

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): May 13, 2022 (May 9, 2022)

Bath & Body Works, Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation)

1-8344

(Commission File Number)

31-1029810

(IRS Employer Identification No.)

**Three Limited Parkway
Columbus, OH**

(Address of principal executive offices)

43230

(Zip Code)

(614) 415-7000

(Registrant's telephone number, including area code)

Not Applicable

(Former name or former address, if changed since last report)

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

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common Stock, \$0.50 Par Value	BBWI	The New York Stock Exchange

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

Emerging growth company

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

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

Leadership Updates

As previously disclosed, upon the conclusion of the Annual Meeting of Stockholders (the “Annual Meeting”) of Bath & Body Works, Inc. (the “Company”) held on May 12, 2022, Andrew M. Meslow stepped down as Chief Executive Officer of the Company and as a member of the Company’s Board of Directors (the “Board”) due to health reasons, and Sarah E. Nash, Executive Chair of the Company, was appointed to also serve as Interim Chief Executive Officer of the Company. The Board has retained a national search firm to assist in identifying a permanent Chief Executive Officer. Robert H. Schottenstein also retired from the Board on May 12, 2022, at the conclusion of the Annual Meeting.

Ms. Nash, age 68, has served as Executive Chair of the Company since February 2022 and served as an independent Chair of the Board between May 2020 and February 2022. She joined the Board in 2019. Ms. Nash is also chair of the board, chief executive officer and majority shareholder of privately held Novagard Solutions, an innovator and manufacturer of silicone sealants and coatings and hybrid and foam solutions for the Building Systems, Electronics, EV and Battery and Industrial and Transportation markets. Ms. Nash spent nearly 30 years in investment banking at JPMorgan Chase & Co. (and predecessor companies), a financial services firm, retiring as Vice Chairman of Global Investment Banking in July 2005. Ms. Nash currently serves on the boards of directors of Blackbaud, Inc., a software company providing technology solutions for the not-for-profit industry, and privately held HBD Industries, Inc., a manufacturer and supplier of general purpose and application-engineered industrial products. Ms. Nash is Trustee of the New York-Presbyterian Hospital, a member of the National Board of the Smithsonian Institution, a member of the Smithsonian Tropical Research Institute, Panama and the Chair of the International Advisory Board of the Montreal Museum of Fine Arts.

There are no arrangements or understandings between Ms. Nash and any other person pursuant to which she was selected as the Interim Chief Executive Officer. There are no family relationships between Ms. Nash and any director or executive officer of the Company. Ms. Nash does not have any direct or indirect material interest in any transaction required to be disclosed pursuant to Item 404(a) of Regulation S-K.

In addition, on May 9, 2022, James L. Bersani, President, Real Estate of the Company, announced his retirement from the Company, effective as of October 7, 2022.

Ms. Nash’s Compensation

On May 11, 2022, the Human Capital & Compensation Committee of the Board (the “HCC Committee”) approved Ms. Nash’s compensation in her role as Executive Chair and Interim Chief Executive Officer in light of her expanded responsibilities and leadership. Specifically, as Executive Chair for the period of February 22, 2022 through May 11, 2022, Ms. Nash will be entitled to receive an annual base salary of \$1,000,000. In her capacity as Executive Chair and Interim Chief Executive Officer effective on May 12, 2022, Ms. Nash will be entitled to receive an annual base salary of \$1,350,000 and a short-term performance incentive compensation target of 190% of her base salary, with any short-term incentive awards earned in respect of the Spring 2022 season prorated based on the number of days Ms. Nash serves as Interim Chief Executive Officer during the season.

Ms. Rosen’s Compensation Increase

On May 11, 2022, the HCC Committee approved an increase in the base salary and incentive compensation target for Julie B. Rosen, President of the Company. Specifically, effective as of May 12, 2022, Ms. Rosen’s annual base salary was increased to \$1,000,000 (which represents a 15% total increase over her 2021 annual base salary). In addition, her short-term incentive compensation target was increased to 160% of her base salary beginning with the Spring 2022 season (which represents a 39% increase over her 2021 short-term incentive compensation target). The HCC Committee approved these increases in light of Ms. Rosen’s expanded responsibilities following the announcement of Mr. Meslow’s departure, including her oversight over a number of additional functions which previously reported directly to Mr. Meslow.

Retention Arrangements

In light of the Company's recent leadership changes (as described above), and in order to retain and incentivize the Company's existing leadership team who is critical to positioning the Company for long-term future growth and to navigating the Company steadily through this transitional period (including as the Company searches for a permanent Chief Executive Officer), on May 13, 2022, the Company entered into Executive Retention Agreements (the "Retention Agreements") with each of Wendy C. Arlin, the Company's Executive Vice President and Chief Financial Officer, Ms. Rosen and Deon N. Riley, the Company's Chief Human Resources Officer.

Under the Retention Agreements, each of Mses. Arlin, Rosen and Riley will be entitled to receive a cash retention bonus ("Cash Retention Bonus") of \$1.2 million, \$2.0 million and \$1.2 million, respectively. The Cash Retention Bonuses will be paid in three installments as follows, subject to the executive's continuous employment through each applicable payment date: 40% on the first payroll date following the effective date of the Retention Agreement; 30% on the first regularly scheduled payroll date in January 2023; and 30% on the first regularly scheduled payroll date in May 2023. Under the Retention Agreements, in the event the executive's employment is terminated (i) due to her death or "disability", (ii) by the Company without "cause" or (iii) by the executive for "good reason", then the executive will remain entitled to receive any unpaid portion of the Cash Retention Bonus on its original payment schedule. In the event the executive's employment terminates for any other reason prior to the third retention bonus payment date, then any unpaid portion of the Cash Retention Bonus will be forfeited and the executive will be required to repay to the Company any cash retention bonus payments previously paid to the executive under her Retention Agreement (on an after-tax basis).

In addition, under the Retention Agreements, each of Mses. Arlin, Rosen and Riley were granted a one-time retention award of performance share units (the "Retention PSU Awards") under the Company's 2020 Stock Option and Performance Incentive Plan, which had an aggregate grant date target value of approximately \$1.2 million, \$2.0 million and \$1.2 million, respectively. The Retention PSU Awards will be earned between 0% and 150% based on achievement of two equally-weighted performance metrics (Relative Revenue Growth CAGR and Operating Income Rate), each measured over the Company's 2022 and 2023 fiscal years. The earned Retention PSU Awards will vest on May 13, 2024, subject generally to the executive's continued employment through such date. In the event (i) the executive's employment is involuntarily terminated by the Company other than for "cause" or misconduct or (ii) the executive resigns for "good reason", then the service condition applicable to the Retention PSU Awards will be deemed satisfied and the Retention PSU Awards will remain outstanding and eligible to vest based on achievement of the performance metrics calculated as of the end of the performance period. The actual number of performance share units that were granted to the executives pursuant to the Retention PSU Awards were determined by dividing the above approved values by the closing price per share of the Company's stock on the grant date.

The foregoing descriptions of the Retention Agreements and the Retention PSU Awards are qualified in their entirety by the text of the Retention Agreements and the Retention PSU Awards, copies of which will be filed as exhibits to the Company's quarterly report on Form 10-Q for the fiscal quarter ending July 30, 2022.

Severance Arrangements

On May 13, 2022, the Company entered into executive severance arrangements with each of Mses. Arlin, Rosen and Riley that will apply in lieu of the severance protections set forth in their existing employment agreements with the Company (the "Severance Agreements"). The Company entered into these Severance Agreements in order to provide for uniformity of severance protections amongst each of Mses. Arlin, Rosen and Riley and to help reinforce and encourage the continued attention and dedication of the Company's leadership team to the execution of the Company's strategic plans during this transitional period for the Company.

Under the Severance Agreements, in the event of a termination of the executive's employment by the Company without "cause" or by the executive for "good reason", in each case other than during the three-month period prior to, and the 24-month period following, a "change in control" of the Company, then the executive will be entitled to receive (i) continued payment of base salary for two years following the termination date, (ii) an amount equal to two years of COBRA premiums, (iii) the executive's incentive compensation award for the season in which the termination date occurs, prorated based on the number of days employed during such season and determined based on actual performance, (iv) the incentive compensation the executive would have received if the executive had remained employed by the Company for two years following the termination date, determined based on actual performance, (v) accelerated vesting of a pro rata portion of the unvested equity awards held by the executive that vest solely upon the time-based vesting conditions and (vi) continued vesting of a pro rata portion of the unvested equity awards held by the executive that vest based on performance-based vesting conditions, which will remain subject to the existing performance metrics.

In the event such termination of employment occurs during the three-month period prior to, or during the 24-month period following, a “change in control” of the Company, then the executive will be entitled to receive (a) the amounts described in clauses (i) and (ii) above, (b) a payment equal to the sum of the incentive compensation payouts that the executive received for the four completed seasons prior to the termination date, (c) the executive’s incentive compensation award for the season in which the termination date occurs, prorated based on the number of days employed during such season and determined by reference to the average of the incentive compensation payouts the executive received for the four completed seasons prior to the termination date and (d) accelerated vesting of any outstanding unvested equity awards held by the executive (with performance goals deemed to be achieved at target levels if less than one-third of the applicable performance period has lapsed, otherwise performance goals will be deemed achieved at maximum levels).

The above payments and benefits are subject to the executive’s execution and non-revocation of a release of claims.

The foregoing description of the Severance Agreements is qualified in its entirety by the text of the Severance Agreements, copies of which will be filed as exhibits to the Company’s quarterly report on Form 10-Q for the fiscal quarter ending July 30, 2022.

Associate Stock Purchase Plan

At the Annual Meeting held on May 12, 2022, the Company’s stockholders approved the Bath & Body Works, Inc. Associate Stock Purchase Plan (the “ASPP”).

For a description of the material terms and conditions of the ASPP, see “Proposal 4: Approval of the Bath & Body Works, Inc. Associate Stock Purchase Plan” in the Company’s 2022 Proxy Statement filed on March 31, 2022 (the “Proxy Statement”), which description is incorporated herein by reference. The description of the ASPP contained in the Proxy Statement is qualified in its entirety by reference to the full text of the ASPP, a copy of which is filed hereto as Exhibit 10.1.

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

The matters voted upon at the Annual Meeting, each of which is described in the Proxy Statement, and the results of the voting were as follows:

Election of Directors

Patricia S. Bellinger, Alessandro Bogliolo, Francis A. Hondal, Danielle M. Lee, Michael G. Morris, Sarah E. Nash, Juan Rajlin, Stephen D. Steinour and J.K. Symancyk were elected to the Board for a term of one year. Of the 201,253,669 shares present in person or represented by proxy at the meeting, the number of shares voted for, the number of shares voted against, the number of shares abstained and the number of broker non-votes were as follows, with respect to each of the nominees:

	<u>For</u>	<u>Against</u>	<u>Abstain</u>	<u>Broker Non-Votes</u>
Patricia S. Bellinger	168,968,373	15,790,795	708,290	15,786,211
Alessandro Bogliolo	184,434,165	326,981	706,312	15,786,211
Francis A. Hondal	183,663,555	1,097,580	706,323	15,786,211
Danielle M. Lee	184,119,457	638,471	709,530	15,786,211
Michael G. Morris	183,524,198	1,230,561	712,699	15,786,211
Sarah E. Nash	173,320,889	11,256,531	890,038	15,786,211
Juan Rajlin	184,406,318	344,308	716,832	15,786,211
Stephen D. Steinour	184,064,273	521,818	881,367	15,786,211
J.K. Symancyk	184,414,127	332,778	720,553	15,786,211

Ratification of the Independent Registered Public Accountants

The appointment of Ernst & Young LLP as the Company's independent registered public accountants for the 2022 fiscal year was ratified, with 198,711,994 shares voting for the appointment, 1,243,582 shares voting against the appointment and 1,298,093 shares abstaining.

Advisory Vote on Executive Compensation

The compensation of the Company's named executive officers as described in the Proxy Statement was approved by the Company's stockholders, on an advisory basis, with 173,779,840 shares voting for the Company's executive compensation, 7,835,448 shares voting against the Company's executive compensation, 3,852,170 shares abstaining and 15,786,211 broker non-votes. 95.68% of the shares voting on the proposal voted in favor of the proposal.

Approval of Bath & Body Works, Inc. Associate Stock Purchase Plan

The ASPP was approved by a vote of 184,469,766 shares for the ASPP and 320,124 shares against the ASPP with 677,568 shares abstaining and 15,786,211 broker non-votes.

Stockholder Proposal to Reduce the Ownership Threshold for Calling Special Meetings of Stockholders

The stockholder proposal to reduce the ownership threshold for calling special meetings of stockholders was rejected by the Company's stockholders, with 49,263,097 shares voting for the proposal, 135,752,155 shares voting against the proposal, 452,206 shares abstaining and 15,786,211 broker non-votes. 26.62% of the shares voting on the proposal voted in favor of the proposal.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.1	Bath & Body Works, Inc. Associate Stock Purchase Plan.

SIGNATURES

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

BATH & BODY WORKS, INC.

Date: May 13, 2022

By: /s/ Michael C. Wu

Name: Michael C. Wu

Title: Chief Legal Officer and Secretary

BATH & BODY WORKS, INC.
ASSOCIATE STOCK PURCHASE PLAN

Section 1. Purpose. This Bath & Body Works, Inc. Associate Stock Purchase Plan (the “**Plan**”) is intended to provide employees of the Company and its Participating Companies with an opportunity to acquire a proprietary interest in the Company through the purchase of Shares. The Plan has two components: (a) one component (the “**423 Component**”) is intended to qualify as an “employee stock purchase plan” under Section 423 of the Code, and the Plan will be interpreted in a manner that is consistent with that intent, and (b) the other component (the “**Non-423 Component**”), which is not intended to qualify as an “employee stock purchase plan” under Section 423 of the Code, authorizes the grant of options to purchase Shares pursuant to rules, procedures or sub-plans adopted by the Committee that may be designed to achieve certain tax, securities laws or other objectives for Eligible Employees, as determined in the discretion of the Committee. Except as otherwise provided herein, the Non-423 Component will operate and be administered in the same manner as the 423 Component.

Section 2. Definitions.

(a) “**Affiliate**” means any entity that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the Company.

(b) “**ASPP Share Account**” means an account into which Shares purchased with accumulated payroll deductions at the end of an Offering Period are deposited on behalf of a Participant.

(c) “**Board**” means the Board of Directors of the Company.

(d) “**Code**” means the Internal Revenue Code of 1986, as amended from time to time, and the rules, regulations and guidance thereunder. Any reference to a provision in the Code shall include any successor provision thereto.

(e) “**Committee**” means the Human Capital and Compensation Committee of the Board, unless another committee is designated by the Board. If there is no Human Capital and Compensation Committee of the Board and the Board does not designate another committee, references herein to the “Committee” shall refer to the Board.

(f) “**Company**” means Bath & Body Works, Inc., a Delaware corporation, and any successor corporation.

(g) “**Compensation**” means the base salary and wages paid to an Eligible Employee by the Company or a Participating Company as compensation for services to the Company or Participating Company, before deduction for any salary deferral contributions made by the Eligible Employee to any tax-qualified or nonqualified deferred compensation plan, but excluding cash or equity-based incentive compensation, bonuses, or other similar payments. The Committee may change the definition of Compensation on a prospective basis.

(h) “**Corporate Transaction**” means a merger, consolidation, acquisition of property or stock, separation, reorganization or other corporate event described in Section 424 of the Code.

(i) “**Designated Broker**” means the financial services firm or other agent designated by the Company to maintain ASPP Share Accounts on behalf of Participants who have purchased Shares under the Plan.

(j) “**Effective Date**” means May 12, 2022, subject to approval by the Board and the stockholders of the Company in accordance with Section 19(k).

(k) “**Eligible Employee**” means an Employee who has completed (or who has been credited with) at least six (6) months of continuous employment service with the Company or any of the Participating Companies as of the applicable Offering Date (or such other period of employment as determined by the Committee in accordance with Treasury Regulation Section 1.423-2(e); provided, however, that the Committee retains discretion to determine which Eligible Employees may participate in the Plan or any Offering pursuant to and consistent with Treasury Regulation Sections 1.423-2(e) and (f). Notwithstanding the foregoing, the Committee (i) may exclude from participation in the Plan or any Offering any Employees who are “highly compensated employees” or a sub-set of such “highly compensated employees” (within the meaning of Section 414(q) of the Code) or who otherwise may be excluded from participation pursuant to Treasury Regulation Section 1.423-2(e) and (ii) may exclude any Employees located outside of the United States to the extent permitted under Section 423 of the Code.

(l) “**Employee**” means any person who renders services to the Company or a Participating Company as an employee (whether on a full-time or part-time basis) pursuant to an employment relationship with such employer. For purposes of the Plan, the employment relationship shall be treated as continuing intact while the individual is on military leave, sick leave, parental leave or other leave of absence approved by the Company or a Participating Company that meets the requirements of Treasury Regulation Section 1.421-1(h)(2). Where the period of leave exceeds three (3) months and the individual’s right to reemployment is not provided by statute or contract, the employment relationship shall be deemed to have terminated on the first day immediately following such three-month period, or such other period specified in Treasury Regulation Section 1.421-1(h)(2).

(m) “**Enrollment Form**” means a written agreement (which may be in an electronic or other form specified by the Committee) pursuant to which an Eligible Employee may elect to enroll in the Plan, to authorize a new level of payroll deductions, or to stop payroll deductions and withdraw from an Offering.

(n) “**Exchange Act**” means the Securities Exchange Act of 1934, as amended from time to time, and the rules, regulations and guidance thereunder. Any reference to a provision in the Exchange Act shall include any successor provision thereto.

(o) “**Fair Market Value**” means, as of any date, the closing price of a Share on the Trading Day immediately preceding the date of determination (or, if there is no reported sale on such date, on the last preceding date on which any reported sale occurred), on the principal stock market or exchange on which Shares are quoted or traded, or if Shares are not so quoted or traded, the fair market value of a Share as determined by the Committee, which such determination shall be conclusive and binding on all persons.

(p) “**Initial Offering Period**” means the Offering Period commencing on January 1, 2023 and ending on June 30, 2023, unless otherwise determined by the Committee (or its delegate).

(q) “**Offering**” means the grant of options to purchase Shares under the 423 Component or the Non-423 Component, as applicable, to Eligible Employees under terms approved by the Committee.

(r) “**Offering Date**” means, with respect to each Offering Period, the first Trading Day of such Offering Period as designated by the Committee.

(s) “**Offering Period**” means the period described in Section 5.

(t) “**Offering Period Limit**” has the meaning set forth in Section 7.

(u) “**Participant**” means an Eligible Employee who is actively participating in the Plan.

(v) “**Participating Companies**” means the Subsidiaries and Affiliates that have been designated by the Committee as eligible to participate in the Plan, and such other Subsidiaries and Affiliates that may be designated by the Committee from time to time in its sole discretion. For purposes of the 423 Component, only the Company and its Subsidiaries may be Participating Companies; provided, however, that at any given time, a Subsidiary that is a Participating Company under the 423 Component will not be a Participating Company under the Non-423 Component. The Committee may designate any Subsidiary or Affiliate as a Participating Company, or revoke any such designation, at any time and from time to time, either before or after the Plan is approved by the stockholders of the Company.

(w) “**Plan**” means this Bath & Body Works, Inc. Associate Stock Purchase Plan, as set forth herein, and as amended from time to time.

(x) “**Purchase Date**” means one or more dates during an Offering Period, as established by the Committee, on which options granted under the Plan will be exercised and purchases of Shares will be carried out in accordance with the terms of the applicable Offering; provided that, unless otherwise determined by the Committee, each Offering Period will have one Purchase Date on the last Trading Day of such Offering Period.

(y) “**Purchase Price**” means an amount equal to eighty-five percent (85%) of the Fair Market Value of a Share on the Purchase Date; provided that the Purchase Price per Share will in no event be less than the par value of the Shares.

(z) “**Securities Act**” means the Securities Act of 1933, as amended from time to time, and the rules, regulations and guidance thereunder. Any reference to a provision in the Securities Act includes any successor provision thereto.

(aa) “**Share**” means a share of the Company’s common stock, \$0.50 par value.

(bb) “**Subsidiary**” means any corporation, domestic or foreign, in an unbroken chain of corporations beginning with the Company of which at the time of the granting of an option pursuant to Section 7, not less than 50% of the total combined voting power of all classes of stock are held by the Company or a Subsidiary, whether or not such corporation exists now or is hereafter organized or acquired by the Company or a Subsidiary; provided, however, that a limited liability company or partnership may be treated as a Subsidiary to the extent either (a) such entity is treated as a disregarded entity under Treasury Regulation Section 301.7701-3(a) by reason of the Company or any other Subsidiary that is a corporation being the sole owner of such entity, or (b) such entity elects to be classified as a corporation under Treasury Regulation Section 301.7701-3(a) and such entity would otherwise qualify as a Subsidiary.

(cc) “**Trading Day**” means any day on which the national stock exchange upon which the Shares are listed is open for trading.

(dd) “**Treasury Regulations**” means the Treasury regulations promulgated under the Code. Any reference to a provision in a Treasury regulation includes any successor provision thereto.

Section 3. Administration.

(a) Administration of Plan. The Plan shall be administered by the Committee which shall have the authority to construe and interpret the Plan, prescribe, amend and rescind rules relating to the Plan’s administration and take any other actions necessary or desirable for the administration of the Plan including, without limitation, adopting sub-plans and special rules applicable to particular Participating Companies or locations, which sub-plans or special rules may be designed to be outside the scope of Section 423 of the Code or under the Non-423 Component. The Committee may correct any defect or supply any omission or reconcile any inconsistency or ambiguity in the Plan. The decisions of the Committee shall be final and binding on all persons. All expenses of administering the Plan shall be borne by the Company. Notwithstanding anything in the Plan to the contrary and without limiting the generality of the foregoing, the Committee shall have the authority to change the minimum and maximum amounts of Compensation for payroll deductions pursuant to Section 6(a), the frequency with which a Participant may elect to change the Participant’s rate of payroll deductions pursuant to Section 6(b), the dates by which a Participant is required to submit an Enrollment Form pursuant to Section 6(b) and Section 10(a), the effective date of a Participant’s withdrawal due to termination or transfer of employment or change in status pursuant to Section 11, and the withholding procedures pursuant to Section 19(m).

(b) Delegation of Authority. To the extent permitted by applicable law, including under Section 157(c) of the Delaware General Corporation Law, the Committee may delegate to (i) one or more officers of the Company some or all of its authority under the Plan and (ii) one or more committees of the Board some or all of its authority under the Plan.

Section 4. Eligibility.

(a) Eligibility Generally. In order to participate in an Offering, an Eligible Employee must deliver a completed Enrollment Form to the Company at least five (5) business days prior to the Offering Date (unless a different time is set by the Company for all Eligible Employees with respect to such Offering) and must elect the Eligible Employee’s payroll deduction rate as described in Section 6.

(b) Limitations on Eligibility. Notwithstanding any provision of the Plan to the contrary, no Eligible Employee shall be granted an option under the 423 Component if (i) immediately after the grant of the option, such Eligible Employee (or any other person whose stock would be attributed to such Eligible Employee pursuant to Section 424(d) of the Code) would own stock of the Company or hold outstanding options to purchase stock of the Company possessing 5% or more of the total combined voting power or value of all classes of stock of the Company or any Subsidiary or (ii) such option would permit such Eligible Employee's rights to purchase stock under all employee stock purchase plans (described in Section 423 of the Code) of the Company and its Subsidiaries to accrue at a rate that exceeds \$25,000 of the Fair Market Value of such stock (determined at the time the option is granted) for each calendar year in which such option is outstanding at any time, in accordance with the provisions of Section 423(b)(8) of the Code.

Section 5. *Offering Periods.* Following the completion of the Initial Offering Period, the Plan shall be implemented by subsequent Offering Periods, each of which shall be approximately six (6) months in duration, with new Offering Periods commencing on or about January 1 and July 1 of each year. The Committee shall have, prior to the commencement of a particular Offering Period, the authority to change the duration, frequency, start and end dates of Offering Periods (subject to a maximum Offering Period of twenty-seven (27) months).

Section 6. *Participation.*

(a) Enrollment; Payroll Deductions. An Eligible Employee may elect to participate in the Plan by properly completing an Enrollment Form, which may be electronic, and submitting it to the Company, in accordance with the enrollment procedures established by the Committee. Participation in the Plan is entirely voluntary. By submitting an Enrollment Form, the Eligible Employee authorizes payroll deductions from the Eligible Employee's paycheck in an amount equal to a whole percentage (of at least one percent (1%) but no greater than ten percent (10%)) of the Eligible Employee's Compensation on each payday occurring during an Offering Period. Payroll deductions shall commence as soon as administratively practicable following the Offering Date and end on the latest practicable payroll date on or before the Purchase Date. The Company shall maintain records of all payroll deductions but shall have no obligation to pay interest on payroll deductions or to hold such amounts in a trust or in any segregated account, except as may be required by applicable law. Unless expressly permitted by the Committee, a Participant may not make any separate contributions or payments to the Plan. For the avoidance of doubt, all payroll deductions during an Offering Period that are made under the Plan from a Participant's Compensation shall be made on an after-tax basis. If payroll deductions during an Offering Period for purposes of the Plan are prohibited or otherwise problematic under applicable law (as determined by the Committee in its discretion), the Committee may permit Participants to contribute to the Plan by such other means as determined by the Committee. Any reference to "payroll deductions" in this Section 6(a), (or in any other section of the Plan) will similarly cover contributions by other means made pursuant to this Section 6(a).

(b) Election Changes. During an Offering Period, a Participant may not increase or decrease the Participant's rate of payroll deductions applicable to such Offering Period. A Participant may increase or decrease the Participant's rate of payroll deductions for future Offering Periods by submitting a new Enrollment Form authorizing the new rate of payroll deductions at least fifteen (15) days before the start of the next Offering Period.

(c) Automatic Re-enrollment. The deduction rate selected in the Enrollment Form shall remain in effect for subsequent Offering Periods unless the Participant (i) submits a new Enrollment Form authorizing a new level of payroll deductions in accordance with Section 6(b), (ii) withdraws from the Plan in accordance with Section 10, or (iii) terminates employment or otherwise becomes ineligible to participate in the Plan.

Section 7. Grant of Option. On each Offering Date, each Participant in the applicable Offering Period shall be granted an option to purchase, on the Purchase Date, a number of Shares determined by dividing the Participant's accumulated payroll deductions in respect of such Offering Period by the applicable Purchase Price; provided, that the maximum number of Shares that may be purchased by a Participant during an Offering Period shall not exceed 1,000 Shares or such other maximum number of Shares as the Committee may establish from time to time before an Offering Period begins, subject to adjustment in accordance with Section 18 and the limitations set forth in Section 4 and Section 13 of the Plan (the "**Offering Period Limit**").

Section 8. Exercise of Option/Purchase of Shares.

(a) A Participant's option to purchase Shares will be exercised automatically on the Purchase Date of each Offering Period. The Participant's accumulated payroll deductions will be used to purchase the maximum number of whole Shares that can be purchased with the amounts in the Participant's notional account, subject to the Offering Period Limit. During a Participant's lifetime, the Participant's option to purchase Shares under the Plan is exercisable only by the Participant.

(b) No fractional Shares may be purchased, but contributions unused in an applicable Offering Period due to being less than the Purchase Price of a whole Share (and thereby representing a fractional Share) will be carried forward to the next Offering Period, subject to earlier withdrawal by the Participant in accordance with Section 10 or termination of employment or change in employment status in accordance with Section 11.

Section 9. Transfer of Shares. As soon as administratively practicable after each Purchase Date, the Company will arrange for the delivery to each Participant of the Shares purchased upon exercise of the Participant's option. Unless otherwise determined by the Committee, the Committee will require that the Shares be deposited directly into an ASPP Share Account established in the name of the Participant with a Designated Broker and may require that the Shares be retained with the Designated Broker for a specified period of time. Participants will not have any voting, dividend or other rights of a stockholder with respect to the Shares subject to any option granted under the Plan until such Shares have been delivered pursuant to this Section 9.

Section 10. *Withdrawal.*

(a) Withdrawal Procedure. A Participant may withdraw from an Offering by submitting to the Company a revised Enrollment Form indicating the Participant's election to withdraw at least thirty (30) days before the Purchase Date. The accumulated payroll deductions held on behalf of a Participant in the Participant's notional account (that have not been used to purchase Shares) shall be paid to the Participant as soon as administratively practicable following receipt of the Participant's Enrollment Form indicating the Participant's election to withdraw and the Participant's option shall be automatically terminated. If a Participant withdraws from an Offering Period, no payroll deductions will be made during any succeeding Offering Period, unless the Participant re-enrolls in accordance with Section 6(a) of the Plan.

(b) Effect on Succeeding Offering Periods. A Participant's election to withdraw from an Offering Period will not have any effect upon the Participant's eligibility to participate in succeeding Offering Periods that commence following the completion of the Offering Period from which the Participant withdraws.

Section 11. *Termination of Employment; Change in Employment Status.* Notwithstanding Section 10, upon termination of a Participant's employment for any reason prior to the Purchase Date, including death, disability or retirement, or a change in the Participant's employment status following which the Participant is no longer an Eligible Employee, (a) if such termination occurs at least thirty (30) days before the Purchase Date, the Participant will be deemed to have withdrawn from the applicable Offering in accordance with Section 10 and the payroll deductions in the Participant's notional account (that have not been used to purchase Shares) shall be returned as soon as administratively practicable to the Participant, or in the case of the Participant's death, to the person(s) entitled to such amounts by will or the laws of descent and distribution, and the Participant's option shall be automatically terminated, and (b) if such termination occurs within less than thirty (30) days prior to the Purchase Date, the Participant will not be treated as having withdrawn from such applicable Offering and the accumulated payroll deductions in the Participant's notional account will be used to purchase Shares on the applicable Purchase Date, and the Participant will thereafter be deemed to have withdrawn from the next subsequent Offering in accordance with Section 10 immediately prior to the commencement of such applicable Offering Period. Unless otherwise determined by the Committee, a Participant whose employment transfers or whose employment terminates with an immediate rehire (with no break in service) by or between the Company or any Participating Company will not be treated as having terminated employment for purposes of participating in the Plan or an Offering; provided, however, if such transfer or employment termination and rehire results in the transfer of the Participant's participation in an Offering under the 423 Component to an Offering under the Non-423 Component, the exercise of the Participant's option will be qualified under the 423 Component only to the extent that such option and exercise complies with Section 423 of the Code. If such transfer or employment termination and rehire results in the transfer of the Participant's participation in an Offering under the Non-423 Component to an Offering under the 423 Component, the Participant's option and the exercise of such option will remain non-qualified under the Non-423 Component.

Section 12. *No Interest.* No interest shall accrue on or be payable with respect to the payroll deductions of a Participant in the Plan, except as may be required by applicable law.

Section 13. *Shares Reserved for Plan.*

(a) **Number of Shares.** The maximum number of Shares available for issuance under the Plan shall not exceed in the aggregate 2,400,000 Shares, subject to adjustment as provided in **Section 18**. The Shares may be newly issued Shares, treasury Shares or Shares acquired on the open market. If any purchase of Shares pursuant to an option under the Plan is not consummated, the Shares not purchased under such option will again become available for issuance under the Plan. Any or all Shares reserved under this **Section 13(a)** may be granted under the 423 Component.

(b) **Over-subscribed Offerings.** If the Committee determines that, on a particular Purchase Date, the number of Shares with respect to which options are to be exercised exceeds either the number of Shares then available under the Plan, the Company shall make a pro rata allocation of the Shares remaining available for purchase in as uniform a manner as practicable and as the Committee determines to be equitable. No option granted under the Plan shall permit a Participant to purchase Shares which, if added together with the total number of Shares purchased by all other Participants in such Offering, would exceed the total number of Shares remaining available under the Plan.

Section 14. *Transferability.* No payroll deductions credited to a Participant, nor any rights with respect to the exercise of an option or any rights to receive Shares hereunder may be assigned, transferred, pledged or otherwise disposed of in any way (other than by will or the laws of descent and distribution, or as provided in **Section 17**) by the Participant. Any attempt to assign, transfer, pledge or otherwise dispose of such rights or amounts shall be without effect.

Section 15. *Application of Funds.* All payroll deductions received or held by the Company under the Plan may be used by the Company for any corporate purpose to the extent permitted by applicable law, and the Company shall not be required to segregate such payroll deductions or contributions.

Section 16. *Statements.* Statements will be made available (in such form as determined by the Committee, including in electronic form) to Participants at least annually which shall set forth the contributions made by the Participant to the Plan, the Purchase Price of any Shares purchased with accumulated funds, the number of Shares purchased, and any payroll deduction amounts remaining in the Participant's notional account.

Section 17. *Designation of Beneficiary.* If permitted by the Committee, a Participant may file, on forms supplied by the Committee, a written designation of beneficiary who, in the event of the Participant's death, is to receive any Shares from the Participant's ASPP Share Account or any payroll deduction amounts remaining in the Participant's notional account.

Section 18. *Adjustments Upon Changes in Capitalization; Dissolution or Liquidation; Corporate Transactions.*

(a) **Adjustments.** In the event that any dividend or other distribution (whether in the form of cash, Shares, or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase, or exchange of Shares or other securities of the Company, or other change in the Company's structure affecting the Shares occurs, then in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan, the Committee will, in such manner as it deems equitable, adjust the number of Shares and class of Shares that may be delivered under the Plan, the Purchase Price per Share and the number of Shares covered by each outstanding option under the Plan, and the numerical limits of **Section 7** and **Section 13**.

(b) Dissolution or Liquidation. Unless otherwise determined by the Committee, in the event of a proposed dissolution or liquidation of the Company, any Offering Period then in progress will be shortened by setting a new Purchase Date and the Offering Period will end immediately prior to the proposed dissolution or liquidation. The new Purchase Date will be before the date of the Company's proposed dissolution or liquidation. Before the new Purchase Date, the Committee will provide each Participant with written notice, which may be electronic, of the new Purchase Date and that the Participant's option will be exercised automatically on such date, unless before such time, the Participant has withdrawn from the Offering in accordance with Section 10 (or deemed to have withdrawn in accordance with Section 11).

(c) Corporate Transaction. In the event of a Corporate Transaction, each outstanding option will be assumed or an equivalent option substituted by the successor corporation or a parent or Subsidiary of such successor corporation. If the successor corporation refuses to assume or substitute the option, the Offering Period with respect to which the option relates will be shortened by setting a new Purchase Date on which the Offering Period will end. The new Purchase Date will occur before the date of the Corporate Transaction. Prior to the new Purchase Date, the Committee will provide each Participant with written notice, which may be electronic, of the new Purchase Date and that the Participant's option will be exercised automatically on such date, unless before such date, the Participant has withdrawn (or, pursuant to Section 11, been deemed to have withdrawn) from the Offering in accordance with Section 10. Notwithstanding the foregoing, in the event of a Corporate Transaction, the Committee may also elect to terminate all outstanding Offering Periods in accordance with Section 19(j).

Section 19. General Provisions.

(a) Equal Rights and Privileges under the 423 Component. Notwithstanding any provision of the Plan to the contrary and in accordance with Section 423 of the Code, all Eligible Employees who are granted options under the 423 Component shall have the same rights and privileges.

(b) No Right to Continued Service. Neither the Plan nor any compensation paid hereunder will confer on any Participant the right to continue as an Employee or in any other capacity.

(c) Rights as Stockholder. A Participant will become a stockholder with respect to the Shares that are purchased pursuant to options granted under the Plan when the Shares are transferred to the Participant or, if applicable, to the Participant's ASPP Share Account. A Participant will have no rights as a stockholder with respect to Shares for which an election to participate in an Offering Period has been made until such Participant becomes a stockholder as provided herein.

(d) Successors and Assigns. The Plan shall be binding on the Company and its successors and assigns.

(e) Entire Plan. This Plan constitutes the entire plan with respect to the subject matter hereof and supersedes all prior plans with respect to the subject matter hereof.

(f) Compliance with Law. The obligations of the Company with respect to payments under the Plan are subject to compliance with all applicable laws and regulations. Shares shall not be issued with respect to an option granted under the Plan unless the exercise of such option and the issuance and delivery of the Shares pursuant thereto shall comply with all applicable provisions of law, including, without limitation, the Securities Act, the Exchange Act, and the requirements of any stock exchange upon which the Shares may then be listed.

(g) Disqualifying Dispositions Under the 423 Component. Each Participant shall give the Company prompt written notice of any disposition or other transfer of Shares acquired pursuant to the exercise of an option acquired under the 423 Component, if such disposition or transfer is made within two years after the Offering Date or within one year after the Purchase Date.

(h) Term of Plan. The Plan shall become effective on the Effective Date and, unless terminated earlier pursuant to Section 19(i), shall have a term of ten years.

(i) Amendment or Termination. The Committee may, in its sole discretion, amend, suspend or terminate the Plan at any time and for any reason. If the Plan is terminated, the Committee may elect to terminate all outstanding Offering Periods either immediately or once Shares have been purchased on the next Purchase Date or permit Offering Periods to expire in accordance with their terms (and subject to any adjustment in accordance with Section 18). If any Offering Period is terminated before its scheduled expiration, all amounts that have not been used to purchase Shares will be returned to Participants (without interest, except as otherwise required by law) as soon as administratively practicable.

(j) Applicable Law. The laws of the State of Delaware shall govern all questions concerning the construction, validity and interpretation of the Plan, without regard to such state's conflict of law rules.

(k) Stockholder Approval. The Plan will be subject to approval by the stockholders of the Company within twelve (12) months before or after the date the Plan is adopted by the Board.

(l) Section 423 Component Tax Treatment. The 423 Component is intended to qualify as an “employee stock purchase plan” under Section 423 of the Code, and any provision of the Plan that is inconsistent with Section 423 of the Code shall be reformed to comply with Section 423 of the Code. With respect to the 423 Component, all options are intended to be treated as “statutory stock options” within the meaning of Treasury Regulation §1.409A-1(b)(5)(ii), and the Plan and the options will be interpreted and administered accordingly. Notwithstanding anything to the contrary in the Plan, neither the Company nor the Committee, nor any person acting on behalf of the Company or the Committee, will be liable to any Participant or other person by reason of any acceleration of income, any additional tax, or any other tax or liability asserted by reason of the failure of the Plan or any option to be exempt from or satisfy the requirements of Section 423 or 409A of the Code.

(m) Withholding. To the extent required by applicable Federal, state, local or foreign law, a Participant must make arrangements satisfactory to the Company for the payment of any withholding or similar tax obligations that arise in connection with the Plan. At any time, the Company or any Subsidiary or Affiliate may, but will not be obligated to, withhold from a Participant’s compensation the amount necessary for the Company or any Subsidiary or Affiliate to meet applicable withholding obligations, including any withholding required to make available to the Company or any Subsidiary or Affiliate any tax deductions or benefits attributable to the sale or early disposition of Shares by such Participant. In addition, the Company or any Subsidiary or Affiliate may, but will not be obligated to, withhold from the proceeds of the sale of Shares or any other method of withholding that the Company or any Subsidiary or Affiliate deems appropriate to the extent permitted by, where applicable, Treasury Regulation Section 1.423-2(f). The Company will not be required to issue any Shares under the Plan until such obligations are satisfied.

(n) Severability. If any provision of the Plan shall for any reason be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, and the Plan shall be construed as if such invalid or unenforceable provision were omitted.

(o) Headings. The headings of sections herein are included solely for convenience and shall not affect the meaning of any of the provisions of the Plan.