Subsidiary Guarantor); provided, however, that, in each case, after giving effect to such transaction, such Subsidiary is no longer liable for any guarantee or other obligations in respect of any Credit Facility Debt or Capital Markets Debt of the Company or any of its Subsidiaries. Any Subsidiary Guarantee also will be released if the Company exercises its legal defeasance or its covenant defeasance option as set forth in Article Eight of the Indenture, or if the Company’s obligations under the Indenture are discharged as set forth in Section 8.08 of the Indenture. The Company will give prompt written notice to the Trustee of the automatic release of any Subsidiary Guarantee pursuant to Section 10.04 of the Indenture. At the Company’s request, the Trustee will execute and deliver any documents, instructions or instruments evidencing any such release.

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6. *NEW YORK LAW TO GOVERN.* THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK. EACH OF THE COMPANY, EACH GUARANTEEING SUBSIDIARY, THE HOLDERS AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE SECURITIES OR THE TRANSACTION CONTEMPLATED HEREBY.

8. *Counterparts.* The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

9. *Effect of Headings.* The Section headings herein are for convenience only and shall not affect the construction hereof.

10. *The Trustee.* The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Subsidiary Guarantor and the Company.

[Signature Page Follows]

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IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed, all as of the date first above written.

[Guaranteeing Subsidiary]

By: \_\_\_\_\_  
Name:  
Title:

PLBY Group, Inc.

By: \_\_\_\_\_  
Name:  
Title:

Delaware Trust Company, as Trustee

By: \_\_\_\_\_  
Authorized Signatory

---

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
ONE MANHATTAN WEST  
NEW YORK, NY 10001

TEL: (212) 735-3000  
FAX: (212) 735-2000  
www.skadden.com

## FIRM/AFFILIATE OFFICES

BOSTON  
CHICAGO  
HOUSTON  
LOS ANGELES  
PALO ALTO  
WASHINGTON, D.C.  
WILMINGTON

BEIJING  
BRUSSELS  
FRANKFURT  
HONG KONG  
LONDON  
MOSCOW  
MUNICH  
PARIS  
SÃO PAULO  
SEOUL  
SHANGHAI  
SINGAPORE  
TOKYO  
TORONTO

September 2, 2022

PLBY Group, Inc.  
10960 Wilshire Blvd, Suite 2200  
Los Angeles, California, 90024

Re: PLBY Group, Inc.  
Registration Statement on Form S-3

Ladies and Gentlemen:

We have acted as special United States counsel to PLBY Group, Inc., a Delaware corporation (the "Company"), in connection with the registration statement on Form S-3 (the "Registration Statement") to be filed on the date hereof by the Company with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933 (the "Securities Act"). The Registration Statement relates to the issuance and sale by the Company from time to time, pursuant to Rule 415 of the General Rules and Regulations of the Commission promulgated under the Securities Act (the "Rules and Regulations"), of (i) shares of common stock, par value \$0.0001 per share, of the Company ("Common Stock"), (ii) shares of preferred stock, par value \$0.0001 per share, of the Company ("Preferred Stock"), which may be issued in one or more series, (iii) depositary receipts (the "Receipts") representing fractional shares of Preferred Stock, which are called depositary shares (the "Depositary Shares") and which may be issued pursuant to one or more depositary agreements (each, a "Depositary Agreement") proposed to be entered into between the Company and one or more bank or trust companies to be named in the applicable Depositary Agreement (each, a "Bank Depositary"), (iv) debt securities of the Company ("Debt Securities"), which may be issued in one or more series under one or more indentures (the "Indentures") proposed to be entered into by the Company and the trustee to be named therein, the form of which is filed as an exhibit to the Registration Statement, (v) warrants to purchase shares of Common Stock, shares of Preferred Stock or Debt Securities ("Warrants"), which may be issued pursuant to one or more warrant agreements (each, a "Warrant Agreement") proposed to be entered into by the Company and one or more warrant agents to be named therein, (vi) units of the Company ("Units") comprised of shares of Common Stock, shares of Preferred Stock, Debt Securities or Warrants in any combination and (vii) such indeterminate number of shares of Common Stock, Preferred Stock or Depositary Shares, such indeterminate amount of Debt Securities and such indeterminate number of Units as may be issued upon conversion, exchange or exercise, as applicable, of any Preferred Stock, Depositary Shares, Debt Securities or Warrants or settlement of any Units, including such shares of Common Stock or Preferred Stock as may be issued pursuant to anti-dilution adjustments determined at the time of offering (collectively, "Indeterminate Securities"). The Common Stock, Preferred Stock, Depositary Shares, Debt Securities, Warrants, Units and Indeterminate Securities offered pursuant to the Registration Statement are collectively referred to herein as the "Securities."

This opinion is being furnished in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act.

In rendering the opinions stated herein, we have examined and relied upon the following:

- (a) the Registration Statement;
- (b) the prospectus (the "Base Prospectus"), which forms a part of and is included in the Registration Statement;
- (c) the form of Indenture filed as an exhibit to the Registration Statement;
- (d) an executed copy of a certificate of Chris Riley, General Counsel and Secretary of the Company, dated the date hereof (the "Secretary's Certificate");
- (e) a copy of the Company's Second Amended and Restated Certificate of Incorporation certified by the Secretary of State of the State of Delaware as of August 30, 2022, and certified pursuant to the Secretary's Certificate (the "Certificate of Incorporation");
- (f) a copy of the Company's Amended and Restated Bylaws in effect as of the date hereof and certified pursuant to the Secretary's Certificate (the "Bylaws"); and
- (g) a copy of certain resolutions of the Board of Directors of the Company, adopted on August 30, 2022, certified pursuant to the Secretary's Certificate.

We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such records of the Company and such agreements, certificates and receipts of public officials, certificates of officers or other representatives of the Company and others, and such other documents as we have deemed necessary or appropriate as a basis for the opinions stated below.

In our examination, we have assumed the genuineness of all signatures, including electronic signatures, the legal capacity and competency of all natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as facsimile, electronic, certified or photocopied copies, and the authenticity of the originals of such copies. As to any facts relevant to the opinions stated herein that we did not independently establish or verify, we have relied upon statements and representations of officers and other representatives of the Company and others and of public officials, including those in the Secretary's Certificate and the factual representations and warranties contained in the Registration Statement.

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We do not express any opinion with respect to the laws of any jurisdiction other than (i) the laws of the State of New York and (ii) the General Corporation Law of the State of Delaware (the “DGCL”) (all of the foregoing being referred to as “Opined-on-Law”).

As used herein, “Transaction Documents” means the Depositary Agreement, the Indenture and any supplemental indentures and officer’s certificates establishing the terms of the Debt Securities pursuant thereto, the Warrant Agreements, the Units and any applicable underwriting or purchase agreement.

The opinions stated in paragraphs 1 through 5 below presume that all of the following (collectively, the “general conditions”) shall have occurred prior to the issuance of the Securities referred to therein: (i) the Registration Statement, as finally amended (including all necessary post-effective amendments), has become effective under the Securities Act; (ii) an appropriate prospectus supplement or term sheet with respect to such Securities has been prepared, delivered and filed in compliance with the Securities Act and the applicable Rules and Regulations; (iii) the applicable Transaction Documents shall have been duly authorized, executed and delivered by the Company and the other parties thereto, including, if such Securities are to be sold or otherwise distributed pursuant to a firm commitment underwritten offering, the underwriting agreement or purchase agreement with respect thereto; (iv) the Board of Directors of the Company, including any duly authorized committee thereof, shall have taken all necessary corporate action to approve the issuance and sale of such Securities and related matters and appropriate officers of the Company have taken all related action as directed by or under the direction of the Board of Directors of the Company; and (v) the terms of the applicable Transaction Documents and the issuance and sale of such Securities have been duly established in conformity with the certificate of incorporation of the Company so as not to violate any applicable law, the certificate of incorporation of the Company or the bylaws of the Company, or result in a default under or breach of any agreement or instrument binding upon the Company, and so as to comply with any requirement or restriction imposed by any court or governmental body having jurisdiction over the Company.

Based upon the foregoing and subject to the qualifications and assumptions stated herein, we are of the opinion that:

1. With respect to any shares of Common Stock offered by the Company, including any Indeterminate Securities constituting Common Stock (the “Offered Common Stock”), when (a) the general conditions shall have been satisfied, (b) if the Offered Common Stock is to be certificated, certificates in the form required under the DGCL representing the shares of Offered Common Stock are duly executed and countersigned and (c) the shares of Offered Common Stock are registered in the Company’s share registry and delivered upon payment of the agreed-upon consideration therefor, the shares of Offered Common Stock, when issued and sold or otherwise distributed in accordance with the provisions of the applicable Transaction Document, will be duly authorized by all requisite corporate action on the part of the Company under the DGCL and validly issued, fully paid and nonassessable; *provided* that the consideration therefor is not less than \$0.0001 per share of Common Stock.

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2. With respect to the shares of any series of Preferred Stock offered by the Company, including any Indeterminate Securities constituting Preferred Stock of such series (the “Offered Preferred Stock”), when (a) the general conditions shall have been satisfied, (b) the Board of Directors of the Company, or a duly authorized committee thereof, has duly adopted a Certificate of Designations for the Offered Preferred Stock in accordance with the DGCL (the “Certificate”), (c) the filing of the Certificate with the Secretary of State of the State of Delaware has duly occurred, (d) if the Offered Preferred Stock is to be certificated, certificates in the form required under the DGCL representing the shares of Offered Preferred Stock are duly executed and countersigned and (e) the shares of Offered Preferred Stock are registered in the Company’s share registry and delivered upon payment of the agreed-upon consideration therefor, the shares of Offered Preferred Stock, when issued and sold or otherwise distributed in accordance with the provisions of the applicable Transaction Document, will be duly authorized by all requisite corporate action on the part of the Company under the DGCL and validly issued, fully paid and nonassessable; *provided* that the consideration therefor is not less than \$0.0001 per share of Preferred Stock.

3. With respect to any Depositary Shares offered by the Company, including any Indeterminate Securities constituting Depositary Shares (the “Offered Depositary Shares”), when (a) the general conditions shall have been satisfied, (b) the Preferred Stock relating to such Offered Depositary Shares has been duly authorized for issuance by the Company; (c) the Offered Depositary Shares have been duly executed, delivered, countersigned, issued and sold in accordance with the provisions of the applicable Depositary Agreement, and the Offered Depositary Shares have been delivered to the Bank Depositary for deposit in accordance with the applicable Depositary Agreement; and (d) the Receipts evidencing the Depositary Shares have been duly issued against deposit of the related shares of Preferred Stock with the Bank Depositary in accordance with the applicable Depositary Agreement, such Depositary Agreement will constitute a legally valid and binding obligation of the Company, enforceable against the Company in accordance with its respective terms under the laws of the State of New York.

4. With respect to any series of Debt Securities offered by the Company, including any Indeterminate Securities constituting Debt Securities of such series (the “Offered Debt Securities”), when (a) the general conditions shall have been satisfied, (b) the Indenture has been qualified under the Trust Indenture Act of 1939; (c) the issuance, sale and terms of the Offered Debt Securities and related matters have been approved and established in conformity with the applicable Transaction Documents and (d) the certificates evidencing the Offered Debt Securities have been issued in a form that complies with the provisions of the applicable Transaction Documents and have been duly executed and authenticated in accordance with the provisions of the Indentures and any other applicable Transaction Documents and issued and sold or otherwise distributed in accordance with the provisions of the applicable Transaction Document upon payment of the agreed-upon consideration therefor, the Offered Debt Securities will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms under the laws of the State of New York.

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5. With respect to any Warrants offered by the Company (the “Offered Warrants”), when (a) the general conditions shall have been satisfied, (b) the Common Stock, Preferred Stock and/or Debt Securities for which the Offered Warrants are exercisable have been duly authorized for issuance by the Company and (c) certificates evidencing the Offered Warrants have been duly executed, delivered and countersigned in accordance with the provisions of the applicable Warrant Agreement, the Offered Warrants, when issued and sold or otherwise distributed in accordance with the provisions of the applicable Transaction Document upon payment of the agreed-upon consideration therefor, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms under the laws of the State of New York.

6. With respect to any Units offered by the Company, including any Indeterminate Securities constituting Units (the “Offered Units”), when (a) the general conditions shall have been satisfied, (b) the shares of Common Stock, shares of Preferred Stock, Debt Securities or Warrants, or any combination thereof, included in such Offered Units have been duly authorized for issuance by the Company and (c) certificates evidencing the Offered Units have been duly executed, delivered and countersigned, the Offered Units, when issued and sold or otherwise distributed in accordance with the provisions of the applicable Transaction Document upon payment of the agreed-upon consideration therefor, will constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their respective terms under the laws of the State of New York.

The opinions stated herein are subject to the following qualifications:

(a) we do not express any opinion with respect to the effect on the opinions stated herein of any bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer, preference and other similar laws or governmental orders affecting creditors’ rights generally, and the opinions stated herein are limited by such laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law) and orders;

(b) we do not express any opinion with respect to any law, rule or regulation that is applicable to any party to any of the Transaction Documents or the transactions contemplated thereby solely because such law, rule or regulation is part of a regulatory regime applicable to any such party or any of its affiliates as a result of the specific assets or business operations of such party or such affiliates;

(c) except to the extent expressly stated in the opinions contained herein, we have assumed that each of the Transaction Documents constitutes the valid and binding obligation of each party to such Transaction Document, enforceable against such party in accordance with its terms;

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(d) we do not express any opinion with respect to the enforceability of any provision contained in any Transaction Document relating to any indemnification, contribution, non-reliance, exculpation, release, limitation or exclusion of remedies, waiver or other provisions having similar effect that may be contrary to public policy or violative of federal or state securities laws, rules or regulations, or to the extent any such provision purports to, or has the effect of, waiving or altering any statute of limitations;

(e) we do not express any opinion with respect to the enforceability of any provision of any Transaction Document to the extent that such section purports to bind the Company to the exclusive jurisdiction of any particular federal court or courts;

(f) we call to your attention that irrespective of the agreement of the parties to any Transaction Document, a court may decline to hear a case on grounds of forum non conveniens or other doctrine limiting the availability of such court as a forum for resolution of disputes; in addition, we call to your attention that we do not express any opinion with respect to the subject matter jurisdiction of the federal courts of the United States of America in any action arising out of or relating to any Transaction Document;

(g) we have assumed that any agent of service will have accepted appointment as agent to receive service of process and call to your attention that we do not express any opinion if and to the extent such agent shall resign such appointment. Further, we do not express any opinion with respect to the irrevocability of the designation of such agent to receive service of process;

(h) we have assumed that the choice of New York law to govern the Indenture and any supplemental indenture thereto is a valid and legal provision;

(i) we have assumed that the laws of the State of New York will be chosen to govern any Depositary Agreements, Warrant Agreements or Units and that such choice is and will be a valid and legal provision;

(j) we have assumed that the Indenture will be duly authorized, executed and delivered by the trustee in substantially the form reviewed by us; and

(k) to the extent that any opinion relates to the enforceability of the choice of New York law and choice of New York forum provisions contained in any Transaction Document, the opinions stated herein are subject to the qualification that such enforceability may be subject to, in each case, (i) the exceptions and limitations in New York General Obligations Law sections 5-1401 and 5-1402 and (ii) principles of comity and constitutionality.

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In addition, in rendering the foregoing opinions we have assumed that:

(a) neither the execution and delivery by the Company of the Transaction Documents nor the performance by the Company of its obligations thereunder, including the issuance and sale of the applicable Securities: (i) constitutes or will constitute a violation of, or a default under, any lease, indenture, agreement or other instrument to which the Company or its property is subject, (ii) contravenes or will contravene any order or decree of any governmental authority to which the Company or its property is subject or (iii) violates or will violate any law, rule or regulation to which the Company or its property is subject (except that we do not make the assumption set forth in this clause (iii) with respect to the Opined-on Law); and

(b) neither the execution and delivery by the Company of the Transaction Documents nor the performance by the Company of its obligations thereunder, including the issuance and sale of the applicable Securities, requires or will require the consent, approval, licensing or authorization of, or any filing, recording or registration with, any governmental authority under any law, rule or regulation of any jurisdiction.

We hereby consent to the reference to our firm under the heading "Legal Matters" in the prospectus forming part of the Registration Statement. We also hereby consent to the filing of this opinion with the Commission as an exhibit to the Registration Statement. In giving this consent, we do not thereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the Rules and Regulations. This opinion is expressed as of the date hereof unless otherwise expressly stated, and we disclaim any undertaking to advise you of any subsequent changes in the facts stated or assumed herein or of any subsequent changes in applicable laws.

Very truly yours,

/s/ Skadden, Arps, Slate, Meagher & Flom LLP

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Consent of Independent Registered Public Accounting Firm

PLBY Group, Inc.  
Los Angeles, California

We hereby consent to the incorporation by reference in the Prospectus constituting a part of this Registration Statement of our reports dated March 16, 2022, relating to the consolidated financial statements and the effectiveness of PLBY Group, Inc.'s ("Company's") internal control over financial reporting, appearing in the Company's Annual Report on Form 10-K for the year ended December 31, 2021. Our report on the effectiveness of internal control over financial reporting expresses an adverse opinion on the effectiveness of the Company's internal control over financial reporting as of December 31, 2021.

We also consent to the reference to us under the caption "Experts" in the Prospectus.

/s/ BDO USA, LLP

Los Angeles, California  
September 2, 2022

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**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in this Registration Statement on Form S-3 of PLBY Group, Inc. of our audit report of Playboy Enterprises, Inc. as of and for the year ended December 31, 2020, with a report date of March 31, 2021. We also consent to the reference to our firm under the heading “Experts” in the Prospectus, which is part of this Registration Statement.

/s/ Prager Metis CPAs LLP

Prager Metis CPAs LLP  
El Segundo, California  
September 2, 2022

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**Consent of Independent Auditors**

We consent to the use of our report dated October 18, 2021, with respect to the consolidated financial statements of Honey Birdette (Aust.) Pty Ltd and its subsidiaries, incorporated herein by reference and to the reference to our firm under the heading “Experts” in the prospectus.

/s/ KPMG

Sydney, Australia

September 2, 2022

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SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

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FORM T-1

STATEMENT OF ELIGIBILITY  
UNDER THE TRUST INDENTURE ACT OF 1939 OF A  
CORPORATION DESIGNATED TO ACT AS TRUSTEE

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☐ CHECK IF AN APPLICATION TO DETERMINE ELIGIBILITY OF A TRUSTEE PURSUANT TO SECTION 305(b) (2)

**Delaware Trust Company**

(Exact name of trustee as specified in its charter)

**Delaware**

(Jurisdiction of incorporation or organization if not a U.S.  
national bank)

**51-0011500**

(I.R.S. Employer Identification No.)

**251 Little Falls Drive**

**Wilmington, Delaware**

(Address of principal executive offices)

**19808**

(Zip code)

**Corporation Service Company**

**251 Little Falls Drive**

**Wilmington, Delaware**

**(800) 927-9801**

(Name, address and telephone number of agent for service)

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**PLBY GROUP, INC.**

(Exact name of obligor as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation of organization)

**37-1958714**

(I.R.S. Employer Identification No.)

**10960 Wilshire Blvd., Suite 2200**

**Los Angeles, CA 90024**

(Address of principal executive offices)

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**Debt Securities**

(Title of the indenture securities)

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**Item 1. General Information.**

**Furnish the following information as to the trustee:**

**(a) Name and address of each examining or supervising authority to which it is subject.**

Office of the State Banking Commissioner  
State of Delaware  
555 East Loockerman Street  
Dover, DE 19901

**(b) Whether it is authorized to exercise corporate trust powers.**

The trustee is authorized to exercise corporate trust powers.

**Item 2. Affiliations with Obligor.**

**If the obligor is an affiliate of the trustee, describe each such affiliation.**

None with respect to the trustee.

**Items 3-14.**

No responses are included for Items 3–14 because the obligor is not in default as provided under Item 13.

**Item 15. Foreign Trustee.**

Not applicable.

**Item 16. List of Exhibits**

List below all exhibits filed as a part of this Statement of Eligibility.

- |            |  |
|------------|--|
| Exhibit 1. | A copy of the Articles of Association of the trustee now in effect as contained in the Certificate of Incorporation. *                           |
| Exhibit 2. | A copy of the Certificate of Incorporation. *  |
| Exhibit 3. | See Exhibit 2.   |
| Exhibit 4. | A copy of by-laws of the trustee as now in effect. *   |
| Exhibit 5. | Not applicable.  |
| Exhibit 6. | The consent of the trustee required by Section 321(b) of the Act.  |
| Exhibit 7. | A copy of the latest report of condition of the trustee published pursuant to law or the requirements of its supervising or examining authority. |
| Exhibit 8. | Not applicable.  |
| Exhibit 9. | Not applicable.  |

\* Incorporated by reference to Exhibit 25.1 to the registration statement on S-1, Registration Number 333-225797 filed on June 21, 2018.

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Pursuant to the requirements of the Trust Indenture Act of 1939, as amended, the trustee, Delaware Trust Company, a non-depository trust company and corporation duly organized and existing under the laws of Delaware, has duly caused this statement of eligibility to be signed on its behalf by the undersigned, thereunto duly authorized, all in the City of Wilmington and State of Delaware on the 31<sup>st</sup> Day of August 2022.

DELAWARE TRUST COMPANY

/s/Lici Zhu  
\_\_\_\_\_  
Name: Lici Zhu  
Title: Assistant Vice President

\_\_\_\_\_

EXHIBIT 6

August 31, 2022

Securities and Exchange Commission  
Washington, D.C. 20549

Gentlemen:

In accordance with Section 321(b) of the Trust Indenture Act of 1939, as amended, the undersigned hereby consents that reports of examination of the undersigned made by Federal, State, Territorial, or District authorities authorized to make such examination may be furnished by such authorities to the Securities and Exchange Commission upon its request therefor.

Very truly yours,

DELAWARE TRUST COMPANY

/s/Lici Zhu

Name: Lici Zhu

Title: Assistant Vice President

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## EXHIBIT 7

## Report of Condition of

Delaware Trust Company  
of 251 Little Falls Drive, Wilmington, Delaware 19808  
at the close of business June 30, 2022, filed in accordance with 5 Del. Laws, c.9, §904

Dollar Amounts  
In Thousands

<b>ASSETS</b>	
Cash and balances due from depository institutions:	
Noninterest-bearing balances and currency and coin	
Interest-bearing balances	2,337
Securities:	
Held-to-maturity securities	
Available-for-sale securities	
Federal funds sold and securities purchased under agreements to resell:	
Federal funds sold in domestic offices	
Securities purchased under agreements to resell	
Loans and lease financing receivables:	
Loans and leases held for sale	
Loans and leases, net of unearned income	
LESS: Allowance for loan and lease losses	
Loans and leases, net of unearned income and allowance	0
Trading Assets	
Premises and fixed assets (including capitalized leases)	210
Other real estate owned	
Investments in unconsolidated subsidiaries and associated companies	
Direct and indirect investments in real estate ventures	
Intangible assets	
Goodwill	
Other intangible assets	1,182
Other assets	109,750
Total assets	<u><u>113,479</u></u>

Dollar Amounts  
In Thousands

LIABILITIES

Deposits:	
In domestic offices	
Noninterest-bearing	
Interest-bearing	
In foreign offices, Edge and Agreement subsidiaries, and IBFs	
Noninterest-bearing	
Interest-bearing	
Federal funds purchased and securities sold under agreements to repurchase:	
Federal funds purchased in domestic offices	
Securities sold under agreements to repurchase	
Trading liabilities	
Other borrowed money	
(includes mortgage indebtedness and obligations under capitalized leases)	
Subordinated notes and debentures	
Other liabilities	4,772
Total liabilities	4,772

EQUITY CAPITAL

Perpetual preferred stock and related surplus	
Common stock	500
Surplus (exclude all surplus related to preferred stock)	106,142
Retained earnings	2,065
Accumulated other comprehensive income	
Other equity capital components	
Total institution equity capital	108,707
Noncontrolling (minority) interests in consolidated subsidiaries	
Total equity capital	108,707
Total liabilities, and equity capital	113,479

I, Amanda Albert, Controller of the above-named State Non-Depository Trust Company, do hereby declare that this Report of Condition has been prepared in conformance with the instructions issued by the appropriate State regulatory authority and is true to the best of my knowledge and belief.

/s/ Amanda Albert

Amanda Albert  
Controller

We, the undersigned directors, attest to the correctness of this Report of Condition and declare that it has been examined by us and to the best of our knowledge and belief has been prepared in conformance with the instructions issued by the appropriate State regulatory authority and is true and correct.

/s/ Rodman Ward

Rodman Ward

/s/ John Hebert

John Hebert

## Calculation of Filing Fee Tables

Form S-3  
(Form Type)PLBY GROUP, INC.  
(Exact Name of Registrant as Specified in its Charter)**Table 1: Newly Registered and Carry Forward Securities**

	Security Type	Security Class Title	Fee Calculation or Carry Forward Rule	Amount Registered <sup>(1)</sup>	Proposed Maximum Offering Price Per Unit <sup>(2)</sup>	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee	Carry Forward Form Type	Carry Forward File Number	Carry Forward Initial Effective Date	Filing Fee Previously Paid In Connection With Unsold Securities to be Carried Forward
Newly Registered Securities												
	Primary Offering of Securities:											
Fees to be Paid	Equity	Common Stock, par value \$0.0001 per share (3)	457(o)	_____	_____	_____	_____	_____				
Fees to be Paid	Equity	Preferred Stock (4)	457(o)	_____	_____	_____	_____	_____				
Fees to be Paid	Debt	Debt Securities (5)	457(o)	_____	_____	_____	_____	_____				
Fees to be Paid	Equity	Warrants (6)	457(o)	_____	_____	_____	_____	_____				
Fees to be Paid	Equity	Units (7)	457(o)	_____	_____	_____	_____	_____				
Fees to be Paid	Unallocated (Universal Shelf)	(1)	457(o)	\$250,000,000.00	_____	\$250,000,000.00	0.0000927	\$23,175.00				
Fees to be Paid	Total Registration Fee:			\$250,000,000.00	N/A	\$250,000,000.00	_____	\$23,175.00				
Carry Forward Securities												
Carry Forward Securities	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
	Total Offering Amounts					\$250,000,000.00		\$23,175.00				
	Total Fees Previously Paid								_____			
	Total Fee Offsets								_____			
	Net Fee Due							\$23,175.00				

- (1) The amount to be registered consists of up to \$250,000,000 of an indeterminate amount of common stock, preferred stock, debt securities, warrants and/or units. There is also being registered hereunder such currently indeterminate number of (i) shares of common stock or other securities of the registrant as may be issued upon conversion of, or in exchange for, convertible or exchangeable debt securities and/or preferred stock registered hereby, or (ii) shares of debt securities, common stock, preferred stock or units as may be issued upon exercise of warrants registered hereby, as the case may be, including under any applicable antidilution provisions. Any securities registered hereunder may be sold separately or together with other securities registered hereunder. Pursuant to Rule 416 under the Securities Act of 1933, as amended, this registration statement also covers any additional securities that may be offered or issued in connection with any stock split, stock dividend or pursuant to anti-dilution provisions of any of the securities. Separate consideration may or may not be received for securities that are issuable upon conversion, exercise or exchange of other securities.
  - (2) The proposed maximum offering price per security will be determined from time to time by the registrant in connection with the issuance by the registrant of the securities registered hereunder and is not specified as to each class of security pursuant to General Instruction II.D. of Form S-3 under the Securities Act of 1933, as amended.
  - (3) Including such indeterminate amount of common stock as may be issued from time to time at indeterminate prices or upon conversion of debt securities and/or preferred stock registered hereby, or upon exercise of warrants registered hereby, as the case may be.
  - (4) Including such indeterminate amount of preferred stock as may be issued from time to time at indeterminate prices or upon conversion of debt securities and/or preferred stock registered hereby, or upon exercise of warrants registered hereby, as the case may be.
  - (5) Including such indeterminate principal amount of debt securities as may be issued from time to time at indeterminate prices or upon exercise of warrants registered hereby, as the case may be.
  - (6) Warrants may be sold separately or together with any of the securities registered hereby and may be exercisable for shares of common stock, preferred stock, debt securities, or units registered hereby. Because the warrants will provide a right only to purchase such securities offered hereunder, no additional registration fee is required.
  - (7) Each unit will be issued under a unit agreement and will represent an interest in two or more securities registered pursuant to this registration statement, which may or may not be separable from one another. Because the units will provide a right only to purchase such securities offered hereunder, no additional registration fee is required.
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