UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-K

(Mark One)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2025

Or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number: 001-41850

BED BATH & BEYOND, INC.
(Exact name of registrant as specified in its charter)

Delaware	**87-0634302**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
433 W. Ascension Way, 3rd Floor	
Murray, Utah	**84123**
(Address of principal executive offices)	(Zip code)

(801) 947-3100
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, $0.0001 par value per share	BBBY	New York Stock Exchange
Warrants to Purchase Shares of Common Stock	BBBY WS	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See 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	☐	Accelerated filer	☒
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

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

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

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☒

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

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

The aggregate market value of voting and non-voting common equity held by non-affiliates of the registrant as of the last business day of the registrant's most recently completed second quarter (June 30, 2025), was approximately $0.4 billion based upon the last sales price reported by the New York Stock Exchange. For purposes of this disclosure, shares of Common Stock held by directors and certain officers and by others who may be deemed to be affiliates of the registrant have been excluded. The exclusion of such shares is not intended to, and shall not, constitute a determination as to which persons or entities may be affiliates as that term is defined in the federal securities laws.

There were 69,009,239 shares of the Registrant's common stock, par value $0.0001, outstanding on February 20, 2026.

DOCUMENTS INCORPORATED BY REFERENCE

Certain information required by Part III of Form 10-K is incorporated by reference to the Registrant's proxy statement for the 2026 Annual Stockholders Meeting, which will be filed with the Securities and Exchange Commission within 120 days after the end of the fiscal year to which this Report relates.

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Bed Bath & Beyond, Overstock.com, Beyond+, welcome rewards, buybuy BABY, Kirkland's, and Kirkland's Home are registered trademarks of Bed Bath & Beyond, Inc. Other service marks, trademarks and trade names which may be referred to herein are the property of their respective owners.

SPECIAL CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K (this "Annual Report") and the information incorporated herein by reference, and our other public documents and statements our officers and representatives may make from time to time, contain forward-looking statements within the meaning of the federal securities laws. These statements are intended to be covered by the safe harbor provisions of these laws. You can find many of these statements by looking for words such as "may," "would," "could," "should," "will," "expect," "anticipate," "predict," "project," "potential," "continue," "contemplate," "seek," "assume," "believe," "intend," "plan," "forecast," "goal," "estimate," or other similar terms or expressions or the negative of these terms or expressions, although not all forward-looking statements contain these identifying terms or expressions.

These forward-looking statements involve known and unknown risks and uncertainties and relate to future events or our future financial or operating performance. These forward-looking statements are not historical facts, and are based on current expectations, estimates and projections about our industry and business, and on management's beliefs and certain assumptions made by management, many of which, by their nature, are inherently uncertain and beyond our control. Accordingly, you are cautioned that any such forward-looking statements are not guarantees of future performance and are subject to assumptions, risks, uncertainties, and other important factors that are difficult to predict, and that actual results and outcomes may be materially different from the results, performance, achievements, or outcomes expressed or implied by any of our forward-looking statements for a variety of reasons, including the risks, uncertainties and assumptions described in this Annual Report, especially under the headings "Summary of Risk Factors," "Risk Factors," "Legal Proceedings," and "Management's Discussion and Analysis of Financial Condition and Results of Operations." Although we believe that our assumptions and expectations reflected in the forward-looking statements are reasonable as of the date of this Annual Report, we cannot guarantee or offer any assurance of future results, levels of activity, performance, achievements or events. Our forward-looking statements contained in this report speak only as of the date of this Annual Report and, except as required by law, we undertake no obligation to update forward-looking statements to reflect events or circumstances occurring after the date of this Annual Report or any changes in our expectations or any change in any events, conditions or circumstances on which any of our forward-looking statements are based.

SUMMARY RISK FACTORS

Our business is subject to numerous risks and uncertainties, including those described in Part I, Item 1A. "Risk Factors" in this Annual Report on Form 10-K. You should carefully consider these risks and uncertainties when investing in our common stock. The principal risks and uncertainties affecting our business include the following:

- We depend on third-party companies to perform functions critical to our business, and any failure or increased cost on their part could have a material adverse effect on our business.
- We face intense competition and may not be able to compete successfully against existing or future competitors.
- We may not timely identify or effectively respond to consumer needs, expectations or trends, which could adversely affect our relationship with our customers, the demand for our products and services, and our market share.
- Our business depends on effective marketing, including marketing via email, search engine marketing, influencer marketing, and social media marketing. Our competitors have and may continue to cause us to increase our marketing costs and decrease certain other types of marketing, and have and may continue to outspend us on marketing or be more efficient in their spend.
- Economic factors, including recessions, other economic downturns, inflation, our exposure to the U.S. housing market, and decreases in consumer spending, have affected and could continue to adversely affect us.
- Trade policies or restrictions, import and export policies, tariffs, bans, or other measures or events and related macroeconomic effects.
- Our changing business model and use of the Bed Bath & Beyond brand, Overstock brand, buybuy BABY brand, Kirkland's and Kirkland's Home brand, Beyond brand, and other brands of ours, could negatively impact our business.
- The changing job market, the changes in our leadership team, the change in our compensation approach, changing job structures, or any inability to attract, retain and engage key personnel could affect our ability to successfully grow our business.
- We rely upon paid and natural search engines to rank our product offerings, and our financial results may suffer if we are unable to maintain our prior rankings in natural searches.
- If we are not profitable and/or are unable to generate sufficient positive cash flow from operations, our ability to continue in business will depend on our ability to raise additional capital, obtain financing or monetize significant assets, and we may be unable to do so.
- Our business depends on the Internet, our infrastructure and transaction-processing systems, and catastrophic events could adversely affect our operating results.
- Compliance with ever-evolving federal, state, and foreign laws and other requirements relating to the handling of information about individuals necessitates significant expenditure and resources, and any failure by us, our vendors or our business partners to comply may result in significant liability, negative publicity, and/or an erosion of trust, which could materially adversely affect our business, results of operations, and financial condition.
- If we or our third-party providers experience cyberattacks or data security incidents, there may be damage to our brand and reputation, material financial penalties, and legal liability, which would materially adversely affect our business, results of operations, and financial condition.
- Failure to comply with, or changes in, laws, regulations and enforcement activities may adversely affect the products, services and markets in which we operate.
- From time to time we are subject to various legal proceedings which could adversely affect our business, financial condition or results of operations.
- Damage to our reputation or brand image could adversely affect our sales and results of operations.
- If we do not successfully optimize and operate our fulfillment center or customer service operations, our business could be harmed.
- If we fail to effectively utilize technological advancements, including in artificial intelligence, our business and financial performance could be negatively impacted.
- Global conflict could negatively impact our business, results of operations, and financial condition.
- Product safety and quality concerns could have a material adverse impact on our revenue and profitability.
- We depend on our suppliers' and fulfillment partners' representations regarding product safety, content and quality, product compliance with various laws and regulations, including registration and/or reporting obligations, and for proper labeling of products.
- We have an evolving business model, which increases the complexity of our business.
- Exercising the Warrants is a risky investment and those who exercise their Warrants may not be able to recover the value of their investment in the common stock received upon such exercise. Warrant holders could sustain a total loss of the exercise price of any Warrants that they exercise.

- Investment in new business strategies, acquisitions, dispositions, partnerships, or other transactions could disrupt our ongoing business, present risks not originally contemplated and materially adversely affect our business, reputation, results of operations and financial condition.
- Regulatory changes or actions may alter the nature of an investment in us or restrict the use of cryptocurrencies and blockchain technology in a manner that adversely affects our business, prospects and operations.
- The Merger may not be completed and the Merger Agreement may be terminated in accordance with its terms.
- If the Merger is completed, combining our business with that of TBHC may be more difficult, costly or time-consuming than expected and the combined company may fail to realize the anticipated benefits of the Merger, which may adversely affect the combined company's business results and negatively affect the value of the combined company's common stock.

PART I

ITEM 1. BUSINESS

The following description of our business contains forward-looking statements relating to future events or our future financial or operating performance that involve risks and uncertainties, as set forth above under "Special Note Regarding Forward-Looking Statements." Our actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors described in this Annual Report, including those set forth under "Special Cautionary Note Regarding Forward-Looking Statements" Item 1A under the heading "Risk Factors," or elsewhere in this Annual Report.

Introduction

Bed Bath & Beyond, Inc., is an e-commerce-focused retailer with an affinity model that owns or has ownership interests in various brands, offering a comprehensive array of products and services that enable its customers to enhance everyday life through quality, style, and value. We currently own Bed Bath & Beyond, Overstock, and buybuy BABY, among other brands. We strive to curate an exceptional online shopping experience. Our diversified portfolio of retail offerings allow us to offer a comprehensive array of products and add-on services, catering to customers in the United States. Our e-commerce platform, which is also accessible through our mobile apps, includes www.bedbathandbeyond.com and www.overstock.com, and is collectively referred to as the "Website." The Website is targeted at customers seeking a diverse array of top-tier, on-trend products at competitive prices. From furniture, bedding, and bath essentials to patio and outdoor furniture, area rugs, tabletop and cookware, décor, storage, jewelry, watches, and fashion – we offer an extensive range of products at a smart value. In addition to products, we also offer an increasing number of add-on services across our platforms, including warranties, shipping insurance, and installation services.

Our company, based in Murray, Utah, was founded as a Utah limited liability company in 1997, reorganized as a C corporation in the State of Utah in 1998, and reincorporated in Delaware in 2002. We launched our initial website in March 1999. In November 2023, we changed our corporate name from Overstock.com, Inc. to Beyond, Inc., and transferred the principal listing of our common stock from the Nasdaq Global Market to the New York Stock Exchange. In August 2025, we changed our corporate name from Beyond, Inc. to Bed Bath & Beyond, Inc. and changed our ticker symbol from "BYON" to "BBBY". Our common stock ceased trading under the ticker symbol "BYON" at the close of market August 28, 2025, and on August 29, 2025, our common stock began trading under the ticker symbol "BBBY" on the New York Stock Exchange. We will not distinguish between our prior and current corporate name and will refer to our current corporate name throughout this Annual Report on Form 10-K. As used herein, "Bed Bath & Beyond", "the Company", "we", "our" and similar terms include Bed Bath & Beyond, Inc. and its controlled subsidiaries, unless the context indicates otherwise.

Our Business

Our mission revolves around delivering an unparalleled shopping experience for products and services, tailored especially for our target audience – discerning consumers who seek seamless support in their search for high-quality, stylish products at competitive prices. Our commitment extends to providing a diverse range of offerings that cater to varied budget requirements.

In an ever-evolving market, our focus is on standing out in the online sphere by offering products and services for the home. We believe that our competitive edge lies in the following:

- **Simplified Customer Experience:** We prioritize an easy, user-friendly interface, emphasizing price, value, and quality. Our extensive product range is delivered in a personalized format, accessible seamlessly through our mobile apps, and complemented by our dedicated customer service team.
- **Cutting-edge Technologies:** Our proprietary technologies and strategic technical alliances enhance the overall shopping experience, providing our customers with an intuitive and streamlined experience.
- **Specialized Logistics:** Our logistics capabilities are finely tuned to the demands of the furniture and home furnishings category, which we have honed over decades of e-commerce expertise.
- **Strategic Partnerships:** We foster long-term, mutually beneficial relationships with third-party manufacturers, distributors, and suppliers, collectively referred to as our "partners". This network forms the backbone of our supply chain, allowing us to pursue our goal of consistently meeting customer demands. We also partner with third parties to provide various financial products and services.
- **Omni-Channel Relaunch:** In addition to our partners, we've had a collaborative partnership with The Brand House Collective, Inc. (formerly known as Kirkland's, Inc.) ("TBHC"), and own approximately 40% of TBHC's common stock. In 2025, TBHC converted several Kirkland's Home stores and launched Bed Bath & Beyond brand stores

through an exclusive license with the Company to operate Bed Bath & Beyond neighborhood stores. Additionally, we've entered into a pending merger agreement with TBHC slated to close in the first half of 2026, that is intended to further enable the Company to bring back the omni-channel experience to our Bed Bath & Beyond and buybuy BABY customer base. In January 2025, we also entered into an asset purchase agreement with BBBY Acquisition Co. LLC to acquire certain rights in the buybuy BABY brand, as well as assets, data, information and content related to the associated buybuy BABY website.

- **Customer Loyalty Programs:** Our customer engagement and retention are bolstered by our welcome rewards+ membership program and private label credit card, enhancing the overall value proposition for our customers.

We endeavor to continually expand our product assortment, which as of the date of this Annual Report, reaches into the millions, to keep pace with current trends and evolving customer preferences. The vast majority of our retail transactions are fulfilled through our network of partners, who benefit from the access we provide to a large customer base and a suite of convenient services, including marketing, order fulfillment, customer service, and returns handling. Our asset-light supply chain allows us to ship directly to customers from our partners or our warehouses, which primarily handle orders from our partners' owned inventory.

Additional Offerings

We offer additional products or services that may complement our primary retail offerings but are not significant to our revenues, including:

- **Business Advertising Opportunities:** Providing businesses with a platform to showcase their products or services on our Website, fostering additional exposure and opportunities for collaboration.
- **Marketplace Services:** Offering a unique service to our partners, enabling them to showcase and sell their products on third-party sites through our Marketplace, creating additional avenues for sales and visibility.
- **Supplier Oasis Integration:** Our Supplier Oasis platform, a singular integration point that empowers our partners to efficiently manage their products, inventory, and sales channels. This streamlined interface also provides access to multi-channel fulfillment services through our expansive distribution network, enhancing operational efficiency for our valued partners.

Manufacturer, Distributor, and Supplier Relationships

We proactively cultivate and nurture relationships with manufacturers, distributors, and suppliers to help provide an uninterrupted stream of diverse product offerings for our customers. While our manufacturers, distributors, and suppliers regularly update us on available product quantities, our arrangements with them typically do not guarantee the sustained availability of these products over a predetermined period. Our relationships are generally non-exclusive. This allows us the flexibility to exercise discretion in selecting and changing suppliers based on our evolving product assortment needs. The terms under which products are sold through our Website are predominantly in our discretion.

Sales and Marketing

We employ a diverse array of strategies to market to and engage our retail consumer audience, using both traditional and digital channels. Our outreach includes targeted direct mail as well as online initiatives, encompassing search engine marketing, display ads, affiliate marketing, e-mail campaigns, and social media promotions. Additionally, we enhance brand visibility through comprehensive advertising efforts across television, video ads, streaming video and audio platforms, social media channels, and strategic event sponsorships.

Customer Service

Our commitment to delivering responsive customer service extends across our channels, including our apps and Website. Staffed by a team of dedicated in-house and outsourced professionals, our customer service department seeks to provide prompt and thorough responses to customer inquiries via phone, SMS, instant online chat, and e-mail, regarding product information, order details, shipping status, returns, and various other customer queries.

In addition to our in-house services, we have trusted partners who independently manage their customer service requests that are held to our high standards, as outlined in their agreements with us.

Technology

We use our internally developed Website alongside a dynamic blend of proprietary technologies, open source solutions, and commercially licensed technologies to bolster our operational capabilities. We maintain connectivity to the Internet through partnerships with multiple telecommunications companies, in order to promote seamless access.

Our primary computer infrastructure is in a data center in Utah. We leverage additional data centers and tap into the resources of public cloud providers which play a pivotal role in functions such as backups, redundancy measures, development and testing environments, disaster recovery protocols, and the overarching support of our corporate systems infrastructure.

Competition

E-commerce is intensely competitive and has relatively low barriers to entry. We believe that competition in this industry is based predominantly on:

- price;
- product and services quality and assortment;
- shopping convenience and product findability;
- website organization and experience;
- order processing and fulfillment;
- order delivery time and accuracy;
- customer service;
- website functionality on mobile devices;
- brand recognition; and
- brand reputation.

We compete with a diverse range of discount general retailers, off-price and club retailers, private sales platforms, specialty retailers, and liquidators in the online pure-play, brick-and-mortar, and omni-channel retail spheres, where the potential exists for competitors to emulate our strategies and target our customer base.

Our current and potential e-commerce competitors include entities that may have greater brand recognition, longer operating histories, larger customer bases, and significantly greater financial, marketing, and other resources than we do. Further, any of them may enter into strategic or commercial relationships with larger, more established and well-financed companies, including exclusive distribution arrangements with our vendors or service suppliers that could deny us access to key products or needed services at competitive prices or at all, or acquisitions of our suppliers or service providers, which could have the same effect. Many of them do or could devote greater resources to marketing and promotional campaigns and devote substantially more resources to their websites and systems development than we do. Many have supply chain operations that decrease product shipping times to their customers, have options for in-store product pick-up, allow in-store returns, or offer other delivery and returns options that we presently do not have. New technologies, the continued enhancement of existing technologies, developments in related areas such as same-day product deliveries, and the development of proprietary delivery systems increase competitive pressures on us.

Intellectual Property and Trade Secrets

We regard our domain names and other intellectual property as critical to our success. We rely on a combination of laws and regulations, including via contractual restrictions with our employees, customers, suppliers, affiliates, and others to establish and protect our proprietary rights, including the law pertaining to trade secrets.

Government Regulation and Legal Matters

We are subject to a wide variety of laws, rules, mandates, and regulations, some of which apply or may apply to us as a result of our business, and others of which apply to us for other reasons, such as our status as a publicly-held company or the places in which we operate. Our business is subject to general business regulations and laws, and regulations and laws specifically governing the internet, e-commerce, and other financial products and services we offer or may offer. Existing and future laws and regulations, directives (including executive orders) and changing enforcement priorities, may result in increasing expenses and may impede our growth. Applicable and potentially applicable regulations and laws include without limitation regulations and laws regarding taxation, business licensing or certification requirements, advertising practices, online services, the use of cryptocurrency, intellectual property rights, privacy, encryption, restrictions on pricing or discounts, and the U.S. Foreign Corrupt Practices Act and other applicable U.S. and foreign laws prohibiting corrupt payments to government officials and other third parties, privacy, consumer and data protection, pricing, content, copyrights, distribution, mobile communications, electronic device certification, electronic waste, energy consumption, environmental regulation, electronic contracts and other communications, competition, employment, import and export matters including tariffs and the importation of specified or proscribed items and importation quotas, information reporting requirements, access to our services and facilities, the design and operation of websites, health, safety, and sanitation standards, the characteristics and quality of products and services, product labeling and unfair and deceptive trade practices.

From time to time, we receive claims and become subject to regulatory investigations or other governmental actions, including consumer protection, employment, intellectual property, and other commercial litigation related to the conduct of our business. We periodically prosecute lawsuits to enforce our legal rights. These matters and other types of claims could result in legal expenses, fines, adverse judgments or settlements and increase the cost of doing business. They could also require us to change our business practices in expensive and significant ways. In addition, litigation could result in legal outcomes or interpretations of the law that may limit our current or future business, require us to change our business practices, or increase our costs or otherwise adversely impact our business.

For further information, see (Item 1A—"Risk Factors") and the information set forth under Item 8 of Part II, "Financial Statements and Supplementary Data"—Note 14—Commitments and Contingencies, *Legal proceedings and contingencies*, contained in the "Notes to Consolidated Financial Statements" of this Annual Report.

Human Capital Management

On December 31, 2025, we had approximately 389 full-time employees. We have never had a work stoppage and none of our employees are represented by a labor union. We consider our employee relations to be good. Competition for qualified personnel in our industry is high. Bed Bath & Beyond places great value on its human capital management and knows its people are critical to driving the business to success. We focus on our human capital management in many ways, including the following.

Belonging

We embrace belonging and collaboration in our workforce, our ways of thinking, and our decision-making. We know that fostering a belonging culture delivers better business outcomes. We are committed to creating a workplace that values and celebrates the unique backgrounds, perspectives, and experiences of our employees. Our commitments to improving workplace practices include: (1) increasing employee engagement of our team at all levels, (2) valuing the varied and broad voices of our employees, and (3) fostering inclusion and safety within our workforce. Among the many ways we demonstrate these commitments are through our hiring and development practices, flexible and working-parent-friendly programs, anti-discrimination policies, and focus on pay equity.

We view belonging as a competitive advantage that drives innovation, creativity, and success. We are dedicated to creating a workplace where everyone has the opportunity to thrive, and we believe that our commitment to belonging will contribute to our long-term growth and sustainability.

Workforce Compensation & Pay Equity

The total rewards philosophy of Bed Bath & Beyond is to create and maintain competitive programs that attract, motivate, develop, and retain employees based on the prevailing industry and geographic labor markets where the Company does business. Our competitive compensation programs consist of cash and non-cash compensation based on relevant pay factors designed to balance market competitiveness and cost containment to incentivize the achievement of financial performance goals and business objectives and to aid in retaining human capital. We designed our total rewards to link the market competitiveness of an employee's compensation with overall Company performance, aligning employees' financial interests with the interests of the Company and its stockholders.

Elements of our compensation package for all non-executive employees consists of base salary or wages, short-term bonus incentives to reward the achievement of key financial performance goals and business objectives, and for eligible key contributors, long-term equity incentives that align to the interests of the Company and its stockholders.

We monitor changes in the value of each employee's job annually and adjust base pay and short-term incentives based on a combination of factors, including, but not limited to, employee performance to pre-determined goals and the Company's overall performance against broader financial and operational goals and objectives. We determine external market competitiveness by gathering salary information from professionally managed third-party salary surveys and by determining pay for individual employees based on their skill level, experience, education, and any other relevant compensatory factors. We balance internal pay equity with external pay equity to ensure compensation is fairly and equitably dispersed and in compliance with applicable laws, regulations, or other legal requirements.

We offer all employees the ability to save for retirement by matching dollar for dollar up to 6% of their savings into a qualified savings plan up to certain pre-determined limits set by the IRS.

Our intention is to offer every employee fair and equitable cash compensation and competitive non-cash benefits to help employees manage the wealth, health, and wellness of both themselves and their families.

Talent Acquisition & Retention

We work diligently to attract the best talent from a diverse range of sources and locations to support the current and future demands of our business. We recruit talent from twenty-six states across the United States and the Republic of Ireland. We endeavor to establish relationships with universities, professional associations, and industry groups to proactively attract talent. We look for ways to improve our recruiting process regularly and ensure each applicant feels welcome and comfortable through the recruiting process.

We have a strong employee value proposition that leverages our culture, shared alignment to critical business and financial objectives and goals, collaborative and flexible working environment, shared sense of purpose, desire to do the right thing and innovative work to attract talent to our company. We empower employees to find new and better ways of doing things, and the scale of our business means that careers can develop in exciting and unexpected directions. To ensure the long-term continuity of our business, we actively manage the development of existing talent to fill the roles that are most critical to the ongoing success of our Company.

Our employees have an average tenure of eight years overall, with an average tenure of eight and three-quarter years in our customer service department.

Employee Safety & Wellness

Creating a culture where all employees feel supported and valued is a key part of our Company mission. We continue to evolve our programs to meet our employees' wealth, health, and wellness needs, which we believe is essential to attract and retain employees of the highest caliber. We provide comprehensive benefit options for our employees and their families to live healthier and more secure lives. Some of the various insurances we offer include medical, dental, and vision, among others, along with health savings accounts, flexible spending accounts and 401(k) matching and employee stock purchase plan (ESPP) programs. In addition to these more traditional benefits offerings, we also expanded our employee assistance program (EAP) to better align with our national employee base. We offer family planning services, including fertility coverage, to assist potential parents. We offer paid parental leave for all new parents who have been with the Company for at least 90-days to ensure they are able to adjust. We also offer a caregiver benefit to parents who need to travel for work, which allows employees who have a child under the age of two to travel with the employee. In 2024, we expanded our benefits to include a flexible work schedule

by offering flexible time away (unlimited) to all exempt employees, to allow our employees maximum flexibility and trust in our performance-based culture. Additionally, we launched an employee volunteer program, Beyond Cares, pursuant to which each full-time employee spends at least 32 hours a year of work time volunteering for an organization of choice in their community.

Development & Training

We recognize how important it is for our employees to develop and progress in their careers. We provide a variety of resources to help our employees grow in their current roles and build new skills, including online development resources from a competency model development library to hundreds of online courses in our learning management system. We emphasize individual development planning as part of our annual goal setting process and offer mentoring programs, along with change management and project management upskilling opportunities. We have leadership development resources for all leaders across the organization and continue to build tools for leaders to develop their teams on the job and in roles to create new opportunities to learn and grow. We also encourage higher education and continuing professional education by subsidizing these opportunities for our employees.

Company Culture

We attribute the high levels of employee engagement to our corporate culture. We strive for a work environment that is performance-based, results-driven, provides a sense of belonging, agile, and collaborative. Our culture is grounded in our three core values, Accountability, Adaptability, and Authenticity, which guide how we operate and create value. We act with an owner's mindset to deliver results, embrace change and continuous improvement to drive innovation, and foster culture of integrity and belonging where employees are empowered to bring their true selves to work.

Our values reflect our commitment to an accountable, authentic, and adaptable work environment, and embody our evolving culture. These three core values guide how we lead, collaborate, and make decisions, fostering a psychologically safe environment where individuals take ownership, communicate openly, and respond effectively to change in pursuit of better outcomes. We strive to clearly define, model, measure, and develop the behaviors that reinforce accountability, authenticity, and adaptability in our employees, empowering everyone to be effective and impactful contributors to the organization. By embracing these values, we create a culture that attracts, develops, engages, and retains highly qualified individuals for every role. Our goal is for every employee to feel valued, trusted, and empowered as part of a resilient and high-performing team, doing meaningful work in an environment grounded in integrity and growth. The Company is committed to consistently reinforcing these values throughout the entire employee experience.

Oversight & Governance

Our focus on human capital management, understanding that people truly are a Company's most valuable asset, and that culture is an organization's ultimate competitive advantage. Our 401(k) committee meets at least twice per year to review the plan and determine if any changes need to be made to the portfolio, in order to best serve our employees. Our board of directors dedicates time in quarterly meetings with management to discuss trends in hiring, engagement, and attrition. Our Compensation Committee is actively involved in determining competitive compensation strategies to help us continually improve in attracting, developing, and retaining top talent for our Company.

Information About Our Executive Officers

The following persons were executive officers of Bed Bath & Beyond as of February 24, 2026:

Executive Officers	Age	Position
Adrianne Lee	48	President and Chief Financial Officer (Principal Financial Officer)
Marcus Lemonis	52	Executive Chairman and Chief Executive Officer (Principal Executive Officer)
Leah Putnam	36	Chief Accounting Officer (Principal Accounting Officer)

Adrianne Lee was appointed as our President and Chief Financial Officer in March 2025. Prior to that, Ms. Lee served as Chief Financial & Administrative Officer from February 2024 to March 2025, and previously served as Chief Financial Officer from March 2020 to February 2024. Prior to joining Bed Bath & Beyond, Ms. Lee served as Senior Vice President and CFO of North America RAC from December 2018 to March 2020 and as Vice President—Global Financial Planning and Analysis and Corporate Development at The Hertz Corporation from December 2017 to December 2018.

Marcus Lemonis was appointed as the Executive Chairman of the Board of Directors of Bed Bath & Beyond, effective February 20, 2024 and was appointed as our Chief Executive Officer in January 2026. Mr. Lemonis joined the Board on October 2, 2023, and has served as Chairman of the Board since December 10, 2023. Mr. Lemonis previously served as the Chief Executive Officer and Chairman of the Board of Camping World Holdings, Inc. from 2022 to January 2026.

Leah Putnam was appointed as our Chief Accounting Officer in March 2025. Prior to that, Ms. Putnam served as Vice President of Finance and Controller from February 2024 to March 2025, Vice President, Financial Planning and Analysis from March 2023 to February 2024, Senior Director of Financial Planning and Analysis from January 2022 to March 2023, and Director of Financial Planning and Analysis from August 2020 to January 2022. Prior to joining Bed Bath & Beyond, Ms. Putnam held several corporate finance, financial systems, and data governance roles at The Hertz Corporation from 2018 to 2020.

Available Information

We make our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, available free of charge through the Investor Relations section of our main website, www.beyond.com, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the Securities and Exchange Commission (the "SEC"). The SEC also maintains a website at www.sec.gov that contains reports, proxy and information statements, and other information filed by us. Our Internet Website and the information contained therein or connected thereto are not a part of or incorporated into this Annual Report on Form 10-K.

ITEM 1A. RISK FACTORS

Any investment in our securities involves a high degree of risk. Please consider the following risk factors carefully. If any one or more of the following risks were to occur, it could have a material adverse effect on our business, prospects, financial condition and results of operations, and the market price of our securities could decrease significantly. Statements below to the effect that an event could or would harm our business (or have an adverse effect on our business or similar statements) mean that the event could or would have a material adverse effect on our business, prospects, financial condition and results of operations, which in turn could or would have a material adverse effect on the market price of our securities. Many of the risks we face involve more than one type of risk. Consequently, you should carefully read all of the risk factors below, and in any reports we file with the SEC after we file this Annual Report, before making any decision to acquire or hold our securities.

Risks Relating to Our Company and its Operational, Litigation and Regulatory Environment

We depend on third-party companies to perform functions critical to our business, and any failure or increased cost on their part could have a material adverse effect on our business.

We depend on third-party companies, including third-party carriers, insurers, warranty providers, and a large number of independent fulfillment partners whose products we offer for sale on our Website, to perform functions critical to our business and our ability to deliver products and services to our customers on time and at a reasonable cost. We depend on our carriers, insurers, warranty providers, and fulfillment partners to perform traditional retail operations such as maintaining inventory, preparing merchandise for shipment to our customers, delivering purchased merchandise on a timely and cost-effective basis, insuring the products, and offering warranty services associated with products. We also depend on the delivery and product assembly services that we and they utilize, on the payment processors that facilitate our customers' payments for their purchases, and on other third parties (including SaaS, IaaS, and other cloud-based third-party service providers) over which we have no control, for the operation of our business. Difficulties with any of our significant fulfillment partners or third-party carriers, insurers, warranty providers, delivery or product assembly services, payment processors or any of the third-party service providers involved in our business, regardless of the reason, could have a material adverse effect on our financial results, business and prospects.

We face intense competition and may not be able to compete successfully against existing or future competitors.

The online retail market is evolving rapidly and is intensely competitive. Barriers to entry can be minimal, and current and new competitors can launch new websites at a relatively low cost. We currently compete with numerous competitors, including:

- online retailers with or without discount departments, including Amazon.com, AliExpress (part of the Alibaba Group), eBay, Temu, and Rakuten.com;
- online shopping services, including Google Shopping, Facebook, Instagram, and TikTok;
- online specialty retailers such as Wayfair, Build.com, Houzz, Hayneedle, Rugs.com, Groupon, and World Market;
- furniture specialists including Bob's Discount Furniture, Havertys, Raymour & Flanigan, At Home, Tuesday Morning, Living Spaces, Nebraska Furniture Mart, RC Willey, and Rooms To Go;
- traditional general merchandise and specialty retailers and liquidators including Ashley Furniture, Best Buy, Costco, Crate and Barrel, Ethan Allen, Gilt, Home Depot, HomeGoods, Hudson's Bay Company, IKEA, J.C. Penney Company, Kohl's, Lands' End, Lowe's, Macy's, Nordstrom, Pottery Barn, Arhaus, RH, Ross Stores, Saks Fifth Avenue, Sears, T.J. Maxx, Target, Walmart, West Elm, and Williams-Sonoma, all of which also have an online presence; and
- online liquidators such as SmartBargains.

We expect that existing and future traditional manufacturers and retailers will continue to add or improve their e-commerce offerings, and that our existing and future e-commerce competitors, including Amazon, will continue to increase their offerings, their delivery capabilities, and the ways in which they entice and enable shoppers to purchase goods, including their mobile technology and the voice-activated shopping services offered by Amazon. Further, large marketplace websites and sites which aggregate marketplace sellers with a large product selection are becoming increasingly popular. We may not be able to place our products on these sites to take advantage of their internal search platforms and some shoppers may begin their searches at these websites rather than utilize traditional search engines at all. Many of our competitors specialize in one or more of the areas in which we offer products. For example, our furniture offerings compete with numerous retail furniture websites and traditional furniture retail specialists. We also face competition from shopping services such as Google Shopping, which

offers products from Walmart, Costco, Target and many other retailers. Competition from our competitors, many of whom have longer operating histories, larger customer bases, greater brand recognition, greater access to capital and significantly greater financial, marketing and other resources than we do, affects us and has had and could continue to have a material adverse effect on our financial results, business and prospects.

We may not timely identify or effectively respond to consumer needs, expectations or trends, which could adversely affect our relationship with our customers, the demand for our products and services, and our market share.

The success of our business depends in part on our ability to identify and respond promptly to evolving trends in demographics, shifts in consumer preferences, expectations and needs, changes in the macroeconomic environment, and unexpected weather conditions, natural disasters, or public health issues (including pandemics and related impacts) that impact our customers, while also managing appropriate inventory levels and maintaining an excellent customer experience. It is difficult to successfully predict the products and services our customers will demand. As our customers expect a more personalized experience, our ability to collect, use, retain, and protect relevant customer data is important to our ability to effectively meet their expectations. Our ability to collect and use that data, however, is subject to a number of external factors, including the impact of legislation or regulations governing data privacy, data-driven technologies such as artificial intelligence, and data security, as well as customer expectations around data collection, retention, and use. In addition, each of our primary customer groups has different needs and expectations, many of which evolve as the demographics in a particular customer group change. Customer preferences and expectations related to sustainability of products and operations are also changing. In addition, as the impacts of COVID-19 have subsided, customers have shifted more of their spending back to travel, dining and other experiences, compared to the historic levels of home improvement spending we saw during the heights of the pandemic. If we do not successfully differentiate the shopping experience to attract our customers and meet their individual needs and expectations, it may adversely impact our sales and our market share.

Customer expectations about the methods by which they purchase and receive products or services are also becoming more demanding. Customers routinely and increasingly use technology, including without limitation, artificial intelligence, as well as a variety of electronic devices and digital platforms to rapidly compare products and prices, read product reviews, determine real-time product availability, and purchase products, and new channels and tools to expand the customer experience appear and change rapidly. We must continually anticipate and adapt to these changes in the shopping and purchasing process by continuing to adjust and enhance the customer experience as well as our delivery options. We cannot guarantee that our current or future fulfillment options will be maintained and implemented successfully or that we will be able to meet customer expectations on delivery or pickup times, options and costs.

Failure to provide a relevant and effective customer experience in a timely manner that keeps pace with technological developments and dynamic customer expectations, preferences, and trends or to differentiate the customer experience could adversely affect our relationship with our customers, the demand for our products and services, and our market share.

Our business depends on effective marketing, including marketing via email, search engine marketing, influencer marketing, and social media marketing. Our competitors have and may continue to cause us to increase our marketing costs and decrease certain other types of marketing, and have and may continue to outspend us on marketing or be more efficient in their spend.

We depend on effective marketing and inflow of customer traffic. We depend on search engine marketing, email, and other e-commerce marketing methods to promote our site and offerings and to generate a substantial portion of our revenue. If a significant portion of our target customers no longer utilize email, or if we are unable to effectively and economically deliver email or marketing materials through other channels to our potential customers, whether for legal, regulatory or other reasons, it would have a material adverse effect on our business. For example, some email services have features that organize incoming emails into categories and such categorization or similar inbox organizational features may result in our emails being delivered in a less prominent location in a customer’s inbox or viewed as “spam” by our customers and may reduce the likelihood of that customer opening our emails. Actions by third parties to block, impose restrictions on or charge for the delivery of emails or other messages could also adversely impact our business. From time to time, Internet service providers or other third parties may block bulk email transmissions or otherwise experience technical difficulties that result in our inability to successfully deliver emails or other messages to third parties.

We also rely on social media and influencers for marketing purposes, and anything that limits our ability or our customers' ability or desire to utilize social media could have a material adverse effect on our business, including changes to the terms of social networking services to limit promotional communications, any restrictions that would limit our ability or our customers' ability to send communications through their services, disruptions or downtime experienced by these social

networking services, or decline in or cessation of the use of or engagement with social networking services, including due to legislation, regulation, or directives (including executive orders).

In addition to competing with us for customers, suppliers, and employees, our competitors have and may continue to directly increase our operating costs, by driving up the cost of various forms of online advertising. Furthermore, our competitors may outspend us or be more efficient on various forms of advertising or marketing, making our marketing efforts less effective. We may elect to decrease our use of search engine marketing or other forms of marketing from time to time in order to decrease our costs, which may have a material adverse effect on our financial results and business. We may also elect to spend additional amounts on search engine marketing or other forms of marketing from time to time in order to increase traffic to our Website, or to take other strategic actions to increase traffic and/or conversion, and such increased spending may not be effective on a cost-benefit basis, or at all. If we are unable to develop, improve, implement and maintain effective and efficient cost-effective advertising and marketing programs, it would have a material adverse effect on our financial results and business.

Economic factors, including recessions, other economic downturns, inflation, our exposure to the U.S. housing market, and decreases in consumer spending, have affected and could continue to adversely affect us.

Various economic conditions, including recessions, other economic downturns, inflation, weaknesses in the U.S. housing market, and decreased consumer discretionary spending have adversely affected and could further adversely affect our financial performance. We believe that our sales of home-related products are affected by the strength of the U.S. housing market and overall consumer sentiment on discretionary goods. Recessions or other economic downturns, in particular in the U.S. housing market, have negatively impacted our sales in the past, and could have a material adverse effect on our financial results, business, and prospects in the future. Similarly, a substantial portion of the products and services we offer are products or services that consumers may view as discretionary items rather than necessities. As a result, our results of operations are sensitive to changes in macroeconomic conditions that impact consumer spending, including discretionary spending. Difficult macroeconomic conditions also impact our customers' ability to obtain consumer credit and therefore their purchasing power. Other factors, including consumer confidence in the economy, employment levels, interest rates, inflation, fuel and energy costs, tax rates, and consumer debt levels could reduce consumer spending or change consumer purchasing habits. Any of the foregoing could have a material adverse effect on our financial results, business, and prospects.

Tariffs, bans, or other measures or events that increase the effective price of products or limit our ability to access products we or our suppliers, fulfillment partners, or other third parties that import or export could have a material adverse effect on our business.

We and many of our suppliers and fulfillment partners source a large percentage of the products we offer on our Website from China and other countries. Restrictions on international trade, including increased tariffs or other trade barriers are expected to increase the prices of imported products sold on our Website or limit our ability to access products sold on our Website. These factors in turn could reduce consumer demand and impact sales volume. Increased prices and/or supply chain challenges and the unpredictability of applicable trade barriers, including their scope and duration, have had an adverse effect and could in the future have a material adverse effect on our financial results, business and prospects, including due to their impact on general macroeconomic conditions.

Our changing business model and use of the Bed Bath & Beyond brand, Overstock brand, buybuy BABY brand, Kirkland's and Kirkland's Home brand, Beyond brand, and other brands of ours, could negatively impact our business.

Our business has undergone a number of changes in the recent past, including our company name changing from Overstock.com, Inc. to Beyond, Inc. to Bed Bath & Beyond, Inc., our purchase of the Bed Bath & Beyond and Kirkland's and Kirkland's Home brands, changing our company ticker symbol from OSTK to BYON to BBBY, and transferring the listing of our common stock from the Nasdaq Stock Market LLC to the New York Stock Exchange. Additionally, we have from time to time made, and expect in the future to make, changes in the portions of our business that we invest in omnichannel, digital, or physical channels. These changes, along with others, may cause negative impacts to our business, including customer and stockholder confusion about our brands, the need for higher promotional discounting or marketing costs to acquire and maintain customers, diversion of the attention of management or key personnel, employee fatigue resulting from implementation efforts, disruptions to existing business relationships, and other unforeseen costs, expenses, losses, disruptions, delays, or negative impacts that could have a material adverse effect on our financial results, business and prospects.

The changing job market, the changes in our leadership team, the change in our compensation approach, changing job structures, or any inability to attract, retain and engage key personnel could affect our ability to successfully grow our business.

Our performance is substantially dependent on the continued service and performance of our senior management, our board of directors, and other key personnel. In 2024 and 2025, we underwent significant changes to our executive management team and board of directors, structural changes to our organization, and changes to our workforce with reductions in force. Additionally, in 2025, we adjusted our approach to our executives' equity compensation from a fully performance-based approach to a balanced performance and time-based approach.

With many businesses allowing employees to work remotely, we are forced to compete with businesses in other locations and states to attract and retain key employees. We announced that local employees will be asked to increase their onsite work from three days each week to four days each week at a new location. We also announced the elimination of our 9-80 schedule (where employees were permitted to work nine-hour days, rather than standard eight-hour days, and take every other Friday off from work). Changes in leadership, structural changes to our organization, reductions in force, changed approach to performance-based compensation, and changes in job structures could create consequences such as a lack of or decreased productivity, a lack of engagement, employee dissatisfaction, and employee fatigue, any of which could impair our ability to recruit, hire, and retain employees. Our success depends on our ability to identify, attract, recruit, hire, train, engage, retain, and motivate highly-skilled personnel necessary to successfully operate our business. Our failure to do any of the foregoing could have a material adverse effect on our financial results, business and prospects.

We rely upon paid and natural search engines to rank our product offerings, and our financial results may suffer if we are unable to maintain our prior rankings in natural searches.

We rely on paid and natural search engines to attract consumer interest in our product offerings, including Google, Bing, and Yahoo!. Changes to their ranking algorithms and competition from other retailers to attract consumer interest may adversely affect our product offerings in paid and/or natural searches. Search engine companies change their natural search engine algorithms periodically and online retailers compete to rank well with these search engine companies. Our ranking in natural searches may be adversely affected by those changes, as has occurred from time to time, which has led us to pursue revenue growth in other more expensive marketing channels. Google's search engine is dominant in our business and has historically been a significant source of traffic to our websites. Search engine companies may also determine that we are not in compliance with their guidelines from time to time, as has occurred in the past, and they may penalize us in their search algorithms as a result. In recent years, we have experienced declines in our rankings in Google's natural search engine, which has required us to utilize more expensive marketing channels or otherwise compensate for the loss of some of the natural search traffic. Any future declines in our rankings in Google's natural search engine could have a material adverse effect on our business. Additionally, in recent years, a shift in user search behavior has started, with an increasing number of individuals transitioning from traditional search engines like Google to AI platform answer engines such as ChatGPT, Grok, and Copilot for certain types of queries. This transition stems from the way AI tools can effectively address certain questions that users once turned to search engines to answer. This evolution in how people are seeking information, even if often complementing, rather than replacing, the kinds of user intent queries we typically focus on, could have a material adverse effect on our business.

If we are not profitable and/or are unable to generate sufficient positive cash flow from operations, our ability to continue in business will depend on our ability to raise additional capital, obtain financing or monetize significant assets, and we may be unable to do so.

At December 31, 2025, our accumulated deficit was $842.7 million. We experienced significant losses in years leading up to 2020. Although our financial results were significantly better in 2020 and 2021, we incurred additional losses in 2022 through 2025, which included significant non-cash losses on our equity method investments and a write-down loss on our corporate headquarters. If we are unable to successfully manage our business in the future, our ability to continue in business could depend on our ability to raise sufficient additional capital, obtain sufficient financing, or sell or otherwise monetize significant assets. Additionally, we may not be able to raise capital on acceptable terms or at all. The occurrence of any of the foregoing risks would have a material adverse effect on our financial results, business and prospects.

Our business depends on the Internet, our infrastructure and transaction-processing systems, and catastrophic events could adversely affect our operating results.

We are completely dependent on our infrastructure and on the availability, reliability and security of the Internet and related systems. Although we have migrated and continue to migrate some of our computer systems and operations to the public cloud, a substantial majority of our computer and communications infrastructure is running in our private cloud on hardware that is located at a single facility, which we sold on December 20, 2024. As part of the sale, we entered into a lease agreement that allows us to continue to occupy and use the data center at the facility.

Our systems and operations, and those of the third parties that we rely on, are vulnerable to damage or interruption from natural disasters or extreme weather events (such as earthquakes, floods, fires and droughts), including those related to, or exacerbated by, climate change, other types of fires or floods, power loss, telecommunications failure, software or hardware malfunctions, terrorist attacks, cyberattacks, acts of war, break-ins, and similar events. The adverse effects of any such catastrophic event would be exacerbated if experienced at the same time as another unexpected and adverse event, such as a pandemic. Current events, including political events, social activism, tension and potential for violence, may impact our workforce, customers, properties and the communities where we operate. If our customers and employees do not perceive our response to be appropriate or adequate for a particular region or for our company as a whole, we could suffer damage to our reputation and brand, which could adversely affect our business. As a consequence of these or other catastrophic events, we may experience interruption to our operations or losses of property, equipment and/or inventory, which could adversely affect our revenue and profitability.

Our back-up facility by itself is not adequate to support fulfillment of sales orders. Our servers and applications are vulnerable to malware, physical or electronic break-ins, internal sabotage, and other disruptions, the occurrence of any of which could lead to interruptions, delays, loss of critical data or the inability to accept and fulfill customer orders. Any internal or critical third-party system interruption that results in the unavailability of our websites or our mobile apps or reduced performance of our transaction systems could interrupt or substantially reduce our ability to conduct our business. We have experienced periodic systems interruptions due to server failure, application failure, power failure and intentional cyberattacks in the past, and may experience additional interruptions or failures in the future. Any failure or impairment of our infrastructure or of the availability of the Internet or related systems caused by any source, including the housing or maintenance of our hardware by a third party (including the purchaser of the facility where it is now located), or any inability to access or protect our hardware in a timely manner, could have a material adverse effect on our financial results, business and prospects. In addition, the occurrence of any event that would adversely affect e-commerce or discourage or prevent consumers from shopping online or via mobile apps could significantly decrease the volume of our sales.

Compliance with ever-evolving federal, state, and foreign laws and other requirements relating to the handling of information about individuals necessitates significant expenditure and resources, and any failure by us, our vendors or our business partners to comply may result in significant liability, negative publicity, and/or an erosion of trust, which could materially adversely affect our business, results of operations, and financial condition.

In connection with running our business, we receive, store, use and otherwise process information that relates to individuals and/or constitutes "personal data," "personal information," "personally identifiable information," or similar terms under applicable data privacy laws (collectively, "Personal Information"), including from and about actual, former and prospective customers as well as our employees and business contacts. We also depend on a number of third party vendors in relation to the operation of our business, a number of which process Personal Information on our behalf. In addition, we share Personal Information with, and obtain Personal Information from, certain business partners pursuant to commercial arrangements.

We, our vendors and our business partners are subject to a variety of federal, state and foreign data privacy laws, rules, regulations, industry standards and other requirements. These requirements, and their application, interpretation and amendment are constantly evolving. It is also possible that new laws, regulations and other requirements, or amendments to or changes in interpretations of existing laws, regulations and other requirements, may require us to incur significant costs, implement new processes, or change our handling of information and business operations, which could ultimately hinder our ability to grow our business by extracting value from our data assets. For example, in the United States, the Federal Trade Commission and state regulators enforce a variety of data privacy issues, such as promises made in privacy policies or failures to appropriately protect information about individuals, as unfair or deceptive acts or practices in or affecting commerce in violation of the Federal Trade Commission Act or similar state laws.

In addition, in recent years, certain states have adopted or modified data privacy and security laws and regulations that may apply to our business. For example, the California Consumer Privacy Act ("CCPA") requires businesses that process personal information of California residents to, among other things: provide certain disclosures to California residents regarding the business's collection, use, and disclosure of their personal information; receive and respond to requests from California residents to access, delete, and correct their personal information, or to opt-out of certain disclosures of their personal information; and enter into specific contractual provisions with service providers that process California resident personal information on the business's behalf. The enactment of the CCPA is prompting a wave of similar legislative developments in other states in the United States, which creates a patchwork of overlapping but different state laws. For example, since the CCPA went into effect, numerous state laws that share similarities with the CCPA are now in effect. Similar laws have been proposed in many other states and at the federal level as well.

Additionally, laws, regulations, and standards covering marketing, advertising, and other activities conducted by telephone, email, mobile devices, and the internet may be or become applicable to our business, such as the Telephone Consumer Protection Act (the "TCPA"), the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (the "CAN-SPAM Act"), and similar state consumer protection and communication privacy laws. For example, we send text messages to customers as part of our business operations. The actual or perceived improper sending of text messages may subject us to potential risks, including liabilities or claims relating to consumer protection laws such as the TCPA, which imposes significant restrictions on the ability to make telephone calls or send text messages to mobile telephone numbers without the prior consent of the person being contacted.

We may also be subject to international privacy laws such as the European Union General Data Protection Regulation and the UK General Data Protection Regulation, as well as laws and regulations in other jurisdictions. These laws contain significant privacy requirements that may impose restrictions on our ability to collect, use, and otherwise process Personal Information.

Even though we believe we are generally in compliance with applicable laws, rules and regulations relating to privacy and data security, these laws are in some cases relatively new and the interpretation and application of these laws are uncertain. Any failure or perceived failure by us (or in some cases, our vendors and business partners) to comply with data privacy laws, rules, regulations, industry standards and other requirements could result in proceedings or actions against us by individuals, consumer rights groups, government agencies, or others. We could incur significant costs in investigating and defending such claims and, if found liable, pay significant damages or fines or be required to make changes to our business. Further, these proceedings and any subsequent adverse outcomes may subject us to significant negative publicity and an erosion of trust. If any of these events were to occur, our business, results of operations, and financial condition could be materially adversely affected.

If we or our third-party providers experience cyberattacks or data security incidents, there may be damage to our brand and reputation, material financial penalties, and legal liability, which would materially adversely affect our business, results of operations, and financial condition.

We rely on our computer systems, hardware, software, technology infrastructure, and online sites and networks, as well as those of our third-party providers for both internal and external operations that are critical to our business (collectively, "IT Systems"). We own and manage some of these IT Systems but also rely on third parties for a range of IT Systems and related products and services, including but not limited to our suppliers, banks, credit card processors, delivery services, and public cloud providers. We and certain of our third-party providers collect, maintain and process data about customers, employees, business partners and others, including personal information, confidential and proprietary intellectual property, financial information, trade secrets, and other business information (collectively, "Confidential Information").

Our business involves the storage and transmission of Confidential Information, and we face numerous and evolving cybersecurity risks that could threaten the confidentiality, integrity and availability of our IT Systems and Confidential Information, including from diverse threat actors, such as state-sponsored organizations, opportunistic hackers and hacktivists, as well as through diverse attack vectors, such as social engineering or phishing, malware (e.g., ransomware), malfeasance by insiders, human or technological error, and as a result of malicious code embedded in open-source software, or misconfigurations, bugs or other vulnerabilities in commercial software that is integrated into our or our third parties' IT Systems, products or services. Because we make extensive use of third party suppliers and service providers, such as banks, credit card processors, delivery services and cloud services that support our internal and customer-facing operations, successful cyberattacks that disrupt or result in unauthorized access to third party IT Systems can materially impact our operations and financial results. Moreover, we have acquired and continue to acquire companies with cybersecurity vulnerabilities or unsophisticated security measures, which exposes us to significant cybersecurity, operational, and financial risks. Remote and

hybrid working arrangements at our company (and at many third-party providers) also increase cybersecurity risks due to the challenges associated with managing remote computing assets and security vulnerabilities that are present in many non-corporate and home networks. Additionally, any integration of artificial intelligence in our or any service providers' or business partners' operations, products or services is expected to pose new or unknown cybersecurity risks and challenges.

Cyberattacks are expected to accelerate on a global basis in frequency and magnitude as threat actors are becoming increasingly sophisticated in using techniques and tools—including artificial intelligence—that circumvent security controls, evade detection and remove forensic evidence. As a result, we may be unable to detect, investigate, remediate or recover from future attacks or incidents, or to avoid a material adverse impact to our IT Systems, Confidential Information or business. There can also be no assurance that our cybersecurity risk management program and processes, including our policies, controls or procedures, will be fully implemented, complied with or effective in protecting our IT Systems and Confidential Information. Furthermore, given the nature of complex systems, software and services like ours, and the scanning tools that we deploy across our networks and products, we regularly identify and track security vulnerabilities. We are unable to comprehensively apply patches or confirm that measures are in place to mitigate all such vulnerabilities, or that patches will be applied before vulnerabilities are exploited by a threat actor.

We and certain of our third-party providers and business partners have experienced a variety of cyber-attacks, which have increased in number and variety over time. Any adverse impact to the availability, integrity or confidentiality of our IT Systems or Confidential Information can result in significant legal and financial exposure (such as class actions), regulatory investigations, damage to our reputation that cause us to lose existing or future customers, a loss of confidence in our security measures, and significant incident response, system restoration or remediation and future compliance costs, any of which could have a material adverse effect on our financial results, operations results, and business. Moreover, any insurance coverage we may carry may be inadequate to cover the expenses and other potential financial exposure we could face due to a cyber-attack or data breach and there can be no assurance that applicable insurance will be available to us in the future on economically reasonable terms or at all.

Moreover, as we accept debit and credit cards for payment, we are subject to the Payment Card Industry Data Security Standard ("PCI-DSS"), issued by the Payment Card Industry Security Standards Council. PCI-DSS contains compliance guidelines with regard to our security surrounding the physical and electronic storage, processing and transmission of cardholder data. If we are unable to comply with the security standards established by banks and the payment card industry, we may be subject to fines, restrictions and expulsion from card acceptance programs, which could materially and adversely affect our business.

We are subject to payment-related risks that could increase our operating costs, expose us to fraud or theft, subject us to potential liability, and potentially disrupt our business.

We accept or have accepted payments using a variety of methods, including credit and debit cards, electronic payments, digital wallets, loan programs including installment loans, and gift cards, and we may offer new payment options over time. Acceptance of these payment options subjects us to rules, regulations, contractual obligations and compliance requirements, including payment network rules and operating guidelines, data security standards and certification requirements, and rules governing electronic funds transfers. These requirements may change over time or be reinterpreted, making compliance more difficult, costly, or uncertain. For certain payment methods, including credit and debit cards, we pay interchange fees and other costs to accept these payments, and we may also incur losses, all of which may increase over time and raise our operating costs. We rely on third parties to provide payment processing services, including the processing of credit cards, debit cards, and other forms of electronic payment. If these companies become unable to provide these services to us, or if their systems are compromised, it could potentially disrupt our business. The payment methods that we offer, and the selling channels in which we operate, also subject us to potential fraud and theft by threat actors, who are becoming increasingly more sophisticated, seeking to obtain unauthorized access to or exploit weaknesses that may exist in our sales, payments and payment processing systems. If we fail to comply with applicable rules or requirements for the payment methods we accept, or if payment-related data is compromised due to a breach or misuse of data, we may be liable for costs incurred by payment card issuing banks and other third parties or we may be subject to fines and higher transaction fees, or our ability to accept or facilitate certain types of payments may be impaired. In addition, our customers could lose confidence in certain payment types, or may expect or demand payment methods that we do not currently offer, which could result in competitive disadvantages or require a shift to other payment types or potential changes to our payment systems that may result in higher costs. As a result, our business and operating results could be adversely affected.

We have significant deferred tax assets and may not be able to realize these assets in the future.

We have established a valuation allowance for our net deferred tax assets, primarily due to recent operating losses, forecasted near-term losses, and uncertainty regarding our future taxable income. Determining whether a valuation allowance for deferred tax assets is appropriate requires judgment and an evaluation of all positive and negative evidence. At each reporting period, we assess the need for, or the sufficiency of a valuation allowance against deferred tax assets. We intend to maintain a valuation allowance on our net deferred tax assets until there is sufficient evidence to support the reversal of all or some portion of the allowance.

We may be required to recognize losses relating to our equity method investments.

At December 31, 2025, we held equity method investments totaling approximately $66.6 million. The underlying equity interests are in entities that are in the startup or development stages. Equity method interests are inherently risky because we do not have the ability to influence the business decisions underlying those investments and because the markets for the technologies or products these companies are developing are typically in the early stages and may never materialize. Since these investments are in companies that are in the early startup or development stages, even if their technology or products are viable, they may not be able to obtain the capital or resources necessary to successfully bring their technology or products to market. We have recognized losses related to these equity method securities in the past and may in the future recognize additional losses. Additionally, due to tax law limitations around deductibility of capital and investment losses, we may not be able to recognize a tax benefit on these losses when they occur. Any such loss could be material and could have a material adverse effect on our financial results.

If governmental entities or providers of consumer devices and internet browsers further restrict or regulate the use of "cookie" tracking technologies, the amount or accuracy of online user information we collect could decrease, which could harm our business and operating results.

Various federal, state and international governmental entities have enacted or are considering enacting legislation or regulations that could significantly restrict the ability of companies to use proprietary or third-party "cookies" and other methods of online tracking for behavioral advertising. For example, some governmental agencies have regulated the level of consumer notice and consent required before a company can employ cookies or other electronic tracking tools or the use of data gathered with such tools. Additionally, some providers of consumer devices and web browsers have implemented or plan to implement methods of making it easier for Internet users to prevent the placement of cookies, to block other tracking technologies or to require new permissions from users for certain activities, which have impacted us in the past and have the potential to significantly reduce the effectiveness of such practices and technologies in the future. Any further restriction on the use of cookies and other online tracking and advertising practices could lower the quality of the data we collect, negatively impact our targeted marketing capabilities, increase costs associated with developing or transitioning to new technologies or methods, and could impact our ability to compete. Increased restrictions on tracking technologies could also lead to increased compliance, legal, and regulatory risks, increased costs associated with the management thereof, and increased costs associated with potential fines, penalties, claims. defense costs, reputational harm, or other associated costs. Such restrictions on tracking could also limit our ability to effectively retain existing customers or acquire new customers and consequently, materially adversely affect our business, financial condition and operating results.

If the legal, regulatory, or tax treatment of our company changes adversely, it could impact our ability to conduct business and, accordingly, our financial results.

New or revised laws, regulations, or court decisions may subject us to additional requirements and new disclosures that could increase the cost of doing business, increase scrutiny for the way decisions are made, decrease our revenues, increase our expenses, or impact our business model. For example, various jurisdictions around the world have enacted or are considering revenue-based taxes such as digital advertising taxes, data collection taxes, and other targeted taxes, which could lead to inconsistent and potentially overlapping tax regimes that could increase our expenses. In addition, significant changes to the federal income tax laws of the United States have been enacted in recent years, including under the Inflation Reduction Act of 2022 and the One Big Beautiful Bill Act of 2025. Other new or revised legal, regulatory, or tax treatment could expose us to additional risk, increase the cost of doing business online, and increase internal costs necessary to capture data, report data, and collect and remit taxes. Any of these items could have a material adverse effect on our business and financial results.

Failure to comply with, or changes in, laws, regulations and enforcement activities may adversely affect the products, services and markets in which we operate.

From time to time, we are subject to claims, individual and class action lawsuits, arbitration proceedings, government and regulatory investigations, inquiries, actions or requests, and other proceedings alleging violations of laws, rules, and regulations with respect to taxation, advertising practices, online services, intellectual property rights, privacy, consumer and data protection, pricing, content, copyrights, distribution, mobile communications, electronic device certification, electronic waste, energy consumption, environmental regulation, electronic contracts and other communications, competition, employment (including inclusion and belonging), labor rights, import and export matters including tariffs and the importation of specified or proscribed items and importation quotas, information reporting requirements (including sustainability reporting), access to our services and facilities, the design and operation of websites, health, safety, and sanitation standards, the characteristics and quality of products and services, product labeling and unfair and deceptive trade practices. There may be changes to the laws, regulation, standards, directives (including executive orders), and enforcement priorities that affect our operations in substantial and unpredictable ways at the federal and state level in the United States and in other countries in which our services are or may be used. Changes to laws, regulations and standards, including interpretation and enforcement of such laws, regulations and standards could increase the cost of doing business or otherwise change how or where we want to do business. In addition, changes to laws, regulations and standards could affect our merchants and software partners and could result in material effects on the way we operate and the cost to operate our business. Failure to comply with such laws, regulations and standards could result in harm to our members, employees and partners in the supply chain, significant costs to satisfy compliance, remediation or compensatory requirements, or the imposition of severe penalties or restrictions on operations by governmental agencies or courts that could adversely affect our reputation, business, financial condition, and results of operations.

From time to time we are subject to various legal proceedings which could adversely affect our business, financial condition or results of operations.

We are involved in various litigation matters from time to time. For more information regarding our material legal proceedings, please see Item 8 of Part II, "Financial Statements and Supplementary Data"—Note 14—Commitments and Contingencies, subheading Legal Proceedings and Contingencies, contained in the "Notes to Consolidated Financial Statements" of this Annual Report. Such matters can be time-consuming, divert management's attention and resources and cause us to incur significant expenses. Our insurance or indemnities may not cover all claims that may be asserted against us, and any claims asserted against us, regardless of merit or eventual outcome, may harm our reputation. If we are unsuccessful in our defense in these litigation matters, or any other legal proceeding, we may be forced to pay damages or fines, enter into consent decrees or change our business practices, any of which could adversely affect our business, financial condition and results of operations.

Damage to our reputation or brand image could adversely affect our sales and results of operations.

Our reputation is largely based on public perceptions. Incidents that erode trust or confidence in us could adversely affect our reputation and thereby impact our business, particularly if the incidents result in rapid or significant adverse publicity, protests, litigation, boycotts, governmental inquiries, or other stakeholder responses. This could include incidents regarding our actions or inactions on issues related to corporate social responsibility or environmental, social, and governance (“ESG”) matters, and any perceived lack of transparency about such matters. We have established, and may continue to establish, various goals and initiatives, including with respect to sustainability and inclusion and belonging. We cannot guarantee that we will achieve these goals and initiatives or that our initiatives will achieve their desired results. Any failure, or perceived failure, by us to achieve these goals and initiatives could lead to adverse perceptions of our business, consumer boycotts, litigation, investigations, and regulatory proceedings. Any of these outcomes could negatively impact our reputation, results of operations, and financial condition. Further, stakeholder expectations regarding ESG and other matters continue to evolve and are not uniform. Our pursuit of our goals and initiatives could also lead to adverse perceptions of our business, consumer boycotts, litigation, investigations, and regulatory proceedings due to differing expectations on ESG and other matters. In turn, damage to our reputation or brand image could, among other things, adversely impact our customer loyalties and sales, our supply chain relationships and business opportunities, our ability to attract and retain talent sufficient to meet business needs, and results of operations. Any of the foregoing can be further exacerbated by changes to laws, regulation, standards, directives (including executive orders), and enforcement priorities. See "*—Failure to comply with, or changes in, laws, regulations and enforcement activities may adversely affect the products, services and markets in which we operate.*"

Regulatory changes or actions may alter the nature of an investment in us or restrict the use of digital assets, including tokens or blockchain technology, in a manner that adversely affects our business, prospects and operations.

As digital assets, such as tokens and cryptocurrencies, and blockchain technology have grown in both popularity and market size, governments around the world have reacted differently to them, with certain governments deeming them illegal while others have allowed their use and trade. Governments may in the future regulate, curtail or outlaw the ability for acquisition, use or redemption of digital assets and blockchain technology. Governments may take regulatory action that may increase the cost and/or subject companies in the digital asset or blockchain technology space to additional regulation. Similar actions by governments or regulatory bodies could result in restriction of the acquisition, ownership, holding, selling, use or trading of digital assets, including our token offerings.

In the United States and certain other jurisdictions, certain digital assets may be securities and subject to the securities laws of the relevant jurisdictions. If we fail to comply with any relevant laws, regulations or prohibitions that may be applicable to us, we could face regulatory or other enforcement actions and potential fines or other consequences. The rapidly evolving regulatory landscape with respect to digital assets and blockchain technology may subject us to inquiries or investigations from regulators and governmental authorities, require us to make product changes, restrict or discontinue product offerings, and implement additional and potentially costly controls. If we fail to comply with regulations, requirements, prohibitions or other obligations applicable to us, we could face regulatory or other enforcement actions and potential fines and other consequences.

Digital assets, including cryptocurrencies and tokens, have in the past and may in the future experience periods of extreme price volatility. Fluctuations in the value of any digital assets that we might hold or offer could also lead to volatility in our financial results and could have an adverse impact on our business. These uncertainties, including accounting and tax developments, or other requirements relating to digital assets or blockchain technology could expose us to litigation, regulatory action and possible liability, and have an adverse effect on our business.

If we do not successfully optimize and operate our fulfillment center or customer service operations, our business could be harmed.

We have expanded, contracted, and otherwise modified our fulfillment centers, warehouses, and customer service operations from time to time in the past, and expect that we will continue to do so. If we do not successfully optimize and operate our fulfillment center and customer service operations, it could significantly limit our ability to meet customer demand, customer shipping or return time expectations, or result in excessive costs and expenses for the size of our business. We may not be able to staff at optimal levels or manage our operations in an optimal way, which could result in reduced customer satisfaction and excess or insufficient inventory or warehousing capacity. Our failure to manage our fulfillment center or customer service operations optimally could adversely affect our financial results and customer experience and could have a material adverse effect on our financial results, business and prospects.

If we fail to effectively utilize technological advancements, including in artificial intelligence, our business and financial performance could be negatively impacted.

Our industry is highly competitive and is undergoing rapid changes due to technological advancement in areas such as artificial intelligence (AI). Our future success depends in part on our ability to effectively utilize these technological advancements. Our competitors may outpace us in incorporating AI into their product offerings, engagement with customers, and to create efficiencies, any of which could affect our competitiveness and operational outcomes. Our efforts to utilize these technological advancements may not be successful, may result in substantial integration and maintenance costs, and may expose us to additional risks. For example, Personal Information that may be used in relation to AI could subject us to data privacy and cybersecurity risks. For more information, see "*Risks Relating to Our Company and its Operational, Litigation, and Regulatory Environment*." Additionally, the content, analyses, or recommendations generated by AI programs, if deficient, inaccurate, or biased, could adversely impact our business, financial condition, and operational results, as well as our reputation. Moreover, ethical concerns associated with AI could lead to brand damage, competitive disadvantages, or legal repercussions. Any problems with our implementation or use of AI or other technological advancements could negatively impact our business or results of our operations.

Global conflict could negatively impact our business, results of operations, and financial condition.

Global conflict could increase costs and limit availability of fuel, energy, and other resources we depend upon for our business operations and could also limit product assortment availability. For example, while we do not operate in Russia or Ukraine, the tensions between the United States and Russia and the other effects of the ongoing conflict in Ukraine, have resulted in many broader economic impacts such as the United States imposing sanctions and bans against Russia and Russian products imported into the United States. Such sanctions and bans have impacted and may continue to impact commodity pricing such as fuel and energy costs, making it more expensive for us and our partners to deliver products to our customers. Conflict in the Middle East has resulted in reduced access to shipping ports, which in turn has increased shipping times and costs. Further, we and many of our suppliers and fulfillment partners source a large percentage of the products we offer on our Website from China. Relations between the United States and China have become increasingly strained and if tensions were to escalate, it could limit or delay our ability to provide a full assortment of furniture and home furnishings on our Website. Sanctions, bans, trade restrictions, or other economic actions in response to present or future conflicts could result in an increase in costs, further disruptions to our supply chain, and a lack of consumer confidence resulting in reduced demand. Any of the foregoing could negatively impact our business, results of operations, and financial condition.

We are partially self-insured with respect to our employees' health insurance. If the actual costs of these claims exceed the amounts we have accrued for them, we would incur additional expense.

Since January 1, 2017, we have been partially self-insured with respect to our employees' health insurance, except to the extent of stop-loss coverage that limits our losses both on a per employee basis and an aggregate basis. The actual costs of our employees' health insurance claims could exceed our estimates of those costs for a number of reasons, including more claims or larger claims than we expect, and increases in the costs of healthcare generally. If the actual cost of our employees' health insurance claims and related expenses exceeds the amounts we have accrued, we may be required to record additional charges for these claims and/or to establish additional cash reserves, which could have a material adverse effect on our financial results, business and prospects.

We may be unable to protect our proprietary technology and to obtain trademark protection for our marks.

Our success depends to a significant degree upon the protection of our software and other proprietary intellectual property rights. We rely on a combination of laws, regulations, and contractual restrictions with our employees, customers, suppliers, affiliates, and others to establish and protect our proprietary rights, including the law pertaining to trade secrets. Despite these precautions, it may be possible for a third party to copy or otherwise obtain and use our intellectual property or trade secrets without authorization. In addition, we cannot ensure that others will not independently develop similar intellectual property. Third parties have in the past recruited and may in the future recruit our employees who have had access to our proprietary technologies, processes and operations. These recruiting efforts expose us to the risk that such employees and those hiring them will misappropriate and exploit our intellectual property and trade secrets. We may be unable to protect against such risks, in the United States or elsewhere, which could have a material adverse effect on our business. Although we have registered some of our, and are pursuing the registration of other key trademarks in the United States and some other countries, some of our trademarks and trade names may not be eligible to receive registered trademark protection. In addition, effective trademark protection may not be available or we may not seek protection in every country in which we market or sell our products and services, including in the United States. Our competitors might adopt product or service marks like our marks or might try to prevent us from using our marks. Any claim by another party against us, or customer confusion related to our trademarks, or our failure to obtain trademark registration, could have a material adverse effect on our financial results, business and prospects.

We are currently subject to claims that we have infringed intellectual property rights of third parties and may be subjected to additional infringement claims in the future.

We have been in the past and may in the future be subject to claims that we have infringed the intellectual property rights of others, by offering allegedly infringing products or otherwise. We have contested and expect to continue to contest claims we consider unfounded rather than settling such claims, even when we expect the costs of contesting the claims could potentially exceed the cost of settlement. Any claims may result in significant expenditure of our financial and managerial resources and may result in us needing to make significant damages or settlement payments or changes to our business. We could be prohibited from using software or business processes, or required to obtain licenses from third parties, which could be expensive or unavailable. Any such difficulties could have a material adverse effect on our financial results, business and prospects.

Product safety and quality concerns could have a material adverse impact on our revenue and profitability.

If the products we sell fail to meet, or are alleged to fail to meet, applicable safety standards or our customers' expectations regarding safety and quality, we could be exposed to increased legal risk and damage to our reputation. Failure to take appropriate actions in relation to product-related issues (for example, product recalls), could lead to violations of laws and regulations and leave us susceptible to government enforcement actions or private litigation. Recalls of products, particularly when combined with lack of available alternatives or difficulty in sourcing sufficient volumes of replacement products, could also have a material adverse impact on our revenue and profitability.

We depend on our suppliers' and fulfillment partners' representations regarding product safety, content and quality, product compliance with various laws and regulations, including registration and/or reporting obligations, and for proper labeling of products.

We rely on our suppliers' and fulfillment partners' representations of product safety, content and quality, product compliance with various laws and regulations, including registration and/or reporting obligations, and proper labeling of products. Issues or concerns regarding product safety, compliance, registration and/or reporting, labeling, content or quality could result in consumer or governmental claims and could adversely affect our financial results and business. Any indemnity agreement we may have with a supplier or fulfillment partner of a product may be inadequate or inapplicable, and any insurance coverage we may carry may be inadequate. Even unsuccessful claims could result in the expenditure of funds and management time and could have a negative impact on our business. The occurrence of any of the foregoing could have a material adverse effect on our financial results, business and prospects.

We have an evolving business model, which increases the complexity of our business.

We are modifying and expanding the types of products and services offered for sale on our websites, may further expand offerings in the future, and we do not know whether any of our modifications or expansions will be successful. From time to time, we have also modified aspects of our business model relating to our product mix and the mix of direct versus partner sourcing of the products offered for sale. Products purchased for direct sale come with additional risks and uncertainties, including costs to maintain inventory, risk of loss from theft or otherwise, and risks associated with the marketing and labeling of products. In addition, we continue to experiment with new technologies to enhance the customer experience and iterate on delivery of new features, and with new services to become the "Everything Home Company." Specifically, we plan to pursue strategic investments or acquisitions in non-retail, home-centric technology, data, products, services and select PropTech solutions, as well as changes in our investments in physical assets such as inventory and leases, and are focused on our three Pillars, which includes omnichannel commerce; digital, financial, insurance & blockchain services; and Beyond Home Platforms & Beyond Home OS. The additions and modifications to our business have increased the complexity of our business and have impacted, and may in the future materially impact, our management, personnel, operations, systems, technical performance, financial resources, and internal control and reporting functions. Further, our efforts to right-size our cost structure and create a more flexible technology stack may result in the introduction of technologies that are less mature or stable, which could cause problems in our website or back-end logistics systems or compliance efforts. Further, any new business, products or services, technology, or website we launch that is not favorably received by consumers could damage our reputation and our brand. The occurrence of any of the foregoing could have a material adverse effect on our financial results, business, prospects, and the trading prices of our securities.

Investment in new business strategies, acquisitions, dispositions, partnerships, or other transactions could disrupt our ongoing business, present risks not originally contemplated and materially adversely affect our business, reputation, results of operations and financial condition.

We have invested, and in the future may invest, in new business strategies, acquisitions, dispositions, partnerships, or other transactions. We intend for these initiatives to drive efficiencies and improve margins. Such endeavors may involve significant risks and uncertainties, including distraction of management from current operations, greater-than-expected liabilities and expenses, new claims or litigation, economic, political, legal and regulatory challenges associated with operating in new businesses, regions or countries, inadequate return on capital, unrealized benefits or unanticipated delays in realized benefits, potential impairment of tangible and intangible assets, and significant write-offs. Investment, acquisition, disposition and partnership transactions are exposed to additional risks, including the imposition of onerous conditions that could delay or prevent us from completing a transaction or otherwise limit our ability to fully realize the anticipated benefits of a transaction. Rapid, significant, and disruptive technological changes impact the industries in which we operate or in which we may in the future operate, including in areas such as tokenization, virtual currencies or cryptocurrencies, blockchain technologies, and the success of new business strategies, acquisitions, dispositions, partnerships, or other transactions will depend, in part, on our

ability to adapt and respond effectively to these changes. In addition, any new investments or acquisitions may require us to raise additional capital, including debt or equity securities. These transactions may impose additional restrictions on our ability to operate and/or may be dilutive to you. In the event that additional liquidity is required from outside sources, we may not be able to raise the capital on terms acceptable to us or at all. If we are unable to raise additional capital when desired, our business, financial condition, and results of operations could be adversely affected.

These new ventures are inherently risky and may not be successful. If we do not successfully manage and execute these initiatives, or if they are inadequate or ineffective, we may fail to meet our financial goals and achieve anticipated benefits, improvements may be delayed, not sustained or not realized, and our business, operations and competitive position could be adversely affected.

If Pelion is not successful in managing the Medici Ventures, L.P. fund or has to resign if there is a change in the interpretation or application of the Investment Advisers Act of 1940 (the "Advisers Act"), we would be unable to realize the anticipated benefits of this arrangement.

As the general partner of the Medici Ventures, L.P. fund, Pelion has control over the limited partnership and its activities, including day-to-day operations and investment decisions. Pelion is able to sell investments of the limited partnership at any time, make additional investments, modify, amend or change existing investments, make new investments and otherwise control the activities of the limited partnership.

The success of the Medici Ventures, L.P. fund depends on Pelion's ability to successfully manage the activities of the Medici Ventures, L.P. fund portfolio companies and its existing and future portfolio company investments. Pelion may not be successful in managing these investments and we may not receive the benefits we anticipate of the transaction with Pelion. Moreover, even if successful in managing the Partnership, Pelion has the right to withdraw as general partner under certain circumstances, including certain changes in Pelion's status under the Advisers Act. The occurrence of such an event is beyond our control, and, as a result, there can be no assurance that Pelion will remain as general partner for the term contemplated. If Pelion is no longer serving as the general partner, we will have the right under the partnership agreement to appoint a new general partner; however, it may not be possible to accomplish this in a timely manner, which could result in the termination of the partnership. Even if a new general partner is appointed in a timely manner, it may be unable to manage the activities of the Medici Ventures, L.P. fund and its portfolio company investments, which would prevent us from receiving the anticipated benefits of the partnership.

We have entered into agreements granting certain third parties the right to use certain of our trademarks, which could damage our brand and reputation.

We have entered into agreements with several third parties, pursuant to which we have authorized these third parties to use certain of our trademarks on certain products and certain store locations in certain geographic territories. For example, on June 30, 2025, we entered into a Trademark and Domain Name Agreement with a large, well-established Canadian retailer to sell certain intellectual property related to our Bed Bath & Beyond trademarks in Canada and the United Kingdom. Any failure of these third parties to deliver products at reasonably comparable quality and price to the products we offer in connection with these trademarks, to offer good customer experiences consistent with our brands, or any breach of our agreements by any such third party could negatively impact our objectives, consistency with our brands, and could have a material adverse effect on our financial results, business and prospects.

Risks Relating to Our Common Stock and the Warrants

The trading price of our common stock may be adversely affected by short-selling activities involving our common stock.

The trading price of our common stock has been and may continue to be volatile. Our stock price fluctuations may be due in part to short-selling activity related to our common stock. Short selling is the practice of selling securities that the seller does not own, but rather has borrowed or intends to borrow from a third party with the intention of buying identical securities at a later date to return to the lender. A short seller hopes to profit from a decline in the value of the securities between the sale of the borrowed securities and the purchase of the replacement shares, as the short seller expects to pay less in that purchase than it received in the sale. It is therefore in the short seller’s interest for the price of the stock to decline, and some short sellers publish, or arrange for the publication of, opinions or characterizations regarding the relevant issuer, often involving misrepresentations of the issuer’s business prospects and similar matters calculated to create negative market momentum, which may permit them to obtain profits for themselves as a result of selling the stock short.

As a public entity, we may be the subject of concerted efforts by short sellers to spread negative information in order to gain a market advantage. The practice of short-selling activity may adversely affect our common stock price, which in turn could adversely affect our ability to raise capital and could have a material adverse effect on our financial results, business and prospects. In addition, the publication of misinformation may also result in further lawsuits, the uncertainty and expense of which could adversely impact our business, financial condition, and reputation. There are no assurances that we will not face short sellers' efforts or similar tactics, and the market price of our common stock may decline as a result of their actions.

Significant fluctuations in our quarterly operating results may adversely affect the market prices of our common stock, and you may lose all or a part of your investment.

Our revenues and operating results have varied in the past and may continue to vary significantly from quarter to quarter due to a number of factors, many of which are outside our control. In addition to the other risk factors described in this report, factors that have caused and/or could cause our quarterly operating results to fluctuate and in turn affect the market prices of our common stock include:

- increases in the cost of advertising and changes in our sales and marketing expenditures;
- our inability to attract new customers and retain existing customers or encourage repeat purchases;
- the extent to which our existing and future marketing campaigns are successful;
- price competition, particularly in the costs of marketing and product pricing;
- the amount and timing of operating costs and capital expenditures;
- the amount and timing of our purchases of inventory;
- our inability to manage distribution operations or provide adequate levels of customer service;
- increases in the cost of fuel, transportation or distribution;
- our inability to implement technology changes or integrate operations and technologies from acquisitions or other business combinations;
- our efforts to offer new lines of products and services;
- our inability to attract users to our website;
- macroeconomic and geopolitical factors; and
- losses associated with our equity method investments.

Any of the foregoing could have a material adverse effect on our financial results and business and our ability to raise capital and could have a material adverse effect on the holders of our common stock.

Future sales or other distributions of our stock may depress our stock price or subject us to limitations on our ability to use our net operating and tax credit carryforwards.

Sales or other distributions of a substantial number of shares of our common stock, in the public market or otherwise, by us or by a significant stockholder, have in the past and could in the future, depress the trading price of our common stock and impair our ability to raise capital through the sale of additional equity securities. The transfer of ownership of a significant portion of our outstanding shares of stock in the public market or otherwise, by us or by a significant stockholder, within a rolling three-year period could adversely affect our ability to use our net operating losses and tax credit carryforwards to offset future taxable net income.

In addition, we may issue additional shares of our common or preferred stock from time to time in the future in amounts that may be significant. We have sold common stock including under our "at the market" sales agreement and in follow-on underwritten offerings in the past and may do so in the future. We also previously issued a class of preferred stock that was publicly traded and may in the future issue preferred stock that is publicly traded. The sale or issuance of substantial amounts of our common or any preferred stock, by us or a significant stockholder, or the perception that these sales or issuances may occur, could adversely affect the trading prices of our securities.

Anti-takeover provisions contained in our amended and restated certificate of incorporation and amended and restated bylaws, and provisions of Delaware law, could impair a takeover attempt.

Our amended and restated certificate of incorporation, amended and restated bylaws and Delaware law contain provisions which could have the effect of rendering more difficult, delaying, or preventing an acquisition deemed undesirable by our Board of Directors. Among other things, our amended and restated certificate of incorporation and amended and restated bylaws include provisions:

- limiting the ability of our stockholders to call and bring business before special meetings;
- only permitting the Board of Directors to fix the number of directors and to fill vacancies;
- prohibiting cumulative voting in the election of directors;
- prohibiting stockholder action by written consent, which requires all stockholder actions to be taken at a meeting of our stockholders;
- requiring advance notice of stockholder proposals for business to be conducted at meetings of our stockholders and for nominations of candidates for election to our Board of Directors; and
- designating a state court located in the State of Delaware as the sole and exclusive forum for specified matters.

These provisions, alone or together, could delay or prevent hostile takeovers and changes in control or changes in our management.

Any provision of our amended and restated certificate of incorporation, amended and restated bylaws or Delaware law that has the effect of delaying, preventing or deterring a change in control could limit the opportunity for our stockholders to receive a premium for their shares of our common stock or other securities and could also affect the price that some investors are willing to pay for our common stock or other securities.

We are subject to rules and regulations established from time to time by the SEC and the NYSE regarding our internal control over financial reporting. If we fail to establish and maintain effective internal control over financial reporting and disclosure controls and procedures, we may not be able to accurately report our financial results, or report them in a timely manner.

We are subject to the rules and regulations established from time to time by the SEC and the New York Stock Exchange (the "NYSE"). These rules and regulations require, among other things, that we establish and periodically evaluate procedures with respect to our internal control over financial reporting. For example, we are required to assess the effectiveness of our internal control over financial reporting pursuant to Section 404 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"). Such reporting obligations place a considerable strain on our financial and management systems, processes and controls, as well as on our personnel.

If we identify material weaknesses in our internal control over financial reporting or if we are unable to comply with the requirements applicable to us as a public company, in a timely manner, including the requirements of Section 404 of the Sarbanes-Oxley Act, we may be unable to accurately report our financial results, or report them within the timeframes required by the SEC. We could also become subject to sanctions or investigations by the SEC or other regulatory authorities. In addition, if we are unable to assert that our internal control over financial reporting is effective, or if our independent registered public accounting firm is unable to express an opinion as to the effectiveness of our internal control over financial reporting, when required, investors may lose confidence in the accuracy and completeness of our financial reports, we may face restricted access to the capital markets, and our stock price may be adversely affected.

We are subject to the risk of possibly becoming an investment company under the Investment Company Act.

The Investment Company Act of 1940 (the "Investment Company Act") regulates certain companies that invest in, hold or trade securities. Primarily as a result of a portion of our assets consisting of indirectly-held minority investment positions through the Medici Ventures, L.P. fund, we are subject to the risk of inadvertently becoming an investment company. Because registration under the Investment Company Act would make it impractical for us to operate our business, we need to avoid becoming subject to the registration requirements of the Investment Company Act. To do so, we may structure transactions in a less advantageous manner than if we did not have Investment Company Act concerns, or we may avoid otherwise economically desirable transactions and/or strategic initiatives due to those concerns. In addition, events beyond our control, including significant appreciation or depreciation in the value of certain of our holdings or adverse developments with respect to our ownership of certain of our subsidiaries, could result in us inadvertently becoming an investment company. If it were established that we were an investment company, there would be a risk, among other material adverse consequences, that

we could become subject to monetary penalties or injunctive relief, or both, in an action brought by the SEC, that we would be unable to enforce contracts with third parties or that third parties could seek to obtain rescission of transactions with us undertaken during the period it was established that we were an unregistered investment company. Registered investment companies are subject to extensive, restrictive and potentially adverse regulation relating to, among other things, capital structure, leverage, management, dividends and transactions with affiliates. Registered investment companies are not permitted to operate their business in the manner in which we operate (and intend to operate) our business. Specifically, if we were required to register under the Investment Company Act, provisions of the Investment Company Act could limit (and in some cases even prohibit) our ability to raise additional debt and equity securities or issue options or warrants (which could impact our ability to compensate key employees), limit our ability to use financial leverage, and limit our ability to incur indebtedness. Provisions of the Investment Company Act would also prohibit (subject to certain exceptions) transactions with affiliates. If it were established that we were an investment company, it would have a material adverse effect on our business and financial operations and our ability to continue our business.

If securities analysts do not continue to publish research or reports about our business or if they downgrade our stock or our sector, our stock price and trading volume could decline.

The trading market for common stock relies in part on the research and reports that industry or financial analysts publish about us or our business. We do not control these analysts. Securities and industry analysts may not publish research about us. If securities or industry analysts do not continue coverage of us, the trading price of our common stock would likely be negatively impacted. Furthermore, if one or more of the analysts who do cover us downgrade our stock or our industry, or the stock of any of our competitors, or publish inaccurate or unfavorable research about our business, the price of our stock could decline. If one or more of these analysts stops covering us or fails to publish reports on us regularly, we could lose visibility in the market, which in turn could cause our stock price or trading volume to decline.

Additionally, from time to time if we receive a credit rating, any fluctuation in the credit rating of us or our subsidiaries may impact our ability to access debt markets in the future or increase our cost of future debt which could have a material adverse effect on our operations and financial condition, which in return may adversely affect the trading price of shares of our common stock.

The price of the Warrants may decline rapidly and significantly following their distribution.

If there is little or no market demand for the Warrants once trading begins, the trading price of the Warrants will likely decline following their distribution. Warrants are being distributed all at once, which could lead to demand and supply imbalances and cause the trading price of the Warrants to decline rapidly and significantly.

An active public market for the Warrants may not be sustained, which would adversely affect the liquidity and market price of the Warrants.

Prior to the Warrant Distribution, there was no existing trading market for the Warrants. The Warrants are subject to trading dynamics over which we have no control. An active and orderly trading market for the Warrants may not be sustained. The trading market for the Warrants may lack adequate size, liquidity or price transparency or may have an unusually high bid-ask spread. You may be unable to sell your Warrants at a price that is favorable to you.

The trading price for the Warrants may bear little or no relationship to traditional valuation methods, or to the market price of our common stock, and therefore the trading price of the Warrants may fluctuate significantly following their issuance.

The trading price of the Warrants may have little or no relationship to, and may be significantly lower, or at times higher, than the price that would otherwise be established using traditional indicators of value, such as our future prospects and those of our industry in general; future potential revenues, earnings, cash flows, and other financial and operating information, or multiples thereof; market prices of securities and other financial and operating information of companies engaged in business activities that are similar to ours; and the views of research analysts. Potential investors should not buy Warrants in the open market unless they are willing to take the risk that the trading price of the Warrants could fluctuate and decline significantly.

Hedging arrangements relating to the Warrants may affect the value and volatility of our common stock.

In order to hedge their financial positions, Warrant holders may choose to enter into hedging transactions with respect to our common stock, may unwind or adjust hedging transactions and may purchase or sell large blocks of our common stock in one or more market transactions. The effect, if any, of these activities on the trading price of our common stock will depend in part on market conditions and cannot be known in advance, but any of these activities could adversely affect the value and price volatility of our common stock.

Exercising the Warrants is a risky investment and those who exercise their Warrants may not be able to recover the value of their investment in the common stock received upon such exercise. Warrant holders could sustain a total loss of the exercise price of any Warrants that they exercise.

In order to recover the value of the investment in the shares of common stock received upon exercise of a Warrant at the exercise price, the value of such shares of common stock must be more than the exercise price of the Warrants. If the value of the shares of common stock a Warrant holder receives upon exercise of a Warrant is lower than the amount paid to the exercise the Warrant, the holder could experience a total loss of investment in exercising the Warrants.

A Warrant holder may lose some or all of their financial investment after exercising a Warrant.

A Warrant holder may incur a financial or other loss upon, or subsequent to, the exercise of a Warrant due to a drop in our stock price, or by a failure to timely deliver Warrant shares as of any particular date after exercise, or for other reasons. If the market value of our common stock price declines, a Warrant holder may be unable to resell shares at or above the price at which they were acquired through the exercise of Warrants. There can be no assurance that the price of our common stock will not fluctuate or decline significantly below the Warrant exercise price in the future, in which case a Warrant holder could incur substantial losses.

The trading price of the shares of our common stock and Warrants could be highly volatile, and purchasers of our common stock or Warrants could incur substantial losses.

During calendar year 2025 to-date, the closing sale price of shares of our common stock on NYSE has been reported as low as $3.68 per share and as high as $12.11 per share. This volatility may affect the price at which a Warrant holder could sell the shares of our common stock or Warrants, and the sale of substantial amounts of our common stock or Warrants could adversely affect the price of our common stock or Warrants. The trading prices of our common stock and Warrants are likely to continue to be volatile and subject to significant price and volume fluctuations in response to market and other factors, including those described in the sections captioned “Risk Factors” herein. Additionally, broad market and industry factors may negatively affect the market price of our common stock and Warrants, regardless of our actual operating performance.

As a result, Warrant holders may not be able to sell shares of common stock or Warrants at or above the price at which they purchase them.

Speculation in our publicly-traded common stock or Warrants may result in extreme price volatility.

Our stockholders or Warrant holders or outside investors may speculate on the direction of movements in the price of our common stock or Warrants. Speculation in the price of our common stock or Warrants may involve long and short exposures. Sudden changes in demand or supply for our common stock or Warrants due to speculation or other reasons may create trading anomalies that add volatility to the trading price of these securities. The volatility or direction of our stock price or Warrant price may be unrelated or disproportionate to our operating results, which could cause significant losses to Warrant holders’ investments.

The settlement process for shares of common stock issuable upon exercise of Warrants is outside of our control and may cause Warrant holders to lose the value of their investment.

The settlement process with respect to exercised Warrants refers to the time between exercise of a Warrant and when the issued common stock is delivered to Warrant holders’ account, and Warrant holders become the holder of record of such common stock. The settlement process is conducted by outside parties and broker-dealers and is therefore outside of our control.

Under Rule 15c6-1 of the Securities Exchange Act of 1934, the standard settlement cycle for most broker-dealer transactions is one business day, unless the parties to any such trade expressly agree otherwise. We understand that under existing financial industry practices, delivery of the shares of common stock upon exercise of Warrants will likely not occur within one business day, and delivery may take several business days. Warrant holders could experience a significant loss of investment in exercising Warrants if the settlement process takes longer than anticipated or fails to settle.

The issuance of common stock upon the exercise of the Warrants may depress our stock price.

We could issue a maximum of up to 6,884,341 shares of common stock in connection with the Warrant Distribution, which would be an approximately 10.0% increase from our current number of shares outstanding. The issuance of such additional shares of common stock upon exercise of the Warrants, and the resale of such shares on the open market after their issuance, or the perception that such sales could occur, could result in significant downward pressure on our stock price.

Warrant holders are not entitled to any of the rights of holders of our common stock.

Warrant holders are not entitled to any rights with respect to our common stock, including, without limitation, voting rights and rights to receive any dividends or other distributions on our common stock, but Warrant holders are subject to all changes affecting our common stock.

Warrant holders will have rights with respect to our common stock only if they receive our common stock upon exercising Warrants for cash and only as of the date when they become a record owner of the shares of our common stock upon such exercise. For example, if an amendment is proposed to our charter or bylaws requiring stockholder approval and the record date for determining the stockholders of record entitled to vote on the amendment occurs prior to the date a Warrant holder is deemed to be the owner of the shares of our common stock due upon exercise of their Warrants, the Warrant holder will not be entitled to vote on the amendment, although they will nevertheless be subject to any changes in the powers, preferences or special rights of our common stock.

Because we do not currently intend to pay cash dividends on our common stock, stockholders will benefit from an investment in our common stock primarily if it appreciates in value.

We do not currently anticipate paying any cash dividends on shares of our common stock. Any determination to pay dividends in the future would be made by our Board of Directors and would depend upon results of operations, financial conditions, contractual restrictions, restrictions imposed by applicable law, and other factors our Board of Directors would deem relevant. Accordingly, realization of a gain on stockholders' investments will primarily depend on the appreciation of the price of our common stock.

Our management will have broad discretion in the use of any net proceeds from the exercise of Warrants and may allocate any net proceeds from the exercise of Warrants in ways that Warrant holders and other stockholders may not approve.

Our management will have broad discretion in the application of the net proceeds, if any, from the exercise of Warrants, including for any of the purposes described in the section entitled "Use of Proceeds" in our Registration Statement on Form S-3 (File No. 333-290763) filed with the SEC on October 8, 2025 and declared effective by the SEC on December 3, 2025 (the "Warrant Registration Statement"), and could spend the net proceeds in ways with which you may not agree. Accordingly, stockholders will be relying on the judgment of our management with regard to the use of the net proceeds, and will not have the opportunity to assess whether the net proceeds are being used appropriately. It is possible that the net proceeds will be invested or otherwise used in a way that does not yield a favorable, or any, return for us, or that does not improve our operating results or enhance the value of our common stock or other securities. Because of the number and variability of factors that will determine our use of any net proceeds from the exercise of Warrants, the ultimate use of such net proceeds may vary substantially from their currently intended use. The failure of our management to use these net proceeds, if any, effectively could harm our business.

The Warrants do not automatically exercise, and any Warrants that Warrant holders do not exercise prior to the Expiration Date will lose all financial value.

The Warrants do not automatically exercise, even if our common stock price remains at or above the exercise price of the Warrants. Warrant holders are entitled to exercise the full number of Warrants registered in their name or any portion thereof. Any Warrant that Warrant holders do not exercise for cash prior to the Expiration Date will expire unexercised and

Warrant holders will not receive any shares of our common stock. If the Early Expiration Price Condition occurs, the Expiration Date of the Warrants could be accelerated significantly. The Warrants will have no financial value after the Expiration Date.

Future sales or other dilution of our equity may adversely affect the market price of our common stock.

The Warrant Agreement, dated as of October 7, 2025, between the Company, Computershare, Inc., a Delaware corporation, and its affiliate, Computershare Trust Company, N.A., as Warrant Agent (the "Warrant Agreement") does not restrict us from issuing additional shares of common stock to the public or under our employee and director compensation plans. We regularly evaluate opportunities to access capital markets, taking into account our capital needs, financial condition, strategic plans and other relevant considerations. The issuance of additional shares of common stock or common equivalent securities in future equity offerings will dilute the ownership interest of our existing common stockholders and may depress the trading value of the Warrants or our common stock. There can be no assurances that we will not in the future determine that it is advisable or necessary to issue additional shares of common stock or other securities convertible or exercisable for shares of common stock to fund our business needs. We also expect to continue to use equity and stock options to compensate our employees and directors and others. The market price of our common stock and the Warrants could decline significantly as a result of such offerings or issuances, or the perception that such offerings or issuances could occur.

Our registration statement covering the issuance of common stock issuable upon exercise of the Warrants may not be available at times.

We will use our commercially reasonable efforts to keep a registration statement effective, subject to certain exceptions, covering the issuance of the common stock issuable upon the exercise of the Warrants; however, we are not prohibited from suspending the use of the registration statement and can suspend it at any time at our discretion as described in the Warrant Registration Statement under the heading “Description of the Warrants - Registration and Suspension.” If at the time of exercise of Warrants, there is no effective registration statement covering the issuance of the shares of common stock underlying the Warrants, the right to exercise Warrants shall be automatically suspended until such registration statement becomes effective (any such period, an “Exercise Suspension Period”). The Company shall provide notice by press release, with a copy to the Warrant Agent, of any Exercise Suspension Period. If the Expiration Date would otherwise fall in an Exercise Suspension Period, notwithstanding anything to the contrary in the Warrant Agreement, the Expiration Date shall be extended by the number of days included in such Exercise Suspension Period.

We will require additional capital to support business growth, and this capital might not be available on favorable terms, or at all.

Our operations or expansion efforts will require substantial additional financial, operational, and managerial resources and we will need to raise additional funds to expand our operations. We may seek debt financing or additional equity capital. Additional capital may not be available to us, or may only be available on terms that adversely affect our existing stockholders, or that restrict our operations.

For example, if we raise additional funds through issuances of equity or convertible debt securities, our existing stockholders could suffer dilution, and any new equity securities we issue could have rights, preferences, and privileges superior to those of holders of our common stock. Upon liquidation, holders of our debt securities and lenders with respect to other borrowings will receive distributions of our available assets prior to the holders of our common stock. Since our decision to issue securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus, our stockholders bear the risk of our future offerings reducing the market price of our common stock.

Risks Related to the Merger

The Merger may not be completed and the Merger Agreement may be terminated in accordance with its terms.

The Merger is subject to a number of conditions that must be satisfied or waived (to the extent permitted) prior to the completion of the Merger, including the approval by TBHC’s shareholders of the Merger Proposal. These conditions to the completion of the Merger, some of which are beyond the control of BBBY and TBHC, may not be satisfied or waived in a timely manner or at all, and, accordingly, the Merger may be delayed or not completed.

Additionally, either BBBY or TBHC may terminate the Merger Agreement under certain circumstances, including, among other reasons, if the Merger is not completed by the outside date.

The termination of the Merger Agreement could negatively impact BBBY and the trading prices of our common stock.

If the Merger is not completed for any reason, including because TBHC's shareholders fail to approve the Merger Proposal, the ongoing businesses of BBBY may be adversely affected and, without realizing any of the expected benefits of having completed the Merger, BBBY would be subject to a number of risks, including the following:

- failure to complete the proposed Merger may result in negative publicity and a negative impression of us in the investment community;
- we may experience negative reactions from our customers and employees;
- we will be required to pay our respective costs relating to the Merger (subject to TBHC's obligation to pay an expense reimbursement fee of approximately $0.3 million to us in certain circumstances), such as financial advisory, legal, financing and accounting costs and associated fees and expenses, whether or not the Merger is completed;
- the Merger Agreement places certain restrictions on the conduct of our business prior to completion of the Merger and such restrictions, the waiver of which is subject to the consent of TBHC, may prevent us from taking actions during the pendency of the Merger that might otherwise be beneficial; and
- matters relating to the Merger (including integration planning) will require substantial commitments of time and resources by us, which could otherwise have been devoted to day-to-day operations or to other opportunities that may have been beneficial to us.

The market price for shares of our common stock following the Merger may be affected by factors different from, or in addition to, those that historically have affected or currently affect the market prices of shares of our common stock.

Upon consummation of the Merger, our stockholders and TBHC shareholders will both hold shares of common stock in the combined company. Our businesses differ from those of TBHC, and TBHC's businesses differ from ours, and, accordingly, the results of operations of the combined company will be affected by some factors that are different from those currently or historically affecting our results of operations. The results of operations of the combined company may also be affected by factors different from those that currently affect or have historically affected either us or TBHC.

Based on the anticipated treatment of equity-based awards and the number of shares of TBHC Common Stock outstanding as of December 9, 2025, it is expected that we may issue approximately 3,046,103 shares of our common stock in the Merger. Former TBHC shareholders may decide not to hold the shares of our common stock that they will receive in the Merger, and our stockholders may decide to reduce their investment in us as a result of the changes to our investment profile as a result of the Merger. Other TBHC shareholders, such as funds with limitations on their permitted holdings of stock in individual issuers, may be required to sell the shares of our common stock that they receive in the Merger. Such sales of our common stock could have the effect of depressing the market price of our common stock.

Obtaining required approvals and satisfying closing conditions may prevent or delay completion of the Merger.

The Merger is subject to a number of conditions to closing as specified in the Merger Agreement. These closing conditions include, among others, the approval by TBHC shareholders of the Merger Proposal, the effectiveness of the registration statement on Form S-4 registering our common stock issuable pursuant to the Merger Agreement and the absence of any stop order or proceedings by the SEC with respect thereto, approval for listing on the NYSE of the shares of our common stock to be issued pursuant to the Merger Agreement, and the absence of governmental restraints or prohibitions preventing the consummation of the Merger. The obligation of each of us and TBHC to consummate the Merger are also conditioned on, among other things, the truth and accuracy of the representations and warranties made by the other party on the date of the Merger Agreement and on the closing date (subject to certain materiality and material adverse effect qualifiers), and the performance by the other party in all material respects of its obligations under the Merger Agreement. No assurance can be given that the other required shareholder, governmental and regulatory consents and approvals will be obtained or that the other required conditions to closing will be satisfied, and, if all required consents and approvals are obtained and the required conditions are satisfied, no assurance can be given as to the terms, conditions and timing of such consents and approvals. Any delay in completing the Merger could cause the combined company not to realize, or to be delayed in realizing, some or all of the benefits that we expect to achieve if the Merger is successfully completed within its expected time frame.

Failure to attract, motivate and retain executives and other key employees could diminish the anticipated benefits of the Merger.

The success of the Merger will depend in part on the combined company's ability to retain the talents and dedication of the professionals currently employed by us and TBHC. It is possible that these employees may decide not to remain with us or TBHC, as applicable, while the Merger is pending, or with the combined company. If key employees terminate their employment, or if an insufficient number of employees are retained to maintain effective operations, the combined company's business activities may be adversely affected and management's attention may be diverted from successfully integrating us and TBHC to hiring suitable replacements, all of which may cause the combined company's business to suffer. In addition, we and TBHC may not be able to locate suitable replacements for any key employees that leave either company or offer employment to potential replacements on reasonable terms. In addition, there could be disruptions to or distractions for the workforce and management, including disruptions associated with integrating employees into the combined company. No assurance can be given that the combined company will be able to attract or retain key employees of ours and TBHC's to the same extent that those companies have been able to attract or retain their own employees in the past.

The Merger, and uncertainty regarding the Merger, may cause customers, strategic partners and others to delay or defer decisions concerning us or TBHC and adversely affect each company's ability to effectively manage its respective business.

The Merger will happen only if the stated conditions are met, including the approval by TBHC's shareholders of the Merger Proposal and the receipt of required approvals, and consents among other conditions. Many of the conditions are beyond our control and TBHC's control, and both parties also have certain rights to terminate the Merger Agreement under certain circumstances.

Accordingly, there may be uncertainty regarding the completion of the Merger. This uncertainty may cause customers, strategic partners or others that deal with us to delay or defer entering into contracts with us or making other decisions concerning us or seek to change or cancel existing business relationships with us, which could negatively affect our business. Any delay or deferral of those decisions or changes in existing agreements could have an adverse impact on our business, regardless of whether the Merger is ultimately completed.

In addition, the Merger Agreement restricts us and our subsidiaries from taking certain actions during the pendency of the Merger without the consent of TBHC. These restrictions may prevent us from pursuing attractive business opportunities or strategic transactions that may arise prior to the completion of the Merger.

Whether or not the Merger is completed, the announcement and pendency of the Merger could cause disruptions in our business, which could have an adverse effect on our business and financial results.

Whether or not the Merger is completed, the announcement and pendency of the Merger could cause disruptions in our business, including by diverting the attention of our management away from day-to-day business operations and toward the completion of the Merger. In addition, we have diverted significant management resources in an effort to complete the Merger and are subject to restrictions contained in the Merger Agreement on the conduct of our business. If the Merger is not completed, we will have incurred significant costs, including the diversion of management resources, for which we will have received little or no benefit.

The consummation of the Merger is conditioned upon the satisfaction of certain financing covenants.

Pursuant to the Merger Agreement, at our election, either (i) we shall repay, on behalf of TBHC and its subsidiaries, on or before the effective time of the Merger (the "Effective Time") all amounts necessary to discharge in full all of the obligations of TBHC and its subsidiaries arising under that certain Third Amended and Restated Credit Agreement, dated as of March 31, 2023, by and among the Kirkland's Stores, Inc., as lead borrower, the other borrowers named therein, the guarantors named therein, and the Agent, or (ii) each of us and TBHC shall use commercially reasonable efforts to, on or prior to the Effective Time, enter into a fully executed and enforceable amendment to TBHC's existing revolving credit facility. There can be no assurance that this covenant will be satisfied on the expected timeline, or at all, and failure to do so could delay the consummation of the Merger, increase costs, or otherwise adversely affect us and/or TBHC.

The Merger will involve substantial costs.

We and TBHC have incurred and expect to incur non-recurring costs associated with combining the operations of the two companies, as well as transaction fees and other costs related to the Merger. These costs and expenses include fees paid to financial, legal and accounting advisors, facilities and systems consolidation costs, severance and other potential employment-related costs, filing fees, printing expenses and other related charges. Some of these costs are payable by us or TBHC regardless of whether the Merger is completed.

The combined company will also incur restructuring and integration costs in connection with the Merger. The costs related to restructuring will be expensed as a cost of the ongoing results of operations of the combined company. There are processes, policies, procedures, operations, technologies and systems that must be integrated in connection with the Merger and the integration of TBHC's business with our business. We expect that the elimination of duplicative costs, strategic benefits, and additional income, as well as the realization of other efficiencies related to the integration of the businesses, may offset incremental transaction, Merger-related and restructuring costs over time. However, any net benefit may not be achieved in the near term or at all. Many of these costs will be borne by us even if the Merger is not completed. While we have assumed that certain expenses would be incurred in connection with the Merger and the other transactions contemplated by the Merger Agreement, there are many factors beyond our control that could affect the total amount or the timing of the integration and implementation expenses.

Lawsuits may in the future be filed against us or TBHC, or against our or TBHC's directors, challenging the Merger, and an adverse ruling in any such lawsuit may prevent the Merger from becoming effective or from becoming effective within the expected time frame.

Transactions like the proposed Merger are frequently subject to litigation or other legal proceedings, including actions alleging that our board of directors or the TBHC Board breached their respective fiduciary duties to their shareholders by entering into the Merger Agreement, by failing to obtain a greater value in the transaction for their shareholders or otherwise. Neither we nor TBHC can provide assurance that such litigation or other legal proceedings will not be brought. If litigation or other legal proceedings are in fact brought against us or TBHC, or against our board of directors or the TBHC Board, they will defend against it, but might not be successful in doing so. An adverse outcome in such matters, as well as the costs and efforts of a defense even if successful, could have a material adverse effect on our business, results of operation or financial position or that of the combined company, including through the possible diversion of either company's resources or distraction of key personnel.

Furthermore, one of the conditions to the completion of the Merger is that no injunction by any court or other governmental entity of competent jurisdiction will be in effect that prevents, enjoins or makes illegal the consummation of the Merger. As such, if any of the plaintiffs are successful in obtaining an injunction preventing the consummation of the Merger, that injunction may prevent the Merger from becoming effective or from becoming effective within the expected time frame.

The consummation of the transactions contemplated under the Merger Agreement are not conditioned upon the receipt of an opinion of counsel to the effect that the Merger qualifies for the Intended Tax Treatment, and neither TBHC nor we intend to request a ruling from the IRS regarding the U.S. federal income tax consequences of the Merger.

The Merger is intended to qualify as a "reorganization" within the meaning of Section 368(a) of the Code for U.S. federal income tax purposes. Assuming the Merger so qualifies, a holder of TBHC Common Stock generally will not recognize any gain or loss for U.S. federal income tax purposes upon the exchange of TBHC Common Stock for our common stock in the Merger, except possibly with respect to cash received by such holder in lieu of a fractional share of our common stock.

However, it is not a condition to TBHC's obligation or our obligation to consummate the transactions contemplated by the Merger Agreement that the Merger qualify for the Intended Tax Treatment or that TBHC or we receive an opinion from counsel to that effect. There are many requirements that must be satisfied for the Merger to qualify as a reorganization, some of which are based upon factual determinations, and the reorganization treatment could be adversely affected by events or actions that occur or are taken after the Merger. Furthermore, neither TBHC nor we intend to request a ruling from the IRS regarding the U.S. federal income tax consequences of the Merger. Accordingly, no assurance can be given that the Merger will qualify for the Intended Tax Treatment or that the IRS will not challenge the conclusion that the Merger will qualify for the Intended Tax Treatment or that a court would not sustain such a challenge. If, contrary to expectations, the Merger does not qualify for the Intended Tax Treatment, holders of TBHC Common Stock could be subject to U.S. federal income tax upon the receipt of our common stock in the Merger.

Risks Related to the Combined Company

We and TBHC have each incurred significant losses in recent years, and we cannot be certain when or if our operations will generate sufficient cash to fully fund our ongoing operations or the growth of the combined company.

We and TBHC have each historically used significant amounts of cash in operating activities, and we expect for the combined company to continue to use significant amounts of cash to fund ongoing operations, capital requirements, and working capital needs for the foreseeable future. If we, TBHC, or the combined company do not achieve profitability as anticipated, we may be required to allocate additional financial resources, which could adversely affect liquidity, results of operations, or the ability to pursue other strategic initiatives. The incurrence of indebtedness for such purposes would result in increased payment obligations and could also result in certain restrictive covenants, such as limitations on our ability to incur additional debt or secure such debt, limitations on our ability to acquire, sell or license intellectual property rights and other operating restrictions that could adversely impact our liquidity, financial condition, or ability to conduct our business. We cannot be certain when or if our, TBHC's, or the combined company's operations will generate sufficient cash to fully fund ongoing operations or the growth of its business.

Combining our business with that of TBHC may be more difficult, costly or time-consuming than expected and the combined company may fail to realize the anticipated benefits of the Merger, which may adversely affect the combined company's business results and negatively affect the value of the combined company's common stock.

The success of the Merger will depend on, among other things, the ability of us and TBHC to combine our businesses in a manner that facilitates growth opportunities. We and TBHC have entered into the Merger Agreement because we believe that the Merger and the other transactions contemplated by the Merger Agreement are fair to and in the best interests of our respective shareholders and that combining our businesses will produce benefits.

However, we and TBHC must successfully combine our businesses in a manner that permits these benefits to be realized. In addition, the combined company must achieve the anticipated growth without adversely affecting current revenues and investments in future growth. If the combined company is not able to successfully achieve these objectives, the anticipated benefits of the Merger may not be realized fully, or at all, or may take longer to realize than expected.

An inability to realize the full extent of the anticipated benefits of the Merger and the other transactions contemplated by the Merger Agreement, as well as any delays encountered in the integration process, could have an adverse effect upon the revenues, level of expenses and operating results of the combined company, which may adversely affect the value of the common stock of the combined company.

In addition, the actual integration may result in additional and unforeseen expenses, and the anticipated benefits of the integration plan may not be realized. Actual growth and any potential cost savings, if achieved, may be lower than what we and TBHC expect and may take longer to achieve than anticipated. If we and TBHC are not able to adequately address integration challenges, they may be unable to successfully integrate their operations or realize the anticipated benefits of the integration of the two companies.

The failure to successfully integrate our businesses and operations with TBHC in the expected time frame may adversely affect the combined company's future results.

We and TBHC have operated and, until the completion of the Merger, will continue to operate independently. There can be no assurances that our businesses can be integrated successfully. It is possible that the integration process could result in the loss of key employees of either company, the loss of customers, the disruption of either company's or both companies' ongoing businesses, inconsistencies in standards, controls, procedures and policies, unexpected integration issues, higher than expected integration costs and an overall post-completion integration process that takes longer than originally anticipated. Specifically, the following issues, among others, must be addressed in integrating our operations in order to realize the anticipated benefits of the Merger so the combined company performs as expected:

- combining the companies' operations and corporate functions;
- combining the businesses and meeting the capital requirements of the combined company, in a manner that permits the combined company to achieve any cost savings or other synergies anticipated to result from the Merger, the failure of which would result in the anticipated benefits of the Merger not being realized in the time frame currently anticipated or at all;
- integrating the companies' technologies and technologies licensed from third parties;
- integrating and unifying the offerings and services available to customers;
- identifying and eliminating redundant and underperforming functions and assets;
- harmonizing the companies' operating practices, employee development and compensation programs, internal controls and other policies, procedures and processes;
- maintaining existing agreements with customers, suppliers, distributors and vendors, avoiding delays in entering into new agreements with prospective customers, suppliers, distributors and vendors, and leveraging relationships with such third parties for the benefit of the combined company;
- addressing possible differences in business backgrounds, corporate cultures and management philosophies;
- consolidating the companies' administrative and information technology infrastructure;
- coordinating distribution and marketing efforts;
- managing the movement of certain positions to different locations;
- coordinating geographically dispersed organizations; and
- effecting actions that may be required in connection with obtaining regulatory or other governmental approvals and consents.

In addition, at times the attention of certain members of our and TBHC's management and each company's respective resources may be focused on completion of the Merger and the integration of the businesses of the two companies and diverted from day-to-day business operations or other opportunities that may have been beneficial to such company, which may disrupt each company's ongoing business and the business of the combined company.

The combined company may not be able to retain customers, which could have an adverse effect on the combined company's business and operations. Third parties may terminate or alter existing contracts or relationships with us or TBHC.

As a result of the Merger, the combined company may experience impacts on relationships with customers that may harm the combined company's business and results of operations. Certain customers may no longer desire to do business with the combined company following the Merger. There can be no guarantee that customers will remain with or continue to have a relationship with the combined company following the Merger. If any customers stop doing business with the combined company, then the combined company's business and results of operations may be harmed.

We and TBHC also have contracts with landlords, licensors and other business partners which may require us or TBHC, as applicable, to obtain consent from these other parties in connection with the Merger, or which may otherwise contain limitations applicable to such contracts following the Merger. If these consents cannot be obtained, the combined company may suffer a loss of potential future revenue, incur costs and lose rights that may be material to the combined company's business. In addition, third parties with whom we or TBHC currently have relationships may terminate or otherwise reduce the scope of their relationship with either party in anticipation of the Merger. Any such disruptions could limit the combined company's ability to achieve the anticipated benefits of the Merger. The adverse effect of any such disruptions could also be exacerbated by a delay in the completion of the Merger or by a termination of the Merger Agreement.

The combined company may be exposed to increased litigation, which could have an adverse effect on the combined company's business and operations.

The combined company may be exposed to increased litigation from shareholders, customers, suppliers, distributors, consumers and other third parties due to the combination of our and TBHC's businesses following the Merger. Such litigation may have an adverse impact on the combined company's business and results of operations or may cause disruptions to the combined company's operations.

Declaration, payment and amounts of dividends, if any, distributed to shareholders of the combined company will be uncertain.

We have not historically paid cash dividends on our common stock. TBHC has not declared or paid cash dividends on the TBHC Common Stock since its 2015 fiscal year. Whether any dividends are declared or paid to shareholders of the combined company, and the amounts of any such dividends that are declared or paid, are uncertain and depend on a number of factors. Our board of directors will have the discretion to determine the dividend policy of the combined company, including the amount and timing of dividends, if any, that the combined company may declare from time to time, which may be impacted by any of the following factors:

- the combined company may not have enough cash to pay such dividends or to repurchase shares due to its cash requirements, capital spending plans, cash flow or financial position;
- decisions on whether, when and in what amounts to make any future distributions will remain at all times entirely at the discretion of our board of directors, which could change its dividend practices at any time and for any reason;
- the amount of dividends that the combined company may distribute to its stockholders is subject to restrictions under Delaware law; and
- certain limitations on the amount of dividends subsidiaries of the combined company can distribute to the combined company, as imposed by state law, regulators or agreements.

Shareholders should be aware that they have no contractual or other legal right to dividends that have not been declared.

Due to the Merger, we may be required to recognize impairment charges for goodwill and other intangible assets.

Upon and subject to closing the Merger, we anticipate that we will have a significant amount of goodwill and other intangible assets on our consolidated balance sheet. Goodwill represents the excess of the purchase price paid over the fair value of the net assets acquired in business combinations, such as the Merger. If the carrying amount exceeds fair value, an impairment loss is recognized. Goodwill is tested for impairment at least annually, or when we deem that a triggering event has occurred. Significant negative industry or economic trends, disruptions to our business, the impact of acquired businesses (including an inability to effectively integrate acquired businesses), unexpected significant changes, planned changes in use of the assets, divestitures and market capitalization declines may impair goodwill and other intangible assets. If the Merger is consummated, we may recognize impairment charges for goodwill and other intangible assets. Any charges relating to such impairments could materially and adversely affect our results of operations in the periods recognized, which could result in an adverse effect on the market price of our common stock.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 1C. CYBERSECURITY

Cybersecurity Risk Management and Strategy

Our company recognizes the critical importance of cybersecurity in our digital operations and has established a cybersecurity risk management program intended to protect the confidentiality, integrity, and availability of our critical systems and information. This program, guided by industry frameworks like the National Institute of Standards and Technology Cybersecurity Framework ("NIST CSF") and overseen by relevant leadership teams, integrates certain security tools and practices into our broader enterprise risk management system. This does not imply that we meet any particular technical standards, specifications, or requirements, only that we use NIST CSF and similar frameworks as a guide to help us identify, assess, and manage cybersecurity risks relevant to our business. Our cybersecurity risk management program forms an integral part of our organization's risk management structure, sharing the same governance, reporting, and assessment practices as other key risk domains, actively involving our Executive team and Board of Directors (the "Board") in its oversight.

Despite our efforts and resource allocation, we acknowledge the challenges posed by the evolving nature of cyber threats and the limitations in fully mitigating these risks. While we are aware of known cybersecurity threats and regularly assess related risks, we have not experienced any cybersecurity incidents, nor determined that such risks have materially affected our operational results and strategic or financial condition. Nevertheless, given the unpredictable nature of cyber threats, we cannot assure that potential future impacts will not have a material impact. See Part I, Item 1A. "Risk Factors" in this Annual Report on Form 10-K.

Key elements of our cybersecurity risk management program include, but are not limited to, the following:

- risk assessments designed to help identify material risks from cybersecurity threats to our critical systems and information;
- a security team principally responsible for managing (1) our cybersecurity risk assessment processes, (2) our security controls, and (3) our response to cybersecurity incidents;
- the use of external service providers, where appropriate, to assess, test or otherwise assist with aspects of our security processes, including activities such as vulnerability assessments, penetration testing, and incident response exercises;
- cybersecurity awareness training of our employees, including incident response personnel and senior management;
- a cybersecurity incident response plan that includes procedures for responding to cybersecurity incidents; and
- a third-party risk management process for key service providers based on our assessment of their criticality to our operations and respective risk profile.

Cybersecurity Governance

Our Board considers the organization's preparedness for cyber threats as part of its risk oversight function. This involves working to understand our cybersecurity risk profile and reviewing our cybersecurity risk management program. The Board strives to engage in active participation in continuous cybersecurity strategy improvement.

The Audit Committee, designated by the Board as the responsible body for risk management and compliance oversight, endeavors to ensure information flow of risk by regularly reporting its activities to the Board, including those related to cybersecurity. Our cybersecurity program is led by our Chief Information Security Officer (CISO), who has over 20 years of experience in the cybersecurity field, and who is primarily responsible for assessing and managing material risks from cybersecurity threats. Their expertise is supported by industry certifications, regular participation in leading advanced training programs, and advisement roles. The CISO leads a dedicated team of security professionals who provide coverage of critical program capabilities. Our CISO and larger cybersecurity risk management team take steps to stay informed about and monitor efforts to prevent, detect, mitigate, and remediate cybersecurity risks and incidents through various means, which may include briefings from internal security personnel; threat intelligence and other information obtained from governmental, public or private sources, including external consultants engaged by us; and alerts and reports produced by security tools deployed in our IT environment.

Our CISO provides regular reports to the Audit Committee, senior management, and relevant stakeholders, for the purpose of keeping them informed on evolving cyber threats, ongoing assessments, and any significant findings. This collaborative approach is intended to support informed decision-making, and timely response to potential risks, safeguarding our critical assets and valuable information.

ITEM 2. PROPERTIES

We lease various properties in the United States and internationally. We use our properties for corporate office space and a data center. As of December 31, 2025, we operated the following facilities (square feet in thousands):

	United States	International	Total
Leased facilities	42	13	55

ITEM 3. LEGAL PROCEEDINGS

From time to time, we are involved in, or become subject to litigation or other legal proceedings concerning consumer protection, employment, privacy, intellectual property, claims under the securities laws, and other commercial matters related to the conduct and operation of our business and the sale of products on our Website. We also prosecute lawsuits to enforce our legal rights. In connection with such litigation or other legal proceedings, we have been in the past and we may be in the future subject to equitable remedies relating to the operation of our business or judgments requiring us to pay significant damages or associated costs. Such litigation could be costly and time consuming and could divert or distract our management and key personnel from our business operations. Due to the uncertainty of litigation and depending on the amount and the timing, an unfavorable resolution of some or all of such matters could materially affect our business, results of operations, financial position, or cash flows. For additional details, see the information set forth under Item 8 of Part II, "Financial Statements and Supplementary Data"—Note 14—Commitments and Contingencies, subheading Legal Proceedings and Contingencies, contained in the "Notes to Consolidated Financial Statements" of this Annual Report on Form 10-K, which is incorporated by reference in answer to this Item.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

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

Market information

The principal U.S. trading market for our common stock is the New York Stock Exchange. Our common stock is traded under the symbol "BBBY." Our common stock previously traded under the symbol "BYON".

Holders

As of February 20, 2026, there were 376 holders of record of our common stock. Many of our shares of common stock are held by brokers and other institutions on behalf of the beneficial owners.

Dividends

We have never declared or paid any cash dividends on our common stock. We currently intend to retain any earnings for future growth and do not anticipate paying any cash dividends on our common stock in the foreseeable future. Any future determination to pay any dividends on our common stock will be at the discretion of our Board of Directors and will depend on our results of operations, financial conditions, contractual and legal restrictions and other factors the Board of Directors deems relevant.

Recent sales of unregistered securities

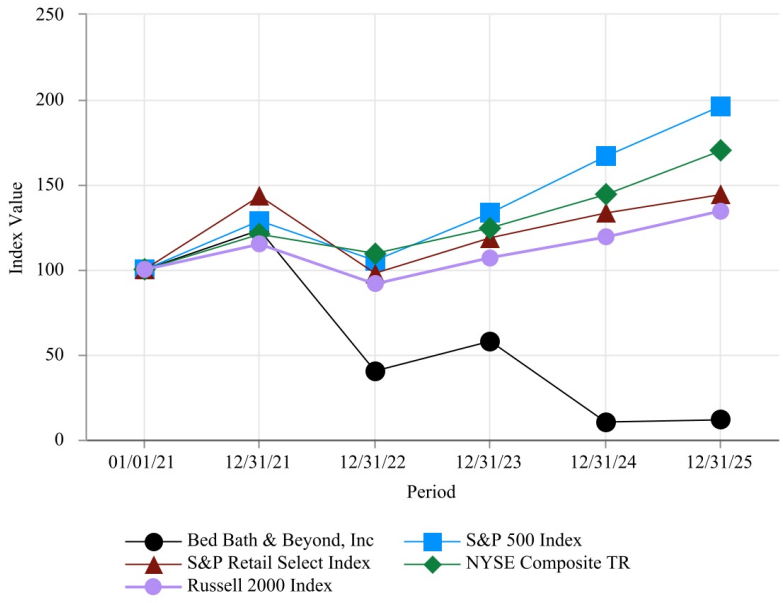
None.

Issuer purchases of equity securities

See Note 16—Stockholders' Equity in the "Notes to Consolidated Financial Statements" included in Item 8 of Part II, "Financial Statements and Supplementary Data" of this Annual Report on Form 10-K for information regarding our authorized share repurchase program. There were no repurchases made during the three months ended December 31, 2025. The Repurchase Program expired in December 2025.

COMPARISON OF 5-YEAR CUMULATIVE TOTAL RETURN

The following graph shows a comparison of the cumulative total stockholder return on our common stock with the cumulative total returns of the NYSE Composite TR, the S&P 500 Index, the Russell 2000 Index, and the S&P Retail Select Index. We have elected to replace the S&P 500 Index with the Russell 2000 Index because we believe the new broad equity market index provides a better comparison of returns with public companies of similar size and market capitalization. For the current year only, comparisons of the Company's returns to both the S&P 500 Index and the Russell 2000 Index are included in the graph. The graph tracks the performance of a $100 investment in our common stock and in each of the indexes during the last five fiscal years ended December 31, 2025. Data for the NYSE Composite TR, the S&P 500 Index, the Russell 2000 Index and the S&P Retail Select Index assume reinvestment of dividends. Stockholder returns over the indicated period are based on historical data and should not be considered indicative of future stockholder returns. They do not necessarily reflect management's opinion that such indices are an appropriate measure of the relative performance of the stock involved, and they are not intended to forecast or be indicative of possible future performance of the Company's common stock.



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ITEM 6.

[Reserved.]

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

The following discussion and analysis contains forward-looking statements relating to future events or our future financial or operating performance that involve risks and uncertainties, as set forth above under "Special Cautionary Note Regarding Forward-Looking Statements" or in Item 1A under the heading "Risk Factors" or included elsewhere in this Annual Report on Form 10-K. In addition, our future results may be significantly different from our historical results.

Overview

We are an e-commerce-focused retailer with an affinity model that owns or has ownership interests in various brands, offering a comprehensive array of products and services that enable its customers to enhance everyday life through quality, style, and value. In addition, we also offer an increasing number of add-on services across our platforms, including warranties, shipping insurance, and installation services. Our customer engagement and retention are bolstered by our welcome rewards+ membership program, enhancing the overall value proposition for our customers. We currently own Bed Bath & Beyond, Overstock, and buybuy BABY, among other brands. As used herein, "Bed Bath & Beyond," "the Company," "we," "our" and similar terms include Bed Bath & Beyond, Inc. and its controlled subsidiaries, unless the context indicates otherwise.

Through our Bed Bath & Beyond brand, we provide an extensive array of home-related products tailored specifically for our target customers - consumers who seek comprehensive support throughout their shopping journey, aspiring to discover quality, stylish products at competitive prices that align with their budget requirements. We regularly refresh our product assortment to reflect the evolving preferences of our customers and aim to stay aligned with current trends. The mission of this brand is to achieve category-leading ownership of four distinct rooms of the home: the bedroom, the bathroom, the kitchen, and the patio, and our goal is for our assortment to include not only core legacy categories like bedding and kitchenware, but also adjacent categories like bedroom and outdoor furniture and rugs. Furniture across all rooms continues to play a critical role in our strategy. Leveraging an asset-light supply chain, direct shipping is offered to customers from both our suppliers and third-party logistics providers.

Bed Bath & Beyond's strategic priorities include curating stylish, high-quality assortments to make product selection intuitive and affordable, in addition to enhancing offerings with trusted aspirational brands. We transform the customer experience by building trust, creating life-stage experiences, and consistently delivering inspiration, quality, and value.

Through our Overstock brand, we aim to provide a wide array of quality goods at discounted prices, and a treasure hunt-like experience for our target customers - consumers who are highly engaged, very accustomed to purchasing online, and actively seeking great deals. The mission of this brand is to delight our customers by offering them deals on products they will love. Our product assortment includes home categories such as indoor and outdoor furniture, rugs, décor, and lighting, as well as lifestyle categories such as jewelry and watches, apparel and accessories, and designer shoes and handbags.

The buybuy BABY brand acquisition allows us to reunite two traditionally related brands, Bed Bath & Beyond and buybuy BABY, and support our customers through key life stage shopping moments.

In August 2025, we changed our corporate name from Beyond, Inc. to Bed Bath & Beyond, Inc. and changed our ticker symbol from "BYON" to "BBBY".

Merger Agreement

On November 24, 2025, we entered in an Agreement and Plan of Merger (the "Merger Agreement"), by and among the Company, Knight Merger Sub II, Inc., a wholly owned subsidiary of the Company, and TBHC, pursuant to which, subject to the terms and conditions set forth therein, Merger Sub will merge with and into TBHC (the "Merger"), with TBHC surviving such Merger as a wholly owned subsidiary of the Company.

Under the Merger Agreement, at the effective time of the Merger (the “Effective Time”), each share of common stock, no par value, of TBHC (the “TBHC Common Stock”) issued and outstanding immediately prior to the Effective Time (other than treasury shares and any shares of TBHC Common Stock held directly by the Company or Merger Sub) will be converted

into the right to receive 0.1993 shares (the “Exchange Ratio”) of a fully paid and non-assessable share of common stock, par value $0.0001 per share, of the Company (the “Company Common Stock”) and, if applicable, cash in lieu of fractional shares, subject to any applicable withholding.

At the Effective Time, (i) each award of TBHC restricted share units (“TBHC RSU”) that is outstanding as of immediately prior to the Effective Time will automatically fully vest and be converted into the right to receive, without interest and subject to applicable withholding taxes, (A) a number of shares of Company Common Stock equal to the number of shares of TBHC subject to the TBHC RSU multiplied by the Exchange Ratio and (B) if applicable, cash in lieu of fractional shares, and (ii) each option to purchase TBHC Common Stock (“TBHC Option”) that is outstanding as of immediately prior to the Effective Time will be automatically converted into the right to receive, without interest and subject to applicable withholding taxes, (A) a number of shares of Company Common Stock equal to the Net Option Share Amount (as defined in the Merger Agreement) applicable to the TBHC Option multiplied by the Exchange Ratio and (B) if applicable, cash in lieu of fractional shares.

For additional information on the proposed merger, see Item 8 of Part II, "Financial Statements and Supplementary Data"—Note 25—Subsequent Events.

Executive Commentary

This executive commentary is intended to provide investors with a view of our business through the eyes of our management. As an executive commentary, it necessarily focuses on selected aspects of our business. This executive commentary is intended as a supplement to, but not a substitute for, the more detailed discussion of our business included elsewhere herein. Investors are cautioned to read our entire "Management's Discussion and Analysis of Financial Condition and Results of Operations," and our interim and audited financial statements, and the discussion of our business and risk factors and other information included elsewhere or incorporated in this report. This executive commentary includes forward-looking statements, and investors are cautioned to read "Special Cautionary Note Regarding Forward-Looking Statements."

Our cash and cash equivalents balance increased from $159.2 million as of December 31, 2024 to $175.3 million as of December 31, 2025, an increase of $16.1 million, primarily as the result of $137.3 million in net proceeds from the sales of our common stock pursuant to our "at-the-market" public offering, net of offering costs and $6.3 million in proceeds received from the sale of intangible assets; offset by net cash outflows from operating activities of $56.7 million, cash outflows from investing activities including the disbursement of notes receivable to TBHC of $15.2 million, The Container Store of $6.5 million, and GrainChain of $3.0 million, purchases of intangible assets of $15.4 million, purchases of equity securities in TBHC of $8.0 million, and expenditures for property and equipment of $7.4 million. The increase was further offset by cash outflows from financing activities including payments on short-term debt of $9.5 million and repurchases of our common stock under the stock repurchase program of $6.2 million.

Revenue for the year ended December 31, 2025, was $1,044.6 million, compared to $1,395.0 million for the year ended December 31, 2024, representing a decrease of $350.3 million or 25%. The decrease was primarily due to a 30% decrease in the number of orders delivered, which contributed $439.6 million of the revenue decline, partially offset by an 8% or $14.22 increase in average order value, which resulted in a revenue increase of approximately $89.3 million. The decrease in orders delivered was driven by a decline in website visits influenced in part by a reduction in overall sales and marketing spend as we focus on improving more efficient traffic channels and refine our assortment as well as a shift in consumer spending preferences and macroeconomic factors impacting consumer sentiment and the home furnishings industry. The increase in average order value was largely driven by orders mixing into categories with higher average unit retail price.

Gross profit for the year ended December 31, 2025, was $257.5 million, or 24.7% of revenue, compared to $290.2 million, or 20.8%, for the year ended December 31, 2024. This represents a decrease of $32.6 million or 11%. The decrease was primarily attributable to lower revenue, which reduced gross profit by approximately $79.6 million, partially offset by an improved gross margin that contributed an increase of approximately $47.0 million. Gross margin increased by 390 basis points year-over-year, primarily due to approximately 150 basis points of lower carrier costs, 110 basis points of lower loyalty participation prior to new program launch, 100 basis points of lower return costs, and 10 basis points of favorable merchandise actions.

Sales and marketing expenses were $143.4 million, or 13.7% of revenue for the year ended December 31, 2025, compared to $238.6 million, or 17.1% of revenue, for the year ended December 31, 2024. This represents a decrease of $95.2 million, or 40%. The decrease was primarily driven by decreased performance marketing expenses of $78.4 million and a $12.7 million reduction in brand advertising.

Technology expenses decreased by $24.3 million for the year ended December 31, 2025, compared to the prior period. The decrease was primarily due to a reduction in staff-related expenses of $19.0 million and a $3.2 million reduction in third-party expenses primarily driven by our technology transformation efforts, including the adoption of evolving technological advancements such as artificial intelligence.

General and administrative expenses decreased by $20.8 million for the year ended December 31, 2025, compared to the prior period. The decrease was primarily due to a $15.7 million reduction in staff-related expenses and a $2.8 million reduction in third-party expenses driven by our organizational restructuring and cost savings initiatives.

Customer service and merchant fees decreased by $16.3 million for the year ended December 31, 2025, compared to the prior period. The decrease was primarily driven by a $6.5 million decrease in customer service expenses and a $9.8 million decrease in credit card costs, primarily due to decreased order volume.

Other operating income, net decreased by $1.1 million for the year ended December 31, 2025, compared to the prior period. The decrease was primarily attributable to a $10.3 million gain from the 2024 sale of Wamsutta trademark, a $3.4

million loss from the 2024 sale of our corporate headquarters, and a $5.0 million gain from the sales of Canada and the United Kingdom Bed Bath & Beyond trademarks in 2025.

Key Operating Metrics

We review a number of metrics, including the following key operating and financial metrics, to evaluate our business, measure our performance, identify trends in our business, prepare financial forecasts and make strategic decisions. We believe these operational measures are useful in evaluating our performance, in addition to our financial results prepared in accordance with U.S. GAAP. You should read the key operating and financial metrics in conjunction with the following discussion of our results of operations and together with out consolidated financial statements and related notes included elsewhere in this Annual Report on Form 10-K.

	Year ended December 31,	
	2025	2024
Active customers (1)	3,962	5,415
LTM net revenue per active customer (2)	$ 264	$ 258
Orders delivered (3)	5,154	7,402
Average order value (4)	$ 203	$ 188
Orders per active customer (5)	1.30	1.37

(1) Active customers represent the total number of unique customers who have made at least one purchase during the prior twelve-month period. This metric captures both the inflow of new customers and the outflow of existing customers who have not made a purchase during the prior twelve-month period. We view active customers as a key indicator of our growth.

(2) Last twelve months (LTM) net revenue per active customer represents total net revenue in a twelve-month period divided by the total number of active customers for the same twelve-month period. We view LTM net revenue per active customer as a key indicator of our customers' purchasing patterns, including their initial and repeat purchase behavior.

(3) Orders delivered represents the total number of orders delivered in any given period, including orders that may eventually be returned. As we ship a large volume of packages through multiple carriers, actual delivery dates may not always be available, and in those circumstances, we estimate delivery dates based on historical data. We view orders delivered as a key indicator of our growth.

(4) Average order value is defined as total net revenue in any given period divided by the total number of orders delivered in that period. We view average order value as a key indicator of the mix of products on our sites, the mix of offers and promotions and the purchasing behavior of our customers.

(5) Orders per active customer is defined as orders delivered in a twelve-month period divided by active customers for the same twelve-month period. We view orders per active customer as a key indicator of our customers' purchasing patterns, including their initial and repeat purchase behavior.

Additional commentary related to macroeconomic trends

We continue to monitor recent macroeconomic trends and geopolitical events, including, without limitation, ongoing global conflicts, trade barriers including tariffs, financial and stock market volatility, higher interest rates, inflation, and their impacts. These events have and may continue to negatively impact consumer confidence and consumer spending, which have and may continue to adversely affect our business and our results of operations. Many of our suppliers source from other countries and may be negatively affected by increased tariffs or other import/export controls by the United States and foreign governments, as well as uncertainty in the market as it responds to global macroeconomic factors. Due to the uncertain and constantly evolving nature and volatility of these trends and events, we cannot currently predict their long-term impact on our operations and financial results. As of December 31, 2025, the challenges arising from these events have not adversely affected our liquidity or capacity to service our debt, nor have these conditions required us to reduce our capital expenditures.

Liquidity and Capital Resources

Overview

We believe that our cash and cash equivalents currently on hand and expected cash flows from future operations will be sufficient to continue operations for at least the next twelve months. We continue to monitor, evaluate, and manage our operating plans, forecasts, and liquidity considering the most recent developments driven by macroeconomic conditions, such as supply chain challenges, inflation, higher interest rates, tariffs, bans, or other measures or events that increase the effective price of products, and other geopolitical events. We proactively seek opportunities to improve the efficiency of our operations and have in the past and may in the future take steps to realize internal cost savings, including aligning our staffing needs, creating a more variable cost structure to better support our current and expected future levels of operations and process streamlining.

We periodically evaluate opportunities to repurchase our equity securities, obtain credit facilities, or issue additional debt or equity securities, which may impact our future operations and liquidity. In addition, we may, from time to time, consider the investment in, or acquisition of, complementary businesses, products, services, or technologies to expand our business, any of which might affect our liquidity requirements or cause us to issue additional debt or equity securities that would be dilutive to stockholders.

Our future capital requirements will depend on many factors, including, but not limited to, our growth, our ability to execute on our business strategy, our ability to realize the benefits of any investment in new business strategies, acquisitions, or other transactions, and consumer sentiment towards our offerings. In the event that additional liquidity is required from outside sources, we may not be able to raise the capital on terms acceptable to us or at all. If we are unable to raise additional capital when desired, our business, financial condition, and results of operations could be adversely affected.

Current sources of liquidity

Our principal sources of liquidity are existing cash and cash equivalents, and accounts receivable, net. At December 31, 2025, we had cash and cash equivalents of $175.3 million and accounts receivable, net of allowance for credit losses of $20.8 million.

Cash flow information is as follows (in thousands):

	Year ended December 31,	
	2025	2024
Cash provided by (used in):		
Operating activities	$ (56,701)	$ (174,304)
Investing activities	(49,227)	24,926
Financing activities	122,054	32,722

On June 10, 2024, we entered into a Capital on Demand™ Sales Agreement (the "Sales Agreement") with JonesTrading Institutional Services LLC ("JonesTrading"), under which we from time to time conduct "at the market" public offerings of our common stock. Under the Sales Agreement, JonesTrading, acting as our agent, may offer our common stock in the market on a daily basis or otherwise as we request from time to time. As of December 31, 2025, we had $16.0 million remaining available under our "at the market" sales program. We have no obligation to sell additional shares under the Sales Agreement, but we may do so from time to time. Under the agreement, we will pay JonesTrading up to a 2% sales commission on all sales. For the year ended December 31, 2025, we sold 16,293,806 shares of our common stock pursuant to the Sales Agreement and have recognized $137.3 million in proceeds, net of $2.8 million of offering costs, including commissions paid to JonesTrading. For the year ended December 31, 2024, we sold 7,002,375 shares of our common stock pursuant to the Sales Agreement and recognized $43.0 million in proceeds, net of $879,000 of offering costs, including commissions paid to JonesTrading.

On March 17, 2025, we entered into an Intellectual Property Asset Purchase Agreement with Lyons Trading Company, the operator of Proozy.com, to sell its rights in the Zulily brand for a total sales price of $5.0 million while retaining a 25% ownership stake in the brand in the form of a newly created entity ("Zulily Newco"). In connection with this transaction, we received $1.25 million upfront and will receive the remaining $3.75 million in quarterly installments commencing on April 30, 2026, over the course of five years.

On September 22, 2025, we declared a distribution (the “Warrant Distribution”) to the holders of record of our common stock, in the form of warrants to purchase shares of common stock (the “Warrants”). The Warrants were issued on the terms and conditions described in the Warrant Agreement (as defined below) and were distributed on October 7, 2025, to the holders of record of our common stock as of the close of business on October 2, 2025 (the “Record Date”). Pursuant to the terms of the Warrant Agreement, dated as of October 7, 2025, between us, Computershare, Inc., a Delaware corporation, and its affiliate, Computershare Trust Company, N.A., as Warrant Agent (the “Warrant Agreement”), each holder of record of our common stock as of the Record Date will receive one Warrant for every ten shares of our common stock (rounded down to the nearest whole number for any fractional Warrant). Each Warrant will entitle the holder to purchase, at the holder’s sole and exclusive election commencing on the date the registration statement on Form S-3 (File No. 333-290763), filed with the SEC on October 8, 2025, became effective, at a cash exercise price of $15.50 per Warrant (the “Exercise Price”), one share of our common stock. Payment for shares of our common stock upon exercise of Warrants must be in cash.

On May 7, 2025, we entered into an Amended and Restated Term Loan Credit Agreement (the "Amended and Restated Credit Agreement"), which amended and restated the secured Term Loan Credit Agreement ("Existing Credit Agreement") entered on October 21, 2024 and pursuant to which we provided The Brand House Collective, Inc. (formerly known as Kirkland's Inc.) ("TBHC") with an additional term loan in an approximate aggregate original principal amount of $5.2 million (the "Additional Term Loan") and obligations arising under the Existing Credit Agreement in the aggregate amount of $8.5 million were rolled into the Amended and Restated Credit Agreement as obligations thereunder (collectively, the "Notes"). On September 15, 2025, the Company entered into Amendment No. 1 to the Amended and Restated Credit Agreement (such amendment, the "Credit Agreement Amendment" and the Existing Credit Agreement as amended by the Credit Agreement Amendment, the "Amended Credit Agreement"). Pursuant to the terms of the Amended Credit Agreement, new delayed-draw term loan commitments in an aggregate original principal amount of $20.0 million (the "Delayed Draw Term Loan Commitments") were established. On November 24, 2025, the Company entered into Amendment No. 2 to the Amended and Restated Credit Agreement (the "Second Amendment") pursuant to which the Company agreed to increase the Delayed Draw Term Loan Commitments by $10.0 million, to an aggregate principal amount of $30.0 million. Concurrently with the Second Amendment, and as of December 31, 2025, $10.0 million has been drawn under the Delayed Draw Term Loan Commitments (the "Delayed Draw Note"). The Amended Credit Agreement provides us the right to convert the outstanding loans (including loans extended in satisfaction of the Delayed Draw Term Loan Commitments) owing under the Amended and Restated Credit Agreement into shares of TBHC’s common stock at a price equal to the closing price on the Nasdaq Stock Market LLC ("Nasdaq") on the day prior to the date on which a conversion election is made, up to a number of shares equal to 19.90% of the outstanding shares of TBHC’s common stock on the date the Amended Credit Agreement was entered into, and up to a greater number of shares subject to Nasdaq shareholder approval rules. We are currently restricted from holding greater than 75% of outstanding TBHC’s issued shares for so long as any obligations remain outstanding under TBHC’s credit agreement with its senior lender, Bank of America, N.A. On November 24, 2025, we entered in a Merger Agreement with TBHC pursuant to which, subject to the terms and conditions set forth therein, TBHC will survive the Merger as a wholly owned subsidiary of the Company.

On June 30, 2025, we entered into a Trademark and Domain Name Agreement with a large, well-established Canadian retailer to sell certain intellectual property related to the Bed Bath & Beyond trademarks in Canada and the United Kingdom, which was acquired as part of our purchase of the Bed Bath & Beyond brand in June 2023, for a total sales price of $5.0 million, and revenue share payments to be paid to us in perpetuity.

On November 25, 2025, we purchased, via a participation agreement for par/near par trades, a portion of the loans issued by The Container Store, Inc. pursuant to the Term Loan Credit Agreement, dated as of January 28, 2025, as amended on September 15, 2025 (as amended, the "TCS Credit Agreement"). The aggregate purchase price for our participation in certain loans issued pursuant to the TCS Credit Agreement was $6.5 million. As a result of these transactions, we will participate in the rights to the payment of interest and repayment of the loans and any exercise of rights or remedies related thereto.

Future liquidity commitments

On January 9, 2026, we purchased, via an amended participation agreement for par/near par trades, an additional portion of the loans issued by The Container Store, Inc. pursuant to the TCS Credit Agreement. The aggregate purchase price for our additional participation in certain loans issued pursuant to the TCS Credit Agreement was $2.2 million. As a result of these transactions, we will participate in the rights to the payment of interest and repayment of the loans and any exercise of rights or remedies related thereto.

In the first quarter of 2026, TBHC drew an additional $15.0 million under the Delayed Draw Term Loan Commitments. There is approximately $5.0 million remaining under the Delayed Draw Term Loan Commitments.

Following the completion of the merger, we expect to fund the ongoing operations, capital requirements, and working capital needs of TBHC through existing cash balances, cash flows from operations, and available credit facilities.

Operating activities

Cash received from customers generally corresponds to our net revenue as our customers primarily use credit cards to buy from us, causing our receivables from these sales transactions to settle quickly. Our payment terms with our partners generally extend beyond the amount of time necessary to collect proceeds from our customers.

The $56.7 million of net cash used by operating activities during the year ended December 31, 2025 was primarily due to loss from operating activities of $84.6 million, net of the impact from non-cash items such as depreciation and amortization, non-cash operating lease costs, stock-based compensation, gain on sale of intangible assets, and loss from equity method securities of $50.9 million and cash used by changes in operating assets and liabilities of $23.0 million.

The $174.3 million of net cash used by operating activities during the year ended December 31, 2024 was primarily due to loss from operating activities of $258.8 million, net of the impact from non-cash items such as depreciation and amortization, non-cash operating lease costs, stock-based compensation, gain on sale of intangible assets, and loss from equity method securities of $115.3 million, offset by cash provided by changes in operating assets and liabilities of $30.8 million.

Investing activities

The $49.2 million of net cash used by investing activities during the year ended December 31, 2025 was primarily due to disbursement for notes receivable to TBHC of $15.2 million, The Container Store of $6.5 million, and GrainChain of $3.0 million, purchases of intangible assets of $15.4 million, purchases of equity securities in TBHC of $8.0 million, and expenditures for property and equipment of $7.4 million, offset by proceeds received from the sale of intangible assets of $6.3 million.

The $24.9 million of net cash provided by investing activities during the year ended December 31, 2024 was primarily due to proceeds from the sale of our corporate headquarters of $51.4 million and proceeds received from the sale of the
Wamsutta trademark of $10.3 million, offset by disbursement for Kirkland's notes receivable of $17.0 million, expenditures for property and equipment of $14.3 million, and purchases of intangible assets of $6.0 million.

Financing activities

The $122.1 million of net cash provided by financing activities during the year ended December 31, 2025 was primarily due to net proceeds from the sales of our common stock pursuant to our "at the market" public offering, net of offering costs of $137.3 million, offset by payments on short-term debt of $9.5 million and repurchases of our common stock under the stock repurchase program of $6.2 million.

The $32.7 million of net cash provided by financing activities during the year ended December 31, 2024 was primarily due to net proceeds from the sales of our common stock pursuant to our "at the market" public offering, net of offering costs of $43.0 million and proceeds from our revolving line of credit of $25.0 million, offset by payments on our long-term debt in conjunction with the sale of our corporate headquarters of $34.8 million and payment of taxes withheld upon vesting of employee stock awards of $3.3 million.

Contractual Obligations and Commitments

The following table summarizes our contractual obligations as of December 31, 2025 and the effect such obligations and commitments are expected to have on our liquidity and cash flow in future periods (in thousands):

	Payments due by period				
Contractual Obligations	**Total**	**Less than 1 year**	**1-3 years**	**3-5 years**	**More than 5 years**
Operating leases (1)	$ 8,163	$ 1,285	$ 2,249	$ 2,172	$ 2,457

(1) Represents the future minimum lease payments under non-cancellable operating leases. For information regarding our operating lease obligations, see Item 8 of Part II, "Financial Statements and Supplementary Data"—Note 12—Leases contained in the "Notes to Consolidated Financial Statements" of this Annual Report on Form 10-K.

Tax contingencies

We are involved in various tax matters, the outcomes of which are uncertain. As of December 31, 2025, and 2024, tax contingencies were $3.5 million and $3.7 million, respectively, which are included in our reconciliation of unrecognized tax benefits (see Item 8 of Part II, "Financial Statements and Supplementary Data"—Note 22—Income Taxes contained in the "Notes to Consolidated Financial Statements" of this Annual Report on Form 10-K). Changes in federal, foreign, state, and local tax laws may increase our tax contingencies. The timing of the resolution of income tax contingencies is highly uncertain, and the amounts ultimately paid, if any, upon resolution of issues raised by the taxing authorities may differ from the amounts accrued. It is reasonably possible that within the next 12 months we will receive additional assessments by various tax authorities. These assessments may or may not result in changes to our contingencies related to positions on prior years' tax filings.

Borrowings

In October 2024, we entered into a Loan and Security Agreement (the "Loan Agreement") with BMO Bank N.A. (in such capacity, "BMO"), pursuant to which BMO agreed to lend us up to $25.0 million on a one-year revolving line of credit to aid us in securing strategic ventures. In connection with the Loan Agreement, BMO issued a revolving line of credit promissory note (the "Revolving Note") and granted a lien on the cash collateral account specified in the Loan Agreement (the "Cash Collateral Account"). The revolving line of credit bears interest on the unpaid principal balance at an annual rate equal to the Secured Overnight Financing Rate, or SOFR rate, for a one-month interest period plus 1.00%, established by the Federal Reserve Bank of New York. We are obligated to pay certain commitment fees on undrawn amounts under the Loan Agreement in amounts specified in the Loan Agreement. The Loan Agreement and Revolving Note was originally scheduled to terminate on October 18, 2025 and loans thereunder may be borrowed, repaid, and reborrowed up to such date. In September 2025, we and BMO extended the term of the Loan Agreement and Revolving Note for an additional year, and it will now terminate in October 2026.

Results of Operations

Our Annual Report on Form 10-K for the year ended December 31, 2024, filed on February 25, 2025, includes a discussion and analysis of our year-over-year changes, financial condition, and results of operations for the years ended December 31, 2024 and 2023 in Item 7 of Part II, "Management's Discussion and Analysis of Financial Condition and Results of Operations."

Net revenue, costs of goods sold, gross profit and gross margin

The following table summarizes our net revenue, costs of goods sold, gross profit and gross margin for the years ended December 31, 2025 and 2024 (in thousands):

	Year ended December 31,	
	2025	**2024**
Net revenue	$ 1,044,616	$ 1,394,964
Cost of goods sold		
Product costs and other cost of goods sold	787,094	1,104,800
Gross profit	$ 257,522	$ 290,164
Year-over-year percentage change		
Net revenue	(25.1)%	
Gross profit	(11.2)%	
Percent of net revenue		
Cost of goods sold		
Product costs and other cost of goods sold	75.3 %	79.2 %
Gross margin	24.7 %	20.8 %

Revenue for the year ended December 31, 2025, was $1,044.6 million, compared to $1,395.0 million for the year ended December 31, 2024, representing a decrease of $350.3 million or 25%. The decrease was primarily due to a 30% decrease in the number of orders delivered, which contributed $439.6 million of the revenue decline, partially offset by an 8% or $14.22 increase in average order value, which resulted in a revenue increase of approximately $89.3 million. The decrease in orders delivered was driven by a decline in website visits influenced in part by a reduction in overall sales and marketing spend as we focus on improving more efficient traffic channels and refine our assortment as well as a shift in consumer spending preferences and macroeconomic factors impacting consumer sentiment and the home furnishings industry. The increase in average order value was largely driven by orders mixing into categories with higher average unit retail price.

Estimate of unearned product revenue on undelivered product

Our revenue related to merchandise sales is recognized upon delivery to our customers. As we ship high volumes of packages through multiple carriers, it is not practical for us to track the actual delivery date of each shipment. Therefore, we use estimates to determine which shipments are delivered and, therefore, recognized as revenue at the end of the period. Our delivery date estimates are based on average shipping transit times. We review and update our estimates on a quarterly basis based on our actual transit time experience. However, actual shipping times may differ from our estimates, which can be further impacted by uncertainty, volatility, and any disruption to our carriers caused by certain macroeconomic conditions, such as supply chain challenges, inflation, rising interest rates, climate and weather events, or geopolitical events.

The following table shows the effect that hypothetical changes in the estimate of average shipping transit times would have had on the reported amount of revenue and income before taxes (in thousands):

	Year Ended December 31, 2025	
Change in the Estimate of Average Transit Times (Days)	**Increase (Decrease) Revenue**	**Increase (Decrease) Income Before Income Taxes**
2	$ (3,629)	$ (594)
1	$ (2,354)	$ (385)
As reported	As reported	As reported
(1)	$ 5,614	$ 919
(2)	$ 8,590	$ 1,406

Gross profit and gross margin

Our overall gross margins fluctuate based on factors such as competitive pricing; discounting; product mix of sales; advertising revenue and our marketing allowance program; and operational and fulfillment costs which include costs incurred to operate and staff our warehouses, including rent and depreciation expense associated with these facilities, costs to receive, inspect, pick, and prepare customer order for delivery, and direct and indirect labor costs including payroll, payroll-related benefits, and stock-based compensation, all of which we include as costs in calculating gross margin.

Gross margins for the past eight quarterly periods and years ending December 31, 2025 and 2024 were:

	Q1	Q2	Q3	Q4	FY
2025	25.1 %	23.7 %	25.3 %	24.6 %	24.7 %
2024	19.5 %	20.1 %	21.2 %	23.0 %	20.8 %

Gross profit for the year ended December 31, 2025, was $257.5 million, or 24.7% of revenue, compared to $290.2 million, or 20.8%, for the year ended December 31, 2024. This represents a decrease of $32.6 million or 11%. The decrease was primarily attributable to lower revenue, which reduced gross profit by approximately $79.6 million, partially offset by an improved gross margin that contributed an increase of approximately $47.0 million. Gross margin increased by 390 basis points year-over-year, primarily due to approximately 150 basis points of lower carrier costs, 110 basis points of lower loyalty participation prior to new program launch, 100 basis points of lower return costs, and 10 basis points of favorable merchandise actions.

Operating expenses

Sales and marketing expenses

We use a variety of online advertising channels to attract new and repeat customers, including search engine marketing, personalized emails, mobile app, loyalty program, affiliate marketing, display banners, and social media. We also build our brand awareness through linear and streaming TV advertising.

Costs associated with our discounted shipping and other promotions, such as coupons, are not included in sales and marketing expense. Rather, they are accounted for as a reduction in revenue as they reduce the amount of consideration we expect to receive in exchange for goods or services and therefore affect net revenues and gross margin. We consider these promotions to be an effective marketing tool.

The following table summarizes our sales and marketing expenses for the years ended December 31, 2025 and 2024 (in thousands):

	Year ended December 31,	
	2025	2024
Sales and marketing expenses	$ 143,356	$ 238,564
Advertising expense included in sales and marketing expenses	136,973	228,083
Year-over-year percentage change		
Sales and marketing expenses	(39.9)%	
Advertising expense included in sales and marketing expenses	(39.9)%	
Percentage of net revenue		
Sales and marketing expenses	13.7 %	17.1 %
Advertising expense included in sales and marketing expenses	13.1 %	16.4 %

Sales and marketing expenses were $143.4 million, or 13.7% of revenue for the year ended December 31, 2025, compared to $238.6 million, or 17.1% of revenue, for the year ended December 31, 2024. This represents a decrease of $95.2 million, or 40%. The decrease was primarily driven by decreased performance marketing expenses of $78.4 million and a $12.7 million reduction in brand advertising.

Technology expenses

We seek to deploy our capital resources efficiently in technology to support operations including private and public cloud, web services, customer support solutions, and product search, and in technology to enhance the customer experience, including machine learning algorithms, improving our process efficiency, modernizing and expanding our systems, and supporting and expanding our logistics infrastructure, and supporting evolving technological advancements such as artificial intelligence. We expect to continue to incur technology expenses to support these efforts and these expenditures may continue to be material.

The frequency and variety of cyberattacks on our Website, enterprise systems, services, and on third parties we use to support our technology continues to increase. The impact of such attacks, their costs, and the costs we incur to protect ourselves against future attacks, have not been material to date. However, we consider the risk introduced by cyberattacks to be serious and will continue to incur costs related to efforts to protect ourselves against them.

The following table summarizes our technology expenses for the years ended December 31, 2025 and 2024 (in thousands):

	Year ended December 31,	
	2025	2024
Technology expenses	$ 90,276	$ 114,584
Year-over-year percentage change		
Technology expenses	(21.2)%	
Technology expenses as a percent of net revenue	8.6 %	8.2 %

Technology expenses decreased by $24.3 million for the year ended December 31, 2025, compared to the prior period. The decrease was primarily due to a reduction in staff-related expenses of $19.0 million and a $3.2 million reduction in third-party expenses primarily driven by our technology transformation efforts, including the adoption of evolving technological advancements such as artificial intelligence.

General and administrative expenses

The following table summarizes our general and administrative expenses for the years ended December 31, 2025 and 2024 (in thousands):

	Year ended December 31,	
	2025	2024
General and administrative expenses	$ 53,569	$ 74,399
Year-over-year percentage change		
General and administrative expenses	(28.0)%	
General and administrative expenses as a percent of net revenue	5.1 %	5.3 %

General and administrative expenses decreased by $20.8 million for the year ended December 31, 2025, compared to the prior period. The decrease was primarily due to a $15.7 million reduction in staff-related expenses and a $2.8 million reduction in third-party expenses driven by our organizational restructuring and cost savings initiatives.

Customer service and merchant fees

Customer service and merchant fees include customer service costs and merchant processing fees associated with customer payments made by credit cards and other payment methods and other variable fees. Customer service and merchant fees as a percent of revenue may vary due to several factors, such as our ability to effectively manage customer service and merchant fees.

The following table summarizes our customer service and merchant fees for the years ended December 31, 2025 and 2024 (in thousands):

	Year ended December 31,	
	2025	2024
Customer service and merchant fees	$ 37,324	$ 53,586
Year-over-year percentage change		
Customer service and merchant fees	(30.3)%	
Customer service and merchant fees as a percent of net revenue	3.6 %	3.8 %

Customer service and merchant fees decreased by $16.3 million for the year ended December 31, 2025, compared to the same period in 2024. The decrease was primarily driven by a $6.5 million decrease in customer service expenses and a $9.8 million decrease in credit card costs, primarily due to decreased order volume.

Other operating expense (income), net

The following table summarizes our other operating expense (income), net (in thousands):

	Year ended December 31,	
	2025	2024
Other operating expense (income), net	$ (5,790)	$ (6,882)
Year-over-year percentage change		
Other operating expense (income), net	(15.9)%	
Other operating expense (income), net as a percent of net revenue	(0.6)%	(0.5)%

Other operating income, net decreased by $1.1 million for the year ended December 31, 2025, compared to the same period in 2024. The decrease was primarily attributable to a $10.3 million gain from the 2024 sale of Wamsutta trademark, a $3.4 million loss from the 2024 sale of our corporate headquarters, and a $5.0 million gain from the sales of Canada and the United Kingdom Bed Bath & Beyond trademarks in 2025.

Non-operating income (expense)

Other expense, net

The $53.2 million favorable change in other expense, net for the year ended December 31, 2025, as compared to the same period in 2024, was primarily due to a $49.1 million decrease in loss recognized from our equity method securities and a $3.9 million favorable change in fair value on our debt securities carried at fair value.

Income taxes

Our effective tax rate for the years ended December 31, 2025 and 2024 was (0.98)% and (0.27)%, respectively. Our effective tax rate is affected by recurring items such as research tax credits and non-recurring items such as changes in valuation allowances. In addition, relative changes in expenses or losses for which tax benefits are limited or not recognized, fluctuations in our stock price, changes in laws, regulations, and administrative practices can impact our rate. Our effective tax rate is also affected to a lesser extent by tax rates in foreign jurisdictions and the relative amount of income we earn in those jurisdictions, which we expect to be fairly consistent in the near term. Our effective tax rate differs from the statutory federal income tax rate of 21% primarily due to the impacts of the valuation allowance against our deferred tax assets, net of deferred tax liabilities.

As we repatriate foreign earnings for use in the United States, the distributions will generally be exempt from federal and foreign income taxes but may be subject to certain state taxes. As of December 31, 2025, the cumulative amount of foreign earnings considered permanently reinvested upon which taxes have not been provided, and the corresponding unrecognized deferred tax liability, was not material.

Critical Accounting Policies and Estimates

The preparation of financial statements in conformity with U.S. generally accepted accounting principles ("GAAP") requires estimates and assumptions that affect the reported amounts of assets and liabilities, revenues and expenses, and related disclosures of contingent assets and liabilities in the consolidated financial statements and accompanying notes. The SEC has defined a company's critical accounting policies as the ones that are most important to the portrayal of the company's financial condition and results of operations, and which require the company to make its most difficult and subjective judgments, often as a result of the need to make estimates of matters that are inherently uncertain. Based on this definition, we have identified the critical accounting policies and judgments addressed below. We also have other key accounting policies, which involve the use of estimates, judgments, and assumptions that are significant to understanding our results. For additional information, see Item 8 of Part II, "Financial Statements and Supplementary Data"—Note 2—Accounting Policies and Supplemental Disclosures. We believe that our estimates, assumptions, and judgments are reasonable. We evaluate our estimates and assumptions on an ongoing basis. Actual results may differ significantly from these estimates. We note that we have not identified any critical accounting estimates in the current year. Our critical accounting policies are as follows:

- primary beneficiary determination in investments in unconsolidated entities

Primary beneficiary determination in investments in unconsolidated entities

The accompanying consolidated financial statements include our accounts and the accounts of our wholly-owned subsidiaries. All intercompany account balances and transactions have been eliminated in consolidation. The Company reports investments in unconsolidated entities who we can exercise significant influence, but not control under the equity method of accounting.

We evaluated our equity method investment in The Brand House Collective and determined it met the definition of a Variable Interest Entity ("VIE"); however, it is not consolidated because we are not the primary beneficiary of the VIE as we lack the power to direct the activities that most significantly impact The Brand House Collective's economic performance. Due to the judgment required for determining whether we are the primary beneficiary of the VIE or not, which includes our assessment of our ability and power to direct the activities that most significantly impact The Brand House Collective's economic performance, any changes to our assessment could materially affect the presentation and accounting for our equity method investment in The Brand House Collective on the Company's consolidated financial statements.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risk for the effect of interest rate changes, foreign currency fluctuations, and changes in the market values of our investments. Information relating to quantitative and qualitative disclosures about these market risks is set forth below.

Interest Rate Sensitivity

The fair value of our cash and cash equivalents (highly-liquid instruments with an original maturity of 90 days or less at the date of purchase) would not be significantly affected by either an increase or decrease in interest rates due mainly to the short-term nature of these instruments.

Interest on the revolving line of credit incurred pursuant to the Loan Agreement described herein would accrue based on market rates plus 1.00%, for a one-month interest period; however, we do not expect that any changes in prevailing interest rates will have a material impact on our results of operations.

The Delayed Draw Term Loan Commitments require the Company to originate a loan at a floating interest rate plus an agreed margin upon request from the borrower, so as long as the conditions specified in the Amended Credit Agreement with respect to the origination of such loan are satisfied. The outstanding Delayed Draw Term Loan Commitments expose the Company to the risk that the price of the loans arising from the exercise of the instrument might change from the inception to funding of the loan due to changes in loan interest rate margins; however, we do expect that any changes in prevailing interest rates will have a material impact on our results of operations.

Foreign Currency Risk

Most of our sales and operating expenses are denominated in U.S. dollars, and therefore, our total revenue and operating expenses are not currently subject to significant foreign currency risk.

Inflation

Increases in commodity and shipping prices and energy and labor costs have resulted in inflationary pressures across various parts of our business and operations, including our partners and supply chain. We continue to monitor the impact of inflation in order to minimize its effects on our customers. We work with our partners to limit the amount of cost increases that are passed on through higher pricing. If costs borne by ourselves or our partners were to be subject to incremental inflationary pressures, we may not be able to fully offset such higher costs through pricing actions or other cost efficiency measures. Our inability or failure to do so could harm our business, financial condition and results of operations.

Investment Risk

The fair values of our equity and debt securities may be subject to fluctuations due to volatility of the stock market in general, investment-specific circumstances, and changes in general economic conditions. At December 31, 2025, our recorded value in equity securities of private and public companies was $66.6 million, compared to $78.2 million at December 31, 2024, of which $9.8 million relates to publicly-traded companies, compared to $0.0 million at December 31, 2024, recorded at fair value, which are subject to market price volatility. At December 31, 2025, $24.0 million of our debt securities are recorded at fair value using Level 2 inputs, which are subject to credit risk and $17.1 million of our equity securities and $18.4 million of our debt securities are recorded at fair value using Level 3 inputs. Our fair value assessment of private companies includes a review of recent operating results and trends, recent sales/acquisitions of the equity securities, and other publicly available data. Valuations of private companies are inherently more complex due to the lack of readily available market data. As such, we believe that market sensitivities are not practicable. For our equity interest in Medici Ventures, L.P., we record our proportionate share of the entity's reported net income or loss, which reflects the fair value changes of the underlying investments of the entity and any other income or losses of the entity.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

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Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors
Bed Bath & Beyond, Inc.:

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of Bed Bath & Beyond, Inc. and subsidiaries (the Company) as of December 31, 2025 and 2024, the related consolidated statements of operations, comprehensive loss, changes in stockholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2025, and the related notes and financial statement schedule II (collectively, the consolidated financial statements). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2025 and 2024, and the results of its operations and its cash flows for each of the years in the three-year period ended December 31, 2025, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2025, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission, and our report dated February 24, 2026 expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of a critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Primary beneficiary determination for The Brand House Collective investment

As discussed in Notes 2 and 8 to the consolidated financial statements, certain of the Company's equity method investments meet the definition of Variable Interest Entities (VIEs); however, they are not consolidated because the Company lacks the power to direct the activities that most significantly impact their economic performance. During the year ended December 31, 2025, the Company funded an investment and convertible promissory note in The Brand House Collective in exchange for The Brand House Collective's common stock. As of December 31, 2025, the Company held a 40% share of The Brand House Collective. The carrying amount of the Company's equity method securities was $66.6 million at December 31, 2025, of which the aggregate fair value of the equity securities in The Brand House Collective was $9.8 million.

We identified the assessment of whether The Brand House Collective should be consolidated into the Company’s financial statements as a critical audit matter. Evaluating the Company’s determination of the primary beneficiary of the VIE involved challenging auditor judgement and specialized skills and knowledge to assess whether the Company has the power to direct the activities that most significantly impact The Brand House Collective’s economic performance.

The following are the primary procedures we performed to address this critical audit matter. We evaluated the design and tested the operating effectiveness of certain internal controls related to the Company's consolidation analysis for The Brand House Collective, including controls over the analysis of the Company's consolidation considerations and the conclusion on whether the Company is the primary beneficiary. We assessed whether the Company is the primary beneficiary of The Brand House Collective by inspecting relevant legal documents related to The Brand House Collective to understand and evaluate the decision-making rights of each party involved to assess which party has the power to direct the activities that most significantly impact the economic performance of The Brand House Collective. We involved professionals with specialized skills and knowledge to assist with our assessment of the Company's accounting analysis.

/s/ KPMG LLP

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

Salt Lake City, Utah
February 24, 2026

Bed Bath & Beyond, Inc.
Consolidated Balance Sheets
(in thousands, except per share data)

	December 31, 2025	December 31, 2024
Assets		
Current assets:		
Cash and cash equivalents	$ 175,295	$ 159,169
Restricted cash	26,924	26,924
Accounts receivable, net of allowance for credit losses of $3,377 and $2,236	20,829	15,847
Inventories	5,162	11,546
Prepaids and other current assets	11,905	14,021
Total current assets	240,115	227,507
Property and equipment, net	13,712	23,544
Intangible assets, net	45,140	30,246
Goodwill	6,160	6,160
Equity securities, including securities measured at fair value of $26,903 and $21,640	66,641	78,186
Operating lease right-of-use assets	5,156	6,858
Other long-term assets, net, including securities measured at fair value of $42,394 and $25,799	48,554	29,453
Total assets	$ 425,478	$ 401,954
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 89,992	$ 81,939
Accrued liabilities	51,297	73,614
Unearned revenue	34,429	43,095
Operating lease liabilities, current	928	1,342
Short-term debt, net	15,500	24,871
Total current liabilities	192,146	224,861
Operating lease liabilities, non-current	5,643	6,452
Other long-term liabilities, including commitments measured at fair value of $2,766 and $0	9,745	7,909
Total liabilities	207,534	239,222
Commitments and Contingencies (Note 14)		
Stockholders' equity:		
Preferred stock, $0.0001 par value, authorized shares - 5,000, issued and outstanding - none	—	—
Common stock, $0.0001 par value, authorized shares - 100,000		
Issued shares - 76,358 and 59,560		
Outstanding shares - 68,863 and 53,069	8	5
Additional paid-in capital	1,239,338	1,072,869
Accumulated deficit	(842,711)	(740,466)
Accumulated other comprehensive loss	(2,574)	—
Treasury stock at cost - 7,495 and 6,491	(176,478)	(169,676)
Equity attributable to stockholders of Bed Bath & Beyond, Inc.	217,583	162,732
Equity attributable to noncontrolling interests	361	—
Total stockholders' equity	217,944	162,732
Total liabilities and stockholders' equity	$ 425,478	$ 401,954

See accompanying notes to consolidated financial statements.

Bed Bath & Beyond, Inc.
Consolidated Statements of Operations
(in thousands, except per share data)

	Year Ended December 31,		
	2025	**2024**	**2023**
Net revenue	$ 1,044,616	$ 1,394,964	$ 1,561,122
Cost of goods sold	787,094	1,104,800	1,195,093
Gross profit	257,522	290,164	366,029
Operating expenses:			
Sales and marketing	143,356	238,564	224,547
Technology	90,276	114,584	117,154
General and administrative	53,569	74,399	90,410
Customer service and merchant fees	37,324	53,586	52,023
Other operating expense (income), net	(5,790)	(6,882)	25,875
Total operating expenses	318,735	474,251	510,009
Operating loss	(61,213)	(184,087)	(143,980)
Interest income, net	5,052	6,765	12,007
Other expense, net	(27,635)	(80,789)	(134,149)
Loss before income taxes	(83,796)	(258,111)	(266,122)
Provision for income taxes	825	684	41,720
Net loss	$ (84,621)	$ (258,795)	$ (307,842)
Net loss per share of common stock:			
Basic	$ (1.41)	$ (5.56)	$ (6.81)
Diluted	$ (1.41)	$ (5.56)	$ (6.81)
Weighted average shares of common stock outstanding:			
Basic	60,130	46,542	45,214
Diluted	60,130	46,542	45,214

See accompanying notes to consolidated financial statements.

Bed Bath & Beyond, Inc.
Consolidated Statements of Comprehensive Loss
(in thousands)

	Year Ended December 31,		
	2025	**2024**	**2023**
Net loss	$ (84,621)	$ (258,795)	$ (307,842)
Other comprehensive income (loss):			
Unrealized loss on available-for-sale debt securities, net of tax of $0, $0 and $0	(2,574)	—	—
Unrealized gain on cash flow hedges, net of tax of $0, $0 and $0	—	506	16
Other comprehensive income (loss):	(2,574)	506	16
Comprehensive loss	$ (87,195)	$ (258,289)	$ (307,826)

See accompanying notes to consolidated financial statements.

Bed Bath & Beyond, Inc.
Consolidated Statements of Changes in Stockholders' Equity
(in thousands)

	Year Ended December 31,		
	2025	**2024**	**2023**
Equity attributable to stockholders of Bed Bath & Beyond, Inc.			
Shares of common stock issued			
Balance at beginning of year	59,560	51,770	51,102
Common stock issued upon vesting of restricted stock	366	441	550
Common stock issued for ESPP purchases	138	119	118
Common stock sold through offerings	16,294	7,002	—
Other	—	228	—
Balance at end of year	76,358	59,560	51,770
Shares of treasury stock			
Balance at beginning of year	6,491	6,356	6,151
Repurchases of common stock	903	—	—
Tax withholding upon vesting of employee stock awards	101	135	205
Balance at end of year	7,495	6,491	6,356
Total shares of common stock outstanding	68,863	53,069	45,414
Common stock			
Balance at beginning of year	$ 5	$ 5	$ 5
Common stock sold through offerings	3	—	—
Balance at end of year	$ 8	$ 5	$ 5
Additional paid-in capital			
Balance at beginning of year	$ 1,072,869	$ 1,007,649	$ 982,718
Stock-based compensation to employees and directors	10,853	19,255	23,018
Common stock issued for ESPP purchases	683	1,472	1,913
Common stock sold through offerings, net	137,309	42,993	—
Issuance of warrant dividends	17,624	—	—
Other	—	1,500	—
Balance at end of year	$ 1,239,338	$ 1,072,869	$ 1,007,649
Accumulated deficit			
Balance at beginning of year	$ (740,466)	$ (481,671)	$ (173,829)
Net loss	(84,621)	(258,795)	(307,842)
Issuance of warrant dividends	(17,624)	—	—
Balance at end of year	$ (842,711)	$ (740,466)	$ (481,671)
Accumulated other comprehensive loss			
Balance at beginning of year	$ —	$ (506)	$ (522)
Net other comprehensive income (loss)	(2,574)	506	16
Balance at end of year	$ (2,574)	$ —	$ (506)
Treasury stock			
Balance at beginning of year	$ (169,676)	$ (166,345)	$ (162,546)
Repurchases of common stock	(6,218)	—	—
Tax withholding upon vesting of employee stock awards	(584)	(3,331)	(3,799)
Balance at end of year	$ (176,478)	$ (169,676)	$ (166,345)
Total equity attributable to stockholders of Bed Bath & Beyond, Inc.	$ 217,583	$ 162,732	$ 359,132

Continued on the following page

Bed Bath & Beyond, Inc.
Consolidated Statements of Changes in Stockholders' Equity
(in thousands)

	Year Ended December 31,		
	2025	**2024**	**2023**
Equity attributable to noncontrolling interests			
Balance at beginning of year	$ —	$ —	$ —
Proceeds from security token offering, net	361	—	—
Total equity attributable to noncontrolling interests	$ 361	$ —	$ —
Total stockholders' equity	$ 217,944	$ 162,732	$ 359,132

See accompanying notes to consolidated financial statements.

Bed Bath & Beyond, Inc.
Consolidated Statements of Cash Flows
(in thousands)

	Year Ended December 31,		
	2025	**2024**	**2023**
Cash flows from operating activities:			
Net loss	$ (84,621)	$ (258,795)	$ (307,842)
Adjustments to reconcile net loss to net cash used in operating activities:			
Depreciation and amortization	16,278	19,062	19,447
Non-cash operating lease cost	1,702	3,451	4,737
Stock-based compensation to employees and directors	10,853	19,255	23,018
Decrease in deferred income taxes, net	473	283	41,349
Gain on sale of intangible assets	(5,790)	(10,275)	—
Gain on disposal of cryptocurrencies	—	—	(6,361)
Write-down of assets held for sale	—	3,385	25,875
Loss from equity method securities	28,628	77,687	140,404
(Gain) loss on debt securities carried at fair value	(1,439)	2,430	—
Other non-cash adjustments	178	(14)	(693)
Changes in operating assets and liabilities:			
Accounts receivable, net	(4,982)	3,573	(1,727)
Inventories	6,384	1,494	(6,514)
Prepaids and other current assets	3,491	1,293	1,889
Other long-term assets, net	(354)	(2,175)	(757)
Accounts payable	8,055	(24,172)	32,555
Accrued liabilities	(24,325)	(31)	10,442
Unearned revenue	(8,666)	(6,502)	5,117
Operating lease liabilities	(1,223)	(2,819)	(5,094)
Other long-term liabilities	(1,343)	(1,434)	5,569
Net cash used in operating activities	(56,701)	(174,304)	(18,586)
Cash flows from investing activities:			
Disbursement for notes receivable	(24,694)	(17,000)	(10,000)
Purchase of intangible assets	(15,405)	(6,044)	(25,816)
Purchase of equity securities	(8,000)	—	—
Expenditures for property and equipment	(7,407)	(14,315)	(19,181)
Proceeds from the sale of intangible assets	6,250	10,275	—
Proceeds from the sale of assets held for sale	—	51,441	—
Proceeds from the disposal of cryptocurrencies	—	—	9,804
Other investing activities, net	29	569	563
Net cash provided by (used in) investing activities	(49,227)	24,926	(44,630)

Continued on the following page

Bed Bath & Beyond, Inc.
Consolidated Statements of Cash Flows
(in thousands)

	Year Ended December 31,		
	2025	**2024**	**2023**
Cash flows from financing activities:			
Proceeds from sale of common stock, net of offering costs	137,312	42,993	—
Payments on short-term debt	(9,500)	—	—
Repurchase of shares	(6,218)	—	—
Payments of taxes withheld upon vesting of employee stock awards	(584)	(3,331)	(3,799)
Proceeds from short-term debt	—	25,000	—
Payments on long-term debt	—	(34,782)	(3,606)
Other financing activities, net	1,044	2,842	1,913
Net cash provided by (used in) financing activities	122,054	32,722	(5,492)
Net increase (decrease) in cash, cash equivalents, and restricted cash	16,126	(116,656)	(68,708)
Cash, cash equivalents, and restricted cash, beginning of year	186,093	302,749	371,457
Cash, cash equivalents, and restricted cash, end of year	$ 202,219	$ 186,093	$ 302,749

See accompanying notes to consolidated financial statements.

1. BASIS OF PRESENTATION

Business and organization

As used herein, "Bed Bath & Beyond," "the Company," "we," "our" and similar terms include Bed Bath & Beyond, Inc. and its controlled subsidiaries, unless the context indicates otherwise. The Company was formed on May 5, 1997 as D2-Discounts Direct, a limited liability company ("LLC"). On December 30, 1998, the Company reorganized as a C Corporation in the State of Utah and reincorporated in Delaware in May 2002. On October 25, 1999, the Company changed its name to Overstock.com, Inc. and on November 6, 2023, the Company changed its name to Beyond, Inc. On August 18, 2025, the Company changed its name to Bed Bath & Beyond, Inc.

Bed Bath & Beyond, Inc., is an e-commerce-focused retailer with an affinity model that owns or has ownership interests in various brands, offering a comprehensive array of products and services that enable its customers to enhance everyday life through quality, style, and value. We currently own Bed Bath & Beyond, Overstock, and buybuy BABY, among other brands. We strive to curate an exceptional online shopping experience. Our suite of premier online retail brands allow us to offer a comprehensive array of products and add-on services, catering to customers in the United States. Our e-commerce platform, which is also accessible through our mobile apps, includes www.bedbathandbeyond.com and www.overstock.com, and is collectively referred to as the "Website." The Website is targeted at customers seeking a diverse array of top-tier, on-trend products at competitive prices. From furniture, bedding, and bath essentials to patio and outdoor furniture, area rugs, tabletop and cookware, décor, storage, jewelry, watches, and fashion – we offer an extensive range of products at a smart value. In addition to products, we also offer an increasing number of add-on services across our platforms, including warranties, shipping insurance, and installation services.

Basis of presentation

We have prepared the accompanying consolidated financial statements pursuant to generally accepted accounting principles in the United States ("GAAP"). Preparing financial statements requires us to make estimates and assumptions that affect the amounts that are reported in the consolidated financial statements and accompanying disclosures. Although these estimates are based on our best knowledge of current events and actions that we may undertake in the future, our actual results may be different from our estimates. The results of operations presented herein are not necessarily indicative of our results for any future period.

2. ACCOUNTING POLICIES AND SUPPLEMENTAL DISCLOSURES

Principles of consolidation

The accompanying consolidated financial statements include our accounts and the accounts of our wholly-owned subsidiaries. All intercompany account balances and transactions have been eliminated in consolidation.

Use of estimates

The preparation of financial statements in conformity with GAAP requires estimates and assumptions that affect the reported amounts of assets and liabilities, revenues and expenses, and related disclosures of contingent liabilities in our consolidated financial statements and accompanying notes. Estimates are used for, but not limited to, receivables valuation, revenue recognition, loyalty program reward point and gift card breakage, sales returns, inventory valuation, asset useful lives, equity and debt securities valuation, income taxes, stock-based compensation, performance-based compensation, self-funded health insurance liabilities, and contingencies. Although these estimates are based on our best knowledge of current events and actions that we may undertake in the future, our accounting of these estimates may change from period to period. To the extent there are differences between these estimates and actual results, our consolidated financial statements may be materially affected.

Revision of previously issued consolidated financial statements

As previously disclosed, during the quarterly period ended September 30, 2025, the Company identified errors in the consolidated statements of operations related to the classification of gains on the sale of intangible assets and write-downs of assets held for sale erroneously being included in Other expense, net instead of in operating expenses. The Company assessed the materiality of changes to prior period consolidated financial statements to address these errors in accordance with SEC Staff Accounting Bulletin No. 99, "Materiality", (ASC Topic 250, Accounting Changes and Error Corrections). Based on this assessment, the Company concluded that these error corrections in its consolidated statements of operations were not material to any previously presented consolidated financial statements. The corrections had no material impact on the consolidated balance sheets, consolidated statements of comprehensive loss, consolidated statements of changes in stockholders' equity, or consolidated statements of cash flows, for any previously presented interim or annual consolidated financial statements.

The financial reporting periods affected by these errors include the Company's previously reported audited consolidated financial statements for the fiscal years ended December 31, 2024 and 2023.

The following table presents the revisions to the consolidated statements of operations for the years ended December 31, 2024 and 2023 (in thousands):

	Year ended December 31, 2024			Year ended December 31, 2023		
	As previously reported	Adjustment	As revised	As previously reported	Adjustment	As revised
Operating expenses:						
Other operating expense (income), net	$ —	$ (6,882)	$ (6,882)	$ —	$ 25,875	$ 25,875
Total operating expenses	481,133	(6,882)	474,251	484,134	25,875	510,009
Operating loss	(190,969)	6,882	(184,087)	(118,105)	(25,875)	(143,980)
Other expense, net	(73,907)	(6,882)	(80,789)	(160,024)	25,875	(134,149)
Loss before income taxes	(258,111)	—	(258,111)	(266,122)	—	(266,122)
Net loss	(258,795)	—	(258,795)	(307,842)	—	(307,842)

Supplemental cash flow information

The following table shows supplemental cash flow information (in thousands):

	Year Ended December 31,		
	2025	2024	2023
Supplemental disclosures of cash flow information:			
Cash paid during the period:			
Interest paid, net of amounts capitalized	$ 1,098	$ 1,489	$ 1,598
Income taxes (refunded) paid, net	(382)	(132)	556
Non-cash investing and financing activities:			
Proceeds from sale of intangible assets included in other long-term assets, net	3,750	—	—
Notes receivable converted to equity securities	7,510	—	—

See also Note 12—Leases for additional supplemental disclosures of cash flow information related to our leases.

Cash equivalents

We classify all highly liquid instruments, including instruments with an original maturity of three months or less at the time of purchase, as cash equivalents.

Restricted cash

We consider cash that is legally restricted and cash that is held as compensating balances for credit arrangements as restricted cash.

Fair value of financial instruments

We account for our assets and liabilities using a hierarchy of valuation techniques based on whether the inputs to those valuation techniques are observable or unobservable. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect our market assumptions. These two types of inputs have created the fair-value hierarchy below. This hierarchy requires us to minimize the use of unobservable inputs and to use observable market data, if available, when determining fair value.

- Level 1—Quoted prices for identical instruments in active markets;
- Level 2—Quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets; and
- Level 3—Valuations derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

Our assets that are adjusted to fair value on a recurring basis are cash equivalents and certain equity securities, which fair values are determined using quoted market prices from daily exchange traded markets on the closing price as of the balance sheet date and are classified as Level 1. Our recurring fair value measurements using observable inputs (Level 2) include our debt securities carried at fair value. Our recurring fair value measurements using unobservable inputs (Level 3) include our equity securities under ASC 323 accounted for under the fair value option, available-for-sale debt securities, and our loan commitments. Our other financial instruments, including cash, restricted cash, accounts receivable, accounts payable, accrued liabilities, and debt are carried at cost, which approximates their fair value. Certain assets, including long-lived assets, certain equity securities under ASC 323, goodwill, and other intangible assets, are measured at fair value on a nonrecurring basis; that is, the assets are not measured at fair value on an ongoing basis, but are subject to fair value adjustments using fair value measurements with unobservable inputs (Level 3).

Accounts receivable, net

Accounts receivable consist primarily of trade amounts due from customers in the United States and uncleared credit card transactions at period end. Accounts receivables are recorded at invoiced amounts and do not bear interest. We maintain an allowance for expected credit losses based upon our business customers' financial condition and payment history, our historical collection experience, and any future expected economic conditions.

Inventories

Inventories include merchandise acquired for resale and processed returns which are accounted for using a standard costing system which approximates the first-in-first-out ("FIFO") method of accounting and are valued at the lower of cost and net realizable value. Inventory valuation requires us to make judgments, based on currently available information, about the likely method of disposition, such as through sales to individual customers, returns to product vendors, liquidations, and expected recoverable values of each disposition category.

Prepaids and other current assets

Prepaids and other current assets represent expenses paid prior to receipt of the related goods or services, including advertising, license fees, maintenance, packaging, insurance, prepaid inventories, other miscellaneous costs, and cryptocurrencies.

Property and equipment, net

Property and equipment are recorded at cost and stated net of depreciation and amortization. Property and equipment are depreciated using the straight-line method over the estimated useful lives of the related assets as follows:

	Life (years)
Furniture and equipment	5-7
Computer hardware	3-4
Computer software, including internal-use software and website development	2-4

Leasehold improvements are amortized over the shorter of the term of the related leases or estimated useful lives.

Included in property and equipment is the capitalized cost of internal-use software and website development, including software used to upgrade and enhance our Website and processes supporting our business. We capitalize costs incurred during the application development stage of internal-use software and amortize these costs over the estimated useful life. Costs incurred related to design or maintenance of internal-use software are expensed as incurred.

Upon sale or retirement of assets, cost and related accumulated depreciation and amortization are removed from the balance sheet and the resulting gain or loss is reflected in our consolidated statements of operations.

Equity securities accounted for under the equity method under ASC 323

At December 31, 2025, we held minority interests in privately held and public entities, Medici Ventures, L.P., tZERO, The Brand House Collective, Inc. (formerly known as Kirkland's Inc.) ("TBHC"), and a newly created entity ("Zulily Newco") upon the sale of the rights in the Zulily brand, accounted for under the equity method under ASC Topic 323, *Investments—Equity Method and Joint Ventures* ("ASC 323"), which are included in Equity securities in our consolidated balance sheets. We can exercise significant influence, but not control, over these entities through holding more than a 20% voting interest.

We measure our minority interests in TBHC at fair value (based on Level 1 inputs) with changes in fair value recorded in Other expense, net in our consolidated statements of operations. The aggregate fair value of our investment in TBHC was $9.8 million as of December 31, 2025.

Based on the nature of our ownership interests and the extent of our contributed capital, we held a variable interest in Medici Ventures, L.P. and TBHC, both of which meet the definition of variable interest entities; however, we are not the primary beneficiary of these entities for purposes of consolidation as we do not have the power (either explicit or implicit), through voting rights or otherwise, to direct the activities of Medici Ventures, L.P. or TBHC that most significantly impact their economic performance. Our investments in these variable interest entities totaled $49.6 million as of December 31, 2025, representing our maximum exposures to loss.

We record our proportionate share of Medici Ventures, L.P.'s net assets assuming the entity (i) liquidated its net assets at their book values and (ii) distributed the proceeds to the investors based on the distribution waterfall in the investment agreement, which reflects the fair value changes of the underlying investments of the entity, any investor-level adjustments, and any other operating income or losses of the entity, in Other expense, net in our consolidated statements of operations with corresponding adjustments to the carrying value of the asset. If such events or circumstances have occurred that may indicate the fair value of our equity interest is less than its carrying value, we estimate the fair value of our equity interest and recognize an impairment loss equal to the difference between the fair value of the security and its carrying value which is recorded in Other expense, net in our consolidated statements of operations. There is no difference between the carrying amount of our investment in the entity and the amount of underlying equity we have in the entity's net assets.

We have elected to apply the fair value option for valuing our direct minority interests in tZERO as we determined that accounting for our direct minority interests in tZERO under the fair value option would approximate the same valuation approach used by Medici Ventures, L.P. for valuing our indirect interest in tZERO and would be the most meaningful and transparent option for evaluating our continued exposure to the economics of tZERO. We have also elected to apply the fair value option for valuing our interest in Zulily NewCo. The fair value was determined in good faith under our valuation policy and process using generally accepted valuation approaches through the use of a third-party valuation firm. Our assessment includes a review of recent operating results and trends, recent sales/acquisitions of the equity securities, and other publicly available data.

The methods and significant assumptions to estimate the fair value of our direct minority interests in tZERO under the fair value option include using a market approach. The market approach relied upon market transaction valuations of the subject company, adjusted for changes in enterprise value for guideline public companies. Due to the length of time between the last Series B financing round led by the Intercontinental Exchange, the valuation technique used to value our direct interest in tZERO changed to a blended market approach using a transaction backsolve adjusted for enterprise value changes in guideline public companies, with an option pricing model and a book value of equity method in the current year, compared to a blended market approach using a transaction backsolve adjusted for enterprise value changes in guideline public companies, with an option pricing model and a guideline public company method valuation technique in the prior year. The methods and significant assumptions to estimate the fair value of our minority interest in Zulily Newco under the fair value option include using a market approach based on latest market transaction valuations.

The following table summarizes the valuation techniques and significant unobservable inputs used in the fair value measurement of our Level 3 equity securities:

Investment	Fair Value	Valuation Technique	Unobservable Inputs	Inputs
tZERO	$ 15,503	Blended market approach - transaction backsolve adjusted for enterprise value changes in guideline public companies, with an option pricing model method and book value of equity method	Term to liquidity	5.0 years
			Volatility	100%
			Percentage change in enterprise value for guideline public companies	(53.4)%
Zulily Newco	1,572	Market approach - latest transactions	N/A	N/A
Total	$ 17,075			

A significant change in the term to liquidity, volatility, or percentage change in enterprise value for guideline public companies inputs could result in a significant change in the fair value measurement.

Leases

We determine if an arrangement is a lease at inception. We account for lease agreements as either operating or finance leases depending on certain defined criteria. Operating leases are recognized in Operating lease right-of-use ("ROU") assets, Operating lease liabilities, current, and Operating lease liabilities, non-current on our consolidated balance sheets. Finance leases are included in Other long-term assets, net, Other current liabilities, and Other long-term liabilities on our consolidated balance sheets. Lease assets and liabilities are recognized based on the present value of the future minimum lease payments over the lease term at the commencement date. As most of our leases do not provide an implicit rate, we use our incremental borrowing rate based on the information available at the commencement date in determining the present value of future payments. In certain of our lease agreements, we receive rent holidays and other incentives. We recognize lease costs on a straight-line basis over the lease term without regard to deferred payment terms, such as rent holidays, that defer the commencement date of required payments. Our lease terms may include options to extend or terminate the lease, and we adjust our measurement of the lease when it is reasonably certain that we will exercise that option. Lease payments used in measurement of the lease liability typically do not include executory costs, such as taxes, insurance, and maintenance, unless those costs can be reasonably estimated at lease commencement. Leasehold improvements are capitalized at cost and amortized over the lesser of their expected useful life or the life of the lease, without assuming renewal features, if any, are exercised. We do not separate lease and non-lease components for our leases.

Treasury stock

We account for treasury stock of our common shares under the cost method and include treasury stock as a component of stockholders' equity.

Goodwill

Goodwill represents the excess of the purchase price paid over the fair value of the net assets acquired in business combinations. Goodwill is not amortized but is tested for impairment at least annually or when we deem that a triggering event has occurred. When evaluating whether goodwill is impaired, we make a qualitative assessment to determine if it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If the qualitative assessment determines that it is more likely than not that its fair value is less than its carrying amount, we compare the fair value of the reporting unit to which the goodwill is assigned to its carrying amount. If the carrying amount exceeds its fair value, an impairment loss is recognized in an amount equal to the excess of the carrying amount over the fair value of the reporting unit, not to exceed the carrying amount of the goodwill. We completed our annual goodwill impairment test as of December 31, 2025 by performing a quantitative assessment and concluded that the estimated fair value of the reporting units exceeded their carrying amount. There were no impairments to goodwill recorded during the years ended December 31, 2025, 2024 and 2023 and no other changes to the carrying amount of goodwill during the years ended December 31, 2025 and 2024. Our goodwill balance was $6.2 million as of December 31, 2025 and 2024.

Intangible assets other than goodwill

We capitalize and amortize intangible assets other than goodwill over their estimated useful lives unless such lives are indefinite. Intangible assets other than goodwill acquired separately from third parties are capitalized at cost, including any related direct acquisition costs, while such assets acquired as part of a business combination are capitalized at their acquisition-date fair value. Indefinite-lived intangible assets are tested for impairment annually or more frequently when events or circumstances indicate that the carrying value more likely than not exceeds its fair value. In addition, we routinely evaluate the remaining useful life of intangible assets not being amortized to determine whether events or circumstances continue to support an indefinite useful life, including any legal, regulatory, contractual, competitive, economic, or other factors that may limit their useful lives. Definite-lived intangible assets are amortized using the straight-line method of amortization over their useful lives, with the exception of certain intangibles (such as acquired customer lists) which are amortized using an accelerated method of amortization based on estimated customer attrition rates. These definite-lived intangible assets are reviewed for impairment whenever events or changes in circumstances indicate that their carrying amount may not be recoverable as described below under *Impairment of long-lived assets*.

Impairment of long-lived assets

We review property and equipment, right-of-use assets, and other long-lived assets, including intangible assets other than goodwill, for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset group may not be recoverable. Recoverability is measured by a comparison of the assets' carrying amount to future undiscounted net cash flows the asset group is expected to generate. Cash flow forecasts are based on trends of historical performance and management's estimate of future performance, giving consideration to existing and anticipated competitive and economic conditions. If such asset group is considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds their fair values. There were no impairments to long-lived assets recorded during the years ended December 31, 2025, 2024 and 2023.

Available-for-sale debt securities

We record our available-for-sale debt securities at fair value, with unrealized gains and losses recorded to other comprehensive loss in the consolidated statements of comprehensive loss. For available-for-sale debt securities in an unrealized loss position, we determine whether a credit loss exists by considering information about the collectability of the instrument, current market conditions, and economic conditions. Credit losses, if any, are recorded as an allowance through Other expense, net in the consolidated statements of operations.

At December 31, 2025, we have invested $13.0 million in GrainChain, Inc. in the form of convertible promissory notes (the "Notes"). The Notes bear interest at an annual interest rate of 5% and accrued interest is recorded in Interest income, net in our consolidated statements of operations. The Notes have a maturity date of January 3, 2025 at which time the outstanding principal and any unpaid accrued interest will automatically convert into shares of a newly created series of preferred stock issued by GrainChain, Inc. The Notes have not converted and the Company is negotiating an extension of the Notes. The Notes are in an unrealized loss position as of December 31, 2025. The fair value of the Notes, including accrued interest, was $12.0 million and $11.0 million at December 31, 2025 and 2024, respectively, which is included in Other long-term assets, net on our consolidated balance sheets. The aggregate unrealized losses on our Notes was $2.6 million and were due to a recent decrease in profitability and not credit-related events as we expect we will recover our amortized cost basis upon

conversion of the Notes. Accordingly, no allowance for credit losses was recorded on available-for sale debt securities in an unrealized loss position at December 31, 2025 and 2024.

Based on the nature of our indirect ownership interests in GrainChain, Inc. through Medici Ventures, L.P. and the extent of our contributed capital, we held a variable interest in GrainChain, Inc., which meets the definition of a variable interest entity; however, we are not the primary beneficiary of this entity for purposes of consolidation as we do not have the power (either explicit or implicit), through voting rights or otherwise, to direct the activities of GrainChain, Inc. that most significantly impact its economic performance. Our maximum exposure to loss in this variable interest entity totaled $24.4 million as of December 31, 2025, representing our direct and indirect interest in GrainChain, Inc.

In November 2025, the Company purchased, via a participation agreement for par/near par trades, a portion of the loans issued by The Container Store, Inc. pursuant to the Term Loan Credit Agreement, dated as of January 28, 2025, as amended on September 15, 2025 (as amended, the "TCS Credit Agreement"). The aggregate purchase price for the Company's participation in certain loans issued pursuant to the TCS Credit Agreement was $6.5 million. As a result of these transactions, the Company will participate in the rights to the payment of interest and repayment of the loans and any exercise of rights or remedies related thereto. The fair value of the portion of the loans purchased was $6.5 million at December 31, 2025, which is included in Other long-term assets, net on our consolidated balance sheets.

The following table summarizes the valuation techniques and significant unobservable inputs used in the fair value measurement of our Level 3 available-for-sale securities:

Investment	Fair Value	Valuation Technique	Unobservable Inputs	Inputs
GrainChain, Inc.	$ 11,955	Market approach - transaction backsolve adjusted for enterprise value changes in guideline public companies with an option pricing model method	Term to liquidity	5.0 years
			Volatility	50%
			Percentage change in enterprise value for guideline public companies	(12.2)%
The Container Store, Inc.	6,462	Market approach - latest transactions	N/A	N/A
Total	$ 18,417			

A significant change in the term to liquidity, volatility, or percentage change in enterprise value for guideline public companies inputs could result in a significant change in the fair value measurement.

Debt securities carried at fair value

On May 7, 2025, the Company entered into an Amended and Restated Term Loan Credit Agreement (the "Amended and Restated Credit Agreement"), which amended and restated the secured Term Loan Credit Agreement ("Existing Credit Agreement") entered on October 21, 2024 and pursuant to which the Company provided The Brand House Collective, Inc. (formerly known as Kirkland's Inc.) ("The Brand House Collective") with an additional term loan in an approximate aggregate original principal amount of $5.2 million (the "Additional Term Loan") and obligations arising under the Existing Credit Agreement in the aggregate amount of $8.5 million were rolled into the Amended and Restated Credit Agreement as obligations thereunder (collectively, the "Notes"). On September 15, 2025, the Company entered into Amendment No. 1 to the Amended and Restated Credit Agreement (such amendment, the "Credit Agreement Amendment" and the Existing Credit Agreement as amended by the Credit Agreement Amendment, the "Amended Credit Agreement"). Pursuant to the terms of the Amended Credit Agreement, new delayed-draw term loan commitments in an aggregate original principal amount of $20.0 million (the "Delayed Draw Term Loan Commitments") were established. On November 24, 2025, the Company entered into Amendment No. 2 to the Amended and Restated Credit Agreement (the "Second Amendment") pursuant to which the Company agreed to increase the Delayed Draw Term Loan Commitments by $10.0 million, to an aggregated principal amount of $30.0 million. Concurrently with the Second Amendment, and as of December 31, 2025, $10.0 million has been drawn under the Delayed Draw Term Loan Commitments (the "Delayed Draw Note"). The Amended Credit Agreement provides the Company the right to convert the outstanding loans (including loans extended in satisfaction of the Delayed Draw Term Loan Commitments) owing under the Amended and Restated Credit Agreement into shares of The Brand House Collective's common stock at a price equal to the closing price on the Nasdaq Stock Market LLC ("Nasdaq") on the day prior to the date on which a conversion election is made, up to a number of shares equal to 19.90% of the outstanding shares of The Brand House Collective's common stock on the date the Amended Credit Agreement was entered into, and up to a greater number of shares subject to Nasdaq shareholder approval rules. Bed Bath & Beyond is restricted from holding greater than 75% of outstanding The Brand House Collective's issued shares for so long as any obligations remain outstanding under The Brand House Collective's credit agreement with its senior lender, Bank of America, N.A. On November 24, 2025, we entered in a Merger Agreement with TBHC pursuant to which, subject to the terms and conditions set forth therein, TBHC will survive the Merger as a wholly owned subsidiary of the Company.

We have elected to present the Notes and Delayed Draw Note at fair value, which totaled $24.0 million and $14.8 million at December 31, 2025 and 2024, respectively. The balance of the Notes is included in Other long-term assets, net on our consolidated balance sheets.

The following table summarizes the valuation techniques and significant inputs used in the fair value measurement of our Level 2 debt securities carried at fair value:

Investment	Fair Value	Valuation Technique	Observable Inputs
The Brand House Collective, Inc.	$ 23,977	Market approach	Agreed settlement price in the contracts

Other long-term assets, net

Other long-term assets, net consist primarily of long-term prepaid expenses, deposits, long-term receivables, available-for-sale debt securities, and debt securities carried at fair value.

Noncontrolling interests

In April 2025, the Company's controlled subsidiary, Commercial Strategies, Inc. ("Commercial Strategies"), launched a crowdfunding offering (the "token offering") of the right to acquire a tokenized digital security linked to Overstock intellectual property and eligible for future dividends, if any, from the licensing revenue that Commercial Strategies earns from the Overstock intellectual property. The token offering closed on May 16, 2025, and Commercial Strategies issued the tokenized digital security in the form of Series A Preferred Stock. The holders of the preferred shares will be entitled to receive, out of funds and assets legally available for such purpose, an annual dividend that is derived from the royalty fee paid by Bed Bath & Beyond, Inc. to Commercial Strategies for licensing of the Overstock intellectual property. The holders of the preferred stock have no voting rights. At December 31, 2025, cumulative proceeds from the token offering totaled $467,000, have been classified as a component of noncontrolling interest within the consolidated financial statements. As of December 31, 2025,

Commercial Strategies has incurred $305,000 of offering costs associated with the token offering that are classified as a reduction in proceeds within noncontrolling interest within the consolidated financial statements.

In May 2025, the Company's controlled subsidiary, Zion Peaks, Inc. ("Zion Peaks"), launched a crowdfunding offering (the "token offering") of the right to acquire a tokenized digital security linked to buybuy BABY intellectual property and eligible for future dividends, if any, from the licensing revenue that Zion Peaks earns from the buybuy BABY intellectual property. The token offering closed on August 11, 2025, and Zion Peaks issued the tokenized digital security in the form of Series A Preferred Stock. The holders of the preferred shares will be entitled to receive, out of funds and assets legally available for such purpose, an annual dividend that is derived from the royalty fee paid by Bed Bath & Beyond, Inc. to Zion Peaks for licensing of the buybuy BABY intellectual property. The holders of the preferred stock have no voting rights. At December 31, 2025, cumulative proceeds from the token offering totaled $396,000, have been classified as a component of noncontrolling interest within the consolidated financial statements. As of December 31, 2025, Zion Peaks has incurred $197,000 of offering costs associated with the token offering that are classified as a reduction in proceeds within noncontrolling interest within the consolidated financial statements.

Revenue recognition

Revenue is recognized when, or as, control of a promised product or service transfers to a customer, in an amount that reflects the consideration to which the Company expects to be entitled in exchange for transferring those products or services. Revenue excludes taxes that have been assessed by governmental authorities and that are directly imposed on revenue-producing transactions between the Company and its customers, including sales and use taxes. Revenue recognition is evaluated through the following five-step process:

1) identification of the contract with a customer;
2) identification of the performance obligations in the contract;
3) determination of the transaction price;
4) allocation of the transaction price to the performance obligations in the contract; and
5) recognition of revenue when or as a performance obligation is satisfied.

Product Revenue

We derive our revenue primarily through our Website but may also derive revenue from sales of merchandise through other channels. Our revenue is derived primarily from merchandise sold at a point in time and shipped to customers. Merchandise sales are fulfilled with inventory sourced through our partners or from our owned inventory. The vast majority of our sales, however, are fulfilled from inventory sourced through our partners.

Revenue is recognized when control of the product passes to the customer, typically at the date of delivery of the merchandise to the customer or the date a service is provided and is recognized in an amount that reflects the expected consideration to be received in exchange for such goods or services. As such, customer orders are recorded as unearned revenue prior to delivery of products or services ordered. As we ship high volumes of packages through multiple carriers, we use estimates to determine which shipments are delivered and, therefore, recognized as revenue at the end of the period. Our delivery date estimates are based on average shipping transit times, which are calculated using the following factors: (i) the type of shipping carrier (as carriers have different in-transit times); (ii) the fulfillment source (either our warehouses, those warehouses we control, or those of our partners); (iii) the delivery destination; and (iv) actual transit time experience, which shows that delivery date is typically one to eight business days from the date of shipment. We review and update our estimates on a quarterly basis based on our actual transit time experience. However, actual shipping times may differ from our estimates.

Generally, we require authorization from credit card or other payment vendors whose services we offer to our customers (such as PayPal, Apple Pay, Klarna), or verification of receipt of payment, before we ship products to consumers or business purchasers. We generally receive payments from our customers before our payments to our suppliers are due. We do not recognize assets associated with costs to obtain or fulfill a contract with a customer.

Shipping and handling is considered a fulfillment activity, as it takes place prior to the customer obtaining control of the merchandise, and fees charged to customers are included in net revenue upon completion of our performance obligation. We present revenue net of sales taxes, discounts, and expected refunds.

Our merchandise sales contracts include terms that could cause variability in the transaction price for items such as discounts, credits, or sales returns. Accordingly, the transaction price for product sales includes estimates of variable consideration to the extent it is probable that a significant reversal of revenue recognized will not occur. At the time of sale, we estimate a sales return liability for the variable consideration based on historical experience, which is recorded within Accrued liabilities in the consolidated balance sheet. We record an allowance for returns based on current period revenues and historical returns experience. We analyze actual historical returns, current economic trends and changes in order volume and acceptance of our products when evaluating the adequacy of the sales returns allowance in any accounting period.

We evaluate the criteria outlined in ASC 606-10-55, *Principal versus Agent Considerations*, in determining whether it is appropriate to record the gross amount of merchandise sales and related costs or the net amount earned as commissions. When we are the principal in a transaction and control the specific good or service before it is transferred to the customer, revenue is recorded gross; otherwise, revenue is recorded on a net basis. Through contractual terms with our partners, we have the ability to control the promised goods or services and as a result record the majority of our revenue on a gross basis.

Loyalty program

We have a customer membership program called welcome rewards+ for which we sell annual memberships. For welcome rewards+ memberships, we record membership fees as unearned revenue and we recognize revenue ratably over the membership period.

Members earn points which have a reward dollar equivalent for qualifying purchases made on our Bed Bath & Beyond website. As such, the initial transaction price giving rise to the reward dollar is allocated to each separate performance obligation based upon its relative standalone selling price. In determining the stand-alone selling price, we incorporate assumptions about the redemption rates of loyalty points. We recognize revenue for loyalty program reward dollars when customers redeem such rewards as part of a purchase on our Bed Bath & Beyond website.

We record the standalone value of reward dollars earned in unearned revenue at the time the reward dollars are earned. Loyalty program reward dollars expire 30 days after the customer's membership expires. We recognize estimated reward dollar breakage, to which we expect to be entitled, over the expected redemption period in proportion to actual redemptions by customers.

Advertising Revenue

Advertising revenues are derived primarily from sponsored links and display advertisements that are placed on our Website, distributed via email, or sent out as direct mailers. Advertising revenue is recognized in revenue when the advertising services are rendered. Advertising revenues were less than 3% of total net revenues for all periods presented.

Unearned Revenue

When the timing of our provision of goods or services is different from the timing of the payments made by our customers, we recognize a contract liability (customer payment precedes performance).

Customer orders are recorded as unearned revenue when payment is received prior to delivery of products or services ordered. We record amounts received for welcome rewards+ membership fees as unearned revenue and we recognize it ratably over the membership period. We record loyalty program reward dollars earned from purchases as unearned revenue at the time they are earned based upon the relative standalone selling price of the loyalty program reward dollar and we recognize it as revenue in proportion to the estimated pattern of rights exercised by the customer. If reward dollars are not redeemed, we recognize revenue upon expiration. In addition, we sell gift cards and record related unearned revenue at the time of the sale. We sell gift cards without expiration dates and we recognize revenue from a gift card upon redemption of the gift card. The unredeemed portion of our gift cards are recognized in revenue over the expected redemption period based upon the estimated pattern of rights exercised by the customer, if the gift cards are not subject to escheat laws.

Sales returns allowance

Revenue is recorded net of estimated returns. We record an allowance for returns based on current period revenues and historical returns experience. We analyze actual historical returns, current economic trends and changes in order volume and acceptance of our products when evaluating the adequacy of the sales returns allowance in any accounting period.

Cost of goods sold

Our cost of goods sold includes product costs, warehousing costs, outbound shipping costs, and handling and fulfillment costs, and is recorded in the same period in which related revenues have been recorded.

Advertising expense

We expense the costs of producing advertisements the first time the advertising takes place and expense the cost of communicating advertising in the period during which the advertising space or airtime is used. Internet advertising expenses are recognized as incurred based on the terms of the individual agreements, which are generally: 1) a commission for traffic driven to our Website that generates a sale or 2) a referral fee based on the number of clicks on keywords or links to our Website generated during a given period. Advertising expense is included in Sales and marketing expenses in our consolidated statements of operations. Prepaid advertising is included in Prepaids and other current assets in our consolidated balance sheets.

Stock-based compensation

We measure compensation expense for our outstanding unvested restricted stock awards at fair value on the date of grant and recognize compensation expense over the service period for awards at the greater of a straight-line basis or on an accelerated schedule when vesting of the share-based awards exceeds a straight-line basis. When an award is forfeited prior to the vesting date, we recognize an adjustment for the previously recognized expense in the period of the forfeiture. See Note 17—Stock-Based Awards.

We use the Black-Scholes option pricing model to determine the fair value of our employee stock purchase plan shares. The determination of the fair value of stock-based payment awards on the date of grant using an option pricing model is affected by our stock price and assumptions regarding a number of complex and subjective variables. These variables include our expected stock price volatility over the expected term of the awards, actual and projected employee stock option exercise behaviors, a risk-free interest rate and any expected dividends.

We use the Monte-Carlo valuation model to determine the fair value of the portion of our performance shares and share options with market conditions. The determination of the fair value of stock-based payment awards on the date of grant using the Monte-Carlo valuation model is affected by our stock price and assumptions regarding a number of complex and subjective variables. These variables include our expected stock price volatility, a risk-free interest rate, the probability of reaching the stock price performance targets, and a 20-trading-day average stock price. The portion of our performance shares with performance conditions are measured at fair value on the date of grant and the probability of the awards meeting the performance condition is not included in the grant date fair value, but is assessed quarterly for expense recognition. Compensation expense for these awards are recognized using a graded vesting schedule over the requisite service period. To the extent that a market-based vesting award is forfeited following completion of the requisite service period, compensation expense for accounting purposes is not reversed.

Loss contingencies

In the normal course of business, we are involved in legal proceedings and other potential loss contingencies. We accrue a liability for such matters when it is probable that a loss has been incurred and the amount, or range of amounts, can be reasonably estimated. When only a range of probable loss can be estimated, the most probable amount in the range is accrued. If no amount within this range is a better estimate than any other amount within the range, the minimum amount in the range is accrued. We expense legal fees as incurred (See Note 14—Commitments and Contingencies).

Income taxes

Income taxes are accounted for under the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been included in the financial statements. Under this method, deferred tax assets and liabilities are determined on the basis of the differences between the financial statements and tax bases of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. The effect of a change in tax rates on deferred tax assets and liabilities is recognized in income in the period that includes the enactment date.

We recognize deferred tax assets to the extent that we believe these assets are more likely than not to be realized. In evaluating our ability to recover our deferred tax assets within the jurisdiction from which they arise, we consider all available

positive and negative evidence, including projected future taxable income, scheduled reversals of our deferred tax liabilities, tax planning strategies, and results of recent operations. Our projections of future taxable income are subject to changes in how we do business, economic outlook, political climate, and other conditions such as supply chain challenges, inflation, rising interest rates, geopolitical events, and other macroeconomic conditions, and judgment is required in determining our ability to use our deferred tax assets.

We record uncertain tax positions in accordance with ASC 740 on the basis of a two-step process whereby (1) we determine whether it is more likely than not that the tax positions will be sustained on the basis of the technical merits of the position and (2) for those tax positions that meet the more-likely-than-not recognition threshold, we recognize the largest amount of tax benefit that is more than 50 percent likely to be realized upon ultimate settlement with the related tax authority. We recognize interest and penalties related to unrecognized tax benefits within the income tax expense line in the accompanying consolidated income statements. Accrued interest and penalties are included within the related tax liability line in our consolidated balance sheets.

Net loss per share

Basic net loss per common share is computed by dividing net loss attributable to common shares by the weighted average number of common shares outstanding during the period.

Diluted net loss per share is computed by dividing net loss attributable to common shares by the weighted average number of common and potential common shares outstanding during the period. Potential common shares, comprising incremental common shares issuable from the employee stock purchase plan, restricted stock awards, and warrants are included in the calculation of diluted net loss per common share to the extent such shares are dilutive.

Warrants

On September 22, 2025, the Company announced that its Board of Directors had declared a warrant dividend distribution (the "Warrant Distribution") to the record holders of the Company's common stock (the "Common Stock"), in the form of warrants to purchase common stock (the "Warrants"). Holders of Common Stock at the close of business on October 2, 2025 (the "Record Date") received one warrant for each ten shares of Common Stock then owned, rounded down to the nearest whole number. The Warrants were distributed to holders of common stock on the terms and conditions described in the Warrant Agreement, dated as of October 7, 2025, between the Company, Computershare, Inc., a Delaware corporation, and its affiliate, Computershare Trust Company, N.A., as Warrant Agent. The Warrants have a cash exercise price of $15.50 per Warrant, and will expire on October 7, 2026, unless the Early Expiration Price Condition (as defined in the Warrant Agreement) is met.

The Company accounts for the Warrants in accordance with the guidance in ASC Topic 815, *Derivatives and Hedging* ("ASC 815"). Accordingly, the warrants meet all of the requirements for equity classification under ASC 815 and are required to be recorded as a component of equity at the time of issuance. Warrants classified as equity are initially recognized at fair value and are not subsequently remeasured.

Recently adopted accounting standards

In December 2023, the FASB issued ASU 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures,* which requires public entities to disclose disaggregated information about a reporting entity's effective tax rate reconciliation as well as additional information on income taxes paid. For public entities, ASU 2023-09 is required to be adopted for annual periods beginning after December 15, 2024, with early adoption permitted. The Company adopted the provisions of ASU 2023-09 as of January 1, 2025. The adoption of ASU 2023-09 resulted in additional income tax disclosures in the Company's consolidated financial statements.

Recently issued accounting standards

In November 2024, the FASB issued ASU 2024-03, *Income Statement—Reporting Comprehensive Income—Expense Disaggregation Disclosures (Subtopic 220-40)*, which requires public entities to disclose disaggregated information about certain income statement line items in the notes to the financial statements. For public entities, ASU 2024-03 is required to be adopted for annual periods beginning after December 15, 2026 and for interim periods beginning after December 15, 2027, with early adoption permitted. This ASU will result in us including the additional required disclosures when adopted and does not otherwise have a material impact on the Company's consolidated financial statements.

In September 2025, the FASB issued ASU 2025-06, *Intangibles—Goodwill and Other—Internal-Use Software (Subtopic 350-40), Targeted Improvements to the Accounting for Internal-Use Software,* which clarified and modernizes the accounting for costs related to internal-use software. The amendments in ASU 2025-06 remove all references to project stages throughout Subtopic 350-40 and clarify the threshold entities apply to begin capitalizing costs. ASU 2025-06 is effective for all entities for annual reporting periods beginning after December 15, 2027, and interim reporting periods within those annual reporting periods, with early adoption permitted. This ASU will result in the Company adopting the new threshold to apply to begin capitalizing costs and does not otherwise have a material impact on the Company's consolidated financial statements.

3. FAIR VALUE MEASUREMENT

The following tables summarize our assets and liabilities measured at fair value on a recurring basis using the following levels of inputs as of December 31, 2025 and 2024, as indicated (in thousands):

	Fair Value Measurements at December 31, 2025			
	Total	**Level 1**	**Level 2**	**Level 3**
Assets:				
Cash equivalents—Money market funds	$ 22,717	$ 22,717	$ —	$ —
Equity securities, at fair value	26,903	9,828	—	17,075
Available-for-sale debt securities (1)	18,417	—	—	18,417
Debt securities, at fair value (1)	23,977	—	23,977	—
Total assets	$ 92,014	$ 32,545	$ 23,977	$ 35,492
Liabilities:				
Loan commitments, at fair value (2)	$ 2,766	$ —	$ —	$ 2,766
Total liabilities	$ 2,766	$ —	$ —	$ 2,766

	Fair Value Measurements at December 31, 2024			
	Total	**Level 1**	**Level 2**	**Level 3**
Assets:				
Cash equivalents—Money market funds	$ 21,799	$ 21,799	$ —	$ —
Equity securities, at fair value	21,640	—	—	21,640
Available-for-sale debt securities (1)	10,985	—	—	10,985
Debt securities, at fair value (1)	14,814	—	—	14,814
Total assets	$ 69,238	$ 21,799	$ —	$ 47,439

(1) Included in Other long-term assets, net in the consolidated balance sheets.
(2) Included in Other long-term liabilities in the consolidated balance sheets.

The following table provides activity for our Level 3 investments during the periods presented (in thousands):

	Amount
Level 3 investments at December 31, 2023	$ 51,530
Increase due to purchases of Level 3 investments	17,000
Decrease in fair value of Level 3 investments	(21,836)
Accrued interest on Level 3 investments	745
Level 3 investments at December 31, 2024	47,439
Increase due to purchases of Level 3 investments	16,266
Transfers out of Level 3 investments	(20,046)
Decrease in fair value of Level 3 investments	(8,711)
Accrued interest, net on Level 3 investments	544
Level 3 investments at December 31, 2025	$ 35,492

During the year ended December 31, 2025, there were $12.4 million of debt securities carried at fair value transferred from Level 3 to Level 2 due to significant observable inputs used in determining the fair value of these debt securities. Further, during the year ended December 31, 2025, there were $7.5 million of debt securities carried at fair value transferred from Level 3 to Level 1 due to the conversion of the $8.5 million convertible promissory note in TBHC into shares of TBHC common stock.

The following table provides activity for the Company's Level 3 liabilities (in thousands):

	Amount
Level 3 liabilities at December 31, 2024	$ —
Fair value of Level 3 liabilities assumed	2,766
Level 3 liabilities at December 31, 2025	$ 2,766

4. ACCOUNTS RECEIVABLE, NET

Accounts receivable, net consist of the following (in thousands):

	December 31,	
	2025	2024
Credit card receivables, trade	$ 12,334	$ 9,614
Accounts receivable, trade	8,871	5,282
Other receivables	3,001	3,187
	24,206	18,083
Less: allowance for credit losses	(3,377)	(2,236)
Total accounts receivable, net	$ 20,829	$ 15,847

5. PREPAIDS AND OTHER CURRENT ASSETS

Prepaids and other current assets consist of the following (in thousands):

	December 31,	
	2025	2024
Prepaid maintenance	$ 7,074	$ 8,924
Prepaid other	3,343	3,221
Other current assets	1,488	1,876
Total prepaids and other current assets	$ 11,905	$ 14,021

6. PROPERTY AND EQUIPMENT, NET

Property and equipment, net consist of the following (in thousands):

	December 31,	
	2025	2024
Computer hardware and software, including internal-use software and website development	$ 186,022	$ 202,005
Furniture and equipment	1,630	4,098
Leasehold improvements	1,159	1,466
	188,811	207,569
Less: accumulated depreciation	(175,099)	(184,025)
Total property and equipment, net	$ 13,712	$ 23,544

Capitalized costs associated with internal-use software and website development, both developed internally and acquired externally, and depreciation of costs for the same periods associated with internal-use software and website development consist of the following (in thousands):

	Year ended December 31,		
	2025	2024	2023
Capitalized internal-use software and website development	$ 6,727	$ 12,517	$ 11,296
Depreciation of internal-use software and website development	11,389	11,354	7,758

Depreciation expense is classified within the corresponding operating expense categories in the consolidated statements of operations as follows (in thousands):

	Year ended December 31,		
	2025	2024	2023
Cost of goods sold	$ 90	$ 396	$ 711
Technology	15,055	17,150	14,414
General and administrative	319	464	3,751
Total depreciation	$ 15,464	$ 18,010	$ 18,876

During the years ended December 31, 2025 and 2024, we retired $22.4 million and $58.6 million, respectively, of fully depreciated property and equipment that were removed from service in 2025 and 2024.

7. INTANGIBLE ASSETS, NET

On January 30, 2025, the Company entered into an Asset Purchase Agreement with BBBY Acquisition Co., LLC ("BBBY") to acquire certain intellectual property related to the buybuy BABY brand and closed the transaction on February 21, 2025. The Company acquired BBBY's rights in the buybuy BABY brand, assets, information and content related to the associated buybuy BABY website, including trademarks, domain names, data, information, content, and select contractual rights, and goodwill associated with the brand for a total purchase price of $5.0 million which was paid at closing, and the assumption of certain contractual liabilities described therein. The aggregate purchase price, inclusive of contractual liabilities assumed and direct acquisition-related expenses, totaled $7.1 million which has been allocated to trade names, with an indefinite useful life.

On March 17, 2025, the Company entered into an Intellectual Property Asset Purchase Agreement with Lyons Trading Company, the operator of Proozy.com, to sell its rights in the Zulily brand for a total sales price of $5.0 million while retaining a 25% ownership stake in the brand in the form of a newly created entity ("Zulily Newco"). In connection with this transaction, the Company received $1.25 million upfront and will receive the remaining $3.75 million in quarterly installments commencing on April 30, 2026, over the course of five years, which is recorded as a long-term receivable and included in Other long-term assets, net in the consolidated balance sheets. The Company also recognized $1.57 million, which represents its 25% ownership stake in Zulily Newco, and is included in Equity securities in the consolidated balance sheets.

On June 30, 2025, the Company entered into a Trademark and Domain Name Agreement with a large, well-established Canadian retailer to sell certain intellectual property related to the Bed Bath & Beyond trademarks in Canada and the United Kingdom, which was acquired as part of its purchase of the Bed Bath & Beyond brand in June 2023, for a total sales price of $5.0 million, and revenue share payments to be paid to the Company in perpetuity. In July 2025, the Company received the $5.0 million cash proceeds. For the year ended December 31, 2025, the Company recognized the entire $5.0 million as a gain on the sale which is included in Other operating expense (income), net in the consolidated statements of operations.

On May 7, 2025, the Company entered into an Asset Purchase Agreement and on September 15, 2025, entered into an Amendment No. 1 to the Asset Purchase Agreement with The Brand House Collective to acquire certain trademarks and domain names comprised of or containing the element KIRKLAND'S (the "Kirkland's Brand") and certain related marks and brand assets for a total purchase price of $10.0 million. Concurrently, on September 15, 2025, the Company entered into an amendment to the existing trademark license agreement with The Brand House Collective, pursuant to which the Company agreed to license the Kirkland's Brand to The Brand House Collective for use in connection with certain goods and services. The total purchase price was paid at closing on September 15, 2025 concurrently with the assignment of the Kirkland's Brand to the Company. In connection with this transaction, the Company also transferred to The Brand House Collective noncash consideration in the form of Delayed Draw Term Loan Commitments valued at $2.8 million, which has also been included in the acquisition cost. See Note 14—Commitments and Contingencies, for further discussion of the agreement. The aggregate purchase consideration, inclusive of direct acquisition-related costs, totaled $12.9 million which has been allocated to trade names, with an indefinite useful life.

Intangible assets, net consist of the following (in thousands):

	December 31,	
	2025	2024
Intangible assets subject to amortization, gross (1)	$ 5,645	$ 6,239
Less: accumulated amortization of intangible assets	(3,813)	(3,145)
Intangible assets subject to amortization, net	1,832	3,094
Intangible assets not subject to amortization	43,308	27,152
Total intangible assets, net	$ 45,140	$ 30,246

(1) At December 31, 2025, the weighted average remaining useful life for intangible assets subject to amortization, gross was 2.3 years.

8. EQUITY SECURITIES

Equity securities consist of the following (in thousands):

	December 31,	
	2025	2024
Equity securities accounted for under the equity method under ASC 323	$ 39,738	$ 56,546
Equity securities accounted for under the equity method under the fair value option	26,903	21,640
Total equity securities	$ 66,641	$ 78,186

The Company's equity securities accounted for under the equity method under ASC 323 include equity securities in which the Company can exercise significant influence, but not control, over these entities through holding more than a 20% voting interest in the entity. During the year ended December 31, 2025, after stockholder approval was obtained from The Brand House Collective's stockholders, the Company funded the additional $8.0 million investment in The Brand House Collective in exchange for The Brand House Collective's common stock and converted the $8.5 million convertible promissory note (plus accrued interest) into shares of The Brand House Collective's common stock. After all transactions, the Company owns approximately 40% of The Brand House Collective's outstanding shares of common stock. In addition, as part of the sale of the Company's rights in the Zulily brand, the Company retained a 25% ownership stake in the brand in the form of a newly created entity, Zulily Newco. See Note 7—Intangible Assets, Net, for further information.

In August 2025, the members of SpeedRoute, LLC, a privately-held entity in which the Company held a minority interest, filed dissolution documents to wind down and dissolve SpeedRoute, LLC. There was no gain or loss recorded on dissolution.

The following table includes our equity securities accounted for under the equity method (ASC 323) and related ownership interest as of December 31, 2025:

	Ownership interest
Medici Ventures, L.P.	99%
tZERO Group, Inc.	26%
The Brand House Collective, Inc.	40%
Zulily Newco	25%

The carrying amount of our equity method securities was $66.6 million at December 31, 2025, which is included in Equity securities on our consolidated balance sheets, of which $26.9 million is valued under the fair value option (tZERO, The Brand House Collective, and Zulily Newco). Equity securities in The Brand House Collective are carried at fair value based on Level 1 inputs. The aggregate fair value of the equity securities in The Brand House Collective at December 31, 2025, was $9.8 million. Equity securities in tZERO and Zulily Newco are valued using Level 3 inputs, which represents 18.6% of assets measured at fair value. For our equity method investments, there are no differences in the carrying amount of the assets and liabilities and our maximum exposure to loss, and there is no difference between the carrying amount of our investment in Medici Ventures, L.P. and the amount of underlying equity we have in the entity's net assets.

The following table summarizes the net loss recognized on equity method securities recorded in Other expense, net in our consolidated statements of operations (in thousands):

	Year ended December 31,		
	2025	2024	2023
Net loss recognized on our proportionate share of the net assets of our equity method securities	$ (16,808)	$ (58,281)	$ (98,663)
Decrease in fair value of equity method securities held under fair value option	(11,820)	(19,406)	(41,741)

Regulation S-X Rules 4-08(g) and 3-09

In accordance with SEC Rules 4-08(g) and 3-09 of Regulation S-X, we must determine which, if any, of our equity method securities is a "significant subsidiary". Regulation S-X mandates the use of three different tests to determine if any of our equity securities are significant subsidiaries: the investment test, the asset test, and the income test. The table below provides the summarized financial information required by Rule 4-08(g) for those equity method securities in aggregate that have met the significance criteria, using the equity method securities' most recently available year-to-date financial statements (in thousands):

	December 31,	
Balance Sheet	2025	2024
Assets	$ 326,187	$ 63,546
Liabilities	(294,398)	(17,985)
Equity	$ (31,789)	$ (45,561)

	Year ended December 31,		
Results of Operations	2025	2024	2023
Revenues	$ 263,572	$ 12,086	$ 26,404
Pre-tax loss	(62,771)	(20,778)	(19,895)
Net loss	(62,848)	(20,777)	(20,169)

Medici Ventures, L.P. was deemed not significant for the year ended December 31, 2025 under Rule 3-09 of Regulation S-X, but was significant for the periods ended September 30, 2024 and 2023, their fiscal year-ends, and as such, in accordance with Rule 3-09 of Regulation S-X, separate financial statements for the periods ended September 30, 2024 and 2023 are being included as Exhibit 99.2 and Exhibit 99.1, respectively, and as such are excluded from the table above. In addition, tZERO was deemed not significant for the years ended December 31, 2025 and 2024, but was significant for the year ended December 31, 2023. In accordance with Rule 3-09 of Regulation S-X, separate audited financial statements for tZERO for the year ended December 31, 2023 is being included as Exhibit 99.3.

9. OTHER LONG-TERM ASSETS, NET

Other long-term assets, net consist of the following (in thousands):

	December 31,	
	2025	**2024**
Debt securities carried at fair value	$ 23,977	$ 14,814
Available-for-sale debt securities	18,417	10,985
Prepaid other, long-term portion	2,115	3,242
Other long-term assets	4,045	412
Total other long-term assets, net	$ 48,554	$ 29,453

10. ACCRUED LIABILITIES

Accrued liabilities consist of the following (in thousands):

	December 31,	
	2025	**2024**
Accrued marketing expenses	$ 12,189	$ 27,935
Accrued compensation and other related costs	7,827	8,345
Allowance for returns	7,722	9,526
Accrued freight	6,452	4,962
Sales and other taxes payable	6,121	6,205
Accounts payable accruals	3,879	12,743
Other accrued expenses	7,107	3,898
Total accrued liabilities	$ 51,297	$ 73,614

11. BORROWINGS

Revolving line of credit

In October 2024, the Company entered into a Loan and Security Agreement (the "Loan Agreement") with BMO Bank N.A. (in such capacity, "BMO"), pursuant to which BMO agrees to lend the Company up to $25.0 million on a one-year revolving line of credit to aid the Company in securing strategic ventures. In connection with the Loan Agreement, BMO issued a revolving line of credit promissory note (the "Revolving Note") and granted a lien on the cash collateral account specified in the Loan Agreement (the "Cash Collateral Account"). The revolving line of credit bears interest on the unpaid principal balance at an annual rate equal to the Secured Overnight Financing Rate, or SOFR rate, for a one-month interest period plus 1.00%, established by the Federal Reserve Bank of New York. The Company is obligated to pay certain commitment fees on undrawn amounts under the Loan Agreement in amounts specified in the Loan Agreement. The Loan Agreement and Revolving Note was originally scheduled to terminate on October 18, 2025, and loans thereunder may be borrowed, repaid, and reborrowed up to such date. In September 2025, the Company and BMO extended the term of the Loan Agreement and Revolving Note for an additional year, and it will now terminate in October 2026.

As of December 31, 2025, the Company had $7.0 million of outstanding standby letter of credits under the Revolving Note. As of December 31, 2025, the outstanding balance on the line of credit was $15.5 million. Our total outstanding debt on the line of credit is included in Short-term debt, net on our consolidated balance sheets.

The Loan Agreement is subject to limited affirmative covenants and negative covenants, including the requirement that the Company maintain cash in the Cash Collateral Account in an amount that is three percent greater than BMO's aggregate commitments under the Loan Agreement. We are in compliance with our debt covenants and continue to monitor our ongoing compliance with our debt covenants.

12. LEASES

We have operating leases for office space and a data center. Our leases have remaining lease terms of two years to seven years, some of which may include options to extend the leases perpetually, and some of which may include options to terminate the leases within one year. Variable lease costs include executory costs, such as taxes, insurance, and maintenance.

The components of lease expense were as follows (in thousands):

	Year ended December 31,		
	2025	**2024**	**2023**
Operating lease cost	$ 2,074	$ 3,240	$ 5,257
Variable lease cost	929	906	1,300

The following tables provides a summary of other information related to leases (in thousands):

	Year ended December 31,		
	2025	**2024**	**2023**
Cash payments included in operating cash flows from lease arrangements	$ 1,628	$ 3,253	$ 5,500
Right-of-use assets obtained in exchange for new operating lease liabilities	—	7,170	836

The following table provides a summary of balance sheet information related to leases:

	December 31,	
	2025	**2024**
Weighted-average remaining lease term—operating leases	6.76 years	6.65 years
Weighted-average discount rate—operating leases	7 %	6 %

Maturity of lease liabilities under our non-cancellable operating leases as of December 31, 2025, are as follows (in thousands):

Payments due by period	
2026	$ 1,285
2027	1,150
2028	1,099
2029	1,132
2030	1,040
Thereafter	2,457
Total lease payments	8,163
Less interest	1,592
Present value of lease liabilities	$ 6,571

13. OTHER LONG-TERM LIABILITIES

Other long-term liabilities consist of the following (in thousands):

	December 31,	
	2025	2024
Unearned revenue, long-term portion	$ 2,432	$ 4,583
Income taxes payable, long-term portion	3,530	3,675
Other long-term liabilities	3,783	(349)
Total other long-term liabilities	$ 9,745	$ 7,909

14. COMMITMENTS AND CONTINGENCIES

Legal proceedings and contingencies

From time to time, we are involved in litigation concerning consumer protection, employment, intellectual property, claims under the securities laws, and other commercial matters related to the conduct and operation of our business and the sale of products on our Website. In connection with such litigation, we have been in the past and we may be in the future subject to judgments requiring us to pay significant damages or associated costs. In some instances, other parties may have contractual indemnification obligations to us. However, such contractual obligations may prove unenforceable or non-collectible, and if we cannot enforce or collect on indemnification obligations, we may bear the full responsibility for damages, fees, and costs resulting from such litigation. As a result of such litigation, we may also be subject to penalties and equitable remedies that could force us to alter important business practices. Such litigation could be costly and time consuming and could divert or distract our management and key personnel from our business operations. Due to the uncertainty of litigation and depending on the amount and the timing, an unfavorable resolution of some or all of such matters could materially affect our business, results of operations, financial position, or cash flows.

We establish liabilities when a particular contingency is probable and estimable which are included in Accrued liabilities in our consolidated balance sheets. At December 31, 2025 and 2024, our established liabilities were not material.

Delayed Draw Term Loan Commitments

In September 2025, pursuant to the terms of the Amended Credit Agreement, and subsequently amended in November 2025 pursuant to the Second Amendment, the Company extended delayed-draw term loan commitments (the "Delayed Draw Term Loan Commitments") in the aggregate original principal amount of $30.0 million to The Brand House Collective, Inc. Any loans extended pursuant to the Delayed Draw Term Loan Commitments are convertible by the Company into equity of The Brand House Collective, on the terms set forth in, and subject to further conditions specified in the Amended Credit Agreement. The Delayed Draw Term Loan Commitments require the Company to originate a loan at a floating interest rate plus an agreed margin upon request from the borrower, so long as the conditions specified in the Amended Credit Agreement with respect to the origination of such loan are satisfied.

The Delayed Draw Term Loan Commitments had a notional amount of $20.0 million outstanding at December 31, 2025 and zero at December 31, 2024, respectively. We have elected to record the Delayed Draw Term Loan Commitments at fair value. The fair value of the Delayed Draw Term Loan Commitments is a net liability of $2.8 million at December 31, 2025 and zero at December 31, 2024, respectively, and is included in the Other long-term liabilities line of our consolidated balance sheets.

15. INDEMNIFICATIONS AND GUARANTEES

During our normal course of business, we have made certain indemnities, commitments, and guarantees under which we may be required to make payments in relation to certain transactions. These indemnities include, but are not limited to, indemnities to various lessors in connection with facility leases for certain claims arising from such facility or lease, the environmental indemnity we entered into in favor of the lenders under our prior loan agreements, customary indemnification arrangements in underwriting agreements and similar agreements, and indemnities to our directors and officers to the maximum extent permitted under the laws of the State of Delaware. The duration of these indemnities, commitments, and guarantees varies, and in certain cases, is indefinite. In addition, the majority of these indemnities, commitments, and guarantees do not provide for any limitation of the maximum potential future payments we could be obligated to make. As such, we are unable to estimate with any reasonableness our potential exposure under these items. We have not recorded any liability for these

indemnities, commitments, and guarantees in the accompanying consolidated balance sheets. We do, however, accrue losses for any known contingent liability, including those that may arise from indemnification provisions, when future payment is both probable and reasonably estimable.

16. STOCKHOLDERS' EQUITY

Common Stock

Each share of common stock has the right to one vote. The holders of common stock are also entitled to receive dividends declared by the Board of Directors out of funds legally available, subject to prior rights of holders of all classes of stock outstanding having priority rights as to dividends.

JonesTrading Sales Agreement

We entered into a Capital on Demand™ Sales Agreement (the "Sales Agreement") dated June 10, 2024 with JonesTrading Institutional Services LLC ("JonesTrading"), under which we conducted and may in the future conduct "at the market" public offerings of our common stock. Under the Sales Agreement, JonesTrading, acting as our sales agent or principal, may offer our common stock in the market on a daily basis or otherwise as we request from time to time. We have no obligation to sell additional shares under the Sales Agreement, but we may do so from time to time. For the year ended December 31, 2025, we sold 16,293,806 shares of our common stock pursuant to the Sales Agreement and have recognized $137.3 million in proceeds, net of $2.8 million of offering costs, including commissions paid to JonesTrading. For the year ended December 31, 2024, we sold 7,002,375 shares of our common stock pursuant to the Sales Agreement and have recognized $43.0 million in proceeds, net of $879,000 of offering costs, including commissions paid to JonesTrading. For the year ended December 31, 2023, we did not sell any shares of our common stock pursuant to the Sales Agreement. As of December 31, 2025, we had $16.0 million remaining available under our "at the market" sales program.

Stock Repurchase Program

On August 17, 2021, we announced that our Board of Directors had approved a stock repurchase program (the "Repurchase Program"), pursuant to which we may, from time to time, purchase shares of our outstanding common stock for an aggregate repurchase price not to exceed $100.0 million at any time through December 31, 2023. On December 21, 2023, we announced that our Board of Directors approved an extension and expansion of the Repurchase Program for an additional two years and expanded the repurchase amount by $50.0 million, for a total repurchase amount of up to $150.0 million of our common stock. The Repurchase Program expired in December 2025.

Repurchases under the Repurchase Program may be effected through open market purchases. The Repurchase Committee designated by the Board of Directors will determine the actual timing, number, and value of any shares repurchased under the Repurchase Program in its discretion using factors including, but not limited to, our stock price and trading volume, general market conditions, and the ongoing assessment of our capital needs. There is no assurance of the number or aggregate price of any shares that we will ultimately repurchase under the Repurchase Program, which may be extended, suspended, or terminated at any time by the Board of Directors.

For the year ended December 31, 2025, we repurchased $6.2 million of our common stock under our stock repurchase program at an average price of $6.87 per share. For the years ended December 31, 2024 and 2023, we did not repurchase any shares of our common stock under the Repurchase Program.

Warrants

On September 22, 2025, the Company announced that its Board of Directors had declared a warrant dividend distribution (the "Warrant Distribution") to the record holders of the Company's common stock (the "Common Stock"), in the form of warrants to purchase common stock (the "Warrants"). Holders of Common Stock at the close of business on October 2, 2025 (the "Record Date") received one warrant for each ten shares of Common Stock then owned, rounded down to the nearest whole number. The Warrants were distributed to holders of common stock on the terms and conditions described in the Warrant Agreement, dated as of October 7, 2025, between the Company, Computershare, Inc., a Delaware corporation, and its affiliate, Computershare Trust Company, N.A., as Warrant Agent. The Warrants have a cash exercise price of $15.50, and will expire on October 7, 2026, unless the Early Expiration Price Condition (as defined in the Warrant Agreement) is met.

For the year ended December 31, 2025, one warrant was exercised. As of December 31, 2025, 6.9 million Warrants remained outstanding.

17. STOCK-BASED AWARDS

We have equity incentive and compensatory plans that provide for the grant of stock-based awards, including restricted stock and performance shares, to employees and board members. Those plans include the Company's Amended and Restated 2005 Equity Incentive Plan (the "Plan") and the newly adopted Bed Bath & Beyond, Inc. 2025 Employment Inducement Equity Incentive Plan (the "Inducement Plan") (collectively, the "Plans"). Employee accounting applies to equity incentives and compensation granted by the Company to its own employees. When an award is forfeited prior to the vesting date, we recognize an adjustment for the previously recognized expense in the period of the forfeiture.

Stock-based compensation expense is classified within the corresponding operating expense categories on our consolidated statements of operations as follows (in thousands):

	Year ended December 31,		
	2025	2024	2023
Cost of goods sold	$ 6	$ 7	$ 37
Sales and marketing	332	594	796
Technology	1,747	6,263	8,733
General and administrative	8,768	12,391	13,452
Total stock-based compensation expense	$ 10,853	$ 19,255	$ 23,018

For the year ended December 31, 2025, there was a total $14.8 million of unrecognized compensation cost related to unvested restricted stock units, performance shares, and share options, which is expected to be recognized over a weighted-average period of approximately 2.09 years. At December 31, 2025, 1.1 million shares of stock remained available for future grants under the Plans.

Restricted stock unit awards

The Plans provide for the grant of restricted stock units and other types of equity awards to employees and directors of the Company. The Compensation Committee of the Board of Directors approves grants of restricted stock unit awards to our officers, board members and employees. These restricted stock unit awards generally vest on an annual ratable basis over a period of three to four years. During the year ended December 31, 2025, we granted 1.8 million restricted stock unit awards under the Plan. In addition, during the year ended December 31, 2025, we granted 0.3 million restricted stock unit awards under the Inducement Plan to eligible recipients.

The cost of restricted stock units is determined using the fair value of our common stock on the date of the grant and compensation expense is either recognized on a straight-line basis over the vesting schedule or on an accelerated schedule when vesting of restricted stock awards exceeds a straight-line basis. The cumulative amount of compensation expense recognized at any point in time is at least equal to the portion of the grant date fair value of the award that is vested at that date.

Performance Shares

During the year ended December 31, 2025, we granted 0.8 million performance-based shares ("PSUs") to our executive management team under the Plan. For the 2025 PSUs granted, each grant of PSUs is eligible to vest based on achieving three performance metrics, with 50% of the grant subject to achievement of an Adjusted EBITDA goal, 25% of the grant subject to a Gross Margin goal, and the remaining 25% of the grant subject to a Contribution Margin goal, with a potential maximum payout of 135% of the "Target" number of PSUs. In addition, during the year ended December 31, 2025, we granted 0.2 million PSUs under the Inducement Plan to eligible recipients. To the extent any of the PSUs become earned based on the Company's achievement of the three aforementioned performance metrics, such earned PSUs will vest as to one-third of the earned PSUs on each of the first, second, and third anniversaries of the grant date, subject to the recipient’s continued service through the vesting date. To be eligible to vest in any tranche of the PSUs, the Company must meet the threshold performance metrics established for the performance period. Expense is recognized as compensation cost based on the fair value on the date of grant over the performance period, taking into account the probability that the Company will satisfy the performance goals.

Stock-based compensation related to the PSUs is included in the stock-based compensation expense table above combined with the expense associated with our restricted stock units, share options, and ESPP. Stock-based compensation related to the PSUs was a credit of $17,000 due to staff-related reductions and $5.9 million for the years ended December 31, 2025 and 2024, respectively.

The following table summarizes restricted stock unit and PSU award activity (in thousands, except fair value data):

	2025		2024		2023	
	Units	Weighted Average Grant Date Fair Value	Units	Weighted Average Grant Date Fair Value	Units	Weighted Average Grant Date Fair Value
Outstanding—beginning of year	1,314	$ 20.98	984	$ 29.60	781	$ 50.17
Granted at fair value	3,035	6.28	1,818	19.73	1,101	20.92
Vested	(366)	23.40	(441)	35.33	(550)	40.27
Forfeited	(946)	13.75	(1,047)	18.89	(348)	31.43
Outstanding—end of year	3,037	$ 8.21	1,314	$ 20.98	984	$ 29.60

Share Options

During the year ended December 31, 2024, we granted a stock option award with market conditions tied to our common stock price, to purchase 2.3 million shares of our common stock to our Executive Chairman and Chief Executive Officer (the "Share Options"). The Share Options will be eligible to vest in three installments upon the achievement of three separate stock price hurdles during the four-year period following the grant date. The weighted-average grant date fair value per share for the Share Options was $3.37. Stock-based compensation related to the Share Options is included in stock-based compensation expense table above combined with the expense associated with our restricted stock units, PSUs, and ESPP. Stock-based compensation related to the Share Options was $3.3 million and $2.4 million for the years ended December 31, 2025 and 2024, respectively.

The following table summarizes Share Options award activity for the year ended December 31, 2025 (in thousands, except fair value data and remaining contractual term):

	Units	Weighted Average Exercise Price Per Share	Weighted Average Contractual Term Remaining (Years)	Aggregate Intrinsic Value
Outstanding—beginning of year	2,250	$ 53.33		
Granted at fair value	—	—		
Vested	—	—		
Forfeited	—	—		
Outstanding—end of year	2,250	$ 53.33	1.36	$ —
Vested and expected to vest as of December 31, 2025	2,250	$ 53.33	1.36	$ —
Vested and exercisable as of December 31, 2025	—	$ —	—	$ —

Employee Stock Purchase Plan

The 2021 Employee Stock Purchase Plan (the "ESPP") grants our eligible employees a right to purchase shares of our common stock at a discount through payroll deductions of up to 25% of eligible compensation, subject to a cap of $21,250 in any calendar year. The ESPP provides for consecutive 24-month offering periods beginning March 1 and September 1 of each year. Each offering period shall consist of four consecutive six-month purchase periods. The first offering period under the ESPP commenced on September 1, 2021, with the first purchase date occurring on February 28, 2022.

On each purchase date, participating employees will purchase shares of our common stock at a price per share equal to 85% of the lesser of the fair market value of our common stock on (i) the offering date of the offering period or (ii) the purchase date (the "look-back" period). If the stock price of our common stock on any purchase date in an offering period is lower than the stock price on the offering date of that offering period, every participant in the offering will automatically be withdrawn from the offering after the purchase of shares on such purchase date and automatically enrolled in a new offering period commencing immediately subsequent to such purchase date.

The maximum number of shares of common stock that may be issued under the ESPP in aggregate is 3.0 million shares. For the years ended December 31, 2025, 2024, and 2023, 0.1 million shares, 0.1 million shares, and 0.1 million shares, respectively were purchased at an average price per share of $5.32, $12.23, and $16.25, respectively. At December 31, 2025, approximately 2.5 million shares of common stock remained available under the ESPP.

The ESPP is considered a compensatory plan and the fair value of the discount and the look-back period will be estimated using the Black-Scholes option pricing model and expense will be recognized straight-line over the 24-month offering period. We recognized $0.7 million, $1.1 million and $1.7 million in share-based compensation expense related to the ESPP for the years ended December 31, 2025, 2024 and 2023, respectively, which are included in the stock compensation expense table above combined with the expense associated with our restricted stock units, PSUs, and share options.

18. EMPLOYEE RETIREMENT PLAN

We have a 401(k) defined contribution plan which permits participating employees to defer a portion of their compensation, subject to limitations established by the Internal Revenue Code. During the years ended December 31, 2025, 2024 and 2023, employees who completed 30 days of service and are 18 years of age or older are qualified to participate in the plan on the first of a month following 30 days of service, which matches 100% of the first 6% of each participant's contributions to the plan subject to IRS limits. Matching contributions vest immediately. Participant contributions also vest immediately. Our matching contribution totaled $2.9 million, $4.3 million and $5.0 million for the years ended December 31, 2025, 2024 and 2023, respectively. We made no discretionary contributions to eligible participants for the years ended December 31, 2025, 2024 and 2023, respectively.

19. REVENUE AND CONTRACT LIABILITY

Unearned revenue

Unearned revenue consists of the following (in thousands):

	December 31,	
	2025	**2024**
Unearned product revenue on undelivered product	$ 11,170	$ 11,192
In store credits	10,875	11,462
Loyalty program membership fees and reward points	6,429	13,918
Unearned product revenue on unshipped orders	3,911	3,610
Other	2,044	2,913
Total unearned revenue	$ 34,429	$ 43,095

The following table provides information about unearned revenue from contracts with customers, including significant changes in unearned revenue balances during the period (in thousands):

	Amount
Unearned revenue at December 31, 2023	$ 49,597
Increase due to deferral of revenue at period end, net	32,802
Decrease due to beginning contract liabilities recognized as revenue	(39,304)
Unearned revenue at December 31, 2024	43,095
Increase due to deferral of revenue at period end, net	24,725
Decrease due to beginning contract liabilities recognized as revenue	(33,391)
Unearned revenue at December 31, 2025	$ 34,429

Our total unearned revenue related to outstanding loyalty program rewards was $4.1 million and $11.1 million at December 31, 2025 and 2024, respectively. Breakage income related to loyalty program rewards and gift cards is recognized in Net revenue in our consolidated statements of operations. Breakage included in revenue was $11.1 million, $7.2 million, and $5.1 million for the years ended December 31, 2025, 2024, and 2023, respectively. The timing of revenue recognition of these reward dollars is driven by actual customer activities, such as redemptions and expirations. At December 31, 2025 and 2024, we had an additional $2.4 million and $4.6 million, respectively, of unearned contract revenue classified within Other long-term liabilities on our consolidated balance sheets.

Sales returns allowance

The following table provides additions to and deduction from the sales returns allowance, which is included in our Accrued liabilities balance in our consolidated balance sheets (in thousands):

	Amount
Allowance for returns at December 31, 2022	$ 10,222
Additions to the allowance	121,939
Deductions from the allowance	(123,510)
Allowance for returns at December 31, 2023	8,651
Additions to the allowance	105,353
Deductions from the allowance	(104,478)
Allowance for returns at December 31, 2024	9,526
Additions to the allowance	87,835
Deductions from the allowance	(89,639)
Allowance for returns at December 31, 2025	$ 7,722

20. INTEREST INCOME, NET

Interest income, net consisted of the following (in thousands):

	Year ended December 31,		
	2025	2024	2023
Interest income	$ 6,226	$ 8,968	$ 13,769
Interest expense	(1,174)	(2,203)	(1,762)
Total interest income, net	$ 5,052	$ 6,765	$ 12,007

21. OTHER EXPENSE, NET

Other expense, net consisted of the following (in thousands):

	Year ended December 31,		
	2025	2024	2023
Loss from equity method securities	$ (28,628)	$ (77,687)	$ (140,404)
Gain (loss) on debt securities carried at fair value	1,439	(2,430)	—
Gain on disposal of cryptocurrencies	—	—	6,361
Other	(446)	(672)	(106)
Total other expense, net	$ (27,635)	$ (80,789)	$ (134,149)

22. INCOME TAXES

For financial reporting purposes, loss before income taxes includes the following components (in thousands):

	Year ended December 31,		
	2025	2024	2023
United States loss	$ (85,491)	$ (259,395)	$ (267,058)
Foreign income	1,695	1,284	936
Total loss before income taxes	$ (83,796)	$ (258,111)	$ (266,122)

The provision for income taxes for 2025, 2024 and 2023 consists of the following (in thousands):

	Year ended December 31,		
	2025	2024	2023
Current:			
Federal	$ —	$ —	$ (55)
State and local	50	167	369
Foreign	302	233	58
Total current	352	400	372
Deferred:			
Federal	197	119	37,160
State and local	216	118	4,201
Foreign	60	47	(13)
Total deferred	473	284	41,348
Total income taxes:			
Federal	197	119	37,105
State and local	266	285	4,570
Foreign	362	280	45
Total provision for income taxes	$ 825	$ 684	$ 41,720

The provision for income taxes for 2025, 2024 and 2023 differ from the amounts computed by applying the U.S. federal income tax rate of 21% to loss before income taxes for the following reasons (in thousands):

	Year ended December 31,					
	2025		2024		2023	
	Amount	Percent	Amount	Percent	Amount	Percent
U.S. federal income tax benefit at statutory rate	$ (17,597)	21.00 %	$ (54,203)	21.00 %	$ (55,886)	21.00 %
State income tax expense, net of federal benefit (1)	411	(0.49)	293	(0.11)	4,419	(1.66)
Foreign tax effects	(31)	0.04	112	(0.04)	(78)	0.03
Effect of cross-border tax laws	316	(0.38)	298	(0.12)	(736)	0.28
Tax credits						
Federal research and development tax credit	(815)	0.97	(2,071)	0.80	(3,245)	1.22
Changes in federal valuation allowance	16,510	(19.70)	53,962	(20.91)	93,855	(35.27)
Nontaxable or nondeductible items						
Stock-based compensation expense	976	(1.16)	684	(0.27)	2,405	(0.90)
Non-deductible executive compensation	1,323	(1.58)	1,286	(0.50)	762	(0.29)
Changes in unrecognized tax benefits	(549)	0.66	54	(0.02)	151	(0.06)
Other	281	(0.34)	269	(0.10)	73	(0.03)
Effective income tax rate	$ 825	(0.98)%	$ 684	(0.27)%	$ 41,720	(15.68)%

(1) State taxes in California, New York, Oregon, and Texas make up a majority (greater than 50 percent) of the tax effect in this category for the current year.

The amounts of cash income taxes paid, net of refunds for 2025, 2024, and 2023 are as follows (in thousands):

	Year ended December 31,		
	2025	2024	2023
U.S. federal	$ (300)	*	$ 300
U.S. state and local			
California	*	*	(383)
Colorado	*	(29)	*
Connecticut	*	(13)	*
Illinois	(26)	*	*
Kansas	(72)	*	*
Kentucky	*	12	*
Maine	*	(10)	*
Massachusetts	(25)	*	*
Michigan	*	(36)	*
Minnesota	*	(58)	57
New Hampshire	*	(15)	*
New Jersey	*	(152)	140
North Carolina	*	*	26
Oregon	66	51	72
Pennsylvania	(93)	*	48
Texas	79	93	139
Wisconsin	*	(9)	(30)
Other	(11)	4	128
Total U.S. state and local	(82)	(162)	197
Foreign	*	*	*
Total income taxes paid, net of (refunds)	$ (382)	$ (162)	$ 497

* The amount of income taxes paid, net of refunds during the year does not meet the five percent disaggregation threshold.

The components of our deferred tax assets and liabilities as of December 31, 2025 and 2024 are as follows (in thousands):

	December 31,	
	2025	2024
Deferred tax assets:		
Net operating loss carryforwards	$ 110,222	$ 73,925
Basis difference in equity securities	50,608	53,335
Research and development tax credits	26,837	26,040
Capitalized software development	10,852	33,064
Capital loss carryforward	9,270	—
Unearned revenue	4,766	7,324
Accrued expenses	3,931	3,325
Reserves and other	2,186	2,270
Operating lease liabilities	1,629	1,902
Other tax credits and carryforwards	262	261
Gross deferred tax assets	220,563	201,446
Valuation allowance	(216,444)	(195,742)
Total deferred tax assets	4,119	5,704
Deferred tax liabilities:		
Property and equipment, net	(1,610)	(3,378)
Operating lease right-of-use assets	(1,267)	(1,664)
Intangible assets	(1,598)	(487)
Prepaid expenses	(310)	(368)
Total deferred tax liabilities	(4,785)	(5,897)
Total deferred tax assets (liabilities), net	$ (666)	$ (193)

At December 31, 2025, we have federal net operating loss carryforwards with no expiration date of approximately $438.4 million; the utilization of these net operating loss carryforwards is limited to 80% of taxable income in any given year. We have state net operating loss carryforwards with no expiration date of approximately $139.3 million; the utilization of these net operating loss carryforwards is limited to 80% of taxable income in the state in any given year. We have state net operating loss carryforwards of approximately $225.6 million that expire between 2033 and 2045. We have capital loss carryforwards of approximately $36.5 million that expire between 2027 and 2030.

At December 31, 2025, we have federal research credit carryforwards of approximately $32.1 million that expire between 2031 and 2045. We also have state research credit carryforwards of approximately $9.1 million that expire between 2026 and 2038. Ownership changes under Internal Revenue Code Section 382 could limit the amount of net operating losses or credit carryforwards that can be used in the future.

Each quarter we assess on a jurisdictional basis whether it is more likely than not that our deferred tax assets will be realized under ASC Topic 740. We have no carryback ability, and therefore we must rely on future taxable income, including tax planning strategies and future reversals of taxable temporary differences, to recover our deferred tax assets. We assess available positive and negative evidence to estimate whether we will generate sufficient future taxable income to use our existing deferred tax assets. A significant piece of objective negative evidence evaluated as of December 31, 2025, is our cumulative loss position over a three-year period. Such objective negative evidence limits our ability to consider other more subjective evidence such as our projections for future growth. On the basis of this evaluation we intend to maintain a valuation allowance against our deferred tax assets for the U.S. jurisdiction, not supported by reversals of taxable temporary differences. For the year ended December 31, 2025, the total increase in the valuation allowance was $20.7 million. We intend to continue maintaining a valuation allowance on our net U.S. deferred tax assets until there is sufficient evidence to support the reversal of all or some portion of these allowances. The amount of the deferred tax asset considered realizable could be adjusted if objective negative evidence in the form of cumulative losses is no longer present and additional weight is given to subjective evidence such as our projections for growth. We will continue to monitor the need for a valuation allowance against our deferred tax assets on a quarterly basis.

A reconciliation of the beginning and ending unrecognized tax benefits, excluding interest and penalties, as of December 31, 2025, 2024 and 2023 is as follows (in thousands):

	Year ended December 31,		
	2025	2024	2023
Beginning balance	$ 15,689	$ 15,020	$ 13,488
Additions for tax positions related to the current year	386	1,121	1,258
Additions (reductions) for tax positions taken in prior years	(896)	(452)	274
Ending balance	$ 15,179	$ 15,689	$ 15,020

Included in the balance of unrecognized tax benefits as of December 31, 2025, 2024 and 2023, are approximately $15.2 million, $15.7 million, and $15.0 million, respectively, of tax benefits that, if recognized, and the valuation allowance against our net deferred tax assets were released, would affect the effective tax rate.

Accrued interest and penalties on unrecognized tax benefits as of December 31, 2025 and 2024 were $1.5 million and $1.4 million, respectively.

We are subject to taxation in the United States and various state and foreign jurisdictions. Tax years beginning in 2021 are subject to examination by taxing authorities, although net operating loss and credit carryforwards from all years are subject to examinations and adjustments for at least three years following the year in which the attributes are used.

As we repatriate foreign earnings for use in the United States, the distributions will generally be exempt from federal and foreign income taxes but may be subject to certain state taxes. As of December 31, 2025, the cumulative amount of foreign earnings considered permanently reinvested upon which taxes have not been provided, and the corresponding unrecognized deferred tax liability, was not material.

23. NET LOSS PER SHARE

The following table sets forth the computation of basic and diluted net loss per common share for the periods indicated (in thousands, except per share data):

	Year ended December 31,		
	2025	2024	2023
Numerator:			
Net loss attributable to common stockholders	$ (84,621)	$ (258,795)	$ (307,842)
Denominator:			
Weighted average shares of common shares outstanding—basic	60,130	46,542	45,214
Weighted average shares of common shares outstanding—diluted	60,130	46,542	45,214
Net loss per share of common stock:			
Basic	$ (1.41)	$ (5.56)	$ (6.81)
Diluted	$ (1.41)	$ (5.56)	$ (6.81)

The following shares were excluded from the calculation of diluted shares outstanding as their effect would have been anti-dilutive (in thousands):

	Year ended December 31,		
	2025	2024	2023
Restricted stock units, PSUs, and Share Options	2,321	2,647	984
Employee stock purchase plan	222	190	186
Warrants	6,884	—	—

24. BUSINESS SEGMENTS

The Company currently has one reportable segment, which is its Retail business. The reportable segment is comprised of the Company's Bed Bath & Beyond operating segment and Overstock.com operating segment which primarily sells home goods products to customers. Across each operating segment, the Company offers customers similar products, source from overlapping suppliers, the same customer type, have similar distribution methods, and operate under the same regulatory environment. The Company has determined that each of its operating segments share similar economic characteristics and business activities and are aggregated into a single reportable Retail segment. The Bed Bath & Beyond operating segment includes results from its buybuy BABY brand, which are not material to the business and are not separately reviewed by the Chief Operating Decision Maker. The Retail segment primarily derives revenues from e-commerce sales of home furnishing merchandise through its suite of websites and mobile applications.

The accounting policies of the Retail segment are the same as those described in the summary of significant accounting policies. The Chief Operating Decision Maker (CODM), who is the Company's Principal Executive Officer, assesses performance for the Retail segment and decides how to allocate resources based on Operating Income (loss) that also is reported on the Consolidated Statements of Operations. The measure of segment assets is reported on the Consolidated Balance Sheet as Cash and Cash Equivalents.

The CODM uses Operating Income (Loss) to evaluate income generated from segment resources in deciding whether to reinvest profits into the Retail segment or for other uses, such as to make acquisitions or investments. The CODM also uses Operating Income (Loss) to monitor budget versus actual results. The monitoring of budgeted versus actual results is used in assessing performance of the segment and in establishing bonus metrics.

The following table summarizes the Company's segment revenue, significant segment expenses, other segment items, and segment loss (in thousands):

	Year ended December 31,		
	2025	2024	2023
Net revenue	$ 1,044,616	$ 1,394,964	$ 1,561,122
Less:			
Cost of goods sold (as adjusted) (1)	786,884	1,104,341	1,193,877
Sales and marketing expense (as adjusted) (1)	142,803	237,389	223,672
Technology expense (as adjusted) (1)	69,004	88,407	90,498
General and administrative (as adjusted) (1)	39,289	55,225	62,346
Customer service and merchant fees	37,324	53,586	52,023
Other segment items (2)	30,525	40,103	82,686
Operating loss	$ (61,213)	$ (184,087)	$ (143,980)

(1) Significant segment expense categories are adjusted to exclude costs related to depreciation and amortization, stock-based compensation, and brand integration and restructuring costs which are included in the Other segment items line.

(2) Other segment items includes other operating expense (income), net, depreciation and amortization, stock-based compensation, and brand integration and restructuring costs.

25. SUBSEQUENT EVENTS

The Container Store, Inc.

In January 2026, we purchased, via an amended participation agreement for par/near par trades, an additional portion of the loans issued by The Container Store, Inc. pursuant to the TCS Credit Agreement. The aggregate purchase price for our additional participation in certain loans issued pursuant to the TCS Credit Agreement was $2.2 million. As a result of these transactions, we will participate in the rights to the payment of interest and repayment of the loans and any exercise of rights or remedies related thereto.

Delayed Draw Term Loan Commitments

In the first quarter of 2026, TBHC drew an additional $15.0 million under the Delayed Draw Term Loan Commitments. There is approximately $5.0 million remaining under the Delayed Draw Term Loan Commitments.

Merger Agreement

On January 8, 2026, the Company filed a registration statement on Form S-4 (the "Registration Statement") with the SEC in connection with the proposed Merger (defined below) with TBHC and was declared effective on January 30, 2026.

On November 24, 2025, the Company by and among the Company, Knight Merger Sub II, Inc., a wholly owned subsidiary of the Company, and TBHC, pursuant to which, subject to the terms and conditions set forth therein, Merger Sub will merge with and into TBHC (the "Merger"), with TBHC surviving such Merger as a wholly owned subsidiary of the Company.

Under the Merger Agreement, at the effective time of the Merger (the “Effective Time”), each share of common stock, no par value, of TBHC (the “TBHC Common Stock”) issued and outstanding immediately prior to the Effective Time (other than treasury shares and any shares of TBHC Common Stock held directly by the Company or Merger Sub) will be converted into the right to receive 0.1993 shares (the “Exchange Ratio”) of a fully paid and non-assessable share of common stock, par value $0.0001 per share, of the Company (the “Company Common Stock”) and, if applicable, cash in lieu of fractional shares, subject to any applicable withholding.

At the Effective Time, (i) each award of TBHC restricted share units (“TBHC RSU”) that is outstanding as of immediately prior to the Effective Time will automatically fully vest and be converted into the right to receive, without interest and subject to applicable withholding taxes, (A) a number of shares of Company Common Stock equal to the number of shares of TBHC subject to the TBHC RSU multiplied by the Exchange Ratio and (B) if applicable, cash in lieu of fractional shares, and (ii) each option to purchase TBHC Common Stock (“TBHC Option”) that is outstanding as of immediately prior to the Effective Time will be automatically converted into the right to receive, without interest and subject to applicable withholding taxes, (A) a number of shares of Company Common Stock equal to the Net Option Share Amount (as defined in the Merger Agreement) applicable to the TBHC Option multiplied by the Exchange Ratio and (B) if applicable, cash in lieu of fractional shares.

The obligation of TBHC and the Company to consummate the transactions contemplated by the Merger Agreement is subject to the satisfaction or waiver of a number of customary conditions, including: (i) the adoption of the Merger Agreement by TBHC’s shareholders, including the affirmative vote of a majority of the votes cast by Disinterested Shareholders (as defined in the Merger Agreement) at a meeting duly called and held for such purpose; (ii) the Company’s registration statement on Form S-4 to be filed in connection with the Merger having become effective, and the shares of Company Common Stock issuable in the Merger having been approved for listing on the New York Stock Exchange; (iii) at the Company’s election, either (A) the payoff of TBHC’s credit facility with Bank of America, N.A. (the “TBHC ABL”) or (B) the use of commercially reasonable efforts by the Company and TBHC to amend the TBHC ABL in form and substance reasonably acceptable to the Company and TBHC; (iv) the absence of laws or orders restraining the consummation of the Merger; (v) the representations and warranties of TBHC and the Company being true and correct, subject to the materiality standards contained in the Merger Agreement, and TBHC and the Company having complied in all material respects with their respective obligations under the Merger Agreement; and (vi) the absence of any effects that have constituted or resulted in, or would reasonably be expected to constitute or result in, a material adverse effect for TBHC or the Company.

The Merger Agreement contains customary mutual termination rights for TBHC and the Company, including if the Merger is not completed by May 24, 2026 (subject to extension under certain circumstances) (the “Outside Date”), and if the required approval of TBHC’s shareholders is not obtained. The Merger Agreement also contains customary termination rights for the benefit of each party, including (i) if the board of directors of the other party changes its recommendation, (ii) if the board of directors of such party authorizes entry into a definitive agreement relating to a superior proposal and (iii) if the other party breaches its representations, warranties or covenants under the Merger Agreement in a way that would result in a failure of its condition to closing being satisfied (subject to certain procedures and cure periods).

Under the Merger Agreement, TBHC will be required to pay a termination fee to the Company equal to $1,025,300 if the Merger Agreement is terminated in certain circumstances, including if the Merger Agreement is terminated because TBHC’s board of directors has changed its recommendation or if the required approval of TBHC’s shareholders is not obtained.

In the event that the required approval of TBHC's shareholders is not obtained, TBHC will also reimburse the Company's expenses in an amount equal to $341,800.

The transaction is expected to close in the second quarter of 2026.

Schedule II
Valuation and Qualifying Accounts
(in thousands)

	Balance at Beginning of Year	Charged to Expense	Deductions	Balance at End of Year
Year ended December 31, 2025				
Deferred tax valuation allowance	$ 195,742	$ 20,702	$ —	$ 216,444
Allowance for doubtful accounts	2,236	1,860	719	3,377
Year ended December 31, 2024				
Deferred tax valuation allowance	$ 132,105	$ 63,637	$ —	$ 195,742
Allowance for doubtful accounts	1,298	938	—	2,236
Year ended December 31, 2023				
Deferred tax valuation allowance	$ 21,459	$ 110,646	$ —	$ 132,105
Allowance for doubtful accounts	3,223	(1,925)	—	1,298

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

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We carried out an evaluation of our disclosure controls and procedures as required by Rule 13a-15(e) and 15d-15(e) of the Exchange Act under the supervision and with the participation of our principal executive officer and principal financial officer, as of the end of the period covered by this report. Based on this evaluation, our principal executive officer and principal financial officer concluded that our disclosure controls and procedures were effective at the level of reasonable assurance.

Limitations on Disclosure Controls and Procedures

In designing and evaluating our disclosure controls and procedures, management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. Management does not expect, however, that our disclosure controls and procedures will prevent or detect all error and fraud. Any control system, no matter how well designed and operated, is based upon certain assumptions and can provide only reasonable, not absolute, assurance that its objectives will be met. Further, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, within the Company have been detected.

Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2025, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Management's Report on Internal Control over Financial Reporting

Management of the Company is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act.

Management has assessed the effectiveness of our internal control over financial reporting as of December 31, 2025. In making our assessment of the effectiveness of internal control over financial reporting, management used the criteria set forth in Internal Control—Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). Based on this assessment, management has concluded that, as of December 31, 2025, our internal control over financial reporting was effective.

The effectiveness of our internal control over financial reporting as of December 31, 2025 has been audited by KPMG LLP, an independent registered public accounting firm, as stated in their report which is included below.

Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors
Bed Bath & Beyond, Inc.:

Opinion on Internal Control Over Financial Reporting

We have audited Bed Bath & Beyond, Inc. and subsidiaries' (the Company) internal control over financial reporting as of December 31, 2025, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission. In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2025, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2025 and 2024, the related consolidated statements of operations, comprehensive loss, changes in stockholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2025, and the related notes and financial statement schedule II (collectively, the consolidated financial statements), and our report dated February 24, 2026 expressed an unqualified opinion on those consolidated financial statements.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control Over Financial Reporting

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ KPMG LLP

Salt Lake City, Utah
February 24, 2026

ITEM 9B. OTHER INFORMATION

(a) Disclosure in lieu of reporting on a Current Report on Form 8-K.

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

On February 18, 2026, the Board adopted the Sixth Amended and Restated Bylaws (the "Amended and Restated Bylaws"), effective immediately. The Amended and Restated Bylaws were updated solely to clarify the pre-existing voting standard to be used with respect to matters other than the election of directors. A copy of the Amended and Restated Bylaws is filed as Exhibit 3.5 to this Annual Report on Form 10-K, and a marked copy of the Amended and Restated Bylaws, showing the clarifying changes, is filed as Exhibit 3.6 to this Annual Report on Form 10-K.

(b) Insider trading arrangements and policies.

In the fourth quarter of 2025, no director or officer of the Company adopted or terminated a "Rule 10b5-1 trading arrangement" or "non-Rule 10b5-1 trading arrangement," as each term is defined in Item 408(a) of Regulation S-K.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

Not applicable.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Information regarding our Executive Officers required by Item 10 of Part III is set forth in Part I, Item 1 Business under "Information About Our Executive Officers." We have adopted a Code of Business Conduct and Ethics ("Code"), which applies to all employees of the Company, including our principal executive officer, principal financial officer, and principal accounting officer or controller, or persons performing similar functions. We intend to disclose any amendments to the Code and any waivers granted to our principal executive officer, principal financial officer or principal accounting officer or other persons to the extent required by applicable rules or regulations in the Investor Relations section of our Website, www.beyond.com. We will provide a copy of the Code to any person without any charge upon request in writing addressed to Bed Bath & Beyond, Inc. Attn: Investor Relations, 433 West Ascension Way, 3rd Floor, Murray, UT 84123.

The remaining information required by this Item will be included in our definitive proxy statement for our 2026 annual meeting of stockholders, which proxy statement will be filed with the SEC not later than 120 days after the close of our fiscal year ended December 31, 2025, and is incorporated herein by reference.

ITEM 11. EXECUTIVE COMPENSATION

The information required by this Item will be included in our definitive proxy statement for our 2026 annual meeting of stockholders, which proxy statement will be filed with the SEC not later than 120 days after the close of our fiscal year ended December 31, 2025, and is incorporated herein by reference.

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

The information required by this Item will be included in our definitive proxy statement for our 2026 annual meeting of stockholders, which proxy statement will be filed with the SEC not later than 120 days after the close of our fiscal year ended December 31, 2025, and is incorporated herein by reference.

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

The information required by this Item will be included in our definitive proxy statement for our 2026 annual meeting of stockholders, which proxy statement will be filed with the SEC not later than 120 days after the close of our fiscal year ended December 31, 2025, and is incorporated herein by reference.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

Our independent registered public accounting firm is KPMG LLP, Salt Lake City, Utah, Auditor Firm ID: 185.

The remaining information required by this Item will be included in our definitive proxy statement for our 2026 annual meeting of stockholders, which proxy statement will be filed with the SEC not later than 120 days after the close of our fiscal year ended December 31, 2025, and is incorporated herein by reference.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

(a) The following documents are filed as part of this Annual Report on Form 10-K:

(1) **Financial Statements:**

The financial statements are filed as part of this Annual Report on Form 10-K under "Item 8. Financial Statements and Supplementary Data."

(2) **Financial Statement Schedules:**

Schedule II Valuation and Qualifying Accounts is provided in "Item 8. Financial Statements and Supplementary Data." Other schedules have been omitted as they are either not required, not applicable, or the information has otherwise been shown in the consolidated financial statements or notes thereto under "Item 8. Financial Statements and Supplementary Data."

(3) **Exhibits:**

See exhibits listed under Part (b) below.

(b) Exhibits

Exhibit Number	Exhibit Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
2.1*	Asset Purchase Agreement, dated June 12, 2023, by and among Overstock.com, Inc., Bed Bath & Beyond Inc. and certain subsidiaries of Bed Bath & Beyond Inc.	8-K	000-49799	2.1	June 13, 2023	
2.2*	Agreement and Plan of Merger, dated as of November 24, 2025, by and among Bed Bath & Beyond, Inc., Knight Merger Sub II, Inc., and The Brand House Collective, Inc.	8-K	000-49799	2.1	November 25, 2025	
3.1	Amended and Restated Certificate of Incorporation	10-Q	000-49799	3.1	July 29, 2014	
3.2	Certificate of Amendment to Amended and Restated Certificate of Incorporation	8-K	000-49799	3.2	November 6, 2023	
3.3	Certificate of Amendment to Amended and Restated Certificate of Incorporation of Beyond, Inc.	8-K	001-41850	3.1	May 24, 2024	
3.4	Certificate of Amendment to Amended and Restated Certificate of Incorporation	8-K	001-41850	3.1	August 22, 2025	
3.5	Sixth Amended and Restated Bylaws					X
3.6	Marked Sixth Amended and Restated Bylaws					X
4.1	Form of specimen common stock certificate	S-1/A	333-83728	4.1	May 6, 2002	

Exhibit Number	Exhibit Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
4.2	Description of Securities Registered Under Section 12 of the Securities Exchange Act of 1934					X
4.3	Form of Indenture	S-3ASR	333-280076	4.3	June 10, 2024	
4.4	Warrant Agreement (including Form of Warrant), dated October 7, 2025, between the Company, Computershare Inc., a Delaware corporation, and Computershare Trust Company, N.A., as Warrant Agent	S-3	333-290763	4.2	October 8, 2025	
10.1[(a)]	Form of Indemnification Agreement between Overstock.com, Inc. and each of its directors and officers	10-K	000-49799	10.1	March 18, 2019	
10.2[(a)]	Amended and Restated 2005 Equity Incentive Plan	8-K	000-49799	10.1	May 23, 2023	
10.3[(a)]	Amendment to the Amended and Restated 2005 Equity Incentive Plan	8-K	001-41850	10.1	May 24, 2024	
10.4[(a)]	Form of Performance Share Award Grant Notice and Performance Share Award Agreement under the Beyond, Inc. Amended and Restated 2005 Equity Incentive Plan *	10-Q	001-41850	10.1	May 8, 2024	
10.5[(a)]	Form of Restricted Stock Unit Grant Notice and Restricted Stock Unit Agreement under the Beyond, Inc. Amended and Restated 2005 Equity Incentive Plan	10-Q	001-41850	10.4	July 31, 2024	
10.6[(a)]	Executive Chairman Performance Award Grant Notice and Award Agreement	8-K	001-41850	10.2	May 24, 2024	
10.7[(a)]	Summary of Unwritten Compensation Arrangements Applicable to Non-Employee Directors of Bed Bath & Beyond, Inc.					X
10.8	Key Employee Severance Plan	8-K	000-49799	10.1	March 24, 2023	
10.9	Transaction Agreement, dated as of January 25, 2021, by and among Overstock.com, Inc., Medici Ventures, Inc., Pelion MV GP, L.L.C. and Pelion, Inc., as guarantor	8-K	000-49799	10.1	January 25, 2021	
10.10	Medici Ventures, L.P. Limited Partnership Agreement, dated as of April 23, 2021, between Overstock.com, Inc., and Pelion MV GP, L.L.C.	8-K	000-49799	10.1	April 26, 2021	

Exhibit Number	Exhibit Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
10.11	First Amendment, dated August 30, 2021, to the Medici Ventures, L.P. Limited Partnership Agreement, dated April 23, 2021, between Overstock.com, Inc., and Pelion MV GP, L.L.C.	10-Q	000-49799	10.1	November 4, 2021	
10.12[(a)]	2021 Employee Stock Purchase Plan	DEF 14A	000-49799	Annex A	March 25, 2021	
10.13[(a)]	Corrected Employment Letter Agreement between Beyond, Inc. and Adrianne Lee, dated as of August 19, 2025	10-Q	001-41850	10.5	October 27, 2025	
10.14	Term Loan Credit Agreement by and between Kirkland's Stores, Inc., as Lead Borrower, the Borrowers named therein, the Guarantors named therein, Beyond, Inc., as Administrative Agent and Collateral Agent and the Lenders party thereto, dated as of October 21, 2024	10-K	001-41850	10.18	February 25, 2025	
10.15	Subscription Agreement by and between Kirkland's, Inc. and Beyond, Inc., dated as of October 21, 2024,	10-K	001-41850	10.19	February 25, 2025	
10.16	Investor Rights Agreement by and between Kirkland's, Inc. and Beyond, Inc., dated as of October 21, 2024	10-K	001-41850	10.20	February 25, 2025	
10.17	Collaboration Agreement by and between Kirkland's, Inc. and Beyond, Inc., dated as of October 21, 2024	10-K	001-41850	10.21	February 25, 2025	
10.18	Trademark License Agreement by and between Kirkland's, Inc. and Beyond, Inc., dated as of October 21, 2024	10-K	001-41850	10.22	February 25, 2025	
10.19	Loan and Security Agreement among BMO Bank N.A., as Lender, Beyond, Inc., as Borrower, and the other parties thereto, dated as of October 18, 2024	10-K	001-41850	10.23	February 25, 2025	
10.20	Revolving Note dated October 18, 2024	10-K	001-41850	10.24	February 25, 2025	
10.21[(a)]	Employment Letter Agreement between Beyond, Inc. and Leah Putnam, dated March 10, 2025	10-Q	001-41850	10.2	April 29, 2025	
10.22[(a)]	Employment Letter Agreement between Beyond, Inc. and Alexander Thomas, dated March 10, 2025	10-Q	001-41850	10.3	April 29, 2025	

Exhibit Number	Exhibit Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
10.23	Amended and Restated Term Loan Credit Agreement, dated as of May 7, 2025, by and between Kirkland's Stores, Inc., as Lead Borrower, the Borrowers named therein, the Guarantors named therein, Beyond, Inc., as Administrative Agent and Collateral Agent and the Lenders party thereto.	8-K	000-49799	10.1	May 12, 2025	
10.24	Letter Amendment to Subscription Agreement, dated as of May 7, 2025, by and between Kirkland's, Inc. and Beyond, Inc.	8-K	000-49799	10.2	May 12, 2025	
10.25	Amended and Restated Investor Rights Agreement, dated as of May 7, 2025, by and between Kirkland's, Inc. and Beyond, Inc.	8-K	000-49799	10.3	May 12, 2025	
10.26	Asset Purchase Agreement, dated as of May 7, 2025, by and between Kirkland's, Inc. and Beyond, Inc.	8-K	000-49799	10.4	May 12, 2025	
10.27	Amended and Restated Collaboration Agreement, dated as of May 7, 2025 by and between Kirkland's, Inc. and Beyond, Inc.	8-K	000-49799	10.5	May 12, 2025	
10.28	License Agreement Letter Agreement, dated as of May 7, 2025, by and between Kirkland's, Inc. and Beyond, Inc.	8-K	000-49799	10.6	May 12, 2025	
10.29	Amendment to the Amended and Restated Beyond, Inc. 2005 Equity Incentive Plan	8-K	000-49799	10.1	May 21, 2025	
10.30	Amendment No. 1 to the Amended and Restated Term Loan Credit Agreement, dated as of September 15, 2025, by and between Kirkland's Stores, Inc., as Lead Borrower, the Borrowers named therein, the Guarantors named therein, Bed Bath & Beyond, Inc., as Administrative Agent and Collateral Agent and the Lenders party thereto.	10-Q	001-41850	10.1	October 27, 2025	
10.31	Amendment No. 1 to Asset Purchase Agreement, dated as of September 15, 2025, by and between Bed Bath & Beyond, Inc., as Purchaser, and The Brand House Collective, Inc., as Seller	10-Q	001-41850	10.2	October 27, 2025	
10.32	Second Amended and Restated Trademark License Agreement, dated as of September 15, 2025, by and between Bed Bath & Beyond, Inc., as Licensor, and The Brand House Collective, Inc., as Licensee	10-Q	001-41850	10.3	October 27, 2025	

Exhibit Number	Exhibit Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
10.33	Amendment to Loan and Security Agreement, dated as of September 30, 2025, among BMO Bank N.A., as Lender, and Bed Bath & Beyond, Inc., as Borrower	10-Q	001-41850	10.4	October 27, 2025	
10.34[(a)]	Bed Bath & Beyond, Inc. 2025 Employment Inducement Equity Incentive Plan.	8-K	000-49799	10.1	November 14, 2025	
10.35*[(a)]	Form of Performance Share Award Grant Notice and Performance Share Award Agreement under the Bed Bath & Beyond, Inc. 2025 Employment Inducement Equity Incentive Plan					X
10.36[(a)]	Form of Restricted Stock Unit Grant Notice and Restricted Stock Unit Agreement under the Bath & Beyond, Inc. 2025 Employment Inducement Equity Incentive Plan					X
10.37[(a)]	Employment Agreement, dated as of January 19, 2026, between Bed Bath & Beyond, Inc. and Marcus Lemonis					X
10.38[(a)]	Employment Letter Agreement between Bed Bath & Beyond, Inc. and Rick Lockton, dated as of October 23, 2025					X
10.39	Amendment No. 2 to Amended and Restated Term Loan Credit Agreement, dated as of November 24, 2025, entered into by and among Kirkland's Stores, Inc., a Tennessee corporation, as Lead Borrower, the other Loan Parties party thereto, the lenders party thereto and Bed Bath & Beyond, Inc., as Administrative Agent and Collateral Agent.	8-K	000-49799	10.1	November 25, 2025	
19	Insider Trading Policy	10-K	001-41850	19	February 25, 2025	
21	Subsidiaries of the Registrant					X
23.1	Consent of Independent Registered Public Accounting Firm					X
23.2	Consent of Ernst & Young related to Exhibit 99.1					X
23.3	Consent of Ernst & Young related to Exhibit 99.2					X
23.4	Consent of Baker Tilly related to Exhibit 99.3					X
24	Powers of Attorney (see signature page)					X
31.1	Certification of Principal Executive Officer					X

Exhibit Number	Exhibit Description	Form	File No.	Exhibit	Filing Date	Filed Herewith
31.2	Certification of Principal Financial Officer					X
32.1	Section 1350 Certification of Principal Executive Officer					X
32.2	Section 1350 Certification of Principal Financial Officer					X
97	Incentive Compensation Recovery Policy	10-K	001-41850	97	February 23, 2024	
99.1	Audited financial statements of Medici Ventures, L.P. as of and for the period ended September 30, 2023	10-K	001-41850	99.3	February 23, 2024	
99.2	Audited financial statements of Medici Ventures, L.P. as of and for the period ended September 30, 2024	10-K	001-41850	99.3	February 25, 2025	
99.3	Audited financial statements of tZERO Group, Inc. as of and for the periods ended December 31, 2023 and 2022	10-K/A	001-41850	99.5	October 31, 2024	
101	The following financial statements from the Company's Annual Report on Form 10-K for the year ended December 31, 2025 formatted in Inline XBRL: (i) Consolidated Balance Sheets at December 31, 2025 and 2024; (ii) Consolidated Statements of Operations for the years ended December 31, 2025, 2024, and 2023; (iii) Consolidated Statements of Comprehensive Loss for the years ended December 31, 2025, 2024, and 2023; (iv) Consolidated Statements of Changes in Stockholders' Equity for the years ended December 31, 2025, 2024, and 2023; (v) Consolidated Statements of Cash Flows for the years ended December 31, 2025, 2024, and 2023; and (vi) Notes to Consolidated Financial Statements					X
104	The cover page from the Company's Annual Report on Form 10-K for the year ended December 31, 2025, formatted in Inline XBRL (included as Exhibit 101)					X

* Certain schedules and exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Reporting Company agrees to furnish supplementally a copy of any omitted schedule or exhibit to the SEC upon request.

(a) Management contract or compensatory plan or arrangement.

ITEM 16. FORM 10-K SUMMARY

Not applicable.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on February 24, 2026.

BED BATH & BEYOND, INC.

By: /s/ MARCUS A. LEMONIS

Marcus A. Lemonis

Executive Chairman and Chief Executive Officer (Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of Marcus A. Lemonis and Adrianne B. Lee, his or her attorneys-in-fact, each with the power of substitution, for him or her in any and all capacities, to sign any amendments to this Annual Report on Form 10-K and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and conforming all that said attorney-in-fact, or his or their substitute or substitutes, may do or cause to be done by virtue hereof.

Signature	Title	Date
/s/ MARCUS A. LEMONIS Marcus A. Lemonis	Executive Chairman and Chief Executive Officer (Principal Executive Officer)	February 24, 2026
/s/ ADRIANNE B. LEE Adrianne B. Lee	President and Chief Financial Officer (Principal Financial Officer)	February 24, 2026
/s/ LEAH PUTNAM Leah Putnam	Chief Accounting Officer (Principal Accounting Officer)	February 24, 2026
/s/ JOANNA C. BURKEY Joanna C. Burkey	Director	February 24, 2026
/s/ BARCLAY F. CORBUS Barclay F. Corbus	Director	February 24, 2026
/s/ JOSEPH J. TABACCO, JR. Joseph J. Tabacco, Jr.	Director	February 24, 2026
/s/ ROBERT J. SHAPIRO Robert J. Shapiro	Director	February 24, 2026
/s/ WILLIAM B. NETTLES, JR. William B. Nettles, Jr.	Director	February 24, 2026
/s/ DEBRA G. PERELMAN Debra G. Perelman	Director	February 24, 2026

Exhibit 3.5

SIXTH AMENDED AND RESTATED BYLAWS OF BED BATH & BEYOND, INC.

(a Delaware corporation)
Effective Date: February 18, 2026

ARTICLE I
CORPORATE OFFICES

1.1 REGISTERED OFFICE

The registered office of the corporation shall be fixed in the Certificate of Incorporation of the corporation.

1.2 OTHER OFFICES

The corporation may at any time establish additional offices at any place or places where the corporation is qualified to do business.

ARTICLE II
MEETINGS OF STOCKHOLDERS

2.1 PLACE OF MEETINGS

Meetings of stockholders shall be held at any place within or outside the State of Delaware designated from time to time by the board of directors, including, for the avoidance of doubt, a virtual location or meeting otherwise held solely by means of remote communication in accordance with Section 211(a) of the General Corporation Law of the State of Delaware (as the same may be amended or restated and any successor thereto, the "Delaware General Corporation Law"). In the absence of any such designation, stockholders' meetings shall be held at the registered office of the corporation.

2.2 ANNUAL MEETING

The annual meeting of stockholders shall be held each year on a date and at a time designated from time to time by the board of directors. At the meeting, directors shall be elected, and any other proper business may be transacted.

2.3 SPECIAL MEETING

A special meeting of the stockholders may be called at any time only by the board of directors, the chair of the board, the chief executive officer, or the president, but may not be called by any other person or persons. Except as otherwise required by the Delaware General Corporation Law or provided in the Certificate of Incorporation, stockholders shall not have the right to request or call a special meeting of the stockholders. No business may be transacted at such special meeting otherwise than specified in the notice of such special meeting delivered to stockholders (or any supplement thereto) in accordance with Section 2.4.

2.4 NOTICE OF STOCKHOLDERS' MEETINGS

All notices of meetings of stockholders shall be sent or otherwise given in accordance with Section 2.5 of these bylaws not less than ten (10) nor more than sixty (60) days before the date of the meeting. The notice shall specify the place, date, and hour of the meeting and (i) in the case of a special meeting, the purpose or purposes for which the meeting is called or (ii) in the case of the annual meeting, those matters which the board of directors, at the time of giving the notice, intends to present for action by

the stockholders. The notice of any meeting at which directors are to be elected shall include the name of any nominee or nominees who, at the time of the notice, the board intends to present for election.

2.5 MANNER OF GIVING NOTICE; AFFIDAVIT OF NOTICE

Written notice of any meeting of stockholders shall be given by mail, by a form of electronic transmission, or by other form of written communication consented to by the stockholders to whom the notice is given, or in such other manner as permitted by law. Any consent to notice by electronic transmission shall be revocable by the stockholder by written notice to the corporation. For purposes of these bylaws, unless the context otherwise requires, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, including the use of, or participation in, any number of electronic networks or databases (including distributed electronic networks or databases), that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Notice shall be deemed given, if mailed, when deposited in the United States mail, addressed to the stockholder at such stockholder's address as it appears on the stock record books of the corporation, with postage thereon prepaid.

If any notice addressed to a stockholder at the address of that stockholder appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice to the stockholder at that address, then all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available to the stockholder on written demand of the stockholder at the principal executive office of the corporation for a period of one (1) year from the date of the giving of the notice. Notice given by electronic transmission shall be deemed given: (a) if by facsimile, when directed to a number at which the stockholder has consented to receive notice; (b) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (c) if by posting on an electronic network together with a separate notice to the stockholder of such specific posting, upon the later of (i) such posting and (ii) the giving of such separate notice; and (d) by any other form of electronic transmission, when directed to the stockholder.

An affidavit of the mailing or other means of giving any notice (or supplement thereto) of any stockholders' meeting, executed by the secretary, assistant secretary or any transfer agent of the corporation giving the notice, shall, in the absence of fraud, be prima facie evidence of the giving of such notice (or supplement thereto).

2.6 QUORUM

The presence in person or by proxy of the holders of a majority of the shares entitled to vote thereat constitutes a quorum for the transaction of business at all meetings of stockholders. The stockholders present at a duly called or held meeting at which a quorum is present may continue to do business for which such meeting is called until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

2.7 ADJOURNED MEETING; NOTICE

Any stockholders' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the chair of the meeting. In the absence of a quorum, no other business may be transacted at that meeting except as has been transacted while a quorum was present, if any, as provided in Section 2.6 of these bylaws.

When any meeting of stockholders, either annual or special, is adjourned to another time or place (including an adjournment taken to address a technical failure to convene or continue a meeting using remote communication), notice need not be given of the adjourned meeting if the time and place are (i) announced at the meeting at which the adjournment is taken, (ii) displayed during the time scheduled for the meeting, on the same electronic network used to enable stockholders and proxy holders to participate in the meeting by means of remote communications or (iii) set forth in the notice of meeting given in accordance with these bylaws. However, if a new record date for the adjourned meeting is fixed or if the adjournment is for more than thirty (30) days from the date set for the original meeting, then notice of the adjourned meeting shall be given. Notice of any such adjourned meeting shall be given to each stockholder of record entitled to vote at the adjourned meeting in accordance with the provisions of Sections 2.4 and 2.5 of these bylaws. At any adjourned meeting the corporation may transact any business which might have been transacted at the original meeting.

2.8 VOTING

The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of these bylaws, subject to the provisions of Sections 217 and 218 of the Delaware General Corporation Law (relating to voting rights of fiduciaries, pledgors and joint owners, and to voting trusts and other voting agreements).

Except as may be otherwise provided in the Certificate of Incorporation, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote of the stockholders.

If a quorum is present, the election of directors shall be decided by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. With respect to any matter other than the election of directors, at a duly called or convened meeting at which a quorum is present, the affirmative vote of the holders of a majority of the votes cast (excluding abstentions) on such matter shall be the act of the stockholders, unless the vote of a greater number is required by law, by the Certificate of Incorporation or by these bylaws. The board of directors, in its discretion, or the officer of the corporation presiding at a meeting of stockholders, in such officer's discretion, may require that any votes cast at such meeting shall be cast by written ballot.

Unless otherwise provided in the Amended and Restated Certificate of Incorporation (as amended and restated from time to time, the "Restated Certificate of Incorporation"), a stockholder shall not be entitled to cumulate votes at any meeting.

2.9 STOCKHOLDER ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Stockholders of the corporation may not take action by written consent in lieu of a meeting.

2.10 RECORD DATE FOR STOCKHOLDER NOTICE AND VOTING

For purposes of determining the stockholders entitled to notice of any meeting or to vote thereat, the board of directors may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than ten (10) days before the date of any such meeting, and in such event only stockholders of record on the date so fixed are entitled to notice and to vote, notwithstanding any transfer of any shares on the books of the corporation after the record date.

If the board of directors does not so fix a record date, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the business day next preceding the day on which notice is given.
A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the board of directors may fix a new record date for the adjourned meeting. The record date for any purpose other than determining entitlement to notice of and to vote at a meeting of stockholders shall be as provided in Article VIII of these bylaws.

2.11 PROXIES

Every person entitled to vote for directors, or on any other matter, shall have the right to do so either in person or by one or more agents authorized by a written proxy signed by the person and filed with the secretary of the corporation, but no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. A proxy shall be deemed signed if the stockholder's name is placed on the proxy (whether by manual signature, typewriting, telegraphic transmission or otherwise) by the stockholder or the stockholder's attorney-in-fact. The provisions of Section 212(e) of the Delaware General Corporation Law shall govern the revocability of a proxy that states on its face that it is irrevocable.

2.12 ORGANIZATION AND CONDUCT OF MEETINGS

The chair of the board shall act as chair of meetings of stockholders of the corporation, unless otherwise determined by the board. The board of directors of the corporation may adopt by resolution such rules and regulations for the conduct of the meeting of the stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the board of directors, the chair of any meeting of the stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chair, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the board of directors or prescribed by the

chair of the meeting, and such acts may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) the determination of when the polls shall open and close for any given matter to be voted on at the meeting; (iii) rules and procedures for maintaining order at the meeting and the safety of those present; (iv) limitations on attendance at or participation in the meeting to stockholders of record of the corporation, their duly authorized and constituted proxies or such other persons as the chair of the meeting shall determine; (v) restrictions on entry to the meeting after the time fixed for the commencement thereof; (vi) limitations on the time allotted to questions or comments by participants; (vii) determination of the number of shares outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, and the authenticity, validity, and effect of proxies; (viii) counting and tabulation of all votes or consents; (ix) hearing and determining all challenges and questions in any way arising in connection with the right to vote; (x) any other acts that may be proper to conduct the election or vote with fairness to all stockholders and (xi) the appointment of an inspector or inspectors of election to act at the meeting or its adjournment in respect of one or more of the foregoing matters. The board of directors or chair may hear and determine all challenges and questions in any way arising in connection with the right to vote.

2.13 NOTICE OF STOCKHOLDER BUSINESS TO BE BROUGHT BEFORE A MEETING

(a) Business Properly Brought Before a Meeting. At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) brought before the meeting by the corporation and specified in the notice of meeting given by or at the direction of the board of directors, (ii) brought before the meeting by or at the direction of the board of directors, or (iii) otherwise properly brought before the meeting by a stockholder - meaning, the business must be a proper matter for action by the stockholders of the corporation and must be proposed by a stockholder who (A) was a stockholder of record (and, with respect to any beneficial owner, if different, on whose behalf such business is proposed, only if such beneficial owner was the beneficial owner of shares of the corporation) at the time of giving the notice provided for in this Section 2.13 through the time of the meeting (or a "Qualified Representative" (as defined below) of such a stockholder), (B) is entitled to vote at the meeting, and (C) has complied with this Section 2.13 as to such business. For purposes of these bylaws, a "Qualified Representative" of a proposing stockholder shall be (I) a duly authorized officer, manager or partner of such proposing stockholder or (II) a person authorized by a writing executed by such proposing stockholder (or a reliable reproduction or electronic transmission of the writing) delivered by such proposing stockholder to the corporation prior to the making of any nomination or proposal at a stockholder meeting stating that such person is authorized to act for such proposing party as proxy at the meeting of stockholders, which writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, must be produced at the meeting of stockholders. Except for proposals properly made in accordance with Rule 14a-8 under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (as so amended and inclusive of such rules and regulations collectively, the "Exchange Act"), and included in the notice of meeting given by or at the direction of the board of directors, the foregoing clause (iii) shall be the exclusive means for a stockholder to propose business to be brought before an annual meeting of the stockholders. Stockholders shall not be permitted to propose business to be brought before a special meeting of the stockholders, and the only matters that may be brought before a special meeting are the matters specified in the notice of meeting given by or at the direction of the person calling the meeting pursuant to Section 2.3 of these bylaws. Stockholders seeking to nominate persons for election to the board of directors must comply with Section 2.14 of these bylaws, and this Section 2.13 shall not be applicable to nominations except as expressly provided in Section 2.14 of these bylaws.

(b) Requirement of Timely Notice of Stockholder Business. Without qualification, for business to be properly brought before an annual meeting by a stockholder, the stockholder must (i) provide Timely Notice (as defined below) thereof in writing and in proper form to the secretary of the corporation and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.13. To be timely, a stockholder's notice must be delivered to, or mailed and received at, the principal executive offices of the corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the one year anniversary of the preceding year's annual meeting; provided, however, that if the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder to be timely must be so delivered, or mailed and received, not earlier than the one hundred twentieth (120th) day prior to such annual meeting and not later than the ninetieth (90th) day prior to such annual meeting or, if later, the tenth (10th) day following the day on which public disclosure of the date of such annual meeting was first made (such notice within such time periods, "Timely Notice"). In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of Timely Notice as described above.

(c) Requirements for Proper Form of Stockholder Notice of Proposed Business. To be in proper form for purposes of this Section 2.13, a stockholder's notice to the secretary shall set forth:

(i) Stockholder Information. As to each Proposing Person (as defined below), (A) the name and address of such Proposing Person (including, if applicable, the name and address that appear on the corporation's books and records) and (B) the class or series and number of shares of the corporation that are, directly or indirectly, owned of record or beneficially owned (within the meaning of Rule 13d-3 under the Exchange Act) by such Proposing Person, except that such Proposing Person shall in all events be deemed to beneficially own any shares of any class or series of the corporation as to which such Proposing Person has a right to acquire beneficial ownership at any time in the future (the disclosures to be made pursuant to the foregoing clauses (A) and (B) are referred to as "Stockholder Information");

(ii) Information Regarding Disclosable Interests. As to each Proposing Person, (A) any derivative, swap or other transaction or series of transactions engaged in, directly or indirectly, by such Proposing Person, the purpose or effect of which is to give such Proposing Person economic risk similar to ownership of shares of any class or series of the corporation, including due to the fact that the value of such derivative, swap or other transactions is determined by reference to the price, value or volatility of any shares of any class or series of the corporation, or which derivative, swap or other transactions provide, directly or indirectly, the opportunity to profit from any increase in the price or value of shares of any class or series of the corporation ("Synthetic Equity Interests"), which Synthetic Equity Interests shall be disclosed without regard to whether (x) such derivative, swap or other transactions convey any voting rights in such shares to such Proposing Person, (y) the derivative, swap or other transactions are required to be, or are capable of being, settled through delivery of such shares or (z) such Proposing Person may have entered into other transactions that hedge or mitigate the economic effect of such derivative, swap or other transactions, (B) any proxy (other than a revocable proxy or consent given in response to a solicitation made pursuant to, and in accordance with, Section 14(a) of the Exchange Act by way of a solicitation statement filed on Schedule 14A), agreement, arrangement, understanding or relationship pursuant to which such Proposing Person has or shares a right to vote any shares of any class or series of the corporation, (C) any agreement, arrangement, understanding or relationship, including any repurchase or similar so-called "stock borrowing" agreement or arrangement, engaged in, directly or indirectly, by such Proposing Person, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of shares of any class or series of the corporation by, manage the risk of share price changes for, or increase or decrease the voting power of, such Proposing Person with respect to the shares of any class or series of the corporation, or which provides, directly or indirectly, the opportunity to profit from any decrease in the price or value of the shares of any class or series of the corporation ("Short Interests"), (D) any pending or threatened litigation in which such Proposing Person is a party or material participant or has an economic interest, (E) any performance related fees (other than an asset based fee) that such Proposing Person is entitled to based on any increase or decrease in the price or value of shares of any class or series of the corporation, or any Synthetic Equity Interests or Short Interests, if any, and (F) any other information relating to such Proposing Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies or consents by such Proposing Person in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act (the disclosures to be made pursuant to the foregoing clauses (A) through (F) are referred to as "Disclosable Interests"); provided, however, that Disclosable Interests shall not include any such disclosures with respect to the ordinary course business activities of any broker, dealer, commercial bank, trust company or other nominee who is a Proposing Person solely as a result of being the stockholder of record directed to prepare and submit the notice required by these bylaws on behalf of a beneficial owner; and

(iii) Description of Proposed Business. As to each item of business the stockholder proposes to bring before the annual meeting, (A) a reasonably brief description of the business desired to be brought before the annual meeting, the reasons for conducting such business at the annual meeting and any material interest in such business of each Proposing Person, (B) the text of the proposal or business (including the text of any resolutions proposed for consideration), and (C) a reasonably detailed description of all agreements, arrangements and understandings (x) between or among any of the Proposing Persons or (y) between or among any Proposing Person and any other person or entity (including their names) in connection with the proposal of such business by such stockholder.

(iv) Definition of Proposing Person. For purposes of this Section 2.13, the term "Proposing Person" shall mean (i) the stockholder providing the notice of business proposed to be brought before an annual meeting, (ii) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the business proposed to be brought before the annual meeting is made, and (iii) any affiliate or associate (each within the meaning of Rule 12b-2 under the Exchange Act for purposes of these bylaws) of such stockholder or beneficial owner.

(d) Update and Supplement of Stockholder Notice of Proposed Business. A stockholder providing notice of business proposed to be brought before an annual meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.13 shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the secretary at the

principal executive offices of the corporation not later than five (5) business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and not later than eight (8) business days prior to the date for the meeting or any adjournment or postponement thereof, if practicable (or, if not practicable, on the first practicable date prior to the date for the meeting or such adjournment or postponement thereof) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof, as applicable).

(e) Business Not Properly Brought Before A Meeting. Notwithstanding anything in these bylaws to the contrary, no business shall be conducted at an annual meeting except in accordance with this Section 2.13. Except as otherwise provided by law, the corporation's Certificate of Incorporation, or these bylaws, the chair of the meeting shall, if the facts warrant, determine and declare that (i) the business was not properly brought before the meeting in accordance with the procedures prescribed by this Section 2.13, (ii) the business is ineligible to be considered at the meeting, or (iii) the Proposing Person has breached its or their representations, undertakings, agreements or obligations under or pursuant to this Section 2.13, and in each such case, the chair of the meeting shall so declare at the meeting and the business shall be disregarded notwithstanding that proxies in respect of the business may have been received by the corporation. Any decision by the chair of the meeting shall be conclusive and binding upon all stockholders of the corporation for any purpose.

(f) Rule 14a-8; Exchange Act Compliance. This Section 2.13 is expressly intended to apply to any business proposed to be brought before an annual meeting of stockholders other than any proposal made pursuant to Rule 14a-8 under the Exchange Act. In addition to the requirements of this Section 2.13 with respect to any business proposed to be brought before an annual meeting, each Proposing Person shall comply with all applicable requirements of the Exchange Act with respect to any such business. Nothing in this Section 2.13 shall be deemed to affect the rights of stockholders to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(g) Definition of Public Disclosure. For purposes of these bylaws, "public disclosure" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission (the "SEC") pursuant to Section 13, 14 or 15(d) of the Exchange Act.

2.14 NOMINATIONS

(a) Who May Make Nominations. Nominations of any person for election to the board of directors at an annual meeting or at a special meeting (but only if the election of directors is a matter specified in the notice of meeting given by or at the direction of the person calling such special meeting) may be made at such meeting only (i) by or at the direction of the board of directors, including by any committee or persons appointed by the board of directors, or (ii) by a stockholder who (A) was a stockholder of record (and, with respect to any beneficial owner, if different, on whose behalf such nomination is proposed to be made, only if such beneficial owner was the beneficial owner of shares of the corporation) at the time of giving the notice provided for in this Section 2.14 through the time of the meeting or a Qualified Representative of such a stockholder, (B) is entitled to vote at the meeting, and (C) has complied with this Section 2.14 as to such nomination. The foregoing clause (ii) shall be the exclusive means for a stockholder to make any nomination of a person or persons for election to the board of directors at an annual meeting or special meeting.

(b) Requirement of Timely Notice of Stockholder Nominations. Without qualification, for a stockholder to make any nomination of a person or persons for election to the board of directors at an annual meeting, the stockholder must (i) provide Timely Notice (as defined in Section 2.13 of these bylaws) thereof in writing and in proper form to the secretary of the corporation and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.14. Without qualification, if the election of directors is a matter specified in the notice of meeting given by or at the direction of the person calling such special meeting, then for a stockholder to make any nomination of a person or persons for election to the board of directors at a special meeting, the stockholder must (i) provide timely notice thereof in writing and in proper form to the secretary of the corporation at the principal executive offices of the corporation, and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.14. To be timely, a stockholder's notice for nominations to be made at a special meeting must be delivered to, or mailed and received at, the principal executive offices of the corporation not earlier than the one hundred twentieth (120th) day prior to such special meeting and not later than the ninetieth (90th) day prior to such special meeting or, if later, the tenth (10th) day following the day on which public disclosure (as defined in Section 2.13 of these Bylaws) of the date of such special meeting was first made. In no event shall any adjournment or postponement of an annual meeting or special meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described above.

(c) Requirements for Proper Form of Notice of Stockholder Nominations. To be in proper form for purposes of this Section 2.14, a stockholder's notice to the secretary shall set forth:

(i) Stockholder Information. As to each Nominating Person (as defined below), the Stockholder Information (as defined in Section 2.13(c)(i), except that for purposes of this Section 2.14, the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 2.13(c)(i)), in addition to a representation from such Nominating Person as to whether such Nominating Person intends or is part of a group that intends to solicit proxies in support of director nominees other than the corporation's nominees in accordance with Rule 14a-19 under the Exchange Act;

(ii) Information Regarding Disclosable Interests. As to each Nominating Person, any Disclosable Interests (as defined in Section 2.13(c)(ii), except that for purposes of this Section 2.14 the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 2.13(c)(ii)), and the disclosure in clause (F) of Section 2.13(c)(ii) shall be made with respect to the election of directors at the meeting;

(iii) Information Regarding Proposed Nominees. As to each person whom a Nominating Person proposes to nominate for election as a director, (A) all information with respect to such proposed nominee that would be required to be set forth in a stockholder's notice pursuant to this Section 2.14 if such proposed nominee were a Nominating Person, (B) all information relating to such proposed nominee that is required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14(a) under the Exchange Act (including such proposed nominee's written consent to being named in the proxy statement as a nominee and to serving as a director if elected), (C) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three (3) years, and any other material relationships, between or among any Nominating Person, on the one hand, and each proposed nominee, such nominee's respective affiliates and associates, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Item 404 under Regulation S-K if such Nominating Person were the "registrant" for purposes of such rule and the proposed nominee were a director or executive officer of such registrant, (D) a certificate executed by the proposed nominee certifying that such proposed nominee (1) is not and will not become a party to (i) any compensatory, payment, indemnification or other financial agreement, arrangement or understanding with any person or entity in connection with such person's nomination, candidacy, service or action as director of the corporation that has not been fully disclosed therein, (ii) any agreement, arrangement or understanding with any person or entity as to how such prospective nominee would vote or act on any issue or question as a director (a "Voting Commitment") that has not been fully disclosed to the corporation therein or (iii) any Voting Commitment that could limit or interfere with such prospective nominee's ability to comply, if elected as a director of the corporation, with his or her fiduciary duties under applicable law, and (2) consents to being named in the corporation's proxy statement and form of proxy as a nominee and agrees, if elected, to serve as a member of the board of directors for the entire term and to adhere to the corporation's Corporate Governance Principles, Code of Business Conduct and Ethics, confidentiality, stock ownership, trading and any other corporation policies and guidelines applicable to directors, (E) a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made in the form required by the corporation (which form the Nominating Person shall request in writing from the secretary prior to submitting notice and which the secretary shall provide to the Nominating Person within ten (10) days after receiving such request), and (F) interviews of the proposed nominee by the board of directors and/or one or more committees of the board, as may be requested by the board of directors or such committee(s), which interviews shall occur within ten (10) business days following the date of a request;

(iv) Other Information to be Furnished by Proposed Nominees. The corporation may require any proposed nominee to furnish such other information (A) as may reasonably be required by the corporation to determine the eligibility or advisability of such proposed nominee to serve as an independent director of the corporation in accordance with applicable requirements or (B) that could be material to a reasonable stockholder's understanding of the independence or lack of independence of such proposed nominee, including with reference to the listing standards of each securities exchange upon which the corporation's securities are listed, any applicable rules of the Securities and Exchange Commission, any publicly disclosed standards used by the board of directors in selecting nominees for election as a director and for determining and disclosing the independence of the corporation's directors, including those applicable to a director's service on any of the committees of the board of directors, and/or the requirements of any other laws or regulations applicable to the corporation. If requested by the corporation, any supplemental information required under this paragraph (iv) shall be provided within ten (10) days after it has been requested by the corporation.; and

(v) Definition of Nominating Person. For purposes of this Section 2.14, the term "Nominating Person" shall mean (A) the stockholder providing the notice of the nomination proposed to be made at the meeting, (B) the beneficial owner or

beneficial owners, if different, on whose behalf the notice of the nomination proposed to be made at the meeting is made, and (C) any affiliate or associate of such stockholder or beneficial owner.

(d) Update and Supplement of Stockholder Notice of Nominations. If information submitted pursuant to this Section 2.14 by any Nominating Person shall be inaccurate or incomplete in any material respect, such information may be deemed not to have been provided, and the nomination in respect of which such information is required may be deemed not to have been proposed, in accordance with this Section 2.14. A Nominating Person providing notice of any nomination proposed to be made at a meeting shall update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.14 shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the secretary at the principal executive offices of the corporation not later than five (5) business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and not later than eight (8) business days prior to the date for the meeting, if practicable (or, if not practicable, on the first practicable date prior to the date for the meeting or such adjournment or postponement thereof) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof, as applicable). For the avoidance of doubt, any information provided pursuant to this subclause (d) shall not be deemed to cure any deficiencies in a notice previously delivered and shall not extend the time period for the delivery of such notice. Upon written request of the secretary on behalf of the board of directors (or a duly authorized committee thereof), any such Nominating Person shall provide, within seven (7) business days after delivery of such request (or such other period as may be specified in such request), (A) written verification, reasonably satisfactory to the board of directors, any committee thereof authorized for such purpose or any authorized officer of the corporation, to demonstrate the accuracy of any information submitted by such Nominating Person pursuant to this Section 2.14 and (B) a written affirmation of any information submitted by such Nominating Person pursuant to this Section 2.14 as of an earlier date. If a Nominating Person fails to provide such written verification or affirmation within such period, the information as to which written verification or affirmation was requested may be deemed not to have been provided in accordance with this Section 2.14.

(e) Rule 14a-19. If (A) any Nominating Person provides notice pursuant to Rule 14a-19(b) under the Exchange Act and (B) such Nominating Person subsequently either (x) notifies the corporation that such Nominating Person no longer intends to solicit proxies in support of director nominees other than the corporation's nominees in accordance with Rule 14a-19 under the Exchange Act or (y) fails to comply with the requirements of Rule 14a-19(a)(2) or Rule 14(a)(3) under the Exchange Act, then the corporation shall disregard any proxies or votes solicited for the nominees proposed by such Nominating Person. Upon request by the corporation, if any Nominating Person provides notice pursuant to Rule 14a-19(b) under the Exchange Act, such Nominating Person shall deliver to the secretary, no later than five (5) business days prior to the applicable meeting date, reasonable evidence that the requirements of Rule 14a-19(a)(3) under the Exchange Act have been satisfied.

(f) Defective Nominations. Notwithstanding anything in these bylaws to the contrary, no person shall be eligible for election as a director of the corporation unless nominated in accordance with this Section 2.14. Except as otherwise provided by law, the corporation's Certificate of Incorporation, or these bylaws, the chair of the meeting shall, if the facts warrant, determine and declare that (i) a nomination was not made in accordance with the procedures prescribed by this Section 2.14, (ii) a proposed nominee is ineligible to be named in the corporation's proxy materials pursuant to this Section 2.14 or to be considered for election at the meeting, or (iii) a proposed nominee and/or the applicable Nominating Person shall have breached its or their representations, undertakings, agreements or obligations under or pursuant to this Section 2.14, and in each such case, the chair of the meeting shall so declare at the meeting and the nomination shall be disregarded notwithstanding that proxies in respect of the nomination of the relevant proposed nominee may have been received by the corporation. Any decision by the chair of the meeting shall be conclusive and binding upon all stockholders of the corporation for any purpose.

(g) Compliance with State Law and Exchange Act. In addition to the requirements of this Section 2.14 with respect to any nomination proposed to be made at a meeting, each Nominating Person shall comply with all applicable requirements of state law and the Exchange Act with respect to any such nominations.

(h) Number of Nominees. The number of nominees a stockholder may nominate for election at a meeting may not exceed the number of directors to be elected at such meeting, and for the avoidance of doubt, no stockholder shall be entitled to make additional or substitute nominations following the expiration of the time periods set forth in this Section 2.14. Notwithstanding anything in this Section 2.14 to the contrary, in the event that the number of directors to be elected to the board of directors at an annual meeting is greater than the number of directors whose terms expire on the date of such annual meeting and there is no public disclosure by the corporation specifying the increased number of directors up for election at such meeting before the close of business on the seventieth (70th) day prior to the anniversary date of the immediately preceding annual meeting of stockholders, a Timely Notice shall also be considered timely, but only with respect to nominees for any new

directorship(s) created by such increase in the number of directors up for election, if it shall be delivered to the secretary at the principal executive offices of the corporation not later than the close of business on the tenth (10th) day following the day on which the corporation first makes a public disclosure specifying the number of directors up for election.

2.15 DELIVERY TO THE CORPORATION. Whenever this Article requires one or more persons (including a record or beneficial owner of stock) to deliver a document or information to the corporation or any officer, employee or agent thereof (including any notice, request, questionnaire, revocation, representation or other document or agreement), such document or information shall be in writing exclusively (and not in an electronic transmission) and shall be delivered exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested, and the corporation shall not be required to accept delivery of any document not in such written form or so delivered. For the avoidance of doubt, the corporation expressly opts out of Section 116 of the Delaware General Corporation Law with respect to the delivery of information and documents to the corporation required this Article.

ARTICLE III
DIRECTORS

3.1 POWERS

Subject to the provisions of the Delaware General Corporation Law and to any limitations in the Restated Certificate of Incorporation or these bylaws relating to action required to be approved by the stockholders or by the outstanding shares, the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the board of directors.

3.2 NUMBER AND TERM OF OFFICE

The authorized number of directors shall be established from time to time by resolution of the board of directors.

No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

3.3 RESIGNATION AND VACANCIES

Any director may resign effective on giving notice in writing or by electronic transmission to the chair of the board, the president, the secretary or the board of directors, unless the notice specifies a later time for that resignation to become effective. If the resignation of a director is effective at a future time, the board of directors (including such director whose resignation is to be effective at a later time) may elect a successor to take office when the resignation becomes effective.

Unless otherwise required by law or the Restated Certificate of Incorporation, vacancies arising through death, resignation, removal, an increase in the number of directors or otherwise may be filled only by a majority of the directors then in office, though less than a quorum, or by a sole remaining director. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified, or until such director's earlier death, resignation or removal. No decrease in the number of directors constituting the board of directors shall shorten the term of any incumbent director.

3.4 REMOVAL

Any director may be removed from office at any time with or without cause by the affirmative vote of the holders of at least a majority of the voting power of the issued and outstanding capital stock of the corporation entitled to vote at an election of directors.

3.5 PLACE OF MEETINGS; MEETINGS BY TELEPHONE

Regular meetings of the board of directors may be held at any place within or outside the State of Delaware that has been designated from time to time by resolution of the board. In the absence of such a designation, regular meetings shall be held at the principal executive office of the corporation. Special meetings of the board may be held at any place within or outside the

State of Delaware that has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, at the principal executive office of the corporation.

Any meeting, regular or special, may be held by conference telephone or other communication equipment, so long as all directors participating in the meeting can hear one another; and all such directors shall be deemed to be present in person at the meeting.

3.6 REGULAR MEETINGS

Regular meetings of the board of directors may be held without notice if the board of directors fixes the times of such meetings.

3.7 SPECIAL MEETINGS; NOTICE

The chair of the board, the president, or any two (2) directors may call special meetings of the board of directors for any purpose or purposes at any time.

Notice of the time and place of special meetings shall be delivered personally or by telephone to each director or sent by mail, electronic transmission, charges prepaid, addressed to each director at that director's address or, in the case of notice delivered by electronic mail, the director's electronic mail address as it is shown on the records of the corporation. If the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. If the notice is delivered personally or by telephone notice, facsimile or electronic transmission, it shall be delivered personally or by telephone, facsimile or appropriate means of electronic communication at least twenty-four (24) hours before the time of the holding of the meeting or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. An affidavit of the secretary or an assistant secretary of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

3.8 QUORUM

Except as otherwise required by law, a majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 3.11 of these bylaws. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the board of directors, subject to the provisions of the Certificate of Incorporation and applicable law.

A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

3.9 WAIVER OF NOTICE

Notice of a meeting need not be given to any director (a) who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or (b) who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such directors. All such waivers, consents, and approvals shall be filed with the corporate records or made part of the minutes of the meeting. A waiver of notice need not specify the purpose of any regular or special meeting of the board of directors.

3.10 ADJOURNMENT

A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

3.11 NOTICE OF ADJOURNMENT

Notice of the time and place of holding an adjourned meeting need not be given unless the meeting is adjourned for more than twenty-four (24) hours. If the meeting is adjourned for more than twenty-four (24) hours, then notice of the time and place of the adjourned meeting shall be given before the adjourned meeting takes place, in the manner specified in Section 3.7 of these bylaws, to the directors who were not present at the time of the adjournment.

3.12 BOARD ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Any action required or permitted to be taken by the board of directors may be taken without a meeting, provided that all the members of the board individually or collectively consent in writing or by electronic transmission to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the board of directors. Such written consent and any counterparts thereof or electronic transmission or transmissions shall be filed with the minutes of the proceedings of the board. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

3.13 FEES AND COMPENSATION OF DIRECTORS

Directors and members of committees may receive such compensation, if any, for their services and such reimbursement of expenses as may be fixed or determined by resolution of the board of directors. This Section 3.13 shall not be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee or otherwise and receiving compensation for those services.

3.14 APPROVAL OF LOANS TO EMPLOYEES

To the extent permitted by law, the corporation may lend money to, or guarantee any obligation of, or otherwise assist any employee of the corporation or of its subsidiaries, including any employee who is a director of the corporation or one of its subsidiaries, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the corporation. The loan, guaranty or other assistance may be with or without interest and may be unsecured, or secured in such manner as the board of directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing contained in this section shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

3.15 INTERESTED DIRECTORS

No contract or transaction between the corporation and one or more of its directors or officers, or between the corporation and any other corporation, partnership, association, or other organization in which one or more of its directors or officers are directors or officers or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the board of directors or committee thereof which authorizes the contract or transaction, or solely because the director or officer's vote is counted for such purpose if (a) the material facts as to the director or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the board of directors or the committee, and the board of directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or (b) the material facts as to the director or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (iii) the contract or transaction is fair as to the corporation as of the time it is authorized, approved or ratified by the board of directors, a committee thereof or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or of a committee which authorizes the contract or transaction.

ARTICLE IV
COMMITTEES

4.1 COMMITTEES OF DIRECTORS

The board of directors may designate one (1) or more committees, each consisting of one (1) or more directors, to serve at the pleasure of the board. The board may designate one (1) or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. In the absence or disqualification of a member of a committee, and in the absence of a designation by the board of directors of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or

members constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any absent or disqualified member. Any committee, to the extent permitted by law and provided in the resolution establishing such committee, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; provided, however, that no such committee shall have the power or authority to (i) amend the Restated Certificate of Incorporation (except that a committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares of stock adopted by the board of directors as provided in Section 151(a) of the Delaware General Corporation Law, fix any of the preferences or rights of such shares relating to dividends, redemption, dissolution, any distribution of assets of the corporation or the conversion into, or the exchange of such shares for, shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation), (ii) adopt an agreement of merger or consolidation under Sections 251 or 252 of the Delaware General Corporation Law, (iii) recommend to the stockholders the sale, lease or exchange of all or substantially all of the corporation's property and assets, (iv) recommend to the stockholders a dissolution of the corporation or a revocation of a dissolution, or (v) amend the bylaws of the corporation; and, unless the board resolution establishing the committee, the bylaws or the Restated Certificate of Incorporation expressly so provide, no such committee shall have the power or authority to declare a dividend, to authorize the issuance of stock, or to adopt a certificate of ownership and merger pursuant to Section 253 of the Delaware General Corporation Law. Each committee shall keep regular minutes and report to the board of directors when required.

4.2 MEETINGS AND ACTION OF COMMITTEES

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Article III of these bylaws, Section 3.5 (*place of meetings*), Section 3.6 (*regular meetings*), Section 3.7 (*special meetings and notice*), Section 3.8 (*quorum*), Section 3.9 (*waiver of notice*), Section 3.10 (*adjournment*), Section 3.11 (*notice of adjournment*), and Section 3.12 (*action without meeting*), with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the board of directors and its members; provided, however, that the time of regular meetings of committees may be determined either by resolution of the board of directors or by resolution of the committee, that special meetings of committees may also be called by resolution of the board of directors, and that notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The board of directors may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

ARTICLE V
OFFICERS

5.1 OFFICERS

The officers of the corporation shall be a secretary, and a chief financial officer. The corporation may also have, at the discretion of the board of directors, a chair of the board, a chief executive officer, a president, a treasurer, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of Section 5.3 of these bylaws. The same person may hold any number of offices.

5.2 ELECTION OF OFFICERS

The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Section 5.3 or Section 5.5 of these bylaws, shall be chosen by the board of directors, subject to the rights, if any, of an officer under any contract of employment.

5.3 SUBORDINATE OFFICERS

The board of directors may appoint, or may empower the chief executive officer or president to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the board of directors may from time to time determine.

5.4 REMOVAL AND RESIGNATION OF OFFICERS

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by the board of directors at any regular or special meeting of the board or, except in case of an officer chosen by the board of directors, by any officer upon whom such power of removal may be conferred by the board of directors.

Any officer may resign at any time by giving written notice to the corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

5.5 VACANCIES IN OFFICES

A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these bylaws for regular appointments to that office.

5.6 CHAIR OF THE BOARD

The chair of the board, if such an officer be elected, shall, if present, preside at meetings of the board of directors and exercise and perform such other powers and duties as may from time to time be assigned to such officer by the board of directors or as may be prescribed by these bylaws. If there is no chief executive officer, then the chair of the board shall also be the chief executive officer of the corporation and shall have the powers and duties prescribed in Section 5.7 of these bylaws.

5.7 CHIEF EXECUTIVE OFFICER

Subject to such supervisory powers, if any, as may be given by the board of directors to the chair of the board, if there be such an officer, the chief executive officer shall be subject to the control of the board of directors and have general supervision, direction and control of the business. He or she shall preside at all meetings of the stockholders and, in the absence or non-existence of the chair of the board, at all meetings of the board of directors. He or she shall have the general powers and duties of management usually vested in the office of the chief executive officer of a corporation, and shall have such other powers and perform such other duties as from time to time may be prescribed by the board of directors or these bylaws.

5.8 PRESIDENT

In the absence or disability of the chief executive officer, and if there is no chair of the board, the president shall perform all the duties of the chief executive officer and when so acting shall have the power of, and be subject to all the restrictions upon, the chief executive officer. The president shall have such other powers and perform such other duties as from time to time may be prescribed for the president by the board of directors, these bylaws, the chief executive officer or the chair of the board.

5.9 VICE PRESIDENTS

In the absence or disability of the president, the vice presidents, if any, in order of their rank as fixed by the board of directors or, if not ranked, a vice president designated by the board of directors, shall perform all the duties of the president and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the board of directors, these bylaws, the president or the chair of the board.

5.10 SECRETARY

The secretary shall keep or cause to be kept, at the principal executive office of the corporation or such other place as the board of directors may direct, a book of minutes of all meetings and actions of directors, committees of directors and stockholders. The minutes shall show the time and place of each meeting, whether regular or special (and, if special, how authorized and the notice given), the names of those present at directors' meetings or committee meetings, the number of shares present or represented at stockholders' meetings, and the proceedings thereof.

The secretary shall keep, or cause to be kept, at the principal executive office of the corporation or at the office of the corporation's transfer agent or registrar, as determined by resolution of the board of directors, a share register, or a duplicate share register, showing the names of all stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation.

The secretary shall give, or cause to be given, notice of all meetings of the stockholders and of the board of directors required to be given by law or by these bylaws. The secretary shall keep the seal of the corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the board of directors or by these bylaws.

5.11 CHIEF FINANCIAL OFFICER

The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and shares. The books of account shall at all reasonable times be open to inspection by any director.

The chief financial officer shall deposit all money and other valuables in the name and to the credit of the corporation with such depositaries as may be designated in accordance with procedures established by the board of directors. The chief financial officer shall disburse the funds of the corporation as may be ordered by the board of directors, shall render to the president and directors, whenever they request it, an account of all of such individual's transactions as chief financial officer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the board of directors or these bylaws.

ARTICLE VI
INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

6.1 POWER TO INDEMNIFY IN ACTIONS, SUITS OR PROCEEDINGS OTHER THAN THOSE BY OR IN THE RIGHT OF THE CORPORATION

Subject to Section 6.3 of this Article VI, the corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that such person is or was a director or officer of the corporation, or is or was a director or officer of the corporation serving at the request of the corporation as a director or officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against 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 if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

6.2 POWER TO INDEMNIFY IN ACTIONS, SUITS OR PROCEEDINGS BY OR IN THE RIGHT OF THE CORPORATION

Subject to Section 6.3 of this Article VI, the corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the corporation, or is or was a director or officer of the corporation serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the

circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

6.3 AUTHORIZATION OF INDEMNIFICATION

Any indemnification under this Article VI (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director or officer is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 6.1 or Section 6.2 of this Article VI, as the case may be. Such determination shall be made, with respect to a person who is a director or officer at the time of such determination, (a) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (b) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum, or (c) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion or (d) by the stockholders (but only if a majority of the directors who are not parties to such action, suit or proceeding, if they constitute a quorum of the board of directors, presents the issue of entitlement to indemnification to the stockholders for their determination). Any person or persons having the authority to act on the matter on behalf of the corporation shall make such determination, with respect to former directors and officers. To the extent, however, that a present or former director or officer of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding described above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith, without the necessity of authorization in the specific case.

6.4 GOOD FAITH DEFINED

For purposes of any determination under Section 6.3 of this Article VI, a person shall be deemed to have acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, or, with respect to any criminal action or proceeding, to have had no reasonable cause to believe such person's conduct was unlawful, if such person's action is based on the records or books of account of the corporation or another enterprise, or on information supplied to such person by the officers of the corporation or another enterprise in the course of their duties, or on the advice of legal counsel for the corporation or another enterprise or on information or records given or reports made to the corporation or another enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the corporation or another enterprise. The term "another enterprise" as used in this Section 6.4 shall mean any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise of which such person is or was serving at the request of the corporation as a director, officer, employee or agent. The provisions of this Section 6.4 shall not be deemed to be exclusive or to limit in any way the circumstances in which a person may be deemed to have met the applicable standard of conduct set forth in Section 6.1 or 6.2 of this Article VI, as the case may be.

6.5 INDEMNIFICATION BY A COURT

Notwithstanding any contrary determination in the specific case under Section 6.3 of this Article VI, and notwithstanding the absence of any determination thereunder, any director or officer may apply to the Court of Chancery in the State of Delaware for indemnification to the extent otherwise permissible under Sections 6.1 and 6.2 of this Article VI. The basis of such indemnification by a court shall be a determination by such court that indemnification of the director or officer is proper in the circumstances because such person has met the applicable standards of conduct set forth in Section 6.1 or 6.2 of this Article VI, as the case may be. Neither a contrary determination in the specific case under Section 6.3 of this Article VI nor the absence of any determination thereunder shall be a defense to such application or create a presumption that the director or officer seeking indemnification has not met any applicable standard of conduct. Notice of any application for indemnification pursuant to this Section 6.5 shall be given to the corporation promptly upon the filing of such application. If successful, in whole or in part, the director or officer seeking indemnification shall also be entitled to be paid the expense of prosecuting such application.

6.6 EXPENSES PAYABLE IN ADVANCE

Expenses incurred by a director or officer in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the corporation as authorized in this Article VI.

6.7 NONEXCLUSIVITY OF INDEMNIFICATION AND ADVANCEMENT OF EXPENSES

The indemnification and advancement of expenses provided by or granted pursuant to this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the Restated Certificate of Incorporation, any Bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, it being the policy of the corporation that indemnification of the persons specified in Sections 6.1 and 6.2 of this Article VI shall be made to the fullest extent permitted by law. The provisions of this Article VI shall not be deemed to preclude the indemnification of any person who is not specified in Section 6.1 or 6.2 of this Article VI but whom the corporation has the power or obligation to indemnify under the provisions of the General Corporation Law of the State of Delaware, or otherwise.

6.8 INSURANCE

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

6.9 CERTAIN DEFINITIONS

For purposes of this Article VI, references to "the corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors or officers, so that any person who is or was a director or officer of such constituent corporation, or is or was a director or officer of such constituent corporation serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, shall stand in the same position under the provisions of this Article VI with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this Article VI, references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this Article VI.

6.10 SURVIVAL OF INDEMNIFICATION AND ADVANCEMENT OF EXPENSES

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

6.11 LIMITATION ON INDEMNIFICATION

Notwithstanding anything contained in this Article VI to the contrary, except for proceedings to enforce rights to indemnification (which shall be governed by Section 6.5 hereof), the corporation shall not be obligated to indemnify any director or officer in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the board of directors of the corporation.

6.12 INDEMNIFICATION OF EMPLOYEES AND AGENTS

The corporation may, to the extent authorized from time to time by the board of directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the corporation similar to those conferred in this Article VI to directors and officers of the corporation.

ARTICLE VII
RECORDS AND REPORTS

7.1 MAINTENANCE AND INSPECTION OF RECORDS

The corporation shall, either at its principal executive office or at such place or places as designated by the board of directors, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these bylaws as amended to date, accounting books and other records.

Any stockholder of record, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the corporation's stock ledger, a list of its stockholders, and its other books and records and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person's interest as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing that authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the corporation at its registered office in Delaware or at its principal place of business.

The officer who has charge of the stock ledger of a corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Nothing contained in this Section shall require the corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation.

7.2 INSPECTION BY DIRECTORS

Any director shall have the right to examine the corporation's stock ledger, a list of its stockholders and its other books and records for a purpose reasonably related to such individual's position as a director. The Court of Chancery is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The Court may summarily order the corporation to permit the director to inspect any and all books and records, the stock ledger, and the stock list and to make copies or extracts therefrom. The Court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the Court may deem just and proper.

7.3 REPRESENTATION OF SHARES OF OTHER CORPORATIONS

The chair of the board, the chief executive officer, the president or any other person authorized by the board of directors or the chief executive officer or president, is authorized to vote, represent, and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority herein granted may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

ARTICLE VIII
GENERAL MATTERS

8.1 RECORD DATE FOR PURPOSES OTHER THAN NOTICE AND VOTING

For purposes of determining the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any other lawful action (other than as provided in Article II hereof), the board of directors may fix, in advance, a record date, which shall not be more than sixty (60) days before any such action. In that case, only stockholders of record at the close of business on the date so fixed are entitled to receive the dividend, distribution or allotment of rights, or to exercise such rights, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date so fixed, except as otherwise provided by law.

If the board of directors does not so fix a record date, then the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the board adopts the applicable resolution or the sixtieth (60th) day before the date of that action, whichever is later.

8.2 CHECKS; DRAFTS; EVIDENCES OF INDEBTEDNESS

From time to time, the board of directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the corporation, and only the persons so authorized shall sign or endorse those instruments.

8.3 CORPORATE CONTRACTS AND INSTRUMENTS: HOW EXECUTED

The board of directors, except as otherwise provided in these bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the board of directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

8.4 STOCK CERTIFICATES

The shares of a corporation shall be represented by certificates; provided that the board of directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of the stock of the corporation shall be uncertificated shares; provided further, however, that no shares of the corporation designated or otherwise identified by the board of directors or by the corporation prior to the issuance thereof as digital or cryptographic shares or as shares to be issued in digital or cryptographic form (any such shares being herein called "Digital Shares") shall be represented by certificates. Any such resolution of the board of directors providing for uncertificated shares shall not apply to shares then represented by a certificate until such certificate is surrendered to the corporation. Notwithstanding the adoption of such a resolution by the board of directors, every holder of stock represented by certificates, and upon request every holder of uncertificated shares (other than any holder of Digital Shares, with respect to such Digital Shares), shall be entitled to have a certificate signed in the name of the corporation by (a) the chair or vice-chair of the board of directors, or the chief executive officer, president or any vice-president of the corporation, and by (b) the chief financial officer, treasurer, assistant treasurer, secretary or an assistant secretary of the corporation representing the number of then uncertificated shares to be registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if the signatory were such officer, transfer agent or registrar at the date of issue.

8.5 SPECIAL DESIGNATION ON CERTIFICATES

If the corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise provided in Section 202 of the Delaware General Corporation Law, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the corporation shall issue to represent such class or series of stock a statement that the corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

8.6 LOST CERTIFICATES

Except as provided in this Section 8.6, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation and canceled at the same time. The board of directors may, in case any share certificate or certificate for any other security is lost, stolen or destroyed, authorize the issuance of replacement certificates on such terms and conditions as the board may require; the board may require indemnification of the corporation secured by a

bond or other adequate security sufficient to protect the corporation against any claim that may be made against it, including any expense or liability, on account of the alleged loss, theft or destruction of the certificate or the issuance of the replacement certificate.

8.7 CONSTRUCTION; DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the Delaware General Corporation Law shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person. Also without limiting the generality of this provision, for purposes of these Bylaws, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

ARTICLE IX
AMENDMENTS

These bylaws of the corporation may be altered, amended or repealed, in whole or in part, or new bylaws may be adopted, by the stockholders entitled to vote or by the board of directors. All such amendments must be approved by either the holders of sixty-six and two thirds percent (66-2/3%) of the voting power of outstanding capital stock entitled to vote at an election of directors or by a majority of the board of directors then in office. The fact that such power has been so conferred upon the board of directors shall not divest the stockholders of the power, nor limit their power to adopt, alter, amend or repeal bylaws.

ARTICLE X
EXCLUSIVE FORUM

Unless the corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director or officer or other employee of the corporation to the corporation or the corporation's stockholders, (iii) any action asserting a claim against the corporation or any director or officer or other employee of the corporation arising pursuant to any provision of the Delaware General Corporation Law or the corporation's Certificate of Incorporation or bylaws (as either may be amended from time to time), or (iv) any action asserting a claim against the corporation or any director or officer or other employee of the corporation governed by the internal affairs doctrine shall be a state court located within the State of Delaware (or, if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware), in all cases to the fullest extent permitted by applicable law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants.

~~FIFTH~~ SIXTH
AMENDED AND RESTATED
BYLAWS
OF
BED BATH & BEYOND, INC.
(a Delaware corporation)
Effective Date: ~~August~~ February 18~~20~~, 202~~6~~5

ARTICLE I
CORPORATE OFFICES

1.1 REGISTERED OFFICE

The registered office of the corporation shall be fixed in the Certificate of Incorporation of the corporation.

1.2 OTHER OFFICES

The corporation may at any time establish additional offices at any place or places where the corporation is qualified to do business.

ARTICLE II
MEETINGS OF STOCKHOLDERS

2.1 PLACE OF MEETINGS

Meetings of stockholders shall be held at any place within or outside the State of Delaware designated from time to time by the board of directors, including, for the avoidance of doubt, a virtual location or meeting otherwise held solely by means of remote communication in accordance with Section 211(a) of the General Corporation Law of the State of Delaware (as the same may be amended or restated and any successor thereto, the "Delaware General Corporation Law"). In the absence of any such designation, stockholders' meetings shall be held at the registered office of the corporation.

2.2 ANNUAL MEETING

The annual meeting of stockholders shall be held each year on a date and at a time designated from time to time by the board of directors. At the meeting, directors shall be elected, and any other proper business may be transacted.

2.3 SPECIAL MEETING

A special meeting of the stockholders may be called at any time only by the board of directors, the chair of the board, the chief executive officer, or the president, but may not be called by any other person or persons. Except as otherwise required by the Delaware General Corporation Law or provided in the Certificate of Incorporation, stockholders shall not have the right to request or call a special meeting of the stockholders. No business may be transacted at such special meeting otherwise than specified in the notice of such special meeting delivered to stockholders (or any supplement thereto) in accordance with Section 2.4.

2.4 NOTICE OF STOCKHOLDERS' MEETINGS

All notices of meetings of stockholders shall be sent or otherwise given in accordance with Section 2.5 of these bylaws not less than ten (10) nor more than sixty (60) days before the date of the meeting. The notice shall specify the place, date, and hour of the meeting and (i) in the case of a special meeting, the purpose or purposes for which the meeting is called or (ii) in the case of the annual meeting, those matters which the board of directors, at the time of giving the notice, intends to present for action by the stockholders. The notice of any meeting at which directors are to be elected shall include the name of any nominee or nominees who, at the time of the notice, the board intends to present for election.

2.5 MANNER OF GIVING NOTICE; AFFIDAVIT OF NOTICE

Written notice of any meeting of stockholders shall be given by mail, by a form of electronic transmission, or by other form of written communication consented to by the stockholders to whom the notice is given, or in such other manner as permitted by law. Any consent to notice by electronic transmission shall be revocable by the stockholder by written notice to the corporation. For purposes of these bylaws, unless the context otherwise requires, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, including the use of, or participation in, any number of electronic networks or databases (including distributed electronic networks or databases), that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

Notice shall be deemed given, if mailed, when deposited in the United States mail, addressed to the stockholder at such stockholder's address as it appears on the stock record books of the corporation, with postage thereon prepaid.

If any notice addressed to a stockholder at the address of that stockholder appearing on the books of the corporation is returned to the corporation by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice to the stockholder at that address, then all future notices or reports shall be deemed to have been duly given without further mailing if the same shall be available to the stockholder on written demand of the stockholder at the principal executive office of the corporation for a period of one (1) year from the date of the giving of the notice. Notice given by electronic transmission shall be deemed given: (a) if by facsimile, when directed to a number at which the stockholder has consented to receive notice; (b) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (c) if by posting on an electronic network together with a separate notice to the stockholder of such specific posting, upon the later of (i) such posting and (ii) the giving of such separate notice; and (d) by any other form of electronic transmission, when directed to the stockholder.

An affidavit of the mailing or other means of giving any notice (or supplement thereto) of any stockholders' meeting, executed by the secretary, assistant secretary or any transfer agent of the corporation giving the notice, shall, in the absence of fraud, be prima facie evidence of the giving of such notice (or supplement thereto).

2.6 QUORUM

The presence in person or by proxy of the holders of a majority of the shares entitled to vote thereat constitutes a quorum for the transaction of business at all meetings of stockholders. The stockholders present at a duly called or held meeting at which a quorum is present may continue to do business for which such meeting is called until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

2.7 ADJOURNED MEETING; NOTICE

Any stockholders' meeting, annual or special, whether or not a quorum is present, may be adjourned from time to time by the chair of the meeting. In the absence of a quorum, no other business may be transacted at that meeting except as has been transacted while a quorum was present, if any, as provided in Section 2.6 of these bylaws.

When any meeting of stockholders, either annual or special, is adjourned to another time or place (including an adjournment taken to address a technical failure to convene or continue a meeting using remote communication), notice need not be given of the adjourned meeting if the time and place are (i) announced at the meeting at which the

adjournment is taken, (ii) displayed during the time scheduled for the meeting, on the same electronic network used to enable stockholders and proxy holders to participate in the meeting by means of remote communications or (iii) set forth in the notice of meeting given in accordance with these bylaws. However, if a new record date for the adjourned meeting is fixed or if the adjournment is for more than thirty (30) days from the date set for the original meeting, then notice of the adjourned meeting shall be given. Notice of any such adjourned meeting shall be given to each stockholder of record entitled to vote at the adjourned meeting in accordance with the provisions of Sections 2.4 and 2.5 of these bylaws. At any adjourned meeting the corporation may transact any business which might have been transacted at the original meeting.

2.8 VOTING

The stockholders entitled to vote at any meeting of stockholders shall be determined in accordance with the provisions of these bylaws, subject to the provisions of Sections 217 and 218 of the Delaware General Corporation Law (relating to voting rights of fiduciaries, pledgors and joint owners, and to voting trusts and other voting agreements).

Except as may be otherwise provided in the Certificate of Incorporation, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote of the stockholders.

If a quorum is present, the election of directors shall be decided by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. With respect to any matter other than the election of directors, ~~if~~ at a duly called or convened meeting at which a quorum is present, the affirmative vote of the holders of a majority of the ~~shares represented and voting at a duly held meeting~~ votes cast (excluding abstentions) on such matter shall be the act of the stockholders, unless the vote of a greater number ~~or a vote by classes~~ is required by law, by the Certificate of Incorporation or by these bylaws. The board of directors, in its discretion, or the officer of the corporation presiding at a meeting of stockholders, in such officer's discretion, may require that any votes cast at such meeting shall be cast by written ballot.

Unless otherwise provided in the Amended and Restated Certificate of Incorporation (as amended and restated from time to time, the "Restated Certificate of Incorporation"), a stockholder shall not be entitled to cumulate votes at any meeting.

2.9 STOCKHOLDER ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Stockholders of the corporation may not take action by written consent in lieu of a meeting.

2.10 RECORD DATE FOR STOCKHOLDER NOTICE AND VOTING

For purposes of determining the stockholders entitled to notice of any meeting or to vote thereat, the board of directors may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than ten (10) days before the date of any such meeting, and in such event only stockholders of record on the date so fixed are entitled to notice and to vote, notwithstanding any transfer of any shares on the books of the corporation after the record date.

If the board of directors does not so fix a record date, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the business day next preceding the day on which notice is given.
A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the board of directors may fix a new record date for the adjourned meeting. The record date for any purpose other than determining entitlement to notice of and to vote at a meeting of stockholders shall be as provided in Article VIII of these bylaws.

2.11 PROXIES

Every person entitled to vote for directors, or on any other matter, shall have the right to do so either in person or by one or more agents authorized by a written proxy signed by the person and filed with the secretary of the corporation, but no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. A proxy shall be deemed signed if the stockholder's name is placed on the proxy (whether by manual signature, typewriting, telegraphic transmission or otherwise) by the stockholder or the stockholder's attorney-in-fact. The provisions of Section 212(e) of the Delaware General Corporation Law shall govern the revocability of a proxy that states on its face that it is irrevocable.

2.12 ORGANIZATION AND CONDUCT OF MEETINGS

The chair of the board shall act as chair of meetings of stockholders of the corporation, unless otherwise determined by the board. The board of directors of the corporation may adopt by resolution such rules and regulations for the conduct of the meeting of the stockholders as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations as adopted by the board of directors, the chair of any meeting of the stockholders shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chair, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the board of directors or prescribed by the chair of the meeting, and such acts may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) the determination of when the polls shall open and close for any given matter to be voted on at the meeting; (iii) rules and procedures for maintaining order at the meeting and the safety of those present; (iv) limitations on attendance at or participation in the meeting to stockholders of record of the corporation, their duly authorized and constituted proxies or such other persons as the chair of the meeting shall determine; (v) restrictions on entry to the meeting after the time fixed for the commencement thereof; (vi) limitations on the time allotted to questions or comments by participants; (vii) determination of the number of shares outstanding and the voting power of each, the number of shares represented at the meeting, the existence of a quorum, and the authenticity, validity, and effect of proxies; (viii) counting and tabulation of all votes or consents; (ix) hearing and determining all challenges and questions in any way arising in connection with the right to vote; (x) any other acts that may be proper to conduct the election or vote with fairness to all stockholders and (xi) the appointment of an inspector or inspectors of election to act at the meeting or its adjournment in respect of one or more of the foregoing matters. The board of directors or chair may hear and determine all challenges and questions in any way arising in connection with the right to vote.

2.13 NOTICE OF STOCKHOLDER BUSINESS TO BE BROUGHT BEFORE A MEETING

(a) Business Properly Brought Before a Meeting. At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) brought before the meeting by the corporation and specified in the notice of meeting given by or at the direction of the board of directors, (ii) brought before the meeting by or at the direction of the board of directors, or (iii) otherwise properly brought before the meeting by a stockholder - meaning, the business must be a proper matter for action by the stockholders of the corporation and must be proposed by a stockholder who (A) was a stockholder of record (and, with respect to any beneficial owner, if different, on whose behalf such business is proposed, only if such beneficial owner was the beneficial owner of shares of the corporation) at the time of giving the notice provided for in this Section 2.13 through the time of the meeting (or a "Qualified Representative" (as defined below) of such a stockholder), (B) is entitled to vote at the meeting, and (C) has complied with this Section 2.13 as to such business. For purposes of these bylaws, a "Qualified Representative" of a proposing stockholder shall be (I) a duly authorized officer, manager or partner of such proposing stockholder or (II) a person authorized by a writing executed by such proposing stockholder (or a reliable reproduction or electronic transmission of the writing) delivered by such proposing stockholder to the corporation prior to the making of any nomination or proposal at a stockholder meeting stating that such person is authorized to act for such proposing party as proxy at the meeting of stockholders, which writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, must be produced at the meeting of stockholders. Except for proposals properly made in accordance with Rule 14a-8 under the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder (as so amended and inclusive of such rules and regulations collectively, the "Exchange Act"), and included in the notice of meeting given by or at the direction of the board of directors, the foregoing clause (iii) shall be the exclusive means for a stockholder to propose business to be brought before an annual meeting of the stockholders. Stockholders shall not be permitted to propose business to be brought before a special meeting of the stockholders, and the only matters

that may be brought before a special meeting are the matters specified in the notice of meeting given by or at the direction of the person calling the meeting pursuant to Section 2.3 of these bylaws. Stockholders seeking to nominate persons for election to the board of directors must comply with Section 2.14 of these bylaws, and this Section 2.13 shall not be applicable to nominations except as expressly provided in Section 2.14 of these bylaws.

(b) Requirement of Timely Notice of Stockholder Business. Without qualification, for business to be properly brought before an annual meeting by a stockholder, the stockholder must (i) provide Timely Notice (as defined below) thereof in writing and in proper form to the secretary of the corporation and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.13. To be timely, a stockholder's notice must be delivered to, or mailed and received at, the principal executive offices of the corporation not less than ninety (90) days nor more than one hundred twenty (120) days prior to the one year anniversary of the preceding year's annual meeting; provided, however, that if the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder to be timely must be so delivered, or mailed and received, not earlier than the one hundred twentieth (120th) day prior to such annual meeting and not later than the ninetieth (90th) day prior to such annual meeting or, if later, the tenth (10th) day following the day on which public disclosure of the date of such annual meeting was first made (such notice within such time periods, "Timely Notice"). In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period for the giving of Timely Notice as described above.

(c) Requirements for Proper Form of Stockholder Notice of Proposed Business. To be in proper form for purposes of this Section 2.13, a stockholder's notice to the secretary shall set forth:

(i) Stockholder Information. As to each Proposing Person (as defined below), (A) the name and address of such Proposing Person (including, if applicable, the name and address that appear on the corporation's books and records) and (B) the class or series and number of shares of the corporation that are, directly or indirectly, owned of record or beneficially owned (within the meaning of Rule 13d-3 under the Exchange Act) by such Proposing Person, except that such Proposing Person shall in all events be deemed to beneficially own any shares of any class or series of the corporation as to which such Proposing Person has a right to acquire beneficial ownership at any time in the future (the disclosures to be made pursuant to the foregoing clauses (A) and (B) are referred to as "Stockholder Information");

(ii) Information Regarding Disclosable Interests. As to each Proposing Person, (A) any derivative, swap or other transaction or series of transactions engaged in, directly or indirectly, by such Proposing Person, the purpose or effect of which is to give such Proposing Person economic risk similar to ownership of shares of any class or series of the corporation, including due to the fact that the value of such derivative, swap or other transactions is determined by reference to the price, value or volatility of any shares of any class or series of the corporation, or which derivative, swap or other transactions provide, directly or indirectly, the opportunity to profit from any increase in the price or value of shares of any class or series of the corporation ("Synthetic Equity Interests"), which Synthetic Equity Interests shall be disclosed without regard to whether (x) such derivative, swap or other transactions convey any voting rights in such shares to such Proposing Person, (y) the derivative, swap or other transactions are required to be, or are capable of being, settled through delivery of such shares or (z) such Proposing Person may have entered into other transactions that hedge or mitigate the economic effect of such derivative, swap or other transactions, (B) any proxy (other than a revocable proxy or consent given in response to a solicitation made pursuant to, and in accordance with, Section 14(a) of the Exchange Act by way of a solicitation statement filed on Schedule 14A), agreement, arrangement, understanding or relationship pursuant to which such Proposing Person has or shares a right to vote any shares of any class or series of the corporation, (C) any agreement, arrangement, understanding or relationship, including any repurchase or similar so-called "stock borrowing" agreement or arrangement, engaged in, directly or indirectly, by such Proposing Person, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of shares of any class or series of the corporation by, manage the risk of share price changes for, or increase or decrease the voting power of, such Proposing Person with respect to the shares of any class or series of the corporation, or which provides, directly or indirectly, the opportunity to profit from any decrease in the price or value of the shares of any class or series of the corporation ("Short Interests"), (D) any pending or threatened litigation in which such Proposing Person is a party or material participant or has an economic interest, (E) any performance related fees (other than an asset based fee) that such Proposing Person is entitled to based on any increase or decrease in the price or value of shares of any class or series of the corporation, or any Synthetic Equity Interests or Short Interests, if any, and (F) any other

information relating to such Proposing Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies or consents by such Proposing Person in support of the business proposed to be brought before the meeting pursuant to Section 14(a) of the Exchange Act (the disclosures to be made pursuant to the foregoing clauses (A) through (F) are referred to as "Disclosable Interests"); provided, however, that Disclosable Interests shall not include any such disclosures with respect to the ordinary course business activities of any broker, dealer, commercial bank, trust company or other nominee who is a Proposing Person solely as a result of being the stockholder of record directed to prepare and submit the notice required by these bylaws on behalf of a beneficial owner; and

(iii) Description of Proposed Business. As to each item of business the stockholder proposes to bring before the annual meeting, (A) a reasonably brief description of the business desired to be brought before the annual meeting, the reasons for conducting such business at the annual meeting and any material interest in such business of each Proposing Person, (B) the text of the proposal or business (including the text of any resolutions proposed for consideration), and (C) a reasonably detailed description of all agreements, arrangements and understandings (x) between or among any of the Proposing Persons or (y) between or among any Proposing Person and any other person or entity (including their names) in connection with the proposal of such business by such stockholder.

(iv) Definition of Proposing Person. For purposes of this Section 2.13, the term "Proposing Person" shall mean (i) the stockholder providing the notice of business proposed to be brought before an annual meeting, (ii) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the business proposed to be brought before the annual meeting is made, and (iii) any affiliate or associate (each within the meaning of Rule 12b-2 under the Exchange Act for purposes of these bylaws) of such stockholder or beneficial owner.

(d) Update and Supplement of Stockholder Notice of Proposed Business. A stockholder providing notice of business proposed to be brought before an annual meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.13 shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the secretary at the principal executive offices of the corporation not later than five (5) business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and not later than eight (8) business days prior to the date for the meeting or any adjournment or postponement thereof, if practicable (or, if not practicable, on the first practicable date prior to the date for the meeting or such adjournment or postponement thereof) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof, as applicable).

(e) Business Not Properly Brought Before A Meeting. Notwithstanding anything in these bylaws to the contrary, no business shall be conducted at an annual meeting except in accordance with this Section 2.13. Except as otherwise provided by law, the corporation's Certificate of Incorporation, or these bylaws, the chair of the meeting shall, if the facts warrant, determine and declare that (i) the business was not properly brought before the meeting in accordance with the procedures prescribed by this Section 2.13, (ii) the business is ineligible to be considered at the meeting, or (iii) the Proposing Person has breached its or their representations, undertakings, agreements or obligations under or pursuant to this Section 2.13, and in each such case, the chair of the meeting shall so declare at the meeting and the business shall be disregarded notwithstanding that proxies in respect of the business may have been received by the corporation. Any decision by the chair of the meeting shall be conclusive and binding upon all stockholders of the corporation for any purpose.

(f) Rule 14a-8; Exchange Act Compliance. This Section 2.13 is expressly intended to apply to any business proposed to be brought before an annual meeting of stockholders other than any proposal made pursuant to Rule 14a-8 under the Exchange Act. In addition to the requirements of this Section 2.13 with respect to any business proposed to be brought before an annual meeting, each Proposing Person shall comply with all applicable requirements of the Exchange Act with respect to any such business. Nothing in this Section 2.13 shall be deemed to affect the rights of stockholders to request inclusion of proposals in the corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(g) Definition of Public Disclosure. For purposes of these bylaws, "public disclosure" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the corporation with the Securities and Exchange Commission (the "SEC") pursuant to Section 13, 14 or 15(d) of the Exchange Act.

2.14 NOMINATIONS

(a) Who May Make Nominations. Nominations of any person for election to the board of directors at an annual meeting or at a special meeting (but only if the election of directors is a matter specified in the notice of meeting given by or at the direction of the person calling such special meeting) may be made at such meeting only (i) by or at the direction of the board of directors, including by any committee or persons appointed by the board of directors, or (ii) by a stockholder who (A) was a stockholder of record (and, with respect to any beneficial owner, if different, on whose behalf such nomination is proposed to be made, only if such beneficial owner was the beneficial owner of shares of the corporation) at the time of giving the notice provided for in this Section 2.14 through the time of the meeting or a Qualified Representative of such a stockholder, (B) is entitled to vote at the meeting, and (C) has complied with this Section 2.14 as to such nomination. The foregoing clause (ii) shall be the exclusive means for a stockholder to make any nomination of a person or persons for election to the board of directors at an annual meeting or special meeting.

(b) Requirement of Timely Notice of Stockholder Nominations. Without qualification, for a stockholder to make any nomination of a person or persons for election to the board of directors at an annual meeting, the stockholder must (i) provide Timely Notice (as defined in Section 2.13 of these bylaws) thereof in writing and in proper form to the secretary of the corporation and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.14. Without qualification, if the election of directors is a matter specified in the notice of meeting given by or at the direction of the person calling such special meeting, then for a stockholder to make any nomination of a person or persons for election to the board of directors at a special meeting, the stockholder must (i) provide timely notice thereof in writing and in proper form to the secretary of the corporation at the principal executive offices of the corporation, and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Section 2.14. To be timely, a stockholder's notice for nominations to be made at a special meeting must be delivered to, or mailed and received at, the principal executive offices of the corporation not earlier than the one hundred twentieth (120th) day prior to such special meeting and not later than the ninetieth (90th) day prior to such special meeting or, if later, the tenth (10th) day following the day on which public disclosure (as defined in Section 2.13 of these Bylaws) of the date of such special meeting was first made. In no event shall any adjournment or postponement of an annual meeting or special meeting or the announcement thereof commence a new time period for the giving of a stockholder's notice as described above.

(c) Requirements for Proper Form of Notice of Stockholder Nominations. To be in proper form for purposes of this Section 2.14, a stockholder's notice to the secretary shall set forth:

(i) Stockholder Information. As to each Nominating Person (as defined below), the Stockholder Information (as defined in Section 2.13(c)(i), except that for purposes of this Section 2.14, the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 2.13(c)(i)), in addition to a representation from such Nominating Person as to whether such Nominating Person intends or is part of a group that intends to solicit proxies in support of director nominees other than the corporation's nominees in accordance with Rule 14a-19 under the Exchange Act;

(ii) Information Regarding Disclosable Interests. As to each Nominating Person, any Disclosable Interests (as defined in Section 2.13(c)(ii), except that for purposes of this Section 2.14 the term "Nominating Person" shall be substituted for the term "Proposing Person" in all places it appears in Section 2.13(c)(ii)), and the disclosure in clause (F) of Section 2.13(c)(ii) shall be made with respect to the election of directors at the meeting;

(iii) Information Regarding Proposed Nominees. As to each person whom a Nominating Person proposes to nominate for election as a director, (A) all information with respect to such proposed nominee that would be required to be set forth in a stockholder's notice pursuant to this Section 2.14 if such proposed nominee were a Nominating Person, (B) all information relating to such proposed nominee that is required to be disclosed in a proxy statement or

other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14(a) under the Exchange Act (including such proposed nominee's written consent to being named in the proxy statement as a nominee and to serving as a director if elected), (C) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three (3) years, and any other material relationships, between or among any Nominating Person, on the one hand, and each proposed nominee, such nominee's respective affiliates and associates, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Item 404 under Regulation S-K if such Nominating Person were the "registrant" for purposes of such rule and the proposed nominee were a director or executive officer of such registrant, (D) a certificate executed by the proposed nominee certifying that such proposed nominee (1) is not and will not become a party to (i) any compensatory, payment, indemnification or other financial agreement, arrangement or understanding with any person or entity in connection with such person's nomination, candidacy, service or action as director of the corporation that has not been fully disclosed therein, (ii) any agreement, arrangement or understanding with any person or entity as to how such prospective nominee would vote or act on any issue or question as a director (a "Voting Commitment") that has not been fully disclosed to the corporation therein or (iii) any Voting Commitment that could limit or interfere with such prospective nominee's ability to comply, if elected as a director of the corporation, with his or her fiduciary duties under applicable law, and (2) consents to being named in the corporation's proxy statement and form of proxy as a nominee and agrees, if elected, to serve as a member of the board of directors for the entire term and to adhere to the corporation's Corporate Governance Principles, Code of Business Conduct and Ethics, confidentiality, stock ownership, trading and any other corporation policies and guidelines applicable to directors, (E) a written questionnaire with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made in the form required by the corporation (which form the Nominating Person shall request in writing from the secretary prior to submitting notice and which the secretary shall provide to the Nominating Person within ten (10) days after receiving such request), and (F) interviews of the proposed nominee by the board of directors and/or one or more committees of the board, as may be requested by the board of directors or such committee(s), which interviews shall occur within ten (10) business days following the date of a request;

(iv) Other Information to be Furnished by Proposed Nominees. The corporation may require any proposed nominee to furnish such other information (A) as may reasonably be required by the corporation to determine the eligibility or advisability of such proposed nominee to serve as an independent director of the corporation in accordance with applicable requirements or (B) that could be material to a reasonable stockholder's understanding of the independence or lack of independence of such proposed nominee, including with reference to the listing standards of each securities exchange upon which the corporation's securities are listed, any applicable rules of the Securities and Exchange Commission, any publicly disclosed standards used by the board of directors in selecting nominees for election as a director and for determining and disclosing the independence of the corporation's directors, including those applicable to a director's service on any of the committees of the board of directors, and/or the requirements of any other laws or regulations applicable to the corporation. If requested by the corporation, any supplemental information required under this paragraph (iv) shall be provided within ten (10) days after it has been requested by the corporation.; and

(v) Definition of Nominating Person. For purposes of this Section 2.14, the term "Nominating Person" shall mean (A) the stockholder providing the notice of the nomination proposed to be made at the meeting, (B) the beneficial owner or beneficial owners, if different, on whose behalf the notice of the nomination proposed to be made at the meeting is made, and (C) any affiliate or associate of such stockholder or beneficial owner.

(d) Update and Supplement of Stockholder Notice of Nominations. If information submitted pursuant to this Section 2.14 by any Nominating Person shall be inaccurate or incomplete in any material respect, such information may be deemed not to have been provided, and the nomination in respect of which such information is required may be deemed not to have been proposed, in accordance with this Section 2.14. A Nominating Person providing notice of any nomination proposed to be made at a meeting shall update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.14 shall be true and correct as of the record date for the meeting and as of the date that is ten (10) business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to, or mailed and received by, the secretary at the principal executive offices of the corporation not later than five (5) business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and

not later than eight (8) business days prior to the date for the meeting, if practicable (or, if not practicable, on the first practicable date prior to the date for the meeting or such adjournment or postponement thereof) (in the case of the update and supplement required to be made as of ten (10) business days prior to the meeting or any adjournment or postponement thereof, as applicable). For the avoidance of doubt, any information provided pursuant to this subclause (d) shall not be deemed to cure any deficiencies in a notice previously delivered and shall not extend the time period for the delivery of such notice. Upon written request of the secretary on behalf of the board of directors (or a duly authorized committee thereof), any such Nominating Person shall provide, within seven (7) business days after delivery of such request (or such other period as may be specified in such request), (A) written verification, reasonably satisfactory to the board of directors, any committee thereof authorized for such purpose or any authorized officer of the corporation, to demonstrate the accuracy of any information submitted by such Nominating Person pursuant to this Section 2.14 and (B) a written affirmation of any information submitted by such Nominating Person pursuant to this Section 2.14 as of an earlier date. If a Nominating Person fails to provide such written verification or affirmation within such period, the information as to which written verification or affirmation was requested may be deemed not to have been provided in accordance with this Section 2.14.

(e) Rule 14a-19. If (A) any Nominating Person provides notice pursuant to Rule 14a-19(b) under the Exchange Act and (B) such Nominating Person subsequently either (x) notifies the corporation that such Nominating Person no longer intends to solicit proxies in support of director nominees other than the corporation's nominees in accordance with Rule 14a-19 under the Exchange Act or (y) fails to comply with the requirements of Rule 14a-19(a)(2) or Rule 14(a)(3) under the Exchange Act, then the corporation shall disregard any proxies or votes solicited for the nominees proposed by such Nominating Person. Upon request by the corporation, if any Nominating Person provides notice pursuant to Rule 14a-19(b) under the Exchange Act, such Nominating Person shall deliver to the secretary, no later than five (5) business days prior to the applicable meeting date, reasonable evidence that the requirements of Rule 14a-19(a)(3) under the Exchange Act have been satisfied.

(f) Defective Nominations. Notwithstanding anything in these bylaws to the contrary, no person shall be eligible for election as a director of the corporation unless nominated in accordance with this Section 2.14. Except as otherwise provided by law, the corporation's Certificate of Incorporation, or these bylaws, the chair of the meeting shall, if the facts warrant, determine and declare that (i) a nomination was not made in accordance with the procedures prescribed by this Section 2.14, (ii) a proposed nominee is ineligible to be named in the corporation's proxy materials pursuant to this Section 2.14 or to be considered for election at the meeting, or (iii) a proposed nominee and/or the applicable Nominating Person shall have breached its or their representations, undertakings, agreements or obligations under or pursuant to this Section 2.14, and in each such case, the chair of the meeting shall so declare at the meeting and the nomination shall be disregarded notwithstanding that proxies in respect of the nomination of the relevant proposed nominee may have been received by the corporation. Any decision by the chair of the meeting shall be conclusive and binding upon all stockholders of the corporation for any purpose.

(g) Compliance with State Law and Exchange Act. In addition to the requirements of this Section 2.14 with respect to any nomination proposed to be made at a meeting, each Nominating Person shall comply with all applicable requirements of state law and the Exchange Act with respect to any such nominations.

(h) Number of Nominees. The number of nominees a stockholder may nominate for election at a meeting may not exceed the number of directors to be elected at such meeting, and for the avoidance of doubt, no stockholder shall be entitled to make additional or substitute nominations following the expiration of the time periods set forth in this Section 2.14. Notwithstanding anything in this Section 2.14 to the contrary, in the event that the number of directors to be elected to the board of directors at an annual meeting is greater than the number of directors whose terms expire on the date of such annual meeting and there is no public disclosure by the corporation specifying the increased number of directors up for election at such meeting before the close of business on the seventieth (70th) day prior to the anniversary date of the immediately preceding annual meeting of stockholders, a Timely Notice shall also be considered timely, but only with respect to nominees for any new directorship(s) created by such increase in the number of directors up for election, if it shall be delivered to the secretary at the principal executive offices of the corporation not later than the close of business on the tenth (10th) day following the day on which the corporation first makes a public disclosure specifying the number of directors up for election.

2.15 DELIVERY TO THE CORPORATION. Whenever this Article requires one or more persons (including a record or beneficial owner of stock) to deliver a document or information to the corporation or any officer, employee or agent thereof (including any notice, request, questionnaire, revocation, representation or other document or agreement), such document or information shall be in writing exclusively (and not in an electronic transmission) and shall be delivered exclusively by hand (including, without limitation, overnight courier service) or by certified or registered mail, return receipt requested, and the corporation shall not be required to accept delivery of any document not in such written form or so delivered. For the avoidance of doubt, the corporation expressly opts out of Section 116 of the Delaware General Corporation Law with respect to the delivery of information and documents to the corporation required this Article.

ARTICLE III
DIRECTORS

3.1 POWERS

Subject to the provisions of the Delaware General Corporation Law and to any limitations in the Restated Certificate of Incorporation or these bylaws relating to action required to be approved by the stockholders or by the outstanding shares, the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the board of directors.

3.2 NUMBER AND TERM OF OFFICE

The authorized number of directors shall be established from time to time by resolution of the board of directors.

No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

3.3 RESIGNATION AND VACANCIES

Any director may resign effective on giving notice in writing or by electronic transmission to the chair of the board, the president, the secretary or the board of directors, unless the notice specifies a later time for that resignation to become effective. If the resignation of a director is effective at a future time, the board of directors (including such director whose resignation is to be effective at a later time) may elect a successor to take office when the resignation becomes effective.

Unless otherwise required by law or the Restated Certificate of Incorporation, vacancies arising through death, resignation, removal, an increase in the number of directors or otherwise may be filled only by a majority of the directors then in office, though less than a quorum, or by a sole remaining director. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified, or until such director's earlier death, resignation or removal. No decrease in the number of directors constituting the board of directors shall shorten the term of any incumbent director.

3.4 REMOVAL

Any director may be removed from office at any time with or without cause by the affirmative vote of the holders of at least a majority of the voting power of the issued and outstanding capital stock of the corporation entitled to vote at an election of directors.

3.5 PLACE OF MEETINGS; MEETINGS BY TELEPHONE

Regular meetings of the board of directors may be held at any place within or outside the State of Delaware that has been designated from time to time by resolution of the board. In the absence of such a designation, regular meetings

shall be held at the principal executive office of the corporation. Special meetings of the board may be held at any place within or outside the State of Delaware that has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, at the principal executive office of the corporation.

Any meeting, regular or special, may be held by conference telephone or other communication equipment, so long as all directors participating in the meeting can hear one another; and all such directors shall be deemed to be present in person at the meeting.

3.6 REGULAR MEETINGS

Regular meetings of the board of directors may be held without notice if the board of directors fixes the times of such meetings.

3.7 SPECIAL MEETINGS; NOTICE

The chair of the board, the president, or any two (2) directors may call special meetings of the board of directors for any purpose or purposes at any time.

Notice of the time and place of special meetings shall be delivered personally or by telephone to each director or sent by mail, electronic transmission, charges prepaid, addressed to each director at that director's address or, in the case of notice delivered by electronic mail, the director's electronic mail address as it is shown on the records of the corporation. If the notice is mailed, it shall be deposited in the United States mail at least four (4) days before the time of the holding of the meeting. If the notice is delivered personally or by telephone notice, facsimile or electronic transmission, it shall be delivered personally or by telephone, facsimile or appropriate means of electronic communication at least twenty-four (24) hours before the time of the holding of the meeting or on such shorter notice as the person or persons calling such meeting may deem necessary or appropriate in the circumstances. Any oral notice given personally or by telephone may be communicated either to the director or to a person at the office of the director who the person giving the notice has reason to believe will promptly communicate it to the director. An affidavit of the secretary or an assistant secretary of the corporation that the notice has been given by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

3.8 QUORUM

Except as otherwise required by law, a majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 3.11 of these bylaws. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the board of directors, subject to the provisions of the Certificate of Incorporation and applicable law.

A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting.

3.9 WAIVER OF NOTICE

Notice of a meeting need not be given to any director (a) who signs a waiver of notice or a consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or (b) who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such directors. All such waivers, consents, and approvals shall be filed with the corporate records or made part of the minutes of the meeting. A waiver of notice need not specify the purpose of any regular or special meeting of the board of directors.

3.10 ADJOURNMENT

A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

3.11 NOTICE OF ADJOURNMENT

Notice of the time and place of holding an adjourned meeting need not be given unless the meeting is adjourned for more than twenty-four (24) hours. If the meeting is adjourned for more than twenty-four (24) hours, then notice of the time and place of the adjourned meeting shall be given before the adjourned meeting takes place, in the manner specified in Section 3.7 of these bylaws, to the directors who were not present at the time of the adjournment.

3.12 BOARD ACTION BY WRITTEN CONSENT WITHOUT A MEETING

Any action required or permitted to be taken by the board of directors may be taken without a meeting, provided that all the members of the board individually or collectively consent in writing or by electronic transmission to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the board of directors. Such written consent and any counterparts thereof or electronic transmission or transmissions shall be filed with the minutes of the proceedings of the board. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

3.13 FEES AND COMPENSATION OF DIRECTORS

Directors and members of committees may receive such compensation, if any, for their services and such reimbursement of expenses as may be fixed or determined by resolution of the board of directors. This Section 3.13 shall not be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee or otherwise and receiving compensation for those services.

3.14 APPROVAL OF LOANS TO EMPLOYEES

To the extent permitted by law, the corporation may lend money to, or guarantee any obligation of, or otherwise assist any employee of the corporation or of its subsidiaries, including any employee who is a director of the corporation or one of its subsidiaries, whenever, in the judgment of the directors, such loan, guaranty or assistance may reasonably be expected to benefit the corporation. The loan, guaranty or other assistance may be with or without interest and may be unsecured, or secured in such manner as the board of directors shall approve, including, without limitation, a pledge of shares of stock of the corporation. Nothing contained in this section shall be deemed to deny, limit or restrict the powers of guaranty or warranty of the corporation at common law or under any statute.

3.15 INTERESTED DIRECTORS

No contract or transaction between the corporation and one or more of its directors or officers, or between the corporation and any other corporation, partnership, association, or other organization in which one or more of its directors or officers are directors or officers or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the board of directors or committee thereof which authorizes the contract or transaction, or solely because the director or officer's vote is counted for such purpose if (a) the material facts as to the director or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the board of directors or the committee, and the board of directors or committee in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors, even though the disinterested directors be less than a quorum; or (b) the material facts as to the director or officer's relationship or interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the stockholders; or (iii) the contract or transaction is fair as to the corporation as of the time it is authorized, approved or ratified by the board of directors, a committee thereof or the stockholders. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or of a committee which authorizes the contract or transaction.

ARTICLE IV
COMMITTEES

4.1 COMMITTEES OF DIRECTORS

The board of directors may designate one (1) or more committees, each consisting of one (1) or more directors, to serve at the pleasure of the board. The board may designate one (1) or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. In the absence or disqualification of a member of a committee, and in the absence of a designation by the board of directors of an alternate member to replace the absent or disqualified member, the member or members thereof present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of any absent or disqualified member. Any committee, to the extent permitted by law and provided in the resolution establishing such committee, shall have and may exercise all the powers and authority of the board of directors in the management of the business and affairs of the corporation, and may authorize the seal of the corporation to be affixed to all papers which may require it; provided, however, that no such committee shall have the power or authority to (i) amend the Restated Certificate of Incorporation (except that a committee may, to the extent authorized in the resolution or resolutions providing for the issuance of shares of stock adopted by the board of directors as provided in Section 151(a) of the Delaware General Corporation Law, fix any of the preferences or rights of such shares relating to dividends, redemption, dissolution, any distribution of assets of the corporation or the conversion into, or the exchange of such shares for, shares of any other class or classes or any other series of the same or any other class or classes of stock of the corporation), (ii) adopt an agreement of merger or consolidation under Sections 251 or 252 of the Delaware General Corporation Law, (iii) recommend to the stockholders the sale, lease or exchange of all or substantially all of the corporation's property and assets, (iv) recommend to the stockholders a dissolution of the corporation or a revocation of a dissolution, or (v) amend the bylaws of the corporation; and, unless the board resolution establishing the committee, the bylaws or the Restated Certificate of Incorporation expressly so provide, no such committee shall have the power or authority to declare a dividend, to authorize the issuance of stock, or to adopt a certificate of ownership and merger pursuant to Section 253 of the Delaware General Corporation Law. Each committee shall keep regular minutes and report to the board of directors when required.

4.2 MEETINGS AND ACTION OF COMMITTEES

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Article III of these bylaws, Section 3.5 (*place of meetings*), Section 3.6 (*regular meetings*), Section 3.7 (*special meetings and notice*), Section 3.8 (*quorum*), Section 3.9 (*waiver of notice*), Section 3.10 (*adjournment*), Section 3.11 (*notice of adjournment*), and Section 3.12 (*action without meeting*), with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the board of directors and its members; provided, however, that the time of regular meetings of committees may be determined either by resolution of the board of directors or by resolution of the committee, that special meetings of committees may also be called by resolution of the board of directors, and that notice of special meetings of committees shall also be given to all alternate members, who shall have the right to attend all meetings of the committee. The board of directors may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

ARTICLE V
OFFICERS

5.1 OFFICERS

The officers of the corporation shall be a secretary, and a chief financial officer. The corporation may also have, at the discretion of the board of directors, a chair of the board, a chief executive officer, a president, a treasurer, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of Section 5.3 of these bylaws. The same person may hold any number of offices.

5.2 ELECTION OF OFFICERS

The officers of the corporation, except such officers as may be appointed in accordance with the provisions of Section 5.3 or Section 5.5 of these bylaws, shall be chosen by the board of directors, subject to the rights, if any, of an officer under any contract of employment.

5.3 SUBORDINATE OFFICERS

The board of directors may appoint, or may empower the chief executive officer or president to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these bylaws or as the board of directors may from time to time determine.

5.4 REMOVAL AND RESIGNATION OF OFFICERS

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, either with or without cause, by the board of directors at any regular or special meeting of the board or, except in case of an officer chosen by the board of directors, by any officer upon whom such power of removal may be conferred by the board of directors.

Any officer may resign at any time by giving written notice to the corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

5.5 VACANCIES IN OFFICES

A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these bylaws for regular appointments to that office.

5.6 CHAIR OF THE BOARD

The chair of the board, if such an officer be elected, shall, if present, preside at meetings of the board of directors and exercise and perform such other powers and duties as may from time to time be assigned to such officer by the board of directors or as may be prescribed by these bylaws. If there is no chief executive officer, then the chair of the board shall also be the chief executive officer of the corporation and shall have the powers and duties prescribed in Section 5.7 of these bylaws.

5.7 CHIEF EXECUTIVE OFFICER

Subject to such supervisory powers, if any, as may be given by the board of directors to the chair of the board, if there be such an officer, the chief executive officer shall be subject to the control of the board of directors and have general supervision, direction and control of the business. He or she shall preside at all meetings of the stockholders and, in the absence or non-existence of the chair of the board, at all meetings of the board of directors. He or she shall have the general powers and duties of management usually vested in the office of the chief executive officer of a corporation, and shall have such other powers and perform such other duties as from time to time may be prescribed by the board of directors or these bylaws.

5.8 PRESIDENT

In the absence or disability of the chief executive officer, and if there is no chair of the board, the president shall perform all the duties of the chief executive officer and when so acting shall have the power of, and be subject to all

the restrictions upon, the chief executive officer. The president shall have such other powers and perform such other duties as from time to time may be prescribed for the president by the board of directors, these bylaws, the chief executive officer or the chair of the board.

5.9 VICE PRESIDENTS

In the absence or disability of the president, the vice presidents, if any, in order of their rank as fixed by the board of directors or, if not ranked, a vice president designated by the board of directors, shall perform all the duties of the president and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the board of directors, these bylaws, the president or the chair of the board.

5.10 SECRETARY

The secretary shall keep or cause to be kept, at the principal executive office of the corporation or such other place as the board of directors may direct, a book of minutes of all meetings and actions of directors, committees of directors and stockholders. The minutes shall show the time and place of each meeting, whether regular or special (and, if special, how authorized and the notice given), the names of those present at directors' meetings or committee meetings, the number of shares present or represented at stockholders' meetings, and the proceedings thereof.

The secretary shall keep, or cause to be kept, at the principal executive office of the corporation or at the office of the corporation's transfer agent or registrar, as determined by resolution of the board of directors, a share register, or a duplicate share register, showing the names of all stockholders and their addresses, the number and classes of shares held by each, the number and date of certificates evidencing such shares, and the number and date of cancellation of every certificate surrendered for cancellation.

The secretary shall give, or cause to be given, notice of all meetings of the stockholders and of the board of directors required to be given by law or by these bylaws. The secretary shall keep the seal of the corporation, if one be adopted, in safe custody and shall have such other powers and perform such other duties as may be prescribed by the board of directors or by these bylaws.

5.11 CHIEF FINANCIAL OFFICER

The chief financial officer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and shares. The books of account shall at all reasonable times be open to inspection by any director.

The chief financial officer shall deposit all money and other valuables in the name and to the credit of the corporation with such depositaries as may be designated in accordance with procedures established by the board of directors. The chief financial officer shall disburse the funds of the corporation as may be ordered by the board of directors, shall render to the president and directors, whenever they request it, an account of all of such individual's transactions as chief financial officer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the board of directors or these bylaws.

ARTICLE VI
INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

6.1 POWER TO INDEMNIFY IN ACTIONS, SUITS OR PROCEEDINGS OTHER THAN THOSE BY OR IN THE RIGHT OF THE CORPORATION

Subject to Section 6.3 of this Article VI, the corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil,

criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that such person is or was a director or officer of the corporation, or is or was a director or officer of the corporation serving at the request of the corporation as a director or officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against 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 if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful.

6.2 POWER TO INDEMNIFY IN ACTIONS, SUITS OR PROCEEDINGS BY OR IN THE RIGHT OF THE CORPORATION

Subject to Section 6.3 of this Article VI, the corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the corporation, or is or was a director or officer of the corporation serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

6.3 AUTHORIZATION OF INDEMNIFICATION

Any indemnification under this Article VI (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director or officer is proper in the circumstances because such person has met the applicable standard of conduct set forth in Section 6.1 or Section 6.2 of this Article VI, as the case may be. Such determination shall be made, with respect to a person who is a director or officer at the time of such determination, (a) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (b) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum, or (c) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion or (d) by the stockholders (but only if a majority of the directors who are not parties to such action, suit or proceeding, if they constitute a quorum of the board of directors, presents the issue of entitlement to indemnification to the stockholders for their determination). Any person or persons having the authority to act on the matter on behalf of the corporation shall make such determination, with respect to former directors and officers. To the extent, however, that a present or former director or officer of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding described above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith, without the necessity of authorization in the specific case.

6.4 GOOD FAITH DEFINED

For purposes of any determination under Section 6.3 of this Article VI, a person shall be deemed to have acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, or, with respect to any criminal action or proceeding, to have had no reasonable cause to believe such person's conduct was unlawful, if such person's action is based on the records or books of account of the corporation or another

enterprise, or on information supplied to such person by the officers of the corporation or another enterprise in the course of their duties, or on the advice of legal counsel for the corporation or another enterprise or on information or records given or reports made to the corporation or another enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the corporation or another enterprise. The term "another enterprise" as used in this Section 6.4 shall mean any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise of which such person is or was serving at the request of the corporation as a director, officer, employee or agent. The provisions of this Section 6.4 shall not be deemed to be exclusive or to limit in any way the circumstances in which a person may be deemed to have met the applicable standard of conduct set forth in Section 6.1 or 6.2 of this Article VI, as the case may be.

6.5 INDEMNIFICATION BY A COURT

Notwithstanding any contrary determination in the specific case under Section 6.3 of this Article VI, and notwithstanding the absence of any determination thereunder, any director or officer may apply to the Court of Chancery in the State of Delaware for indemnification to the extent otherwise permissible under Sections 6.1 and 6.2 of this Article VI. The basis of such indemnification by a court shall be a determination by such court that indemnification of the director or officer is proper in the circumstances because such person has met the applicable standards of conduct set forth in Section 6.1 or 6.2 of this Article VI, as the case may be. Neither a contrary determination in the specific case under Section 6.3 of this Article VI nor the absence of any determination thereunder shall be a defense to such application or create a presumption that the director or officer seeking indemnification has not met any applicable standard of conduct. Notice of any application for indemnification pursuant to this Section 6.5 shall be given to the corporation promptly upon the filing of such application. If successful, in whole or in part, the director or officer seeking indemnification shall also be entitled to be paid the expense of prosecuting such application.

6.6 EXPENSES PAYABLE IN ADVANCE

Expenses incurred by a director or officer in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the corporation as authorized in this Article VI.

6.7 NONEXCLUSIVITY OF INDEMNIFICATION AND ADVANCEMENT OF EXPENSES

The indemnification and advancement of expenses provided by or granted pursuant to this Article VI shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under the Restated Certificate of Incorporation, any Bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, it being the policy of the corporation that indemnification of the persons specified in Sections 6.1 and 6.2 of this Article VI shall be made to the fullest extent permitted by law. The provisions of this Article VI shall not be deemed to preclude the indemnification of any person who is not specified in Section 6.1 or 6.2 of this Article VI but whom the corporation has the power or obligation to indemnify under the provisions of the General Corporation Law of the State of Delaware, or otherwise.

6.8 INSURANCE

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

6.9 CERTAIN DEFINITIONS

For purposes of this Article VI, references to "the corporation" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors or officers, so that any person who is or was a director or officer of such constituent corporation, or is or was a director or officer of such constituent corporation serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, shall stand in the same position under the provisions of this Article VI with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued. For purposes of this Article VI, references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to "serving at the request of the corporation" shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director or officer with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this Article VI.

6.10 SURVIVAL OF INDEMNIFICATION AND ADVANCEMENT OF EXPENSES

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

6.11 LIMITATION ON INDEMNIFICATION

Notwithstanding anything contained in this Article VI to the contrary, except for proceedings to enforce rights to indemnification (which shall be governed by Section 6.5 hereof), the corporation shall not be obligated to indemnify any director or officer in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by the board of directors of the corporation.

6.12 INDEMNIFICATION OF EMPLOYEES AND AGENTS

The corporation may, to the extent authorized from time to time by the board of directors, provide rights to indemnification and to the advancement of expenses to employees and agents of the corporation similar to those conferred in this Article VI to directors and officers of the corporation.

ARTICLE VII
RECORDS AND REPORTS

7.1 MAINTENANCE AND INSPECTION OF RECORDS

The corporation shall, either at its principal executive office or at such place or places as designated by the board of directors, keep a record of its stockholders listing their names and addresses and the number and class of shares held by each stockholder, a copy of these bylaws as amended to date, accounting books and other records.

Any stockholder of record, in person or by attorney or other agent, shall, upon written demand under oath stating the purpose thereof, have the right during the usual hours for business to inspect for any proper purpose the corporation's stock ledger, a list of its stockholders, and its other books and records and to make copies or extracts therefrom. A proper purpose shall mean a purpose reasonably related to such person's interest as a stockholder. In every instance where an attorney or other agent is the person who seeks the right to inspection, the demand under oath shall be accompanied by a power of attorney or such other writing that authorizes the attorney or other agent to so act on behalf of the stockholder. The demand under oath shall be directed to the corporation at its registered office in Delaware or at its principal place of business.

The officer who has charge of the stock ledger of a corporation shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Nothing contained in this Section shall require the corporation to include electronic mail addresses or other electronic contact information on such list. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of at least 10 days prior to the meeting: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the corporation. In the event that the corporation determines to make the list available on an electronic network, the corporation may take reasonable steps to ensure that such information is available only to stockholders of the corporation.

7.2 INSPECTION BY DIRECTORS

Any director shall have the right to examine the corporation's stock ledger, a list of its stockholders and its other books and records for a purpose reasonably related to such individual's position as a director. The Court of Chancery is hereby vested with the exclusive jurisdiction to determine whether a director is entitled to the inspection sought. The Court may summarily order the corporation to permit the director to inspect any and all books and records, the stock ledger, and the stock list and to make copies or extracts therefrom. The Court may, in its discretion, prescribe any limitations or conditions with reference to the inspection, or award such other and further relief as the Court may deem just and proper.

7.3 REPRESENTATION OF SHARES OF OTHER CORPORATIONS

The chair of the board, the chief executive officer, the president or any other person authorized by the board of directors or the chief executive officer or president, is authorized to vote, represent, and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority herein granted may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

ARTICLE VIII
GENERAL MATTERS

8.1 RECORD DATE FOR PURPOSES OTHER THAN NOTICE AND VOTING

For purposes of determining the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any other lawful action (other than as provided in Article II hereof), the board of directors may fix, in advance, a record date, which shall not be more than sixty (60) days before any such action. In that case, only stockholders of record at the close of business on the date so fixed are entitled to receive the dividend, distribution or allotment of rights, or to exercise such rights, as the case may be, notwithstanding any transfer of any shares on the books of the corporation after the record date so fixed, except as otherwise provided by law.

If the board of directors does not so fix a record date, then the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the board adopts the applicable resolution or the sixtieth (60th) day before the date of that action, whichever is later.

8.2 CHECKS; DRAFTS; EVIDENCES OF INDEBTEDNESS

From time to time, the board of directors shall determine by resolution which person or persons may sign or endorse all checks, drafts, other orders for payment of money, notes or other evidences of indebtedness that are issued in the name of or payable to the corporation, and only the persons so authorized shall sign or endorse those instruments.

8.3 CORPORATE CONTRACTS AND INSTRUMENTS: HOW EXECUTED

The board of directors, except as otherwise provided in these bylaws, may authorize any officer or officers, or agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation; such authority may be general or confined to specific instances. Unless so authorized or ratified by the board of directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

8.4 STOCK CERTIFICATES

The shares of a corporation shall be represented by certificates; provided that the board of directors of the corporation may provide by resolution or resolutions that some or all of any or all classes or series of the stock of the corporation shall be uncertificated shares; provided further, however, that no shares of the corporation designated or otherwise identified by the board of directors or by the corporation prior to the issuance thereof as digital or cryptographic shares or as shares to be issued in digital or cryptographic form (any such shares being herein called "Digital Shares") shall be represented by certificates. Any such resolution of the board of directors providing for uncertificated shares shall not apply to shares then represented by a certificate until such certificate is surrendered to the corporation. Notwithstanding the adoption of such a resolution by the board of directors, every holder of stock represented by certificates, and upon request every holder of uncertificated shares (other than any holder of Digital Shares, with respect to such Digital Shares), shall be entitled to have a certificate signed in the name of the corporation by (a) the chair or vice-chair of the board of directors, or the chief executive officer, president or any vice-president of the corporation, and by (b) the chief financial officer, treasurer, assistant treasurer, secretary or an assistant secretary of the corporation representing the number of then uncertificated shares to be registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the corporation with the same effect as if the signatory were such officer, transfer agent or registrar at the date of issue.

8.5 SPECIAL DESIGNATION ON CERTIFICATES

If the corporation is authorized to issue more than one class of stock or more than one series of any class, then the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights shall be set forth in full or summarized on the face or back of the certificate that the corporation shall issue to represent such class or series of stock; provided, however, that, except as otherwise provided in Section 202 of the Delaware General Corporation Law, in lieu of the foregoing requirements there may be set forth on the face or back of the certificate that the corporation shall issue to represent such class or series of stock a statement that the corporation will furnish without charge to each stockholder who so requests the powers, the designations, the preferences, and the relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights.

8.6 LOST CERTIFICATES

Except as provided in this Section 8.6, no new certificates for shares shall be issued to replace a previously issued certificate unless the latter is surrendered to the corporation and canceled at the same time. The board of directors may, in case any share certificate or certificate for any other security is lost, stolen or destroyed, authorize the issuance of replacement certificates on such terms and conditions as the board may require; the board may require indemnification of the corporation secured by a bond or other adequate security sufficient to protect the corporation against any claim that may be made against it, including any expense or liability, on account of the alleged loss, theft or destruction of the certificate or the issuance of the replacement certificate.

8.7 CONSTRUCTION; DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the Delaware General Corporation Law shall govern the construction of these bylaws. Without limiting the generality of this provision, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a corporation and a natural person. Also without limiting the generality of this provision, for purposes of these Bylaws, "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

ARTICLE IX
AMENDMENTS

These bylaws of the corporation may be altered, amended or repealed, in whole or in part, or new bylaws may be adopted, by the stockholders entitled to vote or by the board of directors. All such amendments must be approved by either the holders of sixty-six and two thirds percent (66-2/3%) of the voting power of outstanding capital stock entitled to vote at an election of directors or by a majority of the board of directors then in office. The fact that such power has been so conferred upon the board of directors shall not divest the stockholders of the power, nor limit their power to adopt, alter, amend or repeal bylaws.

ARTICLE X
EXCLUSIVE FORUM

Unless the corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director or officer or other employee of the corporation to the corporation or the corporation's stockholders, (iii) any action asserting a claim against the corporation or any director or officer or other employee of the corporation arising pursuant to any provision of the Delaware General Corporation Law or the corporation's Certificate of Incorporation or bylaws (as either may be amended from time to time), or (iv) any action asserting a claim against the corporation or any director or officer or other employee of the corporation governed by the internal affairs doctrine shall be a state court located within the State of Delaware (or, if no state court located within the State of Delaware has jurisdiction, the federal district court for the District of Delaware), in all cases to the fullest extent permitted by applicable law and subject to the court's having personal jurisdiction over the indispensable parties named as defendants.

Exhibit 4.2

DESCRIPTION OF SECURITIES REGISTERED UNDER SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934

The following information describes our common stock, par value $0.0001 per share, and our warrants to purchase common stock, which are our only securities registered under Section 12 of the Securities Exchange Act of 1934, as amended, as well as certain provisions of our amended and restated certificate of incorporation and amended and restated bylaws. This description is only a summary. For a complete statement of the terms and rights of the common stock and warrants, you should also refer to our amended and restated certificate of incorporation and amended and restated bylaws which are filed with the Securities and Exchange Commission, as well as the General Corporation Law of the State of Delaware ("DGCL"), and in the case of the warrants, our prospectus filed pursuant to Rule 424(b)(2) on a Registration Statement (No. 333-290763) filed with the Securities and Exchange Commission on December 3, 2025 in connection with the warrants.

Capital Stock

Our authorized capital stock consists of 100,000,000 shares of common stock, par value $0.0001 per share, and 5,000,000 shares of preferred stock, par value $0.0001 per share. Our board of directors may establish the rights, powers and preferences of undesignated preferred stock from time to time. Our board of directors is authorized, without stockholder approval, except as required by the listing standards of the New York Stock Exchange, to issue additional shares of our authorized capital stock.

Common Stock

Voting Rights

The holders of our common stock are entitled to one vote per share on all matters to be voted upon by the stockholders. Our amended and restated certificate of incorporation prohibits cumulative voting. Pursuant to our amended and restated bylaws, the election of directors shall be decided by a plurality vote of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors. With respect to matters other than the election of directors, if a quorum is present, the affirmative vote of a majority of the shares represented and voting at a duly held meeting (which shares voting affirmatively also constitute at least a majority of the required quorum) shall be the act of the stockholders, unless the vote of a greater number or a vote by classes is required by law, by our amended and restated certificate of incorporation or by our amended and restated bylaws. The holders of a majority of the shares issued and outstanding and entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum for the transaction of business at all meetings of the stockholders. Our amended and restated certificate of incorporation prohibits stockholders from taking action by written consent in lieu of a meeting.

Dividend Rights

We have never declared or paid any cash dividends on our common stock. We currently intend to retain any earnings for future growth and do not anticipate paying any cash dividends in the foreseeable future. Any future determination to pay dividends will be at the discretion of our board of directors and will depend on our results of operations, financial conditions, contractual and legal restrictions and other factors the board deems relevant.

Preemption, Conversion, and Redemption Rights

Holders of our common stock have no preemptive or conversion rights or other subscription rights, and there are no redemption provisions applicable to the common stock. The outstanding shares of common stock are fully paid and non-assessable. The rights, preferences and privileges of the holders of our common stock are subject to, and may be adversely affected by, the rights of the holders of shares of our outstanding preferred stock and of any series of preferred stock that we may designate and/or issue in the future.

Warrants

On October 7, 2025, the Company issued 6,884,341 warrants to purchase common stock ("Warrants") as a distribution to holders of record of shares of common stock on October 2, 2025 (the "Record Date").

Warrant Exercise Rate

Each Warrant represents the right to purchase from the Company one share of common stock (the "Warrant Exercise Rate") for cash at an initial exercise price of $15.50 (the "Exercise Price") per Warrant, payable in U.S. dollars.

The Warrant Exercise Rate is subject to certain adjustments described in the "Anti-Dilution Adjustments" section below.

Expiration

Unless the Early Expiration Price Condition is met as described below, the Warrants will expire and cease to be exercisable at 5:00 p.m. New York City time on October 7, 2026 (the "Expiration Date"). The Expiration Date is subject to automatic acceleration upon satisfaction of the Early Expiration Price Condition (as defined below).

Upon the occurrence of the first 30 consecutive Trading Day period that includes 20 Qualifying Trading Days (whether or not consecutive) the first of which 20 Qualifying Trading Days (as defined below) must fall on or after the first Trading Day immediately following the issue date (the "Early Expiration Price Condition" and the last of such 20 Qualifying Trading Days to occur, the "Early Expiration Price Condition Date"), the Expiration Date will automatically accelerate to the date (the "Early Expiration Date") that is the business day immediately following the Early Expiration Price Condition Date, unless an Alternate Expiration Date is set as provided below. A "Qualifying Trading Day" means any Trading Day on which the daily VWAP (as defined in the Warrant Agreement) of a share of common stock is at least equal to the Early Expiration Trigger Price in effect on the last day of the Reference Period, or the first 30 consecutive trading day.

If the Early Expiration Price Condition occurs, the Company will make a public announcement to that effect by issuance of a press release (the "Early Expiration Price Condition Notice") as promptly as practicable after market close on the Early Expiration Price Condition Date setting forth the Early Expiration Date or an Alternate Expiration Date as set forth below.

The Company may, in its sole discretion, elect to set the Early Expiration Date on a date falling after the business day immediately following the Early Expiration Price Condition Date (such date, an "Alternate Expiration Date"). In order to exercise the right to set an Alternate Expiration Date, the Company shall, no later than the fifth Qualifying Trading Day (whether or not consecutive) occurring in any 20 consecutive Trading Day period, make a public announcement by issuance of a press release that the Company is reserving the right to set an Alternate Expiration Date in the event the Early Expiration Price Condition does occur. If the Company sets an Alternate Expiration Date, the expiration of the Warrants on such Alternate Expiration Date shall be conditioned on the daily VWAP of a share of common stock being at least equal to the quotient of the Exercise Price divided by the Warrant Exercise Rate for each of the two Trading Days immediately preceding such Alternate Expiration Date (the "Additional Price Condition").

As promptly as practicable after market close on the Trading Day immediately preceding the Alternate Expiration Date, the Company will make a public announcement by issuance of a press release as to whether the Additional Price Condition is met. The Company may, in its sole discretion, in any such press release, postpone (on one or more occasions) such Alternate Expiration Date to a new Alternate Expiration Date.

If the Additional Price Condition is not met as to an Alternate Expiration Date specified by the Company, unless the Company sets a new Alternate Expiration Date as set forth in the preceding paragraph (an "Alternate Expiration Date Annulment"), the Expiration Date will remain October 7, 2026 unless another Early Expiration Price Condition Date subsequently occurs. The definition of Early Expiration Price Condition, Early Expiration Price Condition Date and Reference Period are subject to appropriate adjustment as set forth in the Warrant Agreement in the event of an Alternate Expiration Date Annulment.

For the purposes of the foregoing, "VWAP" of the common stock (or other security) on any date of determination means, (i) in the case of the common stock, for any day on which trading in the common stock generally occurs on the New York Stock Exchange(or, if the common stock is not listed on the New York Stock Exchange, the U.S. national or regional securities exchange or association or over-the-counter market that is the primary market for the trading of the common stock on such day), the per-share volume-weighted average price based on all trades in the consolidated tape system as displayed on Bloomberg page "BBBY US Equity HP" (setting: "Volume Weighted Average Line") (or its equivalent successor if such page or setting is not available) in respect of such day and (ii) in the case of any other security, for any day on which trading in such security generally occurs on the New York Stock Exchange(or, if such security is not listed on the New York Stock Exchange, the U.S. national or regional securities exchange or association or over the-counter market that is the primary market for the trading of such security on such day), the per-share volume weighted average price based on all trades in the consolidated tape system as displayed on Bloomberg page "HP" for such security in respect of such day. If such information is not so available for the common stock or such other security, the VWAP on such date shall be the last reported sale price for the common stock or such other security on such day.

A "Trading Day" for the purposes of the foregoing definition means a day on which the common stock (or other security) (i) at the close of regular way trading (not including after-hours or extended market trading) is not suspended from trading on the Exchange or, if the common stock (or such other security, as the case may be) is not listed on the Exchange, any U.S. national or regional securities exchange or association or over-the-counter market that is the primary market for the trading the common stock (or such other security, as the case may be) at the Close of Business, and (ii) has traded at least once regular way on the Exchange or, if the common stock (or such other security, as the case may be) is not listed on the Exchange, such other U.S. national securities exchange or association or over-the-counter market that is the primary market for the trading of the common stock (or such other security, as the case may be); provided that if the common stock (or such other security, as the case may be) is not so listed or traded, "Trading Day" means a Business Day.

A "Qualifying Trading Day" for purposes of the foregoing means any Trading Day on which the VWAP of the common stock on such Trading Day is at least equal to the Early Expiration Trigger Price in effect on the last day of the Reference Period.

The "Early Expiration Trigger Price" is initially equal to $18.60, subject to certain adjustments.

Subject to applicable laws and regulations and the terms of the Warrant Agreement, including the occurrence of the Early Expiration Price Condition or the Additional Price Condition, the Warrants may be exercised only during the period commencing on the date of the effectiveness of the registration statement of which this prospectus is a part until 5:00 p.m. New York City time on the Expiration Date.

Form and Transfer

The Company issued the Warrants in uncertificated, direct registration form. Warrant holders will not be entitled to receive physical certificates. Registration of ownership is maintained by the Warrant Agent.

Exercise

All or any part of the Warrants may be exercised until 5:00 p.m. New York City time on the Expiration Date (as it may be adjusted) by delivering a completed form of election to purchase shares of common stock, which contains certain representations by the holder of the Warrants, and payment of the Exercise Price in cash. Any such delivery that occurs on a day that is not a Business Day or is received after 5:00 p.m., New York City time, on any given Business Day will be deemed received and exercised on the next succeeding Business Day. Record owners of Warrants may exercise Warrants through the process established by the Warrant Agent. Indirect, "street name" holders of Warrants should contact their broker, bank or other intermediary for information on how to exercise Warrants.

Registration and Suspension

The Company has agreed to use commercially reasonable efforts to cause a shelf registration statement (including, at the Company's election, an existing registration statement), filed pursuant to Rule 415 (or any successor provision) of the Securities Act, covering the issuance of shares of common stock to the Warrant holders upon exercise of the Warrants to remain effective until the earlier of (i) such time as all Warrants have been exercised and (ii) the Expiration Date.

Other

A holder of unexercised Warrants, in his or her capacity as such, is not entitled to any rights of a holder of shares of common stock, including, without limitation, the right to vote or to receive dividends or other distributions.

All expenses related to the registration and approval of the shares of common stock issuable upon exercise of the Warrants will be borne by the Company.

Anti-Dilution Adjustments

The Warrant Exercise Rate shall be subject to adjustment, without duplication, as follows, except that the Company shall not make any such adjustments if each holder has the opportunity to participate, at the same time and upon the same terms as holders of the shares of common stock and solely as a result of holding the Warrants in any of the transactions described below, without having to exercise such holder's Warrants, as if such holder held a number of shares of common stock equal to the product (rounded down to the nearest whole multiple of a share of common stock) of (i) the Warrant Exercise Rate in effect on the record date for such transaction and (ii) the number of Warrants held by it on such record date.

(a) Stock Dividends, Splits, Subdivisions, Reclassifications and Combinations. If the Company shall (i) exclusively issue shares of common stock to all or substantially all holders of common stock as a dividend or distribution on shares of the common stock, (ii) subdivide or reclassify the issued and outstanding shares of common stock into a greater number of shares, or (iii) combine, consolidate or reclassify the issued and outstanding shares of common stock into a smaller number of shares, then the Warrant Exercise Rate shall be adjusted based on the following formula:

$$WER_1 = WER_0 \times \frac{OS_1}{OS_0}$$

where:

WER_1 = the Warrant Exercise Rate in effect at the open of business on the Ex-Date for such dividend or distribution, or at the open of business on the effective date of such subdivision, combination, consolidation or reclassification, as applicable;

WER_0 = the Warrant Exercise Rate in effect immediately prior to the open of business on the Ex-Date for such dividend or distribution, or immediately prior to open of business on the effective date of such subdivision, combination, consolidation or reclassification, as applicable;

OS_1 = the number of shares of common stock outstanding immediately after, and solely as a result of giving effect to, such dividend, distribution, subdivision, combination, consolidation or reclassification, as applicable;

OS_0 = the number of shares of common stock outstanding immediately prior to the open of business on the Ex-Date for such dividend or distribution or immediately prior to the open of business on the effective date of such subdivision, combination, consolidation or reclassification, as applicable (before giving effect to any such dividend, distribution, or subdivision, consolidation, combination or reclassification, as applicable).

Any adjustment made under this provision shall become effective at the open of business on such Ex-Date for such dividend or distribution, or at the open of business on the effective date for such subdivision, consolidation, combination or reclassification, as applicable. If an adjustment to the Warrant Exercise Rate is made in respect of any dividend, distribution, subdivision, consolidation, combination or reclassification of the type described in this provision but such dividend, distribution, subdivision, consolidation, combination or reclassification is not so paid or made, the Warrant Exercise Rate shall be readjusted, effective as of the date the Board of Directors determines not to pay or make such dividend, distribution, subdivision, consolidation, combination or reclassification, to the Warrant Exercise Rate that would then be in effect at such time had no such adjustment been made.

(b) Rights Issues. If the Company issues to all or substantially all holders of the common stock any rights, options or warrants entitling them, for a period of not more than 45 calendar days after the announcement date of such issuance, to subscribe for or purchase shares of the common stock at a price per share that is less than the arithmetic average of the Last Reported Sale Prices of the common stock on each Trading Day comprised in the period of 10 consecutive Trading Days immediately preceding the date of announcement of such issuance, the Warrant Exercise Rate shall be increased based on the following formula:

$$WER_1 = WER_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where

WER_1 = the Warrant Exercise Rate in effect at the open of business on the Ex-Date for such issuance;

WER_0 = the Warrant Exercise Rate in effect immediately prior to the open of business on the Ex-Date for such issuance;

OS_0 = the number of shares of common stock outstanding immediately prior to the open of business on the Ex-Date for such issuance;

X = the total number of shares of common stock issuable pursuant to such rights, options or warrants; and

Y = the number of shares of common stock equal to the aggregate price payable to exercise such rights, options or warrants, divided by the arithmetic average of the Last Reported Sale Prices of the common stock on each Trading Day comprised in the period of 10 consecutive Trading Days immediately preceding the date of announcement of the issuance of such rights, options or warrants.

Any adjustment to the Warrant Exercise Rate made under this provision shall be made whenever any such rights, options or warrants are issued and shall become effective at the open of business on the Ex-Date for such issuance. To the extent that shares of the common stock are not delivered after the expiration of such rights, options or warrants, the Warrant Exercise Rate shall be decreased to the Warrant Exercise Rate that would then be in effect had the increase with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of common stock actually delivered. If an adjustment to the Warrant Exercise Rate is made in respect of any such issuance of rights, options or warrants but such rights, options or warrants are not so issued, the Warrant Exercise Rate shall be readjusted, effective as of the date the Board of Directors determines not to issue such rights, options or warrants, to the Warrant Exercise Rate that would then be in effect at such time had no such adjustment been made.

For purposes of this provision, in determining whether any rights, options or warrants entitle the holders of the common stock to subscribe for or purchase shares of the common stock at less than such arithmetic average of the Last Reported Sale Prices of the common stock on each Trading Day comprised in the period of 10 consecutive Trading Days immediately preceding the date of announcement for such issuance, and in determining the aggregate offering price of such shares of common stock, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors

(c) Other Distributions and Spin-Offs.

(i) Distributions Other than Spin-Offs. If the Company makes a distribution to all or substantially all holders of its common stock, of its capital stock, evidences of indebtedness, other assets or property of the Company, or rights, options or warrants to acquire its capital stock or other securities, excluding:
(1) any dividends, distributions or issuances described in the provisions above;
(2) any dividends or distributions paid exclusively in cash described in the provisions below;
(3) any dividends or distributions in connection with a business combination, reclassification, change, consolidation, merger, conveyance, transfer, sale, lease or other disposition resulting in the change in the securities or property receivable upon the exercise of a warrant;

(4) any rights issued pursuant to a shareholders' rights plan adopted by the Company, other than as described in clause (e) below; and
(5) any Spin-Offs described below, then the Warrant Exercise Rate shall be increased based on the following formula:

$$WER_1 = WER_0 \times \frac{SP_0}{SP_0 - FMV}$$

where

WER_1 = the Warrant Exercise Rate in effect at the open of business on the Ex-Date for such distribution;

WER_0 = the Warrant Exercise Rate in effect immediately prior to the open of business on the Ex-Date for such distribution;

SP_0 = the arithmetic average of the Last Reported Sale Prices of the common stock on each Trading Day comprised in the period of 10 consecutive Trading Days immediately preceding the Ex-Date for such distribution; and

FMV = the Fair Market Value, as of the open of business on the Ex-Date for such distribution, of the shares of capital stock, evidences of indebtedness, assets or property of the Company, cash, rights or warrants distributed with respect to each outstanding share of common stock.

Any adjustment to the Warrant Exercise Rate under this provision shall become effective at the open of business on the Ex-Date for such distribution.

(ii) Spin-Offs. With respect to an adjustment pursuant to this provision where there has been a payment of a dividend or other distribution by the Company to all or substantially all holders of its common stock in shares of capital stock of any class or series, or similar equity interests, of or relating to a subsidiary or other business unit of the Company that will be, upon distribution, listed or quoted on a U.S. national or regional securities exchange (a "Spin-Off"), then the Warrant Exercise Rate shall be increased based on the following formula:

$$WER_1 = WER_0 \times \frac{FMV + SP_0}{SP_0}$$

where

WER_1 = the Warrant Exercise Rate in effect at the open of business on the Ex-Date of the Spin-Off;

WER_0 = the Warrant Exercise Rate in effect immediately prior to the open of business on the Ex-Date of the Spin-Off;

FMV = the arithmetic average of the Last Reported Sale Prices of the capital stock or similar equity interest distributed to holders of the common stock (determined by reference to the definition of Last Reported Sale Price as if references therein to common stock were to such capital stock or similar equity interest) applicable to one share of common stock on each day which is a Trading Day for both the common stock and the capital stock or similar equity interest so distributed (each, a "Valuation Trading Day") comprised in the period of 10 consecutive Valuation Trading Days commencing on the Ex-Date for such Spin-Off (or, if such Ex-Date is not a Valuation Trading Day, commencing on the immediately following Valuation Trading Day) (such period, the "Valuation Period"); and

SP_0 = the arithmetic average of the Last Reported Sale Prices of the common stock on each Trading Day comprised in the Valuation Period.

Any adjustment to the Warrant Exercise Rate under this provision shall be made immediately after the close of business on the last day of the Valuation Period, but shall become effective at the open of business on the Ex-Date for the Spin-Off.

If an adjustment to the Warrant Exercise Rate is made in respect of any distribution of the type described in this provision but such distribution is not so made, the Warrant Exercise Rate shall be readjusted, effective as of the date the of Directors determines not to make such distribution, to the Warrant Exercise Rate that would then be in effect at such time had no such adjustment been made.

(d) Cash Dividends or Distributions. If any cash dividend or distribution is paid to all or substantially all holders of common stock, then the Warrant Exercise Rate shall be increased based on the following formula:

$$WER_1 = WER_0 \times \frac{SP_0}{SP_0 - C}$$

where

WER_1 = the Warrant Exercise Rate in effect at the open of business on the Ex-Date for such dividend or distribution; and

WER_0 = the Warrant Exercise Rate in effect immediately prior to the open of business on the Ex-Date for such dividend or distribution;

SP_0 = the arithmetic average of the Last Reported Sale Prices of the common stock on each Trading Day comprised in the period of ten consecutive Trading Days immediately preceding the Ex-Date for such dividend or distribution;

C = the amount in cash per share the Company distributes to holders of the common stock;

Any adjustment to the Warrant Exercise Rate made under this provision shall become effective at the open of business on the Ex-Date for such dividend or distribution. If an adjustment to the Warrant Exercise Rate is made in respect of any dividend or distribution of the type described in this provision but such dividend or distribution is not so paid, the Warrant Exercise Rate shall be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution, to the Warrant Exercise Rate that would then be in effect at such time had no such adjustment been made.

(e) Shareholder Rights Plan. If the Company has a shareholder rights plan in effect upon exercise of any Warrant, each share of common stock, if any, issued upon such exercise shall be entitled to receive the appropriate number of rights, if any, and the certificates representing the common stock issued upon such exercise shall bear such legends, if any, in each case as may be provided by the terms of any such shareholder rights plan, as the same may be amended from time to time. However, if, prior to any exercise, the rights have separated from the shares of common stock in accordance with the provisions of the applicable shareholder rights plan so that the holders of Warrants would not be entitled to receive any rights in respect of common stock, if any, issuable upon exercise, the Warrant Exercise Rate shall be adjusted at the time of separation as if the Company had made a distribution to all holders of its common stock, subject to readjustment in the event of the expiration, termination or redemption of such rights.

All adjustments to the Warrant Exercise Rate shall be made by the Calculation Agent to the nearest whole multiple of 0.00001 (with 0.000005 being rounded upwards) share of common stock.

Notwithstanding anything to the contrary in the Warrant Agreement or the Warrants, (i) if the provisions of the Warrant Agreement shall require that an adjustment be made to the Warrant Exercise Rate in respect of any distribution or other relevant event, and the shares of common stock issuable in respect of any exercise are entitled to participate in such distribution or other relevant event, such adjustment shall not be given effect for the purpose of such exercise of Warrants and (ii) if the Exercise Date in respect of any exercise of Warrants falls after the record date for any Spin-Off and on or before the last day of the relevant Valuation Period, delivery of the shares of common stock issuable (or amount of cash payable, as applicable) pursuant to such exercise shall occur as soon as practicable after the last day of such Valuation Period.

Any adjustments described above shall be made successively whenever an event referred to therein shall occur.

Business Combinations and Reorganizations

In the event of a merger, consolidation, amalgamation, statutory share exchange or similar transaction that requires the approval of the Company's stockholders (a "Business Combination") or reclassification of common stock, other than a reclassification of common stock referred to in "Anti-dilution Adjustments" above, the right of a Warrant holder to receive common stock upon exercise of a Warrant will be converted into the right to exercise a Warrant to acquire, per each Warrant, the number of shares or other securities or property (including cash) that a number of shares of common stock equal to the Warrant Exercise Rate (in effect at the time of such Business Combination or reclassification) immediately prior to such Business Combination or reclassification would have been entitled to receive upon consummation of such Business Combination or reclassification (the amount of such shares, other securities or property in respect of a share of common stock being herein referred to as a "Unit of Reference Property"). If the Business Combination causes the common stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then the composition of the Unit of Reference Property into which the Warrants will be exercisable will be deemed to be the weighted average of the types and amounts of consideration actually received by the holders of common stock.

Certain Definitions

"Business Day" means each day that is not a Saturday, Sunday or a day on which banking institutions are allowed by law, regulation or executive order to be closed in the State of New York.

"Last Reported Sale Price" means, with respect to the common stock (or other security), on any given day, the last sale price, regular way, or, in case no such sale takes place on such day, the average of the last bid price and last ask price (or, if more than one in either case, the arithmetic average of the average last bid prices and the average last prices), regular way, of the common stock (or such other security, as the case may be) as reported in composite transactions for the Exchange on such day, without regard to after-hours or extended market trading, provided that if the common stock (or such other security, as the case may be) is not listed on the Exchange on any date of determination, the Last Reported Sale Price of the common stock (or such other security, as the case may be) on such date of determination means the closing sale price as reported in the composite transactions for the principal U.S. national or regional securities exchange on which the common stock (or such other security, as the case may be) is so listed or quoted, or, if no closing sale price is reported, the last reported sale price on the principal U.S. national or regional securities exchange on which the common stock (or such other security, as the case may be) is so listed or quoted, or, if the common stock (or such other security, as the case may be) is not so listed or quoted on a U.S. national or regional securities exchange, the last quoted bid price for the common stock (or such other security, as the case may be) in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization, or, if that bid price is not available, the Last Reported Sale Price of the common stock (or such other security, as the case may be) on that date shall mean the Fair Market Value per share of common stock (or such other security, as the case may be) as of such day.

Calculations in respect of the Warrants; Calculation Agent

The Company may appoint a calculation agent (the "Calculation Agent"), which will be responsible for making all calculations and other determinations specified to be made by it under this Warrant Agreement and the Warrants, and any calculations and determinations not so specified will be the responsibility of the Company or an Independent Advisor (as defined in the Warrant Agreement). All calculations and determinations will be made in good faith and, absent manifest error, such calculations and determinations will be final and binding on holders of the Warrants and the Warrant Agent. The Company will provide with reasonable notice a schedule of the calculations and determinations made by the Company, the Calculation Agent or an Independent Advisor, as applicable, to the Warrant Agent. The Warrant Agent is entitled to rely conclusively upon the accuracy of the calculations and determinations made by the Company and the Calculation Agent without independent verification. All calculations are subject to rounding as described in the Warrant Agreement.

Board of Directors

The number of directors is fixed by, or in the manner provided in, our amended and restated certificate of incorporation and amended and restated bylaws. All of our directors elected at an annual meeting of stockholders shall hold

office for a term that expires at the next annual meeting of stockholders (or until their respective successors shall have been elected and qualified or until their earlier death, resignation or removal).

Anti-Takeover Effects of Certain Provisions of Delaware Law

Provisions of Delaware law and of our amended and restated certificate of incorporation and amended and restated bylaws could make the acquisition of the company through a tender offer, a proxy contest or other means more difficult and could make the removal of incumbent officers and directors more difficult. These provisions can discourage inadequate takeover bids and encourage persons seeking to acquire control of the company to first negotiate with our board of directors. We believe that the benefits provided by our ability to negotiate with the proponent of an unsolicited proposal would outweigh the disadvantages of discouraging these proposals. We believe the negotiation of an unsolicited proposal could result in terms more favorable to our stockholders.

We are subject to Section 203 of the DGCL, which prohibits persons deemed to be "interested stockholders" from engaging in a "business combination" with a publicly held Delaware corporation for three years following the date these persons become interested stockholders unless the business combination is, or the transaction in which the person became an interested stockholder was, approved in a prescribed manner or another prescribed exception applies. Generally, an "interested stockholder" is a person who, together with affiliates and associates, owns, or within three years prior to the determination of interested stockholder status did own, 15% or more of a corporation's voting stock. Generally, a "business combination" includes a merger, asset or stock sale, or other transaction resulting in a financial benefit to the interested stockholder. The existence of this law may have an anti-takeover effect with respect to transactions not approved in advance by the board of directors. This summary of the provisions of Section 203 of the DGCL does not purport to be complete and is qualified in its entirety by reference to our amended and restated certificate of incorporation, our amended and restated bylaws, and the DGCL.

Anti-Takeover Provisions of the Company's Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws

Certain provisions in our amended and restated certificate of incorporation and amended and restated bylaws summarized below could discourage, delay or prevent a change in control of our company or changes in our management that the stockholders of our company may deem advantageous.

Preferred Stock

Under our amended and restated certificate of incorporation, the board of directors may issue, without further stockholder approval, shares of preferred stock in one or more series and may also set forth the voting powers, full or limited or none, of each such series of preferred stock, which the board could use to implement a stockholder rights plan (also known as a "poison pill"). The board of directors shall fix the designations, preferences and relative, participating, optional or other special rights of each such series of preferred stock and the qualifications, limitations or restrictions of such powers, designations, preferences or rights.

No Action by Written Consent

Under our amended and restated certificate of incorporation and amended and restated bylaws, stockholders of the company may not take action by written consent in lieu of a meeting.

Special Meetings of Stockholders

Under our amended and restated bylaws, special meetings of our stockholders may be called only by the board of directors, the chairman of the board, the chief executive officer, or the president of the company.

Advance Notice Requirements for Stockholders Proposals and Director Nominations

Our amended and restated bylaws establish advance notice procedures with respect to stockholder proposals to be brought before a stockholder meeting and the nomination of candidates for election as directors, other than nominations made by or at the direction of the board of directors or a committee of the board of directors.

Board of Directors and Vacancies

The authorized number of directors on the board of directors will be established from time to time by resolution of the board of directors. Vacancies arising through death, resignation, removal, an increase in the number of directors or otherwise may be filled only by a majority of the directors then in office, though less than a quorum, or by a sole remaining director.

Amendment of Our Amended and Restated Bylaws

The board of directors is expressly authorized to make, alter or repeal our amended and restated bylaws. Our amended and restated bylaws provide that stockholders are permitted to amend the amended and restated bylaws only with the approval of the holders of sixty-six and two-thirds percent ($66^2/3\%$) of the voting power of outstanding capital stock entitled to vote at an election of directors.

Forum Selection Clause

Under the amended and restated certificate of incorporation and the amended and restated bylaws, unless the company consents in writing to the selection of an alternative forum, the sole and exclusive forum for making certain types of claims will be a state or federal court located within the State of Delaware. This provision applies to (i) any derivative action or proceeding brought on behalf of the company, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director or officer or other employee of the company to the company or its stockholders, (iii) any action asserting a claim against the company or any director or officer or other employee of the company arising pursuant to any provision of the DGCL or our amended and restated certificate of incorporation and the amended and restated bylaws, or (iv) any action asserting a claim against the company or any director or officer or other employee of the company governed by the internal affairs doctrine.

Transfer Agent and Registrar

Our transfer agent and registrar for our common stock is Computershare Trust Company, N.A.

Listing

Our common stock is listed on the New York Stock Exchange under the trading symbol “BBBY,” and our warrants are listed on the New York Stock Exchange under the trading symbol “BBBY-WS.”

Exhibit 10.7

Summary of Unwritten Compensation Arrangements Applicable to Non-Employee Directors of Bed Bath & Beyond, Inc.

During 2025, the Company expects to pay its non-employee directors other than the Chair of the Audit Committee $75,000 annually at the rate of $18,750 per quarter. The Company expects to pay the Chair of the Audit Committee of the Board $100,000 annually at the rate of $25,000 per quarter. The Company also expects to continue to grant restricted stock units to its non-employee directors, generally on an annual basis immediately following the Company's Annual Shareholder Meeting, but subject to the total compensation limitations established in the Company's 2005 Equity Incentive Plan, as amended from time to time. The Company also reimburses non-employee directors for out-of-pocket expenses incurred in connection with attending Board and committee meetings.

Exhibit 10.35

BED BATH & BEYOND, INC.

PERFORMANCE SHARE AWARD GRANT NOTICE

(2025 Employment Inducement Equity Incentive Plan)

Bed Bath & Beyond, Inc. (the "Company"), pursuant to its 2025 Employment Inducement Equity Incentive Plan, as may be amended and/or restated from time to time (the "Plan"), hereby grants to the participant under the Plan (the "Participant") performance shares ("PSUs") constituting the right to acquire the number of shares of the Company's common stock (the "Common Stock" or "BBBY") set forth below (the "Award"). This Award is subject to all of the terms and conditions as set forth in this Performance Share Award Grant Notice (the "Grant Notice"), the Performance Share Award Agreement attached hereto (the "Award Agreement"), and the Plan, a copy of which has previously been furnished to the Participant, all of which are incorporated herein in their entirety.

Participant:	[____]
Date of Grant:	[___]
Target Number of PSUs Awarded to Participant:	[____]
Maximum Number of PSUs Eligible to Vest Pursuant to Agreement:	[____]
Award: Purchase Price per Share:	$0.0001
Total Purchase Price:	$[____]
Vesting Schedule:	See Exhibit A attached to the Award Agreement.
Payment:	As described in the Award Agreement, the par value for the shares must be paid in cash, by check or as consideration for past services to the Company.

Additional Terms/Acknowledgements: The undersigned Participant acknowledges receipt of, and understands and agrees to the terms and conditions of this Grant Notice, Award Agreement, and the Plan, and agrees that his or her signature of this Grant Notice shall also be deemed his or her signature of the attached Award Agreement. Participant further acknowledges that as of the Date of Grant, this Grant Notice, the Award Agreement and the Plan set forth the entire understanding between Participant and the Company regarding the matters addressed herein and therein and supersede all prior oral and written agreements relating thereto, with the exception of any other awards previously granted and delivered to Participant under the Plan.

Bed Bath & Beyond, Inc.

By: Adrianne Lee

President & Chief Financial Officer

Signature

Date:

Participant

Print Name:

Signature

Date:

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BED BATH & BEYOND, INC.
PERFORMANCE SHARE AWARD AGREEMENT

(2025 Employment Inducement Equity Incentive Plan)

1. *Grant*. The Company hereby grants to the Participant named in the Performance Share Notice attached hereto an award of Performance Shares ("PSUs"), as set forth in the Performance Share Award Grant Notice and subject to the terms and conditions in this Agreement and the Company's 2025 Employment Inducement Equity Incentive Plan (the "Plan"). When the Shares are issued pursuant to PSUs which vest in accordance with the terms hereof, the par value per Share will be deemed paid by the Participant as a result of services rendered by the Participant prior to the applicable vesting date. Terms used but not defined herein have the meanings given them in the Plan. This award of PSUs is intended to constitute an “employment inducement” award under New York Stock Exchange (“NYSE”) Rule 303A.08 and consequently is intended to be exempt from the NYSE rules regarding stockholder approval of stock option plans or other equity compensation arrangements. This Agreement and the terms and conditions of the Award shall be interpreted in accordance with and consistent with such exception.

2. *Company's Obligation*. Each PSU represents the right to receive one Share on the vesting date of that PSU. Unless and until the PSUs vest, the Participant will have no right to receive any Shares under such PSUs. Prior to actual distribution of Shares pursuant to any vested PSUs, such PSUs will represent an unsecured obligation of the Company, payable (if at all) only from the general assets of the Company.

3. *Vesting Schedule*. Subject to paragraph 4, the Participant will vest in the PSUs awarded by this Agreement according to the vesting schedule specified in Exhibit A attached hereto.

4. *Administrator Discretion*. The Administrator, in its discretion, may accelerate the vesting of any or all of the PSUs at any time, subject to the terms of the Plan. If so accelerated, such PSUs will be considered as having vested as of the date specified by the Administrator.

5. *Forfeiture upon Termination as Service Provider*. Except as otherwise determined by the Administrator or set forth in Exhibit A to this Agreement, if the status of the Participant as a Service Provider is terminated for any reason or no reason prior to vesting, the unvested PSUs awarded by this Agreement will thereupon terminate and be forfeited at no cost to the Company and without any payment to the Participant.

6. *Payment upon Vesting*. Any PSUs that vest will be paid to the Participant (or in the event of the Participant's death, to his or her estate or designated beneficiaries) in Shares within ten (10) days following on the date those PSUs vest in accordance with the vesting schedule set forth in Exhibit A to this Agreement or as soon thereafter as practicable, subject to the tax withholding provisions of paragraph 8. For each PSU that vests, the Participant will receive one Share. In no event shall the Shares be issued later than the fifteenth (15th) day of the third (3rd) calendar month following the calendar year in which such PSUs vest. Notwithstanding anything herein to the contrary, the Participant shall not be permitted, directly or indirectly, to designate the taxable year in which the Shares shall be issued.

7. *Payments after Death*. Any distribution or delivery of Shares to be made to the Participant in accordance with the provisions of this Agreement will, if the Participant is then deceased, be made to the administrator or executor of the Participant's estate or the designated beneficiary or beneficiaries of the PSUs. The Shares shall be issued on the issuance date determined in accordance with the provisions of paragraph 6. Any such administrator, executor or beneficiary must furnish the Company with (a) written notice of his or her status as such and (b) evidence satisfactory to the Company to establish the validity

of the transfer and compliance with any laws or regulations pertaining to said transfer. The Participant may make a beneficiary designation with respect to the PSUs by filing the appropriate form with the Administrator or its designate

8. *Adjustment in Shares.* Should any event described in Section 16(a) of the Plan occur, then equitable adjustments shall be made by the Administrator to the total number and/or class of securities issuable pursuant to this Award as permitted by the Plan. Such adjustments shall be made in such manner as the Administrator deems appropriate so as to prevent dilution or enlargement of the benefits intended to be made available hereunder.

9. *Withholding of Taxes*. When the Shares are issued as payment for vested PSUs, the Company will withhold a portion of the Shares that have an aggregate Fair Market Value sufficient to pay up to the maximum federal, state and local income, employment and any other applicable taxes required to be withheld by the Company, unless the Company, in its sole discretion, either requires or otherwise permits the Participant to make alternate arrangements satisfactory to the Company for such withholdings in advance of the arising of any withholding obligations. The number of Shares withheld pursuant to the prior sentence will be rounded up to the nearest whole Share, with no cash payment due the Participant for the value of any Share withheld in excess of the tax obligation as a result of such rounding. Notwithstanding any contrary provision of this Agreement, no Shares will be issued unless and until satisfactory arrangements (as determined by the Company) have been made by the Participant with respect to the payment of any income and other taxes which the Company determines must be withheld or collected with respect to such Shares. In addition, and to the maximum extent permitted by law, the Company (or the employing Subsidiary) has the right to retain without notice from salary or other amounts payable to the Participant, cash having a sufficient value to satisfy any tax withholding obligations that the Company determines cannot be satisfied through the withholding of otherwise deliverable Shares. All income and other taxes related to the PSU award and any Shares delivered in payment thereof are the sole responsibility of the Participant. By accepting this PSU award, the Participant expressly consents to the withholding of Shares and to any additional cash withholding as provided for in this paragraph 9.

10. *Rights as Stockholder*. Neither the Participant nor any person claiming under or through the Participant will have any of the rights or privileges of a stockholder of the Company in respect of any Shares deliverable hereunder unless and until certificates representing such Shares are issued, recorded on the records of the Company or its transfer agents or registrars, and delivered to the Participant or Participant's broker.

11. *No Right to Employment*. The Participant's employment or other Service Provider status with the Company and its Subsidiaries is on an at-will basis only. Accordingly, the terms of the Participant's employment or other Service Provider status with the Company and its Subsidiaries will be determined from time to time by the Company or the Subsidiary employing or retaining the Participant (as the case may be), and the Company or the Subsidiary will have the right, which is hereby expressly reserved, to terminate or change the terms of the employment or service relationship of the Participant at any time for any reason whatsoever, with or without good cause or notice.

12. *Address for Notices*. Any notice to be given to the Company under the terms of this Agreement must be addressed to the Company at 433 W. Ascension Way, 3rd Floor, Murray, Utah 84123, Attn: Stock Administration, or at such other address as the Company may hereafter designate in writing or electronically. Any notice to be given to Participant shall be addressed to Participant at the address most recently found in the Company’s personnel records.

13. *Grant Not Transferable*. Except to the limited extent provided in paragraph 7, this grant and the rights and privileges conferred hereby shall not be transferred, assigned, pledged or hypothecated in any way (whether by operation of law or otherwise) and shall not be subject to sale under execution, attachment or similar process. Upon any attempt to transfer, assign, pledge, hypothecate or otherwise

dispose of this grant, or any right or privilege conferred hereby, or upon any attempted sale under any execution, attachment or similar process, this grant and the rights and privileges conferred hereby immediately will become null and void.

14. *Restrictions on Sale of Securities*. Subject to the provisions of paragraph 16, the Company shall use its reasonable efforts to assure that the offering of Shares to be issued in payment of the vested PSUs is registered under the federal securities laws or qualifies for an available exemption from such registration requirements. However, any sale of any Shares by the Participant will be subject to the Company's Insider Trading Policy as amended from time to time and any other policies adopted by the Company relating to the sale of Company Common Stock and any market blackout-period that may be imposed by the Company. Further, the Participant is solely responsible for ensuring that any sale complies with all applicable securities laws.

15. *Binding Agreement*. Subject to the limitation on the transferability of this grant contained herein, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.

16. *Additional Conditions to Issuance of Stock*. If at any time the Company determines, in its discretion, that the listing, registration or qualification of the Shares upon any securities exchange or under any state or federal law, or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the issuance of Shares to the Participant (or his or her estate or beneficiary), such issuance will not occur unless and until such listing, registration, qualification, consent or approval have been effected or obtained, free of any conditions not acceptable to the Company. The Company will make all reasonable efforts to meet the requirements of any such state or federal law or securities exchange and to obtain any such consent or approval of any such governmental authority. In no event, however, shall any Shares be issued in contravention of applicable federal and state securities laws or other regulatory requirements.

17. *Plan Governs*. This Agreement and the Performance Share Award Grant Notice are subject to all terms and provisions of the Plan. In the event of a conflict between one or more provisions of this Agreement or the Performance Share Award Grant Notice and one or more provisions of the Plan, the provisions of the Plan will govern.

18. *Administrator Authority*. The Administrator will have the power to interpret the Plan and this Agreement and the Performance Share Award Grant Notice and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret or revoke any such rules (including, but not limited to, the determination of whether or not any PSUs have vested). All actions taken and all interpretations and determinations made by the Administrator in good faith will be final and binding upon Participant, the Company and all other persons. No member of the Administrator will be personally liable for any action, determination or interpretation made in good faith with respect to the Plan, the Performance Share Award Grant Notice or this Agreement.

19. *Captions*. Captions provided herein are for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

20. *Agreement Severable*. In the event that any provision in this Agreement will be held invalid or unenforceable, such provision will be severable from, and such invalidity or unenforceability will not be construed to have any effect on, the remaining provisions of this Agreement.

21. *Modifications to the Agreement*. This Agreement constitutes the entire understanding of the parties regarding the subjects covered. The Participant expressly warrants that he or she is not accepting this Agreement in reliance on any promises, representations, or inducements other than those contained herein. Modifications to this Agreement or the Plan can be made only in an express written contract

executed by a duly authorized officer of the Company. Notwithstanding anything to the contrary in the Plan or this Agreement, the Company reserves the right to amend this Agreement as it deems necessary or advisable, in its sole discretion and without the consent of the Participant, to comply with applicable law, including without limitation Section 409A of the Code or to otherwise avoid imposition of any additional tax or income recognition under Section 409A of the Code prior to the actual payment of Shares pursuant to this PSU award.

22. *Amendment, Suspension or Termination of the Plan*. By accepting this PSU award, the Participant expressly warrants that he or she has received a right to purchase stock under the Plan, and has received, read and understood a description of the Plan. The Participant understands that the Plan is discretionary in nature and may be modified, suspended or terminated by the Company at any time.

23. *Electronic Delivery*. The Company may, in its sole discretion, decide to deliver any notices required or permitted hereunder or under the Plan and any documents related to PSUs awarded under the Plan or future PSUs that may be awarded under the Plan by electronic means or request the Participant's consent to participate in the Plan by electronic means. By accepting this PSU award, the Participant hereby consents to receive such documents by electronic delivery and agrees to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

24. *Clawback Provisions*. This PSU award will be subject to any Company clawback policy, including any clawback policy adopted to comply with Applicable Laws (including the Dodd-Frank Wall Street Reform and Consumer Protection Act and any rules, regulations or stock exchange listing requirements promulgated thereunder), as set forth in such clawback policy.

25. *Notice of Governing Law*. This award shall be governed by, and construed in accordance with, the laws of the State of Utah without regard to principles of conflict of laws.

26. *Section 409A*. Payments under this Agreement are intended to be exempt from, or comply with, the provisions of Section 409A of the Internal Revenue Code of 1986 ("Section 409A") and this Agreement shall be administered and construed accordingly. If any payment, compensation or other benefit provided to the Participant in connection with his or her employment termination is determined, in whole or in part, to constitute "nonqualified deferred compensation" within the meaning of Section 409A and the Participant is a specified employee as defined in Section 409A(2)(B)(i), no part of such payments shall be paid unless Participant's termination is also his or her "separation from service" (as defined in Section 409A) and no part of such payments shall be paid before the day that is six (6) months plus one (1) day after the date of Participant's separation from service (the "New Payment Date"). The aggregate of any payments that otherwise would have been paid to the Participant during the period between the date of termination and the New Payment Date shall be paid to the Participant in a lump sum on such New Payment Date. For purposes of Section 409A, all payments with respect to the PSUs are hereby designated as separate payments from any other payments or benefits to which the Participant is entitled (whether under the Plan, any other agreement, or any non-qualified deferred compensation or arrangement to which the Participant is a party or in which the Participant is a participant).

EXHIBIT A

[To be Attached]

Exhibit 10.36

BED BATH & BEYOND, INC.
RESTRICTED STOCK UNIT GRANT NOTICE
(2025 Employment Inducement Equity Incentive Plan)

Bed Bath & Beyond, Inc. (the "Company"), pursuant to its 2025 Employment Inducement Equity Incentive Plan as may be amended and/or restated from time to time (the "Plan"), hereby grants to the participant under the Plan (the "Participant") restricted stock units ("RSUs") constituting the right to purchase the number of shares of the Company's common stock (the "Common Stock" or "BBBY") set forth below (the "Award"). This Award is subject to all of the terms and conditions as set forth in this Restricted Stock Unit Grant Notice (the "Grant Notice"), the Restricted Stock Unit Agreement attached hereto and the Plan, a copy of which has previously been furnished to the Participant, all of which are incorporated herein in their entirety.

Participant:	[Name]
Date of Grant:	[Date]
Number of RSUs Awarded to Participant:	[# of Shares]
Purchase Price per Share:	$0.0001
Vesting Schedule:	[Participant will vest in [vest percentage] of the RSUs awarded by this Agreement, at the close of business on [date or dates], subject to the provisions of the Restricted Stock Unit Agreement attached hereto and the Plan.]
Payment:	As described in the Restricted Stock Unit Agreement, the par value for the shares must be paid in cash, by check or as consideration for past services to the Company.

Additional Terms/Acknowledgements: The undersigned Participant acknowledges receipt of and understands and agrees to the terms and conditions of this Grant Notice, the Restricted Stock Unit Agreement, and the Plan, and agrees that his or her signature of this Grant Notice shall also be deemed his or her signature of the attached Restricted Stock Unit Agreement. Participant further acknowledges that as of the Date of Grant, this Grant Notice, the Restricted Stock Unit Agreement and the Plan set forth the entire understanding between Participant and the Company regarding the matters addressed herein and therein and supersede all prior oral and written agreements relating thereto, with the exception of any other awards previously granted and delivered to Participant under the Plan.

Bed Bath & Beyond, Inc.

By: Adrianne Lee

Title: President & Chief Financial Officer

Participant

Print Name:

Signature

Date:

|US-DOCS\165452673.2||

BED BATH & BEYOND, INC.
RESTRICTED STOCK UNIT AGREEMENT
(2025 Employment Inducement Equity Incentive Plan)

1. Grant. The Company hereby grants to the Participant named in the Restricted Stock Unit Grant Notice attached hereto an award of Restricted Stock Units ("RSUs"), as set forth in the Restricted Stock Unit Grant Notice and subject to the terms and conditions in this Agreement and the Company's 2025 Employment Inducement Equity Incentive Plan (the "Plan"). When the Shares are issued pursuant to RSUs which vest in accordance with the terms hereof, the par value per Share will be deemed paid by the Participant as a result of services rendered by the Participant prior to the applicable vesting date. Terms used but not defined herein have the meanings given them in the Plan. This award of RSUs is intended to constitute an "employment inducement" award under New York Stock Exchange ("NYSE") Rule 303A.08 and consequently is intended to be exempt from the NYSE rules regarding stockholder approval of stock option plans or other equity compensation arrangements. This Agreement and the terms and conditions of the Award shall be interpreted in accordance with and consistent with such exception.

2. Company's Obligation. Each RSU represents the right to receive one Share on the vesting date of that RSU. Unless and until the RSUs vest, the Participant will have no right to receive any Shares under such RSUs. Prior to actual distribution of Shares pursuant to any vested RSUs, such RSUs will represent an unsecured obligation of the Company, payable (if at all) only from the general assets of the Company.

3. Vesting Schedule. Subject to paragraph 4, the Participant will vest in the RSUs awarded by this Agreement according to the vesting schedule specified in the Restricted Stock Unit Grant Notice.

4. Administrator Discretion. The Administrator, in its discretion, may accelerate the vesting of any or all of the RSUs at any time, subject to the terms of the Plan. If so accelerated, such RSUs will be considered as having vested as of the date specified by the Administrator.

5. Forfeiture upon Termination as Service Provider. Except as otherwise determined by the Administrator, if the status of the Participant as a Service Provider is terminated for any reason or no reason prior to vesting, the unvested RSUs awarded by this Agreement will thereupon terminate and be forfeited at no cost to the Company and without any payment to the Participant.

6. Payment upon Vesting. Any RSUs that vest will be paid to the Participant (or in the event of the Participant's death, to his or her estate or designated beneficiaries) in Shares within ten (10) days following the date those RSUs vest in accordance with the vesting schedule set forth in the Restricted Stock Unit Grant Notice or as soon thereafter as practicable, subject to the tax withholding provisions of paragraph 8. For each RSU that vests, the Participant will receive one Share. In no event shall the Shares be issued later than the fifteenth (15th) day of the third (3rd) calendar month following the calendar year in which such RSUs vest. Notwithstanding anything herein to the contrary, the Participant shall not be permitted, directly or indirectly, to designate the taxable year in which the Shares shall be issued.

7. Payments after Death. Any distribution or delivery of Shares to be made to the Participant in accordance with the provisions of this Agreement will, if the Participant is then deceased, be made to the administrator or executor of the Participant's estate or the designated beneficiary or beneficiaries of the RSUs. The Shares shall be issued on the issuance date determined in accordance with the provisions of paragraph 6. Any such administrator, executor or beneficiary must furnish the Company with (a) written notice of his or her status as such and (b) evidence satisfactory to the Company to establish the validity of the transfer and compliance with any laws or regulations pertaining to said transfer. The Participant may make a beneficiary designation with respect to the RSUs by filing the appropriate form with the Administrator or its designate

8. Adjustment in Shares. Should any event described in Section 16(a) of the Plan occur, then equitable adjustments shall be made by the Administrator to the total number and/or class of securities issuable pursuant to this Award as permitted by the Plan. Such adjustments shall be made in such manner as the Administrator deems appropriate so as to prevent dilution or enlargement of the benefits intended to be made available hereunder.

9. Withholding of Taxes. When the Shares are issued as payment for vested RSUs, the Company will withhold a portion of the Shares that have an aggregate Fair Market Value sufficient to pay the minimum federal, state and local income, employment and any other applicable taxes required to be withheld by the Company or such higher withholding rate as may be determined by the Company, which rate shall in no event exceed the maximum individual statutory tax rate in the applicable jurisdiction at the time of such withholding (or such other rate as may be required to avoid adverse accounting consequences), unless the Company, in its sole discretion, either requires or otherwise permits the Participant to make alternate arrangements satisfactory to the Company for such withholdings in advance of the arising of any withholding obligations. The number of Shares withheld pursuant to the prior sentence will be rounded up to the nearest whole Share, with no cash payment due the Participant for the value of any Share withheld in excess of the tax obligation as a result of such rounding. Notwithstanding any contrary provision of this Agreement, no Shares will be issued unless and until satisfactory arrangements (as determined by the Company) have been made by the Participant with respect to the payment of any income and other taxes which the Company determines must be withheld or collected with respect to such Shares. In addition, and to the maximum extent permitted by law, the Company (or the employing Subsidiary) has the right to retain without notice from salary or other amounts payable to the Participant, cash having a sufficient value to satisfy any tax withholding obligations that the Company determines cannot be satisfied through the withholding of otherwise deliverable Shares. All income and other taxes related to the RSU award, and any Shares delivered in payment thereof are the sole responsibility of the Participant. By accepting this RSU award, the Participant expressly consents to the withholding of Shares and to any additional cash withholding as provided for in this paragraph 9.

10. Rights as Stockholder. Neither the Participant nor any person claiming under or through the Participant will have any of the rights or privileges of a stockholder of the Company in respect of any Shares deliverable hereunder unless and until certificates representing such Shares are issued, recorded on the records of the Company or its transfer agents or registrars, and delivered to the Participant or Participant's broker.

11. No Right to Employment. The Participant's employment or other Service Provider status with the Company and its Subsidiaries is on an at-will basis only. Accordingly, the terms of the Participant's employment or other Service Provider status with the Company and its Subsidiaries will be determined from time to time by the Company or the Subsidiary employing or retaining the Participant (as the case may be), and the Company or the Subsidiary will have the right, which is hereby expressly reserved, to terminate or change the terms of the employment or service relationship of the Participant at any time for any reason whatsoever, with or without good cause or notice.

12. Address for Notices. Any notice to be given to the Company under the terms of this Agreement must be addressed to the Company at 433 W. Ascension Way, 3rd Floor, Murray, Utah, Attn: Stock Administration, or at such other address as the Company may hereafter designate in writing or electronically. Any notice to be given to Participant shall be addressed to Participant at the address most recently found in the Company's personnel records.

13. Grant Not Transferable. Except to the limited extent provided in paragraph 7, this grant and the rights and privileges conferred hereby shall not be transferred, assigned, pledged, or hypothecated in any way (whether by operation of law or otherwise) and shall not be subject to sale under execution, attachment or similar process. Upon any attempt to transfer, assign, pledge, hypothecate or otherwise dispose of this grant, or any right or privilege conferred hereby, or upon any attempted sale under any execution, attachment or similar process, this grant and the rights and privileges conferred hereby immediately will become null and void.

14. Restrictions on Sale of Securities. Subject to the provisions of paragraph 16, the Company shall use its reasonable efforts to assure that the offering of Shares to be issued in payment of the vested RSUs is registered under the federal securities laws or qualifies for an available exemption from such registration requirements. However, any sale of any Shares by the Participant will be subject to the Company's Insider Trading Policy as amended from time to time and any other policies adopted by the Company relating to the sale of Company Common Stock and any market blackout-period that may be imposed by the Company. Further, the Participant is solely responsible for ensuring that any sale complies with all applicable securities laws.

15. Binding Agreement. Subject to the limitation on the transferability of this grant contained herein, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.

16. Additional Conditions to Issuance of Stock. If at any time the Company determines, in its discretion, that the listing, registration or qualification of the Shares upon any securities exchange or under any state or federal law, or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the issuance of Shares to the Participant (or his or her estate or beneficiary), such issuance will not occur unless and until such listing, registration, qualification, consent or approval have been effected or obtained, free of any conditions not acceptable to the Company. The Company will make all reasonable efforts to meet the requirements of any such state or federal law or securities exchange and to obtain any such consent or approval of any such governmental authority. In no event, however, shall any

Shares be issued in contravention of applicable federal and state securities laws or other regulatory requirements.

17. Plan Governs. This Agreement and the Restricted Stock Unit Grant Notice are subject to all terms and provisions of the Plan. In the event of a conflict between one or more provisions of this Agreement or the Restricted Stock Unit Grant Notice and one or more provisions of the Plan, the provisions of the Plan will govern.

18. Administrator Authority. The Administrator will have the power to interpret the Plan and this Agreement and the Restricted Stock Unit Grant Notice and to adopt such rules for the administration, interpretation and application of the Plan as are consistent therewith and to interpret or revoke any such rules (including, but not limited to, the determination of whether or not any RSUs have vested). All actions taken and all interpretations and determinations made by the Administrator in good faith will be final and binding upon Participant, the Company, and all other persons. No member of the Administrator will be personally liable for any action, determination or interpretation made in good faith with respect to the Plan, the Restricted Stock Unit Grant Notice, or this Agreement.

19. Captions. Captions provided herein are for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

20. Agreement Severable. In the event that any provision in this Agreement will be held invalid or unenforceable, such provision will be severable from, and such invalidity or unenforceability will not be construed to have any effect on, the remaining provisions of this Agreement.

21. Modifications to the Agreement. This Agreement constitutes the entire understanding of the parties regarding the subjects covered. The Participant expressly warrants that he or she is not accepting this Agreement in reliance on any promises, representations, or inducements other than those contained herein. Modifications to this Agreement or the Plan can be made only in an express written contract executed by a duly authorized officer of the Company. Notwithstanding anything to the contrary in the Plan or this Agreement, the Company reserves the right to amend this Agreement as it deems necessary or advisable, in its sole discretion and without the consent of the Participant, to comply with applicable law, including without limitation Section 409A of the Code or to otherwise avoid imposition of any additional tax or income recognition under Section 409A of the Code prior to the actual payment of Shares pursuant to this RSU award.

22. Amendment, Suspension or Termination of the Plan. By accepting this RSU award, the Participant expressly warrants that he or she has received a right to purchase stock under the Plan, and has received, read, and understood a description of the Plan. The Participant understands that the Plan is discretionary in nature and may be modified, suspended, or terminated by the Company at any time.

23. Electronic Delivery. The Company may, in its sole discretion, decide to deliver any notices required or permitted hereunder or under the Plan and any documents related to RSUs awarded under the Plan or future RSUs that may be awarded under the Plan by electronic means or request the Participant's consent to participate in the Plan by electronic means. By accepting

this RSU award, the Participant hereby consents to receive such documents by electronic delivery and agrees to participate in the Plan through an on-line or electronic system established and maintained by the Company or another third party designated by the Company.

24. Notice of Governing Law. This RSU award shall be governed by, and construed in accordance with, the laws of the State of Utah without regard to principles of conflict of laws.

25. Section 409A. Payments under this Agreement are intended to be exempt from, or comply with, the provisions of Section 409A of the Internal Revenue Code of 1986 ("Section 409A") and this Agreement shall be administered and construed accordingly. If any payment, compensation or other benefit provided to the Participant in connection with his or her employment termination is determined, in whole or in part, to constitute "nonqualified deferred compensation" within the meaning of Section 409A and the Participant is a specified employee as defined in Section 409A(2)(B)(i), no part of such payments shall be paid unless Participant's termination is also his or her "separation from service" (as defined in Section 409A) and no part of such payments shall be paid before the day that is six (6) months plus one (1) day after the date of termination (the "New Payment Date"). The aggregate of any payments that otherwise would have been paid to the Participant during the period between the date of termination and the New Payment Date shall be paid to the Participant in a lump sum on such New Payment Date. For purposes of Section 409A, all payments with respect to the RSUs are hereby designated as separate payments from any other payments or benefits to which the Participant is entitled (whether under the Plan, any other agreement, or any non-qualified deferred compensation or arrangement to which the Participant is a party or in which the Participant is a participant).

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement") is entered into as of January 19, 2026 and effective as of January 1, 2026 (the "Effective Date"), by and between Marcus Lemonis ("Employee") and Bed Bath & Beyond, Inc., a Delaware corporation ("Bed Bath & Beyond," and, together with any of the Affiliates of Bed Bath & Beyond as may employ Employee from time to time, and any successor(s) thereto, the "Company").

RECITALS

WHEREAS, prior to the Effective Date, Employee served as Executive Chairman of the Company; and

WHEREAS, commencing on the Effective Date, the Company desires to employ Employee as its Executive Chairman and Chief Executive Officer pursuant to the terms set forth in this Agreement, and Employee desires to be employed by Company pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Employment. The Company agrees to employ Employee as the Company's Executive Chairman and Chief Executive Officer on the terms and conditions set forth in this Agreement, and Employee agrees to accept such employment and agrees to perform the services and duties for the Company as herein provided for the period and upon the other terms and conditions set forth in this Agreement. Employee shall be subject to the direction of the Company's Board of Directors. Employee's employment hereunder will commence on the Effective Date and continue until terminated pursuant to Section 6 below (the "Term"). Employee's employment with the Company under this Agreement is on an at-will basis, meaning that either Employee or the Company may terminate the employment at any time for any reason or no reason. Notwithstanding the foregoing, Employee may be entitled to severance upon certain qualifying terminations of employment, as outlined in Section 6 below.

2. Position and Duties.

2.01 Title. During the Term, Employee agrees to serve as the Company's Executive Chairman and Chief Executive Officer and undertake such additional duties as may be directed by the Company's Board of Directors. In addition, during the Term, the Company shall cause Employee to be nominated to stand for election to the Company's Board of Directors at any meeting of stockholders of the Company during which any such election is held and Employee's term as director will expire if he is not reelected; provided, however, that the Company shall not be obligated to cause such nomination if (a) any of the events constituting Cause (as defined below) have occurred and not been cured or (b) Employee has issued a notice of termination of employment with the Company.

2.02 Duties: Location.

(a) During the Term of this Agreement, Employee agrees to serve the Company and Employee will faithfully and to the best of his ability discharge his duties and will devote such portion of his business time and effort to the business and affairs of the Company, its direct and indirect subsidiaries and certain Affiliates (as defined below) of the Company as is necessary to perform such duties. In addition, Employee understands that the Company's Board of Directors may, from time to time, direct that Employee assist and provide services to one or more other entities directly or indirectly owned or controlled by, or under common ownership or control with, the Company ("Affiliates").

(b) Notwithstanding the foregoing, Employee shall be permitted to (i) manage his personal investments, (ii) participate in, and be involved with, community, educational, charitable, professional, and religious organizations, and for-profit businesses that do not compete with the Company or any of its Affiliates, (iii) appear on television shows and accept speaking and/or promotional engagements and endorsement arrangements, and (iv) continue to be employed as Co-Founder and Special Advisor to Camping World Holdings, Inc. (the "Permitted Outside Activities").

(c) Employee shall be permitted to perform Employee's duties under this Agreement remotely, subject to reasonable business travel to the Company's offices and elsewhere as necessitated by Employee's duties or as reasonably requested by the Company's Board of Directors from time to time.

3. Compensation.

3.01 Base Salary. During the Term of this Agreement, the Company shall pay to Employee a base annual salary of Three Hundred Thousand and No/100 Dollars ($300,000) ("Base Salary"), which salary shall be paid in accordance with the Company's normal payroll procedures and policies. Employee's Base Salary shall be subject to annual review by the Company's Board of Directors or the Compensation Committee thereof.

3.02 Annual Bonus. For each fiscal year during the Term, Employee shall have the opportunity to earn an annual bonus ("Annual Bonus") based on performance against specified performance objectives to be established prior to or as soon as practicable following the commencement of each fiscal year by the Company's Board of Directors or the Compensation Committee thereof. For each fiscal year during the Term, Employee's target annual bonus for each fiscal year shall be $2,200,000 ("Target Bonus"), with the opportunity to earn an Annual Bonus of up to 150% of Employee's Target Bonus based upon the achievement of maximum performance targets to be established each year by the Company's Board of Directors or the Compensation Committee thereof that exceed the Target Performance Objectives. For each fiscal year during the Term, Employee shall be entitled to receive a monthly advance against his Annual Bonus in the amount of $58,333.33, payable in the first payroll period of each month (the "Minimum Draw"). The Company's Board of Directors or the Compensation Committee thereof may increase the Minimum Draw at any time based upon performance. The aggregate Minimum Draw amounts for any given fiscal year scheduled to be paid to Employee are referred to herein as

the "Aggregate Minimum Draw Amount." In the event Employee's final Annual Bonus for any fiscal year as determined by the Board of Directors or the Compensation Committee thereof is more than the aggregate amount advanced to Employee for such fiscal year pursuant to the Minimum Draw, such underpayment shall be paid to Employee when annual bonuses are paid to the Company's senior executives generally (the "Annual Bonus True-Up Payment"). In the event the Annual Bonus for any fiscal year as determined by the Board of Directors or the Compensation Committee thereof is less than the aggregate amount advanced for such fiscal year pursuant to the Minimum Draw, no additional amount shall be payable to Employee for such fiscal year (and, for the avoidance of doubt, Employee shall not be obligated to repay to the Company the difference between the aggregate amount advanced pursuant to the Minimum Draw and the final Annual Bonus). Any Annual Bonus True-Up Payment may be paid to Employee in the form of fully vested shares of the Company's common stock with a fair market value on the date of issuance equal to the amount of such Annual Bonus True-Up Payment issued under the Bed Bath & Beyond 2005 Equity Incentive Plan (as amended from time to time, the "2005 Plan") or any successor equity plan, unless Employee provides written notice to the Company no later than December 1 of the applicable year to which such Annual Bonus relates that such Annual Bonus should be payable in cash; provided that the final form of payment of such Annual Bonus shall in all events be subject to approval by the Board of Directors or the Compensation Committee thereof and further subject to the availability of shares under the 2005 Plan or any successor equity plan or approval of the issuance of such shares by the Company's stockholders, if necessary. Any Annual Bonus True-Up Payment will be paid between January 1 and April 1 of the calendar year following the fiscal year to which it relates. Except as otherwise provided in Section 6, Employee must be employed by the Company on the date of payment of such Annual Bonus True-Up Payment in order to be eligible to receive such Annual Bonus True-Up Payment.

3.03 Benefits. Employee may participate in all employee benefit plans or programs of the Company consistent with such plans and programs of the Company, provided that in no event shall Employee be eligible to participate in the Company's Key Employee Severance Plan or any other severance plan or program of the Company, except as set forth in Section 6. The Company does not guarantee the adoption or continuance of any particular employee benefit plan or program during the term of this Agreement, and Employee's participation in any such plan or program shall be subject to the provisions, rules and regulations applicable thereto.

3.04 Expenses; Contributions. Company agrees to reimburse all reasonable business expenses incurred by Employee consistent with the Company's policies regarding reimbursement in the performance of Employee's duties under this Agreement.

3.05 Vacation and Sick leave. Employee shall be entitled to paid time off to be used (without set limits) for purposes such as vacation, relaxation, personal or family needs, and for absences shall be governed by Company leave policies (subject to the limits specified in those policies).

3.06 Equity Awards.

(a) On or as soon as reasonably practicable following the Effective Date, Employee shall be eligible to receive an equity award of 1,500,000 restricted stock units that will vest in four

equal installments on each of the first, second, third and fourth anniversaries of the Effective Date, subject to Employee's continued service through the applicable vesting date(s) (the "Effective Date RSU Award"). The Effective Date RSU Award will be granted pursuant to the 2005 Plan, or a successor equity plan, and the terms of an applicable award agreement.

(b) On or as soon as reasonably practicable following the Effective Date, Employee shall also be eligible to receive an equity award of 600,000 performance shares (at "target" performance) that will be eligible to vest over four one-year performance periods, based on performance metrics to be determined by the Board of Directors or the Compensation Committee thereof, subject to the Employee's continued service through the applicable vesting date(s) (the "Effective Date PSU Award"). The Effective Date PSU Award will be granted pursuant to the 2005 Plan, or a successor equity plan, and the terms of an applicable award agreement.

(c) The Effective Date RSU Award and Effective Date PSU Award shall be further subject to approval by the Company's stockholders, at the Company's 2026 Annual Meeting of Stockholders, of either (i) an amendment to the 2005 Plan to increase the number of shares of common stock available for issuance thereunder and to increase the per person annual limits on awards of restricted stock units and performance shares under the 2005 Plan to accommodate the Effective Date RSU Award and the Effective Date PSU Award, or (ii) a successor equity plan that reserves a sufficient number of shares to accommodate the grant of the Effective Date RSU Award and the Effective Date PSU Award. In the event that the Company's stockholders fail to approve the applicable proposal described in the preceding sentence at the Company's 2026 Annual Meeting of Stockholders, the Effective Date RSU Award and Effective Date PSU Award shall be immediately forfeited.

3.07 Annual Awards. Commencing in calendar year 2027 and for each year thereafter during the Term, there is an expectation that Employee shall be eligible to receive annual equity awards with an aggregate target value equal to $4,500,000, comprised of restricted stock units and performance stock units in the same proportions as other senior executives of the Company, or such other equity vehicle mix as mutually agreed by Employee and the Company's Board or Compensation Committee. The annual awards shall be subject to approval by the Company's Board of Directors or the Compensation Committee thereof and may be further subject to approval by the Company's stockholders to the extent the shares available under the Company's stockholder-approved equity plan are insufficient to cover such awards. Consistent with the 2005 Plan, Employee may be eligible for additional refresh awards to be approved by the Company's Board of Directors or the Compensation Committee thereof at their discretion.

3.08 No Additional Compensation. As of the Effective Date, the compensation set forth in this Section 3 represents the sole compensation Employee is entitled to receive in exchange for serving as Executive Chairman and Chief Executive Officer of the Company, and, for the avoidance of doubt, Employee shall not be entitled to any additional compensation in respect of his role as Executive Chairman or as a member of the Board or as an officer or director any subsidiary or affiliate of the Company.

4. Restrictive Covenants, Company Policies and Confidential Information.

4.01 Confidential Information. In connection with Employee's employment with the Company, Employee has received and will continue to receive and have access to Company confidential information and trade secrets. Accordingly, Employee affirms that he has previously executed the Company's standard form of Employment, Confidential Information and Invention Assignment and Arbitration Agreement (the "Confidentiality Agreement"), which is attached to this Agreement as Exhibit A.

4.02 Company Policies. Employee is required to abide by the Company's policies and procedures (including but not limited to the Company's employee handbook), as adopted or modified from time to time within the Company's discretion, and acknowledge in writing that Employee has read and will comply with such policies and procedures (and provide additional such acknowledgements as such policies and procedures may be modified from time to time). The Company may modify, revoke, suspend or terminate any of the policies and/or procedures at any time, with or without notice.

4.03 Non-competition. Employee agrees that, during the Term and for a period of one year after the termination of Employee's employment or service for any reason (the "Non-Compete Period"), Employee shall not, directly or indirectly, (a) engage in activities or businesses (including without limitation by owning any interest in, managing, controlling, participating in, consulting with, advising, rendering services for, or in any manner engaging in the business of owning, operating or managing any business) in any geographic location in which the Company, its subsidiaries or Affiliates engage in the business of the Company, whether through selling, distributing, manufacturing, marketing, purchasing, or otherwise, that compete directly or indirectly with the Company or any of its subsidiaries or Affiliates ("Competitive Activities"); or (b) assist any person in any way to do, or attempt to do, anything prohibited by Section 4.03(a) above. Employee acknowledges that the business of the Company and its Affiliates is international in scope and without geographical limitation within the United States. The Company agrees that Employee's engagement in the Permitted Outside Activities will not constitute a Competitive Activity.

4.04 Indirect Competition. Employee further agrees that, during the Term and the Non-Compete Period, he will not, directly or indirectly, assist or encourage any other person in carrying out, direct or indirectly, any activity that would be prohibited by Section 4.03 if such activity were carried out by Employee, either directly or indirectly; and in particular Employee agrees that he will not, directly or indirectly, induce any employee of the Company to carry out, directly or indirectly, any such activity.

4.05 Non-Solicitation. Employee further agrees that, during the Term and the Non-Compete Period, he will not, directly or indirectly, solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage or take away employees of the Company, either for himself or for any other person or entity.

4.06 Tolling of Period and Enforceability. The Non-Compete Period shall be tolled during (and shall be deemed automatically extended by) any period in which Employee is in violation of the provisions of this Section 4. If a final and non-appealable judicial determination is made that any of the provisions of this Section 4 constitutes an unreasonable or otherwise unenforceable restriction against Employee, the provisions of this Section 4 will not be rendered void but will be deemed to be modified to the minimum extent necessary to remain in force and effect for the longest period and largest geographic area that would not constitute such an unreasonable or unenforceable restriction. Moreover, and without limiting the generality of Section 4, notwithstanding the fact that any provision of this Section 4 is determined to not be enforceable through specific performance, the Company will nevertheless be entitled to recover monetary damages as a result of Employee's breach of such provision.

4.07 Passive Ownership. The provisions of Section 4 shall not be deemed breached as a result of Employee's ownership of: (i) the equity securities of Camping World Holdings, Inc. and its affiliated entities; (ii) less than an aggregate of 5% of any class of securities of a person engaged, directly or indirectly, in Competitive Activities, so long as Employee does not actively participate in the business of such person; or (iii) less than an aggregate of 5% in value of any instrument of indebtedness of a person engaged, directly or indirectly, in Competitive Activities.

4.08 Acknowledgement. Employee acknowledges that Employee has carefully read this Agreement and has given careful consideration to the restraints imposed upon Employee by this Agreement and the Confidentiality Agreement and is in full accord as to the necessity of such restraints for the reasonable and proper protection of the Confidential Information (as defined in the Confidentiality Agreement), business strategies, employee and customer relationships and goodwill of the Company and its subsidiaries and Affiliates now existing or to be developed in the future. Employee expressly acknowledges and agrees that each and every restraint imposed by this Agreement and the Confidentiality Agreement is reasonable with respect to subject matter, time period and geographical area. Employee further acknowledges that although Employee's compliance with the covenants contained in the Confidentiality Agreement and this Section 4 may prevent Employee from earning a livelihood in a business similar to the business of the Company, Employee's experience and capabilities are such that Employee has other opportunities to earn a livelihood and adequate means of support for Employee and Employee's dependents.

4.09. Permitted Activities. Notwithstanding anything to the contrary herein, nothing in this Agreement shall prevent Employee or the Company from, as applicable, (i) communicating directly with, cooperating with, filing a charge with, reporting possible violations of federal law or regulation to, or providing information to any federal, state or local government agency, including without limitation, the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the U.S. Department of Justice, the U.S. Equal Employment Opportunity Commission, or the U.S. National Labor Relations Board, (ii) providing truthful information to the extent required by applicable law in connection with any legal proceeding, government investigation or other legal matter; (iii) exercising any rights Employee may have under Section 7 of the U.S. National Labor Relations Act, or (iv) discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination based on a protected characteristic or any other conduct that Employee has reason to believe is unlawful. In addition, Employee acknowledges receipt of the following notice of immunity rights under the

U.S. Defend Trade Secrets Act, which states: "(1) An individual shall not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal; and (2) an individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose a trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (A) files any document containing the trade secret under seal, and (B) does not disclose a trade secret, except pursuant to court order."

5. Indemnification and Additional Insurance. The Company shall indemnify Employee with respect to matters relating to Employee's services as an officer and director of the Company or any of its Affiliates, occurring during the course and scope of Employee's employment or service with the Company to the extent and pursuant to the provisions of Delaware law. The foregoing indemnity is contractual and will survive any adverse amendment to or repeal of this Agreement. The Company will also cover Employee under a policy of officers' and directors' liability insurance providing coverage that is comparable to that provided now or hereafter to other senior executives of the Company. The provisions of this Section will survive the termination of this Agreement for any reason. In furtherance of the foregoing, the Company and Employee have entered into that certain Indemnification Agreement in the form attached hereto as Exhibit B (the "Indemnification Agreement").

6. Termination.

6.01 Grounds for Termination. Employee's employment with the Company shall terminate under any of the circumstances set forth below.

a. If Employee shall die or due to Employee's Disability (as defined in Section 6.03 below);
b. By mutual agreement of the Company and Employee;
c. By Employee for any reason other than Good Reason upon notice to the Company;
d. By the Company for Cause (as defined in Section 6.02 below);
e. By the Company without Cause (and other than by reason of Employee's death or termination due to Disability); and
f. By Employee for Good Reason (as defined in Section 6.04 below).

Notwithstanding any termination of this Agreement and Employee's employment by the Company, Employee, in consideration of his employment hereunder to the date of such termination, shall remain bound by the provisions of this Agreement which specifically relate to periods, activities or obligations upon or subsequent to the termination of Employee's employment including without limitation the provisions of Sections 4, 5 and 7 hereof.

6.02 For "Cause" Defined. Termination of Employee's employment by the Company for any of the following reasons shall be deemed termination for "Cause":

a. An act of personal dishonesty taken by Employee in connection with his responsibilities with the Company;
b. Employee's commission of a felony or any other criminal conviction if such conviction involves Employee's lack of honesty;
c. A willful act by Employee in which constitutes gross misconduct or intentional violation of the Company's policies or agreements; or
d. following delivery to Employee of a written demand for performance from the Company which describes the basis for the Company's reasonable belief that Employee has not substantially performed his or her duties, continued violations by Employee of his obligations to the Company which are demonstrably willful and deliberate on Employee's part.

6.03 "Change in Control" Defined. For purposes of this Agreement, "Change in Control" shall mean the occurrence of any of the following events:

a. Any "person" (as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) becomes the "beneficial owner" (as defined in Rule 13d-3 of the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the total voting power represented by the Company's then outstanding voting securities;
b. The consummation of the sale or disposition by the Company of all or substantially all of the Company's assets;
c. A change in the composition of the Board of Directors occurring within a one-year period, as a result of which fewer than a majority of the directors are Incumbent Directors. "Incumbent Directors" means directors who either (A) are members of the Board of Directors as of the Effective Date, or (B) are elected, or nominated for election, to the Board of Directors with the affirmative votes of at least a majority of the Incumbent Directors at the time of such election or nomination (but will not include an individual whose election or nomination is in connection with an actual or threatened proxy contest relating to the election of directors to the Company); or
d. The consummation of a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or its parent) at least fifty percent (50%) of the total voting power represented by the voting securities of the Company or such surviving entity or its parent outstanding immediately after such merger or consolidation.

6.04 "Disability" Defined. The Company may determine that Employee is disabled if he shall fail, because of illness or incapacity, to render services of the character contemplated by this Agreement for a period of twelve (12) consecutive months.

6.05 "Good Reason" Defined. For purposes of this Agreement, "Good Reason" shall mean the occurrence of any of the following without Employee's written consent:

a. A material reduction of Employee's duties, title, authority or responsibilities, relative to Employee's duties, title, authority or responsibilities as in effect immediately prior to such reduction, or the assignment to Employee of such reduced duties, title, authority or responsibilities, including, without limitation, following a Change in Control, Employee ceasing to report to the board of directors of the ultimate parent entity of the Company (or its successor), and/or Employee ceasing to serve as the chief executive officer of such ultimate parent entity;
b. A material reduction by the Company in the Base Salary or Target Bonus or Minimum Draw (without a corresponding increase in Base Salary to offset such reduction) as in effect immediately prior to such reduction;
c. The involuntary relocation of the Participant's principal place of employment by more than thirty-five (35) miles from the present facility or location (which, in the case of remote employment, shall be the Employee's residence); or
d. The Company's material breach of this Agreement or any other written agreement between Employee and the Company.

Employee will not be deemed to have resigned for Good Reason unless (i) Employee provides the Company with written notice setting forth in reasonable detail the facts and circumstances claimed by Employee to constitute Good Reason within fifteen (15) days after the date of the occurrence of any event that Employee knows or should reasonably have known to constitute Good Reason, (ii) the Company fails to cure such acts or omissions within thirty (30) days following its receipt of such notice, and (iii) the effective date of Employee's termination for Good Reason occurs no later than sixty (60) days after the expiration of the cure period.

6.06 Surrender of Records and Property. Upon termination of his employment with the Company for any reason, Employee shall deliver promptly to the Company all records, manuals, books, blank forms, documents, letters, memoranda, notes, notebooks, reports, data, tables, calculations or copies thereof, which are the property of the Company or any of its Affiliates or which relate in any way to the business, products, practices or techniques of the Company or any of its Affiliates, and all other property, trade secrets and confidential information of the Company or any of its Affiliates, including, but not limited to, all documents which in whole or in part contain any trade secrets or confidential information of the Company or any of its Affiliates, which in any of these cases are in his possession or under his control.

6.07 Payments Upon Termination.

(a) Accrued Obligations. If Employee's employment with the Company is terminated for any reason set forth in Section 6, then Employee shall be entitled to receive (i) his Base Salary and any accrued but unpaid paid time off through the date of the termination and (ii) reimbursement of any business expenses incurred in the ordinary course of business through the date of termination that have not yet been reimbursed pursuant to Section 3.04 (the amounts in this clause (a), the "Accrued Obligations").

(b) Termination Without Cause or Resignation for Good Reason. If Employee's employment is terminated pursuant to Section 6.01(e) or (f) (each, a "Qualifying Termination") and provided that Employee shall have executed and delivered to the Company the Company's

standard form of release of claims (a "Release") and any period for rescission of such Release shall have expired without Employee having rescinding such Release, in addition to the Accrued Obligations, Employee shall be entitled to receive: (i) an amount in cash equal to the product of (I) the Severance Multiplier (as defined below) and (II) the sum of (A) Employee's then-current Base Salary and (B) Employee's Aggregate Minimum Draw Amount payable for the fiscal year in which the Qualifying Termination occurs, which amount shall be paid in a lump sum on the sixtieth (60^{th}) day after the date of the Qualifying Termination; (ii) in the event of Employee's Qualifying Termination following the end of a fiscal year but prior to the payment of the Annual Bonus True-Up Payment for such fiscal year, the amount of any earned but unpaid Minimum Draw or Annual Bonus True-Up Payment for such completed fiscal year based on performance for such completed fiscal year as determined by the Company's Board of Directors or the Compensation Committee thereof, which amount shall be payable when annual bonuses are paid to the Company's employees generally; (iii) an amount in cash equal to Employee's then-current Target Bonus less the amount described in clause (i)(B) above, prorated for the portion of such year that has elapsed prior to the date of termination, which amount shall be paid in a lump sum on the sixtieth (60^{th}) day after the date of the Qualifying Termination; (iv) if Employee timely elects to receive continued coverage under one or more of the Company's group medical, dental or vision plans pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985 (together with any state law of similar effect, "COBRA"), then the Company will pay the full amount of Employee's COBRA premiums, or will provided coverage under the Company's self-funded broad based health insurance plans, on behalf of Employee, including coverage for the Employee's eligible dependents under such plans, until the earliest of (X) eighteen (18) months following the date of the Qualifying Termination, (Y) the expiration of Employee's eligibility for continuation coverage under COBRA or (Z) the date when Employee becomes eligible for substantially equivalent health insurance coverage in connection with new employment or self-employment (such period from the date of the Qualifying Termination through the earliest of (X) through (Z), the "COBRA Payment Period"); and (v) all unvested equity or equity-based awards held by Employee that vest solely based on the passage of time shall immediately become vested as to a number of shares underlying each award equal to the greater of (x) fifty percent (50%) of the unvested shares subject to such award or (y) the number of shares that would have vested during the eighteen (18) months following the date of the Qualifying Termination had Employee remained employed with the Company for such period (for the avoidance of doubt, with any such awards that vest in whole or in part based on the attainment of performance-vesting conditions being governed by the terms of the applicable award agreement), provided that this clause (v) shall not supersede any equity acceleration provided under an applicable award agreement that is more favorable to Employee.

Notwithstanding clause (iv) above, if at any time the Company determines in its sole discretion that the payment of COBRA premiums (or credit under the self-funded plan) pursuant to Section 6.06(b)(iv) would result in a violation of the nondiscrimination rules of Section 105(h) of the Code or any statute or regulation of similar effect (including, without limitation, the 2010 Patient Protection and Affordable Care Act, as amended by the 2010 Health Care an Education Reconciliation Act), then in lieu of providing the COBRA premiums or credit under the self-funded plan, the Company shall instead pay Employee, on the first day of each month of the remainder of the COBRA Payment Period, a fully taxable cash payment equal to the COBRA premiums for that month (or, in the case of a self-funded plan, the monthly cost or such coverage), subject to withholdings and deductions. In all cases, if Employee becomes eligible for coverage

under another employer's group health plan or otherwise ceases to be eligible for COBRA during the COBRA Payment Period, Employee must immediately notify the Company of such event. For purposes of this paragraph, any applicable insurance premiums that are paid by the Company will not include any amounts payable by Employee under a Section 125 health care reimbursement plan, which amounts, if any, are the sole responsibility of Employee.

For purposes of this Section 6.06(b), "Severance Multiplier" shall mean a fraction, the numerator of which is equal to eighteen (18) plus the number of full year(s) of Employee's employment with the Company following the Effective Date, not to exceed twenty-four (24), and the denominator of which is equal to twelve (12).

(c) Change in Control Qualifying Termination. In lieu of the payments and benefits set forth in Section 6.06(b), in the event Employee's Qualifying Termination occurs on or within twelve (12) months following the date of a Change in Control, and provided that Employee shall have executed and delivered to the Company the Release and any period for rescission of such Release shall have expired without Employee having rescinding such Release, in addition to the Accrued Obligations, Employee shall be entitled to receive: (i) an amount in cash equal to 2.0x the sum of (A) Employee's then-current Base Salary and (B) Employee's Aggregate Minimum Draw Amount payable for the fiscal year in which the Qualifying Termination occurs, which amount shall be paid in a lump sum on the sixtieth (60^{th}) day after the date of the Qualifying Termination; (ii) the payment set forth in Section 6.06(b)(ii), if applicable; (iii) an amount in cash equal to Employee's then-current Target Bonus less the amount described in clause (i)(B) above, which amount shall be paid in a lump sum on the sixtieth (60^{th}) day after the date of the Qualifying Termination; (iv) the benefits set forth in Section 6.06(b)(iv); and (v) all unvested equity or equity-based awards held by Employee that vest solely based on the passage of time shall immediately become one hundred percent (100%) vested (for the avoidance of doubt, with any such awards that vest in whole or in part based on the attainment of performance-vesting conditions being governed by the terms of the applicable award agreement).

6.08 Termination of Benefits. Employee's right to receive severance payments and benefits hereunder will terminate immediately if, at any time prior to or during the period for which Employee is receiving severance payments and benefits, Employee, without the prior written approval of the Board of Directors or the Compensation Committee thereof, (a) willfully breaches a material provision of the Confidentiality Agreement and/or obligations of confidentiality, non-solicitation, non-disparagement, no conflicts or non-competition set forth in this Agreement, the Release or under applicable law; or (b) solicits any of the Company's then current employees to leave the Company's employ for any reason or interferes in any other manner with employment relationships at the time existing between the Company and its then current employees.

6.09 Deemed Resignation. Upon termination of Employee's employment for any reason, Employee shall be deemed to have resigned from all offices and directorships, if any, then held with the Company or any of its Affiliates.

6.10 Severance Calculation Matters. For calculating the severance payments in this Section 6, Base Salary, Target Bonus and Aggregate Minimum Draw Amount shall be determined as of the date of Employee's Qualifying Termination and without regard to any reduction in such amounts giving rise to Employee's resignation for Good Reason.

7. Miscellaneous.

7.01 Governing Law; Venue. This Agreement is made under and shall be governed by and construed in accordance with the laws of the State of Utah.

7.02 Prior Agreements. This Agreement, together with the Confidentiality Agreement and the Indemnification Agreement, contain the entire agreement of the parties relating to the subject matter hereof and supersede all prior agreements and understandings with respect to such subject matter, and the parties hereto have made no agreement, representations or warranties relating to the subject matter of this Agreement which are not set forth herein.

7.03 Withholding Taxes. The Company may withhold from any benefits payable under this Agreement all federal, state, city or other taxes as shall be required pursuant to any law or governmental regulation or ruling.

7.04 Amendments. No amendments or modifications of this Agreement shall be deemed effective unless made in writing and signed by the parties hereto.

7.05 No Waiver. No term or condition of this Agreement shall be deemed to have been waived, nor shall there by an estoppel to enforce any provisions of this Agreement, except by a statement in writing signed by the party against whom enforcement of the waiver or estoppel is sought. Any written waiver shall not be deemed a continuing waiver unless specifically stated, shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future or as to any act other than that specifically waived.

7.06 Section 409A.

(a) For purposes of this Agreement, "Section 409A" means Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder (and such other Treasury or Internal Revenue Service guidance) as in effect from time to time. The parties intend that any amounts payable hereunder will be compliant with Section 409A or will be exempt from Section 409A. Notwithstanding the foregoing, Employee shall be solely responsible and liable for the satisfaction of all taxes and penalties that may be imposed on or for the account of Employee in connection with this Agreement (including any taxes and penalties under Section 409A of the Code), and neither the Company nor any of its Affiliates shall have any obligation to indemnify or otherwise hold Employee (or any beneficiary) harmless from any or all of such taxes or penalties. No provision of this Agreement shall be interpreted or construed to transfer any liability for failure to comply with the requirements of Section 409A from Employee or any other individual to the Company or any of its affiliates, employees or agents.

(b) Notwithstanding anything in this Agreement to the contrary, the following special rule shall apply, if and to the extent required by Section 409A, in the event that (i) Employee is deemed to be a "specified employee" within the meaning of Section 409A(a)(2)(B)(i), (ii) amounts or benefits under this Agreement or any other program, plan or arrangement of the Company or a

controlled group affiliate thereof are due or payable on account of "separation from service" within the meaning of Treasury Regulations Section 1.409A-l(h) and (iii) Employee is employed by a public company or a controlled group affiliate thereof, then no payments hereunder that are "nonqualified deferred compensation" subject to Section 409A shall be made to Employee prior to the date that is six (6) months after the date of Employee's separation from service or, if earlier, Employee's date of death, and following any applicable six (6) month delay, all such delayed payments will be paid in a single lump sum on the earliest permissible payment date.

(c) Each payment made under this Agreement (including each separate installment payment in the case of a series of installment payments) shall be deemed to be a separate payment for purposes of Section 409A. Amounts payable under this Agreement shall be deemed not to be a "deferral of compensation" subject to Section 409A to the extent provided in the exceptions in Treasury Regulation §§ 1.409A-1(b)(4) ("short-term deferrals") and (b)(9) ("separation pay plans," including the exception under subparagraph (iii)) and other applicable provisions of Section 409A. For purposes of this Agreement, with respect to payments of any amounts that are considered to be "nonqualified deferred compensation" subject to Section 409A or exempt from Section 409A under Treasury Regulation §§ 1.409A-1(b)(9) ("separation pay plans"), references to "termination of employment," "termination," or words and phrases of similar import, shall be deemed to refer to Employee's "separation from service" as defined in Section 409A, and shall be interpreted and applied in a manner that is consistent with the requirements of Section 409A.

(d) Notwithstanding anything to the contrary in this Agreement, any payment or benefit under this Agreement or otherwise that is exempt from Section 409A pursuant to Treasury Regulation § 1.409A-l(b)(9)(v)(A) or (C) (relating to certain reimbursements and in-kind benefits) shall be paid or provided to Employee only to the extent that the expenses are not incurred, or the benefits are not provided, beyond the last day of the second calendar year following the calendar year in which Employee's "separation from service" occurs; and provided further that such expenses are reimbursed no later than the last day of the third calendar year following the calendar year in which Employee's "separation from service" occurs. To the extent any indemnification payment, expense reimbursement, or the provision of any in-kind benefit is determined to be subject to Section 409A (and not exempt pursuant to the prior sentence or otherwise), the amount of any such indemnification payment or expenses eligible for reimbursement, or the provision of any in-kind benefit, in one calendar year shall not affect the indemnification payment or provision of in-kind benefits or expenses eligible for reimbursement in any other calendar year (except for any life-time or other aggregate limitation applicable to medical expenses), and in no event shall any indemnification payment or expenses be reimbursed after the last day of the calendar year following the calendar year in which Employee incurred such indemnification payment or expenses, and in no event shall any right to indemnification payment or reimbursement or the provision of any in-kind benefit be subject to liquidation or exchange for another benefit.

(e) Notwithstanding anything to the contrary in this Agreement, to the extent that any payments due under this Agreement as a result of the Employee's termination of employment with the Company are subject to the Employee's execution and delivery and non-revocation of the Release (i) no such payments shall be made unless the Release Effective Date (as defined below) occurs on or prior to the sixtieth (60th) day immediately following Employee's date of termination, (ii) the Company shall deliver the Release to the Employee within seven (7) days immediately

following the date of termination, and (iii) if, as of the Release Expiration Date (as defined below), the Employee has failed to execute the Release or has timely revoked his acceptance of the Release thereafter, the Employee shall not be entitled to any payments or benefits otherwise conditioned on the Release. For purposes of this Agreement, the "Release Effective Date" shall mean the date on which the Release becomes effective and irrevocable in accordance with its terms. For purposes of this Section 7.06, "Release Expiration Date" shall mean the date that is twenty-one (21) days following the date upon which the Company timely delivers the Release to the Employee, or, in the event that the Employee's termination of employment is "in connection with an exit incentive or other employment termination program" (as such phrase is defined in the Age Discrimination in Employment act of 1967), the date that is forty-five (45) days following such delivery date.

7.07 280G Parachute Payments. Notwithstanding any other provision in this Agreement to the contrary, in the event that any payment or benefit received or to be received by Employee (including any payment or benefit received in connection with a Change in Control or the termination of Employee's employment, whether pursuant to the terms of this Agreement or any other plan, arrangement or agreement) (all such payments and benefits being hereinafter referred to as the "Total Payments") would (i) constitute a "parachute payment" within the meaning of Section 280G of the Code , and (ii) but for this sentence, be subject (in whole or part), to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), then, the Total Payments shall be equal to the Reduced Amount. The "Reduced Amount" will be either (A) the largest portion of the Total Payments that would result in no portion of the Total Payments being subject to Excise Tax, or (B) the largest portion, up to and including the total amount of the Total Payments, whichever amount ((A) or (B)), after taking into account all applicable federal, state, provincial, foreign and local employment taxes, income taxes and the Excise Tax (all computed at the highest marginal rate), results in Employee's receipt, on an after-tax basis, of the greatest economic benefit notwithstanding that all or some portion of the Total Payments may be subject to the Excise Tax. If a reduction in payments or benefits constituting "parachute payments" is necessary so that the Total Payments equal the Reduced Amount, the reduction will occur in the following order (1) reduction of cash payments; (2) cancelation of accelerated vesting of stock awards other than stock options; (3) cancellation of accelerated vesting of stock options; and (4) reduction of other benefits paid to Employee. Within any such category of Total Payments (that is, (1), (2), (3) or (4)), a reduction will occur first with respect to amounts that are not "deferred compensation" within the meaning of Section 409A and then with respect to amounts that are. In the event that acceleration of vesting of stock award compensation is to be reduced, such acceleration of vesting will be cancelled in the reverse order of the date of grant of Employee's applicable type of stock award (i.e., earliest granted stock awards are cancelled last). Any determination under this Section 7.07 shall be made in writing in good faith by an independent accounting firm or consultants of nationally recognized standing (the "Independent Advisors") selected by the Company and acceptable to Employee, which shall provide detailed supporting calculations to the Company and Employee as requested by the Company or Employee. The Company and Employee shall provide the Independent Advisors with such information and documents as the Independent Advisors may reasonably request in order to make a determination under this Section. For purposes of making the calculations and determinations required by this Section, the Independent Advisors may rely on reasonable, good faith assumptions and approximations concerning the application of Section 280G and Section 4999 of the Code. The Independent Advisors' determinations shall be final and binding on the Company and Employee.

7.08 Compensation Recovery Policy. The Employee acknowledges and agrees that he shall take all action necessary or appropriate to comply with the clawback or similar policy adopted by the Company pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act or any other clawback or similar policy otherwise adopted by the Company, and any rules and regulations promulgated thereunder (including, without limitation, entering into any further agreements, amendments or policies necessary or appropriate to implement and/or enforce such policy with respect to past, present and future compensation, as appropriate).

7.09 Severability. To the extent any provision of this Agreement shall be invalid or unenforceable, it shall be considered deleted herefrom and the remainder of such provision and of this Agreement shall be unaffected and shall continue in full force and effect. In furtherance and not in limitation of the foregoing, should the duration or geographical extent of, or business activities covered by, any provision of this Agreement be in excess of that which is valid and enforceable under applicable law, then such provision shall be construed to cover only that duration, extent or activities which may validly and enforceably be covered. Employee acknowledges the uncertainty of the law in this respect and expressly stipulates that this Agreement be given the construction which renders its provisions valid and enforceable to the maximum extent (not exceeding its express terms) possible under applicable law.

7.10 Assignment. This Agreement shall not be assignable, in whole or in part, by either party without the written consent of the other party. After any such assignment by the Company, the Company shall be discharged from all further liability hereunder and such assignee shall thereafter be deemed to be the Company for the purposes of all provisions of this Agreement including this Section 7.

7.11 Injunctive Relief. Employee agrees that it would be difficult to compensate the Company fully for damages for any violation of the provisions of this Agreement, including without limitation the provisions of Sections 4. Accordingly, Employee specifically agrees that the Company shall be entitled to temporary and permanent injunctive relief to enforce the provisions of this Agreement and that such relief may be granted without the necessity of proving actual damages. This provision with respect to injunctive relief shall not, however, diminish the right of the Company to claim and recover damages in addition to injunctive relief.

7.12 Attorneys' Fees and Costs. The Company and Employee agree that in the event any litigation arises out of this Agreement between Company and Employee, the prevailing party in such litigation shall be entitled to recover its attorney's fees and costs brought relating to such litigation.

7.13 No Mitigation Obligation. All amounts paid to Employee under this Agreement following Employee's termination of employment and this Agreement are acknowledged by the Company and Employee to be reasonable and to be liquidated damages, and Employee will not be required to reduce the amount of such payments by seeking other employment or otherwise, nor will any profits, income, earnings or other benefits from any source whatsoever (including from other employment) create any mitigation, offset, reduction or any other obligation on the part of Employee under this Agreement.

7.14 Notices. Any notice, payment, demand or communication required or permitted to be given by the provisions of this Agreement shall be deemed to have been effectively given and received as follows: (i) by personal delivery when delivered personally; (ii) by overnight courier upon written verification of receipt; (iii) by email, telecopy or facsimile transmission upon acknowledgment of receipt of electronic transmission; or (iv) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to Employee at the address listed on the Company's personnel records and to the Company at its principal place of business, to the attention of the General Counsel, or such other address as either party may specify in writing.

7.15 Notice of Immunity. Notwithstanding any provision of this Agreement to the contrary, (i) Employee shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that is made in confidence to a Federal, State, or local government official or to an attorney solely for the purpose of reporting or investigating a suspected violation of law; (ii) Employee shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal; and (iii) if Employee files a lawsuit for retaliation by an employer for reporting a suspected violation of law, Employee may disclose the trade secret to Employee's attorney and use the trade secret information in the court proceeding, if Employee files any document containing the trade secret under seal; and does not disclose the trade secret, except pursuant to court order.

7.16 Survival. The rights and obligations of the parties under the provisions of this Agreement shall survive, and remain binding and enforceable, notwithstanding the expiration of the Term, the termination of this Agreement, the termination of Employee's employment hereunder or any settlement of the financial rights and obligations arising from Employee's employment hereunder, to the extent necessary to preserve the intended benefits of such provisions.

7.17 Counterparts; Facsimile or .pdf Signatures. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement. This Agreement may be executed and delivered by facsimile or by .pdf file and upon such delivery the facsimile or .pdf signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

[*Signatures on following page*]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth in the first paragraph.

BED BATH & BEYOND, INC.

By: Adrianne Lee
Adrianne Lee (Jan 19, 2026 09:06:51 MST)
Adrianne Lee
President and Chief Financial Officer

EMPLOYEE

By: 
Marcus Lemonis

EXHIBIT A

Confidentiality Agreement

[Attached]

BED BATH & BEYOND, INC.

EMPLOYMENT, CONFIDENTIAL INFORMATION AND INVENTION ASSIGNMENT, AND ARBITRATION AGREEMENT

As a condition of my employment with the Bed Bath & Beyond, Inc., a Delaware corporation, with offices at 433 W Ascension Way, Murray, UT 84123, its subsidiaries, affiliates, successors and assigns ("Company"), and in consideration of my employment with the Company and my receipt of the compensation now and hereafter paid to me by Company and the Company's agreement in Section 2(a), I agree to the following:

1. **At-Will Employment**. I understand and acknowledge that my employment with the company is for an unspecified duration and constitutes "at-will" employment. I also understand that any representation to the contrary is unauthorized and not valid unless obtained in writing and signed by the president of the company. I acknowledge that this employment relationship may be terminated at any time, with or without good cause or for any or no cause, at the option either of the company or myself, with or without notice.

2. **Confidential Information**.

(a) **Company Information.**

(i) The Company agrees that, it will provide me with Confidential Information (defined below) of the Company that will enable me to optimize the performance of my duties to the Company. In exchange, I agree to use such Confidential Information solely for the Company's benefit. The Company and I agree and acknowledge that its provision of such Confidential Information is not contingent on my continued employment with the Company. Notwithstanding the preceding sentence, I agree that upon the termination of my employment in accordance with Section 1, the Company shall have no obligation to provide me with its Confidential Information. I understand that **"Confidential Information"** means any Company proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customer lists and customers (including, but not limited to, customers of the Company on whom I called or with whom I became acquainted during the term of my employment), markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances or other business information disclosed to me by the Company either directly or indirectly in writing, orally or by drawings or observation of parts or equipment. I further understand that Confidential Information does not include any of the foregoing items which has become publicly known and made generally available through no wrongful act of mine or of others who were under confidentiality obligations as to the item or items involved or improvements or new versions thereof.

(ii) I agree at all times during the term of my employment and thereafter, to hold in strictest confidence, and not to use, except for the exclusive benefit of the Company, or to disclose to any person, firm or corporation without written authorization of the Board of Directors of the Company, any Confidential Information of the Company.

(b) **Former Employer Information**. I agree that I will not, during my employment with the Company, improperly use or disclose any proprietary information or trade secrets of any former or concurrent employer or other person or entity and that I will not bring onto the premises of the Company any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity.

(c) **Third Party Information**. I recognize that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part

to maintain the confidentiality of such information and to use it only for certain limited purposes. I agree to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm or corporation or to use it except as necessary in carrying out my work for the Company consistent with the Company's agreement with such third party.

3. Inventions.

(a) Inventions Retained and Licensed. I have attached hereto, as **Exhibit A**, a list describing all inventions, original works of authorship, developments, improvements, and trade secrets which were made by me prior to my employment with the Company (collectively referred to as "Prior Inventions"), which belong to me, which relate to the Company's proposed business, products, or research and development, and which are not assigned to the Company hereunder; or, if no such list is attached, I represent that there are no such Prior Inventions. If in the course of my employment with the Company, I incorporate into a Company product, process or machine a Prior Invention owned by me or in which I have an interest, the Company is hereby granted and shall have a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use and sell such Prior Invention as part of or in connection with such product, process, or machine.

(b) Assignment of Inventions. I agree that I will promptly make full written disclosure to the Company, will hold in trust for the sole right and benefit of the Company, and hereby assign to the Company, or its designee, all my right, title, and interest in and to any and all inventions, original works of authorship, developments, concepts, improvements, designs, discoveries, ideas, trademarks, or trade secrets, whether or not patentable or registrable under copyright or similar laws, which I may solely or jointly conceive or develop or reduce to practice, or cause to be conceived or developed or reduced to practice, during the period of time I am in the employ of the Company (collectively referred to as "Inventions"), except as provided in Section 3(f) below. I further acknowledge that all original works of authorship which are made by me (solely or jointly with others) within the scope of and during the period of my employment with the Company and which are protectable by copyright are "works made for hire," as that term is defined in the United States Copyright Act. I understand and agree that the decision whether or not to commercialize or market any invention developed by me solely or jointly with others is within the Company's sole discretion and for the Company's sole benefit and that no royalty will be due to me as a result of the Company's efforts to commercialize or market any such invention.

(c) Inventions Assigned to the United States. I agree to assign to the United States government all my right, title, and interest in and to any and all Inventions whenever such full title is required to be in the United States by a contract between the Company and the United States or any of its agencies.

(d) Maintenance of Records. I agree to keep and maintain adequate and current written records of all Inventions made by me (solely or jointly with others) during the term of my employment with the Company. The records will be in the form of notes, sketches, drawings, and any other format that may be specified by the Company. The records will be available to and remain the sole property of the Company at all times.

(e) Patent and Copyright Registrations. I agree to assist the Company, or its designee, at the Company's expense, in every proper way to secure the Company's rights in the Inventions and any copyrights, patents, mask work rights, or other intellectual property rights relating thereto in any and all countries, including the disclosure to the Company of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments, and all other instruments which the Company shall deem necessary in order to apply for and obtain such rights and in order to assign and convey to the Company, its successors, assigns, and nominees the sole and exclusive rights, title and interest in and to such Inventions, and any copyrights, patents, mask work rights, or other intellectual property rights relating thereto. I further agree that my obligation to execute or cause to be executed, when it is in my power to do so, any such instrument or

papers shall continue after the termination of this Agreement. If the Company is unable because of my mental or physical incapacity or for any other reason to secure my signature to apply for or to pursue any application for any United States or foreign patents or copyright registrations covering Inventions or original works of authorship assigned to the Company as above, then I hereby irrevocably designate and appoint the Company and its duly authorized officers and agents as my agent and attorney in fact, to act for and in my behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent or copyright registrations thereon with the same legal force and effect as if executed by me.

(f) Exception to Assignments. I understand that the provisions of this Agreement requiring assignment of Inventions to the Company do not apply to any invention which qualifies fully under the provisions of Utah Code Title 34, Chapter 39, Section 3 (attached hereto as **Exhibit B**). I will advise the Company promptly in writing of any inventions that I believe meet the criteria in Utah Code Title 34, Chapter 39, Section 3 and not otherwise disclosed on **Exhibit A**.

4. Conflicting Employment. I agree that, during the term of my employment with the Company, I will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during the term of my employment, nor will I engage in any other activities that conflict with my obligations to the Company.

5. Returning Company Documents. I agree that, at the time of leaving the employ of the Company, I will deliver to the Company (and will not keep in my possession, recreate or deliver to anyone else) any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, other documents or property, or reproductions of any aforementioned items developed by me pursuant to my employment with the Company or otherwise belonging to the Company, its successors or assigns, including, without limitation, those records maintained pursuant to Section 3(d). In the event of the termination of my employment, I agree to sign and deliver the "Termination Certification" attached hereto as **Exhibit C**.

6. Notification of New Employer. In the event that I leave the employ of the Company, I hereby grant consent to notification by the Company to my new employer about my rights and obligations under this Agreement.

7. Solicitation of Employees. I agree that for a period of twelve (12) months immediately following the termination of my relationship with the Company for any reason, whether with or without good cause or for any or no cause, at the option either of the Company or myself, with or without notice, I shall not either directly or indirectly solicit, induce, recruit or encourage any of the Company's employees to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage or take away employees of the Company, either for myself or for any other person or entity.

8. Representations. I agree to execute any proper oath or verify any proper document required to carry out the terms of this Agreement. I represent that my performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by me in confidence or in trust prior to my employment by the Company. I have not entered into, and I agree I will not enter into, any oral or written agreement in conflict herewith.

9. Arbitration and Equitable Relief.

(a) **Arbitration**. Except as provided in subsection (b) below, I agree that any dispute or controversy arising out of or relating to any interpretation, construction, performance or breach of this Agreement, shall be settled by arbitration to be held in Utah in accordance with the rules then in effect of the American Arbitration Association. The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be	ml Initial

final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction. The Company and I shall each pay one-half of the costs and expenses of such arbitration, and each of us shall separately pay our counsel fees and expenses.	ml
(b) **Equitable Remedies**. I agree that it would be impossible or inadequate to measure and calculate the Company's damages from any breach of the covenants set forth in Sections 2, 3, 5 and, 7 herein. Accordingly, I agree that if I breach any of such Sections, the Company will have available, in addition to any other right or remedy available, the right to obtain an injunction from a court of competent jurisdiction restraining such breach or threatened breach and to specific performance of any such provision of this Agreement. I further agree that no bond or other security shall be required in obtaining such equitable relief and I hereby consent to the issuance of such injunction and to the ordering of specific performance.	ml Initial

10. General Provisions.

(a) Governing Law; Consent to Personal Jurisdiction. This Agreement will be governed by the laws of the state of Utah without regard for conflicts of laws principles. I hereby expressly consent to the exclusive personal jurisdiction of the state and federal courts located in Utah for any lawsuit filed there against me by the company arising from or relating to this Agreement.

(b) Entire Agreement. This Agreement sets forth the entire agreement and understanding between the Company and me relating to the subject matter herein and supersedes all prior discussions between us. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by the party to be charged. Any subsequent change or changes in my duties, salary or compensation will not affect the validity or scope of this Agreement.

(c) Severability. If one or more of the provisions in this Agreement are deemed void by law, then the remaining provisions will continue in full force and effect.

(d) Successors and Assigns. This Agreement will be binding upon my heirs, executors, administrators and other legal representatives and will be for the benefit of the Company, its successors, and its assigns.

(e) Construction. The language used in this Agreement will be deemed to be the language chosen by the parties to express their mutual intent and no rules of strict construction will be applied against either party.

(f) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be enforceable, and all of which together shall constitute one agreement.

11. I acknowledge and agree to each of the following items:

(a) I am executing this Agreement voluntarily and without any duress or undue influence by the Company or anyone else; and

(b) I have carefully read this Agreement. I have asked any questions needed for me to understand the terms, consequences and binding effect of this Agreement and fully understand them; and

(c) I sought the advice of an attorney of my choice if I wanted to before signing this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 12 day of January, 2026; provided, however, that the Company executed this Agreement solely for the purpose of entering into the covenants contained in Section 2(a).

BED BATH & BEYOND, INC.

By: Adrianne Lee

Name: Adrianne Lee

Its: President & Chief Financial Officer

EMPLOYEE

Marcus Lemonis
(Signature)

Marcus Lemonis
(Print Name)

EXHIBIT A

LIST OF PRIOR INVENTIONS
AND ORIGINAL WORKS OF AUTHORSHIP

Title	Date	Identifying Number or Brief Description
		Marcus Lemonis
	1/12/26	

☐ No inventions or improvements
☐ Additional Sheets (email to hrdept@beyond.com)

Signature of Employee:_____
Print Name of Employee:_____
Date: 1/12/26

Exhibit B

34-39-3. Scope of act -- When agreements between an employee and employer are enforceable or unenforceable with respect to employment inventions -- Exceptions.

(1) An employment agreement between an employee and his employer is not enforceable against the employee to the extent that the agreement requires the employee to assign or license, or to offer to assign or license, to the employer any right or intellectual property in or to an invention that is:

(a) created by the employee entirely on his own time; and

(b) not an employment invention.

(2) An agreement between an employee and his employer may require the employee to assign or license, or to offer to assign or license, to his employer any or all of his rights and intellectual property in or to an employment invention.

(3) Subsection (1) does not apply to:

(a) any right, intellectual property or invention that is required by law or by contract between the employer and the United States government or a state or local government to be assigned or licensed to the United States; or

(b) an agreement between an employee and his employer which is not an employment agreement.

(4) Notwithstanding Subsection (1), an agreement is enforceable under Subsection (1) if the employee's employment or continuation of employment is not conditioned on the employee's acceptance of such agreement and the employee receives a consideration under such agreement which is not compensation for employment.

(5) Employment of the employee or the continuation of his employment is sufficient consideration to support the enforceability of an agreement under Subsection (2) whether or not the agreement recites such consideration.

(6) An employer may require his employees to agree to an agreement within the scope of Subsection (2) as a condition of employment or the continuation of employment.

(7) An employer may not require his employees to agree to anything unenforceable under Subsection (1) as a condition of employment or the continuation of employment.

(8) Nothing in this chapter invalidates or renders unenforceable any employment agreement or provisions of an employment agreement unrelated to employment inventions.

EXHIBIT B

Indemnification Agreement

[Attached]

EXHIBIT B

BEYOND, INC.

INDEMNIFICATION AGREEMENT

THIS AGREEMENT (the "***Agreement***") is made and entered into as of January 1, 2026, by and between Bed Bath & Beyond, Inc., a Delaware corporation (the "***Company***"), and Marcus Lemonis ("***Indemnitee***").

RECITALS

WHEREAS, Indemnitee performs a valuable service for the Company; and

WHEREAS, the Board of Directors of the Company has adopted Bylaws (the "***Bylaws***") providing for the indemnification of the officers and directors of the Company to the maximum extent authorized by Section 145 of the Delaware General Corporation Law, as amended ("***Delaware Law***"); and

WHEREAS, the Bylaws and Delaware Law, by their nonexclusive nature, permit contracts between the Company and the officers or directors of the Company with respect to indemnification of such officers or directors; and

WHEREAS, in accordance with the authorization as provided by Delaware Law, the Company may purchase and maintain a policy or policies of directors' and officers' liability insurance ("***D & O Insurance***"), covering certain liabilities which may be incurred by its officers or directors in the performance of their obligations to the Company; and

WHEREAS, in order to induce Indemnitee to continue to serve as an officer or director of the Company, the Company has determined and agreed to enter into this contract with Indemnitee; and

WHEREAS, the Board of Directors of the Company has previously approved the form and substance of this Agreement, and the Company and Indemnitee may previously have entered into an Indemnification Agreement substantially identical to this Agreement, but at present neither the Company nor Indemnitee has been able to locate an executed copy of any such prior Indemnification Agreement, and the Company and Indemnitee desire to execute and deliver this Agreement in order to ensure that each of them has an executed original of this Agreement;

NOW, THEREFORE, in consideration of Indemnitee's service as an officer or director after the date hereof, the parties hereto agree as follows:

1. Indemnity of Indemnitee. The Company hereby agrees to hold harmless and indemnify Indemnitee to the full extent authorized or permitted by the provisions of Delaware Law, as such may be amended from time to time, and the Bylaws, as such may be amended. In furtherance of the foregoing indemnification, and without limiting the generality thereof:

(a) Proceedings Other Than Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section l(a) if, by reason of her Corporate Status (as hereinafter defined), she is, or is threatened to be made, a party to or participant in any Proceeding (as hereinafter defined) other than a Proceeding by or in the right of the Company. Pursuant to this Section 1(a), Indemnitee shall be indemnified against all Expenses (as hereinafter defined), judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by her or on her behalf in connection with such Proceeding or any claim, issue or matter therein, if she acted in good faith and in a manner she reasonably believed to be in or not opposed to the best interests of the Company and, with respect to any criminal Proceeding, had no reasonable cause to believe her conduct was unlawful.

(b) Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 1(b) if, by reason of her Corporate Status, she is, or is threatened to be made, a party to or participant in any Proceeding brought by or in the right of the Company. Pursuant to this Section 1(b), Indemnitee shall be indemnified against all Expenses actually and reasonably incurred by her or on her behalf in connection with such Proceeding if she acted in good faith and in a manner she reasonably believed to be in or not opposed to the best interests of the Company; *provided, however*, that, if applicable law so provides, no indemnification against such Expenses shall be made in respect of any claim, issue or matter in such Proceeding as to which Indemnitee shall have been adjudged to be liable to the Company unless and to the extent that the Court of Chancery of the State of Delaware shall determine that such indemnification may be made.

(c) Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of her Corporate Status, a party to and is successful, on the merits or otherwise, in any Proceeding, she shall be indemnified to the maximum extent permitted by law against all Expenses actually and reasonably incurred by her or on her behalf in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee against all Expenses actually and reasonably incurred by her or on her behalf in connection with each successfully resolved claim, issue or matter. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

2. Additional Indemnity. In addition to, and without regard to any limitations on, the indemnification provided for in Section 1, the Company shall and hereby does indemnify and hold harmless Indemnitee against all Expenses, judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by her or on her behalf if, by reason of her Corporate Status, she is, or is threatened to be made, a party to or participant in any Proceeding (including a Proceeding by or in the right of the Company), including, without limitation, all liability arising out of the negligence or active or passive wrongdoing of Indemnitee. The only limitation that shall exist upon the Company's obligations pursuant to this Agreement shall be that the Company shall not be obligated to make any payment to Indemnitee

that is finally determined (under the procedures, and subject to the presumptions, set forth in Sections 6 and 7 hereof) to be unlawful under Delaware law.

3. Contribution in the Event of Joint Liability.

(a) Whether or not the indemnification provided in Section 1 and Section 2 above is available, in respect of any threatened, pending or completed action, suit or proceeding in which Company is jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), Company shall pay, in the first instance, the entire amount of any judgment or settlement of such action, suit or proceeding without requiring Indemnitee to contribute to such payment and Company hereby waives and relinquishes any right of contribution it may have against Indemnitee. Company shall not enter into any settlement of any action, suit or proceeding in which Company is jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding) unless such settlement provides for a full and final release of all claims asserted against Indemnitee.

(b) Without diminishing or impairing the obligations of the Company set forth in the preceding subparagraph, if, for any reason, Indemnitee shall elect or be required to pay all or any portion of any judgment or settlement in any threatened, pending or completed action, suit or proceeding in which Company is jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), Company shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Indemnitee in proportion to the relative benefits received by the Company and all officers, directors or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnitee, on the other hand, from the transaction from which such action, suit or proceeding arose; provided, however, that the proportion determined on the basis of relative benefit may, to the extent necessary to conform to law, be further adjusted by reference to the relative fault of Company and all officers, directors or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnitee, on the other hand, in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other equitable considerations which the law may require to be considered. The relative fault of Company and all officers, directors or employees of the Company other than Indemnitee who are jointly liable with Indemnitee (or would be if joined in such action, suit or proceeding), on the one hand, and Indemnitee, on the other hand, shall be determined by reference to, among other things, the degree to which their actions were motivated by intent to gain personal profit or advantage, the degree to which their liability is primary or secondary, and the degree to which their conduct is active or passive.

(c) Company hereby agrees to fully indemnify and hold Indemnitee harmless from any claims of contribution which may be brought by officers, directors or employees of the Company other than Indemnitee who may be jointly liable with Indemnitee.

4. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of her Corporate Status, a

witness in any Proceeding to which Indemnitee is not a party, she shall be indemnified against all Expenses actually and reasonably incurred by her or on her behalf in connection therewith.

5. Advancement of Expenses. Notwithstanding any other provision of this Agreement, the Company shall advance all Expenses incurred by or on behalf of Indemnitee in connection with any Proceeding by reason of Indemnitee's Corporate Status within 10 days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and shall include or be preceded or accompanied by an undertaking by or on behalf of Indemnitee to repay any Expenses advanced if it shall ultimately be determined that Indemnitee is not entitled to be indemnified against such Expenses. Any advances and undertakings to repay pursuant to this Section 5 shall be unsecured and interest free. Notwithstanding the foregoing, the obligation of the Company to advance Expenses pursuant to this Section 5 shall be subject to the condition that, if, when and to the extent that the Company determines that Indemnitee would not be permitted to be indemnified under applicable law, the Company shall be entitled to be reimbursed, within 30 days of such determination, by Indemnitee (who hereby agrees to reimburse the Company) for all such amounts theretofore paid; provided, however, that if Indemnitee has commenced or thereafter commences legal proceedings in a court of competent jurisdiction to secure a determination that Indemnitee should be indemnified under applicable law, any determination made by the Company that Indemnitee would not be permitted to be indemnified under applicable law shall not be binding and Indemnitee shall not be required to reimburse the Company for any advance of Expenses until a final judicial determination is made with respect thereto (as to which all rights of appeal therefrom have been exhausted or lapsed).

6. Procedures and Presumptions for Determination of Entitlement to Indemnification. It is the intent of this Agreement to secure for Indemnitee rights of indemnity that are as favorable as may be permitted under the law and public policy of the State of Delaware. Accordingly, the parties agree that the following procedures and presumptions shall apply in the event of any question as to whether Indemnitee is entitled to indemnification under this Agreement:

(a) To obtain indemnification (including, but not limited to, the advancement of Expenses and contribution by the Company) under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The Secretary of the Company shall, promptly upon receipt of such a request for indemnification, advise the Company's Board of Directors in writing that Indemnitee has requested indemnification.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 6(a) hereof, a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall be made in the specific case by one of the following three methods, which shall be at the election of Indemnitee: (i) by a majority vote of

the disinterested directors, even though less than a quorum, or (ii) by independent legal counsel in a written opinion, or (iii) by the stockholders.

(c) If the determination of entitlement to indemnification is to be made by Independent Counsel pursuant to Section 6(b) hereof, the Independent Counsel shall be selected as provided in this Section 6(c). The Independent Counsel shall be selected by Indemnitee (unless Indemnitee shall request that such selection be made by the Board of Directors). Indemnitee or the Company, as the case may be, may, within 10 days after such written notice of selection shall have been given, deliver to the Company or to Indemnitee, as the case may be, a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 13 of this Agreement, and the objection shall set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected shall act as Independent Counsel. If a written objection is made and substantiated, the Independent Counsel selected may not serve as Independent Counsel unless and until such objection is withdrawn or a court has determined that such objection is without merit. If, within 20 days after submission by Indemnitee of a written request for indemnification pursuant to Section 6(a) hereof, no Independent Counsel shall have been selected and not objected to, either the Company or Indemnitee may petition the Court of Chancery of the State of Delaware or other court of competent jurisdiction for resolution of any objection which shall have been made by the Company or Indemnitee to the other's selection of Independent Counsel or for the appointment as Independent Counsel of a person selected by the court or by such other person as the court shall designate, and the person with respect to whom all objections are so resolved or the person so appointed shall act as Independent Counsel under Section 6(b) hereof. The Company shall pay any and all reasonable fees and expenses of Independent Counsel incurred by such Independent Counsel in connection with acting pursuant to Section 6(b) hereof, and the Company shall pay all reasonable fees and expenses incident to the procedures of this Section 6(c), regardless of the manner in which such Independent Counsel was selected or appointed.

(d) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 6(a) of this Agreement. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion, by clear and convincing evidence.

(e) Indemnitee shall be deemed to have acted in good faith if Indemnitee's action is based on the records or books of account of the Enterprise, including financial statements, or on information supplied to Indemnitee by the officers of the Enterprise in the course of their duties, or on the advice of legal counsel for the Enterprise or on information or records given or reports made to the Enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Enterprise. In addition, the knowledge or actions, or failure to act, of any director, officer, agent or employee of the Enterprise shall not be imputed to Indemnitee for purposes of determining the right to indemnification under this Agreement. Whether or not the foregoing provisions of this Section 6(e) are satisfied, it shall in any event be presumed that Indemnitee has at all times acted

in good faith and in a manner she reasonably believed to be in or not opposed to the best interests of the Company. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion, by clear and convincing evidence.

(f) If the person, persons or entity empowered or selected under Section 6 to determine whether Indemnitee is entitled to indemnification shall not have made a determination within 30 days after receipt by the Company of the request therefor, the requisite determination of entitlement to indemnification shall be deemed to have been made and Indemnitee shall be entitled to such indemnification, absent (i) a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification, or (ii) a prohibition of such indemnification under applicable law; *provided, however*, that such 30-day period may be extended for a reasonable time, not to exceed an additional 15 days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating documentation or information relating thereto; *and provided, further*, that the foregoing provisions of this Section 6(g) shall not apply if the determination of entitlement to indemnification is to be made by the stockholders pursuant to Section 6(b) of this Agreement and if (A) within 15 days after receipt by the Company of the request for such determination the Board of Directors or the Disinterested Directors, if appropriate, resolve to submit such determination to the stockholders for their consideration at an annual meeting thereof to be held within 75 days after such receipt and such determination is made thereat, or (B) a special meeting of stockholders is called within 15 days after such receipt for the purpose of making such determination, such meeting is held for such purpose within 60 days after having been so called and such determination is made thereat.

(g) Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any Independent Counsel, member of the Company's Board of Directors, or stockholder of the Company shall act reasonably and in good faith in making a determination under the Agreement of the Indemnitee's entitlement to indemnification. Any costs or expenses (including attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom.

(h) The Company acknowledges that a settlement or other disposition short of final judgment may be successful if it permits a party to avoid expense, delay, distraction, disruption and uncertainty. In the event that any action, claim or proceeding to which Indemnitee is a party is resolved in any manner other than by adverse judgment against Indemnitee (including, without limitation, settlement of such action, claim or proceeding with or without payment of money or other consideration) it shall be presumed that Indemnitee has been successful on the merits or otherwise in such action, suit or proceeding. Anyone seeking to overcome this presumption shall have the burden of proof and the burden of persuasion, by clear and convincing evidence.

7. Remedies of Indemnitee.

(a) In the event that (i) a determination is made pursuant to Section 6 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advancement of Expenses is not timely made pursuant to Section 5 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 6(b) of this Agreement within 90 days after receipt by the Company of the request for indemnification, (iv) payment of indemnification is not made pursuant to this Agreement within 10 days after receipt by the Company of a written request therefor, or (v) payment of indemnification is not made within 10 days after a determination has been made that Indemnitee is entitled to indemnification or such determination is deemed to have been made pursuant to Section 6 of this Agreement, Indemnitee shall be entitled to an adjudication in an appropriate court of the State of Delaware, or in any other court of competent jurisdiction, of her entitlement to such indemnification. Indemnitee shall commence such proceeding seeking an adjudication within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 7(a). The Company shall not oppose Indemnitee's right to seek any such adjudication.

(b) In the event that a determination shall have been made pursuant to Section 6(b) of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding commenced pursuant to this Section 7 shall be conducted in all respects as a *de novo* trial, on the merits and Indemnitee shall not be prejudiced by reason of that adverse determination under Section 6(b).

(c) If a determination shall have been made pursuant to Section 6(b) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding commenced pursuant to this Section 7, absent a prohibition of such indemnification under applicable law.

(d) In the event that Indemnitee, pursuant to this Section 7, seeks a judicial adjudication of her rights under, or to recover damages for breach of, this Agreement, or to recover under any directors' and officers' liability insurance policies maintained by the Company the Company shall pay on her behalf, in advance, any and all expenses (of the types described in the definition of Expenses in Section 13 of this Agreement) actually and reasonably incurred by her in such judicial adjudication, regardless of whether Indemnitee ultimately is determined to be entitled to such indemnification, advancement of expenses or insurance recovery.

(e) The Company shall be precluded from asserting in any judicial proceeding commenced pursuant to this Section 7 that the procedures and presumptions of this Agreement are not valid, binding and enforceable and shall stipulate in any such court that the Company is bound by all the provisions of this Agreement.

8. Non-Exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled

under applicable law, the certificate of incorporation of the Company, the Bylaws, any agreement, a vote of stockholders or a resolution of directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee under this Agreement in respect of any action taken or omitted by such Indemnitee in her Corporate Status prior to such amendment, alteration or repeal. To the extent that a change in Delaware Law, whether by statute or judicial decision, permits greater indemnification than would be afforded currently under the Bylaws and this Agreement, it is the intent of the parties hereto that Indemnitee shall enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other right or remedy.

(b) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or agents or fiduciaries of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person serves at the request of the Company, Indemnitee shall be covered by such policy or policies in accordance with its or their terms to the maximum extent of the coverage available for any such director, officer, employee or agent under such policy or policies.

(c) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(d) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

9. Exception to Right of Indemnification. Notwithstanding any other provision of this Agreement, Indemnitee shall not be entitled to indemnification under this Agreement with respect to any Proceeding brought by Indemnitee, or any claim therein, unless (a) the bringing of such Proceeding or making of such claim shall have been approved by the Board of Directors of the Company or (b) such Proceeding is being brought by the Indemnitee to assert, interpret or enforce her rights under this Agreement.

10. Duration of Agreement. All agreements and obligations of the Company contained herein shall continue during the period Indemnitee is an officer or director of the Company (or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise) and shall continue thereafter so long as Indemnitee shall be subject to any Proceeding (or any proceeding commenced under Section 7 hereof) by reason of her Corporate Status, whether or not she is acting or serving in any such capacity at the time any liability or expense is incurred for which

indemnification can be provided under this Agreement. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), assigns, spouses, heirs, executors and personal and legal representatives. This Agreement shall continue in effect regardless of whether Indemnitee continues to serve as an officer or director of the Company or any other Enterprise at the Company's request.

11. Security. To the extent requested by the Indemnitee and approved by the Company's Board of Directors, the Company may at any time and from time to time provide security to the Indemnitee for the Company's obligations hereunder through an irrevocable bank line of credit, funded trust or other collateral. Any such security, once provided to the Indemnitee, may not be revoked or released without the prior written consent of the Indemnitee.

12. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to serve as an officer or director of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in serving as an officer or director of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof.

13. Definitions. For purposes of this Agreement:

(a) "***Corporate Status***" describes the status of a person who is or was a director, officer, employee or agent or fiduciary of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the express written request of the Company.

(b) "***Disinterested Director***" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(c) "***Enterprise***" shall mean the Company and any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise of which Indemnitee is or was serving at the express written request of the Company as a director, officer, employee, agent or fiduciary.

(d) "***Expenses***" shall include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred in connection with prosecuting,

defending, preparing to prosecute or defend, investigating, participating, or being or preparing to be a witness in a Proceeding.

(e) "***Independent Counsel***" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning the Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements), or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "***Independent Counsel***" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees of the Independent Counsel referred to above and to fully indemnify such counsel against any and all Expenses, claims, liabilities and damages arising out of or relating to this Agreement or its engagement pursuant hereto.

(f) "***Proceeding***" includes any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing or any other actual, threatened or completed proceeding, whether brought by or in the right of the Company or otherwise and whether civil, criminal, administrative or investigative, in which Indemnitee was, is or will be involved as a party or otherwise, by reason of the fact that Indemnitee is or was a director of the Company, by reason of any action taken by her or of any inaction on her part while acting as an officer or director of the Company, or by reason of the fact that she is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other Enterprise; in each case whether or not she is acting or serving in any such capacity at the time any liability or expense is incurred for which indemnification can be provided under this Agreement; including one pending on or before the date of this Agreement; and excluding one initiated by an Indemnitee pursuant to Section 7 of this Agreement to enforce her rights under this Agreement.

14. Severability. If any provision or provisions of this Agreement shall be held by a court of competent jurisdiction to be invalid, void, illegal or otherwise unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby and shall remain enforceable to the fullest extent permitted by law; and (b) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

15. Modification and Waiver. No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute

a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

16. Notice By Indemnitee. Indemnitee agrees promptly to notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification covered hereunder. The failure to so notify the Company shall not relieve the Company of any obligation which it may have to the Indemnitee under this Agreement or otherwise unless and only to the extent that such failure or delay materially prejudices the Company.

17. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if (a) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, or (b) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(a) If to Indemnitee, to the address set forth below signature hereto. Indemnitee

(b) If to the Company, to:
Bed Bath & Beyond, Inc.
433 Ascension Way, 3rd Floor
Murray, Utah 84123
Attention: Secretary

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

18. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same Agreement. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

19. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

20. Governing Law. The parties agree that this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware without application of the conflict of laws principles thereof.

21. Gender. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

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

Bed Bath & Beyond, Inc.

By: Adrianne B. Lee
[Name/Title] Adrianne Lee, President &CFO

Address: 433 Ascension Way, 3rd Floor
Murray, Utah 84123

AGREED TO AND ACCEPTED:

INDEMNITEE:

[Name/Title] Marcus Lemonis

Address: [redacted]

BED BATH & BEYOND

433 W. Ascension Way
Suite 300
Murray, UT 84123
1-800-843-2446

October 23, 2025

Dear Rick Lockton,

We are pleased to offer you the position of Executive Vice President, Chief Digital, Product, and Technology Officer with Bed Bath & Beyond, Inc. We believe you will be an excellent addition to our team and are very excited to have you on board.

The following is a summary of your compensation, benefits, and the terms and conditions of our employment offer:

Start Date: November 3, 2025

Employment Status: Full time, Exempt

Cash Salary Compensation: $19,230.77 per pay period, **($500,000 annually)**

In order to receive the full annual amount of **$500,000**, you must be employed for all 26 pay periods.

Cash Bonus Plan: In addition to your base salary, you may be eligible to earn, for each fiscal year at the Company ending during the term of your employment with the Company, an annual cash bonus, as approved from time to time by the Company's Board of Directors or Compensation Committee. Your "target" annual bonus for 2026 is currently set at up to 150% of your base salary. **($750,000)** 120% of base salary will be based on key performance metrics and deliverable to be set within 90 days of start date. 30% of base salary will be based on an annual performance evaluation. If performance exceeds expectations, the payout will be 150% of the 30%, if performance meets expectations, the payout will be 100% of the 30%, and if performance is below expectations, the payout will be 50% of the 30% target. Year 1 (2026) bonus will have a guaranteed minimum of 50% payout due to difficulty of forecasting, risks related to personnel, new investments, and culture change required. Your actual annual bonus will be determined on the basis of such Company and individual performance criteria established by the Board of Directors or Compensation Committee in accordance with the terms and conditions of any bonus plan adopted from time to time. Your annual bonus will be paid between January 1 and April 1 of the calendar year following the year to which it relates. You must be employed by the Company on the date of payment of such annual bonus in order to be eligible to receive such annual bonus.

Equity: As a material inducement to your employment with the Company, we will propose that you receive an equity award of 300% of base salary comprised of 200% of base salary of restricted stock units ("RSUs") and 100% of base salary of performance stock units ("PSUs") with a 3 year vesting schedule (1/3 per year) under the forms of the applicable award agreements which set forth the service periods and performance targets required for the awards to vest, which RSUs and PSUs will be subject to and conditional upon all required targets being achieved and necessary corporate approvals being obtained. This employment inducement award is subject to approval by the Company's Compensation Committee and once approved

will be granted within a reasonable time from your start date. Starting in 2027, you will also be eligible to receive an annual equity award with a target value equal to 300% of base salary comprised of 200% of base salary of restricted stock units ("RSUs") and 100% of base salary of performance stock units ("PSUs") with a 3 year vesting schedule (1/3 per year) as part of the Company's normal annual executive compensation process, subject to approval by the Board or Compensation Committee. Consistent with the applicable award agreements, you may be eligible for refresh awards to be approved by the Board or Compensation Committee at their discretion.

Report to: Marcus Lemonis, Executive Chaiman and PEO

Work Location: Nashville, TN

Relocation Support: The Company will provide relocation assistance to support Executive's transition to the designated work location. This assistance includes:

- Travel Expense Reimbursement: You will be reimbursed for reasonable travel expenses related to your relocation, including transportation, lodging, and meals, subject to the Company's travel and expense policy for a period of twelve months following your start date.
- Repayment Terms: If you voluntarily resign or are terminated for Cause within twelve (12) months of the relocation date, you may be required to repay a prorated portion of the relocation expenses covered by the Company.

Flexible Time Away: Unaccrued, paid time off to be used (without set limits) for purposes such as vacation, relaxation, personal or family needs, and for absences governed by Company leave policies. (subject to the limits specified in those policies)

You may also be eligible to participate in the following benefits effective the first of the month following the hire date.

Medical	Supplemental Life and AD&D	PayActiv – Payroll Advance
Dental	Short/Long Term Disability - Company Paid	SWORD Virtual Physical Therapy
Vision	Employee Stock Purchase Program	Bloom Pelvic Health
Health Savings Account (HSA)	9/80 Flexible Schedule	OWNx Gold and Silver Account
Flexible Spending Accounts (FSA)	Employee Assistance Program (EAP) - Company Paid	Access Perks (Employee Discounts)
Voluntary Accident, Critical Illness, Hospital Indemnity	Prepaid Legal Services	Employee Wellness Program
Basic Life and AD&D - Company Paid	Identity Theft Protection	Welcome Rewards Membership

You will be eligible to participate in the Bed Bath & Beyond 401(k) Plan according to the table below.

Contribution Type	Age Requirement	Service Requirement	Entry Date
Traditional 401(k) and Roth 401(k)	18	1 month	First day of the month following 30 days

Severance: In the event that your employment is terminated by the Company without Cause, or you resign for Good Reason (defined as a material diminution in responsibilities, scope of role, or base compensation), you shall be entitled to the following severance benefits, subject to execution of a separation agreement and release of claims:

- Cash Compensation: A lump sum payment equal to one (1) times your then-current annual base salary, plus one (1) times your target Short-Term Incentive (STI) opportunity.
- Healthcare Continuation: the Company will pay the full amount of the Participant's COBRA premiums or will provide coverage under the Company's self-funded broad based health insurance plans, on behalf of the Participant, including coverage for the Participant's eligible dependents for a period of twelve (12) months following the termination date, subject to COBRA eligibility and your timely election.
- Equity Acceleration: Any outstanding Restricted Stock Units (RSUs) Performance Stock Units (PSUs) that are scheduled to vest within eighteen (18) months following the termination date shall vest immediately upon such termination, subject to the terms of the applicable equity award agreements and performance certification (if applicable).

Bed Bath & Beyond is an at-will employer. Nothing in this offer shall limit the right of Bed Bath & Beyond or yourself to terminate the employment relationship.

This offer is contingent upon the following:

- Satisfactory results of a background check of credit, criminal, educational or other relevant information.
- Maintained residency within the state of employment listed on this offer; or establishing residency within the state of employment listed on this offer within twelve months of your Start Date. Please note that any changes in residency require prior approval through HR.

We are excited to extend this offer of employment to you. Please note that this offer is valid for a period of 4 business days from the date of this letter. We look forward to your favorable response within this time frame.

Please sign below and return this document via Adobe Sign. If you have any questions, please contact me directly. We look forward to working with you.

Sincerely,



Rob Carpenter

Head of HR

Date: 10/24/2025

I accept the above terms of employment.



Rick Lockton

Date: 10/24/2025

CONFIDENTIAL – PROPERTY OF BED BATH & BEYOND, INC. the existence and terms of this letter and all related communications are confidential and intended only for your personal and family consideration.

Exhibit 21

Subsidiaries of the Registrant

Name	Jurisdiction of Formation	Trade Names
Overstock.com Services, Inc.	Utah	Overstock.com Services
Supplier Oasis Fulfillment Services, Inc.	Utah	SOFS
Overstock Ireland Limited	Ireland	O.co Ireland.ie
Tokens.com, Inc.	Utah	Tokens.com
O.com Gift Cards, Inc.	Utah	
Zion Peaks, Inc.	Delaware	
Corporate Strategies, Inc.	Delaware	CSI
Knight Merger Sub II, Inc.	Delaware	Merger Sub
Zion Peaks Solutions, Inc.	Utah	

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the registration statements (Nos. 333-207141, 333-280076, and 333-290763) on Form S-3 (Nos. 333-123540, 333-124441, 333-160512, 333-162674, 333-181422, 333-184344, 333-203175, 333-203176, 333-256179, 333-273751, 333-280078, and 333-291553) on Form S-8 (No. 333-292622) on Form S-4 of our reports dated February 24, 2026, with respect to the consolidated financial statements of Bed Bath & Beyond, Inc. and the effectiveness of internal control over financial reporting.

/s/ KPMG LLP

Salt Lake City, Utah
February 24, 2026

Exhibit 23.2

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements: Registration Statements on Form S-8 (Nos. 333-123540, 333-124441, 333-160512, 333-162674, 333-181422, 333-184344, 333-203175, 333-203176, 333-256179, 333-273751, 333-280078, and 333-291553), Registration Statements on Form S-3 (Nos. 333-207141, 333-290763, and 333-280076), and Registration Statement on Form S-4 (Nos. 333-292622) of Bed Bath & Beyond, Inc., of our report dated December 21, 2023, with respect to the financial statements of Medici Ventures, L.P., included in the Annual Report (Form 10-K) of Bed Bath & Beyond, Inc., for the year ended December 31, 2025.

/s/ ERNST & YOUNG LLP

Salt Lake City, Utah
February 24, 2026

Exhibit 23.3

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements: Registration Statements on Form S-8 (Nos. 333-123540, 333-124441, 333-160512, 333-162674, 333-181422, 333-184344, 333-203175, 333-203176, 333-256179, 333-273751, 333-280078, and 333-291553), Registration Statements on Form S-3 (Nos. 333-207141, 333-290763, and 333-280076), and Registration Statement on Form S-4 (Nos. 333-292622) of Bed Bath & Beyond, Inc., of our report dated December 17, 2024, with respect to the financial statements of Medici Ventures, L.P., included in the Annual Report (Form 10-K) of Bed Bath & Beyond, Inc., for the year ended December 31, 2025.

/s/ ERNST & YOUNG LLP

Salt Lake City, Utah
February 24, 2026

Exhibit 23.4

Consent of Independent Auditors

We consent to the incorporation by reference in the Registration Statement on Form S-8 (No. 333-123540, No. 333-124441, No. 333-160512, No. 333-162674, No. 333-181422, No. 333-184344, No. 333-203175, No. 333-203176, No. 333-256179, No. 333-273751, No. 333-280078 and No. 333-291553), Form S-3 (No. 333-207141, No. 333-290763 and No. 333-280076) and Form S-4 (No. 333-292622) of Bed Bath & Beyond, Inc. of our report dated October 14, 2024, relating to the consolidated financial statements of tZERO Group, Inc., appearing in this Annual Report on Form 10-K.

/s/ BAKER TILLY US, LLP

New York, New York
February 24, 2026

Exhibit 31.1

CERTIFICATION

I, Marcus A. Lemonis, certify that:

1. I have reviewed this Annual Report on Form 10-K of Bed Bath & Beyond, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2026

/s/ MARCUS A. LEMONIS

Marcus A. Lemonis
Executive Chairman and Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION

I, Adrianne B. Lee, certify that:

1. I have reviewed this Annual Report on Form 10-K of Bed Bath & Beyond, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2026

/s/ ADRIANNE B. LEE

Adrianne B. Lee
President and Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

PURSUANT TO

18 U.S.C. SECTION 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Marcus A. Lemonis, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, as amended, that the Annual Report on Form 10-K of Bed Bath & Beyond, Inc. for the year ended December 31, 2025 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and that information contained in such Report fairly presents in all material respects the financial condition and results of operations of Bed Bath & Beyond, Inc.

Date: February 24, 2026

/s/ MARCUS A. LEMONIS
Marcus A. Lemonis
Executive Chairman and Chief Executive Officer
(Principal Executive Officer)

Exhibit 32.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

PURSUANT TO

18 U.S.C. SECTION 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Adrianne B. Lee, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, as amended, that the Annual Report on Form 10-K of Bed Bath & Beyond, Inc. for the year ended December 31, 2025 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, and that information contained in such Report fairly presents in all material respects the financial condition and results of operations of Bed Bath & Beyond, Inc.

Date: February 24, 2026

/s/ ADRIANNE B. LEE

Adrianne B. Lee
President and Chief Financial Officer
(Principal Financial Officer)