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, 2018

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: 1-32381

HERBALIFE NUTRITION LTD.

(Exact name of registrant as specified in its charter)

Cayman Islands	**98-0377871**
(State or other jurisdiction of incorporation or organization)	*(I.R.S. Employer Identification No.)*

P.O. Box 309GT
Ugland House, South Church Street
Grand Cayman, Cayman Islands
(Address of principal executive offices) (Zip Code)

(213) 745-0500
(Registrant's telephone number, including area code)

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

Title of each class:	**Name of each exchange on which registered:**
Common Shares, par value $0.0005 per share	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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229,405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

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 registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

There were 152,864,112 common shares outstanding as of February 12, 2019. The aggregate market value of the Registrant's common shares held by non-affiliates was approximately $4,263 million as of June 30, 2018, based upon the last reported sales price on the New York Stock Exchange on that date of $53.72. For the purposes of this disclosure only, the registrant has assumed that its directors, executive officers, and the beneficial owners of 5% or more of the registrant's outstanding common stock are the affiliates of the registrant.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's Definitive Proxy Statement to be filed with the Securities and Exchange Commission no later than 120 days after the end of the Registrant's fiscal year ended December 31, 2018, are incorporated by reference in Part III of this Annual Report on Form 10-K.

TABLE OF CONTENTS

FORWARD-LOOKING STATEMENTS

This document contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements other than statements of historical fact are "forward-looking statements" for purposes of federal and state securities laws, including any projections of earnings, revenue or other financial items; any statements of the plans, strategies and objectives of management for future operations; any statements concerning proposed new services or developments; any statements regarding future economic conditions or performance; any statements of belief; and any statements of assumptions underlying any of the foregoing. Forward-looking statements may include, among other, the words "may," "will," "estimate," "intend," "continue," "believe," "expect," "anticipate" or any other similar words.

Although we believe that the expectations reflected in any of our forward-looking statements are reasonable, actual results could differ materially from those projected or assumed in any of our forward-looking statements. Our future financial condition and results of operations, as well as any forward-looking statements, are subject to change and to inherent risks and uncertainties, such as those disclosed or incorporated by reference in our filings with the Securities and Exchange Commission. Important factors that could cause our actual results, performance and achievements, or industry results to differ materially from estimates or projections contained in our forward-looking statements include, among others, the following:

- our relationship with, and our ability to influence the actions of, our Members;
- improper action by our employees or Members in violation of applicable law;
- adverse publicity associated with our products or network marketing organization, including our ability to comfort the marketplace and regulators regarding our compliance with applicable laws;
- changing consumer preferences and demands;
- the competitive nature of our business;
- regulatory matters governing our products, including potential governmental or regulatory actions concerning the safety or efficacy of our products and network marketing program, including the direct selling markets in which we operate;
- legal challenges to our network marketing program;
- the Consent Order entered into with the FTC, the effects thereof and any failure to comply therewith;
- risks associated with operating internationally and the effect of economic factors, including foreign exchange, inflation, disruptions or conflicts with our third-party importers, pricing and currency devaluation risks, especially in countries such as Venezuela;
- uncertainties relating to interpretation and enforcement of legislation in China governing direct selling and anti-pyramiding;
- our inability to obtain or maintain the necessary licenses for our direct selling business in China and elsewhere;
- adverse changes in the Chinese economy;
- our dependence on increased penetration of existing markets;
- any material disruption to our business caused by natural disasters, other catastrophic events, acts of war or terrorism, or cyber-security incidents;
- noncompliance by us or our Members with any privacy laws or any security breach by us or a third party involving the misappropriation, loss, or other unauthorized use or disclosure of confidential information;
- contractual limitations on our ability to expand our business;
- our reliance on our information technology infrastructure and outside manufacturers;
- the sufficiency of our trademarks and other intellectual property rights;
- product concentration;
- our reliance upon, or the loss or departure of any member of, our senior management team which could negatively impact our Member relations and operating results;
- U.S. and foreign laws and regulations applicable to our operations;

- uncertainties relating to the United Kingdom's vote to exit from the European Union;
- restrictions imposed by covenants in our existing indebtedness;
- risks related to the convertible notes;
- uncertainties relating to the application of transfer pricing, duties, value added taxes, and other tax regulations, and changes thereto;
- changes in tax laws, treaties or regulations, or their interpretation;
- taxation relating to our Members;
- product liability claims;
- our incorporation under the laws of the Cayman Islands;
- whether we will purchase any of our shares in the open markets or otherwise; and
- share price volatility related to, among other things, speculative trading and certain traders shorting our common shares.

Additional factors that could cause actual results to differ materially from our forward-looking statements are set forth in this Annual Report on Form 10-K, including under the heading "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and in our Consolidated Financial Statements and the related Notes.

Forward-looking statements in this Annual Report on Form 10-K speak only as of the date hereof, and forward-looking statements in documents attached that are incorporated by reference speak only as of the date of those documents. We do not undertake any obligation to update or release any revisions to any forward-looking statement or to report any events or circumstances after the date hereof or to reflect the occurrence of unanticipated events, except as required by law.

The Company

"We," "our," "us," "Company," "Herbalife," and "Herbalife Nutrition" refer to Herbalife Nutrition Ltd., a Cayman Islands exempted company incorporated with limited liability, and its subsidiaries. Herbalife Nutrition Ltd. is a holding company, with substantially all of its assets consisting of the capital stock of its direct and indirectly-owned subsidiaries.

PART I

Item 1. ***Business***

GENERAL

Founded in 1980, we are a global nutrition company with a purpose to make the world healthier and happier by providing nutrition solutions for consumers looking to achieve results in the areas of weight management and general wellness or to enhance their fitness and sports performance. We use a direct selling business model to distribute and market our nutrition products. We believe that direct selling is ideally suited to marketing our nutrition products because the distribution and sales of nutrition products are reinforced by the personal contact, support, coaching, education, and the understanding community of like-minded people that our entrepreneurial Members have to offer.

We sell products in the categories of weight management; targeted nutrition; energy, sports, and fitness; and outer nutrition in 94 countries as of December 31, 2018. In addition to the effectiveness of personalized selling through a direct selling business model, we believe the primary drivers for our success throughout our 39-year operating history have been enhanced consumer awareness and demand for our products due to trends such as the global obesity epidemic, increasing healthcare costs, healthy aging, and the rise of entrepreneurship.

OUR PRODUCTS

Our Members use high-quality and science-backed products to help other Members and their customers manage their weight, improve their overall health, enhance their fitness and sport goals, and experience life-changing results. As of December 31, 2018 we marketed and sold approximately 120 products. Our products are often sold as part of a program and therefore our portfolio is comprised of a series of related products designed to simplify weight management and nutrition for our Members and their customers. We categorize our products into five groups: weight management; targeted nutrition; energy, sports, and fitness; outer nutrition; and literature, promotional and other. For 2018, 2017, and 2016, our Formula 1 Nutritional Shake Mix, our best-selling product line, approximated 30% of our net sales.

The following table summarizes our products by product category:

	Percentage of Net Sales				
	2018	2017	2016	Description	Representative Products
Weight Management	63.5%	64.2%	63.8%	Meal replacement, protein shakes, drink mixes, weight loss enhancers and healthy snacks	Formula 1 Healthy Meal, Herbal Tea Concentrate, Protein Drink Mix, Personalized Protein Powder, *Total Control*®, Formula 2 Multivitamin Complex, *Prolessa*™ *Duo*, and Protein Bars
Targeted Nutrition	25.4%	24.5%	23.6%	Dietary and nutritional supplements containing quality herbs, vitamins, minerals and other natural ingredients	Herbal Aloe Concentrate, Active Fiber Complex, *Niteworks*®, and *Herbalifeline*®
Energy, Sports, and Fitness	6.3%	6.0%	6.1%	Products that support a healthy active lifestyle	*Herbalife24*® product line, N-R-G Tea, and *Liftoff*® energy drink
Outer Nutrition	1.9%	2.1%	2.4%	Facial skin care, body care, and hair care	*Herbalife SKIN* line and *Herbal Aloe Bath and Body Care* line
Literature, Promotional, and Other	2.9%	3.2%	4.1%	Start-up kits, sales tools, and educational materials	Herbalife Member Packs and BizWorks

PRODUCT DEVELOPMENT

To help our consumers achieve a healthy active lifestyle, we are committed to providing the highest-quality, science-based products in the areas of weight management; targeted nutrition (including everyday wellness and healthy aging); energy, sports, and fitness; and outer nutrition. We believe our focus on nutrition and botanical science and the combination of our internal efforts with the scientific expertise of outside resources, including our ingredient suppliers, major universities, and our Nutrition Advisory Board, have resulted in product differentiation that has given our Members and consumers increased confidence in our products.

We continue to invest in science and technical functions, including research and development associated with creating new product formulations; clinical studies of existing products or products in development; technical operations to improve current product formulations; quality assurance and quality control to establish the appropriate quality systems, controls, and standards; and rigorous ingredient and product testing to ensure compliance with regulatory requirements, as well as in the areas of regulatory and scientific affairs. Additionally, our product strategy is twofold: (1) to increase the value of existing customers by investing in products to fill perceived gaps in our portfolios, add flavors, increase convenience by investing in snacks and bars, and expand into the afternoon and evening with products like savory shakes or soups; and (2) to attract new customers by entering into new categories, offer more choices and expand our current sports line. We have a keen focus on product innovation and aim to launch new products on a regular basis. Once a particular market opportunity has been identified, our scientists, along with our operations, marketing, and sales teams, work closely with Member leadership to introduce new products.

Our Nutrition Advisory Board and Dieticians Advisory Board are comprised of leading experts around the world in the fields of nutrition and health who educate our Members on the principles of nutrition, physical activity, diet, and healthy lifestyle. We rely on the scientific contributions from members of our Nutrition Advisory Board and our in-house scientific team to continually upgrade or introduce new products as new scientific studies become available and are accepted by regulatory authorities around the world.

SOURCING, INGREDIENTS, AND MANUFACTURING

We seek to provide the highest quality products to our Members and their customers through our “seed to feed” strategy, which includes significant investments in quality ingredients from traceable sources, scientific personnel, product testing, and increasing the amount of self-manufacturing of our top products.

Ingredients

Our seed to feed strategy is rooted in using quality ingredients from traceable sources. Our procurement process for many of our botanical products now stretches back to the farms and includes the complete self-processing of teas and herbal ingredients into finished raw materials at our own facilities. Our Changsha, China facility provides high quality tea and herbal raw materials to all our manufacturing plants as well as our third-party contract manufacturers around the world. We source the ingredients that we do not self-process from companies that we believe are well-established and reputable suppliers in their respective field. Our suppliers also utilize similar quality processes, equipment, expertise, and traceability as we do with our own modern quality processes. As part of ensuring high quality ingredients, we also test our incoming raw materials for compliance to potency, identity, and adherence to strict specifications.

Manufacturing

The next key component of our seed to feed strategy involves the high-quality manufacturing of these ingredients into finished products, which are produced at both third-party manufacturers and our own manufacturing facilities. We continue to execute on our long-term strategy of expanding and increasing our self-manufacturing. Our manufacturing facilities, known as Herbalife Innovation and Manufacturing Facilities, or HIMs, include HIM Lake Forest, HIM Winston-Salem, HIM Suzhou, and HIM Nanjing. HIM Winston-Salem, currently our largest manufacturing facility at approximately 800,000 square feet, and HIM Nanjing both have significant space for future expansion. HIM Nanjing has more than doubled our available finished product manufacturing capacity for the China market. Together, our HIM manufacturing facilities produce approximately 60% to 65% of our inner nutrition products sold worldwide.

We analyze our finished products for label claims and microbiological purity, thereby verifying product safety and shelf life. For our self-manufactured products, we do substantially all of our testing in-house at our modern quality control laboratories in the U.S. and China. We have major quality control labs in Southern California, Winston-Salem, North Carolina, Suzhou, China and our Worldwide Quality Center of Excellence in Changsha, China. All HIM quality control labs contain modern analytical equipment and are backed by the expertise in testing and methods development of our scientists. In our U.S. HIM facilities, which produce products for the U.S. and most of our international markets, we operate and test to the U.S. Food and Drug Administration’s, or FDA’s, strict acidified food and dietary supplement current Good Manufacturing Practices, or cGMPs, even though many of the products being manufactured are classified as food products that are generally subject to less stringent manufacturing standards.

We work closely with our third-party manufacturers to ensure high quality products are produced and tested through a vigorous quality control process. For these products not manufactured at HIM facilities, we combine four elements to ensure quality products: the same selectivity and assurance in ingredients as noted above; use of reputable, cGMP-compliant, quality-minded manufacturing partners; a significant supplier qualification and annual audit program; and significant product quality testing. During 2018, we purchased approximately 19% of our products from our top three third-party manufacturers. Further, even though contract manufacturer produced products are already tested at audited contract manufacturer labs or third-party labs, these products are also tested by us.

INTELLECTUAL PROPERTY AND BRANDING

Marketing foods and supplement products on the basis of sound science means using ingredients in the exact composition and quantity as demonstrated to be effective in the relevant scientific literature. Use of these ingredients for their well-established purposes is by definition not novel, and for that reason, most food uses of these ingredients are not subject to patent protection. Notwithstanding the absence of patent protection, we do own proprietary formulations for substantially all of our weight management products and dietary and nutritional supplements. We take care in protecting the intellectual property rights of our proprietary formulas by restricting access to our formulas within the Company to those persons or departments that require access to them to perform their functions, and by requiring our finished goods suppliers and consultants to execute supply and non-disclosure agreements that contractually protect our intellectual property rights. Disclosure of these formulas, in redacted form, is also necessary to obtain product registrations in many countries. We also make efforts to protect some unique formulations under patent law. We strive to protect all new product developments as the confidential trade secrets of the Company and its inventor employees.

We use the umbrella trademarks *Herbalife*®, *Herbalife Nutrition*®, and the Tri-Leaf design worldwide, and protect several other trademarks and trade names related to our products and operations, such as *Niteworks*® and *Liftoff*®. Our trademark registrations are issued through the United States Patent and Trademark Office, or USPTO, and comparable agencies in the foreign countries. We believe our trademarks and trade names contribute to our brand awareness.

MARKETING

To increase our brand awareness, we and our Members have entered into numerous marketing alliances around the world. Herbalife Nutrition sponsorships of and partnerships with featured athletes, teams, and events promote brand awareness, the use of Herbalife products, and "Better Living Through Nutrition." We continue to build brand awareness with a goal towards becoming the most trusted brand in nutrition. We also work to leverage the power of our Member base as a marketing and brand-building tool. We maintain a brand style guide and brand asset library so that our Members have access to the Herbalife Nutrition brand logo and marketing materials for use in their marketing efforts.

OUR NETWORK MARKETING PROGRAM

General

Our products are sold and distributed through a global direct selling business model which individuals may join to become a Member of our network marketing program. In certain geographic markets, we have introduced segmentation of our Member base into two categories: "preferred members" – who are simply consumers who wish to purchase product for their own household use, and "distributors" – who are Members who also wish to resell products or build a sales organization. Any existing Members in these markets who do not convert to preferred member have been or will be categorized as distributors, but may convert to preferred member at a later date; all new Members in these markets will join as either a preferred member or a distributor. One of the key outcomes of this new member segmentation is to provide clear differentiation between those interested in retailing our products or building a sales organization, and those simply consuming our products as discount customers. This distinction allows us to both better communicate and market to each group, while also providing us with better information regarding our Members within the context of their stated intent and goals. As of December 31, 2018, we had approximately 4.5 million Members, including 0.9 million preferred members and 0.7 million distributors in these markets where we have established these two categories and 0.4 million sales representatives, sales officers, and independent service providers in China. Future increases in the number of preferred members, as conversions take place or as we introduce segmentation into other markets, does not in and of itself represent an increase in the total number of Members, nor is it necessarily indicative of our future expected financial performance.

As a global nutrition company, we believe that the one-on-one personalized service inherent in the direct-selling business model is ideally suited to marketing and selling our nutrition products. Sales of nutrition products are reinforced by the ongoing personal contact, coaching, behavior motivation, education, andthe creation of supportive communities. These are the services that are offered by our Members to their customers. This frequent, personal contact can enhance consumers' nutritional and health education as well as motivate healthy behavioral changes in consumers to begin and maintain an active lifestyle through wellness and weight management programs. In addition, our Members consume our products themselves, and, therefore, can provide first-hand testimonials of the use and effectiveness of our products and programs to their customers. The personalized experience of our Members has served as a very powerful sales tool for our products.

Our objective is sustainable growth in the sales of our products to our Members and their customers by increasing the productivity, retention and recruitment of our Member base through the structure of our Network Marketing Program.

On July 18, 2002, we entered into an agreement with our Members that provides that we will continue to distribute Herbalife products exclusively to and through our Members and that, other than changes required by applicable law or necessary in our reasonable business judgment to account for specific local market or currency conditions to achieve a reasonable profit on operations, we will not make any material changes to certain aspects of our Marketing Plan that are adverse to our Members without the support of our Member leadership. Specifically, any such changes would require the approval of at least 51% of our Members then at the level of President's Team earning at the production bonus level of 6% who vote, provided that at least 50% of those Members entitled to vote do in fact vote. We initiate these types of changes based on the assessment of what will be best for us and our Members and then submit such changes for the requisite vote. We believe that this agreement has strengthened our relationship with our existing Members, improved our ability to recruit new Members and generally increased the long-term stability of our business.

Our Members

We believe our Members are the most important difference in how we go to market with our nutrition products, because of the one-on-one direct contact they have with their customers, along with the education, training and community support services that we believe help improve the nutrition habits of consumers. People become Herbalife Members for a number of reasons. Many first start out as consumers of our products who want to lose weight or improve their nutrition, and are customers of our Members. Some later join Herbalife and become Members themselves, which makes them eligible to purchase products directly from us, simply to receive a discounted price on products for them and their families. Some Members are interested in the entrepreneurial opportunity to earn compensation based on their own skills and hard work and join Herbalife to earn part-time or full-time income.

We work closely with our entrepreneurial Members to improve the sustainability of their businesses and reach consumers to meet our combined mission to make the world healthier and happier. As a leading direct seller, we require our Members to fairly and honestly market both our products and the Herbalife business opportunity. Our relationship with our Members is key to our continued success as they allow us direct access to the voice of consumers.

Our Members eagerly identify and test new marketing efforts and programs developed by other Members and disseminate successful techniques to their sales organizations. For example, Members in Mexico developed businesses that became known as "Nutrition Clubs," marketing techniques that improved the productivity and efficiency of our Members as well as the affordability of our weight loss products for their customers. Rather than buying several retail products, these businesses allow consumers to purchase and consume our products each day (a Member marketing technique we refer to as "daily consumption"), while continuing to benefit from the support and interaction with the Member as well as socializing with other customers in a designated location. Other programs to drive daily consumption, whether for weight management or for improved physical fitness, include Member-conducted weight loss contests, or Weight Loss Challenges, Member-led fitness programs, or Fit Camps, and Member-led Wellness Evaluations. We refer to successful Member marketing techniques that we disseminate throughout our Member network, such as Nutrition Clubs, Weight Loss Challenges and Fit Camps as Distributor Methods of Operations, or DMOs.

We also believe that personal and professional development is key to our Members' success and, therefore, we and our sales leader Members have meetings and events to support this important objective. We and our Member leadership conduct training sessions on local, regional, and global levels attended by thousands of Members to provide updates on product education, sales and marketing training, and instruction on available tools. These events are opportunities to showcase and disseminate our Members' evolving best marketing practices and DMOs from around the world and to introduce new or upgraded products. A variety of training and development tools are also available through online and mobile platforms.

In 2010, we launched the Herbalife Nutrition Institute. The Institute is an informational resource available to Members dedicated to promoting excellence in the field of nutrition. The Institute's website is an important communication vehicle to further our leadership in the field, and an educational resource for the general public, government agencies, the scientific community, and our Members, about good nutrition and basic health. Its mission is to encourage and support research and education on the relationship between good health, balanced nutrition and a healthy active lifestyle. In addition to providing research and education on the website and through sponsored conferences and symposia, the Institute has associations with major nutrition science organizations.

Member Compensation and Sales Leader Retention and Requalification

In addition to benefiting from discounted prices, Members interested in the entrepreneurial opportunity can earn profit from several sources. First, Members may earn profits by purchasing our products at wholesale prices, discounted depending on the Member's level within our Marketing Plan, and reselling those products at prices they establish for themselves to generate retail profit. Second, Members who sponsor other Members and establish, maintain, coach, and train their own sales organizations may earn commissions on the sales of their organization. Members earning such compensation have generally attained the level of sales leader as described below. There are also many Members, which include distributors, who have not sponsored another Member. Members who have not sponsored another Member are generally considered discount buyers or small retailers and a number of these Members have also attained the sales leader level.

We assign point values, known as Volume Points, to each of our products to determine a Member's sales achievement level. See Part II, Item 7, *Management's Discussion and Analysis of Financial Condition and Operating Results*, for a further description of Volume Points. To become a sales leader, or qualify for a higher level, Members must achieve specified Volume Point thresholds of product sales or earn certain amounts of royalty overrides during specified time periods and generally must re-qualify once each year. Qualification criteria can vary somewhat by market. As previously disclosed, in recent years we simplified our qualification criteria and created a longer-term, 12-month qualification method to encourage a more gradual qualification. We believe a gradual qualification approach is important to the success and retention of new sales leaders and benefits the business in the long term as it allows new Members to obtain product and customer experience as well as additional training and education on Herbalife products, daily consumption based DMOs, and the business opportunity prior to becoming a sales leader.

The method for calculating Marketing Plan payouts generally utilizes 90% to 95% of suggested retail price, depending on the product and market, to which we apply discounts of up to 50% for distributor allowances and payout rates of up to 15% for royalty overrides, up to 7% for production bonuses, and approximately 1% for the Mark Hughes bonus. We believe that the opportunity for Members to earn royalty overrides and production bonuses contributes significantly to our ability to retain our most active and productive Members.

Our compensation system requires each sales leader to re-qualify for such status each year, prior to February, in order to maintain their 50% discount on products and be eligible to receive royalty payments. In February of each year, we demote from the rank of sales leader those Members who did not satisfy the re-qualification requirements during the preceding twelve months. The re-qualification requirement does not apply to new sales leaders (i.e. those who became sales leaders subsequent to the January re-qualification of the prior year). Volume Points are the basis for sales leader qualification. Typically, a Member accumulates Volume Points for a given sale at the time the Member pays for the product. However, effective beginning in May 2017, a Member does not receive Volume Point credit for a transaction in the United States until it is documented in compliance with the Consent Order entered into with the Federal Trade Commission.

As of December 31, 2018, prior to our February re-qualification process, approximately 687,000 of our Members have attained the level of Sales Leader, of which approximately 561,000 have attained this level in the 93 countries where we use our worldwide Marketing Plan and 126,000 sales officers and independent service providers operating under our China Marketing Plan.

The table below reflects the number of sales leaders as of the end of February of the year indicated (subsequent to the annual re-qualification process) and sales leader retention rate by year and by region:

	Number of Sales Leaders			Sales Leader Retention Rate		
	2018	2017	2016	2018	2017	2016
North America	49,379	61,362	79,305	65.9%	74.8%	58.3%
Mexico	71,719	74,968	67,294	66.3%	71.7%	57.1%
South & Central America	66,325	73,375	77,523	59.0%	55.2%	53.0%
EMEA	107,528	101,101	87,500	68.7%	62.2%	63.6%
Asia Pacific	114,818	124,555	107,871	59.0%	49.7%	43.8%
Total sales leaders	409,769	435,361	419,493	63.6%	60.9%	54.2%
China	76,600	47,244	41,890			
Worldwide total sales leaders	486,369	482,605	461,383			

The number of sales leaders as of December 31 will exceed the number immediately subsequent to the preceding re-qualification period because sales leaders qualify throughout the year but sales leaders who do not re-qualify are removed from the rank of sales leader the following February.

For the latest twelve month re-qualification period ending January 2019, approximately 67.9% of our sales leaders, excluding China, re-qualified, versus 63.6% for the comparable figure for the twelve month period ended January 2018. For each of these years, certain markets have utilized a lower re-qualification threshold, and these figures include the effect of the lower threshold. Also, with revised business requirements in place for U.S. and U.S. Territories, as described in *Network Marketing Program* below, we have utilized for each of these years a re-qualification equalization factor for U.S. Members to better align their re-qualification thresholds with Members in other countries. We believe this factor preserves retention rate comparability across markets and time periods. Excluding the impact of both the lower re-qualification thresholds and the equalization factor in the U.S. and U.S. Territories, the retention rates for 2019 and 2018 would have been 64.4% and 58.6%, respectively. Separately, for each of the years presented the retention results exclude certain other markets for which, due to local operating conditions, sales leaders were not required to requalify; such exclusions are not material to the Company's retention results.

We believe the increase in the sales leader retention rate for the year ended January 2019, as well as the generally upward trend in recent years, are the result of efforts we have made to improve the sustainability of sales leaders' businesses, such as encouraging Members to obtain experience retailing Herbalife products before becoming a sales leader. As our business operations continue to evolve, including the segmentation of our Member base in certain markets and changes in sales leader re-qualification thresholds for other markets, management is evaluating the importance of sales leader retention rate information for the future.

Business in China

Our business model in China includes unique features as compared to our traditional business model in order to ensure compliance with Chinese regulations. As a result, our business model in China differs from that used in other countries. Members in China are categorized differently than those in other countries. In China, we sell our products to and through independent service providers, sales representatives, and sales officers to customers and preferred customers, as well as through Company-operated retail platforms when necessary.

In China, while multi-level marketing is not permitted, direct selling is permitted. Chinese citizens who apply and become Members are referred to as "Sales Representatives." These Sales Representatives are permitted to sell away from fixed retail locations in the provinces where we have direct selling licenses. Sales Representatives receive scaled rebates based on the volume of products they purchase. Sales Representatives who reach certain volume thresholds and meet certain performance criteria are eligible to apply to provide marketing, sales and support services. Once their application is accepted, they are referred to as "Independent Service Providers." Independent Service Providers are independent business entities that are eligible to receive compensation from Herbalife for the marketing, sales and support services they provide so long as they satisfy certain conditions, including procuring the requisite business licenses, having a physical business location, and complying with all applicable Chinese laws and Herbalife rules. Sales Representatives who are in the process of applying to become Service Providers hold the title of "Sales Officers."

In China, our Independent Service Providers are compensated for marketing, sales support, and other services, instead of the Member allowances and royalty overrides utilized in our global Marketing Plan. The service hours and related fees eligible to be earned by theIndependent Service Providers are based on a number of factors, including the sales generated through them and through others to whom they may provide marketing, sales support and other services, the quality of their service, and other factors. Total compensation available to our Independent Service Providers in China can generally be comparable to the total compensation available to other sales leaders globally. The Company does this by performing an analysis in our worldwide system to estimate the potential compensation available to the service providers, which can generally be comparable to that of sales leaders in other countries. After adjusting such amounts for other factors and dividing by each service provider's hourly rate, we then notify each Independent Service Provider the maximum hours of work for which they are eligible to be compensated in the given month. In order for a service provider to be paid, the Company requires each service provider to invoice the Company for their services.

PRODUCT RETURN AND BUYBACK POLICIES

In substantially all markets, our products include a customer satisfaction guarantee. Under this guarantee, any customer or preferred member who is not satisfied with an Herbalife product for any reason may return it or any unused portion of it within 30 days from the time of receipt to the Member from whom it was purchased for a full refund or credit toward the exchange of another Herbalife product. In markets outside of the United States, if they return the products to us on a timely basis, the Member may obtain replacement product from us for such returned products. In addition, in substantially all jurisdictions, we maintain a buyback program pursuant to which we will repurchase products sold to a Member who has decided to leave the business. The buyback program has certain terms and conditions that may vary by market, but it generally permits the return of unopened and marketable condition products or sales materials purchased within the prior twelve month period in exchange for a refund of the net price paid for the product and, in some markets, the original cost of shipment to the Member. Together, product returns and buybacks were approximately 0.1% of product sales for each of the years ended December 31, 2018, 2017, and 2016.

OUR INFRASTRUCTURE

General

Our direct selling business model enables us to grow our business with moderate investment in infrastructure and fixed costs. We incur no direct incremental cost to add a new Member in our existing markets, and our Member compensation varies directly with product sales. In addition, our Members also bear a portion of our consumer marketing expenses, and our sales leaders sponsor and coordinate Member recruiting and most meeting and training initiatives. Additionally, our infrastructure has the ability to increase production and distribution of our products as a result of having our own manufacturing facilities and numerous third-party manufacturing relationships, as well as our global footprint of in-house and third-party distribution centers.

Access Points

An important part of our seed to feed strategy is having an efficient infrastructure to deliver products to our Members and their customers. As the shift in consumption patterns continues to reflect an increasing daily consumption focus, one focus of this strategy is to provide more product access points closer to our Members and their customers. We operate distribution points ranging from "hub" distribution centers in Los Angeles, Memphis, and Venray, Netherlands, to mid-size distribution centers in major countries, to small pickup locations spread throughout the world. In addition to these Company-run distribution points, we partner with retail locations to provide Member pickup points in areas which are not well serviced from Company-run distribution points. We have also identified a number of methods and approaches that better support Members by providing access points closer to where they do business and by improving product delivery efficiency through our distribution channels. Specific methods vary by markets and consider local Member needs and available resources. We expect to continue to expand the number of Sales Centers, smaller pick up locations (including third-party collection points), brand experience centers and automated sales centers based on the needs of our Members and the growth of the business primarily from deeper penetration into existing markets. For example, we now have distribution agreements with multiple retailers where in-store kiosks help distribute products to Members. In aggregate, our Company-run distribution points and partner retail locations represent over 1,600 locations around the world.

Member Technology

Many Members today also rely on the use of technology to support their businesses. With the increasing use of technology in our everyday lives and the increased Member activity towards our online and mobile tools, we have also enhanced our product access and distribution network to support higher volumes of online or mobile orders. Placing orders through these media also allows Members and their customers to select home or business delivery options. We continue to adapt our access points to accommodate the increase in online or mobile ordering activity. We have also implemented information technology systems to support Members and their increasing demand to be more connected to Herbalife, their business, and their consumers. These systems include our Internet-based marketing and Member services platform with tools such as HN Connect, BizWorks, MyHerbalife, GoHerbalife, and Herbalife Mobile. Additionally, we support a growing suite of point-of-sale tools to assist our Members with the ordering, tracking and their customer relationship management. These tools allow our Members to manage their business and communicate with their customers more efficiently and effectively.

Business Infrastructure

We leverage our technology infrastructure in order to maintain, protect, and enhance existing systems and develop new systems to keep pace with continuing changes in technology, evolving industry and regulatory standards, emerging data security risks, and changing user patterns and preferences. We also continue to invest in our manufacturing and operational infrastructure to accelerate new products to market and accommodate planned business growth. We invest in business intelligence tools to enable better analysis of our business and to identify opportunities for growth. We will continue to build on these platforms to take advantage of the rapid development of technology around the globe to support a more robust Member and customer experience. In addition, we leverage an Oracle business suite platform, which was upgraded in 2017, to support our business operations, improve productivity and support our strategic initiatives. Our investment in technology infrastructure helps support our capacity to grow.

COMPETITION

The categories of weight management; targeted nutrition; energy, sports, and fitness; and outer nutrition products are highly competitive. We compete against products sold in a number of distribution channels, including direct selling, the internet, specialty retailers, and the discounted channels of food, drug and mass merchandise. We have differentiated ourselves from our peer group through our Members' focus on the consultative sales process through product education and the frequent contact and support that many Members have with their customers through a community-based approach to help customers achieve nutrition goals. Some methods include Nutrition Clubs, Weight Loss Challenges, Wellness Evaluations and Fit Camps. We believe that providing nutrient-dense products, along with personal coaching, community, and education, is most effectively executed through the direct-selling business model.

We are also subject to competition for the recruitment of Members from other network marketing organizations, including those that market nutrition products, and other types of products which are sold through direct selling, along with other entrepreneurial opportunities, including those organizations in which former Members or employees of the Company are involved. Our ability to remain competitive depends on factors including having relevant products that meet consumer needs, a rewarding compensation plan, enhanced education and tools, innovation in our products and services, and a financially viable company.

REGULATION

General

In both our United States and foreign markets, we are affected by extensive laws, governmental regulations, administrative determinations and guidance, court decisions and similar constraints. Such laws, regulations and other constraints exist at the federal, state or local levels in the United States and at all levels of government in foreign jurisdictions, including regulations pertaining to: (1) the formulation, manufacturing, packaging, labeling, distribution, importation, sale, and storage of our products; (2) product claims and advertising, including direct claims and advertising by us, as well as claims and advertising by Members, for which we may be held responsible; (3) our network marketing program; (4) transfer pricing and similar regulations that affect the level of U.S. and foreign taxable income and customs duties; (5) taxation of our Members (which in some instances may impose an obligation on us to collect the taxes and maintain appropriate records); and (6) currency exchange and repatriation.

Products

In the United States, the formulation, manufacturing, packaging, holding, labeling, promotion, advertising, distribution and sale of our products are subject to regulation by various governmental agencies, including (1) the Food and Drug Administration, or FDA, (2) the Federal Trade Commission, or FTC, (3) the Consumer Product Safety Commission, or CPSC, (4) the United States Department of Agriculture, or USDA, (5) the Environmental Protection Agency, or EPA, (6) the United States Postal Service, (7) United States Customs and Border Patrol, and (8) the Drug Enforcement Administration. Our activities also are regulated by various agencies of the states, localities and foreign countries in which our products are manufactured, distributed or sold. The FDA, in particular, regulates the formulation, manufacture and labeling of over-the-counter, or OTC, drugs, conventional foods, dietary supplements, and cosmetics such as those distributed by us. The majority of the products marketed by us in the United States are classified as conventional foods or dietary supplements under the Federal Food, Drug and Cosmetic Act, or FFDCA. Internationally, the majority of products marketed by us are classified as foods, health supplements, or food supplements.

FDA regulations govern the preparation, packaging, labeling, holding, and distribution of foods, OTC drugs, cosmetics, and dietary supplements. Among other obligations, they require us and our contract manufacturers to meet relevant current good manufacturing practice, or cGMP, regulations for the preparation, packaging, holding, and distribution of OTC drugs and dietary supplements. The FDA also requires identity testing of all incoming dietary ingredients used in dietary supplements, unless a company successfully petitions for an exemption from this testing requirement in accordance with the regulations. The cGMPs are designed to ensure that OTC drug and dietary supplement products are not adulterated with contaminants or impurities, and are labeled to accurately reflect the active ingredients and other ingredients in the products. Herbalife has regularly implemented enhancements, modifications and improvements to our manufacturing and corporate quality processes and believes we and our contract manufacturers are compliant with the FDA's cGMP and other applicable manufacturing regulations in the United States.

The U.S. Dietary Supplement Health and Education Act of 1994, or DSHEA, revised the provisions of FFDCA concerning the composition and labeling of dietary supplements. Under DSHEA, dietary supplement labeling may display structure/function claims that the manufacturer can substantiate, which are claims that the products affect the structure or function of the body, without prior FDA approval, but with notification to the FDA. They may not bear any claim that they can prevent, treat, cure, mitigate or diagnose disease (a drug claim). Apart from DSHEA, the agency permits companies to use FDA-approved full and qualified health claims for food and supplement products containing specific ingredients that meet stated requirements.

U.S. law also requires that all serious adverse events occurring within the United States involving dietary supplements or OTC drugs be reported to the FDA. We believe that we are in compliance with this law having implemented a worldwide procedure governing adverse event identification, investigation and reporting. As a result of reported adverse events, we may from time to time elect, or be required, to remove a product from a market, either temporarily or permanently.

Some of the products marketed by us are considered conventional foods and are currently labeled as such. Within the United States, this category of products is subject to the federal Nutrition, Labeling and Education Act, or NLEA, and regulations promulgated under the NLEA. The NLEA regulates health claims, ingredient labeling and nutrient content claims characterizing the level of a nutrient in the product. The ingredients in conventional foods must either be generally recognized as safe by experts for the purposes to which they are put in foods, or be approved as food additives under FDA regulations.

The federal Food Safety Modernization Act, or FSMA, is also applicable to some of our business. We follow a food safety plan and have implemented preventive measures required by the FSMA. Foreign suppliers of our raw materials are also subject to FSMA requirements, and we have implemented a verification program to comply with the FSMA. Dietary supplements manufactured in accordance with cGMPs and foods manufactured in accordance with the low acid food regulations are exempt.

In foreign markets, prior to commencing operations and prior to making or permitting sales of our products in the market, we may be required to obtain an approval, license or certification from the relevant country's ministry of health or comparable agency. Prior to entering a new market in which a formal approval, license or certificate is required, we work with local authorities in order to obtain the requisite approvals. The approval process generally requires us to present each product and product ingredient to appropriate regulators and, in some instances, arrange for testing of products by local technicians for ingredient analysis. The approvals may be conditioned on reformulation of our products, or may be unavailable with respect to some products or some ingredients.

The FTC, which exercises jurisdiction over the advertising of all of our products in the United States, has in the past several years instituted enforcement actions against several dietary supplement and food companies and against manufacturers of weight loss products generally for false and misleading advertising of some of their products. In addition, the FTC has increased its scrutiny of the use of testimonials, which we also utilize, as well as the role of expert endorsers and product clinical studies. We cannot be sure that the FTC, or comparable foreign agencies, will not question our advertising or other operations in the future.

In Europe, where an EU Health Claim regulation is in effect, the European Food Safety Authority, or EFSA, issued opinions following its review of a number of proposed claims documents. ESFA's opinions, which have been accepted by the European Commission, have limited the use of certain nutrition-specific claims made for foods and food supplements. Accordingly, Herbalife revised affected product labels to ensure regulatory compliance.

We are subject to a permanent injunction issued in October 1986 pursuant to the settlement of an action instituted by the California Attorney General, the State Health Director and the Santa Cruz County District Attorney. We consented to the entry of this injunction without in any way admitting the allegations of the complaint. The injunction prevents us from making specified claims in advertising of our products, but does not prevent us from continuing to make specified claims concerning our products, provided that we have a reasonable basis for making the claims. The injunction also prohibits certain recruiting-related investments from Members and mandates that payments to Members be premised on retail value (as defined); the injunction provides that the Company may establish a system to verify or document such compliance.

Network Marketing Program

Our network marketing program is subject to a number of federal and state regulations administered by the FTC and various state agencies as well as regulations in foreign markets administered by foreign agencies. Regulations applicable to network marketing organizations generally are directed at ensuring that product sales ultimately are made to consumers and that advancement within the organization is based on sales of the organization's products rather than investments in the organization or other non-retail sales related criteria. When required by law, we obtain regulatory approval of our network marketing program or, when this approval is not required, the favorable opinion of local counsel as to regulatory compliance.

On July 15, 2016, we reached a settlement with the FTC and entered into a proposed Stipulation to Entry of Order for Permanent Injunction and Monetary Judgment, or the Consent Order, which resolved the FTC's multi-year investigation of us. The Consent Order became effective on July 25, 2016, or the Effective Date, upon final approval by the U.S. District Court for the Central District of California. Pursuant to the Consent Order, we implemented and continue to enhance certain existing procedures in the U.S. Among other requirements, the Consent Order requires us to categorize all existing and future Members in the U.S. as either "preferred members" – who are simply consumers who only wish to purchase product for their own household use, or "distributors" – who are Members who wish to resell some products or build a sales organization. We also agreed to compensate distributors on U.S. eligible sales within their downline organizations, which include purchases by preferred members, purchases by a distributor for his or her personal consumption within allowable limits and sales of product by a distributor to his or her customers. The Consent Order also requires distributors to meet certain conditions before opening Nutrition Clubs and/or entering into leases for their Herbalife business in the United States. The Consent Order also prohibits us from making expressly or by implication, any representation regarding the amount or level of income, including full-time or part-time income that a participant can reasonably expect to earn in our network marketing program, unless the representation is non-misleading and we possess competent and reliable evidence sufficient to substantiate that the representation is true.

The Consent Order also prohibits us and other persons who act in active concert with us from representing that participation in the network marketing program will result in a lavish lifestyle and from using images or descriptions to represent or imply that participation in the program is likely to result in a lavish lifestyle. In addition, the Consent Order prohibits specified misrepresentations in connection with marketing the program, including misrepresentations regarding any fact material to participation such as the cost to participate or the amount of income likely to be earned. The Consent Order also requires us to clearly and conspicuously disclose all information material to participation in the marketing program, including our refund and buyback policy.

We intend to continue to monitor the impact of the Consent Order regularly and our Board of Directors established the Implementation Oversight Committee in connection with the Consent Order. The committee has met and will meet regularly with management to oversee our compliance with the terms of the Consent Order. While we currently do not expect the settlement to have a long-term and material adverse impact on our business and our Member base, our business and our Member base, particularly in the U.S., have been in the past, and may in the future, be negatively impacted as we and they adjust to the changes.

On January 4, 2018, the FTC released its nonbinding Business Guidance Concerning Multi-Level Marketing, or MLM Guidance, to assist multi-level marketers, or MLMs, apply core consumer protection principles applicable to the multi-level marketing industry to their business practices. For example, the MLM Guidance explains lawful and unlawful compensation structures, the treatment of personal consumption by participants in determining if an MLM's compensation structure is unfair or deceptive, and how an MLM should approach representations to current and prospective participants. We believe our current business practices, which include new and enhanced procedures implemented in connection with the Consent Order, are in compliance with the MLM Guidance.

Additionally, the FTC has promulgated nonbinding Guides Concerning the Use of Endorsements and Testimonials in Advertising, or Guides, which explain how the FTC interprets Section 5 of the FTC Act's prohibition on unfair or deceptive acts or practices. Consequently, the FTC could bring a Section 5 enforcement action based on practices that are inconsistent with the Guides. Under the Guides, advertisements that feature a consumer and convey his or her atypical experience with a product or service are required to clearly disclose the results that consumers can generally expect. Herbalife has adapted its practices and rules regarding the practices of its Members to comply with the revised Guides and to comply with the Consent Order.

The terms of the Consent Order do not change our going to market through direct selling by independent distributors, and compensating those distributors based upon the product they and their sales organization sell. We have implemented new and enhanced procedures required by the terms of the Consent Order and will continue to do so. However, the terms of the Consent Order and the ongoing costs of compliance may adversely affect our business operations, our results of operations and our financial condition. See Part I, Item 1A, *Risk Factors*, of this Annual Report on Form 10-K for a discussion of risks related to the settlement with the FTC.

We also are subject to the risk of private party challenges to the legality of our network marketing program both in the United States and internationally. For example, in *Webster v. Omnitrition International, Inc.*, 79 F.3d 776 (9th Cir. 1996), the network marketing program of Omnitrition International, Inc., or Omnitrition, was challenged in a class action by Omnitrition distributors who alleged that it was operating an illegal "pyramid scheme" in violation of federal and state laws. We believe that our network marketing program satisfies federal and other applicable statutes and case law.

In some countries, regulations applicable to the activities of our Members also may affect our business because in some countries we are, or regulators may assert that we are, responsible for our Members' conduct. In these countries, regulators may request or require that we take steps to ensure that our Members comply with local regulations. The types of regulated conduct include: (1) representations concerning our products; (2) income representations made by us and/or Members; (3) public media advertisements, which in foreign markets may require prior approval by regulators; (4) sales of products in markets in which the products have not been approved, licensed or certified for sale; and (5) classification by government agencies of our Members as employees of the Company.

In some markets, it is possible that improper product claims by Members could result in our products being reviewed by regulatory authorities and, as a result, being classified or placed into another category as to which stricter regulations are applicable. In addition, we might be required to make labeling changes.

We also are subject to regulations in various foreign markets pertaining to social security assessments, employment and severance pay requirements, import/export regulations and antitrust issues. As an example, in some markets, we are substantially restricted in the amount and types of rules and termination criteria that we can impose on Members without having to pay social security assessments on behalf of the Members and without incurring severance obligations to terminated Members. In some countries, we may be subject to these obligations in any event.

It is an ongoing part of our business to monitor and respond to regulatory and legal developments, including those that may affect our network marketing program. However, the regulatory requirements concerning network marketing programs do not include bright line rules and are inherently fact-based. An adverse judicial determination with respect to our network marketing program could have a material adverse effect to our financial condition and operating results and may also result in negative publicity, requirements to modify our network marketing plan, or a negative impact on Member morale. In addition, adverse rulings by courts in any proceedings challenging the legality of network marketing systems, even in those not involving us directly, could have a material adverse effect on our operations.

Although questions regarding the legality of our network marketing program have come up in the past and may come up from time to time in the future, we believe, based in part upon guidance to the general public from the FTC, that our network marketing program is compliant with applicable law.

Transfer Pricing and Similar Regulations

In many countries, including the United States, we are subject to transfer pricing and other tax regulations designed to ensure that appropriate levels of income are reported as earned by our U.S. and local entities and are taxed accordingly. In addition, our operations are subject to regulations designed to ensure that appropriate levels of customs duties are assessed on the importation of our products.

Although we believe that we are in substantial compliance with all applicable regulations and restrictions, we are subject to the risk that governmental authorities could assert that additional taxes are owed based on findings of their audit of our transfer pricing and related practices. For example, we are currently subject to pending or proposed audits that are at various levels of review, assessment or appeal in a number of jurisdictions involving transfer pricing issues, income taxes, duties, value added taxes, withholding taxes and related interest and penalties in material amounts. In some circumstances, additional taxes, interest and penalties have been assessed, and we will be required to appeal or litigate to reverse the assessments. We have taken advice from our tax advisors and believe that there are substantial defenses to the allegations that additional taxes are owed, and we are vigorously defending against the imposition of additional proposed taxes. The ultimate resolution of these matters may take several years, and the outcome is uncertain.

In the event that the audits or assessments are concluded adversely to us, we may or may not be able to offset or mitigate the consolidated effect of foreign income tax assessments through the use of U.S. foreign tax credits. The laws and regulations governing U.S. foreign tax credits are complex and subject to periodic legislative amendment and are not available with respect to all of the Company's foreign income taxes. Additionally, U.S. Tax Reform creates additional restrictions on the utilization of U.S. foreign tax credits. Therefore, we cannot be sure that we would in fact be able to take advantage of any foreign tax credits in the future.

Compliance Procedures

As indicated above, Herbalife, our products and our network marketing program are subject, both directly and indirectly through Members' conduct, to numerous federal, state and local regulations, both in the United States and foreign markets. Beginning in 1985, we began to institute formal regulatory compliance measures by developing a system to identify specific complaints against Members and to remedy any violations of Herbalife's rules by Members through appropriate sanctions, including warnings, fines, suspensions and, when necessary, terminations. We prohibit Members from making therapeutic claims for our products, including in our manuals, seminars, and other training programs and materials.

Our general policy is to reject Member applications from individuals who do not reside in one of our approved markets.

In order to comply with regulations that apply to both us and our Members, we conduct considerable research into the applicable regulatory framework prior to entering any new market and after commencing operations in a market to identify all necessary licenses and approvals and applicable limitations on our operations in that market. Typically, we conduct this research with the assistance of local legal counsel and other representatives. We devote substantial resources to obtaining the necessary licenses and approvals and bringing our operations into compliance with the applicable limitations and maintain such licenses. We also research laws applicable to Member operations and revise or alter our Member manuals and other training materials and programs to provide Members with guidelines for operating a business, marketing and distributing our products and similar matters, as required by applicable regulations in each market. We are, however, unable to monitor our Members effectively to ensure that they refrain from distributing our products in countries where we have not commenced operations, and we do not devote significant resources to this type of monitoring.

In addition, regulations in existing and new markets often are ambiguous and subject to considerable interpretive and enforcement discretion by the responsible regulators. Moreover, even when we believe that we and our Members are initially in compliance with all applicable regulations, new regulations are being added regularly and the interpretation of existing regulations is subject to change. Further, the content and impact of regulations to which we are subject may be influenced by public attention directed at us, our products, or our network marketing program, so that extensive adverse publicity about us, our products, or our network marketing program may result in increased regulatory scrutiny.

Employees

As of December 31, 2018, we had approximately 8,900 employees, of which approximately 2,600 were located in the United States. These numbers do not include our Members, who are independent contractors. In certain countries, which include China and Mexico, we have employees who are subject to labor union agreements and there have been no significant business interruptions as a result of any labor disputes.

Available Information

Our Internet website address is *www.Herbalife.com.* We make available free of charge on our website our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, as soon as reasonably practical after we file such material with, or furnish it to, the Securities and Exchange Commission, or SEC. This information is also available in print to any shareholder who requests it, with any such requests addressed to Investor Relations, 800 West Olympic Blvd., Suite 406, Los Angeles, CA 90015. The SEC maintains an Internet website that contains reports, and other information regarding issuers that file electronically with the SEC at *www.sec.gov.* We also make available free of charge on our website our Principles of Corporate Governance, our Corporate Code of Business Conduct and Ethics, and the Charters of our Audit Committee, Nominating and Corporate Governance Committee, and Compensation Committee of our Board of Directors.

Item 1A. ***Risk Factors***

Risks Related to Us and Our Business

Our failure to establish and maintain Member and sales leader relationships for any reason could negatively impact sales of our products and harm our financial condition and operating results.

We distribute our products exclusively to and through independent Members, and we depend upon them directly for substantially all of our sales. Our Members, including our sales leaders, may voluntarily terminate their Member agreements with us at any time. To increase our revenue, we must increase the number of, or the productivity of, our Members. Accordingly, our success depends in significant part upon our ability to recruit, retain and motivate a large base of Members. The loss of a significant number of Members for any reason could negatively impact sales of our products and could impair our ability to attract new Members. In our efforts to attract and retain Members, we compete with other network marketing organizations, including those in the weight management, dietary and nutritional supplement and personal care and cosmetic product industries. Our operating results could be harmed if our existing and new business opportunities and products do not generate sufficient interest to retain existing Members and attract new Members.

Our Member organization has a high turnover rate, which is a common characteristic found in the direct selling industry. See Item 1,*Business*, for additional information regarding sales leader retention rates.

Because we cannot exert the same level of influence or control over our independent Members as we could were they our own employees, our Members could fail to comply with applicable law or our Member rules and procedures, which could result in claims against us that could harm our financial condition and operating results.

Our Members are independent contractors and, accordingly, we are not in a position to directly provide the same direction, motivation and oversight as we would if Members were our own employees. As a result, there can be no assurance that our Members will participate in our marketing strategies or plans, accept our introduction of new products, or comply with our Member rules and procedures.

Extensive federal, state and local laws regulate our business, products and network marketing program. Because we have expanded into foreign countries, our policies and procedures for our independent Members differ due to the different legal requirements of each country in which we do business. While we have implemented Member policies and procedures designed to govern Member conduct and to protect the goodwill associated with Herbalife trademarks and tradenames, it can be difficult to enforce these policies and procedures because of the large number of Members and their independent status. Violations by our independent Members of applicable law or of our policies and procedures in dealing with customers could reflect negatively on our products and operations and harm our business reputation. In addition, it is possible that a court could hold us civilly or criminally accountable based on vicarious liability because of the actions of our independent Members.

Adverse publicity associated with our products, ingredients or network marketing program, or those of similar companies, could harm our financial condition and operating results.

The size of our distribution force and the results of our operations may be significantly affected by the public's perception of the Company and similar companies. This perception is dependent upon opinions concerning:

- the safety and quality of our products and ingredients;
- the safety and quality of similar products and ingredients distributed by other companies;

- our Members;
- our network marketing program; and
- the direct selling business generally.

Adverse publicity concerning any actual or purported failure of our Company or our Members to comply with applicable laws and regulations regarding product claims and advertising, good manufacturing practices, the regulation of our network marketing program, the registration of our products for sale in our target markets or other aspects of our business, whether or not resulting in enforcement actions or the imposition of penalties, could have an adverse effect on the goodwill of our Company and could negatively affect our ability to attract, motivate and retain Members, which would negatively impact our ability to generate revenue. We cannot ensure that all of our Members will comply with applicable legal requirements relating to the advertising, labeling, licensing or distribution of our products.

In addition, our Members' and consumers' perception of the safety and quality of our products and ingredients as well as similar products and ingredients distributed by other companies can be significantly influenced by media attention, publicized scientific research or findings, widespread product liability claims and other publicity concerning our products or ingredients or similar products and ingredients distributed by other companies. Adverse publicity, whether or not accurate or resulting from consumers' use or misuse of our products, that associates consumption of our products or ingredients, or any similar products or ingredients with illness or other adverse effects, questions the benefits of our or similar products or claims that any such products are ineffective, inappropriately labeled or have inaccurate instructions as to their use, could lead to lawsuits or other legal challenges and could negatively impact our reputation, the market demand for our products, or our general business.

From time to time, we receive inquiries from government agencies and third parties requesting information concerning our products. We fully cooperate with these inquiries including, when requested, by the submission of detailed technical documents addressing product composition, manufacturing, process control, quality assurance, and contaminant testing. Further, we periodically respond to requests from regulators for additional information regarding product-specific adverse events. We are confident in the safety of our products when used as directed. However, there can be no assurance that regulators in these or other markets will not take actions that might delay or prevent the introduction of new products, or require the reformulation or the temporary or permanent withdrawal of certain of our existing products from their markets.

Adverse publicity relating to us, our products or our operations, including our network marketing program or the attractiveness or viability of the financial opportunities provided thereby, has had, and could again have, a negative effect on our ability to attract, motivate and retain Members, and it could also affect our share price. In the mid-1980s, our products and marketing program became the subject of regulatory scrutiny in the United States, resulting in large part from claims and representations made about our products by our Members, including impermissible therapeutic claims. The resulting adverse publicity caused a rapid, substantial loss of Members in the United States and a corresponding reduction in sales beginning in 1985. In addition, in late 2012, a hedge fund manager publicly raised allegations regarding the legality of our network marketing program and announced that his fund had taken a significant short position regarding our common shares, leading to intense public scrutiny and governmental inquiries, and significant stock price volatility. We expect that negative publicity will, from time to time, continue to negatively impact our business in particular markets and may adversely affect our share price.

Our failure to appropriately respond to changing consumer preferences and demand for new products or product enhancements could significantly harm our Member and customer relationships and product sales and harm our financial condition and operating results.

Our business is subject to changing consumer trends and preferences, especially with respect to weight management, targeted nutrition, energy, sports, and fitness, and other nutrition products. Our continued success depends in part on our ability to anticipate and respond to these changes, and we may not respond in a timely or commercially appropriate manner to such changes. Furthermore, the nutritional supplement industry is characterized by rapid and frequent changes in demand for products and new product introductions and enhancements. Our failure to accurately predict these trends could negatively impact consumer opinion of our products, which in turn could harm our customer and Member relationships and cause the loss of sales. The success of our new product offerings and enhancements depends upon a number of factors, including our ability to:

- accurately anticipate customer needs;
- innovate and develop new products or product enhancements that meet these needs;
- successfully commercialize new products or product enhancements in a timely manner;
- price our products competitively;

- manufacture and deliver our products in sufficient volumes and in a timely manner; and
- differentiate our product offerings from those of our competitors.

If we do not introduce new products or make enhancements to meet the changing needs of our customers in a timely manner, some of our products could be rendered obsolete, which could negatively impact our revenues, financial condition and operating results.

Due to the high level of competition in our industry, we might fail to retain our customers and Members, which would harm our financial condition and operating results.

The business of marketing weight management and nutrition products is highly competitive and sensitive to the introduction of new products or weight management plans, including various prescription drugs, which may rapidly capture a significant share of the market. These market segments include numerous manufacturers, distributors, marketers, retailers and physicians that actively compete for the business of consumers both in the United States and abroad. In addition, we are subject to increasing competition from sellers that utilize e-commerce. Some of these competitors have longer operating histories, significantly greater financial, technical, product development, marketing and sales resources, greater name recognition, larger established customer bases and better-developed distribution channels than we do. Our present or future competitors may be able to develop products that are comparable or superior to those we offer, adapt more quickly than we do to new technologies, evolving industry trends and standards or customer requirements, or devote greater resources to the development, promotion and sale of their products than we do. For example, if our competitors develop other diet or weight management products that prove to be more effective than our products, demand for our products could be reduced. Accordingly, competition may intensify and we may not be able to compete effectively in our markets.

We are also subject to significant competition for the recruitment of Members from other network marketing organizations, including those that market weight management products, dietary and nutritional supplements, personal care products, and other types of products, as well as those organizations in which former employees or Members of the Company are involved. We compete for global customers and Members with regard to weight management, nutritional supplement and personal care products. Our competitors include both direct selling companies such as NuSkin Enterprises, Nature's Sunshine, Alticor/Amway, Melaleuca, Avon Products, Oriflame, Omnilife, Tupperware and Mary Kay, as well as retail establishments such as WW (formerly Weight Watchers), Jenny Craig, General Nutrition Centers, Wal-Mart and retail pharmacies.

In addition, because the industry in which we operate is not particularly capital intensive or otherwise subject to high barriers to entry, it is relatively easy for new competitors to emerge that will compete with us for our Members and customers. Furthermore, the fact that our Members may easily enter and exit our network marketing program contributes to the level of competition that we face. For example, a Member can enter or exit our network marketing system with relative ease at any time without facing a significant investment or loss of capital because (1) we have a low upfront financial cost to become a Herbalife Member, (2) we do not require any specific amount of time to work as a Member, (3) we do not charge Members for any training that we might require, (4) we do not prohibit a new Member from working with another company, and (5) in substantially all jurisdictions, we maintain a buyback program pursuant to which we will repurchase products sold to a Member who has decided to leave the business. Our ability to remain competitive therefore depends, in significant part, on our success in recruiting and retaining Members through an attractive compensation plan, the maintenance of an attractive product portfolio and other incentives. We cannot ensure that our programs for recruitment and retention of Members will be successful and if they are not, our financial condition and operating results would be harmed.

We are affected by extensive laws, governmental regulations, administrative determinations, court decisions and similar constraints both domestically and abroad, and our failure or our Members' failure to comply with these constraints could lead to the imposition of significant penalties or claims, which could harm our financial condition and operating results.

In both domestic and foreign markets, the formulation, manufacturing, packaging, labeling, distribution, advertising, importation, exportation, licensing, sale and storage of our products are affected by extensive laws, governmental regulations, administrative determinations, court decisions and other similar constraints. Such laws, regulations and other constraints may exist at the federal, state or local levels in the United States and at all levels of government in foreign jurisdictions. There can be no assurance that we or our Members are in compliance with all of these regulations. Our failure or our Members' failure to comply with these regulations or new regulations could disrupt our Members' sale of our products, or lead to the imposition of significant penalties or claims and could negatively impact our business. In addition, the adoption of new regulations or changes in the interpretations of existing regulations, such as those relating to genetically modified foods, may result in significant compliance costs or discontinuation of product sales and may negatively impact the marketing of our products, resulting in significant loss of sales revenues.

The Consent Order we entered into with the FTC in July 2016 prohibits us from making, or allowing our Members to make, any representation regarding the amount or level of income, including full-time or part-time income, that a participant can reasonably expect to earn in our network marketing program, unless the representation is non-misleading and we possess competent and reliable evidence sufficient to substantiate that the representation is true. The Consent Order also prohibits us and other persons who act in active concert with us from representing that participation in the network marketing program will result in a lavish lifestyle and from using images or descriptions to represent or imply that participation in the program is likely to result in a lavish lifestyle. In addition, the Consent Order prohibits specified misrepresentations in connection with marketing the program, including misrepresentations regarding any fact material to participation such as the cost to participate or the amount of income likely to be earned. The Consent Order also requires us to clearly and conspicuously disclose all information material to participation in the marketing program, including our refund and buyback policy before the participant pays any money to us.

On January 4, 2018, the FTC released its Business Guidance Concerning Multi-Level Marketing, or MLM Guidance, in order to help multi-level marketers, or MLMs, apply core consumer protection principles applicable to the multi-level marketing industry to their business practices. Although the MLM Guidance is not binding, the MLM Guidance explains, among other things, how the FTC distinguishes between MLMs with lawful and unlawful compensation structures, how MLMs with unfair or deceptive compensation structures harm consumers, how the FTC treats personal or internal consumption by participants in determining if an MLM's compensation structure is unfair or deceptive, and how an MLM should approach representations to current and prospective participants. Although we believe our current business practices, which include new and enhanced procedures implemented in connection with the Consent Order, are in compliance with the MLM Guidance, there can be no assurances that the FTC or other third parties would agree.

The FTC revised its Guides Concerning the Use of Endorsements and Testimonials in Advertising, or Guides, which became effective on December 1, 2009. Although the Guides are not binding, they explain how the FTC interprets Section 5 of the FTC Act's prohibition on unfair or deceptive acts or practices. Consequently, the FTC could bring a Section 5 enforcement action based on practices that are inconsistent with the Guides. Under the revised Guides, advertisements that feature a consumer and convey his or her atypical experience with a product or service are required to clearly disclose the results that consumers can generally expect. In contrast to the 1980 version of the Guides, which allowed advertisers to describe atypical results in a testimonial as long as they included a disclaimer such as "results not typical", the revised Guides no longer contain such a safe harbor. The revised Guides also add new examples to illustrate the long-standing principle that "material connections" between advertisers and endorsers (such as payments or free products), connections that consumers might not expect, must be disclosed. Herbalife has revised its marketing materials to be compliant with the revised Guides and the Consent Order. However, it is possible that our use, and that of our Members, of testimonials in the advertising and promotion of our products, including but not limited to our weight management products and our income opportunity, will be significantly impacted and therefore might negatively impact our sales.

Governmental regulations in countries where we plan to commence or expand operations may prevent or delay entry into those markets. In addition, our ability to sustain satisfactory levels of sales in our markets is dependent in significant part on our ability to introduce new products into such markets. However, governmental regulations in our markets, both domestic and international, can delay or prevent the introduction, or require the reformulation or withdrawal, of certain of our products. Any such regulatory action, whether or not it results in a final determination adverse to us, could create negative publicity, with detrimental effects on the motivation and recruitment of Members and, consequently, on sales.

We are subject to rules of the Food and Drug Administration, or FDA, for current good manufacturing practices, or cGMPs, for the manufacture, packing, labeling and holding of dietary supplements and over-the-counter drugs distributed in the United States. Herbalife has implemented a comprehensive quality assurance program that is designed to maintain compliance with the cGMPs for products manufactured by or on behalf of Herbalife for distribution in the United States. However, if Herbalife should be found not to be in compliance with cGMPs for the products we manufacture, it could negatively impact our reputation and ability to sell our products even after any such situation had been rectified. Further, if contract manufacturers that manufacture products for Herbalife fail to comply with the cGMPs, this could negatively impact Herbalife's reputation and ability to sell its products even though Herbalife is not directly liable under the cGMPs for such compliance. In complying with the dietary supplement cGMPs, we have experienced increases in production costs as a result of the necessary increase in testing of raw ingredients, work in process and finished products.

The SEC has requested from the Company documents and other information relating to the Company's disclosures regarding its marketing plan in China. While the Company believes this SEC investigation is nearing conclusion, and although a likely outcome could include a resolution or enforcement action, the Company cannot predict the eventual scope, duration, or outcome of this investigation at this time. The possible range of outcomes includes discussions leading to a settlement which could include a monetary payment and other relief, the filing by the SEC of a civil complaint or administrative action, or the closure of this matter without action.

Our network marketing program could be found to be not in compliance with current or newly adopted laws or regulations in one or more markets, which could prevent us from conducting our business in these markets or require us to alter compensation practices under our network marketing program, and harm our financial condition and operating results.

Our network marketing program is subject to a number of federal and state regulations administered by the FTC and various federal and state agencies in the United States as well as regulations on direct selling in foreign markets administered by foreign agencies. We are subject to the risk that, in one or more markets, our network marketing program could be found by federal, state or foreign regulators not to be in compliance with applicable law or regulations, which may lead to our inability to obtain or maintain a license, permit, or similar certification. We may also be required to alter compensation practices under our network marketing program in order to comply with applicable federal, state, or foreign law or regulations. As previously disclosed, we entered into the Consent Order with the FTC to settle the FTC's multi-year investigation into our business for compliance with these regulations. Another example is the 1986 permanent injunction entered in California in proceedings initiated by the California Attorney General. There can be no assurances other federal, state attorneys general or foreign regulators will not take similar actions.

Regulations applicable to network marketing organizations generally are directed at preventing fraudulent or deceptive schemes, sometimes referred to as "pyramid" or "chain sales" schemes, by ensuring that product sales ultimately are made to consumers and that advancement within an organization is based on sales of the organization's products rather than investments in the organization or other non-retail sales-related criteria. The regulatory requirements concerning network marketing programs do not include "bright line" rules and are inherently fact-based and, thus, we are subject to the risk that these laws or regulations or the enforcement or interpretation of these laws and regulations by governmental agencies or courts can change. While we believe we are in compliance with these regulations, including those enforced by the FTC and the permanent injunction in California, and are compliant with the Consent Order, there is no assurance any federal, state or foreign courts or agencies or the independent compliance auditor under the Consent Order would agree, including a federal court or the FTC in respect of the Consent Order or a court or the California Attorney General in respect to the permanent injunction.

The ambiguity surrounding these laws can also affect the public perception of the Company. For example, in the past, allegations regarding the legality of our network marketing program have been raised, which led to intense public scrutiny and significant stock price volatility. The failure of our network marketing program to comply with current or newly adopted laws or regulations, the Consent Order or the California injunction or any allegations or charges to that effect brought by federal, state, or foreign regulators could negatively impact our business in a particular market or in general and may adversely affect our share price.

We are also subject to the risk of private party challenges to the legality of our network marketing program, whether as a result of the Consent Order or otherwise. Some network marketing programs of other companies have been successfully challenged in the past, while other challenges to network marketing programs of other companies have been defeated. Adverse judicial determinations with respect to our network marketing program, or in proceedings not involving us directly but which challenge the legality of network marketing systems, in any other market in which we operate, could negatively impact our business.

We are subject to the Consent Order with the FTC, the effects of which, or any failure to comply therewith, could harm our financial condition and operating results.

As previously disclosed, on July 15, 2016, we reached a consensual resolution with the FTC regarding its multi-year investigation of our business resulting in the entry into a Stipulation to Entry of Order for Permanent Injunction and Monetary Judgment in the U.S. District Court for the Central District of California. The Consent Order became effective on July 25, 2016 upon final approval by the Court. As part of the Consent Order, we agreed to make a payment of $200 million. Additionally, we implemented and continue to enhance certain existing procedures in the United States. We also agreed to be subject to certain audits by an independent compliance auditor, or the ICA, for a period of seven years; requirements regarding compliance certification and record creation and maintenance; and a prohibition on misrepresentations and misleading claims regarding, among other things, income and lavish lifestyles. The FTC and ICA will also have the right to inspect Company records and request additional compliance reports for purposes of conducting audits pursuant to the Consent Order. In September 2016, we and the FTC mutually selected Affiliated Monitors, Inc. to serve as the ICA. The terms of the Consent Order are described in greater detail in our Current Report on Form 8-K filed on July 15, 2016.

The Consent Order includes a number of restrictions and requirements and therefore creates compliance risks, and while we believe we are compliant with the Consent Order, there is no guarantee that we are compliant or in the future will continue to be compliant with the Consent Order. We do not believe the Consent Order changes our business model as a direct selling company. However, compliance with the Consent Order required us to implement enhanced procedures regarding, among other things, tracking retail sales and internal consumption by distributors. We have instituted controls and procedures and developed technology solutions that we believe address these Consent Order requirements, including tools and software used by distributors to, among other things, document their sales and more efficiently track and manage their customer base. However, there can be no assurances that some or all of these controls and procedures and technology solutions will continue to operate as expected. Any failure of these systems to operate as designed could cause us to fail to maintain the records required under, or otherwise violate terms of, the Consent Order. Compliance with the Consent Order will require the cooperation of Members and, while we have updated our training programs and policies to address the Consent Order and expect our Members to cooperate, we do not have the same level of influence or control over our Members as we could were they our own employees. Failure by our Members to comply with the relevant aspects of the Consent Order could be a violation of the Consent Order and impact our ability to comply. While we believe we are compliant with the Consent Order and our board of directors has established the Implementation Oversight Committee, a committee which meets regularly with management to oversee our compliance with the terms of the Consent Order, there can be no assurances that the FTC or ICA would agree now or will agree in the future. In the event we are found to be in violation of the Consent Order, the FTC could, among other things, take corrective actions such as initiating enforcement actions, seeking an injunction or other restrictive orders and imposing civil monetary penalties against us and our officers and directors.

The Consent Order has impacted, and may continue to impact, our business operations, including our net sales and profitability. For example, the Consent Order imposes certain requirements regarding the verification and receipting of sales and there can be no assurances that these or other requirements of the Consent Order, our compliance therewith and the business procedures implemented as a result thereof, will not impact sales, whether as a result of undocumented sales activity or otherwise. The Consent Order also imposes restrictions on distributors' ability to open Nutrition Clubs in the United States. Additionally, the procedures described above, and any other actions taken in respect of continuing compliance efforts with the Consent Order, may continue to be costly. These extensive costs or any amounts in excess of our cost estimates could have a material adverse effect on our financial condition and results of operations. Our Members also disagreed with our decision to enter into the Consent Order, whether because they disagreed with certain terms thereof, they believed it will negatively impact their personal business or they would not have settled the investigation on any terms. The Consent Order also provides that if the total eligible U.S. sales on which compensation may be paid falls below 80% of the Company's total U.S. sales for a given year, compensation payable to distributors on eligible U.S. sales will be capped at 41.75% of the Net Rewardable Sales amount as defined in the Consent Order. While we believe we will continue to achieve the required 80% threshold necessary to pay full distributor compensation, this result is subject to the review and audit of the FTC and ICA and they may not agree with our conclusions. Because our business is dependent on our Members, our business operations and net sales could be adversely affected if U.S. distributor compensation is restricted or if any meaningful number of Members are dissatisfied, choose to reduce activity levels or leave our business altogether. Member dissatisfaction may also negatively impact the willingness of new Members to join Herbalife as a distributor. Further, management and the board of directors may be required to focus a substantial amount of time on compliance activities, which could divert their attention from running and growing our business. We may also be required to suspend or defer many or all of our current or anticipated business development, capital deployment and other projects unrelated to compliance with the Consent Order to allow resources to be focused on our compliance efforts, which could cause us to fall short of our guidance or analyst or investor expectations. In addition, while we believe the Consent Order has set new standards within the industry, our competitors are not required to comply with the Consent Order and may not be subject to similar actions, which could limit our ability to effectively compete for Members, customers and ultimately net sales.

The Consent Order also creates additional third-party risks. Although the Consent Order resolved the FTC's multi-year investigation into the Company, it does not prevent other third-parties from bringing actions against us, whether in the form of other state, federal or foreign regulatory investigations or proceedings, or private litigation, any of which could lead to, among other things, monetary settlements, fines, penalties or injunctions. Although we neither admitted nor denied the allegations in the FTC's complaint in agreeing to the terms of the Consent Order (except as to the Court having jurisdiction over the matter), third-parties may use specific statements or other matters addressed in the Consent Order as the basis for their action. The Consent Order or any subsequent legal or regulatory claim may also lead to negative publicity, whether because some view it as a condemnation of the Company or our direct selling business model or because other third parties use it as justification to make unfounded and baseless assertions against us, our business model or our Members. An increase in the number, severity or scope of third-party claims, actions or public assertions may result in substantial costs and harm to our reputation. The Consent Order may also impact third parties' willingness to work with us as a company.

We believe we have complied with the Consent Order and we will continue to do so. However, the impact of the Consent Order on our business, including the effectiveness of the controls, procedures and technology solutions implemented to comply therewith, and on our business and our member base, could be significant. If our business is adversely impacted, it is uncertain as to whether, or how quickly, we would be able to rebuild, irrespective of market conditions. Our financial condition and results of operations could be harmed if we fail to continue to comply with the Consent Order, if costs related to compliance exceed our estimates, if it has a negative impact on net sales, or if it leads to further legal, regulatory, or compliance claims, proceedings, or investigations or litigation.

A substantial portion of our business is conducted in foreign markets, exposing us to the risks of trade or foreign exchange restrictions, increased tariffs, foreign currency fluctuations, disruptions or conflicts with our third-party importers and similar risks associated with foreign operations.

Approximately 80% of our net sales for the year ended December 31, 2018 were generated outside the United States, exposing our business to risks associated with foreign operations. For example, a foreign government may impose trade or foreign exchange restrictions or increased tariffs, or otherwise limit or restrict our ability to import products into a country, any of which could negatively impact our operations. We are also exposed to risks associated with foreign currency fluctuations. For instance, purchases from suppliers are generally made in U.S. dollars while sales to Members are generally made in local currencies. Accordingly, strengthening of the U.S. dollar versus a foreign currency could have a negative impact on us. Although we engage in transactions to protect against risks associated with foreign currency fluctuations, we cannot be certain any hedging activity will effectively reduce our exchange rate exposure. Additionally, we may be negatively impacted by conflicts with or disruptions caused or faced by our third-party importers, as well as conflicts between such importers and local governments or regulating agencies. Our operations in some markets also may be adversely affected by political, economic and social instability in foreign countries, as well as due to economic tensions between governments, the implementation of new or increased tariffs and other changes in international trade policies. For example, tariffs enacted by the Mexican government during 2018 on products imported from the United States are applicable to a significant portion of our product line and may have an adverse impact on future sales if they remain in place, particularly if the Company deems it necessary to increase product prices. Our operations, both domestically and internationally, could also be affected by laws and regulations related to immigration. For example, current and future tightening of U.S. immigration controls may adversely affect the residence status of non-U.S. employees in our U.S. locations or our ability to hire new non-U.S. employees in such locations and may adversely affect the ability of non-U.S. Members from entering the United States. As we continue to focus on expanding our existing international operations, these and other risks associated with international operations may increase, which could harm our financial condition and operating results.

Another risk associated with our international operations is the possibility that a foreign government may impose foreign currency remittance restrictions. Due to the possibility of government restrictions on transfers of cash out of the country and control of exchange rates, we may not be able to immediately repatriate cash at the official exchange rate. If this should occur, or if the official exchange rate devalues, it may have a material adverse effect on our business, assets, financial condition, liquidity, results of operations or cash flows. For example, currency restrictions enacted by the Venezuelan government continue to be restrictive and have impacted the ability of our subsidiary in Venezuela, or Herbalife Venezuela, to obtain U.S. dollars in exchange for Venezuelan Bolivars at the official foreign exchange rate. These currency restrictions and current pricing restrictions continue to limit Herbalife Venezuela's ability to import U.S. dollar denominated raw materials and finished goods which in addition to the Venezuelan Bolivar devaluations has significantly negatively impacted our Venezuelan operations. If we are unsuccessful in implementing any financially and economically viable strategies, including local manufacturing, we may be required to fundamentally change our business model or suspend or cease operations in Venezuela. Also, if the foreign currency and pricing or other restrictions in Venezuela intensify or do not improve and, as a result, impact our ability to control our Venezuelan operations, we may be required to deconsolidate Herbalife Venezuela for U.S. GAAP purposes and would be subject to the risk of further impairments.

Our business in China is subject to general, as well as industry-specific, economic, political and legal developments and risks in China and requires that we utilize a modified version of the business model we use elsewhere in the world.

Our expansion of operations into China and the continued success of our business in China are subject to risks and uncertainties related to general economic, political and legal developments in China, among other things. The Chinese government exercises significant control over the Chinese economy, including but not limited to controlling capital investments, allocating resources, setting monetary policy, controlling and monitoring foreign exchange rates, implementing and overseeing tax regulations, providing preferential treatment to certain industry segments or companies and issuing necessary licenses to conduct business. In addition, we could face additional risks resulting from changes in China's data privacy and cybersecurity requirements. Accordingly, any adverse change in the Chinese economy, the Chinese legal system or Chinese governmental, economic or other policies could have a material adverse effect on our business in China and our prospects generally.

China has published regulations governing direct selling and prohibiting pyramid promotional schemes, and a number of administrative methods and proclamations have been issued. These regulations require us to use a modified version of the business model we use in other markets. To allow us to operate under these regulations, we have created and introduced a model specifically for China based on our understanding as to how Chinese regulators are interpreting and enforcing these regulations, our interpretation of applicable regulations and our understanding of the practices of other international direct selling companies in China.

In China, we have sales representatives who are permitted by the terms of our direct selling licenses to sell certain product categories away from fixed retail locations in the provinces of Jiangsu, Guangdong, Shandong, Zhejiang, Guizhou, Beijing, Fujian, Sichuan, Hubei, Shanxi, Shanghai, Jiangxi, Liaoning, Jilin, Henan, Chongqing, Hebei, Shaanxi, Tianjin, Heilongjiang, Hunan, Guangxi, Hainan, Anhui, Yunnan, Gansu, Ningxia, and Inner Mongolia. In Xinjiang province, where the Company does not have a direct selling license, it has a Company-operated retail store that can directly serve customers and preferred customers. With online orderings throughout China, there has been a declining demand in Company-operated retail stores.

We also engage Independent Service Providers who meet both the requirements to operate their own business under Chinese law as well as the conditions set forth by Herbalife to provide marketing, sales support and other services to Herbalife customers. In China, our Independent Service Providers are compensated for marketing, sales support, and other services instead of the Member allowances and royalty overrides utilized in our global Marketing Plan. The service hours and related fees eligible to be earned by the Independent Service Providers are based on a number of factors, including the sales generated through them and through others to whom they may provide marketing, sales support and other services, the quality of their service, and other factors. Total compensation available to our Independent Service Providers in China can generally be comparable to the total compensation available to other sales leaders globally. The Company does this by performing an analysis in our worldwide system to estimate the potential compensation available to the service providers, which can generally be comparable to that of sales leaders in other countries. After adjusting such amounts for other factors and dividing by each service provider's hourly rate, we then notify each Independent Service Provider the maximum hours of work for which they are eligible to be compensated in the given month. In order for a service provider to be paid, the Company requires each service provider to invoice the Company for their services.

These business model features in China are not common to the business model we employ elsewhere in the world, and based on the direct selling licenses we have received and the terms of those which we hope to receive in the future to conduct direct selling in China, our business model in China will continue to incorporate some or all of these features. The direct selling regulations require us to apply for various approvals to conduct direct selling in China. The process for obtaining the necessary licenses to conduct direct selling is protracted and cumbersome and involves multiple layers of Chinese governmental authorities and numerous governmental employees at each layer. While direct selling licenses are centrally issued, such licenses are generally valid only in the jurisdictions within which related approvals have been obtained. Such approvals are generally awarded on local and provincial bases, and the approval process requires involvement with multiple ministries at each level. Our participation and conduct during the approval process is guided not only by distinct Chinese practices and customs, but is also subject to applicable laws of China and the other jurisdictions in which we operate our business, including the United States, as well as our internal code of ethics. There is always a risk that in attempting to comply with local customs and practices in China during the application process or otherwise, we will fail to comply with requirements applicable to us in China itself or in other jurisdictions, and any such failure to comply with applicable requirements could prevent us from obtaining the direct selling licenses or related local or provincial approvals. Furthermore, we rely on certain key personnel in China to assist us during the approval process, and the loss of any such key personnel could delay or hinder our ability to obtain licenses or related approvals. For all of the above reasons, there can be no assurance that we will obtain additional direct selling licenses or obtain related approvals to expand into any or all of the localities or provinces in China that are important to our business. Our inability to obtain, retain, or renew any or all of the licenses or related approvals that are required for us to operate in China could negatively impact our business.

Additionally, although certain regulations have been published with respect to obtaining and operating under such approvals and otherwise conducting business in China, other regulations are pending and there continues to be uncertainty regarding the interpretation and enforcement of Chinese regulations. The regulatory environment in China is evolving, and officials in the Chinese government, including at the local and national level, exercise broad discretion in deciding how to interpret, apply, and enforce regulations as they deem appropriate, including to promote social order. Regulators in China may change how they interpret and enforce the direct selling regulations, both current interpretations and enforcement thereof or future iterations. Regulators in China may also modify the regulations. We cannot be certain that our business model will continue to be deemed by national or local Chinese regulatory authorities to be compliant with any such regulations. The Chinese government rigorously monitors the direct selling market in China, and in the past has taken serious action against companies that the government believed were engaging in activities that at the time they regarded to be in violation of applicable law, including shutting down their businesses and imposing substantial fines. For example, China's State Administration for Market Regulation, along with twelve other Chinese government ministries and agencies, is carrying out a 100-day campaign which began on January 8, 2019 to investigate the unlawful promotion and sales of health products. As a result, there can be no guarantee that the Chinese government's current or future interpretation and application of the existing and new regulations will not negatively impact our business in China, create industry reputational risk, result in regulatory investigations or lead to fines or penalties against us or our Chinese Members. If our business practices are deemed to be in violation of applicable regulations as they are or may be interpreted or enforced, or modified by regulations, in particular with respect to the factors used in determining the services a service provider is eligible to perform and service fees they are eligible to earn and to receive, then we could be sanctioned and/or required to change our business model, either of which could have a significant adverse impact on our business in China.

Chinese regulations prevent persons who are not Chinese nationals from engaging in direct selling in China. We cannot guarantee that any of our Members living outside of China or any of our sales representatives or Independent Service Providers in China have not engaged or will not engage in activities that violate our policies in this market, or that violate Chinese law or other applicable law, and therefore result in regulatory action and adverse publicity.

China has also enacted labor contract and social insurance legislation. We have reviewed our employment contracts and contractual relations with employees in China and have made such other changes as we believe to be necessary or appropriate to bring these contracts and contractual relations into compliance with these laws and their implementing regulations. In addition, we continue to monitor the situation to determine how these laws and regulations will be implemented in practice. There is no guarantee that these laws will not adversely impact us, cause us to change our operating plan for China or otherwise have an adverse impact on our business operations in China.

We may continue to experience growth in China, and there can be no assurances that we will be able to successfully manage expansion of manufacturing operations and a growing and dynamic sales force. If we are unable to effectively scale our supply chain and manufacturing infrastructure to support future growth in China, our operations in China may be adversely impacted.

If we fail to further penetrate existing markets, then the growth in sales of our products, along with our operating results, could be negatively impacted.

The success of our business is to a large extent contingent on our ability to further penetrate existing markets which is subject to numerous factors, many of which are out of our control. Government regulations in both our domestic and international markets can delay or prevent the introduction, or require the reformulation or withdrawal, of some of our products, which could negatively impact our business, financial condition and results of operations. Also, our ability to increase market penetration in certain countries may be limited by the finite number of persons in a given country inclined to pursue a direct selling business opportunity or consumers willing to purchase Herbalife products. Moreover, our growth will depend upon improved training and other activities that enhance Member retention in our markets. While we have recently experienced significant growth in certain of our markets, we cannot assure you that such growth levels will continue in the immediate or long-term future. Furthermore, our efforts to support growth in such international markets could be hampered to the extent that our infrastructure in such markets is deficient when compared to our infrastructure in our more developed markets, such as the United States. Therefore, we cannot assure you that our general efforts to increase our market penetration and Member retention in existing markets will be successful. If we are unable to further penetrate existing markets, our operating results could suffer.

Our business could be materially and adversely affected as a result of natural disasters, other catastrophic events, acts of war or terrorism, or cybersecurity incidents and other acts by third parties.

We depend on the ability of our business to run smoothly, including the ability of Members to engage in their day-to-day selling and business building activities and the ability of our inventories and products to move reasonably unimpeded around the world. Any material disruption caused by natural disasters, including, but not limited to, fires, floods, hurricanes, volcanoes, and earthquakes; power loss or shortages; environmental disasters; telecommunications or business information systems failures; acts of war or terrorism and other similar disruptions, including those due to cybersecurity incidents, ransomware, or other actions by third parties, could adversely affect our ability to conduct business. If such disruptions result in significant cancellations of Member orders, contribute to a general decrease in local, regional or global economic activity, directly impact our marketing, manufacturing, financial or logistics functions, or impair our ability to meet Member demands, our operating results and financial condition could be materially adversely affected. For example, our operations in Mexico were impacted by flooding in September 2017, when the severe weather conditions damaged or otherwise destroyed inventory stored at one of our facilities. Furthermore, our headquarters and one of our distribution facilities are located in Southern California, an area susceptible to earthquakes. Although the events in Mexico did not have a material negative impact to our Mexico operations, we cannot make any assurances that any future natural disasters, catastrophic events, acts of war or terrorism and other similar disruptions, including those due to cybersecurity incidents, ransomware, or other actions by third parties, will not adversely affect our ability to operate our business and our financial condition and results of operations.

Our contractual obligation to sell our products only through our Herbalife Member network and to refrain from changing certain aspects of our Marketing Plan may limit our growth.

We are contractually prohibited from expanding our business by selling Herbalife products through other distribution channels that may be available to our competitors, such as over the Internet, through wholesale sales, by establishing retail stores or through mail order systems. To the extent legally permitted, an agreement we entered into with our Members provides assurances that we will not sell Herbalife products worldwide through any distribution channel other than our network of independent Herbalife Members. Since this is an open-ended commitment, there can be no assurance that we will be able to take advantage of innovative new distribution channels that are developed in the future.

In addition, this agreement with our Members provides that we will not make any material changes adverse to our Members to certain aspects of our Marketing Plan that may negatively impact our Members without their approval as described in further detail below. For example, our agreement with our Members provides that we may increase, but not decrease, the discount percentages available to our Members for the purchase of products or the applicable royalty override percentages, and production and other bonus percentages available to our Members at various qualification levels within our Member hierarchy. We may not modify the eligibility or qualification criteria for these discounts, royalty overrides and production and other bonuses unless we do so in a manner to make eligibility and/or qualification easier than under the applicable criteria in effect as of the date of the agreement. Our agreement with our Members further provides that we may not vary the criteria for qualification for each Member tier within our Member hierarchy, unless we do so in such a way so as to make qualification easier.

Although we reserved the right to make these changes to our Marketing Plan without the consent of our Members in the event that changes are required by applicable law or are necessary in our reasonable business judgment to account for specific local market or currency conditions to achieve a reasonable profit on operations, we may initiate other changes that are adverse to our Members based on an assessment of what will be best for the Company and its Members. Under the agreement with our Members, these other adverse changes would then be submitted to our Member leadership for a vote. The vote would require the approval of at least 51% of our Members then at the level of President's Team earning at the production bonus level of 6% who vote, provided that at least 50% of those Members entitled to vote do in fact vote. While we believe this agreement has strengthened our relationship with our existing Members, improved our ability to recruit new Members and generally increased the long-term stability of our business, there can be no assurance that our agreement with our Members will not restrict our ability to adapt our Marketing Plan to the evolving requirements of the markets in which we operate. As a result, our growth may be limited.

We depend on the integrity and reliability of our information technology infrastructure, and any related inadequacies may result in a material adverse effect on our business, financial condition, and results of operations.

Our ability to provide products and services to our Members depends on the performance and availability of our core transactional systems. We operate our global back office transactional systems on an Oracle Enterprise Suite which is supported by a robust hardware and network infrastructure. The Oracle Enterprise Suite is a scalable and stable solution that provides a solid foundation upon which we are building our next generation Member facing Internet toolset. While we continue to invest in our information technology infrastructure, there can be no assurance that there will not be any significant interruptions to such systems or that the systems will be adequate to meet all of our future business needs. This infrastructure, as well as that of our Members and the other third parties with which we interact, may be damaged, disrupted, or otherwise breached for a number of reasons, including power outages, computer and telecommunication failures, computer viruses, malware or other destructive software, internal design, manual or usage errors, cyberattacks, terrorism, workplace violence or wrongdoing, catastrophic events, natural disasters, and severe weather conditions. Our role as a payment processor may also put us at a greater risk of being targeted by hackers. In addition, numerous and evolving cybersecurity threats, including advanced and persistent cyberattacks, phishing, and social engineering schemes could compromise the confidentiality, availability, and integrity of data in our systems as well as those of the third parties with which we interact. We have been the target of, and may be the target of in the future, malicious cyberattack attempts, although to date none of these attacks have had a meaningful adverse impact on our business.

The most important aspect of our information technology infrastructure is the system through which we record and track Member sales, Volume Points, royalty overrides, bonuses and other incentives. We have encountered, and may encounter in the future, errors in our software or our enterprise network, or inadequacies in the software and services supplied by our vendors, although to date none of these errors or inadequacies has had a meaningful adverse impact on our business. Any such errors, inadequacies, or other system disruptions that we may encounter in the future may result in substantial interruptions to our services and may damage our relationships with, or cause us to lose, our Members if the errors or inadequacies impair our ability to track sales and pay royalty overrides, bonuses and other incentives, which would harm our financial condition and operating results. Any such errors could create compliance risks under the Consent Order or any applicable laws or regulations. Such errors may be expensive or difficult to correct in a timely manner, and we may have little or no control over whether any inadequacies in software or services supplied to us by third parties are corrected, if at all.

Our ability to effectively manage our network of Members, and to ship products, and track royalty and bonus payments on a timely basis, depends significantly on our information systems. The failure of our information systems to operate effectively, or a breach in security of these systems, could adversely impact the promptness and accuracy of our product distribution and transaction processing. We could be required to make significant additional expenditures to remediate any such failure, problem or breach.

Anyone who is able to circumvent our security measures could misappropriate confidential or proprietary information, including that of third parties such as our Members, cause interruption in our operations, damage our computers or otherwise damage our reputation and business. We may need to expend significant resources to protect against security breaches or to address problems caused by such breaches. Any actual security breaches could damage our reputation and result in a violation of applicable privacy and other laws, legal and financial exposure, including litigation and other potential liability, and a loss of confidence in our security measures, which could have an adverse effect on our results of operations and our reputation as a brand, business partner or employer. In addition, employee error or malfeasance or other errors in the storage, use or transmission of any such information could result in a disclosure to third parties. If this should occur, we could incur significant expenses addressing such problems. Since we collect and store Member and vendor information, including credit card information, these risks are heightened.

In addition, the use and handling of this information is regulated by evolving and increasingly demanding laws and regulations, such as the European Union General Data Protection Regulation, or the GDPR, which took effect in May 2018. These laws and regulations are increasing in complexity and number, change frequently and increasingly conflict among the various countries in which we operate, which has resulted in greater compliance risk and cost for us. If we fail to comply with these laws or regulations, we could be subject to significant litigation, monetary damages, regulatory enforcement actions or fines in one or more jurisdictions, which could have a material adverse effect on our results of operations.

Since we rely on independent third parties for the manufacture and supply of certain of our products, if these third parties fail to reliably supply products to us at required levels of quality and which are manufactured in compliance with applicable laws, including the dietary supplement and OTC drug cGMPs, then our financial condition and operating results would be harmed.

A significant portion of our products are manufactured by third-party contract manufacturers. We cannot assure you that our outside contract manufacturers will continue to reliably supply products to us at the levels of quality, or the quantities, we require, and in compliance with applicable laws, including under the FDA's cGMP regulations. Additionally, while we are not presently aware of any current liquidity issues with our suppliers, we cannot assure you that they will not experience financial hardship.

For the portion of our product supply that we manufacture, we believe we have significantly lowered the product supply risk, as the risk factors of financial health, liquidity, capacity expansion, reliability and product quality are almost entirely all within our control. However, increases to the volume of products that we manufacture in our Winston-Salem, Lake Forest, Nanjing, Suzhou, and Changsha facilities raise the concentration risk that a significant interruption of production at any of our facilities due to, for example, natural disasters including earthquakes, hurricanes and floods, technical issues or work stoppages could impede our ability to conduct business. While our business continuity programs contemplate and plan for such events, if we were to experience such an event resulting in the temporary, partial or complete shutdown of one of these manufacturing facilities, we could be required to transfer manufacturing to the surviving facility and/or third-party contract manufacturers if permissible. When permissible, converting or transferring manufacturing to a third-party contract manufacturer could be expensive, time-consuming, result in delays in our production or shipping, reduce our net sales, damage our relationship with Members and damage our reputation in the marketplace, any of which could harm our business, results of operations and financial condition.

Our product supply contracts generally have a three-year term. Except for force majeure events such as natural disasters and other acts of God, and non-performance by Herbalife, our manufacturers generally cannot unilaterally terminate these contracts. These contracts can generally be extended by us at the end of the relevant time period and we have exercised this right in the past. Globally, we have over 50 product suppliers, with Fine Foods (Italy) being a major supplier for meal replacements, protein powders and nutritional supplements. Additionally, we use contract manufacturers in the United States, India, Brazil, South Korea, Taiwan, Germany, and the Netherlands to support our global business. If any of our contract manufacturers were to become unable or unwilling to continue to provide us with products in required volumes and at suitable quality levels, we would be required to identify and obtain acceptable replacement manufacturing sources. There is no assurance that we would be able to obtain alternative manufacturing sources on a timely basis. An extended interruption in the supply of products would result in the loss of sales. In addition, any actual or perceived degradation of product quality as a result of reliance on contract manufacturers may have an adverse effect on sales or result in increased product returns and buybacks.

If we fail to protect our trademarks and tradenames, then our ability to compete could be negatively affected, which would harm our financial condition and operating results.

The market for our products depends to a significant extent upon the goodwill associated with our trademark and tradenames. We own, or have licenses to use, the material trademark and trade name rights used in connection with the packaging, marketing and distribution of our products in the markets where those products are sold. Therefore, trademark and trade name protection is important to our business. Although most of our trademarks are registered in the United States and in certain foreign countries in which we operate, we may not be successful in asserting trademark or trade name protection. In addition, the laws of certain foreign countries may not protect our intellectual property rights to the same extent as the laws of the United States. The loss or infringement of our trademarks or tradenames could impair the goodwill associated with our brands and harm our reputation, which would harm our financial condition and operating results.

Unlike in most of the other markets in which we operate, there is limited protection of intellectual property available under Chinese law. Accordingly, we face an increased risk in China that unauthorized parties may attempt to copy or otherwise obtain or use our trademarks, copyrights, product formulations or other intellectual property. Further, because Chinese commercial law is relatively undeveloped, we may have limited legal recourse in the event we encounter significant difficulties with intellectual property theft or infringement. As a result, we cannot assure you that we will be able to adequately protect our product formulations or other intellectual property.

We permit the limited use of our trademarks by our Members to assist them in marketing our products. It is possible that doing so may increase the risk of unauthorized use or misuse of our trademarks in markets where their registration status differs from that asserted by our Members, or they may be used in association with claims or products in a manner not permitted under applicable laws and regulations. Were these to occur it is possible that this could diminish the value of these marks or otherwise impair our further use of these marks.

If our Members fail to comply with labeling laws, then our financial condition and operating results would be harmed.

Although the physical labeling of our products is not within the control of our Members, our Members must nevertheless advertise our products in compliance with the extensive regulations that exist in certain jurisdictions, such as the United States, which considers product advertising to be labeling for regulatory purposes.

Our products are sold principally as foods, dietary supplements and cosmetics and are subject to rigorous FDA and related legal regimens limiting the types of therapeutic claims that can be made for our products. The treatment or cure of disease, for example, is not a permitted claim for these products. While we train our Members and attempt to monitor our Members' marketing materials, we cannot ensure that all such materials comply with applicable regulations, including bans on therapeutic claims. If our Members fail to comply with these restrictions, then we and our Members could be subjected to claims, financial penalties, mandatory product recalls or relabeling requirements, which could harm our financial condition and operating results. Although we expect that our responsibility for the actions of our Members in such an instance would be dependent on a determination that we either controlled or condoned a noncompliant advertising practice, there can be no assurance that we could not be held vicariously liable for the actions of our Members.

If our intellectual property is not adequate to provide us with a competitive advantage or to prevent competitors from replicating our products, or if we infringe the intellectual property rights of others, then our financial condition and operating results would be harmed.

Our future success and ability to compete depend upon our ability to timely produce innovative products and product enhancements that motivate our Members and customers, which we attempt to protect under a combination of copyright, trademark and trade secret laws, confidentiality procedures and contractual provisions. However, our products are generally not patented domestically or abroad, and the legal protections afforded by common law and contractual proprietary rights in our products provide only limited protection and may be time-consuming and expensive to enforce or maintain. Further, despite our efforts, we may be unable to prevent third parties from infringing upon or misappropriating our proprietary rights or from independently developing non-infringing products that are competitive with, equivalent to or superior to our products.

Monitoring infringement or misappropriation of intellectual property can be difficult and expensive, and we may not be able to detect every infringement or misappropriation of our proprietary rights. Even if we do detect infringement or misappropriation of our proprietary rights, litigation to enforce these rights could cause us to divert financial and other resources away from our business operations. Further, the laws of some foreign countries do not protect our proprietary rights to the same extent as do the laws of the United States.

Additionally, third parties may claim that products or marks that we have independently developed or which bear certain of our trademarks infringe upon their intellectual property rights and there can be no assurance that one or more of our products or marks will not be found to infringe upon third-party intellectual property rights in the future.

Since one of our products constitutes a significant portion of our net sales, significant decreases in consumer demand for this product or our failure to produce a suitable replacement should we cease offering it would harm our financial condition and operating results.

For 2018, 2017, and 2016, our Formula 1 Healthy Meal, which is our best-selling product line, approximated 30% of our net sales. If consumer demand for this product decreases significantly or we cease offering this product without a suitable replacement, then our financial condition and operating results would be harmed.

If we lose the services of members of our senior management team, then our financial condition and operating results could be harmed.

We depend on the continued services of our Chairman of the Board and Chief Executive Officer, Michael O. Johnson, and our senior management team as it works closely with the senior Member leadership to create an environment of inspiration, motivation and entrepreneurial business success. Effective January 8, 2019, our previous Chief Executive Officer resigned and Michael O. Johnson became Chief Executive Officer in addition to his role as Chairman of the Board. While Mr. Johnson previously served as our Chief Executive Officer for almost 15 years and Chairman of our Board of Directors for more than 10 years, any significant leadership change or senior management transition involves inherent risk and any failure to ensure a smooth transition could hinder our strategic planning, execution and future performance. While we strive to mitigate the negative impact associated with changes to our senior management team, there may be uncertainty among investors, employees, Members and others concerning our future direction and performance. Any disruption in our operations or uncertainty could have a material adverse effect on our business, financial condition or results of operations.

Additionally, although we have entered into employment agreements with certain members of our senior management team, and do not believe that any of them are planning to leave or retire in the near term, we cannot assure you that our senior managers will remain with us. The loss or departure of any member of our senior management team could adversely impact our Member relations and operating results. If any of these executives do not remain with us, our business could suffer. Also, the loss of key personnel, including our regional and country managers, could negatively impact our ability to implement our business strategy, and our continued success will also be dependent on our ability to retain existing, and attract additional, qualified personnel to meet our needs. We currently do not maintain "key person" life insurance with respect to our senior management team.

Our international operations are subject to the laws and regulations of the United States and many foreign countries, including the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, and other similar laws in a number of countries.

We are subject to a variety of laws regarding our international operations, including the U.S. Foreign Corrupt Practices Act, or the FCPA, the U.K. Bribery Act of 2010, or the UK Bribery Act, and regulations issued by U.S. Customs and Border Protection, U.S. Treasury Department's Office of Foreign Assets Control, or OFAC, and various foreign governmental agencies. The FCPA, the UK Bribery Act and similar anti-bribery laws in other jurisdictions generally prohibit companies and their intermediaries from making improper payments for the purpose of obtaining or retaining business as well as requiring companies to maintain accurate books and records. In recent years there has been a substantial increase in anti-bribery law enforcement activity with more frequent and aggressive investigations and enforcement proceedings by both the Department of Justice, or DOJ, and the SEC, increased enforcement activity by non-U.S. regulators and increases in criminal and civil proceedings brought against companies and individuals. Our policies mandate compliance with these anti-bribery laws, including the requirements to maintain accurate information and internal controls. We operate in many parts of the world that have experienced governmental corruption to some degree and in certain circumstances, strict compliance with anti-bribery laws may conflict with local customs and practices. Notwithstanding our compliance programs, which include annual training and certification requirements, there is no assurance that our internal control policies and procedures will protect us from acts committed by our employees or agents. Additionally, we cannot predict the nature, scope or effect of future regulatory requirements to which our international operations might be subject or the manner in which existing or new laws might be administered or interpreted. Alleged or actual violations of any such existing or future laws (either due to our own acts or our inadvertence, or due to the acts or inadvertence of others) may result in criminal or civil sanctions, including contract cancellations or debarment, and loss of reputation, which could have a material adverse effect on our business, financial condition, and results of operations. As previously disclosed, the SEC and the DOJ have been conducting an investigation into the Company's compliance with the FCPA in China, which is mainly focused on the Company's China external affairs expenditures relating to its China business activities and the adequacy of and compliance with the Company's internal controls relating to such expenditures. This investigation is proceeding, with the government continuing to request documents and other information relating to these matters. The Company is conducting its own review and has taken remedial and improvement measures based upon this review, including but not limited to replacement of a number of employees and enhancements of Company policies and procedures in China. The Company is continuing to cooperate and engage in discussions with the SEC and DOJ. Although a likely outcome could include a resolution or government action, the Company cannot predict the eventual scope, duration, or outcome of the government investigation at this time, including potential monetary payments, injunctions, or other relief, the results of which may be materially adverse to the Company, its financial condition, its results of operations, and its operations.

The United Kingdom's vote to exit from the European Union could adversely impact us.

On June 23, 2016, in a referendum vote commonly referred to as "Brexit," a majority of British voters voted to exit the European Union and, in March 2017, the British government delivered formal notice of the U.K.'s intention to leave the European Union. The British government is currently in negotiations with the European Union to determine the terms of the U.K.'s exit. A withdrawal could potentially disrupt the free movement of goods, services and people between the U.K. and the European Union, undermine bilateral cooperation in key geographic areas and significantly disrupt trade between the U.K. and the European Union or other nations as the U.K. pursues independent trade relations. In addition, Brexit could lead to legal uncertainty and potentially divergent national laws and regulations as the U.K. determines which European Union laws to replace or replicate. The effects of Brexit will depend on any agreements the U.K. makes to retain access to European Union or other markets either during a transitional period or more permanently. It is unclear what long-term economic, financial, trade and legal implications the withdrawal of the U.K. from the European Union would have and how such withdrawal would affect our business globally and in the region. In addition, Brexit may lead other European Union member countries to consider referendums regarding their European Union membership. Any of these events, along with any political, economic and regulatory changes that may occur, could cause political and economic uncertainty in Europe and internationally and harm our business and financial results.

The covenants in our existing indebtedness limit our discretion with respect to certain business matters, which could limit our ability to pursue certain strategic objectives and in turn harm our financial condition and operating results.

Our credit facility and the indenture governing the senior notes due August 15, 2026, or the 2026 Notes, have operating covenants that restrict our and our subsidiaries' ability to, among other things:

- pay dividends, redeem share capital or capital stock and make other restricted payments and investments;
- incur or guarantee additional debt;
- impose dividend or other distribution restrictions on our subsidiaries; and
- create liens on our and our subsidiaries' assets.

In addition, our credit facility requires us to meet certain financial ratios and financial conditions. Our ability to comply with these covenants may be affected by events beyond our control, including prevailing economic, financial and industry conditions. Failure to comply with these covenants could result in a default causing all amounts to become due and payable under our credit facility, which is secured by the equity interests of certain of our subsidiaries and substantially all of the assets of the domestic loan parties, against which the lenders thereunder could proceed to foreclose.

We may use from time to time a certain amount of cash in order to satisfy the obligations relating to our convertible notes. The maturity or conversion of any of our convertible notes may adversely affect our financial condition and operating results, which could adversely affect the amount or timing of future potential share repurchases or the payment of dividends to our shareholders.

In February 2014, we issued convertible senior notes due on August 15, 2019, or the 2019 Convertible Notes, in the aggregate principal amount of $1.15 billion, of which $675 million aggregate principal amount remains outstanding. Additionally, in March 2018, we issued convertible senior notes due on March 15, 2024, or the 2024 Convertible Notes, in the aggregate principal amount of $550 million. On their respective maturity dates, we will have to pay the holders of the 2019 Convertible Notes and the 2024 Convertible Notes the full aggregate principal amount of the 2019 Convertible Notes or 2024 Convertible Notes then outstanding.

Holders of our 2019 Convertible Notes may convert their notes at their option under the following circumstances: (i) during any calendar quarter commencing after the calendar quarter ending March 31, 2014, if the last reported sale price of our common shares for at least 20 trading days (whether or not consecutive) in a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter exceeds 130% of the conversion price for the 2019 Convertible Notes on each applicable trading day; (ii) during the five business-day period immediately after any five consecutive trading day period, or the measurement period, in which the trading price per $1,000 principal amount of 2019 Convertible Notes for each trading day of that measurement period was less than 98% of the product of the last reported sale price of our common shares and the conversion rate for the 2019 Convertible Notes for each such day; or (iii) upon the occurrence of specified corporate events. On and after May 15, 2019, holders may convert their 2019 Convertible Notes at any time, regardless of the foregoing circumstances.

Holders of our 2024 Convertible Notes may convert their notes at their option under the following circumstances: (i) during any calendar quarter commencing after the calendar quarter ending June 30, 2018, if the last reported sale price of our common shares for at least 20 trading days (whether or not consecutive) in a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter exceeds 130% of the conversion price for the 2024 Convertible Notes on each applicable trading day; (ii) during the five business-day period immediately after any five consecutive trading day period, or the measurement period, in which the trading price per $1,000 principal amount of 2024 Convertible Notes for each trading day of that measurement period was less than 98% of the product of the last reported sale price of our common shares and the conversion rate for the 2024 Convertible Notes for each such day; (iii) if the Company calls the 2024 Convertible Notes for redemption; or (iv) upon the occurrence of specified corporate events. On and after December 15, 2023, holders may convert their 2024 Convertible Notes at any time, regardless of the foregoing circumstances.

Upon conversion of the 2019 Convertible Notes, the principal amount is due in cash, and to the extent that the conversion value exceeds the principal amount, the difference is due in common shares. The 2024 Convertible Notes may be settled in cash, common shares, or a combination of cash and common shares, at our option. If one or more holders elect to convert their 2019 Convertible Notes or their 2024 Convertible Notes when conversion is permitted, we could be required to make cash payments equal to the par amount of each 2019 Convertible Note, and we could elect to make cash payments to satisfy our conversion obligations with respect to the 2024 Convertible Notes, which could adversely affect our liquidity. In addition, even if holders do not elect to convert their 2019 Convertible Notes or 2024 Convertible Notes, we could be required under applicable accounting rules to reclassify all or a portion of the outstanding principal of our 2019 Convertible Notes or 2024 Convertible Notes as a current rather than long-term liability, which could result in a material reduction of our net working capital. Payment of cash upon conversion of the 2019 Convertible Notes or the 2024 Convertible Notes, or any adverse accounting treatment of the 2019 Convertible Notes or 2024 Convertible Notes, may adversely affect our financial condition and operating results, each of which could in turn adversely impact the amount or timing of future potential share repurchases or the payment of dividends to our shareholders.

The conversion of any of the convertible notes into common shares could have a dilutive effect that could cause our share price to go down.

The 2019 Convertible Notes, until May 15, 2019, and the 2024 Convertible Notes, until December 14, 2023, are convertible into common shares only if specified conditions are met and thereafter convertible at any time, at the option of the holder. We have reserved common shares for issuance upon conversion of the 2019 Convertible Notes and 2024 Convertible Notes. Upon conversion of the 2019 Convertible Notes, the principal amount is due in cash, and to the extent that the conversion value exceeds the principal amount, the difference is due in common shares. While we have entered into capped call transactions to effectively increase the conversion of the 2019 Convertible Notes and lessen the risk of dilution to shareholders upon conversion, if the market price of our common shares, as measured under the terms of the capped call transactions, exceeds the cap price of the capped call transactions, the number of our common shares we receive upon exercise of the capped call transactions will be capped. In that case, there would be dilution in respect of our common shares, because the number of our common shares or amounts of cash that we would owe upon conversion of the 2019 Convertible Notes in excess of the principal amount of converted 2019 Convertible Notes would exceed the number of common shares that we would be entitled to receive upon exercise of the capped call transactions, which would cause a dilutive effect that could cause our share price to go down. Upon conversion of the 2024 Convertible Notes, we may deliver cash, common shares or a combination of cash and common shares, at our option, to satisfy our conversion obligations. We did not enter into any similar arrangements to the capped call transactions in connection with the issuance of the 2024 Convertible Notes.

If any or all of the 2019 Convertible Notes or 2024 Convertible Notes are converted into common shares, our existing shareholders will experience immediate dilution of voting rights and our common share price may decline. Furthermore, the perception that such dilution could occur may cause the market price of our common shares to decline. The conversion rate for the 2019 Convertible Notes as of February 7, 2014, the date of issuance thereof, was 11.5908 common shares per $1,000 principal amount, or a conversion price of approximately $86.28 per common share, and the conversion rate for the 2024 Convertible Notes as of March 23, 2018, the date of issuance thereof, was 8.0028 common shares per $1,000 principal amount, or a conversion price of approximately $124.96 per common share. The conversion rate for the 2019 Convertible Notes was adjusted to 23.1816 common shares per $1,000 principal amount, or a conversion price of approximately $43.14 per common share, and the conversion rate for the 2024 Convertible Notes was adjusted to 16.0056 common shares per $1,000 principal amount, or a conversion price of approximately $62.48 per common share, due to our two-for-one stock split effected in May 2018 and described in Note 2, *Basis of Presentation*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K. As of December 31, 2018, the conversion rate for the 2019 Convertible Notes was further adjusted to 23.2245 common shares per $1,000 principal amount, or a conversion price of approximately $43.06 per common share, and the conversion rate for the 2024 Convertible Notes was further adjusted to 16.0352 common shares per $1,000 principal amount, or a conversion price of approximately $62.36 per common share, due to the Company's modified Dutch auction tender offer completed in May 2018. Because the conversion rates of the 2019 Convertible Notes and 2024 Convertible Notes adjust upward upon the occurrence of certain events, our existing shareholders may experience more dilution if any or all of the 2019 Convertible Notes or 2024 Convertible Notes are converted into common shares after the adjusted conversion rates became effective.

If we do not comply with transfer pricing, customs duties, VAT, and similar regulations, then we may be subjected to additional taxes, duties, interest and penalties in material amounts, which could harm our financial condition and operating results.

As a multinational corporation, operating in many countries including the United States, we are subject to transfer pricing and other tax regulations designed to ensure that our intercompany transactions are consummated at prices that have not been manipulated to produce a desired tax result, that appropriate levels of income are reported as earned by our United States or local entities, and that we are taxed appropriately on such transactions. In addition, our operations are subject to regulations designed to ensure that appropriate levels of customs duties are assessed on the importation of our products. We are currently subject to pending or proposed audits that are at various levels of review, assessment or appeal in a number of jurisdictions involving transfer pricing issues, income taxes, customs duties, value added taxes, withholding taxes, sales and use and other taxes and related interest and penalties in material amounts. In some circumstances, additional taxes, interest and penalties have been assessed and we will be required to pay the assessments or post surety, in order to challenge the assessments. We have reserved in our consolidated financial statements an amount that we believe represents the most likely outcome of the resolution of these disputes, but if we are incorrect in our assessment we may have to pay the full amount asserted which could potentially be material.

The imposition of new taxes, even pass-through taxes such as VAT, could have an impact on our perceived product pricing and will likely require that we increase prices in certain jurisdictions, and therefore could have a potential negative impact on our business and results of operations. Ultimate resolution of these matters may take several years, and the outcome is uncertain. If the United States Internal Revenue Service or the taxing authorities of any other jurisdiction were to successfully challenge our transfer pricing practices or our positions regarding the payment of income taxes, customs duties, value added taxes, withholding taxes, sales and use, and other taxes, we could become subject to higher taxes, we may determine it is necessary to raise prices in certain jurisdictions accordingly, and our revenue and earnings and our results of operations could be adversely affected.

See Note 7, *Contingencies*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for further information on contingencies relating to VAT and other related matters.

U.S. Tax Reform may adversely impact certain U.S. shareholders of the Company.

A non-U.S. corporation will be classified as a controlled foreign corporation (a "CFC") for any particular taxable year, if U.S. persons (including individuals and entities) who own (directly, indirectly through foreign entities, or constructively pursuant to the application of certain constructive ownership rules) 10% or more of the voting power or value of the shares ("10% U.S. Shareholders") own, in the aggregate, more than 50% of the total combined voting power or value of the shares. In determining whether a shareholder is treated as a 10% U.S. Shareholder, the voting power of the shares, special voting rights to appoint directors, whether by law, agreement, or other arrangement, may also be taken into account. In addition, certain constructive ownership rules apply, which attribute share ownership among certain family members and certain entities and their owners. Such constructive ownership rules may also attribute share ownership to persons (including individuals and entities) that are entitled to acquire shares pursuant to an option, such as the holders of our 2019 Convertible Notes and 2024 Convertible Notes. Generally, 10% U.S. Shareholders of a CFC are required to include currently in gross income their respective shares of (i) the CFC's "Subpart F income" (e.g. items of passive income and certain income resulting from inter-company sales and services), (ii) the CFC's earnings (that have not been subject to tax under the Subpart F rules) to the extent the CFC holds certain U.S. property, and (iii) the CFC's global intangible low-taxed income pursuant to the Tax Cuts and Jobs Act of 2017 ("U.S. Tax Reform"). Such 10% U.S. Shareholders are subject to current U.S. federal income tax with respect to the foregoing income items, even if the CFC has not made an actual distribution to such shareholders.

As a result of certain changes to the CFC constructive ownership rules introduced by U.S. Tax Reform, one or more of our non-U.S. corporate subsidiaries that were not previously classified as CFCs are now classified as CFCs, including on a retroactive basis. For 10% U.S. Shareholders, this may result in adverse tax consequences, including the current inclusion of earnings of certain of our non-U.S. corporate subsidiaries (regardless of whether we make any distributions in respect of such earnings). Any shareholders who own, or contemplate owning, 10% or more of our shares (taking into account the impact of any share repurchases we may undertake as well as the impact of the constructive ownership rules) are urged to consult their tax advisors with respect to the special rules applicable to 10% U.S. Shareholders of CFCs.

While we do not believe that Herbalife Nutrition Ltd. is classified as a CFC, such entity and one or more of our non-U.S. corporate subsidiaries not already classified as CFCs could become classified as CFCs either (i) as a result of additional changes to tax laws, including future pronouncements or other guidance from the Internal Revenue Service or (ii) on the basis of an increase in the percentage ownership of our stock by shareholders who presently hold, or in the future may hold, 10% or more of our shares, as a result of future share acquisitions or after taking into account the impact of any share repurchases we may undertake.

Further, under U.S. Tax Reform, a one-time tax is imposed upon our 10% U.S. Shareholders on certain historic accumulated, undistributed foreign earnings of CFCs and other "specified foreign corporations," which earnings have not been previously subject to tax at the 10% U.S. Shareholder level. A specified foreign corporation is any CFC or other non-U.S. corporation that has at least one U.S. corporate shareholder that is a 10% U.S. Shareholder. Herbalife Nutrition Ltd. believes that it may be classified as a specified foreign corporation and that one or more of our non-U.S. corporate subsidiaries may be classified as specified foreign corporations.

Shareholders who own, or contemplate owning, 10% or more of our shares (taking into account the impact of any share repurchases we may undertake pursuant to share repurchase programs as well as the impact of the constructive ownership rules) are urged to consult their tax advisors.

No assurances can be given that future legislative, administrative, or judicial developments will not result in an increase in the amount of U.S. taxes payable by an investor in our shares. If any such developments occur, such developments could have a material and adverse effect on an investment in our shares.

Changes in tax laws, treaties or regulations, or their interpretation could adversely affect us.

A change in applicable tax laws, treaties or regulations or their interpretation could result in a higher effective tax rate on our worldwide earnings and such change could be significant to our financial results. The Organisation for Economic Co-operation and Development has, within recent years, released guidance covering various international tax standards as part of its "base erosion and profit shifting" or "BEPS" initiative. The anticipated implementation of BEPS by non-U.S. jurisdictions in which we operate could result in changes to tax laws and regulations, including with respect to transfer pricing that could materially increase our effective tax rate.

No assurances can be given that future legislative, administrative, or judicial developments will not result in an increase in the amount of taxes payable by us or our subsidiaries. If any such developments occur, our business, financial condition, and results of operations could be materially and adversely affected.

We may be held responsible for certain taxes or assessments relating to the activities of our Members, which could harm our financial condition and operating results.

Our Members are subject to taxation, and in some instances, legislation or governmental agencies impose an obligation on us to collect taxes, such as value added taxes and social contributions, and to maintain appropriate records. In addition, we are subject to the risk in some jurisdictions of being responsible for social security, withholding or other taxes with respect to payments to our Members. In addition, in the event that local laws and regulations or the interpretation of local laws and regulations change to require us to treat our Members as employees, or that our Members are deemed by local regulatory authorities in one or more of the jurisdictions in which we operate to be our employees rather than independent contractors under existing laws and interpretations, we may be held responsible for social security contributions, withholding and related taxes in those jurisdictions, plus any related assessments and penalties, which could harm our financial condition and operating results. See Note 7, *Contingencies*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a more specific discussion of contingencies related to the activities of our Members.

We may incur material product liability claims, which could increase our costs and harm our financial condition and operating results.

Our ingestible products include vitamins, minerals and botanicals and other ingredients and are classified as foods or dietary supplements and are not subject to pre-market regulatory approval in the United States. Our products could contain contaminated substances, and some of our products contain some ingredients that do not have long histories of human consumption. We rely upon published and unpublished safety information including clinical studies on ingredients used in our products and conduct limited clinical studies on some key products but not all products. Previously unknown adverse reactions resulting from human consumption of these ingredients could occur. As a marketer of dietary and nutritional supplements and other products that are ingested by consumers or applied to their bodies, we have been, and may again be, subjected to various product liability claims, including that the products contain contaminants, the products include inadequate instructions as to their uses, or the products include inadequate warnings concerning side effects and interactions with other substances. It is possible that widespread product liability claims could increase our costs, and adversely affect our revenues and operating income. Moreover, liability claims arising from a serious adverse event may increase our costs through higher insurance premiums and deductibles, and may make it more difficult to secure adequate insurance coverage in the future. In addition, our product liability insurance may fail to cover future product liability claims, thereby requiring us to pay substantial monetary damages and adversely affecting our business. Finally, given the level of self-insured retentions that we have accepted under our current product liability insurance policies, which is $12.5 million, in certain cases we may be subject to the full amount of liability associated with any injuries, which could be substantial.

Holders of our common shares may face difficulties in protecting their interests because we are incorporated under Cayman Islands law.

Our corporate affairs are governed by our amended and restated memorandum and articles of association, by the Companies Law (2018 Revision), or the Companies Law, and the common law of the Cayman Islands. The rights of our shareholders and the fiduciary responsibilities of our directors under Cayman Islands law are not as clearly established as under statutes or judicial precedent in existence in jurisdictions in the United States. Therefore, shareholders may have more difficulty in protecting their interests in the face of actions by our management or board of directors than would shareholders of a corporation incorporated in a jurisdiction in the United States due to the comparatively less developed nature of Cayman Islands law in this area.

Shareholders of Cayman Islands exempted companies such as Herbalife have no general rights under Cayman Islands law to inspect corporate records and accounts or to obtain copies of lists of our shareholders. Our directors have discretion under our articles of association to determine whether or not, and under what conditions, our corporate records may be inspected by our shareholders, but are not obliged to make them available to our shareholders. This may make it more difficult for you to obtain the information needed to establish any facts necessary for a shareholder motion or to solicit proxies from other shareholders in connection with a proxy contest.

A shareholder can bring a suit personally where its individual rights have been, or are about to be, infringed. Our Cayman Islands counsel, Maples and Calder, is not aware of any reported class action having been brought in a Cayman Islands court. Derivative actions have been brought in the Cayman Islands courts, and the Cayman Islands courts have confirmed the availability of such actions. In most cases, we would be the proper plaintiff where an action is brought to redress any loss or damage suffered by us, or based on a breach of duty owed to us, and a claim against, for example, our officers or directors usually may not be brought by a shareholder. However, based on English authorities, which would in all likelihood be of persuasive authority and be applied by a court in the Cayman Islands, exceptions to the foregoing principle may apply and a shareholder may be permitted to bring a claim derivatively on a company's behalf, where:

- a company is acting or proposing to act illegally or outside the scope of its corporate authority;
- the act complained of, although not acting outside the scope of its corporate authority, could be effected only if authorized by more than a simple majority vote; or
- those who control the company are perpetrating a “fraud on the minority”.

Provisions of our articles of association and Cayman Islands corporate law may impede a takeover or make it more difficult for shareholders to change the direction or management of the Company, which could reduce shareholders’ opportunity to influence management of the Company.

Our articles of association permit our board of directors to issue preference shares from time to time, with such rights and preferences as they consider appropriate. Our board of directors could authorize the issuance of preference shares with terms and conditions and under circumstances that could have an effect of discouraging a takeover or other transaction.

In addition, our articles of association contain certain other provisions which could have an effect of discouraging a takeover or other transaction or preventing or making it more difficult for shareholders to change the direction or management of our Company, including the inability of shareholders to act by written consent, a limitation on the ability of shareholders to call special meetings of shareholders and advance notice provisions. As a result, our shareholders may have less input into the management of our Company than they might otherwise have if these provisions were not included in our articles of association.

The Cayman Islands have provisions under the Companies Law to facilitate mergers and consolidations between Cayman Islands companies and non-Cayman Islands companies (provided that is facilitated by the laws of such other jurisdiction). These provisions, contained within Part XVI of the Companies Law, are broadly similar to the merger provisions provided for under Delaware Law.

There are however a number of important differences that could impede a takeover. First, the threshold for approval of the merger plan by shareholders is higher. The threshold is a special resolution of the shareholders (being 66 2/3% of those present in person or by proxy and voting) together with such other authorization, if any, as may be specified in the articles of association.

Additionally, the consent of each holder of a fixed or floating security interest (in essence a documented security interest as opposed to one arising by operation of law) is required to be obtained unless the Grand Court of the Cayman Islands waives such requirement.

The merger provisions contained within Part XVI of the Companies Law do contain shareholder appraisal rights similar to those provided for under Delaware law. Such rights are limited to a merger under Part XVI and do not apply to schemes of arrangement as discussed below.

The Companies Law also contains separate statutory provisions that provide for the merger, reconstruction and amalgamation of companies. These are commonly referred to in the Cayman Islands as "schemes of arrangement."

The procedural and legal requirements necessary to consummate these transactions are more rigorous and take longer to complete than the procedures typically required to consummate a merger in the United States. Under Cayman Islands law and practice, a scheme of arrangement in relation to a solvent Cayman Islands company must be approved at a shareholders' meeting by a majority in number of each class of the company's shareholders who are present and voting (either in person or by proxy) at such meeting. The shares voted in favor of the scheme of arrangement must also represent at least 75% of the value of each relevant class of the company's shareholders present and voting at the meeting. The convening of these meetings and the terms of the arrangement must also be sanctioned by the Grand Court of the Cayman Islands. Although there is no requirement to seek the consent of the creditors of the parties involved in the scheme of arrangement, the Grand Court typically seeks to ensure that the creditors have consented to the transfer of their liabilities to the surviving entity or that the scheme of arrangement does not otherwise materially adversely affect creditors' interests. Furthermore, the court will only approve a scheme of arrangement if it is satisfied that:

- we are not proposing to act illegally or beyond the scope of our Company's corporate authority and the statutory provisions as to majority vote have been complied with;
- the shareholders who voted at the meeting in question fairly represent the relevant class of shareholders to which they belong;
- the scheme of arrangement is such as a businessman would reasonably approve; and
- the scheme of arrangement is not one that would more properly be sanctioned under some other provision of the Companies Law or that would amount to a "fraud on the minority".

If the scheme of arrangement is approved, the dissenting shareholder would have no rights comparable to appraisal rights, which would otherwise ordinarily be available to dissenting shareholders of U.S. corporations, providing rights to receive payment in cash for the judicially determined value of the shares.

In addition, if an offer by a third party to purchase shares in us has been approved by the holders of at least 90% of our issued and outstanding shares (not including such a third party) pursuant to an offer within a four-month period of making such an offer, the purchaser may, during the two months following expiration of the four-month period, require the holders of the remaining shares to transfer their shares on the same terms on which the purchaser acquired the first 90% of our issued and outstanding shares. An objection can be made to the Grand Court of the Cayman Islands, but this is unlikely to succeed unless there is evidence of fraud, bad faith, collusion or inequitable treatment of the shareholders.

There is uncertainty as to shareholders' ability to enforce certain foreign civil liabilities in the Cayman Islands.

We are incorporated as an exempted company with limited liability under the laws of the Cayman Islands. A material portion of our assets are located outside of the United States. As a result, it may be difficult for our shareholders to enforce judgments against us or judgments obtained in U.S. courts predicated upon the civil liability provisions of the federal securities laws of the United States or any state of the United States.

We have been advised by our Cayman Islands counsel, Maples and Calder, that although there is no statutory enforcement in the Cayman Islands of judgments obtained in the United States, the courts of the Cayman Islands will — based on the principle that a judgment by a competent foreign court imposes upon the judgment debtor an obligation to pay the sum for which judgment has been given — recognize and enforce a foreign judgment of a court of competent jurisdiction if such judgment is final, for a liquidated sum, not in respect of taxes or a fine or penalty, is not inconsistent with a Cayman Islands judgment in respect of the same matters, impeachable on the grounds of fraud, and was not obtained in a manner, and is not of a kind, the enforcement of which is contrary to natural justice or the public policy of the Cayman Islands. There is doubt, however, as to whether the Grand Court of the Cayman Islands will (1) recognize or enforce judgments of U.S. courts predicated upon the civil liability provisions of the federal securities laws of the United States or any state of the United States, or (2) in original actions brought in the Cayman Islands, impose liabilities predicated upon the civil liability provisions of the federal securities laws of the United States or any state of the United States, on the grounds that such provisions are penal in nature.

The Grand Court of the Cayman Islands may stay proceedings if concurrent proceedings are being brought elsewhere.

Mail addressed to the Company and received at its registered office will be forwarded unopened to the forwarding address supplied by the Company. None of Herbalife, its directors, officers, advisors or service providers (including the organization that provides registered office services in the Cayman Islands) will bear any responsibility for any delay caused in mail reaching the forwarding address.

Our stock price may be adversely affected by third parties who raise allegations about our Company.

Short sellers and others who raise allegations regarding the legality of our business activities, some of whom are positioned to profit if our stock declines, can negatively affect our stock price. For example, in late 2012, a hedge fund manager publicly raised allegations regarding the legality of our network marketing program, our product safety, our accounting practices, and other matters, and announced that his fund had taken a significant short position regarding our common shares, leading to intense public scrutiny and significant stock price volatility. Following this public announcement in December 2012, our stock price dropped significantly. Additionally, from time to time the Company is subject to governmental and regulatory inquiries and inquiries from legislators that may adversely affect our stock price. Significant volatility of our stock price may cause the value of a shareholder's investment to decline rapidly.

Item 1B. ***Unresolved Staff Comments***

None.

Item 2. ***Properties***

As of December 31, 2018, we leased the majority of our physical properties. We currently lease approximately 128,000 square feet in downtown Los Angeles, California, including our corporate executive offices located in the LA Live complex with the lease term expiring in 2033 and other general office space with the lease term expiring in 2019. We also lease approximately 111,000 square feet, with the lease term expiring in 2033, and own approximately 189,000 square feet of general office space in Torrance, California, for our North America and South America regional headquarters, including some of our corporate support functions. Additionally, we lease distribution center facilities in Los Angeles, California and Memphis, Tennessee of approximately 255,000 square feet and 259,000 square feet, respectively. The Los Angeles and Memphis lease agreements have terms through 2021 and 2023, respectively. In Lake Forest, California, we also lease warehouse, manufacturing plant and office space of approximately 123,000 square feet under leases expiring in 2019 and 2020. In Venray, Netherlands, we lease our European centralized warehouse of approximately 257,000 square feet under an arrangement expiring in 2020. In Changsha, Hunan, China we are leasing our botanical extraction facility of approximately 178,000 square feet with the term expiring in 2022. In Suzhou, China we are leasing our manufacturing facilities and warehouse facilities of approximately 81,000 square feet and 60,000 square feet, respectively, under leases expiring in 2022 and 2019, respectively. In Nanjing, China, we are leasing an additional manufacturing facility of approximately 372,000 square feet under a lease expiring in 2025. In Guadalajara, Mexico, we lease approximately 219,000 square feet of office space, the majority of which houses a Global Business Service Center that supports worldwide operations, under leases expiring in 2023. We also lease office space for Global Business Service Centers in Querétaro, Mexico; Krakow, Poland; Bangalore, India; and Kuala Lumpur, Malaysia. In addition to the properties noted above, we also lease other warehouse, manufacturing, and office buildings in a majority of our other geographic areas of operation.

We own a manufacturing facility in Winston-Salem, North Carolina. The manufacturing facility contains approximately 800,000 square feet of manufacturing and office space. See Item 1, *Business* for further discussion of the manufacturing facility purchased in Winston-Salem, North Carolina.

We believe that our existing facilities are adequate to meet our current requirements and that comparable space is readily available at each of these locations.

Item 3. ***Legal Proceedings***

The information set forth under Note 7,*Contingencies*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K is incorporated herein by reference.

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***

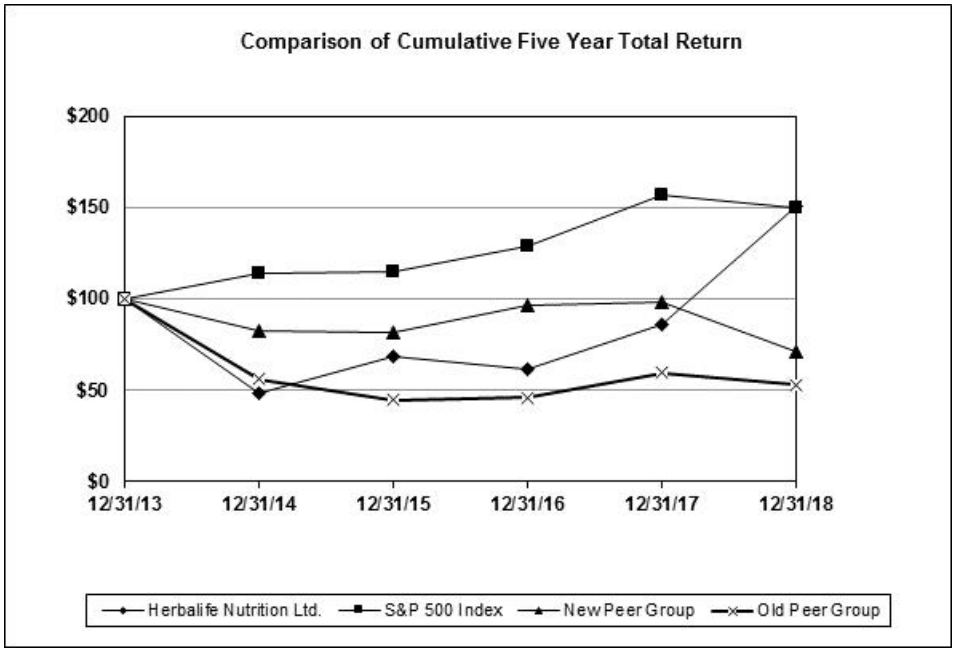
Information with Respect to our Common Shares

Our common shares are listed on the New York Stock Exchange, or NYSE, and trade under the symbol "HLF." The market price of our common shares is subject to fluctuations in response to variations in our quarterly operating results, general trends in the market for our products and product candidates, economic and currency exchange issues in the foreign markets in which we operate as well as other factors, many of which are not within our control. In addition, broad market fluctuations, as well as general economic, business and political conditions may adversely affect the market for our common shares, regardless of our actual or projected performance.

The closing price of our common shares on February 12, 2019, was $58.25. The approximate number of holders of record of our common shares as of February 12, 2019 was 528. This number of holders of record does not represent the actual number of beneficial owners of our common shares because shares are frequently held in "street name" by securities dealers and others for the benefit of individual owners who have the right to vote their shares.

Performance Graph

Set forth below is information comparing the cumulative total shareholder return and share price appreciation plus dividends on our common shares with the cumulative total return of the S&P 500 Index and a market weighted index of publicly traded peers over the five year period ended December 31, 2018. The graph assumes that $100 is invested in each of our common shares, the S&P 500 Index, and the index of publicly traded peers on December 31, 2013 and that all dividends were reinvested. The Company updated its peer group during the year ended December 31, 2018 to be more representative of its product offerings and business model.



	December 31,					
	2013	2014	2015	2016	2017	2018
Herbalife Nutrition Ltd.	$ 100.00	$ 48.12	$ 68.44	$ 61.44	$ 86.44	$ 150.48
S&P 500 Index	$ 100.00	$ 113.69	$ 115.26	$ 129.05	$ 157.22	$ 150.33
Old Peer Group(1)	$ 100.00	$ 56.05	$ 44.46	$ 46.14	$ 59.59	$ 52.92
New Peer Group(2)	$ 100.00	$ 82.19	$ 81.26	$ 96.21	$ 98.18	$ 71.04

(1) The Old Peer Group consisted of Avon Products, Inc., Mannatech, Inc., Nature's Sunshine Products, Inc., Nu Skin Enterprises Inc., Tupperware Corporation, USANA Health Sciences Inc., and WW International, Inc. (formerly Weight Watchers International, Inc.).

(2) The New Peer Group consists of Avon Products, Inc., Conagra Brands, Inc., The Hain Celestial Group, Inc.,Nu Skin Enterprises Inc., Post Holdings, Inc., Tupperware Corporation, and USANA Health Sciences Inc.

Information with Respect to Dividends

On April 28, 2014, we announced that our board of directors approved terminating our quarterly cash dividend and instead utilizing the cash to repurchase additional common shares. The declaration of future dividends is subject to the discretion of our board of directors and will depend upon various factors, including our earnings, financial condition, Herbalife Nutrition Ltd.'s available distributable reserves under Cayman Islands law, restrictions imposed by our senior secured credit facility and the terms of any other indebtedness that may be outstanding, cash requirements, future prospects and other factors deemed relevant by our board of directors.

Information with Respect to Purchases of Equity Securities by the Issuer

On October 30, 2018, our board of directors authorized a new five-year $1.5 billion share repurchase program that will expire on October 30, 2023, which replaced our prior share repurchase authorization that was set to expire on February 21, 2020 and had approximately $113.3 million of remaining authorized capacity when it was replaced. This share repurchase program allows us, which includes an indirect wholly-owned subsidiary of Herbalife Nutrition Ltd., to repurchase our common shares at such times and prices as determined by management, as market conditions warrant, and to the extent Herbalife Nutrition Ltd.'s distributable reserves are available under Cayman Islands law. The 2018 Credit Facility permits us to repurchase our common shares as long as no default or event of default exists and other conditions, such as specified consolidated leverage ratios, are met. As of December 31, 2018, the remaining authorized capacity under our share repurchase program was approximately $1.5 billion.

We did not repurchase any of our common shares during the three months ended December 31, 2018. For further information on our share repurchases during the year ended December 31, 2018, see Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K.

Item 6. ***Selected Financial Data***

The following table sets forth certain of our historical financial data. We have derived the selected historical consolidated financial data for the years ended December 31, 2018, 2017, 2016, 2015, and 2014 from our consolidated financial statements and the related notes. Not all periods shown below are discussed in this Annual Report on Form 10-K. The selected consolidated historical financial data set forth below are not necessarily indicative of the results of future operations and should be read in conjunction with the discussion under Item 7, *Management's Discussion and Analysis of Financial Condition and Results of Operations*, and the historical consolidated financial statements and accompanying notes included elsewhere in this Annual Report on Form 10-K.

	Year Ended December 31,				
	2018	2017	2016	2015	2014
	(in millions, except per share amounts)				
Income statement data:					
Net sales	$ 4,891.8	$ 4,427.7	$ 4,488.4	$ 4,469.0	$ 4,958.6
Cost of sales	919.3	848.6	854.6	856.0	982.9
Gross profit	3,972.5	3,579.1	3,633.8	3,613.0	3,975.7
Royalty overrides	1,364.0	1,254.2	1,272.6	1,251.4	1,471.1
Selling, general, and administrative expenses	1,955.2	1,758.6	1,966.9	1,784.5	1,991.1
Other operating (income) expense	(29.8)	(50.8)	(63.8)	(6.5)	—
Operating income	683.1	617.1	458.1	583.6	513.5
Interest expense, net	161.6	146.3	93.4	94.9	79.2
Other expense (income), net	57.3	(0.4)	—	2.3	13.0
Income before income taxes	464.2	471.2	364.7	486.4	421.3
Income taxes(1)	167.6	257.3	104.7	147.3	112.6
Net income	$ 296.6	$ 213.9	$ 260.0	$ 339.1	$ 308.7
Earnings per share:					
Basic	$ 2.12	$ 1.35	$ 1.57	$ 2.05	$ 1.79
Diluted	$ 1.98	$ 1.29	$ 1.51	$ 1.99	$ 1.70
Weighted-average shares outstanding:					
Basic	140.2	158.5	166.1	165.1	172.6
Diluted	149.5	165.7	172.2	170.6	181.7
Other financial data:					
Retail value(2)	$ 7,706.3	$ 7,058.5	$ 7,119.8	$ 6,994.4	$ 7,843.0
Net cash provided (used) by:					
Operating activities	648.4	590.8	367.3	628.7	511.4
Investing activities	(83.9)	(95.2)	(142.4)	(73.4)	(201.3)
Financing activities	(593.1)	(85.2)	(252.3)	(250.0)	(389.5)
Depreciation and amortization	100.4	99.8	98.3	98.0	93.2
Capital expenditures(3)	88.2	95.1	144.3	79.1	156.7
Balance sheet data:					
Cash and cash equivalents	$ 1,198.9	$ 1,278.8	$ 844.0	$ 889.8	$ 645.4
Receivables, net of allowance for doubtful accounts	70.5	93.3	70.3	69.9	83.6
Inventories	381.8	341.2	371.3	332.0	377.7
Working capital	216.2	953.5	671.0	541.9	518.6
Total assets	2,789.8	2,895.1	2,565.4	2,477.9	2,355.0
Total debt	2,453.8	2,268.1	1,447.9	1,622.0	1,791.8
Total shareholders' (deficit) equity(4)	(723.4)	(334.7)	196.3	(53.5)	(334.4)
Dividends declared per share	$ —	$ —	$ —	$ —	$ 0.15

(1) Income taxes for the years ended December 31, 2018 and 2017 include the impact of the U.S. Tax Reform enacted during the fourth quarter of 2017, as described further in Note 12, *Income Taxes*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K.

(2) Retail value represents the suggested retail price of products we sell to our Members and is the gross sales amount reflected on our invoices. Retail value is not a measure in accordance with U.S. generally accepted accounting principles, or U.S. GAAP, which may not be comparable to similarly-titled measures used by other companies. This is not the price paid to us by our Members. Our Members purchase product from us at a discount from the suggested retail price. We refer to these discounts as "distributor allowance," and we refer to retail value less distributor allowances as "product sales"

Retail value data as a non-GAAP measure is discussed in greater detail in Item 7,*Management's Discussion and Analysis of Financial Condition and Results of Operations*. We discuss retail value because of its fundamental role in our systems, internal controls and operations, and its correlation to Member discounts and Royalty overrides. In addition, retail value is a component of the financial reports we use to analyze our financial results because, among other things, it can provide additional detail and visibility into our net sales results on a Company-wide and a geographic region and product category basis.

The following represents the reconciliation of retail value to net sales for each of the periods set forth above:

	Year Ended December 31,				
	2018	2017	2016	2015	2014
			(in millions)		
Retail value	$ 7,706.3	$ 7,058.5	$ 7,119.8	$ 6,994.4	$ 7,843.0
Distributor allowance	(3,062.5)	(2,858.2)	(2,875.6)	(2,807.9)	(3,275.8)
Product sales	4,643.8	4,200.3	4,244.2	4,186.5	4,567.2
Shipping & handling	248.0	227.4	244.2	282.5	391.4
Net sales	$ 4,891.8	$ 4,427.7	$ 4,488.4	$ 4,469.0	$ 4,958.6

(3) Includes accrued capital expenditures. See the Consolidated Statements of Cash Flows included in Part IV, Item 15 of this Annual Report on Form 10-K for capital expenditures paid in cash during the years ended December 31, 2018, 2017, and 2016.

(4) During the year ended December 31, 2018, we did not pay any dividends and we repurchased 11.4 million of our common shares under our share repurchase program at an aggregate cost of approximately $600.3 million through open-market purchases by an indirect wholly-owned subsidiary and the modified Dutch auction tender offer that closed in May 2018. During the year ended December 31, 2017, we did not pay any dividends and we repurchased 23.5 million of our common shares under our share repurchase program at an aggregate cost of approximately $795.3 million, inclusive of transaction costs and the issuance of the non-transferable contractual contingent value right, or CVR, through open-market purchases by an indirect wholly-owned subsidiary and the modified Dutch auction tender offer that closed in October 2017. We did not pay any dividends or repurchase any of our common shares through open market purchases during the years ended December 31, 2016 and 2015. During the year ended December 31, 2014, we paid an aggregate $30.4 million in dividends and repurchased $1,267.1 million of our common shares under our share repurchase program through open-market purchases and the Forward Transactions. Our share repurchase programs, the Forward Transactions, the modified Dutch auction tender offers, and the CVR are discussed in greater detail in Item 7, *Management's Discussion and Analysis of Financial Condition and Results of Operations* and Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K.

Item 7. *Management's Discussion and Analysis of Financial Condition and Results of Operations*

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with Item 6, Selected Financial Data, and our consolidated financial statements and related notes, each included elsewhere in this Annual Report on Form 10-K.

Overview

We are a global nutrition company that sells weight management, targeted nutrition, energy, sports, and fitness, and outer nutrition products to and through independent members, or Members. In China, we sell our products to and through Independent Service Providers, sales representatives, and sales officers to customers and preferred customers, as well as through Company-operated retail platforms when necessary. We refer to Members that distribute our products and achieve certain qualification requirements as "sales leaders."

We pursue our purpose to make the world healthier and happier by providing high quality, science-based products to Members and their customers who seek a healthy lifestyle and we also offer a business opportunity to those Members who seek additional income. We believe enhanced consumer awareness and demand for our products due to trends such as the global obesity epidemic, increasing healthcare costs, and aging populations, coupled with the effectiveness of personalized selling through a direct sales channel, have been the primary reasons for our continued success.

Our products are grouped in four principal categories: weight management; targeted nutrition; energy, sports, and fitness; and outer nutrition, along with literature and promotional items. Our products are often sold through a series of related products and literature designed to simplify weight management and nutrition for consumers and maximize our Members' cross-selling opportunities.

While we continue to monitor the current global financial environment, we remain focused on the opportunities and challenges in retailing our products and enhancing the customer experience, sponsoring and retaining Members, improving Member productivity, further penetrating existing markets, globalizing successful Distributor Methods of Operation, or DMOs, such as Nutrition Clubs, Fit Clubs, and Weight Loss Challenges, introducing new products and globalizing existing products, developing niche market segments and further investing in our infrastructure.

We sell our products in six geographic regions:

- North America;
- Mexico;
- South and Central America;
- EMEA, which consists of Europe, the Middle East, and Africa;
- Asia Pacific (excluding China); and
- China.

On July 15, 2016, we reached a settlement with the FTC and entered into the Consent Order, which resolved the FTC's multi-year investigation of the Company. We continue to monitor the impact of the Consent Order and our board of directors has established the Implementation Oversight Committee in connection with the Consent Order. The committee has met and will meet regularly with management to oversee our compliance with the terms of the Consent Order. While we currently do not expect the settlement to have a long-term and materially adverse impact on our business and our Member base, our business and our Member base, particularly in the U.S., may be negatively impacted. The terms of the Consent Order do not change our going to market through direct selling by independent distributors, and compensating those distributors based upon the product they and their sales organization sell. See Part I, Item 1, *Business*, of this Annual Report on Form 10-K for further discussion about the Consent Order and Part I, Item 1A, *Risk Factors*, of this Annual Report on Form 10-K for a discussion of risks related to the settlement with the FTC.

Volume Points by Geographic Region

A key non-financial measure we focus on is Volume Points on a Royalty Basis, or Volume Points, which is essentially our weighted-average measure of product sales volume. Volume Points, which are unaffected by exchange rates or price changes, are used by management as a proxy for sales trends because in general, excluding the impact of price changes, an increase in Volume Points in a particular geographic region or country indicates an increase in our local currency net sales while a decrease in Volume Points in a particular geographic region or country indicates a decrease in our local currency net sales. The criteria we use to determine how and when we recognize Volume Points are not identical to our revenue recognition policies under U.S. GAAP. Unlike net sales, which are generally recognized when the product is delivered and when control passes to the Member, as discussed in greater detail in Note 2, *Basis of Presentation*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K, we recognize Volume Points when a Member pays for the order, which is generally prior to the product being delivered. Further, the periods in which Volume Points are tracked can vary slightly from the fiscal periods for which we report our results under U.S. GAAP. Therefore, there can be timing differences between the product orders for which net sales are recognized and for which Volume Points are recognized within a given period. However, historically these timing differences generally have been immaterial in the context of using changes in Volume Points as a proxy to explain volume-driven changes in net sales. We are evaluating our current approach to assigning and maintaining Volume Point values for certain products or markets. Any changes to this approach may have an impact on the use of Volume Points as a proxy for sales trends in future periods.

Currently, the specific number of Volume Points assigned to a product, which is generally consistent across all markets, is based on a Volume Point to suggested retail price ratio for similar products. If a product is available in different quantities, the various sizes will have different Volume Point values. In general, once assigned, a Volume Point value is consistent in each region and country and does not change from year to year. For strategic reasons, certain Volume Point values were adjusted during 2018 for the Mexico region and certain markets in the North America and South & Central America regions. The reason Volume Points are used in the manner described above is that we use Volume Points for Member qualification and recognition purposes and therefore we generally keep Volume Points for a similar or like product consistent on a global basis. However, because Volume Points are a function of value rather than product type or size, they are not a reliable measure for product mix. As an example, an increase in Volume Points in a specific country or region could mean a significant increase in sales of less expensive products or a marginal increase in sales of more expensive products.

	Year Ended December 31,					
	2018	2017	% Change	2017	2016	% Change
	(Volume Points in millions)					
North America(1)	1,229.4	1,099.0	11.9%	1,099.0	1,248.6	(12.0)%
Mexico(2)	920.5	875.4	5.2%	875.4	919.8	(4.8)%
South & Central America(3)	561.6	593.9	(5.4)%	593.9	663.0	(10.4)%
EMEA	1,219.9	1,088.5	12.1%	1,088.5	1,049.6	3.7%
Asia Pacific	1,291.4	1,089.2	18.6%	1,089.2	1,076.4	1.2%
China	669.2	633.4	5.7%	633.4	624.7	1.4%
Worldwide(4)	5,892.0	5,379.4	9.5%	5,379.4	5,582.1	(3.6)%

(1) Excluding Volume Point adjustments made during 2018 for certain products in certain markets, the percent change for the year ended December 31, 2018 would have been an increase of 11.2%.

(2) Excluding Volume Point adjustments made during 2018 for certain products, the percent change for the year ended December 31, 2018 would have been an increase of 3.4%.

(3) Excluding Volume Point adjustments made during 2018 for certain products in certain markets, the percent change for the year ended December 31, 2018 would have been a decrease of 6.7%.

(4) Excluding the Volume Point adjustments made during 2018 for certain products in Mexico and certain markets in the North America and South & Central America regions noted above, the percent change for the year ended December 31, 2018 would have been an increase of 9.0%.

Volume Points increased 9.5% for 2018 after having decreased 3.6% for 2017. Excluding the impact of the adjustments made during 2018, Volume Points increased 9.0% for the year. We believe North America's Volume Point increase, after a decrease for 2017, reflects the successful adaptation to date of our Members to the Consent Order implementation actions, including new tools and methods for documenting sales, as well as favorable comparison to a year during which our business in the market was somewhat disrupted by those implementation efforts. We believe Mexico's increase for the year, after a decrease for the prior year, reflects the contribution of programs designed to increase the activity and productivity of sales leaders and promotions to encourage sponsorship and Member activity. The South & Central America region saw a continuing, but lesser decline in Volume Points for 2018 as we believe certain markets in the region progressed in transitioning to sustainable, customer-oriented business practices and refined promotional approaches. The EMEA region saw increased Volume Point growth, a result, we believe, of customer-oriented efforts including Member training, brand awareness, and product line expansion. The Volume Point growth for the Asia Pacific region, though still somewhat mixed by country, has improved in many markets by focusing on a customer-based business and daily consumption DMOs, including Nutrition Clubs, and expansion of our product lines. The Volume Point increase in China for the year was contributed to, we believe, by efforts including active promotional and marketing campaigns and new product introductions. Results are discussed further below in the applicable sections of *Sales by Geographic Region*.

Presentation

"Retail value" represents the suggested retail price of products we sell to our Members and is the gross sales amount reflected on our invoices. Retail value is a non-GAAP measure which may not be comparable to similarly-titled measures used by other companies. This is not the price paid to us by our Members. Our Members purchase product from us at a discount from the suggested retail price. We refer to these discounts as "*distributor allowance*," and we refer to retail value less distributor allowances as "*product sales*."

Total distributor allowances were 39.7%, 40.5%, and 40.4% of retail value for the years ended December 31, 2018, 2017, and 2016, respectively. Distributor allowances and Marketing Plan payouts generally utilize 90% to 95% of suggested retail price, depending on the product and market, to which we apply discounts of up to 50% for distributor allowances and payout rates of up to 15% for royalty overrides, up to 7% for production bonuses, and approximately 1% for the Mark Hughes bonus. Distributor allowances as a percentage of retail value may vary by country depending upon regulatory restrictions that limit or otherwise restrict distributor allowances. We also offer reduced distributor allowances with respect to certain products worldwide. Each Member's level of discount is determined by qualification based on volume of purchases. In cases where a Member has qualified for less than the maximum discount, the remaining discount, which we also refer to as a wholesale commission, is received by their sponsoring Members. Therefore, product sales are recognized net of product returns and distributor allowances.

"*Net sales*" equal product sales plus shipping and handling, and generally represents what we collect. For U.S. GAAP purposes, shipping and handling services relating to product sales are recognized as fulfillment activities on our performance obligation to transfer products and are therefore recorded within net sales as part of product sales and are not considered as separate revenues under ASC 606.

We do not have visibility into all the sales from our Members to their customers, but such a figure would differ from our reported "retail value" by factors including: (a) the amount of product purchased by our Members for their own personal consumption and (b) prices charged by our Members to their customers other than our suggested retail prices. We discuss retail value because of its fundamental role in our systems, internal controls and operations, and its correlation to Member discounts and Royalty overrides. In addition, retail value is a component of the financial reports we use to analyze our financial results because, among other things, it can provide additional detail and visibility into our net sales results on a Company-wide and a geographic region and product category basis. Therefore, this non-GAAP measure may be useful to investors because it provides investors with the same information used by management. As this measure is not in accordance with U.S. generally accepted accounting principles, or U.S. GAAP, retail value should not be considered in isolation from, nor as a substitute for, net sales and other consolidated income or cash flow statement data prepared in accordance with U.S. GAAP, or as a measure of profitability or liquidity. A reconciliation of retail value to net sales is presented below under *Results of Operations*.

Our international operations have provided and will continue to provide a significant portion of our total net sales. As a result, total net sales will continue to be affected by fluctuations in the U.S. dollar against foreign currencies. In order to provide a framework for assessing how our underlying businesses performed excluding the effect of foreign currency fluctuations, in addition to comparing the percent change in net sales from one period to another in U.S. dollars, we also compare the percent change in net sales from one period to another period using "*net sales in local currency.*" Net sales in local currency is not a U.S. GAAP financial measure. Net sales in local currency removes from net sales in U.S. dollars the impact of changes in exchange rates between the U.S. dollar and the local currencies of our foreign subsidiaries, by translating the current period net sales into U.S. dollars using the same foreign currency exchange rates that were used to translate the net sales for the previous comparable period. We believe presenting net sales in local currency is useful to investors because it allows a meaningful comparison of net sales of our foreign operations from period to period. However, net sales in local currency measures should not be considered in isolation or as an alternative to net sales in U.S. dollar measures that reflect current period exchange rates, or to other financial measures calculated and presented in accordance with U.S. GAAP.

Additionally, the impact of foreign currency fluctuations in Venezuela and the price increases we implement as a result of the highly inflationary economy in that market can each, when considered in isolation, have a disproportionately large impact to our consolidated results despite the offsetting nature of these drivers and that net sales in Venezuela, which represent less than 1% of our consolidated net sales, are not material to our consolidated results. Therefore, in certain instances, we believe it is helpful to provide additional information with respect to these factors as reported and excluding the impact of Venezuela to illustrate the disproportionate nature of Venezuela's individual pricing and foreign exchange impact to our consolidated results. However, excluding the impact of Venezuela from these measures is not in accordance with U.S. GAAP and should not be considered in isolation or as an alternative to the presentation and discussion thereof calculated in accordance with U.S. GAAP.

Our "*gross profit*" consists of net sales less "*cost of sales*," which represents our manufacturing costs, the price we pay to our raw material suppliers and manufacturers of our products as well as shipping and handling costs including duties, tariffs, and similar expenses.

While certain Members may profit from their activities by reselling our products for amounts greater than the prices they pay us, Members that develop, retain, and manage other Members may earn additional compensation for those activities, which we refer to as "*Royalty overrides*." Royalty overrides are our most significant operating expense and consist of:

- royalty overrides and production bonuses;
- the Mark Hughes bonus payable to some of our most senior Members; and

- other discretionary incentive cash bonuses to qualifying Members.

Royalty overrides are compensation to Members for the development, retention and improved productivity of their sales organizations and are paid to several levels of Members on each sale. Royalty overrides are compensation for services rendered to us and, as such, are recorded as an operating expense.

In China, our Independent Service Providers are compensated for marketing, sales support, and other services instead of the distributor allowances and royalty overrides utilized in our global Marketing Plan. Service fees to China Independent Service Providers are included in selling, general, and administrative expenses.

Because of local country regulatory constraints, we may be required to modify our Member incentive plans as described above. We also pay reduced royalty overrides with respect to certain products worldwide. Consequently, the total Royalty override percentage may vary over time.

Our "*contribution margins*" consist of net sales less cost of sales and Royalty overrides.

"*Selling, general, and administrative expenses*" represent our operating expenses, which include labor and benefits, service fees to China service providers, sales events, professional fees, travel and entertainment, Member promotions, occupancy costs, communication costs, bank fees, depreciation and amortization, foreign exchange gains and losses and other miscellaneous operating expenses.

Our "*other operating income*" consists of government grant income related to China and the arbitration awardin connection with the re-audit of our 2010 to 2012 financial statements after the resignation of KPMG as our independent registered public accounting firm.

Our *"other expense (income), net"* consists of non-operating income and expenses such as gains or losses on extinguishment of debt and gains or losses due to subsequent changes in the fair value of the non-transferable contractual contingent value right, or CVR, provided for each share tendered in the October 2017 modified Dutch auction tender offer. See Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for further information on the CVR.

Most of our sales to Members outside the United States are made in the respective local currencies. In preparing our financial statements, we translate revenues into U.S. dollars using average exchange rates. Additionally, the majority of our purchases from our suppliers generally are made in U.S. dollars. Consequently, a strengthening of the U.S. dollar versus a foreign currency can have a negative impact on our reported sales and contribution margins and can generate foreign currency losses on intercompany transactions. Foreign currency exchange rates can fluctuate significantly. From time to time, we enter into foreign currency derivatives to partially mitigate our foreign currency exchange risk as discussed in further detail in Item 7A, *Quantitative and Qualitative Disclosures about Market Risk*.

Results of Operations

Our results of operations for the periods below are not necessarily indicative of results of operations for future periods, which depend upon numerous factors, including our ability to sponsor Members and retain sales leaders, further penetrate existing markets, introduce new products and programs that will help our Members increase their retail efforts and develop niche market segments.

The following table sets forth selected results of our operations expressed as a percentage of net sales for the periods indicated:

	Year Ended December 31,		
	2018	2017	2016
Operations:			
Net sales	100.0%	100.0%	100.0%
Cost of sales	18.8	19.2	19.0
Gross profit	81.2	80.8	81.0
Royalty overrides(1)	27.9	28.3	28.4
Selling, general, and administrative expenses(1)	39.9	39.7	43.8
Other operating income	(0.6)	(1.1)	(1.4)
Operating income	14.0	13.9	10.2
Interest expense	3.7	3.6	2.2
Interest income	0.4	0.3	0.1
Other expense (income), net	1.2	—	—
Income before income taxes	9.5	10.6	8.1
Income taxes	3.4	5.8	2.3
Net income	6.1%	4.8%	5.8%

(1) Service fees to our Independent Service Providers in China are included in selling, general, and administrative expenses while Member compensation for all other countries is included in royalty overrides.

Changes in net sales are directly associated with the retailing of our products, recruitment of new Members, and retention of sales leaders. Our strategies involve providing quality products, improved DMOs, including daily consumption approaches such as Nutrition Clubs, easier access to product, systemized training and education of Members on our products and methods, and continued promotion and branding of Herbalife products.

Management's role, in-country and at the region and corporate level, is to provide Members with a competitive, broad, and innovative product line, offer leading-edge business tools and technology services, and encourage strong teamwork and Member leadership to make doing business with Herbalife simple. Management uses the Marketing Plan, which reflects the rules for our global network marketing organization that specify the qualification requirements and general compensation structure for Members, coupled with educational and motivational tools and promotions to encourage Members to increase retailing, retention, and recruiting, which in turn affect net sales. Such tools include sales events such as Extravaganzas, Leadership Development Weekends and World Team Schools where large groups of Members gather, thus allowing them to network with other Members, learn retailing, retention, and recruiting techniques from our leading Members and become more familiar with how to market and sell our products and business opportunities. Accordingly, management believes that these development and motivation programs increase the productivity of the sales leader network. The expenses for such programs are included in selling, general, and administrative expenses. We also use event and non-event product promotions to motivate Members to increase retailing, retention, and recruiting activities. These promotions have prizes ranging from qualifying for events to product prizes and vacations. A program that we have seen success with in many markets is the Member Activation Program, under which new Members, who order a modest number of Volume Points in each of their first three months, earn a prize. Our objective is to improve the quality of sales leaders by encouraging new Members to begin acquiring retail customers before attempting to qualify for sales leader status. Additionally, in certain markets we have begun to utilize the segmentation of our Member base into "preferred members" and "distributors" for more targeted and efficient communication and promotions for these two differently motivated types of Members. In certain other markets that have not been segmented, we have begun using Member data to similarly categorize Members for communication and promotion efforts.

DMOs are being generated in many of our markets and are globalized where applicable through the combined efforts of Members and country, regional and corporate management. While we support a number of different DMOs, one of the most popular DMOs is the daily consumption DMO. Under our traditional DMO, a Member typically sells to its customers on a somewhat infrequent basis (e.g., monthly) which provides fewer opportunities for interaction with their customers. Under a daily consumption DMO, a Member interacts with its customers on a more frequent basis, including such activities as weekly weigh-ins, which enables the Member to better educate and advise customers about nutrition and the proper use of the products and helps promote daily usage as well, thereby helping the Member grow his or her business. Specific examples of DMOs include the Nutrition Club concept in Mexico, the Healthy Breakfast concept in Russia, and the Internet/Sampling and Weight Loss Challenge in the United States. Management's strategy is to review the applicability of expanding successful country initiatives throughout a region, and where appropriate, support the globalization of these initiatives.

The factors described above help Members increase their business, which in turn helps drive Volume Point growth in our business, and thus, net sales growth. The discussion below of net sales details some of the specific drivers of changes in our business and causes of sales fluctuations during the year ended December 31, 2018 as compared to the same period in 2017 and during the year ended December 31, 2017 as compared to the same period in 2016, as well as the unique growth or contraction factors specific to certain geographic regions or significant countries within a region during these periods. Net sales fluctuations, both Company-wide and within a particular geographic region or country, are primarily the result of changes in volume, changes in prices, or changes in foreign currency translation rates. The discussion of changes in net sales quantifies the impact of those drivers that are quantifiable such as changes in foreign currency translation rates, and cites the estimated impact of any significant price changes. The remaining drivers, which management believes are the primary drivers of changes in volume, are typically qualitative factors whose impact cannot be quantified. We use Volume Points as an indication for changes in sales volume. We are evaluating our current approach to assigning and maintaining Volume Point values for certain products or markets. Any changes to this approach may have an impact on the use of Volume Points as a proxy for sales trends in future periods.

Financial Results for the Year Ended December 31, 2018 Compared to the Year Ended December 31, 2017

Net sales for the year ended December 31, 2018 increased 10.5% to $4,891.8 million as compared to $4,427.7 million in 2017. In local currency, net sales for the year ended December 31, 2018 increased 103.4% (11.3% excluding Venezuela) as compared to the same period in 2017. The increase in net sales for the year ended December 31, 2018 was primarily driven by an increase in sales volume, as indicated by a 9.5% increase in Volume Points; and a 94.8% favorable impact of price increases (2.6% favorable impact excluding Venezuela); partially offset by a 92.9% unfavorable impact of fluctuations in foreign currency rates (0.9% unfavorable impact excluding Venezuela).

Net income for the year ended December 31, 2018 increased 38.7% to $296.6 million, or $1.98 per diluted share, compared to $213.9 million, or $1.29 per diluted share, for the same period in 2017. The increase for the year ended December 31, 2018 was primarily due to $283.6 million higher contribution margin from higher net sales and $89.7 million lower income taxes; partially offset by $196.6 million higher selling, general, and administrative expenses; a $9.2 million unfavorable impact due to fair value changes relating to the revaluation of the CVR (See Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); a $13.1 million loss on extinguishment of $475.0 million of our 2019 Convertible Notes (See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); and a $35.4 million loss on extinguishment of our 2017 Credit Facility (See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K).

Net income for the year ended December 31, 2018 included a $29.8 million pre-tax favorable impact ($21.2 million post-tax) of government grant income in China; a $53.5 million unfavorable impact of non-cash interest expense related to the 2019 Convertible Notes, 2024 Convertible Notes, and the Forward Transactions (See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); a $10.4 million pre-tax unfavorable impact ($9.4 million post-tax) from expenses related to regulatory inquiries; a $4.7 million pre-tax unfavorable impact ($3.6 million post-tax) of foreign exchange losses related to the currency devaluation in Venezuela during the first quarter of 2018; a $13.1 million unfavorable impact of loss on extinguishment of $475.0 million of our 2019 Convertible Notes (See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); a $35.4 million pre-tax unfavorable impact ($28.0 million post-tax) of loss on extinguishment of our 2017 Credit Facility (See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); an $8.8 million unfavorable impact of loss on the revaluation of the CVR (See Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); and a $29.5 million unfavorable impact of the valuation allowance on deferred tax assets related to the limited utilization of foreign tax credit carryforwards as a result of U.S. Tax Reform (See Note 12, *Income Taxes*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K).

Net income for the year ended December 31, 2017 included a $50.8 million pre-tax favorable impact ($36.2 million post-tax) of government grant income in China; a $47.7 million unfavorable impact of non-cash interest expense related to the 2019 Convertible Notes and the Forward Transactions (See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); a $13.7 million pre-tax unfavorable impact ($9.0 million post-tax) from expenses related to regulatory inquiries; a $5.0 million pre-tax unfavorable impact ($3.8 million post-tax) related to legal, advisory services and other expenses for our response to allegations and other negative information put forward in the marketplace by a hedge fund manager which started in late 2012 (See *Selling, General, and Administrative Expenses* below for further discussion); a $17.7 million pre-tax unfavorable impact ($11.7 million post-tax) related to the implementation of the Consent Order, comprised of $14.7 million of legal, advisory, and other expenses and $3.0 million of product discounts related to preferred member conversions; a $153.3 million unfavorable impact of the provisional net expense related to the U.S. Tax Reform (See Note 12, *Income Taxes*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); and a $0.4 million favorable impact of the gain on the revaluation of the CVR provided to the participants of the October 2017 modified Dutch auction tender offer (See Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K).

Reporting Segment Results

We aggregate our operating segments, excluding China, into a reporting segment, or the Primary Reporting Segment. The Primary Reporting Segment includes the North America, Mexico, South & Central America, EMEA, and Asia Pacific regions. China has been identified as a separate reporting segment as it does not meet the criteria for aggregation. See Note 10, *Segment Information*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for further discussion of our reporting segments. See below for discussions of net sales and contribution margin by our reporting segments.

Net Sales by Reporting Segment

The Primary Reporting Segment reported net sales of $3,884.2 million for the year ended December 31, 2018, representing an increase of $342.4 million, or 9.7% ($338.5 million, or 9.6% excluding Venezuela), as compared to the same period in 2017. In local currency, net sales increased 126.4% (11.3% excluding Venezuela) for the year ended December 31, 2018 as compared to the same period in 2017. The 9.7% increase in net sales for the year ended December 31, 2018 was primarily due to an increase in sales volume, as indicated by a 10.0% increase in Volume Points; and a 118.2% favorable impact of price increases (3.0% favorable impact excluding Venezuela); partially offset by a 116.7% unfavorable impact of fluctuations in foreign currency rates (1.7% unfavorable impact excluding Venezuela) and a 1.4% unfavorable impact of country sales mix.

For a discussion of China's net sales for the year ended December 31, 2018 as compared to the same period in 2017, see the China section of *Sales by Geographic Region* below.

Contribution Margin by Reporting Segment

As discussed above under "Presentation," contribution margin consists of net sales less cost of sales and Royalty overrides. The Primary Reporting Segment reported contribution margin of $1,693.5 million for the year ended December 31, 2018, representing an increase of $159.3 million, or 10.4%, as compared to the same period in 2017. The 10.4% increase in contribution margin for the year ended December 31, 2018 was primarily the result of a 176.6% favorable impact of price increases (4.7% favorable impact excluding Venezuela) and an 11.5% favorable impact of volume increases; partially offset by a 173.7% unfavorable impact of fluctuations in foreign currency exchange rates (0.9% unfavorable impact excluding Venezuela), a 3.7% unfavorable impact of country sales mix, and a 1.0% unfavorable impact of cost changes related to self-manufacturing and strategic sourcing.

China reported contribution margin of $915.0 million for the year ended December 31, 2018, representing an increase of $124.3 million, or 15.7%, as compared to the same period in 2017. The 15.7% increase in contribution margin was primarily the result of a 5.7% favorable impact of volume increases, a 3.3% favorable impact of fluctuations in foreign currency exchange rates, a 3.9% favorable impact of sales mix, and a 1.2% favorable impact of price increases.

Sales by Geographic Region

The following chart reconciles retail value to net sales by geographic region:

	Year Ended December 31,										
	2018					2017					
	Retail Value(1)	Distributor Allowance	Product Sales	Shipping & Handling	Net Sales	Retail Value(1)	Distributor Allowance	Product Sales	Shipping & Handling	Net Sales	% Change in Net Sales
	(Dollars in millions)										
North America	$ 1,575.2	$ (719.4)	$ 855.8	$ 92.5	$ 948.3	$ 1,400.8	$ (642.3)	$ 758.5	$ 81.7	$ 840.2	12.9%
Mexico	808.8	(369.3)	439.5	28.4	467.9	762.8	(346.9)	415.9	26.8	442.7	5.7%
South & Central America	743.9	(333.4)	410.5	27.1	437.6	827.1	(385.0)	442.1	32.2	474.3	(7.7)%
EMEA	1,663.9	(744.8)	919.1	57.9	977.0	1,498.0	(681.8)	816.2	52.5	868.7	12.5%
Asia Pacific	1,800.8	(784.1)	1,016.7	36.7	1,053.4	1,565.3	(679.0)	886.3	29.6	915.9	15.0%
China	1,113.7	(111.5)	1,002.2	5.4	1,007.6	1,004.5	(123.2)	881.3	4.6	885.9	13.7%
Worldwide	$ 7,706.3	$ (3,062.5)	$ 4,643.8	$ 248.0	$ 4,891.8	$ 7,058.5	$ (2,858.2)	$ 4,200.3	$ 227.4	$ 4,427.7	10.5%

(1) Retail value is a Non-GAAP measure which may not be comparable to similarly-titled measures used by other companies. See "Presentation" above for a discussion of how we calculate retail value and why we believe the measure is useful to investors.

North America

The North America region reported net sales of $948.3 million for the year ended December 31, 2018. Net sales increased $108.1 million, or 12.9%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 12.8% for the year ended December 31, 2018 as compared to the same period in 2017. The 12.9% increase in net sales for the year ended December 31, 2018 was primarily due to an increase in sales volume, as indicated by an 11.9% increase in Volume Points (11.2% excluding the impact of the Volume Point adjustments noted above in the *Volume Points by Geographic Region* section), and a 3.1% favorable impact of price increases.

Net sales in the U.S. were $925.9 million for the year ended December 31, 2018. Net sales increased $107.6 million, or 13.1%, for the year ended December 31, 2018 as compared to the same period in 2017.

As part of the Consent Order, effective May 2017 we have implemented certain new procedures and enhanced certain existing procedures in the United States. We believe North America's sales volume increase for the year, after a decrease for 2017, reflects the successful adaptation to date of our Members to the Consent Order implementation actions, including new tools and methods for documenting sales, as well as favorable comparison to prior year periods during which our business in the market was somewhat disrupted by those implementation efforts. The region is leveraging the segmentation of the Member base into distributors and preferred members to target and refine our communications and promotions, and the requirements for distributors to document customer sales has been utilized to pilot lower sales volume thresholds for sales leader qualification. North America has also implemented programs to encourage sponsorship and increase distributor, preferred member, and customer activity and has continued to extend the product line.

Mexico

The Mexico region reported net sales of $467.9 million for the year ended December 31, 2018. Net sales increased $25.2 million, or 5.7%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 7.8% for the year ended December 31, 2018 as compared to the same period in 2017. The 5.7% increase in net sales for the year ended December 31, 2018 was primarily due to a 5.3% favorable impact of price increases and an increase in sales volume, as indicated by a 5.2% increase in Volume Points (3.4% excluding the impact of the Volume Point adjustments noted above in the *Volume Points by Geographic Region* section), partially offset by a 2.1% unfavorable impact of fluctuations in foreign currency exchange rates.

We believe the Volume Point increase for the year ended December 31, 2018, after a decrease for the prior year, and despite continuing difficult economic conditions in the market, reflects the contribution of programs designed to increase the activity and productivity of sales leaders and promotions to encourage sponsorship and new Member activity. These efforts are supported by communications targeted by Member level within our Marketing Plan and distribution channel utilized. We continue to expand product access in the market. Tariffs enacted by the Mexican government during 2018 on products imported from the United States are applicable to a significant portion of our product line, and may have an adverse impact on future sales if they remain in place, particularly if the Company deems it necessary to increase product prices.

South and Central America

The South and Central America region reported net sales of $437.6 million for the year ended December 31, 2018. Net sales decreased $36.7 million, or 7.7% ($40.6 million, or 8.7% excluding Venezuela), for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 858.7% (decreased 1.1% excluding Venezuela) for the year ended December 31, 2018 as compared to the same period in 2017. The 7.7% decrease in net sales for the year ended December 31, 2018 was due to a 863.9% favorable impact of price increases (3.5% favorable impact excluding Venezuela); offset by a 866.5% unfavorable impact of fluctuations in foreign currency exchange rates (7.6% unfavorable impact excluding Venezuela) and a decline in sales volume, as indicated by a 5.4% decrease in Volume Points (6.7% excluding the impact of the Volume Point adjustments noted above in the *Volume Points by Geographic Region* section). Market attributes vary across the region, but in general, Marketing Plan changes intended to build more sustainable business for our Members through a focus on daily product consumption and retailing are taking hold more slowly in the region than we have seen in our other global regions. We are working with Member leadership to explore operational and promotional approaches both consistent with our direction and suitable to those markets, as well as exploring product affordability approaches for certain markets.

In Brazil, the region's largest market, net sales were $142.9 million for the year ended December 31, 2018. Net sales decreased $47.7 million, or 25.0%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales decreased 15.3% for the year ended December 31, 2018 as compared to the same period in 2017. The fluctuation of foreign currency exchange rates had an unfavorable impact of $18.6 million on net sales for the year ended December 31, 2018. As noted for the region broadly, Marketing Plan changes intended to build more sustainable business for our Members through a focus on daily product consumption and retailing are taking hold more slowly than we have seen in other regions. Additionally, Members in Brazil saw their product costs increase during the second and third quarter of this year when we implemented the pass through of certain indirect taxes that we had previously absorbed. The market faces an uncertain economic and political outlook as well as new competitive pressures. To help stimulate sales growth, we are increasing the number of product access points, enhancing our training efforts, expanding our product offering in the market, and refining Sales Leader qualification criteria.

Net sales in Peru were $64.3 million for the year ended December 31, 2018. Net sales increased $2.1 million, or 3.3%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 4.1% for the year ended December 31, 2018 as compared to the same period in 2017. The fluctuation of foreign currency exchange rates had an unfavorable impact of $0.5 million on net sales for the year ended December 31, 2018. Product prices in Peru were increased 3% in October 2018. We believe the favorable comparison for this year was due to the success during 2018 of revised event qualifications and promotions for the market, as well as lower sales volume in the prior year first quarter, which we believe was due to severe inclement weather.

EMEA

The EMEA region reported net sales of $977.0 million for the year ended December 31, 2018. Net sales increased $108.3 million, or 12.5%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 12.4% for the year ended December 31, 2018 as compared to the same period in 2017. The 12.5% increase in net sales for the year ended December 31, 2018 was primarily due to an increase in sales volume, as indicated by a 12.1% increase in Volume Points, and a 2.4% favorable impact of price increases. Net sales growth was broad-based across the EMEA region for 2018, generally reflecting, we believe, efforts to enhance the quality and activity of sales leaders including Member training, brand awareness, and product line expansion, as well as enhanced technology tools for ordering, business performance, and customer retailing. The Volume Point and net sales growth for the year was led by Spain, Russia, and Turkey.

Net sales in Italy were $141.4 million for the year ended December 31, 2018. Net sales increased $2.0 million, or 1.4%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales decreased 3.5% for the year ended December 31, 2018 as compared to the same period in 2017. The fluctuation of foreign currency exchange rates had a favorable impact of $6.8 million on net sales for the year ended December 31, 2018. Italy has seen some decline in momentum after several years of growth. We have revised certain Member promotions, trainings, and communications in ways we believe are more targeted for the market. In December 2018, we segmented our Member base in Italy into distributors and preferred customers, comparable to distributors and preferred members in the United States.

Net sales in Russia were $137.4 million for the year ended December 31, 2018. Net sales increased $6.9 million, or 5.3%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 13.3% for the year ended December 31, 2018 as compared to the same period in 2017. The fluctuation of foreign currency exchange rates had an unfavorable impact of $10.4 million on net sales for the year ended December 31, 2018. The market continues to focus on the expansion and success of Nutrition Clubs and has had success with new products, new education, training and communication approaches, and enhanced brand awareness activities, including media campaigns and social media.

Net sales in Spain were $125.0 million for the year ended December 31, 2018. Net sales increased $21.7 million, or 21.0%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 15.7% for the year ended December 31, 2018 as compared to the same period in 2017. The fluctuation of foreign currency exchange rates had a favorable impact of $5.5 million on net sales for the year ended December 31, 2018. Spain has benefited from ongoing programs of promotions and sponsorships as well as social media activity that have raised brand awareness through healthy active lifestyle and contributed to momentum in the market.

Asia Pacific

The Asia Pacific region, which excludes China, reported net sales of $1,053.4 million for the year ended December 31, 2018. Net sales increased $137.5 million, or 15.0%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 16.7% for the year ended December 31, 2018 as compared to the same period in 2017. The 15.0% increase in net sales for the year ended December 31, 2018 was primarily due to an increase in sales volume, as indicated by an 18.6% increase in Volume Points, and a 2.1% favorable impact of price increases, partially offset by a 2.9% unfavorable impact of changes in country sales mix resulting from a lower percentage of our sales volume coming from markets with higher prices and a 1.7% unfavorable impact of fluctuations in foreign currency exchange rates. The Volume Point and net sales performance, while increased for the region, has been mixed by country, with continuing increases in India and Indonesia as well as significant contributions from Vietnam and Malaysia, partially offset by declines primarily in South Korea and Taiwan. Volume Point and net sales performance for Vietnam was strong during the latter half of 2018 in anticipation of an increase in regulatory required trainings hours to participate in direct selling that commences in February 2019.

Net sales in India were $244.0 million for the year ended December 31, 2018. Net sales increased $59.0 million, or 31.9%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 39.2% for the year ended December 31, 2018 as compared to the same period in 2017. The fluctuation of foreign currency exchange rates had an unfavorable impact of $13.6 million on net sales for the year ended December 31, 2018. To drive sustainable business growth, India continues to expand its product line, add product access points including pickup locations, enhance brand presence, and utilize an Associate Activation Program. Our India Member base is segmented into associates and preferred customers, comparable to distributors and preferred members, respectively, in the United States.

Net sales in Indonesia were $142.4 million for the year ended December 31, 2018. Net sales increased $9.4 million, or 7.0%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 13.9% for the year ended December 31, 2018 as compared to the same period in 2017. The fluctuation of foreign currency exchange rates had an unfavorable impact of $9.1 million on net sales for the year ended December 31, 2018. The Indonesia market has continued to strengthen by focusing on a customer-based business and daily consumption through Nutrition Clubs and training activities, supported by new product introductions and targeted communications.

Net sales in South Korea were $135.6 million for the year ended December 31, 2018. Net sales decreased $1.2 million, or 0.9%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales decreased 3.6% for the year ended December 31, 2018 as compared to the same period in 2017. The fluctuation of foreign currency exchange rates had a favorable impact of $3.8 million on net sales for the year ended December 31, 2018. Several years of transitionary impact from Marketing Plan changes, including certain changes unique to South Korea, have led to contraction in our business in the market. Management has been focused on fostering daily consumptions practices, and South Korea achieved year-over-year Volume Point and net sales growth for the fourth quarter of 2018.

Net sales in Taiwan were $112.3 million for the year ended December 31, 2018. Net sales decreased $5.5 million, or 4.7%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales decreased 5.6% for the year ended December 31, 2018 as compared to the same period in 2017. The fluctuation of foreign currency exchange rates had a favorable impact of $1.0 million on net sales for the year ended December 31, 2018. Taiwan sales have continued to decline as the market adjusts to programs and training intended to help Members establish customer-based, sustainable business approaches that have succeeded elsewhere, such as Nutrition Clubs.

China

The China region reported net sales of $1,007.6 million for the year ended December 31, 2018. Net sales increased $121.7 million, or 13.7%, for the year ended December 31, 2018 as compared to the same period in 2017. In local currency, net sales increased 11.3% for the year ended December 31, 2018 as compared to the same period in 2017. The 13.7% increase in net sales for the year ended December 31, 2018 was primarily due to an increase in sales volume, as indicated by a 5.7% increase in Volume Points, a 3.5% favorable sales mix variance, a 2.4% favorable impact of fluctuations in foreign currency exchange rates, and a 1.0% favorable full-year impact of price increases made during 2017.

The increase in volume for the year was driven by, we believe, our efforts including active marketing, promotional, and training campaigns, including the use of social media, as well as new product introductions. One new program intended to enhance the training, quality and activity of certain service providers provides them with additional service fee incentives. We have also announced a new initiative, the China Growth and Impact Investment Program, to stimulate the development of our business in China and help address challenging public-policy issues such as the rise in obesity. Sales volume growth for the fourth quarter of 2018 was slowed by challenging economic and industry conditions that may persist into 2019.

Sales by Product Category

	Year Ended December 31,										
	2018					2017					
	Retail Value(2)	Distributor Allowance	Product Sales	Shipping & Handling	Net Sales	Retail Value(2)	Distributor Allowance	Product Sales	Shipping & Handling	Net Sales	% Change in Net Sales
	(Dollars in millions)										
Weight Management	$ 4,952.4	$ (2,006.0)	$ 2,946.4	$ 159.4	$ 3,105.8	$ 4,593.6	$ (1,899.1)	$ 2,694.5	$ 148.0	$ 2,842.5	9.3%
Targeted Nutrition	1,982.9	(803.2)	1,179.7	63.8	1,243.5	1,749.7	(723.3)	1,026.4	56.4	1,082.8	14.8%
Energy, Sports, and Fitness	491.9	(199.3)	292.6	15.8	308.4	426.4	(176.3)	250.1	13.7	263.8	16.9%
Outer Nutrition	146.6	(59.4)	87.2	4.7	91.9	151.7	(62.7)	89.0	4.9	93.9	(2.1)%
Literature, Promotional, and Other(1)	132.5	5.4	137.9	4.3	142.2	137.1	3.2	140.3	4.4	144.7	(1.7)%
Total	$ 7,706.3	$ (3,062.5)	$ 4,643.8	$ 248.0	$ 4,891.8	$ 7,058.5	$ (2,858.2)	$ 4,200.3	$ 227.4	$ 4,427.7	10.5%

(1) Product buy backs and returns in all product categories are included in the literature, promotional, and other category.

(2) Retail value is a non-GAAP measure which may not be comparable to similarly-titled measures used by other companies. See “Presentation” above for a discussion of how we calculate retail value and why we believe the measure is useful to investors.

Net sales for all product categories, except Outer Nutrition and Literature, Promotional, and Other, increased for the year ended December 31, 2018 as compared to the same period in 2017. The trends and business factors described in the above discussions of the individual geographic regions apply generally to all product categories.

Gross Profit

Gross profit was $3,972.5 million for the year ended December 31, 2018, as compared to $3,579.1 million for the same period in 2017. Gross profit as a percentage of net sales was 81.2% for the year ended December 31, 2018, as compared to 80.8% for the same period in 2017, or a favorable net increase of 37 basis points. The increase in gross profit as a percentage of net sales for the year ended December 31, 2018 as compared to the same period in 2017 included the favorable impact of retail price increases of 1,659 basis points (favorable impact of 45 basis points excluding Venezuela), partially offset by the unfavorable impact of foreign currency fluctuations of 1,565 basis points (favorable impact of 47 basis points excluding Venezuela), unfavorable cost changes related to self-manufacturing and strategic sourcing of 41 basis points, other unfavorable cost changes of 10 basis points, the unfavorable impact of higher inventory write-downs of 5 basis points, and unfavorable changes in country mix of 1 basis point. The net favorable impact of foreign currency fluctuations and retail price increases in Venezuela for the year ended December 31, 2018 as compared to the same period in 2017 was 2 basis points. Generally, gross profit as a percentage of net sales may vary from period to period due to the impact of foreign currency fluctuations, changes in country mix as volume changes among countries with varying margins, retail price increases, cost changes related to self-manufacturing and strategic sourcing, and inventory write-downs.

Royalty Overrides

Royalty overrides were $1,364.0 million for the year ended December 31, 2018 as compared to $1,254.2 million for the same period in 2017. Royalty overrides as a percentage of net sales were 27.9% for the year ended December 31, 2018 as compared to 28.3% for the same period in 2017. Service fees to our Independent Service Providers in China are included in selling, general, and administrative expenses while Member compensation for all other countries is included in Royalty overrides. Generally, Royalty overrides as a percentage of net sales may vary slightly from period to period due to changes in the mix of products and countries because full royalty overrides are not paid on certain products and in certain countries.

Selling, General, and Administrative Expenses

Selling, general, and administrative expenses were $1,955.2 million for the year ended December 31, 2018 as compared to $1,758.6 million for the same period in 2017. Selling, general, and administrative expenses as a percentage of net sales were 39.9% for the year ended December 31, 2018 as compared to 39.7% for the same period in 2017.

The increase in selling, general, and administrative expenses for the year ended December 31, 2018 was driven by $103.7 million in higher service fees for China Independent Service Providers due to sales growth in China and a new program which provides certain service providers with additional service fee incentives; $27.6 million in higher Member promotion and event costs; $23.2 million in higher professional fees; $23.0 million relating to importer fees due to the change in income statement classification pursuant to ASC 606, as discussed in Note 2, *Basis of Presentation*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K; and $15.0 million in higher labor and employee benefit costs; partially offset by $19.1 million in lower non-income tax expense; and $14.6 million in lower advertising and sponsorships.

Other Operating Income

Other operating income was $29.8 million for the year ended December 31, 2018 as compared to $50.8 million for the same period in 2017, relating to government grant income for China. See Note 2, *Basis of Presentation*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for further discussion.

Interest Expense, Net

Interest expense, net is as follows:

	Year Ended December 31,	
	2018	2017
	(in millions)	
Interest expense	$ 181.0	$ 160.8
Interest income	(19.4)	(14.5)
Interest expense, net	$ 161.6	$ 146.3

The increase in interest expense, net for the year ended December 31, 2018 as compared to the same period in 2017 was primarily due to an increase in our overall borrowings, partially offset by higher interest income earned.

Other Expense (Income), Net

The $57.3 million of other expense, net for the year ended December 31, 2018 consists of an $8.8 million loss on the revaluation of the CVR provided to the participants of the October 2017 modified Dutch auction tender offer (See Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); a $13.1 million loss on the extinguishment of $475.0 million aggregate principal amount of our 2019 Convertible Notes (See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); and a $35.4 million loss on extinguishment of the Company's 2017 senior secured credit facility (See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K).

The $0.4 million of other income, net for the year ended December 31, 2017 relates to the gain on the revaluation of the CVR provided to the participants of the October 2017 modified Dutch auction tender offer (See Note 8, *Shareholders' Deficit,* to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K).

Income Taxes

Income taxes were $167.6 million for the year ended December 31, 2018 as compared to $257.3 million for the same period in 2017. The effective income tax rate was 36.1% for the year ended December 31, 2018 as compared to 54.6% for the same period in 2017. The decrease in the effective tax rate for the year ended December 31, 2018 as compared to the same period in 2017 was primarily due to a decrease in net tax expense as a result of U.S. Tax Reform, which impacted our ability to benefit from certain foreign tax credit carryforwards, and as such valuation allowances of $29.5 million and $153.3 million were recorded during 2018 and 2017, respectively; as well as an increase in net benefits from discrete events; partially offset by the impact of changes in the geographic mix of our income. Included in the discrete events for the years ended December 31, 2018 and 2017 was the impact of $53.1 million and $31.1 million, respectively, of excess tax benefits on share-based compensation arrangements. See Note 12, *Income Taxes,* to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for additional discussion.

Financial Results for the year ended December 31, 2017 compared to the year ended December 31, 2016

Net sales for the year ended December 31, 2017 decreased 1.4% to $4,427.7 million as compared to $4,488.4 million in 2016. In local currency, net sales for the year ended December 31, 2017 decreased 1.1% as compared to the same period in 2016. The decrease in net sales for the year ended December 31, 2017 was primarily the result of a decrease in sales volume, as indicated by a decrease in Volume Points, and an unfavorable change in country sales mix, which reduced net sales by 3.6% and 1.1%, respectively, partially offset by the impact of price increases, which increased net sales by approximately 3.0%.

Net income for the year ended December 31, 2017 decreased 17.7% to $213.9 million, or $1.29 per diluted share, compared to $260.0 million, or $1.51 per diluted share, for the same period in 2016. The decrease for the year ended December 31, 2017 was primarily due to the decline in sales as discussed above; the $29.7 million arbitration award in 2016 related to the re-audit; higher interest expense related to the new Credit Facility; and higher income taxes primarily due to the $153.3 million provisional net expense related to the U.S. Tax Reform (See Note 12, *Income Taxes*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); partially offset by the $203.0 million regulatory settlements in 2016; and higher government grant income in China.

Net income for the year ended December 31, 2017 included a $50.8 million pre-tax favorable impact ($36.2 million post-tax) of government grant income in China; a $47.7 million unfavorable impact of non-cash interest expense related to the Convertible Notes and the Forward Transactions (See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); a $13.7 million pre-tax unfavorable impact ($9.0 million post-tax) from expenses related to regulatory inquiries; a $5.0 million pre-tax unfavorable impact ($3.8 million post-tax) related to legal, advisory services and other expenses for our response to allegations and other negative information put forward in the marketplace by a hedge fund manager which started in late 2012 (See *Selling, General, and Administrative Expenses* below for further discussion); a $17.7 million pre-tax unfavorable impact ($11.7 million post-tax) related to the implementation of the Consent Order, comprised of $14.7 million of legal, advisory, and other expenses and $3.0 million of product discounts related to preferred member conversions; a $153.3 million unfavorable impact of the provisional net expense related to the U.S. Tax Reform (See Note 12, *Income Taxes*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); and a $0.4 million favorable impact of the gain on the revaluation of the CVR provided to the participants of the modified Dutch auction tender offer (See Note 8, *Shareholders' Deficit Equity*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K).

Net income for the year ended December 31, 2016 included a $203.0 million pre-tax unfavorable impact ($133.0 million post-tax) related to regulatory settlements; a $34.2 million pre-tax favorable impact ($24.3 million post-tax) of government grant income in China; a $29.7 million pre-tax favorable impact ($25.8 million post-tax) related to the arbitration award in connection with the re-audit; a $45.1 million unfavorable impact of non-cash interest expense related to the Convertible Notes and the Forward Transactions (See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K); a $16.3 million pre-tax unfavorable impact ($10.8 million post-tax) from expenses related to regulatory inquiries; a $12.1 million pre-tax unfavorable impact ($9.0 million post-tax) related to legal, advisory services and other expenses for our response to allegations and other negative information put forward in the marketplace by a hedge fund manager which started in late 2012 (See *Selling, General, and Administrative Expenses* below for further discussion); a $3.6 million pre-tax unfavorable impact ($2.6 million post-tax) related to expenses incurred for the recovery of costs associated with the re-audit of our 2010 to 2012 financial statements after the resignation of KPMG as our independent registered public accounting firm; and a $10.7 million pre-tax unfavorable impact ($7.1 million post-tax) related to the implementation of the Consent Order, comprised of $9.0 million of legal, advisory, and other expenses and $1.7 million of product discounts related to preferred member conversions.

Reporting Segment Results

We aggregate our operating segments, excluding China, into a reporting segment, or the Primary Reporting Segment. The Primary Reporting Segment includes the North America, Mexico, South & Central America, EMEA, and Asia Pacific regions. China has been identified as a separate reporting segment as it does not meet the criteria for aggregation. See Note 10, *Segment Information*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for further discussion of our reporting segments. See below for discussions of net sales and contribution margin by our reporting segments.

Net Sales by Reporting Segment

The Primary Reporting Segment reported net sales of $3,541.8 million for the year ended December 31, 2017. Net sales for the Primary Reporting Segment decreased $77.8 million, or 2.1%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales decreased 2.4% for the year ended December 31, 2017 as compared to the same period in 2016 for the Primary Reporting Segment. The decrease in net sales for the year ended December 31, 2017 was primarily the result of a decrease in sales volume, as indicated by a decrease in Volume Points, and an unfavorable change in country sales mix, which reduced net sales by 4.3% and 1.5%, respectively, partially offset by the impact of price increases, which increased net sales by approximately 3.0%.

For a discussion of China's net sales for the year ended December 31, 2017, as compared to the same period in 2016, see the China section of the Sales by Geographic Region below.

Contribution Margin by Reporting Segment

As discussed above under "Presentation," contribution margin consists of net sales less cost of sales and Royalty overrides. The Primary Reporting Segment reported contribution margin of $1,534.2 million for the year ended December 31, 2017. Contribution margin for the Primary Reporting Segment decreased $37.7 million, or 2.4%, for the year ended December 31, 2017, as compared to the same period in 2016. The 2.4% decrease for the year ended December 31, 2017 was primarily the result of volume decreases, as indicated by a decrease in Volume Points, and unfavorable country sales mix, which reduced contribution margin by 4.0% and 4.4%, respectively; partially offset by the favorable impact of price increases and cost savings through strategic sourcing and self-manufacturing, which increased contribution margin by approximately 4.6% and 1.0%, respectively.

China reported contribution margin of $790.7 million for the year ended December 31, 2017. Contribution margin for China was relatively flat compared to the same period in 2016 and was primarily the result of price increases, which increased contribution margin by approximately 3.6%, partially offset by the unfavorable impact of fluctuations in foreign currency exchange rates, which reduced contribution margin by approximately 2.9%.

Sales by Geographic Region

The following chart reconciles retail value to net sales by geographic region:

	Year Ended December 31,										
	2017					2016					
	Retail Value(1)	Distributor Allowance	Product Sales	Shipping & Handling	Net Sales	Retail Value(1)	Distributor Allowance	Product Sales	Shipping & Handling	Net Sales	% Change in Net Sales
	(Dollars in millions)										
North America	$ 1,400.8	$ (642.3)	$ 758.5	$ 81.7	$ 840.2	$ 1,587.0	$ (721.3)	$ 865.7	$ 90.0	$ 955.7	(12.1)%
Mexico	762.8	(346.9)	415.9	26.8	442.7	767.2	(347.6)	419.6	27.0	446.6	(0.9)%
South & Central America	827.1	(385.0)	442.1	32.2	474.3	848.2	(393.5)	454.7	34.0	488.7	(2.9)%
EMEA	1,498.0	(681.8)	816.2	52.5	868.7	1,398.9	(633.9)	765.0	50.6	815.6	6.5%
Asia Pacific	1,565.3	(679.0)	886.3	29.6	915.9	1,531.9	(656.9)	875.0	38.0	913.0	0.3%
China	1,004.5	(123.2)	881.3	4.6	885.9	986.6	(122.4)	864.2	4.6	868.8	2.0%
Worldwide	$ 7,058.5	$ (2,858.2)	$ 4,200.3	$ 227.4	$ 4,427.7	$ 7,119.8	$ (2,875.6)	$ 4,244.2	$ 244.2	$ 4,488.4	(1.4)%

(1) Retail value is a non-GAAP measure which may not be comparable to similarly-titled measures used by other companies. See "Presentation" above for a discussion of how we calculate retail value and why we believe the measure is useful to investors.

North America

The North America region reported net sales of $840.2 million for the year ended December 31, 2017. Net sales decreased $115.5 million, or 12.1%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales decreased by the same 12.1% for the year ended December 31, 2017, as compared to the same period in 2016. The decrease in net sales for the year ended December 31, 2017, as compared to the same period in 2016, was a result of a net sales decrease in the U.S. of $116.7 million, or 12.5%. The 12.1% decrease in net sales for the North America region was primarily the result of a decrease in sales volume, as indicated by a 12.0% decrease in Volume Points.

As part of the Consent Order, we implemented certain new procedures and enhanced certain existing procedures in the United States. We believe North America's Volume Point decreases for the year ended December 31, 2017, versus an increase for 2016, reflected the transitionary impact of Member focus on Consent Order implementation actions, including training on new tools and methods for documenting sales and time spent to then train their sales organizations. Similar to the transitionary impact that occurred as a result of Marketing Plan changes made in 2014, we do not expect the Consent Order to have a long-term material adverse impact on our net sales in the North America region or on our Member base. North America implemented programs to encourage sponsorship and increase distributor, preferred member, and customer activity and has continued to extend the product line, including the introduction of trial packs and snack sizes for popular products.

Mexico

The Mexico region reported net sales of $442.7 million for the year ended December 31, 2017. Net sales for the year ended December 31, 2017 decreased $3.9 million, or 0.9%, as compared to the same period in 2016. In local currency, net sales for the year ended December 31, 2017 increased 0.5%, as compared to the same period in 2016. The 0.9% decrease in net sales for the year ended December 31, 2017 was primarily the result of a decrease in sales volume, as indicated by a 4.8% decrease in Volume Points, and the effect of the strong U.S. dollar and the resulting impact of fluctuations in foreign currency exchange rates, which reduced net sales by approximately 1.3%. These reductions to net sales were partially offset by price increases which contributed approximately 5.2% to net sales.

We believe the Volume Point decline for the year ended December 31, 2017, after an increase for 2016, was attributable to a difficult economic environment marked by rising inflation and a weaker peso, as well as the adverse impact of the damaging natural disaster in the greater Mexico City area during the third quarter of 2017. Following inception of our Member Activation Program, designed to enhance the quality of sales leaders, we saw fewer new Members but a higher level of activity among those new Members.

South and Central America

The South and Central America region reported net sales of $474.3 million for the year ended December 31, 2017. Net sales decreased $14.4 million, or 2.9%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales increased 0.4% for the year ended December 31, 2017, as compared to the same period in 2016. Excluding Venezuela, which saw significant price increases in response to a highly inflationary environment, South and Central America local currency net sales decreased 6.0% for the year ended December 31, 2017.

The 2.9% decrease in net sales for the year ended December 31, 2017 was primarily the result of a decrease in sales volume, as indicated by a 10.4% decrease in Volume Points, and the effect of the strong U.S. dollar and the resulting impact of fluctuations in foreign currency exchange rates, which reduced net sales by approximately 3.3%. These reductions to net sales were partially offset by price increases which increased net sales by approximately 10.7%. Volume declines were widespread across the region for both market-specific factors and as Members in many markets continued to transition to sustainable, customer-oriented business practices. The effect of price increases on net sales for the region was largest for the Venezuela market.

In Brazil, the region's largest market, net sales were $190.6 million for the year ended December 31, 2017. Net sales increased $0.8 million, or 0.4%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales decreased 7.7% for the year ended December 31, 2017, as compared to the same period in 2016. The fluctuation of foreign currency exchange rates had a favorable impact of $15.3 million on net sales in Brazil for the year ended December 31, 2017. Marketing Plan changes intended to build more sustainable business for our Members through a focus on daily product consumption and retailing were taking hold following a lengthy transition period. In addition, we introduced programs in Brazil that were successful in other regions to improve Member activity. We also increased the number of product access points, enhanced our training efforts, and expanded our product offering, including the launch of a soy milk product. Changes in ICMS tax legislation, effective April 2016, reduced net sales by approximately $4.0 million for the first quarter of 2017.

Net sales in Peru were $62.3 million for the year ended December 31, 2017. Net sales decreased $2.2 million, or 3.3%, for the year ended December 31, 2017 as compared to the same period in 2016. In local currency, net sales decreased 6.6% for the year ended December 31, 2017, as compared to the same period in 2016. The fluctuation of foreign currency exchange rates had a favorable impact of $2.1 million on net sales for the year ended December 31, 2017. As in other areas of the region, Peru saw volume declines as it transitioned to sustainable, consumption and retailing-oriented business practices. Declines for the year were also attributed to severe inclement weather during the first quarter of 2017 and changes to the qualification levels for certain promotions that did not achieve their objectives of increasing the number of qualifying Members.

EMEA

The EMEA region reported net sales of $868.7 million for the year ended December 31, 2017. Net sales increased $53.1 million, or 6.5%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales increased 4.2% for the year ended December 31, 2017, as compared to the same period in 2016. The 6.5% increase in net sales for the year ended December 31, 2017 was primarily the result of an increase in sales volume, as indicated by a 3.7% increase in Volume Points, price increases which increased net sales by approximately 2.4%, and the effect of fluctuations in foreign currency exchange rates, which increased net sales by approximately 2.3%. The increases to net sales were partially offset by an unfavorable change in country sales mix resulting from a lower percentage of our sales volume coming from markets with higher prices. Though the EMEA region is made up of a large number of markets with different characteristics and levels of success, generally we believe volume growth for the region correlated with programs that enhanced the quality and activity of sales leaders as they continued to focus on customer-oriented initiatives.

Net sales in Italy were $139.4 million for the year ended December 31, 2017. Net sales increased $1.6 million, or 1.2%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales decreased 0.5% for the year ended December 31, 2017, as compared to the same period in 2016. The fluctuation of foreign currency exchange rates had a favorable impact of $2.3 million on net sales in Italy for the year ended December 31, 2017. Italy saw a modest decline in new Members after several years of growth.

Net sales in Russia were $130.4 million for the year ended December 31, 2017. Net sales increased $24.5 million, or 23.2%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales increased 7.8% for the year ended December 31, 2017, as compared to the same period in 2016. The fluctuation of foreign currency exchange rates had a favorable impact of $16.3 million on net sales in Russia for the year ended December 31, 2017. Product prices in Russia were increased 5% in February 2017 and 5% in March 2016. The market continued to utilize the Member Activation Program to attract and enhance the quality of new Members. The market had success with new products, new training and communication approaches, and a program to re-activate former Members.

Net sales in Spain were $103.3 million for the year ended December 31, 2017. Net sales increased $4.5 million, or 4.6%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales in Spain increased 2.5% for the year ended December 31, 2017, as compared to the same period in 2016. The fluctuation of foreign currency exchange rates had a favorable impact of $2.0 million on net sales in Spain for the year ended December 31, 2017. Product prices in Spain were increased 2% in July 2017. Spain benefited from ongoing programs of promotions and sponsorships that raised brand awareness through healthy active lifestyle.

Asia Pacific

The Asia Pacific region, which excludes China, reported net sales of $915.9 million for the year ended December 31, 2017. Net sales increased $2.9 million, or 0.3%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales decreased 0.9% for the year ended December 31, 2017, as compared to the same period in 2016. The 0.3% increase in net sales for the year ended December 31, 2017 was primarily the result of an increase in sales volume, as indicated by a 1.2% increase in Volume Points, and price increases which increased net sales by approximately 1.3%, as well as the effect of fluctuations in foreign currency exchange rates, which increased net sales by approximately 1.2%. The increases to net sales were partially offset by an unfavorable change in country sales mix resulting from a lower percentage of our sales volume coming from markets with higher prices, which reduced net sales by approximately 2.9%. The Volume Points performance for the region was mixed by country, with continuing increases in Indonesia and India as well as other markets, offset by declines primarily in South Korea and Taiwan.

Net sales in India were $185.1 million for the year ended December 31, 2017. Net sales increased $17.2 million, or 10.2%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales increased 6.8% for the year ended December 31, 2017, as compared to the same period in 2016. The fluctuation of foreign currency exchange rates had a favorable impact of $5.8 million on net sales for the year ended December 31, 2017. India segmented Members into preferred members and distributors as required by local regulations. India continued to expand its product line, added product pickup locations for Members, and utilized an Associate Activation Program.

Net sales in South Korea were $136.8 million for the year ended December 31, 2017. Net sales decreased $41.0 million, or 23.1%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales decreased 24.9% for the year ended December 31, 2017, as compared to the same period in 2016. The fluctuation of foreign currency exchange rates had a favorable impact of $3.3 million on net sales for the year ended December 31, 2017. The South Korea market was impacted by Marketing Plan changes, including certain changes unique to the market. We believe these changes and other efforts, including a Member Activation Program that saw success in the market, supported improved retailing opportunity.

Net sales in Indonesia were $133.0 million for the year ended December 31, 2017. Net sales increased $19.1 million, or 16.7%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales increased 17.4% for the year ended December 31, 2017, as compared to the same period in 2016. The fluctuation of foreign currency exchange rates had an unfavorable impact of $0.8 million on net sales for the year ended December 31, 2017. The Indonesia market continued to strengthen by focusing on a customer-based business and daily consumption through Nutrition Clubs, training activities, and new products. We increased the number of product access points for the market, expanded a city-by-city training and promotion approach, and introduced a Member pack oriented toward business builders.

Net sales in Taiwan were $117.8 million for the year ended December 31, 2017. Net sales decreased $9.6 million, or 7.5%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales decreased 12.8% for the year ended December 31, 2017, as compared to the same period in 2016. The fluctuation of foreign currency exchange rates had a favorable impact of $6.7 million on net sales for the year ended December 31, 2017. Taiwan sales declined versus prior years as the market adjusted to and Members optimized programs and training intended to help Members establish customer-based, sustainable business approaches.

China

Net sales in China were $885.9 million for the year ended December 31, 2017. Net sales increased $17.1 million, or 2.0%, for the year ended December 31, 2017, as compared to the same period in 2016. In local currency, net sales increased 4.0% for the year ended December 31, 2017, as compared to the same period in 2016. The net sales increase for the year was the result of price increases effective April 2017, which increased net sales by approximately 3.3%, and an increase in sales volume, as indicated by a 1.4% increase in Volume Points, partially offset by the unfavorable impact of fluctuations in foreign currency exchange rates, which reduced net sales by approximately 2.0%.

Although sales volume saw a slight increase for the year ended December 31, 2017, we believe the lower rate of increase in volume versus recent years was attributable to factors such as a reduction in the number of Nutrition Clubs as Members in some cases consolidated smaller clubs into larger, more commercialized clubs; government limitations on companies conducting commercial meetings ahead of the National Congress held in the fall of 2017; and Member overemphasis on social media business methods over more traditional methods. We introduced the Member Activation Program for new members, expanded our online ordering platform, added new products for the market, and renewed a branding campaign.

Sales by Product Category

	Year Ended December 31,										
	2017					2016					
	Retail Value(2)	Distributor Allowance	Product Sales	Shipping & Handling	Net Sales	Retail Value(2)	Distributor Allowance	Product Sales	Shipping & Handling	Net Sales	% Change in Net Sales
	(Dollars in millions)										
Weight Management	$ 4,593.6	$ (1,899.1)	$ 2,694.5	$ 148.0	$ 2,842.5	$ 4,621.5	$ (1,915.5)	$ 2,706.0	$ 158.5	$ 2,864.5	(0.8)%
Targeted Nutrition	1,749.7	(723.3)	1,026.4	56.4	1,082.8	1,714.7	(710.7)	1,004.0	58.8	1,062.8	1.9%
Energy, Sports, and Fitness	426.4	(176.3)	250.1	13.7	263.8	432.9	(179.4)	253.5	14.9	268.4	(1.7)%
Outer Nutrition	151.7	(62.7)	89.0	4.9	93.9	178.2	(73.9)	104.3	6.1	110.4	(14.9)%
Literature, Promotional, and Other(1)	137.1	3.2	140.3	4.4	144.7	172.5	3.9	176.4	5.9	182.3	(20.6)%
Total	$ 7,058.5	$ (2,858.2)	$ 4,200.3	$ 227.4	$ 4,427.7	$ 7,119.8	$ (2,875.6)	$ 4,244.2	$ 244.2	$ 4,488.4	(1.4)%

(1) Product buy backs and returns in all product categories are included in literature, promotional and other category.

(2) Retail value is a non-GAAP measure which may not be comparable to similarly-titled measures used by other companies. See “Presentation” above for a discussion of how we calculate retail value and why we believe the measure is useful to investors.

Net sales for all product categories, except for Targeted Nutrition, decreased for the year ended December 31, 2017 as compared to the same period in 2016. The trend and business factors described in the above discussions of the individual geographic regions apply generally to all product categories.

Gross Profit

Gross profit was $3,579.1 million for the year ended December 31, 2017, as compared to $3,633.8 million for the same period in 2016. As a percentage of net sales, gross profit for the year ended December 31, 2017 was 80.8% as compared to 81.0% for the same period in 2016, or an unfavorable net decrease of 13 basis points. The gross profit rate for the year ended December 31, 2017 included the unfavorable impact of foreign currency fluctuations of 90 basis points, country mix of 9 basis points, and other cost changes of 9 basis points, partially offset by the favorable impact of retail price increases of 61 basis points and cost savings through strategic sourcing and self-manufacturing of 34 basis points. Generally, gross profit as a percentage of net sales may vary from period to period due to the impact of foreign currency fluctuations, changes in country mix as volume changes among countries with varying margins, retail price increases, cost savings through strategic sourcing and self-manufacturing, and inventory write-downs.

Royalty Overrides

Royalty overrides were $1,254.2 million for the year ended December 31, 2017, as compared to $1,272.6 million for the same period in 2016. Royalty overrides as a percentage of net sales were 28.3% for the year ended December 31, 2017 as compared to 28.4% for the same period in 2016. Compensation to our Independent Service Providers in China is included in selling, general, and administrative expenses as opposed to royalty overrides where it is included for all other Members. Generally, royalty overrides as a percentage of net sales may vary slightly from period to period due to changes in the mix of products and countries because full royalty overrides are not paid on certain products and in certain countries.

Selling, General, and Administrative Expenses

Selling, general, and administrative expenses were $1,758.6 million for the year ended December 31, 2017, as compared to $1,966.9 million for the same period in 2016. Selling, general, and administrative expenses as a percentage of net sales were 39.7% for the year ended December 31, 2017, as compared to 43.8% for the same period in 2016.

The decrease in selling, general, and administrative expenses for the year ended December 31, 2017 was driven by the $203.0 million regulatory settlements in 2016; $11.2 million in lower professional fees primarily from lower expenses related to allegations raised by a hedge fund manager and lower expenses related to the recovery of costs from KPMG associated with the re-audit of our 2010 to 2012 financial statements; $9.5 million in lower Member promotion and event costs; $9.2 million in lower travel expenses due to cost control initiatives; and $9.1 million in lower advertising and sponsorship expenses; partially offset by $25.7 million in higher labor and employee benefit costs and $12.4 million in higher service fees to China Independent Service Providers related to sales growth in China.

In late 2012, a hedge fund manager publicly raised allegations regarding the legality of our network marketing program and announced that the hedge fund manager had taken a significant short position regarding our common shares, leading to intense public scrutiny and significant stock price volatility. We engaged legal and advisory services firms to assist with responding to the allegations and to perform other related services in connection to these events. For the year ended December 31, 2017, we recorded approximately $5.0 million of expenses related to this matter, of which approximately $3.2 million was related to legal, advisory and other professional service fees. For the year ended December 31, 2016, we recorded approximately $12.1 million of expenses related to this matter, of which approximately $9.5 million was related to legal, advisory and other professional service fees.

Other Operating Income

Other operating income was $50.8 million for the year ended December 31, 2017, as compared to $63.8 million for the same period in 2016. The decrease in other operating income was due to the arbitration award received in 2016 in connection with the re-audit of our 2010 to 2012 financial statements after the resignation of KPMG as our independent registered public accounting firm (See Note 2, *Basis of Presentation*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for further discussion); partially offset by an increase in government grant income related to China.

Interest Expense, Net

Interest expense, net is as follows:

	Year Ended December 31,	
	2017	2016
	(in millions)	
Interest expense	$ 160.8	$ 99.3
Interest income	(14.5)	(5.9)
Interest expense, net	$ 146.3	$ 93.4

The increase in net interest expense for the year ended December 31, 2017, as compared to the same period in 2016, was primarily due to the increase in our interest expense due to higher interest rates and increased borrowing amounts relating to our new $1.45 billion senior secured credit facility, which includes a $1.3 billion term loan B, that was entered into on February 15, 2017 as discussed further below in *Liquidity and Capital Resources*. These increases were partially offset by higher interest income resulting from higher cash balances mainly due to the proceeds of the new term loan B.

Other Expense (Income), Net

The $0.4 million of other income for the year ended December 31, 2017 relates to the gain on the revaluation of the CVR provided to the participants of the modified Dutch auction tender offer that closed in October 2017 (See Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K).

Income Taxes

Income taxes were $257.3 million for the year ended December 31, 2017, as compared to $104.7 million for the same period in 2016. As a percentage of pre-tax income, the effective income tax rate was 54.6% for the year ended December 31, 2017, as compared to 28.7% for the same period in 2016. The increase to the effective tax rate for the year ended December 31, 2017, as compared to the same period in 2016, is primarily due to the establishment of a valuation allowance against U.S. foreign tax credits. See Note 12, *Income Taxes*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for additional discussion.

Liquidity and Capital Resources

We have historically met our working capital and capital expenditure requirements, including funding for expansion of operations, through net cash flows provided by operating activities. Variations in sales of our products directly affect the availability of funds. There are no material contractual restrictions on our ability to transfer and remit funds among our international affiliated companies. However, there are foreign currency restrictions in certain countries which could reduce our ability to timely obtain U.S. dollars. Even with these restrictions, we believe we will have sufficient resources, including cash flow from operating activities and access to capital markets, to meet debt service obligations in a timely manner and be able to continue to meet our objectives.

Historically, our debt has not resulted from the need to fund our normal operations, but instead has resulted primarily from our share repurchase programs. Since inception in 2007, total share repurchases amounted to approximately $4.5 billion. While a significant net sales decline could potentially affect the availability of funds, many of our largest expenses are variable in nature, which we believe protects our funding in all but a dramatic net sales downturn. Our $1,198.9 million cash and cash equivalents and our senior secured credit facility, in addition to cash flow from operations, can be used to support general corporate purposes, including, any future share repurchases, dividends, and strategic investment opportunities.

We have a cash pooling arrangement with a financial institution for cash management purposes. This cash pooling arrangement allows certain of our participating subsidiaries to withdraw cash from this financial institution based upon our aggregate cash deposits held by subsidiaries who participate in the cash pooling arrangement. We did not owe any amounts to this financial institution under the pooling arrangement as of December 31, 2018 and 2017.

For the year ended December 31, 2018, we generated $648.4 million of operating cash flow, as compared to $590.8 million for the same period in 2017. The increase in our operating cash flow was the result of higher net income (See *Financial Results* above for further discussion) and favorable changes in operating assets and liabilities; partially offset by lower non-cash items. The change in operating assets and liabilities was primarily the result of favorable changes in receivables, accounts payable, and other current liabilities; partially offset by unfavorable changes in inventories, prepaid expenses and other current assets. The decrease in non-cash items was primarily the result of changes in deferred income taxes mainly due to the impact of U.S. Tax Reform enacted during the fourth quarter of 2017; the $35.4 million loss on the extinguishment of our 2017 Credit Facility; the $13.1 million loss on the extinguishment of $475.0 million aggregate principal of our 2019 Convertible Notes; and a $9.2 million unfavorable impact due to fair value changes relating to the revaluation of the CVR.

For the year ended December 31, 2017, we generated $590.8 million of operating cash flow, as compared to $367.3 million for the same period in 2016. The increase in our operating cash flow was the result of higher non-cash items and favorable changes in operating assets and liabilities, partially offset by lower net income. The increase in non-cash items was primarily the result of changes in deferred income taxes mainly due to the impact of the U.S. Tax Reform. The favorable change in operating assets and liabilities was primarily the result of favorable changes in inventories, prepaid expenses and other current assets; partially offset by unfavorable changes in receivables and other current liabilities. The decrease in net income was primarily the result of lower contribution margin due to lower net sales, higher interest expense from the new credit facility, and higher income taxes also mainly due to the impact of the U.S. Tax Reform; partially offset by lower selling, general, and administrative expenses mainly due to the $203.0 million regulatory settlements in 2016. The changes in our deferred income taxes related to the U.S. Tax Reform has no net impact on our operating cash flow, as it decreased our net income by $153.3 million, and increased our non-cash adjustments to net income by $153.3 million.

Capital expenditures, including accrued capital expenditures, for the years ended December 31, 2018, 2017, and 2016 were $88.2 million, $95.1 million, and $144.3 million, respectively. The majority of these expenditures represented investments in management information systems, including initiatives to develop web-based Member tools. We expect to incur total capital expenditures of approximately $135 million to $175 million for the full year of 2019.

In March 2018, we hosted our annual global Herbalife Honors event in Los Angeles, California where sales leaders from around the world met and shared best practices, conducted leadership training, and we awarded Members $64.8 million of Mark Hughes bonus payments related to their 2017 performance. In March 2017, we awarded Members $65.2 million of Mark Hughes bonus payments related to their 2016 performance.

Senior Secured Credit Facility

On February 15, 2017, we entered into a $1,450.0 million senior secured credit facility, or the 2017 Credit Facility, consisting of a $1,300.0 million term loan B, or the 2017 Term Loan B, and a $150.0 million revolving credit facility, or the 2017 Revolving Credit Facility, with a syndicate of financial institutions as lenders. The 2017 Revolving Credit Facility was to mature on February 15, 2022 and the 2017 Term Loan B was to mature on February 15, 2023. The 2017 Credit Facility was amended, effective March 16, 2018, to make certain technical amendments in connection with the offering of the 2024 Convertible Notes, as defined below. We terminated the 2017 Credit Facility on August 16, 2018 and the $1,178.1 million outstanding was repaid in full. Prior to its termination, the 2017 Term Loan B most recently bore interest at either the eurocurrency rate plus a margin of 5.50% or the base rate plus a margin of 4.50%, and the 2017 Revolving Credit Facility most recently bore interest at either the eurocurrency rate plus a margin of either 4.50% or 4.75% or the base rate plus a margin of either 3.50% or 3.75%, based on our consolidated leverage ratio.

On August 16, 2018, we entered into a new $1.25 billion senior secured credit facility, or the 2018 Credit Facility, consisting of a $250.0 million term loan A, or the 2018 Term Loan A, a $750.0 million term loan B, or the 2018 Term Loan B, and a $250.0 million revolving credit facility, or the 2018 Revolving Credit Facility. The 2018 Term Loan A and 2018 Revolving Credit Facility both mature on August 16, 2023 and the 2018 Term Loan B matures on August 18, 2025. However, the 2018 Term Loan A and 2018 Revolving Credit Facility will both mature on February 14, 2019 if the outstanding principal on the 2019 Convertible Notes, as defined below, exceeds $350.0 million and we exceed certain leverage ratios on such date. In addition, the 2018 Term Loan B will mature on either: (i) May 16, 2019 if the outstanding principal on the 2019 Convertible Notes, as defined below, exceeds $350.0 million and we exceed certain leverage ratios on such date; or (ii) December 15, 2023 if the outstanding principal on the 2024 Convertible Notes, as defined below, exceeds $350.0 million and we exceed certain leverage ratios on such date. We did not exceed those certain leverage ratios as of February 14, 2019 and as such, the 2018 Term Loan A and 2018 Revolving Credit Facility will continue to mature on August 16, 2023. All obligations under the 2018 Credit Facility are unconditionally guaranteed by certain direct and indirect wholly-owned subsidiaries of Herbalife Nutrition Ltd. and secured by the equity interests of certain of Herbalife Nutrition Ltd.'s subsidiaries and substantially all of the assets of the domestic loan parties. Also on August 16, 2018, we issued $400 million aggregate principal amount of senior unsecured notes, or 2026 Notes as described below, and used the proceeds from the 2018 Credit Facility and the 2026 Notes to repay in full the $1,178.1 million outstanding under the 2017 Credit Facility. For accounting purposes, pursuant to ASC 470, *Debt*, these transactions were accounted for as an extinguishment of the 2017 Credit Facility. We recognized a loss on extinguishment of $35.4 million as a result, which is recorded in other expense (income), net within our consolidated statements of income for the year ended December 31, 2018.

The 2018 Credit Facility requires us to comply with a leverage ratio. The 2018 Credit Facility also contains affirmative and negative covenants customary for financings of this type, including, among other things, limitations or prohibitions on repurchasing common shares, declaring and paying dividends and other distributions, redeeming and repurchasing certain other indebtedness, loans and investments, additional indebtedness, liens, mergers, asset sales and transactions with affiliates. In addition, the 2018 Credit Facility contains customary events of default. As of December 31, 2018 and 2017, we were in compliance with our debt covenants under the 2018 Credit Facility and 2017 Credit Facility, respectively.

The 2018 Term Loan A and 2018 Term Loan B are payable in consecutive quarterly installments which began on December 31, 2018. Interest is due at least quarterly on amounts outstanding under the 2018 Credit Facility. In addition, we may be required to make mandatory prepayments towards the 2018 Term Loan B based on our consolidated leverage ratio and annual excess cash flows as defined under the terms of the 2018 Credit Facility. We are also permitted to make voluntary prepayments. On or prior to February 16, 2019, amounts voluntarily prepaid under the 2018 Term Loan A and 2018 Term Loan B will incur a prepayment premium of 1%; thereafter, amounts outstanding under the 2018 Term Loan A and 2018 Term Loan B may be voluntarily prepaid without premium or penalty, subject to customary breakage fees in connection with the prepayment of a eurocurrency loan. These prepayments, if any, will be applied against remaining quarterly installments owed under the 2018 Term Loan A and 2018 Term Loan B in order of maturity with the remaining principal due upon maturity, unless directed otherwise by us.

During the year ended December 31, 2018, we borrowed an aggregate amount of $1,000.0 million under the 2018 Credit Facility and repaid a total amount of $1,231.9 million, including $5.0 million on amounts outstanding under the 2018 Credit Facility and $1,226.9 million to repay in full amounts outstanding under the 2017 Credit Facility. During the year ended December 31, 2017, we borrowed an aggregate amount of $1,300.0 million under the 2017 Credit Facility and repaid a total amount of $483.1 million, including $73.1 million on amounts outstanding under the 2017 Credit Facility and $410.0 million to repay in full amounts outstanding under the 2011 Credit Facility. During the year ended December 31, 2016, we borrowed an aggregate amount of $200.0 million and repaid a total amount of $429.7 million on amounts outstanding under the 2011 Credit Facility. As of December 31, 2018 and 2017, the U.S. dollar amount outstanding under the 2018 Credit Facility and 2017 Credit Facility was $995.0 million and $1,226.9 million, respectively. Of the $995.0 million outstanding under the 2018 Credit Facility as of December 31, 2018, $246.9 million was outstanding under the 2018 Term Loan A and $748.1 million was outstanding under the 2018 Term Loan B. Of the $1,226.9 million outstanding under the 2017 Credit Facility as of December 31, 2017, $1,226.9 million was outstanding under the 2017 Term Loan B. There were no borrowings outstanding under the 2018 Revolving Credit Facility and 2017 Revolving Credit Facility as of December 31, 2018 and 2017, respectively. There were no outstanding foreign currency borrowings as of December 31, 2018 and 2017 under the 2018 Credit Facility and 2017 Credit Facility, respectively. As of December 31, 2018 and 2017, the weighted-average interest rate for borrowings under the 2018 Credit Facility and 2017 Credit Facility was 6.80% and 6.79%, respectively.

See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a further discussion on the 2018 Credit Facility and 2017 Credit Facility

Convertible Senior Notes due 2019

During February 2014, we issued $1.15 billion aggregate principal amount of convertible senior notes due 2019, or the 2019 Convertible Notes. The 2019 Convertible Notes are senior unsecured obligations which rank effectively subordinate to any of our existing and future secured indebtedness, including amounts outstanding under the 2018 Credit Facility, to the extent of the value of the assets securing such indebtedness. The 2019 Convertible Notes pay interest at a rate of 2.00% per annum payable semiannually in arrears on February 15 and August 15 of each year, beginning on August 15, 2014. The 2019 Convertible Notes mature on August 15, 2019, unless earlier repurchased or converted. The primary purpose of the issuance of the 2019 Convertible Notes was for share repurchase purposes.

During March 2018, we issued $550 million aggregate principal of new convertible senior notes due 2024 as described below, and subsequently used the proceeds, along with cash on hand, to repurchase $475.0 million of our existing 2019 Convertible Notes from a limited number of holders in privately negotiated transactions for an aggregate purchase price of $583.5 million, which included $1.0 million of accrued interest.

See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a further discussion on our 2019 Convertible Notes.

Convertible Senior Notes due 2024

During March 2018, we issued $550.0 million aggregate principal amount of convertible senior notes due 2024, or the 2024 Convertible Notes. The 2024 Convertible Notes are senior unsecured obligations which rank effectively subordinate to any of our existing and future secured indebtedness, including amounts outstanding under the 2018 Credit Facility, to the extent of the value of the assets securing such indebtedness. The 2024 Convertible Notes pay interest at a rate of 2.625% per annum payable semiannually in arrears on March 15 and September 15 of each year, beginning on September 15, 2018. The 2024 Convertible Notes mature on March 15, 2024, unless redeemed, repurchased or converted in accordance with their terms prior to such date. The primary purpose of the issuance of the 2024 Convertible Notes was to repurchase a portion of the 2019 Convertible Notes. See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a further discussion on our 2024 Convertible Notes.

Senior Notes due 2026

During August 2018, we issued $400.0 million aggregate principal amount of senior notes due 2026, or the 2026 Notes. The 2026 Notes are senior unsecured obligations which rank effectively subordinate to any of our existing and future secured indebtedness, including amounts outstanding under the 2018 Credit Facility, to the extent of the value of the assets securing such indebtedness. The 2026 Notes pay interest at a rate of 7.250% per annum payable semiannually in arrears on February 15 and August 15 of each year, beginning on February 15, 2019. The 2026 Notes mature on August 15, 2026, unless redeemed or repurchased in accordance with their terms prior to such date. The primary purpose of the issuance of the 2026 Notes was to refinance a portion of our 2017 Credit Facility. See Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a further discussion on our 2026 Notes.

Contractual Obligations

The following summarizes our contractual obligations, including interest, as of December 31, 2018, and the effect such obligations are expected to have on our liquidity and cash flows in future periods:

	Payments Due by Period				
	Total	2019	2020 - 2021	2022 - 2023	2024 & Thereafter
			(in millions)		
Convertible senior notes due 2019	$ 688.5	$ 688.5	$ —	$ —	$ —
Convertible senior notes due 2024	629.4	14.4	28.9	28.9	557.2
Senior notes due 2026	632.0	29.0	58.0	58.0	487.0
Borrowings under the senior secured credit facility(1)	1,329.9	76.7	157.9	317.3	778.0
Operating leases	253.7	43.1	63.7	35.5	111.4
Purchase obligations and other commitments	207.7	162.2	40.2	5.3	—
Total(2)	$ 3,741.2	$ 1,013.9	$ 348.7	$ 445.0	$ 1,933.6

(1) The estimated interest payments on our 2018 Credit Facility are based on interest rates effective as of December 31, 2018.

(2) Our consolidated balance sheet as of December 31, 2018 includes $58.5 million in unrecognized tax benefits. The future payments related to these unrecognized tax benefits have not been presented in the table above due to the uncertainty of the amounts and potential timing of cash settlements with the tax authorities and whether any settlement would occur.

Cash and Cash Equivalents

The majority of our foreign subsidiaries designate their local currencies as their functional currencies. As of December 31, 2018 and 2017, the total amount of our foreign subsidiary cash and cash equivalents was $870.3 million and $1,133.5 million, respectively, of which $309.4 million and $633.3 million, respectively, was invested in U.S. dollars. As of December 31, 2018 and 2017, the total amount of cash and cash equivalents held by Herbalife Nutrition Ltd. and its U.S. entities, inclusive of U.S. territories, was $328.6 million and $145.3 million, respectively.

For earnings not considered to be indefinitely reinvested deferred taxes have been provided. For earnings considered to be indefinitely reinvested, deferred taxes have not been provided. Should we make a determination to remit the cash and cash equivalents from our foreign subsidiaries that are considered indefinitely reinvested to our U.S. consolidated group for the purpose of repatriation of undistributed earnings, we would need to accrue and pay taxes. As of December 31, 2018, our U.S. consolidated group had approximately $116.6 million of permanently reinvested unremitted earnings from certain foreign subsidiaries, and if these monies were ever needed to be remitted, the impact of any tax consequences on our overall liquidity position would not be material. As of December 31, 2018, Herbalife Nutrition Ltd. had approximately $2.3 billion of permanently reinvested unremitted earnings relating to its operating subsidiaries. As a result of our decision to invest in the China Growth and Impact Investment Fund, approximately $119.8 million of unremitted earnings were permanently reinvested as of December 31, 2018. As of December 31, 2018, we do not have any plans to repatriate these unremitted earnings to Herbalife Nutrition Ltd.; therefore, we do not have any liquidity concerns relating to these unremitted earnings and related cash and cash equivalents. See Note 12, *Income Taxes*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for additional discussion on our unremitted earnings.

Off-Balance Sheet Arrangements

As of December 31, 2018 and 2017, we had no material off-balance sheet arrangements as defined in Item 303(a)(4)(ii) of Regulation S-K.

Dividends

The declaration of future dividends is subject to the discretion of our board of directors and will depend upon various factors, including our earnings, financial condition, Herbalife Nutrition Ltd.'s available distributable reserves under Cayman Islands law, restrictions imposed by the 2018 Credit Facility and the terms of any other indebtedness that may be outstanding, cash requirements, future prospects, and other factors deemed relevant by our board of directors.

Share Repurchases

On October 30, 2018, our board of directors authorized a new five-year $1.5 billion share repurchase program that will expire on October 30, 2023, which replaced our prior share repurchase authorization that was set to expire on February 21, 2020 and had approximately $113.3 million of remaining authorized capacity when it was replaced. This share repurchase program allows us, which includes an indirect wholly-owned subsidiary of Herbalife Nutrition Ltd., to repurchase our common shares at such times and prices as determined by management, as market conditions warrant, and to the extent Herbalife Nutrition Ltd.'s distributable reserves are available under Cayman Islands law. The 2018 Credit Facility permits us to repurchase our common shares as long as no default or event of default exists and other conditions, such as specified consolidated leverage ratios, are met. As of December 31, 2018, the remaining authorized capacity under our $1.5 billion share repurchase program was $1.5 billion.

In conjunction with the issuance of the 2019 Convertible Notes during February 2014, we paid approximately $685.8 million to enter into prepaid forward share repurchase transactions, or the Forward Transactions, with certain financial institutions, or the Forward Counterparties, pursuant to which we purchased approximately 19.9 million common shares, at an average cost of $34.51 per share, for settlement on or around the August 15, 2019 maturity date for the 2019 Convertible Notes, subject to the ability of each Forward Counterparty to elect to settle all or a portion of its Forward Transactions early. The shares are treated as retired shares for basic and diluted EPS purposes. See Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a further discussion on the Forward Transactions.

During the year ended December 31, 2018, an indirect wholly-owned subsidiary of ours purchased 8,400 of Herbalife Nutrition Ltd.'s common shares through open-market purchases at an aggregate cost of approximately $0.3 million, or an average cost of $33.90 per share. During the year ended December 31, 2017, an indirect wholly-owned subsidiary of ours purchased approximately 10.0 million of Herbalife Nutrition Ltd.'s common shares through open-market purchases at an aggregate cost of approximately $328.6 million, or an average cost of $32.81 per share. These share repurchases increased our total shareholders' deficit and are reflected at cost within our accompanying consolidated balance sheets. Although these shares are owned by an indirect wholly-owned subsidiary of ours and remain legally outstanding, they are reflected as treasury shares under U.S. GAAP and therefore reduce the number of common shares outstanding within our consolidated financial statements and the weighted-average number of common shares outstanding used in calculating earnings per share. The common shares of Herbalife Nutrition Ltd. held by the indirect wholly-owned subsidiary, however, remain outstanding on the books and records of our transfer agent and therefore still carry voting and other share rights related to ownership of our common shares, which may be exercised. So long as it is consistent with applicable laws, such shares will be voted by such subsidiary in the same manner, and to the maximum extent possible in the same proportion, as all other votes cast with respect to any matter properly submitted to a vote of Herbalife Nutrition Ltd.'s shareholders. As of both December 31, 2018 and 2017, we held approximately 10.0 million of treasury shares for U.S. GAAP purposes. In May 2018, we completed our modified Dutch auction tender offer and then subsequently paid cash to repurchase and retire a total of approximately 11.4 million of our common shares at an aggregate cost of approximately $600.0 million, or $52.50 per share. In October 2017, we completed our modified Dutch auction tender offer and then subsequently paid cash to repurchase and retire a total of approximately 13.5 million of our common shares at an aggregate cost of approximately $457.8 million, or $34.00 per share. In total, we repurchased 11.4 million and 23.5 million of our common shares at an aggregate cost of approximately $600.3 million and $786.4 million, or an average cost of $52.49 and $33.49 per share, during the years ended December 31, 2018 and 2017, respectively. We did not repurchase any of our common shares in the open market during the year ended December 31, 2016. See Note 8,*Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a further discussion on our share repurchases.

In connection with our October 2017 modified Dutch auction tender offer, we incurred $1.6 million in transaction costs and also provided a CVR for each share tendered, allowing participants in the tender offer to receive a contingent cash payment in the event Herbalife is acquired in a going-private transaction (as defined in the CVR Agreement) within two years of the commencement of the tender offer. The initial fair value of the CVR was $7.3 million, which was recorded as a liability in the fourth quarter of 2017 with a corresponding increase to shareholders' deficit. In determining the initial fair value of the CVR, we used a lattice model, which included inputs such as the underlying stock price, strike price, time to expiration, and dividend yield. Subsequent changes in the fair value of the CVR liability, using a similar valuation approach as the initial fair value determination, are recognized within our consolidated balance sheets with corresponding gains or losses being recognized in other expense (income), net within our consolidated statements of income during each reporting period until the CVR expires in August 2019 or is terminated due to a going-private transaction, which is also incorporated in the valuation of the CVR; this going-private probability input is considered to be a Level 3 input in the fair value hierarchy and any increase or decrease in this input could have significantly impacted the fair value of the CVR as of the reporting date. Any subsequent increase or decrease in this input or other inputs described above in subsequent valuations could significantly impact the fair value of the CVR. We recognized an $8.8 million loss in other expense (income), net within our consolidated statement of income during the year ended December 31, 2018 due to the change in the fair value of the CVR, which was primarily driven by an increase in the market price of our common shares, partially offset by a decrease in the probability of a going-private transaction as a result of the shortening term of the CVR before it expires pursuant to its terms. We recognized a $0.4 million gain in other expense (income), net within our consolidated statement of income during the year ended December 31, 2017 due to the change in the fair value of the CVR. As of December 31, 2018 and 2017, the fair value of the CVR was $15.7 million and $6.9 million, respectively. See Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K, for a further discussion on the CVR.

Capped Call Transactions

In February 2014, in connection with the issuance of the 2019 Convertible Notes, we paid approximately $123.8 million to enter into capped call transactions with respect to our common shares, or the Capped Call Transactions, with certain financial institutions. The Capped Call Transactions are expected generally to reduce the potential dilution upon conversion of the 2019 Convertible Notes in the event that the market price of the common shares is greater than the strike price of the Capped Call Transactions, initially set at $43.14 per common share based on the retroactive adjustment due to our two-for-one stock split described in Note 2, *Basis of Presentation*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K, with such reduction of potential dilution subject to a cap based on the cap price initially set at $60.39 per common share based on the retroactive adjustment due to our two-for-one stock split described in Note 2, *Basis of Presentation*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K.

During March 2018, in connection with our repurchase of a portion of the 2019 Convertible Notes, we entered into partial settlement agreements with the option counterparties to the Capped Call Transactions to terminate a portion of the Capped Call Transactions, in each case, in a notional amount corresponding to the aggregate principal amount of the 2019 Convertible Notes that were repurchased.

See Note 8, *Shareholders' Deficit*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a further discussion of the Capped Call Transactions.

Working Capital and Operating Activities

As of December 31, 2018 and 2017, we had working capital of $216.2 million and $953.5 million, respectively, or a decrease of $737.3 million. This decrease was primarily due to a decrease in cash and cash equivalents; an increase in the current portion of long-term debt primarily relating to our 2019 Convertible Notes as described further in Note 4, *Long-Term Debt*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K; and an increase in other current liabilities.

We expect that cash and funds provided from operations, available borrowings under the 2018 Credit Facility, and access to capital markets will provide sufficient working capital to operate our business, to make expected capital expenditures, and to meet foreseeable liquidity requirements for the next twelve months and thereafter.

The majority of our purchases from suppliers are generally made in U.S. dollars, while sales to our Members generally are made in local currencies. Consequently, strengthening of the U.S. dollar versus a foreign currency can have a negative impact on net sales and contribution margins and can generate transaction gains or losses on intercompany transactions. For discussion of our foreign exchange contracts and other hedging arrangements, see Item 7A, *Quantitative and Qualitative Disclosures about Market Risk*.

Quarterly Results of Operations

	Quarter Ended							
	December 31, 2018	September 30, 2018	June 30, 2018	March 31, 2018	December 31, 2017	September 30, 2017	June 30, 2017	March 31, 2017
	(in millions, except per share amounts)							
Net sales	$ 1,186.6	$ 1,242.8	$ 1,285.5	$ 1,176.9	$ 1,093.3	$ 1,085.4	$ 1,146.9	$ 1,102.1
Cost of sales	225.9	218.1	235.4	239.9	209.8	215.4	218.8	204.6
Gross profit	960.7	1,024.7	1,050.1	937.0	883.5	870.0	928.1	897.5
Royalty overrides	332.9	344.0	349.8	337.3	310.1	310.1	318.9	315.1
Selling, general, and administrative expenses	485.5	499.4	510.2	460.1	431.6	445.2	443.2	438.6
Other operating income	(5.9)	(6.0)	(1.7)	(16.2)	(7.3)	(4.6)	(38.9)	—
Operating income	148.2	187.3	191.8	155.8	149.1	119.3	204.9	143.8
Interest expense, net	37.5	39.9	44.3	39.9	39.8	38.4	37.9	30.2
Other (income) expense, net	(2.7)	30.9	4.7	24.4	(0.4)	—	—	—
Income before income taxes	113.4	116.5	142.8	91.5	109.7	80.9	167.0	113.6
Income taxes(1)	64.5	45.3	48.4	9.4	173.1	26.4	29.4	28.4
Net income (loss)	$ 48.9	$ 71.2	$ 94.4	$ 82.1	$ (63.4)	$ 54.5	$ 137.6	$ 85.2
Earnings (loss) per share:								
Basic	$ 0.36	$ 0.52	$ 0.66	$ 0.57	$ (0.43)	$ 0.34	$ 0.84	$ 0.51
Diluted	$ 0.34	$ 0.49	$ 0.62	$ 0.54	$ (0.43)	$ 0.33	$ 0.81	$ 0.49
Weighted-average shares outstanding:								
Basic	137.0	136.2	142.3	145.3	145.8	159.1	162.9	166.3
Diluted	145.0	145.6	151.9	152.7	145.8	165.9	170.6	173.3

(1) The fourth quarters of both 2018 and 2017 include the impact of U.S. Tax Reform enacted during the fourth quarter of 2017, as described further in Note 12, *Income Taxes*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K.

Contingencies

See Note 7, *Contingencies*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for information on our contingencies as of December 31, 2018.

Subsequent Events

See Note 15, *Subsequent Events*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for information regarding subsequent events.

Critical Accounting Policies

U.S. GAAP requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the year. We regularly evaluate our estimates and assumptions related to revenue recognition, allowance for product returns, inventory, goodwill and purchased intangible asset valuations, deferred income tax asset valuation allowances, uncertain tax positions, tax contingencies, and other loss contingencies. We base our estimates and assumptions on current facts, historical experience and various other factors that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities and the recording of revenue, costs and expenses. Actual results could differ from those estimates. We consider the following policies to be most critical in understanding the judgments that are involved in preparing the financial statements and the uncertainties that could impact our operating results, financial condition and cash flows.

We are a nutrition company that sells a wide range of weight management, targeted nutrition, energy, sports, and fitness, and outer nutrition products. Our products are manufactured by us in our Changsha, Hunan, China extraction facility, Suzhou, China facility, Nanjing, China facility, Lake Forest, California facility, and in our Winston-Salem, North Carolina facility, and by third party providers, and then are sold to Members who consume and sell Herbalife products to retail consumers or other Members. As of December 31, 2018, we sold products in 94 countries throughout the world and we are organized and managed by geographic region. We aggregate our operating segments into one reporting segment, except China, as management believes that our operating segments have similar operating characteristics and similar long term operating performance. In making this determination, management believes that the operating segments are similar in the nature of the products sold, the product acquisition process, the types of customers to whom products are sold, the methods used to distribute the products, the nature of the regulatory environment, and their economic characteristics.

We generally recognize revenue upon delivery when control passes to the Member. Product sales are recognized net of product returns, and discounts referred to as "distributor allowances." We generally receive the net sales price in cash or through credit card payments at the point of sale. Royalty overrides are generally recorded when revenue is recognized. See Note 2, *Basis of Presentation*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a further discussion of our adoption of the Financial Accounting Standards Board, or FASB, Accounting Standards Codification, or ASC, Topic 606, *Revenue Recognition from Contracts with Customers*, with initial application of January 1, 2018 and distributor compensation in the U.S.

Allowances for product returns, primarily in connection with our buyback program, are provided at the time the sale is recorded. This accrual is based upon historical return rates for each country and the relevant return pattern, which reflects anticipated returns to be received over a period of up to 12 months following the original sale. Historically, product returns and buybacks have not been significant. Product returns and buybacks were approximately 0.1% of product sales for each of the years ended December 31, 2018, 2017, and 2016.

We adjust our inventories to lower of cost and net realizable value. Additionally we adjust the carrying value of our inventory based on assumptions regarding future demand for our products and market conditions. If future demand and market conditions are less favorable than management's assumptions, additional inventory write-downs could be required. Likewise, favorable future demand and market conditions could positively impact future operating results if previously written down inventories are sold. We have obsolete and slow moving inventories which have been adjusted downward $29.8 million and $30.8 million to present them at their lower of cost and net realizable value, in our consolidated balance sheets as of December 31, 2018 and 2017, respectively.

Goodwill and marketing-related intangible assets not subject to amortization are tested annually for impairment, and are tested for impairment more frequently if events and circumstances indicate that the asset might be impaired. An impairment loss is recognized to the extent that the carrying amount exceeds the asset's fair value.

As part of the annual goodwill impairment test, which is performed at the reporting unit level, we may conduct an assessment of qualitative factors to determine whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. In a qualitative assessment, we would consider the macroeconomic conditions, including any deterioration of general conditions and industry and market conditions, including any deterioration in the environment where the reporting unit operates, increased competition, changes in the products/services and regulatory and political developments, cost of doing business, overall financial performance, including any declining cash flows and performance in relation to planned revenues and earnings in past periods, other relevant reporting unit specific facts, such as changes in management or key personnel or pending litigation, and events affecting the reporting unit, including changes in the carrying value of net assets. If we determine that it is more likely than not that the fair value of the reporting unit is less than its carrying value, then we would perform the two-step goodwill impairment test as required. If we determine that it is not more likely than not that the fair value of the reporting unit is less than the carrying value, then no further testing is required. During fiscal year 2018, we performed a qualitative assessment and determined that it is not more likely than not that the fair value of each reporting unit is less than its respective carrying value.

For our marketing-related intangible assets, we may also utilize a qualitative assessment similar to the one described above, with the exception that the test is performed at the consolidated level rather than at the reporting unit level. During fiscal year 2018, we performed a qualitative assessment of our marketing-related intangible assets and determined that it is not more likely than not that the fair value of the assets is less than their carrying value.

If we are required to determine the fair value of each reporting unit using the two-step process, we primarily use an income approach in order to estimate the fair value of goodwill. First, we determine the fair value of a reporting unit and compare it to its carrying amount. The determination of the fair value of the reporting units requires us to make significant estimates and assumptions. These estimates and assumptions include estimates of future revenues and expense growth rates, capital expenditures and the depreciation and amortization related to these capital expenditures, discount rates, and other inputs. Due to the inherent uncertainty involved in making these estimates, actual future results could differ. Changes in assumptions regarding future results or other underlying assumptions could have a significant impact on the fair value of the reporting unit. Second, if the carrying amount of a reporting unit exceeds its fair value, an impairment loss is recognized for any excess of the carrying amount of the reporting unit's goodwill and other intangibles over the implied fair value as determined in Step 2 of the goodwill impairment test. Also, if during Step 1 of a goodwill impairment test we determine we have reporting units with zero or negative carrying amounts, then we perform Step 2 of the goodwill impairment test if it is more likely than not that a goodwill impairment exists. During Step 2 of a goodwill impairment test, the implied fair value of goodwill is determined in a similar manner as how the amount of goodwill recognized in a business combination is determined, in accordance with Financial Accounting Standards Board, or FASB, Accounting Standards Codification, or ASC, Topic 805, *Business Combinations*. We would assign the fair value of a reporting unit to all of the assets and liabilities of that reporting unit as if the reporting unit had been acquired in a business combination and the fair value of the reporting unit was the price paid to acquire the reporting unit. The excess of the fair value of a reporting unit over the amounts assigned to its assets and liabilities is the implied fair value of goodwill.

If we are required to determine the fair value of our marketing-related intangible assets using the quantitative method, we use a discounted cash flow model, or the income approach, under the relief-from-royalty method to determine the fair value of our marketing related intangible assets in order to confirm there is no impairment required.

As of December 31, 2018 and 2017, we had goodwill of approximately $92.9 million and $96.9 million, respectively. As of both December 31, 2018 and 2017, we had marketing-related intangible assets of approximately $310.0 million. The decrease in goodwill during the year ended December 31, 2018 was due to foreign currency translation adjustments. No marketing-related intangibles or goodwill impairment was recorded during the year ended December 31, 2018 and 2017.

Contingencies are accounted for in accordance with FASB ASC Topic 450, *Contingencies,* or ASC 450. ASC 450 requires that we record an estimated loss from a loss contingency when information available prior to issuance of our financial statements indicates that it is probable that an asset has been impaired or a liability has been incurred at the date of the financial statements and the amount of the loss can be reasonably estimated. We also disclose material contingencies when we believe a loss is not probable but reasonably possible as required by ASC 450. Accounting for contingencies such as legal and non-income tax matters requires us to use judgment related to both the likelihood of a loss and the estimate of the amount or range of loss. Many of these legal and tax contingencies can take years to be resolved. Generally, as the time period increases over which the uncertainties are resolved, the likelihood of changes to the estimate of the ultimate outcome increases.

We evaluate the realizability of our deferred tax assets by assessing the valuation allowance and by adjusting the amount of such allowance, if necessary. Although realization is not assured, we believe it is more likely than not that the net carrying value will be realized. The amount of the carryforwards that is considered realizable, however, could change if estimates of future taxable income are adjusted. In the ordinary course of our business, there are many transactions and calculations where the tax law and ultimate tax determination is uncertain. As part of the process of preparing our consolidated financial statements, we are required to estimate our income taxes in each of the jurisdictions in which we operate prior to the completion and filing of tax returns for such periods. These estimates involve complex issues and require us to make judgments about the likely application of the tax law to our situation, as well as with respect to other matters, such as anticipating the positions that we will take on tax returns prior to us actually preparing the returns and the outcomes of disputes with tax authorities. The ultimate resolution of these issues may take extended periods of time due to examinations by tax authorities and statutes of limitations. In addition, changes in our business, including acquisitions, changes in our international corporate structure, changes in the geographic location of business functions or assets, changes in the geographic mix and amount of income, as well as changes in our agreements with tax authorities, valuation allowances, applicable accounting rules, applicable tax laws and regulations, rulings and interpretations thereof, developments in tax audit and other matters, and variations in the estimated and actual level of annual pre-tax income can affect the overall effective income tax rate.

We account for uncertain tax positions in accordance with FASB ASC Topic 740, *Income Taxes,* or ASC 740, which provides guidance on the determination of how tax benefits claimed or expected to be claimed on a tax return should be recorded in the financial statements. Under ASC 740, we must recognize the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the financial statements from such a position are measured based on the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate resolution.

On December 22, 2017, the U.S. enacted the 2017 Tax Cuts and Jobs Act, or U.S. Tax Reform, which contains several key tax provisions that affect us, including, but not limited to, a one-time mandatory transition tax on accumulated foreign earnings, changes in the sourcing and calculation of foreign income, and a reduction of the corporate income tax rate to 21% effective January 1, 2018. We are required to recognize the effect of the tax law changes in the period of enactment, such as determining the transition tax, remeasuring our U.S. deferred tax assets and liabilities as well as reassessing the net realizability of our deferred tax assets and liabilities. In December 2017, the SEC staff issued Staff Accounting Bulletin No. 118, *Income Tax Accounting Implications of the Tax Cuts and Jobs Act*, which allows us to record provisional amounts during a measurement period not to extend beyond one year of the enactment date. See Note 12, *Income Taxes*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a further discussion of the U.S. Tax Reform. We have made an accounting policy election to account for global intangible low-taxed income as a period cost if and when incurred.

We account for foreign currency transactions in accordance with FASB ASC Topic 830, *Foreign Currency Matters.* In a majority of the countries where we operate, the functional currency is the local currency. Our foreign subsidiaries' asset and liability accounts are translated for consolidated financial reporting purposes into U.S. dollar amounts at period-end exchange rates. Revenue and expense accounts are translated at the average rates during the year. Our foreign currency translation adjustments are included in accumulated other comprehensive loss on our accompanying consolidated balance sheets. Foreign currency transaction gains and losses and foreign currency remeasurements are generally included in selling, general, and administrative expenses in the accompanying consolidated statements of income.

New Accounting Pronouncements

See discussion under Note 2, *Basis of Presentation*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for information on new accounting pronouncements.

Item 7A. ***Quantitative and Qualitative Disclosures About Market Risk***

We are exposed to market risks, which arise during the normal course of business from changes in interest rates and foreign currency exchange rates. On a selected basis, we use derivative financial instruments to manage or hedge certain of these risks. All hedging transactions are authorized and executed pursuant to written guidelines and procedures.

We apply FASB ASC Topic 815, *Derivatives and Hedging,* or ASC 815, which established accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities. All derivatives, whether designated in hedging relationships or not, are required to be recorded on the balance sheet at fair value. If the derivative is designated as a fair-value hedge, the changes in the fair value of the derivative and the underlying hedged item are recognized concurrently in earnings. If the derivative is designated as a cash-flow hedge, changes in the fair value of the derivative are recorded in other comprehensive income (loss) and are recognized in the consolidated statements of income when the hedged item affects earnings. ASC 815 defines the requirements for designation and documentation of hedging relationships as well as ongoing effectiveness assessments in order to use hedge accounting. For a derivative that does not qualify as a hedge, changes in fair value are recognized concurrently in earnings.

A discussion of our primary market risk exposures and derivatives is presented below.

Foreign Exchange Risk

We transact business globally and are subject to risks associated with changes in foreign exchange rates. Our objective is to minimize the impact to earnings and cash flow associated with foreign exchange rate fluctuations. We enter into foreign exchange derivatives in the ordinary course of business primarily to reduce exposure to currency fluctuations attributable to intercompany transactions, translation of local currency earnings, inventory purchases subject to foreign currency exposure, and to partially mitigate the impact of foreign currency rate fluctuations. Due to volatility in foreign exchange markets, our current strategy, in general, is to hedge some of the significant exposures on a short-term basis. We will continue to monitor the foreign exchange markets and evaluate our hedging strategy accordingly. With the exception of our foreign currency forward contracts relating to forecasted inventory purchases and intercompany management fees discussed below, all of our foreign exchange contracts are designated as freestanding derivatives for which hedge accounting does not apply. The changes in the fair value of the derivatives not qualifying as cash flow hedges are included in selling, general, and administrative expenses in our consolidated statements of income.

The foreign currency forward contracts designated as freestanding derivatives are primarily used to hedge foreign currency-denominated intercompany transactions and to partially mitigate the impact of foreign currency fluctuations. The fair value of foreign exchange derivative contracts is based on third-party quotes. Our foreign currency derivative contracts are generally executed on a monthly basis.

We also purchase foreign currency forward contracts in order to hedge forecasted inventory transactions and intercompany management fees that are designated as cash-flow hedges and are subject to foreign currency exposures. We applied the hedge accounting rules as required by ASC 815 for these hedges. These contracts allow us to buy and sell certain currencies at specified contract rates. As of December 31, 2018 and 2017, the aggregate notional amounts of these contracts outstanding were approximately $43.8 million and $104.9 million, respectively. As of December 31, 2018, the outstanding contracts were expected to mature over the nexteleven months. Our derivative financial instruments are recorded on the consolidated balance sheets at fair value based on quoted market rates. For the forecasted inventory transactions, the forward contracts are used to hedge forecasted inventory transactions over specific months. Changes in the fair value of these forward contracts, excluding forward points, designated as cash-flow hedges are recorded as a component of accumulated other comprehensive loss within shareholders' deficit, and are recognized in cost of sales in the consolidated statements of income during the period which approximates the time the hedged inventory is sold. We also hedge forecasted intercompany management fees over specific months. Changes in the fair value of these forward contracts designated as cash flow hedges are recorded as a component of accumulated other comprehensive loss within shareholders' deficit, and are recognized in selling, general, and administrative expenses in the consolidated statements of income in the period when the hedged item and underlying transaction affects earnings. As of December 31, 2018, we recorded assets at fair value of $0.5 million and liabilities at fair value of $0.7 million relating to all outstanding foreign currency contracts designated as cash-flow hedges. As of December 31, 2017, we recorded assets at fair value of $2.9 million and liabilities at fair value of $4.0 million relating to all outstanding foreign currency contracts designated as cash-flow hedges. During the years ended December 31, 2018 and 2017, the ineffective portion relating to these hedges was immaterial and the hedges remained effective as of December 31, 2018 and 2017.

As of December 31, 2018 and 2017, the majority of our outstanding foreign currency forward contracts had maturity dates of less than twelve months with the majority of freestanding derivatives expiring within one month as of December 31, 2018 and 2017, respectively.

See Note 11, *Derivative Instruments and Hedging Activities*, to the Consolidated Financial Statements included in Part IV, Item 15 of this Annual Report on Form 10-K for a description of foreign currency forward contracts that were outstanding as of December 31, 2018 and 2017, which discussion is incorporated herein by reference.

The majority of our foreign subsidiaries designate their local currencies as their functional currencies. See*Liquidity and Capital Resources — Cash and Cash Equivalents* in Item 7, *Management's Discussion and Analysis of Financial Condition and Results of Operations*, for further discussion of our foreign subsidiary cash and cash equivalents.

Interest Rate Risk

As of December 31, 2018, the aggregate annual maturities of the 2018 Credit Facility were expected to be $20.0 million for 2019, $21.6 million for 2020, $26.3 million for 2021, $27.8 million for 2022, $188.7 million for 2023, and $710.6 million thereafter. As of December 31, 2018, the fair values of the 2018 Term Loan A and 2018 Term Loan B were approximately $240.7 million and $729.3 million, respectively, and the carrying values were $245.4 million and $738.2 million, respectively. As of December 31, 2017, the fair value of the 2017 Term Loan B was approximately $1,226.1 million and the carrying value was $1,190.2 million. There were no outstanding borrowings on the 2018 Revolving Credit Facility and 2017 Revolving Credit Facility as of December 31, 2018 and 2017, respectively. The 2018 Credit Facility bears variable interest rates, and as of December 31, 2018 and 2017, the weighted-average interest rate of the 2018 Credit Facility and 2017 Credit Facility was 6.80% and 6.79%, respectively. Since our 2018 Credit Facility is based on variable interest rates, and as we have not entered into any interest swap arrangements, if interest rates were to increase or decrease by 1% for the year, and our borrowing amounts stayed constant on our 2018 Credit Facility, our annual interest expense could increase or decrease by approximately $10.0 million.

As of December 31, 2018, the fair values of the liability component of the 2019 Convertible Notes and the 2024 Convertible Notes were approximately $662.1 million and $448.1 million, respectively, and the carrying values were $656.4 million and $416.0 million, respectively. As of December 31, 2017, the fair value of the liability component of the 2019 Convertible Notes was approximately $1,066.0 million and the carrying value was $1,070.0 million. The 2019 Convertible Notes pay interest at a fixed rate of 2.00% per annum payable semiannually in arrears on February 15 and August 15 of each year, beginning on August 15, 2014. The 2019 Convertible Notes mature on August 15, 2019, unless earlier repurchased or converted. We may not redeem the 2019 Convertible Notes prior to their stated maturity date. The 2024 Convertible Notes pay interest at a fixed rate of 2.625% per annum payable semiannually in arrears on March 15 and September 15 of each year, beginning on September 15, 2018. The 2024 Convertible Notes mature on March 15, 2024, unless redeemed, repurchased or converted in accordance with their terms prior to such date.

As of December 31, 2018, the fair value of the 2026 Notes was approximately $394.6 million and the carrying value was $394.8 million. The 2026 Notes pay interest at a fixed rate of 7.250% per annum payable semiannually in arrears on February 15 and August 15 of each year, beginning on February 15, 2019. The 2026 Notes mature on August 15, 2026, unless redeemed or repurchased in accordance with their terms prior to such date. The 2026 Notes are recorded at their carrying value and their fair value is used only for disclosure purposes, so an increase or decrease in interest rates would not have any impact to our consolidated financial statements; however, if interest rates were to increase or decrease by 1%, their fair value could decrease by approximately $22.0 million or increase by approximately $17.4 million.

Item 8. ***Financial Statements and Supplementary Data***

Our consolidated financial statements and notes thereto and the report of PricewaterhouseCoopers LLP, independent registered public accounting firm, are set forth in the Index to Financial Statements under Part IV, Item 15, *Exhibits and Financial Statement Schedules*, of this Annual Report on Form 10-K, and are incorporated herein by reference.

The supplementary financial information with respect to selected quarterly financial data is set forth under Item 7,*Management's Discussion and Analysis of Financial Condition and Results of Operations*, of this Annual Report on Form 10-K, and is incorporated herein by reference.

Item 9. ***Changes in and Disagreements With Accountants on Accounting and Financial Disclosure***

None.

Item 9A. ***Controls and Procedures***

Disclosure Controls and Procedures

The Company maintains disclosure controls and procedures as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act. Based on an evaluation of the Company's disclosure controls and procedures as of December 31, 2018 conducted by the Company's management, with the participation of the Chief Executive Officer and Chief Financial Officer, the Chief Executive Officer and Chief Financial Officer have concluded that the Company's disclosure controls and procedures were effective as of December 31, 2018.

Management's Report on Internal Control over Financial Reporting

The SEC, as directed by Section 404 of the Sarbanes-Oxley Act of 2002, adopted rules which require the Company to include in this Annual Report on Form 10-K, an assessment by management of the effectiveness of the Company's internal control over financial reporting as defined in Rule 13a-15(f) under the Exchange Act. In addition, the Company's independent auditors must attest to and report on the effectiveness of the Company's internal control over financial reporting.

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

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of the 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 and procedures may deteriorate.

The Company's management carried out an evaluation, under the supervision and with the participation of the Company's Chief Executive Officer and Chief Financial Officer, of the effectiveness of the Company's internal control over financial reporting as of December 31, 2018 based on the framework in Internal Control — Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Based upon this evaluation, under the framework in Internal Control — Integrated Framework, our management concluded that our internal control over financial reporting was effective as of December 31, 2018.

The effectiveness of the Company's internal control over financial reporting as of December 31, 2018 has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report incorporated by reference in Item 8 of this Annual Report on Form 10-K.

Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting as defined in Rule 13a-15(f) under the Exchange Act that occurred during the fourth quarter ended December 31, 2018 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. ***Other Information***

None.

PART III

Item 10. ***Directors, Executive Officers and Corporate Governance***

The information required under this Item is incorporated herein by reference to our definitive proxy statement to be filed with the SEC no later than 120 days after the close of our fiscal year ended December 31, 2018.

Item 11. ***Executive Compensation***

The information required under this Item is incorporated herein by reference to our definitive proxy statement to be filed with the SEC no later than 120 days after the close of our fiscal year ended December 31, 2018.

Item 12. ***Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters***

The information required under this Item is incorporated herein by reference to our definitive proxy statement to be filed with the SEC no later than 120 days after the close of our fiscal year ended December 31, 2018.

Item 13. ***Certain Relationships and Related Transactions, and Director Independence***

The information required under this Item is incorporated herein by reference to our definitive proxy statement to be filed with the SEC no later than 120 days after the close of our fiscal year ended December 31, 2018.

Item 14. ***Principal Accountant Fees and Services***

The information required under this Item is incorporated herein by reference to our definitive proxy statement to be filed with the SEC no later than 120 days after the close of our fiscal year ended December 31, 2018.

PART IV

Item 15. ***Exhibits, Financial Statement Schedules***

The following documents are filed as part of this Annual Report on Form 10-K, or incorporated herein by reference:

1. *Financial Statements.* The following financial statements of Herbalife Nutrition Ltd. are filed as part of this Annual Report on Form 10-K on the pages indicated:

2. *Financial Statement Schedules.* Schedules are omitted because the required information is inapplicable, not material, or the information is presented in the consolidated financial statements or related notes.

3. *Exhibits.* The exhibits listed in the Exhibit Index immediately below are filed as part of this Annual Report on Form 10-K, or are incorporated by reference herein.

EXHIBIT INDEX

Exhibit Number	Description	Reference
3.1	Form of Amended and Restated Memorandum and Articles of Association of Herbalife Nutrition Ltd.	*
4.1	Form of Share Certificate	(c)
4.2	Indenture between Herbalife Ltd. and Union Bank, N.A., as trustee, dated February 7, 2014, governing the 2.00% Convertible Senior Notes due 2019	*
4.3	Form of Global Note for 2.00% Convertible Senior Note due 2019 (included as Exhibit A to Exhibit 4.2 hereto)	*
4.4	Indenture between Herbalife Ltd. and MUFG Union Bank, N.A., as trustee, dated March 23, 2018, governing the 2.625% Convertible Senior Notes due 2024	(n)
4.5	Form of Global Note for 2.625% Convertible Senior Notes due 2024 (included as Exhibit A to Exhibit 4.4 hereto)	(n)
4.6	Indenture, dated as of August 16, 2018 among HLF Financing SaRL, LLC, Herbalife International, Inc., the guarantors party thereto and MUFG Union Bank, N.A., as trustee governing the 7.250% Senior Notes due 2026	(q)
4.7	Form of Global Note for 7.250% Senior Notes due 2026 (included as Exhibit A to Exhibit 4.6 hereto)	(q)
10.1#	Herbalife International of America, Inc.'s Senior Executive Deferred Compensation Plan, effective January 1, 1996, as amended	(a)
10.2#	Herbalife International of America, Inc.'s Management Deferred Compensation Plan, effective January 1, 1996, as amended	(a)
10.3#	Herbalife International Inc. 401K Profit Sharing Plan and Trust, as amended	(a)
10.4#	Notice to Distributors regarding Amendment to Agreements of Distributorship, dated as of July 18, 2002 between Herbalife International, Inc. and each Herbalife Distributor	(a)
10.5#	Side Letter Agreement dated as of April 3, 2003 by and among WH Holdings (Cayman Islands) Ltd., Michael O. Johnson and the Shareholders listed therein	(a)
10.6	Form of Indemnification Agreement between Herbalife Ltd. and the directors and certain officers of Herbalife Ltd.	(b)
10.7#	Amended and Restated Herbalife Ltd. 2005 Stock Incentive Plan	(e)
10.8#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Unit Award Agreement	(g)
10.9#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Appreciation Right Award Agreement	(g)
10.10#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Unit Award Agreement	(j)
10.11#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Stock Appreciation Right Award Agreement	(j)
10.12#	Herbalife Ltd. Employee Stock Purchase Plan	(o)
10.13#	Amendment to Herbalife International Inc. 401K Profit Sharing Plan and Trust	(d)
10.14#	Form of Independent Directors Stock Appreciation Right Award Agreement	(e)
10.15#	Herbalife Ltd. Amended and Restated Independent Directors Deferred Compensation and Stock Unit Plan	(e)
10.16#	Amended and Restated Non-Management Directors Compensation Plan	(f)
10.17#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Non-Employee Directors Stock Appreciation Right Award Agreement	(f)
10.18#	Severance Agreement by and between John DeSimone and Herbalife International of America, Inc., dated as of February 23, 2011	(g)
10.19#	Amended and Restated Severance Agreement, dated as of February 23, 2011, by and between Desmond Walsh and Herbalife International of America, Inc.	(g)
10.20#	Amendment to Amended and Restated Herbalife Ltd. 2005 Stock Incentive Plan	(g)
10.21	Form of Forward Share Repurchase Confirmation	*
10.22	Form of Base Capped Call Confirmation	*
10.23	Form of Additional Capped Call Confirmation	*
10.24#	Form of Herbalife Ltd. 2005 Stock Incentive Plan Performance Condition Stock Appreciation Right Award Agreement	*
10.25#	Amended and Restated Herbalife Ltd. 2014 Stock Incentive Plan	(g)
10.26#	Herbalife Ltd. Executive Incentive Plan	(g)
10.27	Stipulation to Entry of Order for Permanent Injunction and Monetary Judgment	(h)

Exhibit Number	Description	Reference
10.28	Second Amended and Restated Support Agreement, dated July 15, 2016, by and among Herbalife Ltd., Carl C. Icahn, Icahn Partners Master Fund LP, Icahn Offshore LP, Icahn Partners LP, Icahn Onshore LP, Beckton Corp., Hopper Investments LLC, Barberry Corp., High River Limited Partnership, Icahn Capital LP, IPH GP LLC, Icahn Enterprises Holdings LP, and Icahn Enterprises GP Inc.	(h)
10.29#	Amended and Restated Employment Agreement by and between Richard P. Goudis and Herbalife International of America, Inc., dated as of November 1, 2016	(i)
10.30#	Letter Agreement by and between Michael O. Johnson and Herbalife International of America, Inc., dated November 1, 2016	(i)
10.31#	Herbalife International of America, Inc. Executive Officer Severance Plan	(i)
10.32#	Credit Agreement, dated as of February 15, 2017, by and among HLF Financing S.à r.l., HLF Financing US, LLC, Herbalife Ltd., Herbalife International Luxembourg S.à R.L., Herbalife International, Inc., the several banks and other financial institutions or entities from time to time party thereto, Credit Suisse AG, Cayman Islands Branch, as Term Administrative Agent and Collateral Agent, and Coöperatieve Rabobank U.A., New York Branch, as an Issuing Bank and the Revolver Administrative Agent	(i)
10.33#	Stock Unit Award Agreement (Performance-Vesting) by and between Herbalife Ltd. and Richard P. Goudis dated as of June 6, 2017	(j)
10.34	Agreement by and among Herbalife Ltd. and Carl C. Icahn and his controlled affiliates, dated August 21, 2017	(k)
10.35	Contingent Value Rights Agreement by and between Herbalife Ltd. and Computershare Trust Company, N.A., as Administrative Agent, dated as of October 11, 2017	(l)
10.36#	Employment Agreement dated as of March 27, 2008 between Michael O. Johnson and Herbalife International of America, Inc.	(o)
10.37#	Form of Herbalife Ltd. 2014 Stock Incentive Plan Stock Unit Award Agreement	(m)
10.38#	Form of Herbalife Ltd. 2014 Stock Incentive Plan Stock Appreciation Right Award Agreement	(m)
10.39#	Form of Herbalife Ltd. 2014 Stock Incentive Plan Lead Director Stock Unit Award Agreement	(m)
10.40#	Form of Herbalife Ltd. 2014 Stock Incentive Plan Independent Directors Stock Unit Award Agreement	(m)
10.41#	Form of Herbalife Ltd. 2014 Stock Incentive Plan Performance Based Stock Appreciation Right Award Agreement	(m)
10.42#	Form of Herbalife Ltd. 2014 Stock Incentive Plan Restricted Cash Unit Award Agreement	(m)
10.43	First Amendment, effective as of March 16, 2018, to the Credit Agreement, dated as of February 15, 2017, by and among HLF Financing S.à r.l., HLF Financing US, LLC, Herbalife Ltd., Herbalife International Luxembourg S.à R.L., Herbalife International, Inc., the several banks and other financial institutions or entities from time to time party thereto, Credit Suisse AG, Cayman Islands Branch, as Term Administrative Agent and Collateral Agent, and Coöperatieve Rabobank U.A., New York Branch, as an Issuing Bank and the Revolver Administrative Agent	(o)
10.44	Form of Capped Call Partial Unwind Agreement	(o)
10.45	Amendment dated May 29, 2018 to the Letter Agreement by and between Michael O. Johnson and Herbalife International of America, Inc.	(p)
10.46	Credit Agreement, dated as of August 16, 2018, among HLF Financing SaRL, LLC., Herbalife Nutrition Ltd., Herbalife International Luxembourg S.à R.L., Herbalife International, Inc., the several banks and other financial institutions or entities from time to time party thereto as lenders, Jefferies Finance LLC, as administrative agent for the Term B Lenders and collateral agent, and Coöperatieve Rabobank U.A., New York Branch, as an Issuing Bank and as administrative agent for the Term A Lenders and the Revolving Credit Lenders	(q)
10.47#	Separation Agreement and General Release dated as of January 8, 2019, by and between Richard P. Goudis and Herbalife International of America, Inc.	*
21.1	Subsidiaries of the Registrant	*
23.1	Consent of PricewaterhouseCoopers LLP — Independent Registered Public Accounting Firm	*
31.1	Rule 13a-14(a) Certification of Chief Executive Officer	*
31.2	Rule 13a-14(a) Certification of Chief Financial Officer	*
32.1	Section 1350 Certification of Chief Executive Officer	*
32.2	Section 1350 Certification of Chief Financial Officer	*

Exhibit Number	Description	Reference
101.INS	XBRL Instance Document	*
101.SCH	XBRL Taxonomy Extension Schema Document	*
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document	*
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document	*
101.LAB	XBRL Taxonomy Extension Label Linkbase Document	*
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document	*

* Filed herewith.

\# Management contract or compensatory plan or arrangement.

(a) Previously filed on October 1, 2004 as an Exhibit to the Company's registration statement on Form S-1 (File No. 333-119485) and is incorporated herein by reference.

(b) Previously filed on December 2, 2004 as an Exhibit to Amendment No. 4 to the Company's registration statement on Form S-1 (File No. 333-119485) and is incorporated herein by reference.

(c) Previously filed on December 14, 2004 as an Exhibit to Amendment No. 5 to the Company's registration statement on Form S-1 (File No. 333-119485) and is incorporated herein by reference.

(d) Previously filed on July 28, 2014 as an Exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2014 and is incorporated herein by reference.

(e) Previously filed on May 5, 2015 as an Exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2015 and is incorporated herein by reference.

(f) Previously filed on August 5, 2015 as an Exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2015 and is incorporated herein by reference.

(g) Previously filed on May 5, 2016 as an Exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2016 and is incorporated herein by reference.

(h) Previously filed on July 15, 2016 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.

(i) Previously filed on February 23, 2017 as an Exhibit to the Company's Annual Report on Form 10-K for the year ended December 31, 2016 and is incorporated herein by reference.

(j) Previously filed on August 1, 2017 as an Exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2017 and is incorporated herein by reference.

(k) Previously filed on August 21, 2017 as an Exhibit to the Company's Tender Offer Statement on Schedule TO and is incorporated herein by reference.

(l) Previously filed on October 11, 2017 as an Exhibit to the Company's Amendment No. 6 to its Tender Offer Statement on Schedule TO and is incorporated herein by reference.

(m) Previously filed on February 22, 2018 as an Exhibit to the Company's Annual Report on Form 10-K for the year ended December 31, 2017 and is incorporated herein by reference.

(n) Previously filed on March 29, 2018 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.

(o) Previously filed on May 3, 2018 as an Exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2018 and is incorporated herein by reference.

(p) Previously filed on August 1, 2018 as an Exhibit to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2018 and is incorporated herein by reference.

(q) Previously filed on August 22, 2018 as an Exhibit to the Company's Current Report on Form 8-K and is incorporated herein by reference.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Shareholders of Herbalife Nutrition Ltd.

Opinions on the Financial Statements and Internal Control over Financial Reporting

We have audited the accompanying consolidated balance sheets of Herbalife Nutrition Ltd. and its subsidiaries (the "Company") as of December 31, 2018 and December 31, 2017, and the related consolidated statements of income, comprehensive income, changes in shareholders' (deficit) equity and cash flows for each of the three years in the period ended December 31, 2018, including the related notes (collectively referred to as the "consolidated financial statements"). We also have audited the Company's internal control over financial reporting as of December 31, 2018 based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2018 and December 31, 2017, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2018 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2018 based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the COSO.

Change in Accounting Principle

As discussed in Note 2 to the consolidated financial statements, the Company changed the manner in which it accounts for revenues from contracts with customers in 2018 and the manner in which it accounts for unrealized excess tax benefits in 2017.

Basis for Opinions

The Company's management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in Management's Report on Internal Control over Financial Reporting appearing under Item 9A. Our responsibility is to express opinions on the Company's consolidated financial statements and on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (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 audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements 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. 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 audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

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 (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) 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 (iii) 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/ PricewaterhouseCoopers LLP

Los Angeles, California
February 19, 2019

We have served as the Company's auditor since 2013.

HERBALIFE NUTRITION LTD. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS

	December 31, 2018	December 31, 2017
	(in millions, except share and par value amounts)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 1,198.9	$ 1,278.8
Receivables, net of allowance for doubtful accounts	70.5	93.3
Inventories	381.8	341.2
Prepaid expenses and other current assets	153.8	147.0
Total current assets	1,805.0	1,860.3
Property, plant, and equipment, at cost, net of accumulated depreciation and amortization	360.0	377.5
Marketing-related intangibles and other intangible assets, net	310.1	310.1
Goodwill	92.9	96.9
Other assets	221.8	250.3
Total assets	$ 2,789.8	$ 2,895.1
LIABILITIES AND SHAREHOLDERS' DEFICIT		
Current liabilities:		
Accounts payable	$ 81.1	$ 67.8
Royalty overrides	281.4	277.7
Current portion of long-term debt	678.9	102.4
Other current liabilities	547.4	458.9
Total current liabilities	1,588.8	906.8
Long-term debt, net of current portion	1,774.9	2,165.7
Other non-current liabilities	149.5	157.3
Total liabilities	3,513.2	3,229.8
Commitments and contingencies		
Shareholders' deficit:		
Common shares, $0.0005 par value; 2.0 billion shares authorized; 142.8 million (2018) and 164.7 million (2017) shares outstanding	0.1	0.1
Paid-in capital in excess of par value	341.5	407.3
Accumulated other comprehensive loss	(209.8)	(165.4)
Accumulated deficit	(526.3)	(248.1)
Treasury stock, at cost, 10.0 million (2018) and 10.0 million (2017) shares	(328.9)	(328.6)
Total shareholders' deficit	(723.4)	(334.7)
Total liabilities and shareholders' deficit	$ 2,789.8	$ 2,895.1

See the accompanying notes to consolidated financial statements.

HERBALIFE NUTRITION LTD. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME

	Year Ended December 31,		
	2018	2017	2016
	(in millions, except per share amounts)		
Net sales	$ 4,891.8	$ 4,427.7	$ 4,488.4
Cost of sales	919.3	848.6	854.6
Gross profit	3,972.5	3,579.1	3,633.8
Royalty overrides	1,364.0	1,254.2	1,272.6
Selling, general, and administrative expenses	1,955.2	1,758.6	1,966.9
Other operating income	(29.8)	(50.8)	(63.8)
Operating income	683.1	617.1	458.1
Interest expense	181.0	160.8	99.3
Interest income	19.4	14.5	5.9
Other expense (income), net	57.3	(0.4)	—
Income before income taxes	464.2	471.2	364.7
Income taxes	167.6	257.3	104.7
Net income	$ 296.6	$ 213.9	$ 260.0
Earnings per share:			
Basic	$ 2.12	$ 1.35	$ 1.57
Diluted	$ 1.98	$ 1.29	$ 1.51
Weighted-average shares outstanding:			
Basic	140.2	158.5	166.1
Diluted	149.5	165.7	172.2

See the accompanying notes to consolidated financial statements.

HERBALIFE NUTRITION LTD. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Net income	$ 296.6	$ 213.9	$ 260.0
Other comprehensive (loss) income:			
Foreign currency translation adjustment, net of income taxes of $(2.7) (2018), $5.7 (2017), and $5.2 (2016)	(41.0)	44.9	(32.5)
Unrealized loss on derivatives, net of income taxes of $— (2018), $— (2017), and $(0.3) (2016)	(3.4)	(5.2)	(7.0)
Other, net of income taxes of $— (2018), $— (2017), and $0.1 (2016)	—	—	(0.1)
Total other comprehensive (loss) income	(44.4)	39.7	(39.6)
Total comprehensive income	$ 252.2	$ 253.6	$ 220.4

See the accompanying notes to consolidated financial statements.

HERBALIFE NUTRITION LTD. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' (DEFICIT) EQUITY

	Common Shares	Treasury Stock	Paid-in Capital in Excess of Par Value	Accumulated Other Comprehensive Loss	Accumulated Deficit	Total Shareholders' (Deficit) Equity
			(in millions)			
Balance as of December 31, 2015	$ 0.1	$ —	$ 438.2	$ (165.5)	$ (326.3)	$ (53.5)
Issuance of 1.2 common shares from exercise of stock options, SARs, restricted stock units, employee stock purchase plan, and other	—		2.0			2.0
Excess tax benefit from exercise of stock options, SARs and restricted stock grants			0.4			0.4
Additional capital from share-based compensation			40.2			40.2
Repurchases of 0.4 common shares	—		(13.2)			(13.2)
Net income					260.0	260.0
Foreign currency translation adjustment, net of income taxes of $5.2				(32.5)		(32.5)
Unrealized loss on derivatives, net of income taxes of $(0.3)				(7.0)		(7.0)
Other, net of income taxes of $0.1				(0.1)		(0.1)
Balance as of December 31, 2016	0.1	—	467.6	(205.1)	(66.3)	196.3
Issuance of 3.8 common shares from exercise of stock options, SARs, restricted stock units, employee stock purchase plan, and other	—		2.1			2.1
Additional capital from share-based compensation			42.1			42.1
Repurchases of 25.4 common shares	—	(328.6)	(101.7)		(425.4)	(855.7)
Net income					213.9	213.9
Foreign currency translation adjustment, net of income taxes of $5.7				44.9		44.9
Unrealized loss on derivatives, net of income taxes of $—				(5.2)		(5.2)
Cumulative effect of accounting change and other, net of income taxes of $—			(2.8)	—	29.7	26.9
Balance as of December 31, 2017	0.1	(328.6)	407.3	(165.4)	(248.1)	(334.7)
Issuance of 6.3 common shares from exercise of stock options, SARs, restricted stock units, employee stock purchase plan, and other	—		2.5			2.5
Additional capital from share-based compensation			35.5			35.5
Repurchases of 14.3 common shares	—	(0.3)	(173.4)		(572.4)	(746.1)
Forward Counterparties' delivery of 13.9 common shares to the Company	—		—			—
Issuance of convertible senior notes			136.7			136.7
Repurchase of convertible senior notes			(123.0)			(123.0)
Unwind of capped call transactions			55.9			55.9
Net income					296.6	296.6
Foreign currency translation adjustment, net of income taxes of $(2.7)				(41.0)		(41.0)
Unrealized loss on derivatives, net of income taxes of $—				(3.4)		(3.4)
Cumulative effect of accounting change					(2.4)	(2.4)
Balance as of December 31, 2018	$ 0.1	$ (328.9)	$ 341.5	$ (209.8)	$ (526.3)	$ (723.4)

See the accompanying notes to consolidated financial statements.

HERBALIFE NUTRITION LTD. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS

	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Cash flows from operating activities:			
Net income	$ 296.6	$ 213.9	$ 260.0
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	100.4	99.8	98.3
Share-based compensation expenses	35.5	42.1	40.2
Non-cash interest expense	63.8	60.2	55.7
Deferred income taxes	(8.1)	97.8	(36.4)
Inventory write-downs	17.4	20.7	15.8
Foreign exchange transaction loss	8.0	2.4	3.7
Loss on extinguishment of debt	48.5	—	—
Other	7.1	1.9	(11.7)
Changes in operating assets and liabilities:			
Receivables	2.8	(22.2)	—
Inventories	(83.3)	37.9	(71.6)
Prepaid expenses and other current assets	(5.1)	38.3	0.8
Accounts payable	21.7	(5.0)	(1.3)
Royalty overrides	22.8	6.0	20.9
Other current liabilities	106.8	(17.1)	12.4
Other	13.5	14.1	(19.5)
Net cash provided by operating activities	648.4	590.8	367.3
Cash flows from investing activities:			
Purchases of property, plant, and equipment	(84.0)	(95.5)	(143.4)
Other	0.1	0.3	1.0
Net cash used in investing activities	(83.9)	(95.2)	(142.4)
Cash flows from financing activities:			
Borrowings from senior secured credit facility, net of discount	998.1	1,274.0	200.0
Principal payments on senior secured credit facility and other debt	(1,237.4)	(494.5)	(438.8)
Proceeds from convertible senior notes	550.0	—	—
Repurchase of convertible senior notes	(582.5)	—	—
Proceeds from senior notes	400.0	—	—
Debt issuance costs	(29.9)	(22.6)	—
Share repurchases	(750.3)	(844.2)	(13.2)
Proceeds from settlement of capped call transactions	55.9	—	—
Other	3.0	2.1	(0.3)
Net cash used in financing activities	(593.1)	(85.2)	(252.3)
Effect of exchange rate changes on cash, cash equivalents, and restricted cash	(51.9)	28.2	(20.1)
Net change in cash, cash equivalents, and restricted cash	(80.5)	438.6	(47.5)
Cash, cash equivalents, and restricted cash, beginning of period	1,295.5	856.9	904.4
Cash, cash equivalents, and restricted cash, end of period	$ 1,215.0	$ 1,295.5	$ 856.9
Cash paid during the year:			
Interest paid	$ 106.1	$ 100.7	$ 45.4
Income taxes paid	$ 158.9	$ 158.8	$ 162.9

See the accompanying notes to consolidated financial statements.

1. Organization

Herbalife Nutrition Ltd. (formerly Herbalife Ltd.), a Cayman Islands exempted company with limited liability, was incorporated on April 4, 2002. Herbalife Nutrition Ltd. (and together with its subsidiaries, the "Company" or "Herbalife") is a global nutrition company that sells weight management; targeted nutrition; energy, sports, and fitness; and outer nutrition products to and through a network of independent members, or Members. In China, the Company sells its products to and through Independent Service Providers, sales representatives, and sales officers to customers and preferred customers, as well as through Company-operated retail platforms when necessary. The Company sells its products in six geographic regions: North America; Mexico; South and Central America; EMEA, which consists of Europe, the Middle East, and Africa; Asia Pacific (excluding China); and China.

2. Basis of Presentation

The Company's consolidated financial statements refer to Herbalife Nutrition Ltd. and its subsidiaries.

On April 24, 2018, the Company's shareholders approved a two-for-one stock split of the Company's common shares. On May 14, 2018, shareholders of record received one additional share for each share held as of May 7, 2018. All share and per share amounts herein have been restated to reflect the stock split.

Recently Adopted Pronouncements

In May 2014, the Financial Accounting Standards Board, or FASB, issued Accounting Standards Update, or ASU, No. 2014-09, *Revenue from Contracts with Customers (Topic 606)*. The new revenue recognition standard provides a five-step analysis of contracts to determine when and how revenue is recognized. The core principle is that an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. In August 2015, the FASB deferred the effective date of ASU No. 2014-09 for all entities by one year to annual reporting periods beginning after December 15, 2017. The FASB has issued several updates subsequently, including implementation guidance on principal versus agent considerations, on how an entity should account for licensing arrangements with customers, and to improve guidance on assessing collectability, presentation of sales taxes, noncash consideration, and contract modifications and completed contracts at transition. The amendments in this series of updates shall be applied either retrospectively to each period presented or as a cumulative-effect adjustment as of the date of adoption. The Company adopted FASB Accounting Standards Codification, or ASC, Topic 606, *Revenue from Contracts with Customers*, or ASC 606, with a date of initial application of January 1, 2018 using the modified retrospective method applied to all contracts existing as of January 1, 2018. Results for reporting periods beginning January 1, 2018 and thereafter are presented under ASC 606, while prior period amounts have not been adjusted and continue to be reported in accordance with FASB ASC Topic 605, *Revenue Recognition*, or ASC 605. The Company recorded a net reduction of $2.3 million to beginning retained earnings as of January 1, 2018 due to the cumulative impact of adopting ASC 606 resulting from revenue recognition timing differences related to the transfer of control of products sold through certain of the Company's third-party importers which are not material. The cumulative impact to opening balance sheet accounts was not material. Additionally, certain third-party importer fees have changed classification from a reduction to revenue to selling, general, and administrative expense under ASC 606. For more information on the transitional impact of adopting ASC 606, see the section entitled "Revenue Recognition" below.

In January 2016, the FASB issued ASU No. 2016-01, *Financial Instruments — Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities*. The updated guidance enhances the reporting model for financial instruments by modifying how entities measure and recognize equity investments and present changes in the fair value of financial liabilities, and by simplifying the disclosure guidance for financial instruments. The adoption of this guidance during the first quarter of 2018 did not have a material impact on the Company's consolidated financial statements.

In March 2016, the FASB issued ASU No. 2016-04, *Liabilities — Extinguishments of Liabilities (Subtopic 405-20): Recognition of Breakage for Certain Prepaid Stored-Value Products*. This ASU requires entities that sell prepaid stored-value products redeemable for goods, services or cash at third-party merchants to recognize breakage (i.e. the value that is ultimately not redeemed by the consumer) in a way that is consistent with how it will be recognized under the new revenue recognition standard. Under prior U.S. GAAP, there was diversity in practice in how entities accounted for breakage that resulted when a consumer did not redeem the entire product balance. This ASU clarifies that an entity's liability for prepaid stored-value products within its scope meets the definition of a financial liability. The adoption of this guidance during the first quarter of 2018 did not have a material impact on the Company's consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, *Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments.* This ASU provides clarification on eight specific cash flow issues regarding presentation and classification in the statement of cash flows with the objective of reducing the existing diversity in practice. The adoption of this guidance during the first quarter of 2018 did not have a material impact on the Company's consolidated financial statements.

In October 2016, the FASB issued ASU No. 2016-16, *Income Taxes (Topic 740): Intra-Entity Transfers of Assets Other Than Inventory.* This ASU requires that entities recognize the income tax consequences of an intra-entity transfer of an asset other than inventory when the transfer occurs. The amendments in this update do not change U.S. GAAP for the pre-tax effects of an intra-entity asset transfer under Topic 810, *Consolidation*, or for an intra-entity transfer of inventory. The adoption of this guidance during the first quarter of 2018 did not have a material impact on the Company's consolidated financial statements.

In November 2016, the FASB issued ASU No. 2016-18, *Statement of Cash Flows (Topic 230): Restricted Cash*. This ASU requires that restricted cash and restricted cash equivalents be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period amounts shown on the statements of cash flows. The adoption of this guidance during the first quarter of 2018 resulted in a change in the presentation of restricted cash and restricted cash equivalents in the Company's consolidated statements of cash flows for all periods presented. Other than this change, the adoption of this guidance did not have a material impact on the Company's consolidated financial statements.

In May 2017, the FASB issued ASU No. 2017-09, *Compensation — Stock Compensation (Topic 718): Scope of Modification Accounting.* This ASU provides additional guidance for when a company should apply modification accounting when there is a change in either the terms or conditions of a share-based payment award. Specifically, a company should not apply modification accounting if the fair value, vesting conditions, and classification of the award remains the same immediately before and after the modification. The adoption of this guidance during the first quarter of 2018 did not have a material impact on the Company's consolidated financial statements

New Accounting Pronouncements

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)* and subsequently issued additional updates to Topic 842. The updated guidance requires lessees to recognize a lease liability and a right-of-use asset, measured at the present value of the future minimum lease payments, at the lease commencement date. Recognition, measurement and presentation of expenses will depend on classification as a finance or operating lease. The amendments also require certain quantitative and qualitative disclosures. ASU 2016-02 is effective for all interim and annual reporting periods beginning after December 15, 2018, with early adoption permitted. As currently issued, the update requires entities to recognize and measure leases at the beginning of the earliest period presented using a modified retrospective approach or allows entities to initially apply the new lease standard at the adoption date and recognize a cumulative-effect adjustment to the opening balance of retained earnings in the period of adoption. The Company has performed a comprehensive review in order to determine what changes were required to support the adoption of this new standard. During the first quarter of 2019, the Company will complete its implementation of its processes and policies to support the new lease accounting and reporting requirements. The Company plans to adopt the new standard on the adoption date with an application date of January 1, 2019 and recognize a cumulative-effect adjustment to the opening balance of retained earnings, if any, in the period of adoption. Based on its lease portfolio as of January 1, 2019, the Company preliminarily estimates the impact of adopting ASU 2016-02 to increase both its total assets and total liabilities in the range of $150 million to $200 million. The Company does not anticipate the adoption of this guidance to have a material impact on its consolidated statements of income. The Company continues to finalize the implementation of new processes and the assessment of the impact of this adoption on its consolidated financial statements; therefore, the preliminary estimated impacts disclosed can change and the final impact will be known once the adoption is completed during the first quarter of 2019.

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instrument — Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments.* This ASU changes the impairment model for most financial assets, requiring the use of an expected loss model which requires entities to estimate the lifetime expected credit loss on financial assets measured at amortized cost. Such credit losses will be recorded as an allowance to offset the amortized cost of the financial asset, resulting in a net presentation of the amount expected to be collected on the financial asset. In addition, credit losses relating to available-for-sale debt securities will now be recorded through an allowance for credit losses rather than as a direct write-down to the security. The amendments in this update are effective for reporting periods beginning after December 15, 2019, with early adoption permitted for reporting periods beginning after December 15, 2018. The Company is evaluating the potential impact of this adoption on its consolidated financial statements.

In January 2017, the FASB issued ASU No. 2017-04, *Intangibles — Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment.* This ASU simplifies the test for goodwill impairment by removing Step 2 from the goodwill impairment test. Companies will now perform the goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount, recognizing an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value not to exceed the total amount of goodwill allocated to that reporting unit. An entity still has the option to perform the qualitative assessment for a reporting unit to determine if the quantitative impairment test is necessary. The amendments in this update are effective for goodwill impairment tests in fiscal years beginning after December 15, 2019, with early adoption permitted for goodwill impairment tests performed after January 1, 2017. The Company is evaluating the potential impact of this adoption on its consolidated financial statements.

In August 2017, the FASB issued ASU No. 2017-12, *Derivatives and Hedging: Targeted Improvements to Accounting for Hedging Activities.* This ASU improves the financial reporting of hedging relationships to better portray the economic results of an entity's risk management activities in its financial statements and makes certain targeted improvements to simplify the application of existing hedge accounting guidance. The amendments in this update are effective for reporting periods beginning after December 15, 2018, with early adoption permitted. The adoption of this guidance will not have a material impact on the Company's consolidated financial statements.

In February 2018, the FASB issued ASU No. 2018-02, *Income Statement — Reporting Comprehensive Income (Topic 220)*. This ASU allows a reclassification from accumulated other comprehensive income to retained earnings for tax effects of items within accumulated other comprehensive income, or stranded tax effects, resulting from the Tax Cuts and Jobs Act and requires certain disclosures about those stranded tax effects. The amendments in this update are effective for reporting periods beginning after December 15, 2018, with early adoption permitted. The adoption of this guidance will not have a material impact on the Company's consolidated financial statements and the Company will elect to not reclassify the income tax effects of the Tax Cuts and Jobs Act from accumulated other comprehensive income to retained earnings.

In June 2018, the FASB issued ASU No. 2018-07, *Compensation — Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting*. This ASU expands the scope of Topic 718 to include share-based payment transactions for acquiring goods and services from nonemployees. The amendments in this update are effective for reporting periods beginning after December 15, 2018, with early adoption permitted. The adoption of this guidance will not have a material impact on the Company's consolidated financial statements.

In August 2018, the FASB issued ASU No. 2018-13, *Fair Value Measurement (Topic 820): Disclosure Framework — Changes to the Disclosure Requirements for Fair Value Measurement*. This ASU modifies the disclosure requirements on fair value measurements in Topic 820 based on the consideration of costs and benefits to promote the appropriate exercise and discretion by entities when considering fair value measurement disclosures and to clarify that materiality is an appropriate consideration of entities and their auditors when evaluating disclosure requirements. The amendments in this update are effective for reporting periods beginning after December 15, 2019, with early adoption permitted. The Company is evaluating the potential impact of this adoption on its consolidated financial statements.

In August 2018, the FASB issued ASU No. 2018-14, *Compensation — Retirement Benefits — Defined Benefit Plans — General (Subtopic 715-20): Disclosure Framework — Changes to the Disclosure Requirements for Defined Benefit Plans*. This ASU removes disclosures that are no longer considered cost beneficial, clarifies the specific requirements of disclosures, and adds disclosure requirements identified as relevant. The amendments in this update are effective for reporting periods beginning after December 15, 2020, with early adoption permitted. The Company is evaluating the potential impact of this adoption on its consolidated financial statements.

In August 2018, the FASB issued ASU No. 2018-15, *Intangibles — Goodwill and Other — Internal-Use Software (Subtopic 350-40): Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*. This ASU clarifies the accounting for implementation costs of a hosting arrangement that is a service contract and aligns that accounting, regardless of whether the arrangement conveys a license to the hosted software. The amendments in this update are effective for reporting periods beginning after December 15, 2019, with early adoption permitted. The Company is evaluating the potential impact of this adoption on its consolidated financial statements.

Significant Accounting Policies

Consolidation Policy

The consolidated financial statements include the accounts of Herbalife Nutrition Ltd. and its subsidiaries. All significant intercompany transactions and accounts have been eliminated.

Foreign Currency Translation and Transactions

In the majority of the countries that the Company operates, the functional currency is the local currency. The Company's foreign subsidiaries' asset and liability accounts are translated for consolidated financial reporting purposes into U.S. dollar amounts at year-end exchange rates. Revenue and expense accounts are translated at the average rates during the year. Foreign exchange translation adjustments are included in accumulated other comprehensive loss on the accompanying consolidated balance sheets. Foreign currency transaction gains and losses, which include the cost of foreign currency derivative contracts and the related settlement gains and losses but excluding certain foreign currency derivatives designated as cash flow hedges as discussed in Note 11, *Derivative Instruments and Hedging Activities*, are included in selling, general, and administrative expenses within the accompanying consolidated statements of income. The Company recorded net foreign currency transaction losses of $17.3 million, $13.7 million, and $11.4 million, for the years ended December 31, 2018, 2017, and 2016, respectively.

Forward Exchange Contracts

The Company enters into foreign currency derivatives, primarily comprised of foreign currency forward contracts, in managing its foreign exchange risk on sales to Members, inventory purchases denominated in foreign currencies, and intercompany transactions and loans. The Company does not use the contracts for trading purposes.

In accordance with FASB ASC Topic 815, *Derivatives and Hedging*, or ASC 815, the Company designates certain of its derivative instruments as cash flow hedges and formally documents its hedge relationships, including identification of the hedging instruments and the hedged items, as well as its risk management objectives and strategies for undertaking the hedge transaction, at the time the derivative contract is executed. The Company assesses the effectiveness of the hedge both at inception and on an ongoing basis and determines whether the hedge is highly or perfectly effective in offsetting changes in cash flows of the hedged item. The Company records the effective portion of changes in the estimated fair value in accumulated other comprehensive loss and subsequently reclassifies the related amount of accumulated other comprehensive loss to earnings when the hedged item and underlying transaction impacts earnings. If it is determined that a derivative has ceased to be a highly effective hedge, the Company will discontinue hedge accounting for such transaction. For derivatives that are not designated as hedges, all changes in estimated fair value are recognized in the consolidated statements of income.

Cash and Cash Equivalents

The Company considers all highly liquid investments purchased with a maturity of three months or less to be cash equivalents. Cash and cash equivalents are comprised primarily of foreign and domestic bank accounts, and money market funds. These cash and cash equivalents are valued based on Level 1 inputs which consist of quoted prices in active markets. To reduce its credit risk, the Company monitors the credit standing of the financial institutions that hold the Company's cash and cash equivalents.

The Company has a cash pooling arrangement with a financial institution for cash management purposes. This cash pooling arrangement allows certain of the Company's participating subsidiaries to withdraw cash from this financial institution based upon the Company's aggregate cash deposits held by subsidiaries who participate in the cash pooling arrangement. To the extent any participating location on an individual basis is in an overdraft position, these overdrafts will be recorded as liabilities and reflected as financing activities in the Company's consolidated balance sheets and consolidated statement of cash flows, respectively. As of December 31, 2018 and 2017, the Company did not owe any amounts to this financial institution.

Accounts Receivable

Accounts receivable consist principally of receivables from credit card companies, arising from the sale of products to the Company's Members, and receivables from importers, who are utilized in a limited number of countries to sell products to Members. The Company believes the concentration of its collection risk related to its credit card receivables is diminished due to the geographic dispersion of its receivables. The receivables from credit card companies were $52.7 million and $68.1 million as of December 31, 2018 and 2017, respectively. Substantially all of the receivables from credit card companies were current as of December 31, 2018 and 2017. For the Company's receivables from its importers, the Company performs ongoing credit evaluations of its importers and maintains an allowance for potential credit losses. The Company considers customer credit-worthiness, past and current transaction history with the customer, contractual terms, current economic industry trends, and changes in customer payment terms when determining whether collectability is reasonably assured and whether to record allowances for its receivables. If the financial condition of the Company's customers deteriorates and adversely affects their ability to make payments, additional allowances will be recorded. The Company believes that it provides adequate allowances for receivables from its Members and importers which are not material to its consolidated financial statements. During the years ended December 31, 2018, 2017, and 2016, the Company recorded $1.2 million, $0.9 million, and $1.0 million, respectively, in bad-debt expense related to allowances for the Company's receivables. As of December 31, 2018 and 2017, the Company's allowance for doubtful accounts was $1.5 million and $1.2 million, respectively. As of December 31, 2018 and 2017, the majority of the Company's total outstanding accounts receivable were current.

Fair Value of Financial Instruments

The Company applies the provisions of FASB authoritative guidance as it applies to its financial and non-financial assets and liabilities. The FASB authoritative guidance clarifies the definition of fair value, prescribes methods for measuring fair value, establishes a fair value hierarchy based on the inputs used to measure fair value, and expands disclosures about fair value measurements.

The Company has estimated the fair value of its financial instruments using the following methods and assumptions:

- The carrying amounts of cash and cash equivalents, receivables and accounts payable approximate fair value due to the short-term maturities of these instruments;
- The fair value of option and forward contracts are based on dealer quotes;
- The Company's variable rate revolving credit facility is recorded at carrying value and is considered to approximate its fair value;
- The outstanding borrowings on the Company's term loan A under its senior secured credit facility are recorded at carrying value, and their fair value is determined by utilizing over-the-counter market quotes for similar instruments;
- The outstanding borrowings on the Company's term loan B under its senior secured credit facility are recorded at carrying value, and their fair value is determined by utilizing over-the-counter market quotes;
- The Company's convertible senior notes issued in February 2014, or the 2019 Convertible Notes, and convertible senior notes issued in March 2018, or the 2024 Convertible Notes, are recorded at carrying value, and their fair values are determined using two valuation methods as described further in Note 4, *Long-Term Debt*;
- The Company's senior notes issued in August 2018, or the 2026 Notes, are recorded at carrying value, and their fair value is determined by utilizing over-the-counter market quotes and yield curves; and
- The fair value of the non-transferable contractual contingent value right, or CVR, provided to participants in connection with the modified Dutch auction tender offer completed in October 2017 is based on a lattice model, which includes inputs such as the underlying stock price, strike price, time to expiration, and dividend yield, as well as the probability of a going-private transaction. See Note 8, *Shareholders' Deficit*, for a further description of the tender offer and the CVR.

Inventories

Inventories are stated at lower of cost (primarily on the first-in, first-out basis) and net realizable value.

Debt Issuance Costs

Debt issuance costs represent fees and expenses related to the borrowing of the Company's long-term debt and are amortized over the term of the related debt using the effective interest method. Debt issuance costs, except for the Company's revolving credit facility, are recorded as a reduction to debt (contra-liability) within the Company's consolidated balance sheets. Total amortization expense related to debt issuance costs were $7.3 million, $8.4 million, and $7.9 million for the years ended December 31, 2018, 2017, and 2016, respectively. As of December 31, 2018 and 2017, the Company's remaining unamortized debt issuance costs were $26.5 million and $26.2 million, respectively.

Long-Lived Assets

As of December 31, 2018 and 2017, the Company's net property, plant and, equipment consisted of the following:

	December 31,	
	2018	2017
	(in millions)	
Property, plant, and equipment, at cost:		
Land and buildings	$ 51.1	$ 51.0
Furniture and fixtures	26.1	26.7
Equipment	849.4	803.5
Building and leasehold improvements	198.5	199.0
Total property, plant, and equipment, at cost	1,125.1	1,080.2
Less: accumulated depreciation and amortization	(765.1)	(702.7)
Property, plant, and equipment, at cost, net of accumulated depreciation and amortization	$ 360.0	$ 377.5

In December 2012, the Company purchased an approximate 800,000 square foot facility in Winston-Salem, North Carolina, for approximately $22.2 million. The Company allocated $18.8 million and $3.4 million between buildings and land respectively, based on their relative fair values. In April 2016, the Company purchased one of its office buildings in Torrance, California, which it had previously leased, for approximately $29.6 million. The Company allocated $16.9 million and $11.6 million, which was net of the deferred rent liability of $1.1 million, between buildings and land, respectively, based on their relative fair values. As of December 31, 2018 and 2017, these amounts have been reflected in Property, plant and equipment within the Company's accompanying consolidated balance sheets.

Depreciation of furniture, fixtures, and equipment (including computer hardware and software) is computed on a straight-line basis over the estimated useful lives of the related assets, which range from three to ten years. The Company capitalizes eligible costs to acquire or develop internal-use software that are incurred subsequent to the preliminary project stage. Computer hardware and software, the majority of which is comprised of capitalized internal-use software costs, were $163.2 million and $157.3 million as of December 31, 2018 and 2017, respectively, net of accumulated depreciation. Leasehold improvements are amortized on a straight-line basis over the life of the related asset or the term of the lease, whichever is shorter. Buildings are depreciated over 40 years. Building improvements are generally depreciated over ten to fifteen years. Land is not depreciated. Depreciation and amortization expenses recorded to Selling, general, and administrative expenses totaled $80.8 million, $80.1 million, and $80.7 million, for the years ended December 31, 2018, 2017, and 2016, respectively.

Long-lived assets are reviewed for impairment based on undiscounted cash flows whenever events or changes in circumstances indicate that the carrying amount of such assets may not be recoverable. Measurement of an impairment loss is based on the estimated fair value of the asset.

Goodwill and marketing-related intangible assets with indefinite lives are evaluated on an annual basis for impairment or more frequently if events or changes in circumstances indicate that the asset might be impaired. For goodwill, the Company performed a qualitative assessment during the fourth quarter of 2018 and determined that it is not likely that the fair value of each reporting unit is less than its respective carrying value. If it is determined that it is more likely than not that the fair value of a reporting unit is less than its carrying amount or if a qualitative assessment is not performed, then the Company would perform the two-step goodwill impairment test as required, in which it would use a discounted cash flow approach to estimate the fair value of a reporting unit. If the fair value of the reporting unit is less than the carrying value, then the implied fair value of the goodwill must be determined. If the implied fair value of the goodwill is less than its carrying value, then a goodwill impairment amount is recorded for the difference. For the marketing-related intangible assets, the Company performed a qualitative assessment during the fourth quarter of 2018 and determined that it is not likely that the fair value of the assets is less than their carrying value. If it is determined that it is more likely than not that the fair value of the assets is less than their carrying amount or if a qualitative assessment is not performed, then the Company would perform the quantitative impairment test as required, in which it would use a discounted cash flow model under the relief-from-royalty method in order to determine the fair value. If the fair value is less than its carrying value, then an impairment amount is recorded for the difference. During the years ended December 31, 2018, 2017, and 2016, there were no additions to goodwill or marketing-related intangible assets or impairments of goodwill or marketing-related intangible assets. As of both December 31, 2018 and 2017, the marketing-related intangible asset balance was $310.0 million which consisted of the Company's trademark, trade name, and marketing franchise. As of December 31, 2018 and 2017, the goodwill balance was $92.9 million and $96.9 million, respectively. The decrease in goodwill during the year ended December 31, 2018 was due to cumulative translation adjustments.

Restricted Cash

The following table provides a reconciliation of cash, cash equivalents, and restricted cash reported within the Company's consolidated balance sheets that sum to the total of the same such amounts shown in the Company's consolidated statements of cash flows:

	December 31,	
	2018	**2017**
	(in millions)	
Cash and cash equivalents	$ 1,198.9	$ 1,278.8
Restricted cash included in Prepaid expenses and other current assets	3.3	4.0
Restricted cash included in Other assets	12.8	12.7
Total cash, cash equivalents, and restricted cash shown in the statement of cash flows	$ 1,215.0	$ 1,295.5

The majority of the Company's consolidated restricted cash is held by certain of its foreign entities and consists of cash deposits that are required due to the business operating requirements in those jurisdictions.

Income Taxes

Income tax expense includes income taxes payable for the current year and the change in deferred income tax assets and liabilities for the future tax consequences of events that have been recognized in the Company's financial statements or income tax returns. A valuation allowance is recognized to reduce the carrying value of deferred income tax assets if it is believed to be more likely than not that a component of the deferred income tax assets will not be realized.

The Company accounts for uncertainty in income taxes in accordance with FASB authoritative guidance which clarifies the accounting and reporting for uncertainties in income taxes recognized in an enterprise's financial statements. This guidance prescribes a comprehensive model for the financial statement recognition, measurement, presentation and disclosure of uncertain tax positions taken or expected to be taken in income tax returns.

On December 22, 2017, the U.S. enacted the 2017 Tax Cuts and Jobs Act which contained several key tax provisions that affected the Company, including, but not limited to, a one-time mandatory transition tax on accumulated foreign earnings, changes in the sourcing and calculation of foreign income, and a reduction of the corporate income tax rate to 21% effective January 1, 2018. The Company was required to recognize the effect of the tax law changes in the period of enactment, such as determining the transition tax, remeasuring its U.S. deferred tax assets and liabilities as well as reassessing the net realizability of its deferred tax assets and liabilities. In December 2017, the SEC staff issued Staff Accounting Bulletin No. 118, *Income Tax Accounting Implications of the Tax Cuts and Jobs Act*, which allowed the Company to record provisional amounts during a measurement period not to extend beyond one year of the enactment date. See Note 12, *Income Taxes*, for a further description on income taxes and the impact of the U.S. Tax Reform. The Company has made an accounting policy election to account for global intangible low-taxed income as a period cost if and when incurred.

Royalty Overrides

Certain Members may earn commissions, called royalty overrides which include production bonuses, based on retail sales volume. Royalty overrides are based on the retail sales volume of certain other Members who are sponsored directly or indirectly by the Member. Royalty overrides are recorded when the products are delivered and revenue is recognized. The royalty overrides are compensation to Members for services rendered including the development, retention and the improved productivity of their sales organizations. As such royalty overrides are classified as an operating expense. Non-U.S. royalty override checks that have aged, for a variety of reasons, beyond a certainty of being paid, are taken back into income. Management has estimated this period of certainty to be three years worldwide.

Distributor Compensation – U.S.

In the U.S., distributor compensation, including Royalty overrides, is capped if the Company does not meet an annual requirement as described in the consent order discussed in more detail in Note 7, *Contingencies*. On a periodic basis, the Company evaluates if this requirement will be achieved by year-end to determine if a cap on distributor compensation will be required, and then determines the appropriate amount of distributor compensation expense, which may vary in each reporting period. The Company determined that the cap to distributor compensation will not be applicable for the year ended December 31, 2018 as the annual requirement was met.

Comprehensive Income

Comprehensive income consists of net income, foreign currency translation adjustments, the effective portion of the unrealized gains or losses on derivatives, and unrealized gains or losses on available-for-sale investments. See Note 8, *Shareholders' Deficit*, for the description and detail of the components of accumulated other comprehensive loss.

Operating Leases

The Company leases most of its physical properties under operating leases. Certain lease agreements generally include rent holidays and tenant improvement allowances. The Company recognizes rent holiday periods on a straight-line basis over the lease term beginning when the Company has the right to the leased space. The Company also records tenant improvement allowances and rent holidays as deferred rent liabilities and amortizes the deferred rent over the terms of the lease to rent expense.

Research and Development

The Company's research and development is performed by in-house staff and outside consultants. For all periods presented, research and development costs were expensed as incurred and were not material.

Other Operating Income

To encourage local investment and operations, governments in various China provinces conduct grant programs. The Company applied for and received several such grants in China. Government grants are recorded into income when a legal right to the grant exists, there is a reasonable assurance that the grant proceeds will be received, and the substantive conditions under which the grants were provided have been met. Generally, these substantive conditions are the Company maintaining operations and paying certain taxes in the relevant province and obtaining government approval by completing an annual application process. The Company believes the continuing obligation with respect to the funds is a general requirement that they are used only for its business in China. The Company recognized government grant income of approximately $29.8 million, $50.8 million, and $34.2 million during the years ended December 31, 2018, 2017, and 2016, respectively, in other operating income within its consolidated statements of income, related to its regional headquarters and distribution centers within China. The Company intends to continue applying for government grants in China when programs are available; however, there is no assurance that the Company will receive grants in future periods.

On October 30, 2016, an arbitration tribunal awarded the Company approximately $29.7 million in connection with the re-audit of the Company's 2010 to 2012 financial statements after the resignation of KPMG as the Company's independent registered public accounting firm. This amount has been recognized in other operating income within the Company's consolidated statement of income for the year ended December 31, 2016.

Professional Fees

The Company expenses professional fees, including legal fees, as incurred. These professional fees are included in selling, general, and administrative expenses within the Company's consolidated statements of income.

Advertising

Advertising costs, including Company sponsorships, are expensed as incurred and amounted to approximately $41.1 million, $55.7 million, and $64.8 million for the years ended December 31, 2018, 2017, and 2016, respectively. These expenses are included in selling, general, and administrative expenses within the Company's consolidated statements of income.

Earnings Per Share

Basic earnings per share represents net income divided by the weighted-average number of common shares outstanding for the period. Diluted earnings per share represents net income divided by the weighted-average number of common shares outstanding, inclusive of the effect of dilutive securities, such as outstanding stock appreciation rights, or SARs, stock units, and convertible notes.

The following are the common share amounts used to compute the basic and diluted earnings per share for each period:

	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Weighted-average shares used in basic computations	140.2	158.5	166.1
Dilutive effect of exercise of equity grants outstanding	6.3	7.2	6.1
Dilutive effect of 2019 Convertible Notes	3.0	—	—
Weighted-average shares used in diluted computations	149.5	165.7	172.2

There were an aggregate of 1.4 million, 6.9 million, and 9.1 million of equity grants, consisting of SARs and stock units that were outstanding during the years ended December 31, 2018, 2017, and 2016, respectively, but were not included in the computation of diluted earnings per share because their effect would be anti-dilutive or the performance condition of the award had not been satisfied.

Since the Company will settle the principal amount of its 2019 Convertible Notes in cash and settle the conversion feature for the amount above the conversion price in common shares, or the conversion spread, the Company uses the treasury stock method for calculating any potential dilutive effect of the conversion spread on diluted earnings per share, if applicable. The conversion spread will have a dilutive impact on diluted earnings per share when the average market price of the Company's common shares for a given period exceeds the conversion price of the 2019 Convertible Notes. The dilutive impact for the year ended December 31, 2018 is disclosed in the table above. For the years ended December 31, 2017 and 2016, the 2019 Convertible Notes have been excluded from the computation of diluted earnings per share, as the effect would be anti-dilutive since the conversion price of the 2019 Convertible Notes exceeded the average market price of the Company's common shares for the years ended December 31, 2017 and 2016. The initial conversion rate and conversion price for the 2019 Convertible Notes are described further in Note 4, *Long-Term Debt.*

For the 2024 Convertible Notes, the Company has the intent and ability to settle the principal amount in cash and intends to settle the conversion feature for the amount above the conversion price, or the conversion spread, in common shares. The Company uses the treasury stock method for calculating any potential dilutive effect of the conversion spread on diluted earnings per share, if applicable. The conversion spread will have a dilutive impact on diluted earnings per share when the average market price of the Company's common shares for a given period exceeds the conversion price of the 2024 Convertible Notes. For the year ended December 31, 2018, the 2024 Convertible Notes have been excluded from the computation of diluted earnings per share, as the effect would be anti-dilutive since the conversion price of the 2024 Convertible Notes exceeded the average market price of the Company's common shares for the year ended December 31, 2018. The initial conversion rate and conversion price for the 2024 Convertible Notes are described further in Note 4, *Long-Term Debt.*

The capped call transactions executed in connection with the issuance of the 2019 Convertible Notes are excluded from the calculation of diluted earnings per share because their impact is always anti-dilutive. Additionally, the prepaid forward share repurchase transactions executed in connection with the issuance of the 2019 Convertible Notes are treated as retired shares for basic and diluted EPS purposes. See Note 8, *Shareholders' Deficit*, for additional discussion regarding the Capped Call Transactions and Forward Transactions.

See Note 8, *Shareholders' Deficit*, for a discussion of how common shares repurchased by the Company's indirect wholly-owned subsidiary are treated under U.S. GAAP.

Revenue Recognition

As a result of applying ASC 606, the impact to the Company's consolidated balance sheet as of December 31, 2018 was as follows:

	December 31, 2018		
	As reported	Impact due to ASC 606	Without adoption
		(in millions)	
Assets:			
Receivables, net of allowance for doubtful accounts	$ 70.5	$ 5.4	$ 75.9
Inventories	381.8	(1.0)	380.8
Total assets	2,789.8	4.4	2,794.2
Liabilities:			
Royalty overrides	281.4	2.5	283.9
Total liabilities	3,513.2	2.5	3,515.7
Shareholders' deficit:			
Accumulated deficit	(526.3)	1.9	(524.4)
Total shareholders' deficit	(723.4)	1.9	(721.5)
Total liabilities and shareholders' deficit	2,789.8	4.4	2,794.2

As a result of applying ASC 606, the impact to the Company's consolidated statement of income for the year ended December 31, 2018 was as follows:

	Year Ended December 31, 2018		
	As reported	Impact due to ASC 606	Without adoption
		(in millions)	
Net sales	$ 4,891.8	$ (25.1)	$ 4,866.7
Cost of sales	919.3	(0.4)	918.9
Gross profit	3,972.5	(24.7)	3,947.8
Royalty overrides	1,364.0	(1.0)	1,363.0
Selling, general, and administrative expenses	1,955.2	(23.2)	1,932.0
Other operating income	(29.8)	—	(29.8)
Operating income	683.1	(0.5)	682.6
Interest expense	181.0	—	181.0
Interest income	19.4	—	19.4
Other expense, net	57.3	—	57.3
Income before income taxes	464.2	(0.5)	463.7
Income taxes	167.6	(0.2)	167.4
Net income	$ 296.6	$ (0.3)	$ 296.3

As a result of applying ASC 606, the impact to the Company's consolidated statement of cash flows as of December 31, 2018 was not material.

The Company's net sales consist of product sales. In general, the Company's performance obligation is to transfer its products to its Members. The Company generally recognizes revenue when product is delivered to its Members. For China Independent Service Providers and for third-party importers utilized in certain other countries where sales historically have not been material, the Company recognizes revenue based on the Company's estimate of when the service provider or third-party importer sells the products because the Company is deemed to be the principal party of these product sales under ASC 606 due to the additional selling and operating requirements relating to pricing of products, conducting business with physical locations, and other selling and marketing activities required of the service providers and third-party importers; this timing difference relating to the Company recognizing revenues when these third-party entities sell the products compared to when the Company delivers the products to them did not have a material impact to the Company's consolidated net sales for the periods presented.

The Company's Members, excluding its China Independent Service Providers, may receive distributor allowances, which are comprised of discounts, rebates and wholesale commission payments from the Company. Distributor allowances resulting from the Company's sales of its products to its Members are recorded against net sales because the distributor allowances represent discounts from the suggested retail price.

The Company compensates its sales leader Members with royalty overrides for services rendered, relating to the development, retention, and management of their sales organizations. Royalty overrides are payable based on achieved sales volume. Royalty overrides are classified as an operating expense reflecting the services provided to the Company. The Company compensates its China Independent Service Providers and third-party importers utilized in certain other countries for providing marketing, selling, and customer support services. Under ASC 606, as the Company is the principal party of the product sales as described above, the service fees payable to China Independent Service Providers and the compensation received by third-party importers for the services they provide are recorded in selling, general, and administrative expenses within the Company's consolidated statements of income. For the periods presented under ASC 605, the service fees payable to its China Independent Service Providers were similarly recognized in selling, general, and administrative expenses within the Company's consolidated statements of income as they are under ASC 606. However, under ASC 605, the compensation received by third-party importers for the services they provide, which represents the discount provided to them, was recorded as a reduction to net sales, which differs from the treatment under ASC 606 as described above. This change in the accounting treatment under ASC 606 of the compensation for services provided by the Company's third-party importers did not impact the Company's consolidated net income and was not material to the Company's consolidated net sales for the periods presented.

The Company recognizes revenue when it delivers products to its United States Members; distributor allowances, inclusive of discounts and wholesale commissions, are recorded as a reduction to net sales; and royalty overrides are classified as an operating expense.

Shipping and handling services relating to product sales are recognized as fulfillment activities on the Company's performance obligation to transfer products and are therefore recorded within net sales as part of product sales and are not considered as separate revenues under ASC 606. Shipping and handling revenues related to product sales were $248.0 million, $227.4 million, and $244.2 million for the years ended December 31, 2018, 2017, and 2016, respectively, and represent less than 6% of the Company's consolidated net sales during each of those years. Shipping and handling costs paid by the Company are included in cost of sales.

The Company presents sales taxes collected from customers on a net basis.

The Company generally receives the net sales price in cash or through credit card payments at the point of sale.

The Company records advance sales deposits when payment is received but revenue has not yet been recognized. In the majority of the Company's markets, advance sales deposits are generally recorded to income when the product is delivered to its Members. Additionally, advance sales deposits also include deferred revenues due to the timing of revenue recognition for products sold through China Independent Service Providers. The estimated deferral period for advance sales deposits is generally within one week. During the year ended December 31, 2018, the Company recognized substantially all of the revenues that were included within advance sales deposits as of December 31, 2017 and any remaining such balance was not material as of December 31, 2018. Advance sales deposits are included in other current liabilities on the Company's consolidated balance sheets. See Note 14, *Detail of Certain Balance Sheet Accounts*, for further information.

In general, if a Member returns product to the Company on a timely basis, they may obtain replacement product from the Company for such returned products. In addition, in general the Company maintains a buyback program pursuant to which it will repurchase products sold to a Member who has decided to leave the business. Allowances for product returns, primarily in connection with the Company's buyback program, are provided at the time the sale is recorded. This accrual is based upon historical return rates for each country and the relevant return pattern, which reflects anticipated returns to be received over a period of up to 12 months following the original sale. Allowances for product returns were $4.9 million and $3.9 million as of December 31, 2018 and 2017, respectively.

The Company's products are grouped in five principal categories: weight management; targeted nutrition; energy, sports, and fitness; outer nutrition; and literature and promotional items. However, the effect of economic factors on the nature, amount, timing, and uncertainty of revenue recognition and cash flows are similar among all five product categories. The Company defines its operating segments through six geographic regions. The effect of economic factors on the nature, amount, timing, and uncertainty of revenue recognition and cash flows are similar among the regions with the Company's Primary Reporting Segment. See Note 10, *Segment Information*, for further information on the Company's reportable segments and the Company's presentation of disaggregated revenue by reportable segment.

Non-Cash Investing and Financing Activities

During the years ended December 31, 2018, 2017, and 2016, the Company recorded $10.2 million, $10.1 million, and $12.7 million, respectively, of non-cash capital expenditures.

During the year ended December 31, 2018, the Company did not record any non-cash borrowings that were used to finance software maintenance. During the years ended December 31, 2017 and 2016, the Company recorded $2.3 million and $20.8 million, respectively, of non-cash borrowings that were used to finance software maintenance. Additionally, see Note 8, *Shareholders' Deficit*, for information on the Company's non-cash financing activities related to the CVR provided to the participants of the October 2017 modified Dutch auction tender offer, as well as share repurchases for which payment was made subsequent to year end.

Share-Based Payments

The Company accounts for share-based compensation in accordance with FASB authoritative guidance which requires the measurement of share-based compensation expense for all share-based payment awards made to employees. The Company measures share-based compensation cost at the grant date, based on the fair value of the award. The Company recognizes share-based compensation expense for service condition awards on a straight-line basis over the employee's requisite service period. The Company recognizes share-based compensation expense for performance condition awards over the vesting term using the graded vesting method.

Use of Estimates

The preparation of financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions. Such estimates and assumptions affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The Company evaluates its estimates and assumptions on an ongoing basis using historical experience and other factors, including the current economic environment, which the Company believes to be reasonable under the circumstances. The Company adjusts such estimates and assumptions when facts and circumstances dictate. Illiquid credit markets, volatile equity, and foreign currency have combined to increase the uncertainty inherent in such estimates and assumptions. As future events and their effects cannot be determined with precision, actual results could differ from these estimates. Changes in estimates resulting from continuing changes in the economic environment will be reflected in the financial statements in future periods.

3. Inventories

The following are the major classes of inventory:

	December 31,	
	2018	**2017**
	(in millions)	
Raw materials	$ 51.9	$ 44.2
Work in process	7.1	4.8
Finished goods	322.8	292.2
Total	$ 381.8	$ 341.2

4. Long-Term Debt

Long-term debt consists of the following:

	December 31,	
	2018	2017
	(in millions)	
Borrowings under 2017 senior secured credit facility, carrying value	$ —	$ 1,190.2
Borrowings under 2018 senior secured credit facility, carrying value	983.6	—
2.00% convertible senior notes due 2019, carrying value of liability component	656.4	1,070.0
2.625% convertible senior notes due 2024, carrying value of liability component	416.0	—
7.250% senior notes due 2026, carrying value	394.8	—
Other	3.0	7.9
Total	2,453.8	2,268.1
Less: current portion	678.9	102.4
Long-term portion	$ 1,774.9	$ 2,165.7

Senior Secured Credit Facility

On March 9, 2011, the Company entered into a senior secured credit facility, or the 2011 Credit Facility, which initially consisted of a $700.0 million revolving credit facility, or the 2011 Revolving Credit Facility, with a syndicate of financial institutions as lenders. The 2011 Credit Facility was subsequently amended on July 26, 2012 to include a $500.0 million term loan, or the 2011 Term Loan, with a syndicate of financial institutions as lenders. On May 4, 2015, the Company amended the 2011 Credit Facility to extend the maturity date of the 2011 Revolving Credit Facility by one year to March 9, 2017. The 2011 Term Loan matured on March 9, 2016 and the $229.7 million outstanding was repaid in full. Prior to its termination, the 2011 Term Loan most recently bore interest at either LIBOR plus the applicable margin between 2.00% and 3.00% or the base rate plus the applicable margin between 1.00% and 2.00%, based on the Company's consolidated leverage ratio. The Company terminated the 2011 Revolving Credit Facility on February 15, 2017 and the $410.0 million outstanding was repaid in full. Prior to its termination, the 2011 Revolving Credit Facility most recently bore interest at either LIBOR plus the applicable margin between 4.00% and 5.00% or the base rate plus the applicable margin between 3.00% and 4.00%, based on the Company's consolidated leverage ratio.

On February 15, 2017, the Company entered into a $1,450.0 million senior secured credit facility, or the 2017 Credit Facility, consisting of a $1,300.0 million term loan B, or the 2017 Term Loan B, and a $150.0 million revolving credit facility, or the 2017 Revolving Credit Facility, with a syndicate of financial institutions as lenders. The 2017 Revolving Credit Facility was to mature on February 15, 2022 and the 2017 Term Loan B was to mature on February 15, 2023. The 2017 Credit Facility was amended, effective March 16, 2018, to make certain technical amendments in connection with the offering of the 2024 Convertible Notes, as defined below. The Company terminated the 2017 Credit Facility on August 16, 2018 and the $1,178.1 million outstanding was repaid in full. Prior to its termination, the 2017 Term Loan B most recently bore interest at either the eurocurrency rate plus a margin of 5.50% or the base rate plus a margin of 4.50%, and the 2017 Revolving Credit Facility most recently bore interest at either the eurocurrency rate plus a margin of either 4.50% or 4.75% or the base rate plus a margin of either 3.50% or 3.75%, based on the Company's consolidated leverage ratio. The eurocurrency rate was based on adjusted LIBOR and was subject to a floor of 0.75%. The base rate represented the highest of the Federal Funds Rate plus 0.50%, one-month adjusted LIBOR plus 1.00%, and the prime rate set by Credit Suisse, and was subject to a floor of 1.75%.

The 2017 Term Loan B was issued to the lenders at a 2% discount, or $26.0 million. The Company incurred approximately $22.6 million of debt issuance costs in connection with the 2017 Credit Facility. The debt issuance costs and the discount were recorded on the Company's consolidated balance sheet and were being amortized over the life of the 2017 Credit Facility using the effective-interest method. The Company wrote off all remaining unamortized debt issuance costs and discount related to the 2017 Credit Facility upon its termination, which is included in the loss on extinguishment as described below.

On August 16, 2018, the Company entered into a new $1.25 billion senior secured credit facility, or the 2018 Credit Facility, consisting of a $250.0 million term loan A, or the 2018 Term Loan A, a $750.0 million term loan B, or the 2018 Term Loan B, and a $250.0 million revolving credit facility, or the 2018 Revolving Credit Facility. The 2018 Term Loan A and 2018 Revolving Credit Facility both mature on August 16, 2023 and the 2018 Term Loan B matures on August 18, 2025. However, the 2018 Term Loan A and 2018 Revolving Credit Facility will both mature on February 14, 2019 if the outstanding principal on the 2019 Convertible Notes, as defined below, exceeds $350.0 million and the Company exceeds certain leverage ratios on such date. In addition, the 2018 Term Loan B will mature on either: (i) May 16, 2019 if the outstanding principal on the 2019 Convertible Notes, as defined below, exceeds $350.0 million and the Company exceeds certain leverage ratios on such date; or (ii) December 15, 2023 if the outstanding principal on the 2024 Convertible Notes, as defined below, exceeds $350.0 million and the Company exceeds certain leverage ratios on such date. The Company did not exceed those certain leverage ratios as of February 14, 2019 and as such, the 2018 Term Loan A and 2018 Revolving Credit Facility will continue to mature on August 16, 2023. All obligations under the 2018 Credit Facility are unconditionally guaranteed by certain direct and indirect wholly-owned subsidiaries of Herbalife Nutrition Ltd. and secured by the equity interests of certain of Herbalife Nutrition Ltd.'s subsidiaries and substantially all of the assets of the domestic loan parties. Also on August 16, 2018, the Company issued $400 million aggregate principal amount of senior unsecured notes, or 2026 Notes as described below, and used the proceeds from the 2018 Credit Facility and the 2026 Notes to repay in full the $1,178.1 million outstanding under the 2017 Credit Facility. For accounting purposes, pursuant to FASB ASC Topic 470, *Debt*, or ASC 470, these transactions were accounted for as an extinguishment of the 2017 Credit Facility. The Company recognized a loss on extinguishment of $35.4 million as a result, which is recorded in other expense (income), net within the Company's consolidated statement of income for the year ended December 31, 2018.

The 2018 Term Loan B was issued to the lenders at a 0.25% discount, or $1.9 million. The Company incurred approximately $11.7 million of debt issuance costs in connection with the 2018 Credit Facility. The discount and debt issuance costs are recorded on the Company's consolidated balance sheet and are being amortized over the life of the 2018 Credit Facility using the effective-interest method.

Borrowings under both the 2018 Term Loan A and 2018 Revolving Credit Facility bear interest at either the eurocurrency rate plus a margin of 3.00% or the base rate plus a margin of 2.00%. Borrowings under the 2018 Term Loan B bear interest at either the eurocurrency rate plus a margin of 3.25% or the base rate plus a margin of 2.25%. The eurocurrency rate is based on adjusted LIBOR. The base rate represents the highest of the Federal Funds Rate plus 0.50%, one-month adjusted LIBOR plus 1.00%, and the prime rate quoted by The Wall Street Journal, and is subject to a floor of 1.00%. The Company is required to pay a commitment fee on the 2018 Revolving Credit Facility of 0.50% per annum on the undrawn portion of the 2018 Revolving Credit Facility. Interest is due at least quarterly on amounts outstanding under the 2018 Credit Facility.

The 2018 Credit Facility requires the Company to comply with a leverage ratio. The 2018 Credit Facility also contains affirmative and negative covenants customary for financings of this type, including, among other things, limitations or prohibitions on repurchasing common shares, declaring and paying dividends and other distributions, redeeming and repurchasing certain other indebtedness, loans and investments, additional indebtedness, liens, mergers, asset sales and transactions with affiliates. In addition, the 2018 Credit Facility contains customary events of default. As of December 31, 2018 and 2017, the Company was in compliance with its debt covenants under the 2018 Credit Facility and 2017 Credit Facility, respectively.

The 2018 Term Loan A and 2018 Term Loan B are payable in consecutive quarterly installments which began on December 31, 2018. In addition, beginning in 2020, the Company may be required to make mandatory prepayments towards the 2018 Term Loan B based on the Company's consolidated leverage ratio and annual excess cash flows as defined under the terms of the 2018 Credit Facility. The Company is also permitted to make voluntary prepayments. On or prior to February 16, 2019, amounts voluntarily prepaid under the 2018 Term Loan A and 2018 Term Loan B will incur a prepayment premium of 1%; thereafter, amounts outstanding under the 2018 Term Loan A and 2018 Term Loan B may be voluntarily prepaid without premium or penalty, subject to customary breakage fees in connection with the prepayment of a eurocurrency loan. These prepayments, if any, will be applied against remaining quarterly installments owed under the 2018 Term Loan A and 2018 Term Loan B in order of maturity with the remaining principal due upon maturity, unless directed otherwise by the Company.

As of December 31, 2018 and 2017, the weighted-average interest rate for borrowings under the 2018 Credit Facility and 2017 Credit Facility was 6.80% and 6.79%, respectively.

During the year ended December 31, 2018, the Company borrowed an aggregate amount of $1,000.0 million under the 2018 Credit Facility and repaid a total amount of $1,231.9 million, including $5.0 million on amounts outstanding under the 2018 Credit Facility and $1,226.9 million to repay in full amounts outstanding under the 2017 Credit Facility. During the year ended December 31, 2017, the Company borrowed an aggregate amount of $1,300.0 million under the 2017 Credit Facility and repaid a total amount of $483.1 million, including $73.1 million on amounts outstanding under the 2017 Credit Facility and $410.0 million to repay in full amounts outstanding under the 2011 Credit Facility. During the year ended December 31, 2016, the Company borrowed an aggregate amount of $200.0 million and repaid a total amount of $429.7 million on amounts outstanding under the 2011 Credit Facility. As of December 31, 2018 and 2017, the U.S. dollar amount outstanding under the 2018 Credit Facility and 2017 Credit Facility was $995.0 million and $1,226.9 million, respectively. Of the $995.0 million outstanding under the 2018 Credit Facility as of December 31, 2018, $246.9 million was outstanding under the 2018 Term Loan A and $748.1 million was outstanding under the 2018 Term Loan B. Of the $1,226.9 million outstanding under the 2017 Credit Facility as of December 31, 2017, $1,226.9 million was outstanding under the 2017 Term Loan B. There were no borrowings outstanding under the 2018 Revolving Credit Facility and 2017 Revolving Credit Facility as of December 31, 2018 and 2017, respectively. There were no outstanding foreign currency borrowings as of December 31, 2018 and 2017 under the 2018 Credit Facility and 2017 Credit Facility, respectively.

During the year ended December 31, 2018, the Company recognized $83.6 million of interest expense relating to the 2018 Credit Facility and 2017 Credit Facility, which included $2.9 million relating to non-cash interest expense relating to the debt discount and $3.2 million relating to amortization of debt issuance costs. During the year ended December 31, 2017, the Company recognized $87.0 million of interest expense relating to the 2017 Credit Facility and 2011 Credit Facility, which included $4.2 million relating to non-cash interest expense relating to the debt discount and $4.4 million relating to amortization of debt issuance costs. During the year ended December 31, 2016, the Company recognized $24.1 million of interest expense relating to the 2011 Credit Facility, which included $4.1 million relating to amortization of debt issuance costs.

The fair value of the outstanding borrowings on the 2018 Term Loan A is determined by utilizing over-the-counter market quotes for similar instruments, which are considered Level 2 inputs as described in Note 12, *Fair Value Measurements*. As of December 31, 2018, the carrying value of the 2018 Term Loan A was $245.4 million and the fair value was approximately $240.7 million. The fair values of the outstanding borrowings under the 2018 Term Loan B and the 2017 Term Loan B are determined by utilizing over-the-counter market quotes, which are considered Level 2 inputs as described in Note 12, *Fair Value Measurements*. As of December 31, 2018 and 2017, the carrying amount of the 2018 Term Loan B and 2017 Term Loan B was $738.2 million and $1,190.2 million, respectively, and the fair value was approximately $729.3 million and $1,226.1 million, respectively.

Convertible Senior Notes due 2019

During February 2014, the Company initially issued $1 billion aggregate principal amount of convertible senior notes, or the 2019 Convertible Notes, in a private offering to qualified institutional buyers, pursuant to Rule 144A under the Securities Act of 1933, as amended. The Company granted an option to the initial purchasers to purchase up to an additional $150 million aggregate principal amount of 2019 Convertible Notes which was subsequently exercised in full during February 2014, resulting in a total issuance of $1.15 billion aggregate principal amount of 2019 Convertible Notes. The 2019 Convertible Notes are senior unsecured obligations which rank effectively subordinate to any of the Company's existing and future secured indebtedness, including amounts outstanding under the 2018 Credit Facility, to the extent of the value of the assets securing such indebtedness. The 2019 Convertible Notes pay interest at a rate of 2.00% per annum payable semiannually in arrears on February 15 and August 15 of each year, beginning on August 15, 2014. The 2019 Convertible Notes mature on August 15, 2019, unless earlier repurchased or converted. The Company may not redeem the 2019 Convertible Notes prior to their stated maturity date. Holders of the 2019 Convertible Notes may convert their notes at their option under the following circumstances: (i) during any calendar quarter commencing after the calendar quarter ending March 31, 2014, if the last reported sale price of the Company's common shares for at least 20 trading days (whether or not consecutive) in a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter exceeds 130% of the conversion price for the 2019 Convertible Notes on each applicable trading day; (ii) during the five business-day period immediately after any five consecutive trading day period, or the measurement period, in which the trading price per $1,000 principal amount of 2019 Convertible Notes for each trading day of that measurement period was less than 98% of the product of the last reported sale price of the Company's common shares and the conversion rate for the 2019 Convertible Notes for each such day; or (iii) upon the occurrence of specified corporate events. On and after May 15, 2019, holders may convert their 2019 Convertible Notes at any time, regardless of the foregoing circumstances. Upon conversion, the 2019 Convertible Notes will be settled in cash and, if applicable, the Company's common shares, based on the applicable conversion rate at such time. The 2019 Convertible Notes had an initial conversion rate of 23.1816 common shares per $1,000 principal amount of the 2019 Convertible Notes, or an initial conversion price of approximately $43.14 per common share, based on the retroactive adjustment due to the Company's two-for-one stock split described in Note 2, *Basis of Presentation.* The conversion rate is subject to adjustment upon the occurrence of certain events and was 23.2245 common shares per $1,000 principal amount of the 2019 Convertible Notes, or a conversion price of approximately $43.06 per common share, as of December 31, 2018. As of December 31, 2018, the if-converted value of the 2019 Convertible Notes exceeded their outstanding principal amount by $249.1 million since the closing price of the Company's common shares was $58.95 compared to the conversion price of $43.06. The Company has entered into capped call transactions with respect to its common shares, which are expected generally to reduce the potential dilution upon conversion of the 2019 Convertible Notes in the event that the market price of the common shares is greater than the strike price of the capped call transactions. See Note 8, *Shareholders' Deficit*, for additional discussion on the capped call transactions.

During the fourth quarter of 2018, the last reported sale price of the Company's common shares exceeded 130% of the conversion price for the 2019 Convertible Notes for at least 20 trading days in the period of 30 consecutive trading days ending on, and including, the last trading day of the quarter. As such, the 2019 Convertible Notes will be convertible at the holders' option during the first quarter of 2019. The Company will reclassify the difference between the aggregate principal amount and the carrying value of the 2019 Convertible Notes of approximately $18.6 million from additional paid-in capital to temporary equity on its consolidated balance sheet on January 1, 2019.

The Company incurred approximately $26.6 million of issuance costs during the first quarter of 2014 relating to the issuance of the 2019 Convertible Notes. Of the $26.6 million issuance costs incurred, $21.5 million and $5.1 million were recorded as debt issuance costs and additional paid-in capital, respectively, in proportion to the allocation of the proceeds of the 2019 Convertible Notes. The $21.5 million of debt issuance costs recorded on the Company's consolidated balance sheet are being amortized over the contractual term of the 2019 Convertible Notes using the effective-interest method.

During February 2014, the $1.15 billion aggregate principal amount of the 2019 Convertible Notes were initially allocated between long-term debt, or liability component, and additional paid-in capital, or equity component, within the Company's consolidated balance sheet at $930.9 million and $219.1 million, respectively. The liability component was measured using the nonconvertible debt interest rate. The carrying amount of the equity component representing the conversion option was determined by deducting the fair value of the liability component from the face value of the 2019 Convertible Notes as a whole. Since the Company must still settle these 2019 Convertible Notes at face value at or prior to maturity, this liability component will be accreted up to its face value resulting in additional non-cash interest expense being recognized within the Company's consolidated statements of income while the 2019 Convertible Notes remain outstanding. The effective-interest rate on the 2019 Convertible Notes is approximately 6.2% per annum. The equity component is not remeasured as long as it continues to meet the conditions for equity classification.

During March 2018, the Company issued $550 million aggregate principal amount of new convertible senior notes due 2024, or 2024 Convertible Notes as described below, and subsequently used the proceeds, along with cash on hand, to repurchase $475.0 million of its existing 2019 Convertible Notes from a limited number of holders in privately negotiated transactions for an aggregate purchase price of $583.5 million, which included $1.0 million of accrued interest. For accounting purposes, pursuant to ASC 470, *Debt*, these transactions were accounted for as an extinguishment of 2019 Convertible Notes and an issuance of new 2024 Convertible Notes. The Company allocated the purchase price between the fair value of the liability component and the equity component of the 2019 Convertible Notes at $459.4 million and $123.0 million, respectively. As a result, the Company recognized $446.4 million as a reduction to long-term debt representing the carrying value of the liability component and $123.0 million as a reduction to additional paid-in capital representing the equity component of the repurchased 2019 Convertible Notes. The $13.1 million difference between the fair value and carrying value of the liability component of the repurchased 2019 Convertible Notes was recognized as a loss on extinguishment of debt as a result of the transaction and is recorded in other expense (income), net within the Company's consolidated statement of income. The accounting impact of the new 2024 Convertible Notes is described in further detail below.

As of December 31, 2018, the remaining outstanding principal on the 2019 Convertible Notes was $675.0 million, the unamortized debt discount and debt issuance costs were $18.6 million, and the carrying amount of the liability component was $656.4 million, which was recorded to Current portion of long-term debt within the Company's consolidated balance sheet. As of December 31, 2017, the outstanding principal on the 2019 Convertible Notes was $1.15 billion, the unamortized debt discount and debt issuance costs were $80.0 million, and the carrying amount of the liability component was $1,070.0 million, which was recorded to Long-term debt within the Company's consolidated balance sheet. The fair value of the liability component relating to the 2019 Convertible Notes was approximately $662.1 million and $1,066.0 million as of December 31, 2018 and 2017, respectively.

During the years ended December 31, 2018, 2017, and 2016, the Company recognized $48.5 million, $68.2 million, and $65.3 million, respectively, of interest expense relating to the 2019 Convertible Notes, which included $29.8 million, $41.2 million, and $38.6 million, respectively, relating to non-cash interest expense relating to the debt discount and $2.9 million, $4.0 million, and $3.8 million, respectively, relating to amortization of debt issuance costs.

In conjunction with the issuance of the 2019 Convertible Notes, during February 2014, the Company paid approximately $685.8 million to enter into prepaid forward share repurchase transactions, or the Forward Transactions, with certain financial institutions, and paid approximately $123.8 million to enter into capped call transactions with respect to its common shares, or the Capped Call Transactions, with certain financial institutions. Subsequently, in conjunction with the repurchase of a portion of the 2019 Convertible Notes, during March 2018, the Company entered into agreements with the option counterparties to the Capped Call Transactions to terminate a portion of such existing transactions. See Note 8, *Shareholders' Deficit*, for additional discussion on the Forward Transactions and Capped Call Transactions entered into in conjunction with the issuance of these 2019 Convertible Notes.

Convertible Senior Notes due 2024

During March 2018, the Company issued $550 million aggregate principal amount of convertible senior notes, or the 2024 Convertible Notes,in a private offering to qualified institutional buyers, pursuant to Rule 144A under the Securities Act of 1933, as amended. The 2024 Convertible Notes are senior unsecured obligations which rank effectively subordinate to any of the Company's existing and future secured indebtedness, including amounts outstanding under the 2018 Credit Facility, to the extent of the value of the assets securing such indebtedness. The 2024 Convertible Notes pay interest at a rate of 2.625% per annum payable semiannually in arrears on March 15 and September 15 of each year, beginning on September 15, 2018. The 2024 Convertible Notes mature on March 15, 2024, unless redeemed, repurchased or converted in accordance with their terms prior to such date. Holders of the 2024 Convertible Notes may convert their notes at their option under the following circumstances: (i) during any calendar quarter commencing after the calendar quarter ending June 30, 2018, if the last reported sale price of the Company's common shares for at least 20 trading days (whether or not consecutive) in a period of 30 consecutive trading days ending on, and including, the last trading day of the immediately preceding calendar quarter exceeds 130% of the conversion price for the 2024 Convertible Notes on each applicable trading day; (ii) during the five business-day period immediately after any five consecutive trading day period, or the measurement period, in which the trading price per $1,000 principal amount of 2024 Convertible Notes for each trading day of that measurement period was less than 98% of the product of the last reported sale price of the Company's common shares and the conversion rate for the 2024 Convertible Notes for each such day; (iii) if the Company calls the 2024 Convertible Notes for redemption; or (iv) upon the occurrence of specified corporate events. On and after December 15, 2023, holders may convert their 2024 Convertible Notes at any time, regardless of the foregoing circumstances. Upon conversion, the 2024 Convertible Notes will be settled, at the Company's election, in cash, the Company's common shares, or a combination thereof, based on the applicable conversion rate at such time. The 2024 Convertible Notes had an initial conversion rate of 16.0056 common shares per $1,000 principal amount of the 2024 Convertible Notes, or an initial conversion price of approximately $62.48 per common share, based on the retroactive adjustment due to the Company's two-for-one stock split described in Note 2, *Basis of Presentation.* The conversion rate is subject to adjustment upon the occurrence of certain events and was 16.0352 common shares per $1,000 principal amount of the 2024 Convertible Notes, or a conversion price of approximately $62.36 per common share, as of December 31, 2018.

The Company incurred approximately $12.9 million of issuance costs during the first quarter of 2018 relating to the issuance of the 2024 Convertible Notes. Of the $12.9 million issuance costs incurred, $9.6 million and $3.3 million were recorded as debt issuance costs and additional paid-in capital, respectively, in proportion to the allocation of the proceeds of the 2024 Convertible Notes. The $9.6 million of debt issuance costs, which was recorded as an additional debt discount on the Company's consolidated balance sheet, are being amortized over the contractual term of the 2024 Convertible Notes using the effective-interest method.

During March 2018, the $550 million aggregate principal amount of the 2024 Convertible Notes were initially allocated between long-term debt, or liability component, and additional paid-in-capital, or equity component, within the Company's consolidated balance sheet at $410.1 million and $139.9 million, respectively. The liability component was measured using the nonconvertible debt interest rate. The carrying amount of the equity component representing the conversion option was determined by deducting the fair value of the liability component from the face value of the 2024 Convertible Notes as a whole. Since the Company must still settle these 2024 Convertible Notes at face value at or prior to maturity, this liability component will be accreted up to its face value resulting in additional non-cash interest expense being recognized within the Company's consolidated statements of income while the 2024 Convertible Notes remain outstanding. The effective-interest rate on the 2024 Convertible Notes is approximately 8.4% per annum. The equity component is not remeasured as long as it continues to meet the conditions for equity classification.

As of December 31, 2018, the outstanding principal on the 2024 Convertible Notes was $550.0 million, the unamortized debt discount and debt issuance costs were $134.0 million, and the carrying amount of the liability component was $416.0 million, which was recorded to Long-term debt within the Company's consolidated balance sheet. The fair value of the liability component relating to the 2024 Convertible Notes was approximately $448.1 million as of December 31, 2018.

During the year ended December 31, 2018, the Company recognized $26.6 million of interest expense relating to the 2024 Convertible Notes, which included $14.5 million relating to non-cash interest expense relating to the debt discount and $1.0 million relating to amortization of debt issuance costs.

Senior Notes due 2026

During August 2018, the Company issued $400 million aggregate principal amount of senior notes, or the 2026 Notes, in a private offering in the United States to qualified institutional buyers, pursuant to Rule 144A under the Securities Act of 1933, as amended, and outside the United States pursuant to Regulation S under the Securities Act of 1933, as amended. The 2026 Notes are senior unsecured obligations which rank effectively subordinate to any of the Company's existing and future secured indebtedness, including amounts outstanding under the 2018 Credit Facility, to the extent of the value of the assets securing such indebtedness. The 2026 Notes pay interest at a rate of 7.250% per annum payable semiannually in arrears on February 15 and August 15 of each year, beginning on February 15, 2019. The 2026 Notes mature on August 15, 2026.

At any time prior to August 15, 2021, the Company may redeem all or part of the 2026 Notes at a redemption price equal to 100% of their principal amount, plus a "make whole" premium as of the redemption date, and accrued and unpaid interest to the redemption date. In addition, at any time prior to August 15, 2021, the Company may redeem up to 40% of the aggregate principal amount of the 2026 Notes with the proceeds of one or more equity offerings, at a redemption price equal to 107.250%, plus accrued and unpaid interest. Furthermore, at any time on or after August 15, 2021, the Company may redeem all or part of the 2026 Notes at the following redemption prices, expressed as percentages of principal amount, plus accrued and unpaid interest thereon to the redemption date, if redeemed during the twelve-month period beginning on August 15 of the years indicated below:

	Percentage
2021	103.625%
2022	101.813%
2023 and thereafter	100.000%

The 2026 Notes contain customary negative covenants, including, among other things, limitations or prohibitions on restricted payments, incurrence of additional indebtedness, liens, mergers, asset sales and transactions with affiliates. In addition, the 2026 Notes contain customary events of default.

The Company incurred approximately $5.4 million of issuance costs during the third quarter of 2018 relating to the issuance of the2026 Notes. The $5.4 million of debt issuance costs, which was recorded as a debt discount on the Company's consolidated balance sheet, are being amortized over the contractual term of the 2026 Notes using the effective-interest method.

As of December 31, 2018, the outstanding principal on the2026 Notes was $400.0 million, the unamortized debt issuance costs were $5.2 million, and the carrying amount was $394.8 million, which was recorded to long-term debt within the Company's consolidated balance sheet. The fair value of the 2026 Notes was approximately $394.6 million as of December 31, 2018 and was determined by utilizing over-the-counter market quotes and yield curves, which are considered Level 2 inputs as defined in Note 13, *Fair Value Measurements.*

During the year ended December 31, 2018, the Company recognized $11.1 million of interest expense relating to the2026 Notes, which included $0.2 million relating to amortization of debt issuance costs.

Valuation of 2019 Convertible Notes and 2024 Convertible Notes – Level 2 and Level 3 Inputs

In order to determine the initial value of the 2019 Convertible Notes and the 2024 Convertible Notes, the Company determined the fair value of the liability component of the 2019 Convertible Notes and the 2024 Convertible Notes using two valuation methods. The Company reviewed market data that was available for publicly traded, senior, unsecured nonconvertible corporate bonds issued by companies with similar credit ratings. Assumptions used in the estimate represent what market participants would use in pricing the liability component, including market yields and credit standing to develop the straight debt yield estimate. The Company also used a lattice model, which included inputs such as stock price, the Convertible Note trading price, volatility and dividend yield to estimate the straight debt yield. The Company combined the results of the two valuation methods to determine the fair value of the liability component of the 2019 Convertible Notes and the 2024 Convertible Notes. Most of these inputs are primarily considered Level 2 and Level 3 inputs. The Company used similar valuation approaches to determine the subsequent fair value of the liability component only for disclosure purposes, which includes using a lattice model and (1) reviewing market data relating to its 2026 Notes and comparable yield curves to determine its straight debt yield estimate, or (2) reviewing market data relating to publicly traded, senior, unsecured nonconvertible corporate bonds issued by companies with similar credit ratings in order to determine its straight debt yield estimate.

Total Debt

The Company's total interest expense was $181.0 million, $160.8 million, and $99.3 million, for the years ended December 31, 2018, 2017, and 2016, respectively, which was recognized within its consolidated statements of income.

As of December 31, 2018, annual scheduled principal payments of debt were as follows:

	Principal Payments
	(in millions)
2019	$ 697.5
2020	22.0
2021	26.3
2022	27.8
2023	188.7
Thereafter	1,660.6
Total	$ 2,622.9

Certain vendors and government agencies may require letters of credit or similar guaranteeing arrangements to be issued or executed. As of December 31, 2018, the Company had $38.2 million of issued but undrawn letters of credit or similar arrangements, which included the Mexico Value Added Tax, or VAT, related surety bonds described in Note 7, *Contingencies*.

5. Lease Obligations

The Company has warehouse, office, furniture, fixtures, and equipment leases, which expire at various dates through 2033. Under the lease agreements, the Company is also obligated to pay property taxes, insurance, and maintenance costs.

Certain leases contain renewal options. Future minimum rental commitments for non-cancelable operating leases as of December 31, 2018 were as follows:

	Operating Leases
	(in millions)
2019	$ 43.1
2020	36.3
2021	27.4
2022	23.0
2023	12.5
Thereafter	111.4
Total	$ 253.7

The Company recognizes rental expense on a straight-line basis. Rental expense, which is included in selling, general, and administrative expenses within the Company's consolidated statements of income, was $61.1 million, $56.2 million, and $53.4 million for the years ended December 31, 2018, 2017, and 2016, respectively.

There was no material property, plant, and equipment under capital leases included in property, plant, and equipment on the accompanying consolidated balance sheets as of December 31, 2018 and 2017.

6. Employee Compensation Plans

In the United States, the Company maintains a profit sharing plan pursuant to Sections 401(a) and (k) of the Internal Revenue Code of 1986, as amended, or the Code. The plan is available to substantially all employees who meet the length of service requirements. The Company's contribution expense relating to this profit sharing plan was $5.7 million, $4.8 million, and $4.8 million during the years ended December 31, 2018, 2017, and 2016, respectively.

The Company has employees in international countries that are covered by various deferred compensation plans. These plans are administered based upon the legal requirements in the countries in which they are established. The Company's compensation expenses relating to these plans were $6.6 million, $6.4 million, and $5.8 million for the years ended December 31, 2018, 2017, and 2016, respectively.

The Company has non-qualified deferred compensation plans for select groups of management: the Herbalife Management Deferred Compensation Plan and the Herbalife Senior Executive Deferred Compensation Plan. The matching contribution was 3.5% of a participant's annual base salary in excess of the Qualified Plan annual compensation limit and the amount by which deferrals reduce 401(k) eligible pay below the IRS limit.

Each participant in either of the non-qualified deferred compensation plans discussed above has, at all times, a fully vested and non-forfeitable interest in each year's contribution, including interest credited thereto, and in any Company matching contributions, if applicable. In connection with a participant's election to defer an annual deferral amount, the participant may also elect to receive a short-term payout, equal to the annual deferral amount plus interest. Such amount is payable in five or more years from the first day of the year in which the annual deferral amount is actually deferred.

The total for the two non-qualified deferred compensation plans, excluding participant contributions, was a benefit of $2.7 million for the year ended December 31, 2018 and an expense of $6.7 million, and $3.6 million for the years ended December 31, 2017 and 2016, respectively. The total long-term deferred compensation liability under the two deferred compensation plans was $51.3 million and $58.1 million as of December 31, 2018 and 2017, respectively, and is included in Other non-current liabilities within the Company's consolidated balance sheets.

The deferred compensation plans are unfunded and their benefits are paid from the general assets of the Company, except that the Company has contributed to a "rabbi trust" whose assets will be used to pay the benefits if the Company remains solvent, but can be reached by the Company's creditors if the Company becomes insolvent. The value of the assets in the "rabbi trust" was $31.2 million and $33.6 million as of December 31, 2018 and 2017, respectively, and is included in Other assets within the Company's consolidated balance sheets.

7. Contingencies

The Company is from time to time engaged in routine litigation. The Company regularly reviews all pending litigation matters in which it is involved and establishes reserves deemed appropriate by management for these litigation matters when a probable loss estimate can be made.

The matters described in this Note may take several years to resolve. While the Company believes it has meritorious defenses, it cannot be sure of their ultimate resolution. Although the Company may reserve amounts for certain matters that the Company believes represent the most likely outcome of the resolution of these related disputes, if the Company is incorrect in its assessment, the Company may have to record additional expenses, when it becomes probable that an increased potential liability is warranted.

Tax Matters

On May 7, 2010, the Company received an assessment from the Mexican Tax Administration Service in an amount equivalent to approximately $58.3 million, translated at the December 31, 2018 spot rate, for various items, the majority of which was VAT allegedly owed on certain of the Company's products imported into Mexico during the years 2005 and 2006. This assessment is subject to interest and inflationary adjustments. On July 8, 2010, the Company initiated a formal administrative appeal process. On May 13, 2011, the Mexican Tax Administration Service issued a resolution on the Company's administrative appeal. The resolution nullified the assessment. Since the Mexican Tax Administration Service can further review the tax audit findings and re-issue some or all of the original assessment, the Company commenced litigation in the Tax Court of Mexico in August 2011 to dispute the assertions made by the Mexican Tax Administration Service in the case. The Company received notification on February 6, 2015 that the Tax Court of Mexico nullified substantially all of the assessment. On March 18, 2015, the Mexican Tax Administration Service filed an appeal against the verdict with the Circuit Court. On August 27, 2015, the Circuit Court remanded the case back to the Tax Court of Mexico to reconsider a portion of the procedural decision that was adverse to the Mexican Tax Administration Service. The Company received notification on March 18, 2016 that the Tax Court of Mexico nullified a portion of the assessment and upheld a portion of the original assessment. On August 25, 2016, the Company filed a further appeal of this decision to the Circuit Court. On April 6, 2017, the Circuit Court issued a verdict with the Company prevailing on some lesser issues and the Tax Administration Service prevailing on the core issue. On May 11, 2017, the Company filed a further appeal to the Supreme Court of Mexico. On June 14, 2017, the Supreme Court of Mexico agreed to hear the appeal. On December 14, 2018, the Supreme Court of Mexico held a public hearing at which a decision was adopted in favor of the Company, revoking previous court rulings and remanding the case back to the trial court so the assessment could be nullified. The remand process administered by the Federal Tax Court concluded in favor of the Company, nullifying the VAT and Excise Tax assessment for fiscal years 2005 and 2006. The Company has not recognized a loss as the case was concluded in the Company's favor.

The Mexican Tax Administration Service commenced audits of the Company's Mexican subsidiaries for the period from January to September 2007 and on May 10, 2013, the Company received an assessment of approximately $14.9 million, translated at the December 31, 2018 spot rate, related to that period. This assessment is subject to interest and inflationary adjustments. On July 11, 2013, the Company filed an administrative appeal disputing the assessment. On September 22, 2014, the Mexican Tax Administration Service denied the Company's administrative appeal. The Company commenced litigation in the Tax Court of Mexico in November 2014 to dispute the assertions made by the Mexican Tax Administration Service in the case. On January 16, 2018, the Tax Court of Mexico issued a verdict upholding the assessment issued by the Mexican Tax Administration Service. On April 16, 2018, the Company filed an appeal of this verdict, and litigation is ongoing. The Company has not recognized a loss as the Company does not believe a loss is probable. The Company issued a surety bond in the amount of $18.4 million, translated at the December 31, 2018 spot rate, through an insurance company to guarantee payment of the tax assessment as required while the Company pursues an appeal of the assessment, and the surety bond remained effective as of December 31, 2018.

The Mexican Tax Administration Service has delayed processing VAT refunds for companies operating in Mexico and the Company believes that the process for its Mexico subsidiary to receive VAT refunds may be delayed. As of December 31, 2018, the Company had $33.1 million of Mexico VAT related assets, of which $24.3 million was within non-current other assets and $8.8 million was within prepaid expenses and other current assets on its consolidated balance sheet. This amount relates to VAT payments made over various periods and the Company believes these amounts are recoverable by refund or they may be applied against certain future tax liabilities. Effective January 1, 2019, a tax reform law changed the rules concerning possible use of VAT assets, specifically providing that, for VAT balances generated after December 31, 2018, those balances could not be offset against taxes other than VAT obligations currently due. The Company has not recognized any losses related to these VAT related assets as the Company does not believe a loss is probable.

With respect to these Mexican matters, the Company is currently unable to reasonably estimate a possible loss or range of loss that could result from an unfavorable outcome if an assessment was re-issued or any additional assessments were to be issued for these or other periods. The Company believes that it has meritorious defenses if an assessment is re-issued or would have meritorious defenses if any additional assessment is issued.

The Company received a tax assessment in September 2009 from the Federal Revenue Office of Brazil related to withholding/contributions based on payments to the Company's Members during 2004. On March 6, 2014, the Company was notified of a similar audit of the 2011 year, and in January 2016, the Company received a tax assessment related to contributions based on payments to the Company's Members during 2011. The Company received a favorable decision from the Administrative Council of Tax Appeals for the 2004 and 2011 cases in September 2018. On October 31, 2018 and November 19, 2018, the government filed appeals relating to the 2004 and 2011 cases for which the combined total is $6.4 million, translated at the December 31, 2018 spot rate. The Company has not accrued a loss for the majority of the assessments because the Company does not believe a loss is probable. The Company is currently unable to reasonably estimate the amount of the loss that may result from an unfavorable outcome if additional assessments for other periods were to be issued.

The Company is under examination in several Brazilian states related to ICMS and ICMS-ST taxation. Some of these examinations have resulted in assessments for underpaid tax that the Company has appealed. The State of São Paulo has audited the Company for the 2013 and 2014 tax years. During July 2016, for the State of São Paulo, the Company received an assessment in the aggregate amount of approximately $41.5 million, translated at the December 31, 2018 spot rate, relating to various ICMS issues for its 2013 tax year. In August 2016, the Company filed a first-level administrative appeal which was denied in February 2017. The Company filed a further appeal on March 9, 2017. On March 20, 2018, the Court held a hearing and a verdict is currently pending. During August 2017, for the state of São Paulo, the Company received an assessment in the aggregate amount of approximately $15.4 million, translated at the December 31, 2018 spot rate, relating to various ICMS issues for its 2014 tax year. In September 2017, the Company filed a first-level administrative appeal for the 2014 tax year. During September 2018, for the State of Rio de Janeiro, the Company received an assessment in the aggregate amount of approximately $9.1 million, translated at the December 31, 2018 spot rate, relating to various ICMS-ST issues for its 2016 and 2017 tax years. On November 8, 2018, the Company filed a first-level administrative appeal. The Company has also received other ICMS tax assessments in Brazil. During the fourth quarter of 2015, the Company filed appeals with state judicial courts against three of the assessments. The Company had issued surety bonds in the aggregate amount of $11.2 million, translated at the December 31, 2018 spot rate, to guarantee payment of some of the tax assessments as required while the Company pursues the appeals. In addition, the Company has received several ICMS tax assessments in the aggregate amount of $6.3 million, translated at the December 31, 2018 spot rate, from several other Brazilian states where surety bonds have not been issued. Litigation in all these cases is currently ongoing. The Company has not recognized a loss as the Company does not believe a loss is probable.

The Company has received various tax assessments in multiple states in India for multiple years from the Indian VAT authorities in an amount equivalent to approximately $9.0 million, translated at the December 31, 2018 spot rate. These assessments are for underpaid VAT. The Company is litigating these cases at the tax administrative level and the tax tribunal levels as it believes it has meritorious defenses. The Company has not recognized a loss as it does not believe a loss is probable.

The Korea Customs Service audited the importation activities of Herbalife Korea for the period January 2011 through May 2013. The total assessment for the audit period is $31.8 million, translated at the December 31, 2018 spot rate. The Company has paid the assessment and has recognized these payments within other assets on its consolidated balance sheet. The Company lodged a first-level administrative appeal, which was denied on October 21, 2016. On January 31, 2017, the Company filed a further appeal to the National Tax Tribunal of Korea. In November 2018, the Company received an unfavorable decision from the National Tax Tribunal of Korea. In February 2019, the Company submitted an appeal to the Seoul Administrative Court. The Company disagrees with the assertions made in the assessments, as well as the calculation methodology used in the assessments. The Company has not recognized a loss as the Company does not believe a loss is probable.

During the course of 2016, the Company received various questions from the Greek Social Security Agency and on December 29, 2016, the Greek Social Security Agency issued an assessment with respect to Social Security Contributions on Member earnings for the 2006 year. For Social Security issues, the statute of limitations is open for 2007 and later years in Greece. Despite the assessment amount being immaterial, the Company could receive similar assessments covering other years. The Company continues to litigate the assessment. The Company has not recognized a loss as it does not believe a loss is probable. The Company is currently unable to reasonably estimate the amount of the loss that may result from an unfavorable outcome if additional assessments for other periods were to be issued.

The Italian tax authorities audited the Company for the periods 2014 and 2015. The Company has responded to the various points relating to income tax and non-income tax matters initially raised by the tax authorities to date. The Italian tax authorities are discussing certain of its preliminary findings with the Company. It is possible that the Company could receive a final assessment from the Italian authorities after these discussions. The Company believes that it has adequately accrued for income tax matters that are known to date. In regards to non-income tax matters, the Company has not recognized a loss as it does not believe a loss is probable. The Company believes that it has meritorious defenses if a formal assessment is issued by the Italian tax authorities. The Company is currently unable to reasonably estimate the amount of loss that may result from an unfavorable outcome if a formal assessment is issued by the Italian tax authorities.

During March 2018, the Chinese Customs Service began an audit of the Company's Chinese importations covering the periods 2015 through 2017. The Company has responded to the initial questions from the Customs Service and the audit is ongoing. The Company is currently unable to determine the outcome of this audit and reasonably estimate the amount of loss if an assessment is issued.

U.S. Federal Trade Commission Consent Order

On July 15, 2016, the Company and the Federal Trade Commission, or the FTC, entered into a proposed Stipulation to Entry of Order for Permanent Injunction and Monetary Judgment, or the Consent Order. The Consent Order was lodged with the U.S. District Court for the Central District of California on July 15, 2016 and became effective on July 25, 2016, or the Effective Date. The Consent Order resolved the FTC's multi-year investigation of the Company.

Pursuant to the Consent Order, under which the Company neither admitted nor denied the FTC's allegations (except as to the Court having jurisdiction over the matter), the Company made, through its wholly-owned subsidiary Herbalife International of America, Inc., a $200 million payment to the FTC. Additionally, the Company implemented and continues to enhance certain existing procedures in the U.S. Among other requirements, the Consent Order requires the Company to categorize all existing and future Members in the U.S. as either "preferred members" – who are simply consumers who only wish to purchase products for their own household use, or "distributors" – who are Members who wish to resell some products or build a sales organization. The Company also agreed to compensate distributors on eligible U.S. sales within their downline organization, which include purchases by preferred members, purchases by a distributor for his or her personal consumption within allowable limits and sales of product by a distributor to his or her customers. The Consent Order also imposes restrictions on a distributor's ability to open Nutrition Clubs in the United States. The Consent Order subjects the Company to certain audits by an independent compliance auditor for a period of seven years; imposes requirements on the Company regarding compliance certification and record creation and maintenance; and prohibits the Company, its affiliates and its distributors from making misrepresentations and misleading claims regarding, among other things, income and lavish lifestyles. The FTC and the independent compliance auditor have the right to inspect Company records and request additional compliance reports for purposes of conducting audits pursuant to the Consent Order. In September 2016, the Company and the FTC mutually selected Affiliated Monitors, Inc. to serve as the independent compliance auditor. The Company continues to monitor the impact of the Consent Order and, while the Company currently does not expect the settlement to have a long-term and materially adverse impact on its business and its Member base, the Company's business and its Member base, particularly in the United States, may be negatively impacted. If the Company is unable to comply with the Consent Order then this could result in a material and adverse impact to the Company's results of operations and financial condition.

Other Matters

As a marketer of foods, dietary and nutritional supplements, and other products that are ingested by consumers or applied to their bodies, the Company has been and is currently subjected to various product liability claims. The effects of these claims to date have not been material to the Company. The Company currently maintains product liability insurance with an annual deductible of $12.5 million.

As previously disclosed, the SEC and the Department of Justice ("DOJ") have been conducting an investigation into the Company's compliance with the Foreign Corrupt Practices Act ("FCPA") in China, which is mainly focused on the Company's China external affairs expenditures relating to its China business activities and the adequacy of and compliance with the Company's internal controls relating to such expenditures. This investigation is proceeding, with the government continuing to request documents and other information relating to these matters. The Company is conducting its own review and has taken remedial and improvement measures based upon this review, including but not limited to replacement of a number of employees and enhancements of Company policies and procedures in China. The Company is continuing to cooperate and engage in discussions with the SEC and DOJ. Although a likely outcome could include a resolution or government action, the Company cannot predict the eventual scope, duration, or outcome of the government investigation at this time, including potential monetary payments, injunctions, or other relief, the results of which may be materially adverse to the Company, its financial condition, its results of operations, and its operations. At the present time, the Company is unable to reasonably estimate the amount of loss relating to this matter.

The SEC has also requested from the Company documents and other information relating to the Company's disclosures regarding its marketing plan in China. While the Company believes this SEC investigation is nearing conclusion, and although a likely outcome could include a resolution or enforcement action, the Company cannot predict the eventual scope, duration, or outcome of this investigation at this time. The possible range of outcomes includes discussions leading to a settlement which could include a monetary payment and other relief, the filing by the SEC of a civil complaint or administrative action, or the closure of this matter without action. At the present time, the Company is unable to reasonably estimate the amount of loss relating to this matter.

On September 18, 2017, the Company and certain of its subsidiaries and Members were named as defendants in a purported class action lawsuit, titled Rodgers, et al. v Herbalife Ltd., et al. and filed in the U.S. District Court for the Southern District of Florida, which alleges violations of Florida's Deceptive and Unfair Trade Practices statute and federal Racketeer Influenced and Corrupt Organizations statutes, unjust enrichment, and negligent misrepresentation. On August 23, 2018, the Court issued an order transferring the action to the U.S. District Court for the Central District of California as to four of the putative class plaintiffs and ordering the remaining four plaintiffs to arbitration, thereby terminating the Company defendants from the Florida action. The plaintiffs seek damages in an unspecified amount. The Company believes the lawsuit is without merit and will vigorously defend itself against the claims in the lawsuit.

In September 2017, one of the Company's warehouses located in Mexico sustained flooding which damaged certain inventory stored within the warehouse. The Company maintains insurance coverage with third-party carriers on the affected property. As of December 31, 2018, the Company has recorded a loss relating to the damaged inventory and has recognized a combined equal and offsetting receivable and cash relating to the insurance recoveries. This event did not have a material negative impact on the Company's Mexico operations or its consolidated financial statements.

8. Shareholders' Deficit

The Company had 142.8 million, 164.7 million, and 186.3 million common shares outstanding as of December 31, 2018, 2017, and 2016, respectively. In December 2004, the Company authorized 7.5 million preference shares at $0.002 par value. The 7.5 million authorized preference shares remained unissued as of December 31, 2018. Preference shares may be issued from time to time in one or more series, each of such series to have such voting powers (full or limited or without voting powers), designations, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions as determined by the Company's board of directors.

Dividends

On April 28, 2014, the Company announced that its board of directors approved terminating its quarterly cash dividend and instead utilizing the cash to repurchase additional common shares. The declaration of future dividends is subject to the discretion of the Company's board of directors and will depend upon various factors, including its earnings, financial condition, Herbalife Nutrition Ltd.'s available distributable reserves under Cayman Islands law, restrictions imposed by the 2018 Credit Facility and the terms of any other indebtedness that may be outstanding, cash requirements, future prospects and other factors deemed relevant by its board of directors. The Company did not pay or declare any dividends during the fiscal years ended December 31, 2018, 2017, and 2016.

Share Repurchases

On October 30, 2018, the Company's board of directors authorized a new five-year $1.5 billion share repurchase program that will expire on October 30, 2023, which replaced the Company's prior share repurchase authorization that was set to expire on February 21, 2020 and had approximately $113.3 million of remaining authorized capacity when it was replaced. This share repurchase program allows the Company, which includes an indirect wholly-owned subsidiary of Herbalife Nutrition Ltd., to repurchase the Company's common shares at such times and prices as determined by management, as market conditions warrant, and to the extent Herbalife Nutrition Ltd.'s distributable reserves are available under Cayman Islands law. The 2018 Credit Facility permits the Company to repurchase its common shares as long as no default or event of default exists and other conditions, such as specified consolidated leverage ratios, are met. As of December 31, 2018, the remaining authorized capacity under the Company's $1.5 billion share repurchase program was $1.5 billion.

In conjunction with the issuance of the 2019 Convertible Notes during February 2014, the Company paid approximately $685.8 million to enter into Forward Transactions with certain financial institutions, or the Forward Counterparties, pursuant to which the Company purchased approximately 19.9 million common shares, at an average cost of $34.51 per share, for settlement on or around the August 15, 2019 maturity date for the 2019 Convertible Notes, subject to the ability of each Forward Counterparty to elect to settle all or a portion of its Forward Transactions early. The Forward Transactions were generally expected to facilitate privately negotiated derivative transactions between the Forward Counterparties and holders of the 2019 Convertible Notes, including swaps, relating to the common shares by which holders of the 2019 Convertible Notes establish short positions relating to the common shares and otherwise hedge their investments in the 2019 Convertible Notes concurrently with, or shortly after, the pricing of the 2019 Convertible Notes. The approximate 19.9 million common shares effectively repurchased through the Forward Transactions are treated as retired shares for basic and diluted EPS purposes. During the year ended December 31, 2018, the Forward Counterparties delivered approximately 13.9 million shares to the Company, which were subsequently retired by the Company, and as a result, the Company expensed $4.3 million of unamortized non-cash issuance costs relating to these shares, which is included in the non-cash interest expense amount disclosed below. As of December 31, 2018, approximately 6.0 million shares still remained legally outstanding.

As a result of the Forward Transactions, the Company's total shareholders' deficit within its consolidated balance sheet was increased by approximately $685.8 million during the first quarter of 2014, with amounts of $653.9 million and $31.9 million being allocated between accumulated deficit and additional paid-in capital, respectively, within total shareholders' deficit. Also, upon executing the Forward Transactions, the Company recorded, at fair value, $35.8 million in non-cash issuance costs to other assets and a corresponding amount to additional paid-in capital within its consolidated balance sheet. These non-cash issuance costs will be amortized to interest expense over the contractual term of the Forward Transactions. For the years ended December 31, 2018, 2017, and 2016, the Company recognized $9.2 million, $6.5 million, and $6.5 million, respectively of non-cash interest expense within its consolidated statements of income relating to amortization of these non-cash issuance costs.

During the year ended December 31, 2018, an indirect wholly-owned subsidiary of the Company purchased 8,400 of Herbalife Nutrition Ltd.'s common shares through open-market purchases at an aggregate cost of approximately $0.3 million, or an average cost of $33.90 per share. During the year ended December 31, 2017, an indirect wholly-owned subsidiary of the Company purchased approximately 10.0 million of Herbalife Nutrition Ltd.'s common shares through open-market purchases at an aggregate cost of approximately $328.6 million, or an average cost of $32.81 per share. These share repurchases increased the Company's total shareholders' deficit and are reflected at cost within the Company's accompanying consolidated balance sheets. Although these shares are owned by an indirect wholly-owned subsidiary of the Company and remain legally outstanding, they are reflected as treasury shares under U.S. GAAP and therefore reduce the number of common shares outstanding within the Company's consolidated financial statements and the weighted-average number of common shares outstanding used in calculating earnings per share. The common shares of Herbalife Nutrition Ltd. held by the indirect wholly-owned subsidiary, however, remain outstanding on the books and records of the Company's transfer agent and therefore still carry voting and other share rights related to ownership of the Company's common shares, which may be exercised. So long as it is consistent with applicable laws, such shares will be voted by such subsidiary in the same manner, and to the maximum extent possible in the same proportion, as all other votes cast with respect to any matter properly submitted to a vote of Herbalife Nutrition Ltd.'s shareholders. As of both December 31, 2018 and 2017, the Company held approximately 10.0 million of treasury shares for U.S. GAAP purposes. In May 2018, the Company completed its modified Dutch auction tender offer and then subsequently paid cash to repurchase and retire a total of approximately 11.4 million of its common shares at an aggregate cost of approximately $600.0 million, or $52.50 per share. In October 2017, the Company completed its modified Dutch auction tender offer and then subsequently paid cash to repurchase and retire a total of approximately 13.5 million of its common shares at an aggregate cost of approximately $457.8 million, or $34.00 per share. In total, the Company repurchased 11.4 million and 23.5 million of its common shares at an aggregate cost of approximately $600.3 million and $786.4 million, or an average cost of $52.49 and $33.49 per share, during the years ended December 31, 2018 and 2017, respectively. The Company did not repurchase any of its common shares in the open market during the year ended December 31, 2016.

In connection with the Company's October 2017 modified Dutch auction tender offer, the Company incurred $1.6 million in transaction costs and also provided a non-transferable contractual CVR for each share tendered, allowing participants in the tender offer to receive a contingent cash payment in the event Herbalife is acquired in a going-private transaction (as defined in the CVR Agreement) within two years of the commencement of the tender offer. The initial fair value of the CVR was $7.3 million, which was recorded as a liability in the fourth quarter of 2017 with a corresponding decrease to shareholders' equity. In determining the initial fair value of the CVR, the Company used a lattice model, which included inputs such as the underlying stock price, strike price, time to expiration, and dividend yield. Subsequent changes in the fair value of the CVR liability, using a similar valuation approach as the initial fair value determination, are recognized within the Company's consolidated balance sheet with corresponding gains or losses being recognized in other expense (income), net within the Company's consolidated statements of income during each reporting period until the CVR expires in August 2019 or is terminated due to a going-private transaction, which is also incorporated in the valuation of the CVR; this going-private probability input is considered to be a Level 3 input in the fair value hierarchy and any increase or decrease in this input could have significantly impacted the fair value of the CVR as of the reporting date. Any subsequent increase or decrease in this input or other inputs described above in subsequent valuations could significantly impact the fair value of the CVR. The Company recognized an $8.8 million loss in other expense (income), net within its consolidated statement of income during the year ended December 31, 2018 due to the change in the fair value of the CVR, which was primarily driven by an increase in the market price of the Company's common shares, partially offset by a decrease in the probability of a going-private transaction as a result of the shortening term of the CVR before it expires pursuant to its terms. The Company recognized a $0.4 million gain in other expense (income), net within its consolidated statement of income during the year ended December 31, 2017 due to the change in the fair value of the CVR. As of December 31, 2018 and 2017, the fair value of the CVR was $15.7 million and $6.9 million, respectively.

The number of shares issued upon vesting or exercise for certain restricted stock units and SARs granted pursuant to the Company's share-based compensation plans is net of the statutory withholding requirements that the Company pays on behalf of its employees. Although shares withheld are not issued, they are treated as common share repurchases in the Company's consolidated financial statements, as they reduce the number of shares that would have been issued upon vesting. These shares do not count against the authorized capacity under the Company's share repurchase program described above. During the years ended December 31, 2018, 2017, and 2016, the Company withheld shares on its vested restricted stock units and exercised SARs relating to its share-based compensation plans.

The Company reflects the aggregate purchase price of its common shares repurchased as an increase to shareholders' deficit. The Company generally allocated the purchase price of the repurchased shares to accumulated deficit, common shares, and additional paid-in capital, with the exception of treasury shares, which are recorded separately on the Company's consolidated balance sheets.

For the years ended December 31, 2018, 2017, and 2016, the Company's share repurchases, inclusive of transaction costs and the issuance of the CVR, were $600.7 million, $795.3 million, and none, respectively, under the Company's share repurchase programs, and $145.4 million, $60.4 million, and $13.2 million, respectively, due to shares withheld for tax purposes related to the Company's share-based compensation plans. For the years ended December 31, 2018, 2017, and 2016, the Company's total share repurchases, including shares withheld for tax purposes, were $746.1 million, $855.7 million, and $13.2 million, respectively, and have been recorded as an increase to shareholders' deficit within the Company's consolidated balance sheets. The Company recorded $750.3 million of total share repurchases within financing activities on its consolidated statement of cash flows for the year ended December 31, 2018, which includes $4.2 million of share repurchases that were reflected as an increase to shareholders' deficit within the Company's consolidated balance sheet as of December 31, 2017 but were subsequently paid during the year ended December 31, 2018. The Company recorded $844.2 million of total share repurchases within financing activities on its consolidated statement of cash flows for the year ended December 31, 2017, which excludes $4.2 million of share repurchases for which payment was made subsequent to the year end and therefore reflected as a liability within the Company's consolidated balance sheet as of December 31, 2017, and the $7.3 million initial fair value of the CVR.

Capped Call Transactions

In February 2014, in connection with the issuance of the 2019 Convertible Notes, the Company paid approximately $123.8 million to enter into Capped Call Transactions with certain financial institutions. The Capped Call Transactions are expected generally to reduce the potential dilution upon conversion of the 2019 Convertible Notes in the event that the market price of the common shares is greater than the strike price of the Capped Call Transactions, initially set at $43.14 per common share based on the retroactive adjustment due to the Company's two-for-one stock split described in Note 2, *Basis of Presentation*, with such reduction of potential dilution subject to a cap based on the cap price initially set at $60.39 per common share based on the retroactive adjustment due to the Company's two-for-one stock split described in Note 2, *Basis of Presentation*. The strike price and cap price are subject to certain adjustments under the terms of the Capped Call Transactions. Therefore, as a result of executing the Capped Call Transactions, the Company in effect will only be exposed to potential net dilution once the market price of its common shares exceeds the adjusted cap price. As of December 31, 2018, the weighted-average adjusted cap price was approximately $54.30 per common share. As a result of the Capped Call Transactions, the Company's additional paid-in capital within shareholders' deficit on its consolidated balance sheet was reduced by $123.8 million during the first quarter of 2014.

During March 2018, in connection with the Company's repurchase of a portion of the 2019 Convertible Notes, the Company entered into partial settlement agreements with the option counterparties to the Capped Call Transactions to terminate a portion of such existing transactions, in each case, in a notional amount corresponding to the aggregate principal amount of 2019 Convertible Notes that were repurchased. As a result of terminating a portion of the Capped Call Transactions, which were in a favorable position, the Company received $55.9 million in cash and recognized an offsetting increase to additional paid-in capital as of December 31, 2018.

Accumulated Other Comprehensive Loss

The following table summarizes changes in accumulated other comprehensive loss by component during the years ended December 31, 2018, 2017, and 2016:

	Changes in Accumulated Other Comprehensive Loss by Component			
	Foreign Currency Translation Adjustments	Unrealized Gain (Loss) on Derivatives	Other	Total
		(in millions)		
Balance as of December 31, 2015	$ (183.0)	$ 17.4	$ 0.1	$ (165.5)
Other comprehensive (loss) income before reclassifications, net of tax	(32.5)	8.4	—	(24.1)
Amounts reclassified from accumulated other comprehensive loss to income, net of tax(1)	—	(15.4)	(0.1)	(15.5)
Total other comprehensive loss, net of reclassifications	(32.5)	(7.0)	(0.1)	(39.6)
Balance as of December 31, 2016	(215.5)	10.4	—	(205.1)
Other comprehensive income (loss) before reclassifications, net of tax	44.9	(7.9)	—	37.0
Amounts reclassified from accumulated other comprehensive loss to income, net of tax(1)	—	2.7	—	2.7
Total other comprehensive income (loss), net of reclassifications	44.9	(5.2)	—	39.7
Balance as of December 31, 2017	(170.6)	5.2	—	(165.4)
Other comprehensive (loss) income before reclassifications, net of tax	(41.0)	(3.6)	—	(44.6)
Amounts reclassified from accumulated other comprehensive loss to income, net of tax(1)	—	0.2	—	0.2
Total other comprehensive (loss) income, net of reclassifications	(41.0)	(3.4)	—	(44.4)
Balance as of December 31, 2018	$ (211.6)	$ 1.8	$ —	$ (209.8)

(1) See Note 2, *Basis of Presentation*, and Note 11, *Derivative Instruments and Hedging Activities*, for information regarding the location in the consolidated statements of income of gains (losses) reclassified from accumulated other comprehensive loss to income during the years ended December 31, 2018, 2017, and 2016.

Other comprehensive income (loss) before reclassifications was net of tax benefit of $2.7 million for foreign currency translation adjustments for the year ended December 31, 2018.

Other comprehensive income (loss) before reclassifications was net of tax expense of $5.7 million for foreign currency translation adjustments for the year ended December 31, 2017.

Other comprehensive income (loss) before reclassifications was net of tax expense of $5.2 million and tax benefit of $0.3 million for foreign currency translation adjustments and unrealized gain (loss) on derivatives, respectively, for the year ended December 31, 2016. Amounts reclassified from accumulated other comprehensive loss to income was net of tax expense of $0.1 million for unrealized gain (loss) on available-for-sale investments for the year ended December 31, 2016.

9. Share-Based Compensation

The Company has four share-based compensation plans: the Amended and Restated Herbalife Ltd. 2005 Stock Incentive Plan, or the 2005 Stock Incentive Plan, the Amended and Restated Herbalife Ltd. 2014 Stock Incentive Plan, or the 2014 Stock Incentive Plan, the Amended and Restated Herbalife Ltd. Independent Directors Deferred Compensation and Stock Unit Plan, or the Independent Director Stock Unit Plan, and the Amended and Restated Non-Management Directors Compensation Plan, or the Non-Management Directors Plan. The 2014 Stock Incentive Plan replaced the 2005 Stock Incentive Plan and after the adoption thereof, no additional awards were made under the 2005 Stock Incentive Plan. The terms of the 2014 Stock Incentive Plan are substantially similar to the terms of the 2005 Stock Incentive Plan. The 2014 Stock Incentive Plan authorizes the issuance of 17,400,000 common shares pursuant to awards granted under the plan, plus any shares that remained available for issuance under the 2005 Stock Incentive Plan as of April 29, 2014. The purpose of the Independent Directors Stock Unit Plan and the Non-Management Directors Plan is to facilitate equity ownership in the Company by its directors through equity awards. As of December 31, 2018, an aggregate of approximately 6.3 million common shares remain available for future issuance under the 2014 Stock Incentive Plan.

The Company's share-based compensation plans generally provide for grants of stock options, SARs, and stock unit awards, which are collectively referred to herein as awards. Certain SARs generally vest annually over a three-year period. The contractual term of stock options and SARs is generally ten years. Certain stock unit awards under the 2014 Stock Incentive Plan vest annually over a three year period. Certain stock unit awards subject to service and performance conditions vest after the passage of a performance period as determined by the compensation committee of the Company's board of directors. Stock unit awards granted to directors generally vest over a one-year period.

Awards can be subject to the following: market and service conditions, or market condition awards; performance and service conditions, or performance condition awards; market, service and performance conditions, or market and performance condition awards; or be subject only to continued service with the Company, or service condition awards. All awards granted by the Company are market condition awards, performance condition awards, or service condition awards. Unless otherwise determined at the time of grant, upon vesting, each stock unit award represents the right to receive one common share. For stock unit awards, the Company issues new shares, net of shares withheld for tax purposes, when vested. For SARs, the Company issues new shares based on the intrinsic value when exercised, net of shares withheld for tax purposes. The Company's stock compensation awards outstanding as of December 31, 2018 include SARs and stock unit awards.

There were no SARs with performance conditions granted during the year ended December 31, 2018. During the years ended December 31, 2017 and 2016, the Company granted SARs with performance conditions to certain employees. These awards generally vest 20% in the first succeeding year, 20% in the second succeeding year, and 60% in the third succeeding year, subject to achievement of certain sales leader retention metrics. The fair value of these SARs was determined on the date of grant using the Black-Scholes-Merton option pricing model. The compensation expense for these grants is recognized over the vesting term using the graded vesting method.

There were no SARs with service conditions granted during the year ended December 31, 2018. During the years ended December 31, 2017 and 2016, the Company granted SARs with service conditions to certain employees. The fair value of these SARs was determined on the date of grant using the Black-Scholes-Merton option pricing model. The compensation expense for these grants is recognized over the vesting term using the straight line method.

During the years ended December 31, 2018 and 2017, the Company granted performance stock unit awards to certain executives, which will vest on December 31, 2020 and December 31, 2019, respectively, subject to their continued employment through that date and the achievement of certain performance conditions. The performance conditions include targets for local currency net sales, Volume Points, adjusted earnings before interest and taxes, and adjusted earnings per share. These performance stock unit awards can vest at between 0% and 200% of the target award based on the achievement of the performance conditions.

During the years ended December 31, 2018 and 2017, the Company granted stock unit awards with service conditions to directors and certain employees.

Share-based compensation expense is included in selling, general, and administrative expenses within the Company's consolidated statements of income. The Company's policy is to estimate the number of forfeitures expected to occur. For the years ended December 31, 2018, 2017, and 2016, share-based compensation expense relating to service condition awards amounted to $26.2 million, $24.4 million, and $23.9 million, respectively. For the years ended December 31, 2018, 2017, and 2016, share-based compensation expense relating to market condition awards amounted to less than $0.1 million, $1.3 million, and $0.4 million, respectively. For the years ended December 31, 2018, 2017, and 2016, share-based compensation expense relating to performance condition awards amounted to $9.2 million, $16.4 million, and $15.9 million, respectively. For the years ended December 31, 2018, 2017, and 2016, the related income tax benefits recognized in earnings for all awards amounted to $8.1 million, $9.4 million, and $14.8 million, respectively. Excess tax benefits on share-based compensation arrangements totaled $53.1 million, $31.1 million, and $0.4 million for the years ended December 31, 2018, 2017, and 2016, respectively.

As of December 31, 2018, the total unrecognized compensation cost related to non-vested service condition stock awards was $38.0 million and the related weighted-average period over which it is expected to be recognized is approximately 1.3 years. As of December 31, 2018, the total unrecognized compensation cost related to non-vested performance condition awards was $11.2 million and the related weighted-average period over which it is expected to be recognized is approximately 1.6 years.

Stock unit awards are valued at the market value on the date of grant. The fair value of service condition SARs and performance condition SARs are estimated on the date of grant using the Black-Scholes-Merton option-pricing model. The fair value of SARs with market conditions or with market and performance conditions are estimated on the date of grant using the Monte Carlo lattice model. The Company calculates the expected term of its SARs based on historical data. All groups of employees have been determined to have similar historical exercise patterns for valuation purposes. The expected volatility of the SARs is based upon the historical volatility of the Company's common shares and is also validated against the volatility rates of a peer group of companies. The risk free interest rate is based on the implied yield on a U.S. Treasury zero-coupon issue with a remaining term equal to the expected term of the SARs. The expected dividend yield assumption is based on the Company's historical and expected amount of dividend payouts.

There were no SARs granted during the year ended December 31, 2018. There were no SARs granted to independent directors during the years ended December 31, 2017, and 2016.

The following table summarizes the weighted-average assumptions used in the calculation of the fair value for service condition SARs awards for the years ended December 31, 2017, and 2016:

	Year Ended December 31,	
	2017	2016
Expected volatility	49.2%	49.6%
Dividend yield	0.0%	0.1%
Expected term	6.0 years	6.0 years
Risk-free interest rate	2.2%	1.2%

The following table summarizes the weighted-average assumptions used in the calculation of the fair value for performance condition SARs awards granted during the years ended December 31, 2017, and 2016:

	Year Ended December 31,	
	2017	2016
Expected volatility	49.6%	49.6%
Dividend yield	0.0%	0.0%
Expected term	6.1 years	6.0 years
Risk-free interest rate	2.2%	1.2%

The following table summarizes the activities for SARs under all share-based compensation plans for the year ended December 31, 2018:

	Number of Awards	Weighted-Average Exercise Price Per Award	Weighted-Average Remaining Contractual Term	Aggregate Intrinsic Value(1)
	(in thousands)			*(in millions)*
Outstanding as of December 31, 2017(2)(3)	19,193	$ 23.36	6.2 years	$ 212.0
Granted	—	$ —		
Exercised(4)	(10,369)	$ 20.34		
Forfeited(5)	(354)	$ 28.91		
Outstanding as of December 31, 2018(2)(3)	8,470	$ 26.82	6.1 years	$ 272.1
Exercisable as of December 31, 2018(6)	5,220	$ 25.03	5.0 years	$ 177.1
Vested and expected to vest as of December 31, 2018	8,279	$ 26.76	6.0 years	$ 266.5

(1) The intrinsic value is the amount by which the current market value of the underlying stock exceeds the exercise price of the stock awards.

(2) Includes less than 0.1 million and 0.2 million market condition SARS as of December 31, 2018 and 2017, respectively.

(3) Includes 3.1 million and 6.2 million performance condition SARs as of December 31, 2018 and 2017, respectively.

(4) Includes 0.2 million market condition and 3.0 million performance condition SARs.

(5) Includes 0.1 million performance condition SARs.

(6) Includes less than 0.1 million market condition and 1.8 million performance condition SARs.

The weighted-average grant date fair value of service condition SARs granted during the years ended December 31, 2017 and 2016 was $14.32 and $14.67, respectively. The weighted-average grant date fair value of SARs with performance conditions granted during the years ended December 31, 2017 and 2016 was $14.16 and $14.85 respectively. The total intrinsic value of service condition SARs exercised during the years ended December 31, 2018, 2017, and 2016 was $211.0 million, $122.8 million, and $32.3 million, respectively. The total intrinsic value of performance condition SARs exercised during the years ended December 31, 2018, 2017, and 2016 was $95.0 million, $3.1 million, and $0.7 million, respectively. The total intrinsic value of market condition SARs exercised during the year ended December 31, 2018 was $7.8 million. There were no market condition SARS exercised during the years ended December 31, 2017 and 2016.

The following table summarizes the activities for stock units under all share-based compensation plans for the year ended December 31, 2018:

	Number of Shares	Weighted-Average Grant Date Fair Value Per Share
	(in thousands)	
Outstanding and nonvested as of December 31, 2017(1)	326	$ 34.34
Granted(2)	1,386	$ 43.75
Vested	(44)	$ 35.62
Forfeited	(57)	$ 43.15
Outstanding and nonvested as of December 31, 2018(1)	1,611	$ 42.09
Expected to vest as of December 31, 2018(3)	1,111	$ 43.47

(1) Includes 708,836 and 268,776 performance based stock unit awards as of December 31, 2018 and 2017, respectively, which represents the maximum amount that can vest.

(2) Includes 440,060 performance-based stock unit awards, which represents the maximum amount that can vest.

(3) Includes 261,297 performance-based stock unit awards.

The total vesting date fair value of stock units which vested during the years ended December 31, 2018, 2017, and 2016 was $2.2 million, $2.0 million, and $2.1 million, respectively.

Employee Stock Purchase Plan

During 2007, the Company adopted a qualified employee stock purchase plan, or ESPP, which was implemented during the first quarter of 2008. In connection with the adoption of the ESPP, the Company has reserved for issuance a total of 4 million common shares. As of December 31, 2018, approximately 3.3 million common shares remain available for future issuance. Under the terms of the ESPP, rights to purchase common shares may be granted to eligible qualified employees subject to certain restrictions. The ESPP enables the Company's eligible employees, through payroll withholdings, to purchase a limited number of common shares at 85% of the fair market value of a common share at the purchase date. Purchases are made on a quarterly basis.

10. Segment Information

The Company is a nutrition company that sells a wide range of weight management; targeted nutrition; energy, sports, and fitness; and outer nutrition products. The Company's products are manufactured by the Company in its Changsha, Hunan, China extraction facility; Suzhou, China facility; Nanjing, China facility; Lake Forest, California facility; and Winston-Salem, North Carolina facility, as well as by third-party providers, and then are sold to Members who consume and sell Herbalife products to retail consumers or other Members. Revenues reflect sales of products by the Company to its Members and are categorized based on geographic location.

As of December 31, 2018, the Company sold products in 94 countries throughout the world and was organized and managed by six geographic regions:North America, Mexico, South & Central America, EMEA, Asia Pacific, and China . The Company defines its operating segments as those geographical operations.The Company aggregates its operating segments, excluding China, into a reporting segment, or the Primary Reporting Segment, as management believes that the Company's operating segments have similar operating characteristics and similar long term operating performance. In making this determination, management believes that the operating segments are similar in the nature of the products sold, the product acquisition process, the types of customers to whom products are sold, the methods used to distribute the products, the nature of the regulatory environment, and their economic characteristics. China has been identified as a separate reporting segment as it does not meet the criteria for aggregation. The Company reviews its net sales and contribution margin by operating segment, and reviews its assets and capital expenditures on a consolidated basis and not by operating segment. Therefore, net sales and contribution margin are presented by reportable segment and assets and capital expenditures by segment are not presented.

Operating information for the two reportable segments, sales by product line, and sales by geographic area are as follows:

	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Net sales:			
Primary Reporting Segment	$ 3,884.2	$ 3,541.8	$ 3,619.6
China	1,007.6	885.9	868.8
Total net sales	$ 4,891.8	$ 4,427.7	$ 4,488.4
Contribution margin(1):			
Primary Reporting Segment	$ 1,693.5	$ 1,534.2	$ 1,571.9
China(2)	915.0	790.7	789.3
Total contribution margin	$ 2,608.5	$ 2,324.9	$ 2,361.2
Selling, general, and administrative expenses(2)	1,955.2	1,758.6	1,966.9
Other operating income	(29.8)	(50.8)	(63.8)
Interest expense	181.0	160.8	99.3
Interest income	19.4	14.5	5.9
Other expense (income), net	57.3	(0.4)	—
Income before income taxes	464.2	471.2	364.7
Income taxes	167.6	257.3	104.7
Net income	$ 296.6	$ 213.9	$ 260.0
Net sales by product line:			
Weight Management	$ 3,105.8	$ 2,842.5	$ 2,864.5
Targeted Nutrition	1,243.5	1,082.8	1,062.8
Energy, Sports, and Fitness	308.4	263.8	268.4
Outer Nutrition	91.9	93.9	110.4
Literature, Promotional, and Other(3)	142.2	144.7	182.3
Total net sales	$ 4,891.8	$ 4,427.7	$ 4,488.4
Net sales by geographic area:			
United States	$ 925.9	$ 818.3	$ 935.0
China	1,007.6	885.9	868.8
Mexico	467.9	442.7	446.6
Others	2,490.4	2,280.8	2,238.0
Total net sales	$ 4,891.8	$ 4,427.7	$ 4,488.4

(1) Contribution margin consists of net sales less cost of sales and royalty overrides. For the China segment, contribution margin does not include service fees to China Independent Service Providers.

(2) Service fees to China Independent Service Providers totaling $523.2 million, $419.5 million, and $407.1 million for the years ended December 31, 2018, 2017, and 2016, respectively, are included in selling, general, and administrative expenses.

(3) Product buy backs and returns in all product categories are included in the Literature, Promotional, and Other category.

As of December 31, 2018 and 2017, goodwill allocated to the Company's reporting units included in the Company's Primary Reporting Segment was $89.8 million and $93.6 million, respectively. Goodwill allocated to the China segment was $3.1 million and $3.3 million as of December 31, 2018 and 2017, respectively.

The following table sets forth property, plant and equipment and deferred tax assets by geographic area:

	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Property, plant, and equipment, net:			
United States	$ 285.2	$ 289.8	$ 290.7
Foreign	74.8	87.7	87.3
Total property, plant, and equipment, net	$ 360.0	$ 377.5	$ 378.0
Deferred tax assets:			
United States	$ 90.7	$ 103.6	$ 218.7
Foreign	74.9	70.9	62.5
Total deferred tax assets	$ 165.6	$ 174.5	$ 281.2

The majority of the Company's foreign subsidiaries designate their local currencies as their functional currency. As of December 31, 2018 and 2017, the total amount of cash held by foreign subsidiaries reported in the Company's consolidated balance sheets was $870.3 million and $1,133.5 million, respectively, of which $309.4 million and $633.3 million, respectively, was maintained or invested in U.S. dollars. As of December 31, 2018 and 2017, the total amount of cash and cash equivalents held by Herbalife Nutrition Ltd. and its U.S. entities, inclusive of U.S. territories, was $328.6 million and $145.3 million, respectively.

11. Derivative Instruments and Hedging Activities

Foreign Currency Instruments

The Company designates certain foreign currency derivatives, primarily comprised of foreign currency forward contracts, as freestanding derivatives for which hedge accounting does not apply. The changes in the fair market value of these freestanding derivatives are included in selling, general, and administrative expenses in the Company's consolidated statements of income. The Company primarily uses freestanding foreign currency derivatives to hedge foreign currency-denominated intercompany transactions and to partially mitigate the impact of foreign currency fluctuations. The fair value of the freestanding foreign currency derivatives is based on third-party quotes. The Company's foreign currency derivative contracts are generally executed on a monthly basis.

The Company designates as cash-flow hedges those foreign currency forward contracts it enters into to hedge forecasted inventory purchases and intercompany management fees that are subject to foreign currency exposures. Forward contracts are used to hedge forecasted inventory purchases over specific months. Changes in the fair value of these forward contracts, excluding forward points, designated as cash-flow hedges are recorded as a component of accumulated other comprehensive loss within shareholders' deficit, and are recognized in cost of sales in the consolidated statement of income during the period which approximates the time the hedged inventory is sold. The Company also hedges forecasted intercompany management fees over specific months. These contracts allow the Company to sell Euros in exchange for U.S. dollars at specified contract rates. Changes in the fair value of these forward contracts designated as cash flow hedges are recorded as a component of accumulated other comprehensive loss within shareholders' deficit, and are recognized in selling, general, and administrative expenses within the Company's consolidated statement of income during the period when the hedged item and underlying transaction affect earnings.

As of December 31, 2018 and 2017, the aggregate notional amounts of all foreign currency contracts outstanding designated as cash flow hedges were approximately $43.8 million and $104.9 million, respectively. As of December 31, 2018, these outstanding contracts were expected to mature over the next eleven months. The Company's derivative financial instruments are recorded on the consolidated balance sheets at fair value based on third-party quotes. As of December 31, 2018, the Company recorded assets at fair value of $0.5 million and liabilities at fair value of $0.7 million relating to all outstanding foreign currency contracts designated as cash-flow hedges. As of December 31, 2017, the Company recorded assets at fair value of $2.9 million and liabilities at fair value of $4.0 million relating to all outstanding foreign currency contracts designated as cash-flow hedges. The Company assesses hedge effectiveness and measures hedge ineffectiveness at least quarterly. During the years ended December 31, 2018, 2017, and 2016, the ineffective portion relating to these hedges was immaterial and the hedges remained effective as of December 31, 2018 and 2017.

As of December 31, 2018 and 2017, the majority of the Company's outstanding foreign currency forward contracts had maturity dates of less than twelve months with the majority of freestanding derivatives expiring within one month as of December 31, 2018 and 2017.

The tables below provide information about the details of all foreign currency forward contracts that were outstanding as of December 31, 2018 and 2017:

	Weighted-Average Contract Rate	Notional Amount	Fair Value Gain (Loss)
	(in millions, except weighted-average contract rate)		
As of December 31, 2018			
Buy Brazilian real sell U.S. dollar	3.92	$ 4.3	$ —
Buy British pound sell Euro	0.90	8.3	—
Buy British pound sell U.S. dollar	1.27	2.7	—
Buy Chinese yuan sell Euro	8.14	58.6	1.7
Buy Colombian peso sell U.S. dollar	3,313.00	1.8	—
Buy Euro sell Australian dollar	1.61	1.1	—
Buy Euro sell British pound	0.91	4.7	—
Buy Euro sell Canadian dollar	1.55	0.2	—
Buy Euro sell Chinese yuan	7.91	6.3	—
Buy Euro sell Ghanaian cedi	5.73	8.5	(0.2)
Buy Euro sell Hong Kong dollar	8.90	1.1	—
Buy Euro sell Indonesian rupiah	16,780.97	7.3	(0.1)
Buy Euro sell Japanese yen	128.00	0.3	—
Buy Euro sell Kazakhstani tenge	431.37	0.7	—
Buy Euro sell Malaysian ringgit	4.79	3.7	—
Buy Euro sell Mexican peso	23.48	55.0	(0.9)
Buy Euro sell Peruvian nuevo sol	3.83	2.2	—
Buy Euro sell Philippine peso	60.58	3.9	—
Buy Euro sell Russian ruble	78.87	3.3	—
Buy Euro sell South African rand	16.55	4.6	0.1
Buy Euro sell Taiwan dollar	34.98	1.2	—
Buy Euro sell Thai baht	37.32	0.8	—
Buy Euro sell U.S. dollar	1.15	51.2	(0.1)
Buy Euro sell Ukrainian hryvnia	32.28	2.6	—
Buy Hong Kong dollar sell Euro	9.00	3.1	—
Buy Indian rupee sell U.S. dollar	70.32	1.5	—
Buy Indonesian rupiah sell U.S. dollar	14,670.00	7.0	0.1
Buy Korean won sell U.S. dollar	1,116.38	5.0	0.1
Buy Mexican peso sell Euro	22.89	10.9	0.1
Buy Mexican peso sell U.S. dollar	19.68	0.7	—
Buy Norwegian krone sell U.S. dollar	8.69	1.2	—
Buy Philippine peso sell Euro	60.27	1.5	—
Buy Swedish krona sell U.S. dollar	8.90	1.1	—
Buy Taiwan dollar sell U.S. dollar	30.17	9.4	0.1
Buy U.S. dollar sell Brazilian real	3.85	4.4	—
Buy U.S. dollar sell British pound	1.27	1.4	—
Buy U.S. dollar sell Colombian peso	3,262.80	1.4	—
Buy U.S. dollar sell Euro	1.16	97.6	0.5
Buy U.S. dollar sell Mexican peso	22.02	4.9	0.2
Total forward contracts		$ 385.5	$ 1.6

	Weighted-Average Contract Rate	Notional Amount	Fair Value Gain (Loss)
	(in millions, except weighted-average contract rate)		
As of December 31, 2017			
Buy Argentine peso sell Euro	21.40	$ 0.5	$ —
Buy Australian dollar sell Euro	1.55	0.9	—
Buy British pound sell Euro	0.88	3.4	(0.1)
Buy British pound sell U.S. dollar	1.35	2.8	—
Buy Canadian dollar sell Euro	1.52	0.5	—
Buy Chilean peso sell Euro	749.55	0.6	—
Buy Chinese yuan sell Euro	8.03	25.9	0.4
Buy Euro sell Argentine peso	21.46	0.5	—
Buy Euro sell Australian dollar	1.56	4.8	(0.1)
Buy Euro sell Canadian dollar	1.52	0.5	—
Buy Euro sell Chilean peso	749.35	1.1	—
Buy Euro sell Chinese yuan	7.84	26.5	0.2
Buy Euro sell Ghana cedi	5.61	3.0	(0.1)
Buy Euro sell Hong Kong dollar	9.26	6.8	0.1
Buy Euro sell Indonesian rupiah	16,113.59	11.5	0.1
Buy Euro sell Japanese yen	133.88	0.4	—
Buy Euro sell Kazakhstani tenge	401.40	1.7	—
Buy Euro sell Malaysian ringgit	4.84	1.6	—
Buy Euro sell Mexican peso	22.65	59.1	3.6
Buy Euro sell Peruvian nuevo sol	3.85	4.9	—
Buy Euro sell Philippine peso	60.03	5.3	—
Buy Euro sell Russian ruble	70.38	10.8	(0.1)
Buy Euro sell South African rand	16.37	3.8	(0.3)
Buy Euro sell Taiwan dollar	35.59	0.6	—
Buy Euro sell Thai baht	38.33	1.3	—
Buy Euro sell U.S. dollar	1.18	59.1	0.9
Buy Hong Kong dollar sell Euro	9.31	3.0	—
Buy Indonesian rupiah sell Euro	16,164.33	4.8	—
Buy Indonesian rupiah sell U.S. dollar	13,676.00	6.2	—
Buy Kazakhstani tenge sell U.S. dollar	338.75	0.9	—
Buy Korean won sell U.S. dollar	1,077.18	5.4	0.1
Buy Malaysian ringgit sell Euro	4.90	0.5	—
Buy Mexican peso sell Euro	22.97	7.1	(0.2)
Buy Norwegian krone sell U.S. dollar	8.26	1.2	—
Buy Peruvian nuevo sol sell Euro	3.85	2.3	—
Buy Russian ruble sell Euro	70.47	4.4	0.1
Buy South African rand sell Euro	15.18	0.9	—
Buy Swedish krona sell U.S. dollar	8.37	1.9	0.1
Buy Taiwan dollar sell U.S. dollar	29.78	5.9	0.1
Buy Thai baht sell Euro	38.69	2.2	—
Buy U.S. dollar sell British pound	1.34	6.8	(0.1)
Buy U.S. dollar sell Colombian peso	2,996.00	1.0	—
Buy U.S. dollar sell Euro	1.15	141.1	(5.3)
Buy U.S. dollar sell South African rand	13.93	1.9	(0.2)
Total forward contracts		$ 435.4	$ (0.8)

The following tables summarize the derivative activity during the years ended December 31, 2018, 2017, and 2016 relating to all the Company's derivatives.

Gains and Losses on Derivative Instruments

The following table summarizes gains (losses) relating to derivative instruments recorded in other comprehensive loss during the years ended December 31, 2018, 2017, and 2016:

	Amount of (Loss) Gain Recognized in Other Comprehensive (Loss) Income		
	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Derivatives designated as hedging instruments:			
Foreign exchange currency contracts relating to inventory and intercompany management fee hedges	$ (3.6)	$ (7.9)	$ 8.1

As of December 31, 2018, the estimated amount of existing net gains related to cash flow hedges recorded in accumulated other comprehensive loss that are expected to be reclassified into earnings over the next twelve months was $1.8 million.

The following table summarizes gains (losses) relating to derivative instruments recorded to income during the years ended December 31, 2018, 2017, and 2016:

	Amount of (Loss) Gain Recognized in Income			
	Year Ended December 31,			
	2018	2017	2016	Location of (Loss) Gain Recognized in Income
	(in millions)			
Derivatives designated as hedging instruments:				
Foreign exchange currency contracts relating to inventory and intercompany management fee hedges(1)	$ (2.1)	$ (0.1)	$ 0.2	Selling, general, and administrative expenses
Derivatives not designated as hedging instruments:				
Foreign exchange currency contracts	$ (4.0)	$ (8.6)	$ (4.3)	Selling, general, and administrative expenses

(1) For foreign exchange contracts designated as hedging instruments, the amounts recognized in income primarily represent the amounts excluded from the assessment of hedge effectiveness for the years ended December 31, 2018, 2017, and 2016.

The following table summarizes gains (losses) relating to derivative instruments reclassified from accumulated other comprehensive loss into income during the years ended December 31, 2018, 2017, and 2016:

	Amount of Gain (Loss) Reclassified from Accumulated Other Comprehensive Loss to Income Year Ended December 31,			Location of Gain (Loss) Reclassified from Accumulated Other Comprehensive Loss to Income (Effective Portion)
	2018	2017	2016	
		(in millions)		
Derivatives designated as hedging instruments:				
Foreign exchange currency contracts relating to inventory hedges	$ 3.6	$ (0.5)	$ 14.7	Cost of sales
Foreign exchange currency contracts relating to intercompany management fee hedges	$ (3.8)	$ (2.2)	$ 0.3	Selling, general, and administrative expenses

The Company reports its derivatives at fair value as either assets or liabilities within its consolidated balance sheets. See Note 13, *Fair Value Measurements*, for information on derivative fair values and their consolidated balance sheet locations as of December 31, 2018 and 2017.

12. Income Taxes

The components of income before income taxes are as follows:

	Year Ended December 31,		
	2018	2017	2016
		(in millions)	
Domestic	$ (2.0)	$ (29.0)	$ (89.3)
Foreign	466.2	500.2	454.0
Total	$ 464.2	$ 471.2	$ 364.7

Income taxes are as follows:

	Year Ended December 31,		
	2018	2017	2016
		(in millions)	
Current:			
Foreign	$ 150.7	$ 147.1	$ 127.9
Federal	24.9	10.6	12.4
State	0.1	1.8	0.8
	175.7	159.5	141.1
Deferred:			
Foreign	(13.7)	(8.6)	12.5
Federal	8.0	106.4	(47.2)
State	(2.4)	—	(1.7)
	(8.1)	97.8	(36.4)
	$ 167.6	$ 257.3	$ 104.7

The significant categories of temporary differences that gave rise to deferred tax assets and liabilities are as follows:

	December 31,	
	2018	2017
	(in millions)	
Deferred income tax assets:		
Accruals not currently deductible	$ 86.8	$ 78.5
Tax loss and credit carryforwards of certain foreign subsidiaries	168.1	137.6
Tax loss and domestic tax credit carryforwards	217.6	191.4
Deferred compensation plan	34.5	49.7
Deferred interest expense	26.1	—
Accrued vacation	4.9	4.4
Inventory reserve	6.5	7.4
Other	4.0	4.9
Gross deferred income tax assets	548.5	473.9
Less: valuation allowance	(382.9)	(299.4)
Total deferred income tax assets	$ 165.6	$ 174.5
Deferred income tax liabilities:		
Intangible assets	$ 70.9	$ 71.1
Depreciation/amortization	2.4	5.4
Unremitted foreign earnings	12.6	20.5
Other	8.1	7.7
Total deferred income tax liabilities	94.0	104.7
Total net deferred tax assets	$ 71.6	$ 69.8

Tax loss and credit carryforwards of certain foreign subsidiaries for 2018 and 2017 were $168.1 million and $137.6 million, respectively. If unused, tax loss and credit carryforwards of certain foreign subsidiaries of $71.6 million will expire between 2019 and 2028 and $96.5 million can be carried forward indefinitely. U.S. foreign tax credit carryforwards for 2018 and 2017 were $211.0 million and $186.2 million, respectively, which are included in Tax loss and domestic tax credit carryforwards in the table above. If unused, U.S. foreign tax credit carryforwards will expire between 2020 and 2028. Domestic research and development tax credit carryforwards for 2018 and 2017 were $7.3 million and $4.8 million. If unused, domestic research and development tax credit carryforwards will expire in 2037. The deferred interest expense can be carried forward indefinitely. State tax loss carryforwards for 2018 and 2017 were $2.2 million and $0.4 million. If unused, state tax loss carryforwards will expire between 2022 and 2038.

On December 22, 2017, the U.S. enacted the Tax Cuts and Jobs Act, or the Act. The Act, which is also commonly referred to as "U.S. Tax Reform," significantly changes U.S. corporate income tax laws by, among other things, reducing the U.S. corporate income tax rate to 21% starting in 2018 and creating a modified territorial tax system with a one-time mandatory tax on previously deferred foreign earnings of U.S. subsidiaries. During the fourth quarter of 2017, in accordance with the SEC Staff Accounting Bulletin ("SAB") No. 118, *Income Tax Accounting Implications of the Tax Cuts and Jobs Act*("SAB 118"), the Company recorded a provisional net expense of $153.3 million. This amount, which is included in tax expense, predominantly consists of three components: (i) a $163.4 million charge caused by the establishment of a valuation allowance on deferred tax assets due to the Act's changes in the sourcing and calculation of foreign income, which thereby limited the expected utilization of foreign tax credit carryforwards, (ii) a $5.5 million benefit resulting from the remeasurement of the Company's net deferred tax liabilities in the U.S. based on the new lower corporate income tax rate, and (iii) a non-recurring benefit of $4.6 million related to additional foreign tax credits (a result of the impact of a one-time mandatory repatriation on previously unremitted earnings of certain non-U.S. subsidiaries that are owned either directly or indirectly by the U.S. parent).

Although the $153.3 million provisional net expense represented what the Company believed was a reasonable estimate of the impact of the income tax effects of the Act on the Company's consolidated financial statements as of December 31, 2017, it was considered provisional. Provisional items include, but are not limited to, foreign tax credits and associated valuation allowance, limitations on executive compensation, and the one-time tax on previously unremitted foreign earnings of U.S. subsidiaries. The Company continued to analyze regulatory guidance, including proposed regulations relating to foreign tax credits that were issued during the fourth quarter of 2018, and other information, including a continued inability to fully utilize foreign tax credits generated. Accordingly, the Company recorded an additional $29.5 million of expense during the fourth quarter of 2018, which was caused by the establishment of a valuation allowance on deferred tax assets relating to foreign tax credit carryforwards. As a result, the Company's accounting for the ultimate tax effects of the Act has been finalized under SAB 118 as of December 31, 2018.

The Company recognizes valuation allowances on deferred tax assets reported if, based on the weight of the evidence it is more likely than not that some or all of the deferred tax assets will not be realized. As of December 31, 2018 and 2017, the Company held valuation allowances against net deferred tax assets of certain subsidiaries, primarily related to tax loss carryforwards and U.S. foreign tax credits, in the amount of $382.9 million and $299.4 million, respectively. The change in the Company's valuation allowance during 2018 of $83.5 million was related to $83.7 million of net additions charged to income tax expense, primarily related to the valuation allowance established for U.S. foreign tax credits described above, partially offset by $0.2 million of currency translation adjustments recognized within other comprehensive income. The change in the Company's valuation allowance during 2017 of $184.0 million was related to $183.7 million of net additions charged to income tax expense, primarily related to the valuation allowance established for U.S. foreign tax credits described above, and $0.3 million of currency translation adjustments recognized within other comprehensive income. The change in the Company's valuation allowance during 2016 of $5.9 million was related to $5.6 million of net reductions charged to income tax expense and $0.3 million of currency translation adjustments recognized within other comprehensive income.

As of December 31, 2018, the Company's U.S. consolidated group had approximately $116.6 million of unremitted earnings that were permanently reinvested relating to certain foreign subsidiaries. As of December 31, 2018, Herbalife Nutrition Ltd. had approximately $2.3 billion of permanently reinvested unremitted earnings relating to its operating subsidiaries. As a result of the Company's decision to invest in the China Growth and Impact Investment Fund, approximately $119.8 million of unremitted earnings were permanently reinvested as of December 31, 2018. Since Herbalife Nutrition Ltd.'s unremitted earnings have been permanently reinvested, deferred taxes were not provided on these unremitted earnings. Further, it is not practicable to determine the amount of unrecognized deferred taxes with respect to these unremitted earnings. If the Company were to remit these unremitted earnings then it would be subject to income tax on these remittances. Deferred taxes have been accrued for earnings that are not considered indefinitely reinvested. The deferred tax on the unremitted foreign earnings as of December 31, 2018 and 2017 was a deferred tax liability (net of valuation allowance) of $18.0 million and $29.1 million, respectively.

The applicable statutory income tax rate in the Cayman Islands was zero for Herbalife Nutrition Ltd. for the years being reported. For purposes of the reconciliation between the provision for income taxes at the statutory rate and the provision for income taxes at the effective tax rate, a notional 21% tax rate is applied for the year ended December 31, 2018 and a notional 35% tax rate is applied for the years ended December 31, 2017 and 2016 as follows:

	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Tax expense at United States statutory rate	$ 97.4	$ 164.9	$ 127.7
Increase (decrease) in tax resulting from:			
Differences between U.S. and foreign tax rates on foreign income, including withholding taxes	31.0	(42.7)	(16.6)
U.S. tax (benefit) on foreign income, net of foreign tax credits	(0.8)	(22.9)	(10.2)
Increase (decrease) in valuation allowances	83.7	183.7	(5.6)
State taxes, net of federal benefit	(1.5)	1.9	0.3
Unrecognized tax benefits	6.9	(4.0)	5.3
Excess tax benefits on equity awards	(53.1)	(31.1)	—
Other	4.0	7.5	3.8
Total	$ 167.6	$ 257.3	$ 104.7

As of December 31, 2018, the total amount of unrecognized tax benefits, including related interest and penalties was $65.2 million. If the total amount of unrecognized tax benefits was recognized, $46.8 million of unrecognized tax benefits, $10.0 million of interest, and $1.7 million of penalties would impact the effective tax rate. As of December 31, 2017, the total amount of unrecognized tax benefits, including related interest and penalties was $62.0 million. If the total amount of unrecognized tax benefits was recognized, $44.4 million of unrecognized tax benefits, $9.9 million of interest, and $1.5 million of penalties would impact the effective tax rate.

The Company accounts for the interest and penalties generated by tax contingencies as a component of income tax expense. During the year ended December 31, 2018, the Company recorded an increase in interest and penalty expense related to uncertain tax positions of $1.0 million and $0.4 million, respectively. During the year ended December 31, 2017, the Company recorded a decrease in interest and penalty expense related to uncertain tax positions of less than $0.1 million and $0.8 million, respectively. During the year ended December 31, 2016, the Company recorded an increase in interest and penalty expense related to uncertain tax positions of $2.7 million and $0.7 million, respectively. As of December 31, 2018, the total amount of interest and penalties related to unrecognized tax benefits recognized in the consolidated balance sheet was $10.0 million and $1.7 million, respectively. As of December 31, 2017, the total amount of interest and penalties related to unrecognized tax benefits recognized in the consolidated balance sheet was $9.9 million and $1.5 million, respectively. As of December 31, 2016, the total amount of interest and penalties related to unrecognized tax benefits recognized in the consolidated balance sheet was $9.4 million and $2.1 million, respectively.

The following changes occurred in the amount of unrecognized tax benefits during the years ended December 31, 2018, 2017, and 2016:

	Year Ended December 31,		
	2018	2017	2016
	(in millions)		
Beginning balance of unrecognized tax benefits	$ 50.6	$ 50.5	$ 49.4
Additions for current year tax positions	12.8	13.0	9.3
Additions for prior year tax positions	0.7	3.6	2.0
Reductions for prior year tax positions	(2.1)	(6.0)	(4.7)
Reductions for audit settlements	(0.5)	(7.1)	—
Reductions for the expiration of statutes of limitations	(4.8)	(6.2)	(4.2)
Changes due to foreign currency translation adjustments	(3.2)	2.8	(1.3)
Ending balance of unrecognized tax benefits (excluding interest and penalties)	53.5	50.6	50.5
Interest and penalties associated with unrecognized tax benefits	11.7	11.4	11.5
Ending balance of unrecognized tax benefits (including interest and penalties)	$ 65.2	$ 62.0	$ 62.0

The amount of income taxes the Company pays is subject to ongoing audits by taxing jurisdictions around the world. The Company's estimate of the potential outcome of any uncertain tax position is subject to management's assessment of relevant risks, facts, and circumstances existing at that time. The Company believes that it has adequately provided for these matters. However, the Company's future results may include favorable or unfavorable adjustments to its estimates in the period the audits are resolved, which may impact the Company's effective tax rate. As of December 31, 2018, the Company's tax filings are generally subject to examination in major tax jurisdictions for years ending on or after December 31, 2013.

The Company believes that it is reasonably possible that the amount of unrecognized tax benefits could decrease by up to approximately $6.4 million within the next twelve months. Of this possible decrease, $0.4 million would be due to the settlement of audits or resolution of administrative or judicial proceedings. The remaining possible decrease of $6.0 million would be due to the expiration of statute of limitations in various jurisdictions.

13. Fair Value Measurements

The Company applies the provisions of FASB ASC Topic 820, *Fair Value Measurements and Disclosures*, or ASC 820, for its financial and non-financial assets and liabilities. ASC 820 defines fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. ASC 820 establishes a fair value hierarchy, which prioritizes the inputs used in measuring fair value into three broad levels as follows:

Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date.

Level 2 inputs include quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, inputs other than quoted prices that are observable for the asset or liability, and inputs that are derived principally from or corroborated by observable market data by correlation or other means.

Level 3 inputs are unobservable inputs for the asset or liability.

The Company measures certain assets and liabilities at fair value as discussed throughout the notes to its consolidated financial statements. Foreign exchange currency contracts are valued using standard calculations and models primarily based on inputs such as observable forward rates, spot rates, and foreign currency exchange rates at the reporting period ended date.

The Company's derivative assets and liabilities are measured at fair value and consisted of Level 2 inputs and their amounts are shown below at their gross values as of December 31, 2018 and 2017:

	Balance Sheet Location	Significant Other Observable Inputs (Level 2) Fair Value as of December 31, 2018	Significant Other Observable Inputs (Level 2) Fair Value as of December 31, 2017
		(in millions)	
ASSETS:			
Derivatives designated as hedging instruments:			
Foreign exchange currency contracts relating to inventory and intercompany management fee hedges	Prepaid expenses and other current assets	$ 0.5	$ 2.9
Derivatives not designated as hedging instruments:			
Foreign exchange currency contracts	Prepaid expenses and other current assets	2.8	2.9
		$ 3.3	$ 5.8
LIABILITIES:			
Derivatives designated as hedging instruments:			
Foreign exchange currency contracts relating to inventory and intercompany management fee hedges	Other current liabilities	$ 0.7	$ 4.0
Derivatives not designated as hedging instruments:			
Foreign exchange currency contracts	Other current liabilities	1.0	2.6
		$ 1.7	$ 6.6

The Company's CVR liability is measured at fair value and consisted of Level 3 inputs. See Note 8,*Shareholders' Deficit*, for a further description of the CVR liability. The following is a reconciliation of the CVR liability reported in Other current liabilities within the Company's consolidated balance sheet as of December 31, 2018:

	Contingent Value Right
	(in millions)
Fair value as of December 31, 2017	$ 6.9
Net unrealized loss(1)	8.8
Fair value as of December 31, 2018	$ 15.7

(1) Unrealized gains and losses related to the revaluation of the CVR are recorded in other expense (income), net within the Company's consolidated statements of income.

The Company's deferred compensation plan assets consist of Company-owned life insurance policies. As these policies are recorded at their cash surrender value, they are not required to be included in the fair value table above. See Note 6, *Employee Compensation Plans*, for a further description of its deferred compensation plan assets.

The following tables summarize the offsetting of the fair values of the Company's derivative assets and derivative liabilities for presentation in the Company's consolidated balance sheets as of December 31, 2018 and 2017:

	Offsetting of Derivative Assets		
	Gross Amounts of Recognized Assets	Gross Amounts Offset in the Balance Sheet	Net Amounts of Assets Presented in the Balance Sheet
	(in millions)		
December 31, 2018			
Foreign exchange currency contracts	$ 3.3	$ (1.2)	$ 2.1
Total	$ 3.3	$ (1.2)	$ 2.1
December 31, 2017			
Foreign exchange currency contracts	$ 5.8	$ (4.3)	$ 1.5
Total	$ 5.8	$ (4.3)	$ 1.5

	Offsetting of Derivative Liabilities		
	Gross Amounts of Recognized Liabilities	Gross Amounts Offset in the Balance Sheet	Net Amounts of Liabilities Presented in the Balance Sheet
	(in millions)		
December 31, 2018			
Foreign exchange currency contracts	$ 1.7	$ (1.2)	$ 0.5
Total	$ 1.7	$ (1.2)	$ 0.5
December 31, 2017			
Foreign exchange currency contracts	$ 6.6	$ (4.3)	$ 2.3
Total	$ 6.6	$ (4.3)	$ 2.3

The Company offsets all of its derivative assets and derivative liabilities in its consolidated balance sheets to the extent it maintains master netting arrangements with related financial institutions. As of December 31, 2018 and 2017, all of the Company's derivatives were subject to master netting arrangements and no collateralization was required for the Company's derivative assets and derivative liabilities.

14. Detail of Certain Balance Sheet Accounts

Other Assets

The Other assets on the Company's accompanying consolidated balance sheets include deferred compensation plan assets of $31.2 million and $33.6 million and deferred tax assets of $79.1 million and $77.5 million as of December 31, 2018 and 2017, respectively.

Other Current Liabilities

Other current liabilities consist of the following:

	December 31,	
	2018	2017
	(in millions)	
Accrued compensation	$ 137.9	$ 117.3
Accrued service fees to China Independent Service Providers	67.6	58.7
Accrued advertising, events, and promotion expenses	55.1	46.3
Advance sales deposits	65.6	65.2
Income taxes payable	40.0	25.7
Other accrued liabilities	181.2	145.7
Total	$ 547.4	$ 458.9

Other Non-Current Liabilities

The Other non-current liabilities on the Company's accompanying consolidated balance sheets include deferred compensation plan liabilities of $51.3 million and $58.1 million and deferred income tax liabilities of $7.5 million and $7.8 million as of December 31, 2018 and 2017, respectively. See Note 6, *Employee Compensation Plans*, for a further description of the Company's deferred compensation plan assets and liabilities.

15. Subsequent Events

On January 8, 2019, the Company announced the resignation of Richard P. Goudis, Chief Executive Officer of the Company, effective as of January 8, 2019 and the immediate temporary appointment of Michael O. Johnson, the Company's Executive Chairman, to the role of Chief Executive Officer. In connection with Mr. Goudis' resignation, Herbalife International of America, Inc., a wholly-owned subsidiary of the Company, entered into a Separation Agreement and General Release with Mr. Goudis, dated January 8, 2019. All equity awards issued to Mr. Goudis continued to vest in accordance with their existing terms up to through January 8, 2019. Thereafter, all unvested equity awards were forfeited, and any vested and unexercised stock appreciation rights shall expire in accordance with their existing terms. Additionally, the Company shall pay Mr. Goudis remuneration in the amount of $3.5 million which is contingent on Mr. Goudis' continued compliance with the payment requirements specified in the Separation Agreement and General Release.

16. Quarterly Information (Unaudited)

	2018	2017
	(in millions, except per share amounts)	
First Quarter Ended March 31		
Net sales	$ 1,176.9	$ 1,102.1
Gross profit	937.0	897.5
Net income	82.1	85.2
Earnings per share:		
Basic	$ 0.57	$ 0.51
Diluted	$ 0.54	$ 0.49
Second Quarter Ended June 30		
Net sales	$ 1,285.5	$ 1,146.9
Gross profit	1,050.1	928.1
Net income	94.4	137.6
Earnings per share:		
Basic	$ 0.66	$ 0.84
Diluted	$ 0.62	$ 0.81
Third Quarter Ended September 30		
Net sales	$ 1,242.8	$ 1,085.4
Gross profit	1,024.7	870.0
Net income	71.2	54.5
Earnings per share:		
Basic	$ 0.52	$ 0.34
Diluted	$ 0.49	$ 0.33
Fourth Quarter Ended December 31(1)		
Net sales	$ 1,186.6	$ 1,093.3
Gross profit	960.7	883.5
Net income (loss)	48.9	(63.4)
Earnings (loss) per share:		
Basic	$ 0.36	$ (0.43)
Diluted	$ 0.34	$ (0.43)

(1) The fourth quarters of both 2018 and 2017 include the impact of U.S. Tax Reform enacted during the fourth quarter of 2017, as described further in Note 12, *Income Taxes*.

Item 16. ***Form 10-K Summary***

None.

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.

HERBALIFE NUTRITION LTD.

By: /s/ BOSCO CHIU
Bosco Chiu
Executive Vice President, Chief Financial Officer

Dated: February 19, 2019

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

Signature	Title	Date
/s/ MICHAEL O. JOHNSON Michael O. Johnson	*Chairman of the Board and Chief Executive Officer* (Principal Executive Officer and Director)	February 19, 2019
/s/ BOSCO CHIU Bosco Chiu	*Executive Vice President, Chief Financial Officer* (Principal Financial Officer and Principal Accounting Officer)	February 19, 2019
/s/ RICHARD H. CARMONA Richard H. Carmona	Director	February 19, 2019
/s/ JONATHAN CHRISTODORO Jonathan Christodoro	Director	February 19, 2019
/s/ JEFFREY T. DUNN Jeffrey T. Dunn	Director	February 19, 2019
/s/ HUNTER C. GARY Hunter C. Gary	Director	February 19, 2019
/s/ NICHOLAS GRAZIANO Nicholas Graziano	Director	February 19, 2019
/s/ ALAN LEFEVRE Alan LeFevre	Director	February 19, 2019
/s/ JESSE A. LYNN Jesse A. Lynn	Director	February 19, 2019
/s/ JUAN MIGUEL MENDOZA Juan Miguel Mendoza	Director	February 19, 2019
/s/ MICHAEL MONTELONGO Michael Montelongo	Director	February 19, 2019
/s/ JAMES L. NELSON James L. Nelson	Director	February 19, 2019
/s/ MARIA OTERO Maria Otero	Director	February 19, 2019
/s/ MARGARITA PALÁU-HERNÁNDEZ Margarita Paláu-Hernández	Director	February 19, 2019
/s/ JOHN TARTOL John Tartol	Director	February 19, 2019

Exhibit 3.1

THE COMPANIES LAW (2016 REVISION)

OF THE CAYMAN ISLANDS

COMPANY LIMITED BY SHARES

AMENDED AND RESTATED

MEMORANDUM AND ARTICLES

OF

ASSOCIATION

OF

HERBALIFE NUTRITION LTD.

(as adopted by special resolution passed on April 24, 2018
and effective on May 7, 2018)

THE COMPANIES LAW (2016 REVISION)
OF THE CAYMAN ISLANDS
COMPANY LIMITED BY SHARES
AMENDED AND RESTATED MEMORANDUM OF ASSOCIATION
OF
HERBALIFE NUTRITION LTD.
(as adopted by special resolution passed on April 24, 2018
and effective on May 7, 2018)

1 The name of the Company is **Herbalife Nutrition Ltd.**

2 The registered office of the Company shall be at the offices of Maples Corporate Services Limited, PO Box 309, Ugland House, George Town, Grand Cayman, KY1-1104, Cayman Islands or at such other place within the Cayman Islands as the Board may from time to time decide.

3 The objects for which the Company is established are unrestricted and the Company shall have full power and authority to carry out any object not prohibited by the laws of the Cayman Islands.

4 The liability of each Member is limited to the amount from time to time unpaid on such Member's Shares.

5 The authorized share capital of the Company is US$1,015,000 divided into 2,000,000,000 Common Shares of a par value of US$0.0005 per share, and 7,500,000 Preference Shares of a par value of US$0.002 per share, in each case having the rights and preferences attached thereto as provided in the Articles of Association of the Company.

6 The Company has power to register by way of continuation as a body corporate limited by shares under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.

7 Capitalised terms that are not defined in this Memorandum of Association bear the same meaning as those given in the Articles of Association of the Company.

AMENDED AND RESTATED ARTICLES OF ASSOCIATION
TABLE OF CONTENTS

THE COMPANIES LAW (2016 REVISION)
OF THE CAYMAN ISLANDS
COMPANY LIMITED BY SHARES
AMENDED AND RESTATED ARTICLES OF ASSOCIATION
OF
HERBALIFE NUTRITION LTD.
(as adopted by special resolution passed on April 24, 2018 and effective on May 7, 2018)

INTERPRETATION

1 In these Articles Table A in the First Schedule to the Statute does not apply and, unless there is something in the subject or context inconsistent therewith:

"Articles"	means these articles of association of the Company, as amended from time to time by Special Resolution.
"Auditors"	means the persons for the time being performing the duties of auditors of the Company.
"Board"	means the board of directors of the Company.
"Common Shares"	has the meaning given in the Memorandum.
"Company"	means the above-named company.
"Directors"	means the directors for the time being of the Company.
"dividend"	means any dividend (whether interim or final) declared or resolved to be paid on Shares pursuant to the Articles.
"Dividend Period"	shall bear the meaning given to it in the Articles under the heading "PREFERENCE SHARES".
"Electronic Record"	has the same meaning as in the Electronic Transactions Law.
"Electronic Transactions Law"	means the Electronic Transactions Law (2003 Revision) of the Cayman Islands.
"Exchange"	shall mean any securities exchange or other system on which the Shares may be listed or otherwise authorised for trading from time to time.
"Independent Director"	shall mean a person recognised as such by the relevant code, rules and regulations applicable to the listing of the Shares on the Exchange.
"Member"	has the same meaning as in the Statute.
"Memorandum"	means the memorandum of association of the Company as amended from time to time by Special Resolution.
"month"	means calendar month.
"Ordinary Resolution"	means a resolution passed by a simple majority of the Members as, being entitled to do so, vote in person or, where proxies are allowed, by proxy at a general meeting. In computing the majority when a poll is demanded regard shall be had to the number of votes to which each Member is entitled by the Articles.
"paid-up"	means paid-up as to the par value and any premium payable in respect of the issue of any Share and includes credited as paid-up.
"Preference Shares"	has the meaning given in the Memorandum.
"Register of Members"	means the register of Members maintained in accordance with the Statute and includes (except where otherwise stated) any branch or duplicate register of Members.
"registered office"	means the registered office for the time being of the Company.
"Seal"	means the common seal of the Company and includes every duplicate seal.
"Secretary"	includes an assistant secretary and any person appointed to perform the duties of secretary of the Company.
"Share" and **"Shares"**	means a share or shares in the Company and includes a fraction of a share in the Company.
"Special Resolution"	has the same meaning as in the Statute provided that a Special Resolution may not be passed by way of an unanimous written resolution.

"Statute"	means the Companies Law (2016 Revision) of the Cayman Islands.
"written" and **"in writing"**	include all modes of representing or reproducing words in visible form.
"Treasury Share"	means a Share held in the name of the Company as a treasury share in accordance with the Statute.

2 In the Articles:

2.1 words importing the singular number include the plural number and vice-versa;

2.2 words importing the masculine gender include the feminine gender;

2.3 words importing persons include corporations;

2.4 "written" and "in writing" include all modes of representing or reproducing words in visible form, including in the form of an Electronic Record;

2.5 references to provisions of any law or regulation shall be construed as references to those provisions as amended, modified, re-enacted or replaced from time to time;

2.6 any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

2.7 headings are inserted for reference only and shall be ignored in construing these Articles;

2.8 the term "and/or" is used herein to mean both "and" as well as "or." The use of "and/or" in certain contexts in no respects qualifies or modifies the use of the terms "and" or "or" in others. The term "or" shall not be interpreted to be exclusive and the term "and" shall not be interpreted to require the conjunctive (in each case, unless the context otherwise requires);

2.9 in these Articles Section 8 and section 19(3) of the Electronic Transactions Law shall not apply;

2.10 any requirements as to execution or signature under the Articles including the execution of the Articles themselves can be satisfied in the form of an electronic signature as defined in the Electronic Transactions Law;

2.11 any requirements as to delivery under the Articles include delivery in the form of an Electronic Record; and

2.12 the term "holder" in relation to a Share means a person whose name is entered in the Register of Members as the holder of such Share.

SHARE CAPITAL: ISSUE OF SHARES

3 The authorised share capital of the Company at the date of the adoption of these Articles is US$1,015,000 divided into 2,000,000,000 Common Shares of a par value of US$0.0005 per share, and 7,500,000 Preference Shares of a par value of US$0.002 per share.

4 Subject to the provisions, if any, in the Memorandum and these Articles and to any direction that may be given by the Company in a general meeting and without prejudice to any rights attached to any existing Shares, the Board may allot, issue, grant options, rights or warrants over or otherwise dispose of any Shares (including fractions of any Share) with or without preferred, deferred, qualified or other rights or restrictions, whether in regard to dividend, voting, return of capital or otherwise, and to such persons at such times and on such other terms as they think proper. Notwithstanding and without prejudice to the generality of the foregoing, the Board is expressly authorised and empowered to implement or effect at its sole discretion the issuance of a preference share purchase right to be issued on a pro rata basis to each holder of a Common Share with such terms and for such purposes, including the influencing of takeovers, as may be described in a rights agreement between the Company and a rights agent.

5 Upon approval of the Board, such number of Common Shares, or other shares or securities of the Company, as may be required for such purposes shall be reserved for issuance in connection with an option, right, warrant or other security of the Company or any other person that is exercisable for, convertible into, exchangeable for or otherwise issuable in respect of such Common Shares or other shares or securities of the Company.

6 All Shares shall be issued fully paid as to their nominal value and any premium determined by the Board at the time of issue and shall be non-assessable.

7 The Company shall not issue Shares to bearer.

COMMON SHARES

8 The holders of the Common Shares shall be:

8.1 entitled to dividends or other distributions in accordance with the relevant provisions of these Articles;

8.2 entitled to and are subject to the provisions in relation to winding up of the Company provided for in these Articles;

8.3 entitled to attend general meetings of the Company and shall be entitled to one vote for each Common Share registered in his name in the Register of Members, both in accordance with the relevant provisions of these Articles.

9 All Common Shares shall rank *pari passu* with each other in all respects.

PREFERENCE SHARES

10 Preference Shares may be issued from time to time in one or more series, each of such series to have such voting powers (full or limited or without voting powers), designations, preferences and relative, participating, optional or other special rights and qualifications, limitations or restrictions thereof as are stated and expressed, or in any resolution or resolutions providing for the issue of such series adopted by the Board as hereinafter provided.

11 Authority is hereby granted to the Board, subject to the provisions of the Memorandum, these Articles and applicable law, to create one or more series of Preference Shares and, with respect to each such series, to fix by resolution or resolutions, without any further vote or action by the Members of the Company providing for the issue of such series:

11.1 the number of Preference Shares to constitute such series and the distinctive designation thereof;

11.2 the dividend rate on the Preference Shares of such series, the dividend payment dates, the periods in respect of which dividends are payable ("**Dividend Periods**"), whether such dividends shall be cumulative and, if cumulative, the date or dates from which dividends shall accumulate;

11.3 whether the Preference Shares of such series shall be convertible into, or exchangeable for, Shares of any other class or classes or any other series of the same or any other class or classes of Shares and the conversion price or prices or rate or rates, or the rate or rates at which such exchange may be made, with such adjustments, if any, as shall be stated and expressed or provided in such resolution or resolutions;

11.4 the preferences, if any, and the amounts thereof, which the Preference Shares of such series shall be entitled to receive upon the winding up of the Company;

11.5 the voting power, if any, of the Preference Shares of such series;

11.6 transfer restrictions and rights of first refusal with respect to the Preference Shares of such series; and

11.7 such other terms, conditions, special rights and provisions as may seem advisable to the Board.

12 Notwithstanding the fixing of the number of Preference Shares constituting a particular series upon the issuance thereof, the Board at any time thereafter may authorise the issuance of additional Preference Shares of the same series subject always to the Statute and the Memorandum.

13 No dividend shall be declared and set apart for payment on any series of Preference Shares in respect of any Dividend Period unless there shall likewise be or have been paid, or declared and set apart for payment, on all Preference Shares of each other series entitled to cumulative dividends at the time outstanding which rank senior or equally as to dividends with the series in question, dividends rateably in accordance with the sums which would be payable on the said Preference Shares through the end of the last preceding Dividend Period if all dividends were declared and paid in full.

14 If, upon the winding up of the Company, the assets of the Company distributable among the holders of any one or more series of Preference Shares which (i) are entitled to a preference over the holders of the Common Shares upon such winding up, and (ii) rank equally in connection with any such distribution, shall be insufficient to pay in full the preferential amount to which the holders of such Preference Shares shall be entitled, then such assets, or the proceeds thereof, shall be distributed among the holders of each such series of the Preference Shares rateably in accordance with the sums which would be payable on such distribution if all sums payable were discharged in full.

ISSUE OF WARRANTS AND OPTIONS

15 The Board may issue warrants or options to subscribe for any class of Shares or other securities of the Company on such terms as it may from time to time determine. No warrants or options shall be issued to bearer.

CERTIFICATES FOR SHARES

16 Unless the Board determines otherwise, every person whose name is entered as a Member in the Register of Members shall be entitled without payment to receive, within twenty days, after allotment or lodgement of transfer (or within such other period as the conditions of issue shall provide), one certificate for all his Shares of each class or, upon payment of such reasonable fee as the Board shall prescribe, such number of certificates for Shares held as that person may request, provided that in respect of a Share or Shares held jointly by several persons the Company shall not be bound to issue a certificate or certificates to each such person, and the issue and delivery of a certificate or certificates to one of several joint holders shall be sufficient delivery to all such holders.

17 Every share certificate shall specify the number of Shares in respect of which it is issued and the amount paid thereon or the fact that they are fully paid, as the case may be, and may otherwise be in such form as shall be determined by the Board. Such certificates may be under Seal. All certificates for Shares shall be consecutively numbered or otherwise identified and shall specify the Shares to which they relate. The name and address of the person to whom the Shares represented thereby are issued, with the number of Shares and date of issue, shall be entered in the Register of Members of the Company. All certificates surrendered to the Company for transfer shall be cancelled and no new certificate shall be issued until the former certificate for a like number of Shares shall have been surrendered and cancelled. The Board may authorise certificates to be issued with the seal and/or to be signed by such person(s) as may be authorised by the Board and may authorise certificates to be issued with the authorised signature(s) affixed by some method or system of mechanical process.

18 If a share certificate is defaced, worn out, lost or destroyed, it may be renewed on such terms (if any) as to evidence and indemnity and on the payment of such expenses reasonably incurred by the Company in investigating such evidence, as the Board may prescribe, and (in the case of defacement or wearing out) upon delivery of the old certificate.

19 Every share certificate sent in accordance with the Articles will be sent at the risk of the Member or other person entitled to the certificate. The Company will not be responsible for any share certificate lost or delayed in the course of delivery.

REGISTER OF MEMBERS

20 The Company shall maintain or caused to be maintained a Register of its Members in accordance with the Statute.

21 If the Board considers it necessary or appropriate, the Company may establish and maintain a duplicate or branch register or registers of Members in accordance with the Statute at such location or locations within or outside the Cayman Islands as the Board thinks fit. The Board may also determine which register of Members shall constitute the principal register and which shall constitute the duplicate or branch register or registers, and to vary such determination from time to time.

22 The Company, or any agent(s) appointed by it to maintain the duplicate or branch Register of Members in accordance with these Articles, shall as soon as practicable and on a regular basis record or procure the recording in the original Register of Members all transfers of Shares effected on any duplicate or branch Register of Members and shall at all times maintain the original Register of Members in such manner as to show at all times the Members for the time being and the Shares respectively held by them, in all respects in accordance with the Statute.

23 The Company shall not be bound to register more than four persons as joint holders of any Share. If any Share shall stand in the names of two or more persons, the person first named in the Register of Members shall be deemed the sole holder thereof as regards service of notices and, subject to the provisions of these Articles, all or any other matters connected with the Company.

TRANSFER OF SHARES

24 All transfers of Shares may be effected by an instrument of transfer in any usual or common form or in such other form, or by such other manner, as the Board may approve. All instruments of transfer must be left at the registered office of the Company or at such other place as the Board may appoint and all such instruments of transfer shall be retained by or on behalf of the Company.

25 The instrument of transfer shall be executed by or on behalf of the transferor and by or on behalf of the transferee provided that the Board may dispense with the execution of the instrument of transfer by the transferee in any case which it thinks fit in its discretion to do so. The instrument of transfer of any Share shall be in writing and shall be executed with a manual signature or facsimile signature (which may be machine imprinted or otherwise) by or on

behalf of the transferor and transferee provided that in the case of execution by facsimile signature by or on behalf of a transferor or transferee, the Board shall, if it so requires, have previously been provided with a list of specimen signatures of the authorised signatories of such transferor or transferee and the Board shall be reasonably satisfied that such facsimile signature corresponds to one of those specimen signatures. The transferor shall be deemed to remain the holder of a Share until the name of the transferee is entered in the Register of Members in respect thereof.

26 The Board may, in its absolute discretion, and without assigning any reason, refuse to register a transfer of any Share unless:

26.1 the instrument of transfer is lodged with the Company accompanied by the certificate for the Shares to which it relates (which shall upon registration of the transfer be cancelled) and such other evidence as the Board may reasonably require to show the right of the transferor to make the transfer;

26.2 the instrument of transfer is in respect of only one class of Shares;

26.3 the instrument of transfer is properly stamped (in circumstances where stamping is required);

26.4 in the case of a transfer to joint holders, the number of joint holders to which the Share is to be transferred does not exceed four; and

26.5 a fee of such maximum amount as the Exchange (if any) may from time to time determine to be payable (or such lesser sum as the Board may from time to time require) is paid to the Company in respect thereof.

27 If the Board refuses to register a transfer of any Share, it shall, within two months after the date on which the transfer was lodged with the Company, send to each of the transferor and the transferee notice of such refusal.

28 The Company shall not be obligated to make any transfer to an infant or to a person in respect of whom an order has been made by an competent court or official on the grounds that he is or may be suffering from mental disorder or is otherwise incapable of managing his affairs or under other legal disability.

29 Upon every transfer of Shares the certificate, if any, held by the transferor shall be given up to be cancelled, and shall forthwith be cancelled accordingly, and unless the Board determines otherwise a new certificate shall be issued without charge to the transferee in respect of the Shares transferred to him, and if any of the Shares included in the certificate so given up shall be retained by the transferor, a new certificate in respect thereof shall be issued to him without charge. The Company shall also retain the instrument(s) of transfer.

REDEMPTION AND REPURCHASE OF SHARES

30 Subject to the provisions of the Statute the Company may issue Shares that are to be redeemed or are liable to be redeemed at the option of the Member or the Company. The redemption of Common Shares shall be effected in such manner and upon such other terms as the Company may, by Special Resolution, determine before the issue of the Common Shares and the redemption of Preference Shares shall be effected in such manner as the Board may, by resolution, determine before the issue of the Preference Shares.

31 Subject to the provisions of the Statute, the Company may purchase its own Shares (including any redeemable Shares) in such manner and on such other terms as the Board may agree with the relevant Member.

32 Purchase of Common Shares listed on an Exchange. In addition to Article 31 above, the Company is authorised to purchase any Common Share listed on an Exchange in accordance with the following manner of purchase: The maximum number of Common Shares that may be repurchased shall be equal to the number of issued and outstanding Common Shares less one Common Share; at such time; at such price and on such other terms as determined and agreed by the Board in their sole discretion, provided, however, that (i) such repurchase transactions shall be in accordance with the relevant code, rules and regulations applicable to the listing of the Shares on the Exchange; and (ii) at the time of the repurchase the Company is able to pay its debts as they fall due in the ordinary course of its business.

33 Purchase of Common Shares not listed on an Exchange. In addition to Article 31 and Article 32 above, the Company is authorised to purchase any Common Share not listed on an Exchange in accordance with the following manner of purchase: the Company shall serve a repurchase notice in a form approved by the Board on the Member from whom the Common Shares are to be repurchased at least two (2) days prior to the date specified in the notice as being the repurchase date; the price for the Common Shares being repurchased shall be such price agreed between the Board and the applicable Member; the date of repurchase shall be the date specified in the repurchase notice; and the repurchase shall be on such other terms as specified in the repurchase notice as determined and agreed by the Board and the applicable Member in their sole discretion.

34 The purchase of any Share shall not be oblige the Company to purchase any other Share other than as may be required pursuant to applicable law and any other contractual obligations of the Company.

35 The Company may make a payment in respect of the redemption or purchase of its own Shares in any manner permitted by the Statute, including out of capital.

36 The holder of the Shares being purchased shall be bound to deliver up to the Company at its registered office or such other place as the Board shall specify, the certificate(s) (if any) thereof for cancellation and thereupon the Company shall pay to him the purchase or redemption monies or consideration in respect thereof.

37 The Board may, prior to the purchase, redemption or surrender of any Share, determine that such Share shall be held as a Treasury Share.

38 The Board may determine to cancel a Treasury Share or transfer a Treasury Share on such terms as they think proper (including, without limitation, for no consideration).

VARIATION OF RIGHTS OF SHARES

39 If at any time the share capital of the Company is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of issue of the Shares of that class) may, whether or not the Company is being wound up, be varied with the sanction of a Special Resolution passed at a general meeting of the holders of the Shares of that class.

40 The provisions of these Articles relating to general meetings shall apply to every such general meeting of the holders of one class of Shares except that the necessary quorum shall be one person holding or representing by proxy at least one-third of the issued Shares of the class.

41 The rights conferred upon the holders of the Shares of any class issued with preference or other rights shall not, unless otherwise expressly provided by the terms of issue of the Shares of that class, be deemed to be varied by the creation or issue of further Shares ranking *pari passu* therewith. The rights of holders of Common Shares shall not be deemed to be varied by the creation or issue of Shares with preference or other rights which may be effected by the Board as provided in these Articles without any vote or consent of the holders of Common Shares.

COMMISSION ON SALE OF SHARES

42 The Company may in so far as the Statute permits pay a commission to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any Shares of the Company. Such commissions may be satisfied by the payment of cash and/or the issue of fully or partly paid-up Shares. The Company may also on any issue of Shares pay such brokerage as may be lawful.

NON-RECOGNITION OF TRUSTS

43 The Company shall not be obligated to recognise any person as holding any Share upon any trust and the Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable, contingent, future, or partial interest in any Share, or any interest in any fractional part of a Share, or (except only as is otherwise provided by these Articles or the Statute) any other rights in respect of any Share except an absolute right to the entirety thereof in the registered holder.

TRANSMISSION OF SHARES

44 In case of the death of a Member, the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole holder, shall be the only persons recognised by the Company as having any title to his interest in the Shares, but nothing herein contained shall release the estate of any such deceased holder from any liability in respect of any Shares which had been held by him solely or jointly with other persons.

45 Any person becoming entitled to a Share in consequence of the death or bankruptcy or liquidation or dissolution of a Member (or in any other way than by transfer) may, upon such evidence being produced as may from time to time be required by the Board and subject as hereinafter provided, elect either to be registered himself as holder of the Share or to make such transfer of the Share to such other person nominated by him and to have such person registered as the transferee thereof, but the Board shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the Share by that Member before his death or bankruptcy as the case may be.

46 If the person so becoming entitled shall elect to be registered himself as holder he shall deliver or send to the Company a notice in writing signed by him stating that he so elects.

47 A person becoming entitled to a Share by reason of the death or bankruptcy or liquidation or dissolution of the holder (or in any other case than by transfer) shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the Share, except that he shall not, before being registered as a Member in respect of the Share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company provided however that the Board may at any time give notice requiring any such person to elect either to be registered himself or to transfer the Share and if the notice is not complied with within ninety days the Board may thereafter withhold payment of all dividends, bonuses or other monies payable in respect of the Share until the requirements of the notice have been complied with.

AMENDMENT OF MEMORANDUM AND ARTICLES OF ASSOCIATION AND ALTERATION OF CAPITAL

48 The Company may by Ordinary Resolution:

48.1.1 increase its share capital by such sum as the resolution shall prescribe and with such rights, priorities and privileges annexed thereto, as the Company in general meeting may determine;

48.1.2 consolidate and divide all or any of its share capital into Shares of larger amount than its existing Shares;

48.1.3 by subdivision of its existing Shares or any of them divide the whole or any part of its share capital into Shares of smaller amount than is fixed by the Memorandum or into Shares without par value; and

48.1.4 cancel any Shares that at the date of the passing of the resolution have not been taken or agreed to be taken by any person and diminish the amount of its share capital by the amount of the Shares so cancelled.

48.2 Subject to the provisions of the Statute, the Company may by Special Resolution change its name, alter or add to the Memorandum with respect to any objects, powers or other matters specified therein or alter or add to these Articles.

48.3 Subject to the provisions of the Statute, the Company may by Special Resolution reduce its share capital and any capital redemption reserve fund.

REGISTERED OFFICE

49 Subject to the provisions of the Statute, the Company may by resolution of the Board change the location of its registered office. The Company may, in addition to its Registered Office, maintain such other offices or places of business as the Board determines.

CLOSING REGISTER OF MEMBERS OR FIXING RECORD DATE

50 For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any dividend, or in order to make a determination of Members for any other proper purpose, the Board may provide that the Register of Members shall be closed for transfers for a stated period but not to exceed in any case forty (40) days. If the Register of Members shall be so closed for the purpose of determining Members entitled to notice of or to vote at a meeting of Members such Register of Members shall be so closed for at least ten (10) days immediately preceding such meeting and the record date for such determination shall be the date of the closure of the Register of Members.

51 In lieu of, or apart from, closing the Register of Members, the Board may fix in advance a date as the recorddate

(a) for any such determination of Members entitled to notice of or to vote at a meeting of the Members, which record date shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting, and

(b) for the purpose of determining the Members entitled to receive payment of any dividend, or in order to make a determination of Members for any other proper purpose, which record date shall not be more than sixty (60) days prior to the date of payment of such dividend or the taking of any action to which such determination of Members is relevant.

52 If the Register of Members is not so closed and no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of Members or Members entitled to receive payment of a dividend, the date immediately preceding the date on which notice of the meeting is deemed given under these Articles or the date on which the resolution of the Board declaring such dividend is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this section, such determination shall apply to any adjournment thereof; provided, however,

that the Board may fix a new record date of the adjourned meeting, if they thinkfit.

GENERAL MEETINGS

53 All general meetings other than annual general meetings shall be called extraordinary generalmeetings.

54 The Company shall, if required by the Statute, other applicable law or the relevant code, rules or regulations applicable to the listing of any Shares on the Exchange, hold a general meeting as its annual general meeting, and shall specify the meeting as such in the notices calling it. The annual general meeting shall be held at such time and place as the Board shall appoint provided that the period between the date of one annual general meeting of the Company and that of the next shall not be longer than such period as applicable law or the relevant code, rules and regulations applicable to the listing of the Shares on the Exchange permits. At these meetings the report of the Board (if any) shall be presented.

55 The Board may whenever it thinks fit proceed to convene a general meeting of theCompany.

56 General meetings of the Company (other than the annual general meeting) may be held at such place, either within or without the Cayman Islands, as determined by the Board or pursuant to a Members requisition.

57 A Members requisition is a requisition of Members of the Company holding at the date of deposit of the requisition more than thirty (30) percent. of the issued and outstanding share capital of the Company that as at that date carries the right of voting at general meetings of the Company.

58 The requisition must state the objects of the meeting and must be signed by the requisitionists and deposited at the Registered Office, and may consist of several documents in like form each signed by one or more requisitionists.

59 If the Board does not within twenty-one (21) days from the date of the deposit of the Members' requisition duly proceed to convene a general meeting to be held within a further twenty-one days, the requisitionists, or any of them representing more than one-half of the total voting rights of all the requisitionists, may themselves convene a general meeting, but any meeting so convened shall not be held after the expiration of three months after the expiration of the said twenty-one (21) days.

60 A general meeting convened as aforesaid by requisitionists shall be convened in the same manner as nearly as possible as that in which general meetings are to be convened by the Board.

NOTICE OF GENERAL MEETINGS

61 At least five (5) days' notice shall be given of any general meeting. Every notice shall be exclusive of the day on which it is given or deemed to be given and of the day for which it is given and shall specify such details as are required by applicable law or the relevant code, rules and regulations applicable to the listing of the Shares on the Exchange.

62 A general meeting of the Company shall, whether or not the notice specified in this regulation has been given and whether or not the provisions of the Articles regarding general meetings have been complied with, be deemed to have been duly convened if applicable law so permits and it is so agreed.

62.1 in the case of a general meeting called as an annual general meeting, by all the Members entitled to attend and vote thereat or their proxies; or

62.2 in the case of an extraordinary general meeting, by such number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than two thirds of the Shares in issue that carry a right to vote or their proxies.

63 The notice convening an annual general meeting shall specify the meeting as such, and the notice convening a meeting to pass a Special Resolution shall specify the intention to propose the resolution as a Special Resolution. Notice of every general meeting shall be given to all Members other than such as, under the provisions of the Articles or the terms of issue of the Shares they hold, are not entitled to receive such notice from the Company.

64 There shall appear with reasonable prominence in every notice of general meetings of the Company a statement that a Member entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of him and that a proxy need not be a Member of the Company.

65 The accidental omission to give notice of a general meeting to, or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings of that meeting.

66 In cases where instruments of proxy are sent out with notices, the accidental omission to send such instrument of proxy to, or the non-receipt of such instrument of proxy by, any person entitled to receive notice shall not invalidate

any resolution passed or any proceeding at any such meeting.

PROCEEDINGS AT GENERAL MEETINGS

67 No business shall be transacted at any general meeting unless a quorum is present. One or more Members present in person or by proxy, or, if a corporation or other non-natural person, by its duly authorised representative or proxy, holding not less than a majority of the issued and outstanding Shares of the Company entitled to vote at the meeting in question shall be a quorum. Only business set out in the applicable notice may be transacted at such general meeting.

68 A person may only participate at a general meeting in person or by proxy, or if a corporation or other non-natural person by its duly authorised representative, and shall not be permitted to attend by conference telephone or other communications equipment.

69 If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved and in any other case it shall stand adjourned to the same day in the next week at the same time and place or to such other time or such other place as the Board may determine and if at the adjourned meeting a quorum is not present within one hour from the time appointed for the meeting the Members present shall be a quorum.

70 In order for business to be properly brought before a general meeting by a Member, the business must be legally proper and written notice thereof must have been filed with the Secretary not less than 90 days prior the date of the meeting (or not later than the 10th day following the date of the first public announcement of the date of such meeting, whichever is later) nor more than 120 days prior to the meeting. Each such notice shall set forth: (i) the name and address of the Member who intends to make the proposal as the same appear in the Company's records, (ii) the class and number of Shares that are owned by such Member, and (iii) a clear and concise statement of the proposal and the Member's reasons for supporting it. The filing of a Member notice as required above shall not, in and of itself, constitute the making of the proposal described therein. If the Chairman of the meeting determines that any proposed business has not been properly brought before the meeting, he shall declare such business out of order, and such business shall not be conducted at the meeting.

71 The Chairman, if any, of the Board shall preside as Chairman at every general meeting of the Company, or if there is no such Chairman, or if he shall not be present within one hour after the time appointed for the holding of the meeting, or is unwilling to act, the Directors present shall elect one of their number to be Chairman of the meeting or if all of the Directors present decline to take the chair, then the Members present shall choose one of their own number to be chairman of the meeting.

72 If at any general meeting no Director is willing to act as Chairman or if no Director is present within one hour after the time appointed for holding the meeting, the Members present shall choose one of their number to be Chairman of the meeting.

73 The Chairman may, with the consent of any general meeting duly constituted hereunder, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a general meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting; save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned general meeting. No business shall be transacted at any adjourned meeting other than the business which might have been transacted at the meeting from which the adjournment took place.

74 At any general meeting a resolution put to the vote of the meeting shall be decided on apoll.

75 A poll shall be taken in such manner and at such time and place, not being not being more than ten days from the date of the meeting or adjourned meeting at which the vote was taken, as the Chairman directs. No notice need be given of a poll not taken immediately. The result of the poll shall be deemed to be the resolution of the general meeting at which the poll was demanded. Any other business other than that upon which a poll is to be taken or is contingent thereon may be preceded with pending the taking of the poll.

76 In the case of an equality of votes the Chairman of the general meeting at which the poll is taken shall not be entitled to a second or castingvote.

NOMINATIONS OF DIRECTORS

77 Nominations of persons for appointment to the Board (other than directors to be nominated by any series of Preferred Shares, voting separately as a class) at a general meeting may only be made (a) pursuant to the Company's notice of general meeting, (b) by or at the direction of the Board or any authorised committee thereof or (c) by any Member who (i) complies with the notice procedures set forth in the following Articles, and (ii) was a Member at the time such notice is delivered to the Secretary and on the record date for the determination of Members entitled to vote at such general meeting, provided, however, that Members shall only be entitled to nominate persons for appointment to the Board at annual general meetings or at general meetings called specifically for the purpose of appointing directors.

78 For nominations of persons for appointment to the Board (other than directors to be nominated by any series of Preference Shares, voting separately as a class) to be properly brought before an annual general meeting by a Member, such annual general meeting must have been called for the purpose of, among other things, appointing directors and such Member must have given timely notice thereof in writing to the Secretary. To be timely, a Member's notice shall be delivered to the Secretary at the registered office of the Company, or such other address as the Secretary may designate, not less than 90 days prior to the date of such meeting (or not later than the 10th day following the date of the first public announcement of the date of such meeting, whichever is later) nor more than 120 days prior to such meeting. Such Member's notice shall set forth (a) as to each person whom the Member proposes to nominate for appointment or re-appointment as a director, all information relating to such person that is required to be disclosed in solicitations of proxies for appointment of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, of the United States of America, as amended, or any successor provisions thereto, including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if appointed and (b) as to the Member giving the notice (i) the name and address of such Member, as they appear on the Register of Members, (ii) the class and number of Shares that are owned beneficially and/or of record by such Member, (iii) a representation that the Member is a registered holder of Shares entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such nomination and (iv) a statement as to whether the Member intends or is part of a group that intends (x) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Company's outstanding share capital required to approve or elect the nominee for appointment and/or (y) otherwise to solicit proxies from Members in support of such nomination. The Board may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Company, including such evidence satisfactory to the Board that such nominee has no interests that would limit such nominee's ability to fulfil his duties as a director.

79 For nominations of persons for appointment to the Board (other than directors to be nominated by any series of Preference Shares, voting separately as a class) to be properly brought before a general meeting other than an annual general meeting by a Member, such Member must have given timely notice thereof in writing to the Secretary. To be timely, a Member's notice shall be delivered to the Secretary at the registered office of the Company or such other address as the Secretary may designate, not earlier than the 120th day prior to such general meeting and not later than the 90th day prior to such general meeting or the 10th day following the day on which public announcement is first made of the date of the general meeting and of the nominees proposed by the Board to be appointed at such meeting. Such Member's notice shall set forth the same information as is required by provisions (a) and (b) of the above Article.

80 Unless otherwise provided by the terms of any series of Preference Shares or any agreement among Members or other agreement approved by the Board, only persons who are nominated in accordance with the procedures set forth above shall be eligible to serve as directors of the Company. If the Chairman of a general meeting determines that a proposed nomination was not made in compliance with such Articles, he shall declare to the meeting that nomination is defective and such defective nomination shall be disregarded. Notwithstanding the foregoing provisions of these Articles, if the Member (or a qualified representative of the Member) does not appear at the general meeting to present his nomination, such nomination shall be disregarded.

VOTES OF MEMBERS

81 Subject to any rights or restrictions for the time being attached to any class or classes of Shares, every Member of record present in person or by proxy, or, if a corporation or other non-natural person, by its duly authorised representative or by proxy, shall have one vote for each Share registered in his name in the Register of Members.

82 In the case of joint holders of record the vote of the senior holder who tenders a vote, whether in person or by proxy, or, in the case of a corporation or other non-natural person, by its duly authorised representative or proxy, shall be accepted to the exclusion of the votes of the other joint holders, and for this purpose seniority shall be determined by the order in which the names of the holders stand in the Register of Members.

83 A Member of unsound mind, or in respect of whom an order has been made by any court, having jurisdiction in lunacy, may vote by his committee, receiver, curator bonis, or other person in the nature of a committee, receiver or curator bonis appointed by that court, and any such committee, receiver, curator bonis or other persons may vote by proxy.

84 No Member shall be entitled to vote at any general meeting unless he is registered as a Member on the record date for such meeting.

85 No objection shall be raised to the qualification of any voter except at the general meeting or adjourned general meeting at which the vote objected to is given or tendered and every vote not disallowed at such general meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the general meeting whose decision shall be final and conclusive.

86 Votes may be given either personally or by proxy, or, in the case of a corporation or other non-natural person by its duly authorised representative or proxy. A Member may appoint more than one proxy or the same proxy under one or more instruments to attend and vote at a meeting and may appoint one proxy to vote both in favour of and against the same resolution in such proportion as specified in the instrument appointing the proxy. Where a Member appoints more than one proxy the instrument of proxy shall specify the number of Shares in respect of which each proxy is entitled to exercise the related votes.

87 A Member holding more than one Share need not cast the votes in respect of his Shares in the same way on any resolution and therefore may vote a Share or some or all such Shares either for or against a resolution and/or abstain from voting a Share or some or all of the Shares and, subject to the terms of the instrument appointing him, a proxy appointed under one or more instruments may vote a Share or some or all of the Shares in respect of which he is appointed either for or against a resolution and/or abstain from voting a Share or some or all of the Shares in respect of which he is appointed.

PROXIES

88 The rules and procedures relating to the form or a proxy, the depositing or filing of proxies and voting pursuant to a proxy and any other matter incidental thereto shall be approved by the Board, subject to such rules and procedures as required by applicable law or the relevant code, rules and regulations applicable to the listing of the Shares on the Exchange and as provided in the following Articles under this heading of "**PROXIES**".

89 The Chairman may, at his discretion, declare that an instrument of proxy shall be deemed to have been duly deposited. An instrument of proxy that is not deposited in the manner permitted, or which has not been declared to have been duly deposited by the Chairman, shall be invalid.

90 The instrument appointing a proxy shall be in writing and shall be executed under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation or other non-natural person, under the hand of an officer or attorney duly authorised in that behalf provided however, that a Member may also authorise the casting of a vote by proxy pursuant to telephonic or electronically transmitted instructions (including, without limitation, instructions transmitted over the internet) obtained pursuant to procedures approved by the Board which are reasonably designed to verify that such instructions have been authorised by such Member. A proxy need not be a Member of the Company.

91 The instrument appointing a proxy may be in any usual or common form and may be expressed to be for a particular meeting or any adjournment thereof or generally until revoked. An instrument appointing a proxy shall be deemed to include the power to demand or join or concur in demanding a poll.

CORPORATE MEMBERS

92 Any corporation or other non-natural person which is a Member may in accordance with its constitutional documents, or in the absence of such provision by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Company or of any class of Members, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as the corporation could exercise if it were an individual Member.

SHARES THAT MAY NOT BE VOTED

93 Shares in the Company that are beneficially owned by the Company shall not be voted, directly or indirectly, at any meeting and shall not be counted in determining the total number of outstanding Shares at any given time.

DIRECTORS

94 There shall be a Board consisting of not less than one nor more than fifteen persons provided however that the Board may from time to time increase or reduce the upper and lower limits on the number of Directors and provided that so long as Shares of the Company are listed on an Exchange, the Board shall include such number of Independent Directors as the relevant code, rules or regulations applicable to the listing of any Shares on the Exchange require.

APPOINTMENT OF DIRECTORS

95 The Directors, other than those who may be appointed by the holders of shares of any class or series of shares having a preference over the Common Shares as to Dividends or upon liquidation pursuant to the terms of any resolution or resolutions providing for the issuance of such shares adopted by the Board, shall be appointed for a term of office of one year, commencing at the annual general meeting at which such Director is appointed and expiring at the annual general meeting held in the immediately following calendar year, and a Director whose term expires at such an annual general meeting shall be entitled to be re-nominated as a Director in accordance with the provisions of the Articles under the heading '**NOMINATION OF DIRECTORS**'. No decrease in the number of Directors constituting the Board shall shorten the terms of any incumbent Director.

96 In any vote of Members to appoint Directors, each person nominated for appointment as a Director in an uncontested election shall be appointed if the number of votes cast for the person's appointment exceeds the number of votes cast against the person's appointment. In all votes to appoint Directors other than uncontested elections, the persons receiving the largest number of votes cast for appointment, up to the number of Directors to be appointed in such vote, shall be deemed appointed. For purposes of this Article 96, an "uncontested election" means any meeting of Members at which, as of the date that is ten (10) days in advance of the date the Company files its definitive proxy statement with respect to such meeting (regardless of whether or not thereafter revised or supplemented) with the Securities and Exchange Commission, the number of persons nominated for appointment does not exceed the number of Directors to be appointed.

97 Subject to the rights of the holders of any class or series of shares having a preference over the Common Shares as to dividends or upon liquidation, nominations for the appointment of Directors may be made in accordance with the provisions of the Articles under the heading "**NOMINATION OF DIRECTORS**".

98 Subject to the rights of the holders of any class or series of shares having a preference over the Common Shares as to Dividends or upon liquidation, newly created directorships resulting from any increase in the number of Directors may be filled by the Board, or if not so filled, by the Members at the next annual general meeting or extraordinary general meeting called for the purpose of appointing such Director, and any vacancies on the Board resulting from death, resignation, removal or other cause as specified in the Articles under the heading **"VACATION OF OFFICE OF DIRECTORS"** shall be filled only by the affirmative vote of a majority of the remaining Directors then in office, even though less than quorum of the Board, or by a sole remaining Director, or if not so filled, by the Members at the next annual general meeting or extraordinary general meeting called for the purpose of appointing such Director.

REMOVAL OF DIRECTORS

99 The Members may by Ordinary Resolution remove any Director.

VACATION OF OFFICE OF DIRECTOR

100 The office of a Director shall be vacated if:

100.1 the Director gives notice in writing to the Company that he resigns the office of Director;

100.2 the Director absents himself from three consecutive meetings of the Board of Directors without special leave of absence from the Directors, and the Directors pass a resolution that he has by reason of such absence vacated office;

100.3 the Director dies, becomes bankrupt or makes any arrangement or composition with his creditors generally;

100.4 the Director is found a lunatic or becomes of unsound mind; or

100.5 the Director being prohibited by any applicable law, or the relevant code, rules and regulations applicable to the listing

of the Shares on the Exchange, from being a Director.

REMUNERATION OF DIRECTORS

101 The remuneration to be paid to the Directors shall be such remuneration as the Directors shall determine. Such remuneration shall be deemed to accrue from day to day. The Directors shall also be entitled to be paid their traveling, hotel and other expenses properly incurred by them in going to, attending and returning from meetings of the Board, or any committee of the Directors, or general meetings of the Company, or separate meetings of the holders of any class of Shares or debentures of the Company, or otherwise in connection with the business of the Company or the discharge of their duties as a Director, or to receive a fixed allowance in respect thereof as may be determined by the Board from time to time, or a combination partly of one such method and partly the other.

102 The Board may approve additional remuneration to any Director undertaking any special work or services for, or undertaking any special mission on behalf of, the Company other than his ordinary routine work as a Director. Any fees paid to a Director who is also counsel or solicitor to the Company, or otherwise serves it in a professional capacity shall be in addition to his remuneration as a Director.

NO MINIMUM SHAREHOLDING

103 A Director is not required to hold Shares.

DIRECTORS' INTERESTS

104 A Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director for such period and on such terms as to remuneration and otherwise as the Board may determine.

105 A Director may act by himself or by, through or on behalf of his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a Director.

106 A Director of the Company may be or become a director, managing director, joint managing director, deputy managing director, executive director, manager or other officer or member of any other company or otherwise interested in any company promoted by the Company or in which the Company may be interested as shareholder, a contracting party or otherwise, and no such Director shall be accountable to the Company for any remuneration or other benefits received by him as a director, managing director, joint managing director, deputy managing director, executive director, manager or other officer or member of, or from his interest in, such other company.

107 No person shall be disqualified from the office of Director or prevented by such office from contracting with the Company, either as vendor, purchaser or otherwise, nor shall any such contract or any contract or transaction entered into by or on behalf of the Company in which any Director shall be in any way interested be or be liable to be avoided, nor shall any Director so contracting or being so interested be liable to account to the Company for any profit realised by any such contract or transaction by reason of such Director holding office or of the fiduciary relationship thereby established. A Director shall be at liberty to vote in respect of any contract or transaction in which he is interested provided that the nature of the interest of any Director in any such contract or transaction shall be disclosed by him at or prior to its consideration and any vote thereon.

108 A general notice that a Director is a shareholder, director, officer or employee of any specified firm or company and is to be regarded as interested in any transaction with such firm or company shall be sufficient disclosure for the purposes of voting on a resolution in respect of a contract or transaction in which he has an interest, and after such general notice it shall not be necessary to give special notice relating to any particular transaction.

POWERS AND DUTIES OF DIRECTORS

109 Subject to the provisions of the Statute, the Memorandum and the Articles and to any directions given by Special Resolution, the business of the Company shall be managed by the Board which may exercise all the powers of the Company. No alteration of the Memorandum or Articles and no such direction shall invalidate any prior act of the Board which would have been valid if that alteration had not been made or that direction had not been given. A duly convened meeting of the Board at which a quorum is present may exercise all powers exercisable by the Board.

110 All cheques, promissory notes, drafts, bills of exchange and other negotiable or transferable instruments and all receipts for monies paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Board shall determine by resolution.

111 The Board on behalf of the Company may pay a gratuity or pension or allowance on retirement to any Director who has held any other salaried office or place of profit with the Company or to his widow or dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.

112 The Board may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking, property and assets (present and future) and uncalled capital or any part thereof and to issue debentures, debenture stock, mortgages, bonds and other such securities whether outright or as security for any debt, liability or obligation of the Company or of any third party.

RESTRICTIONS ON THE COMPANY ENGAGING IN BUSINESS COMBINATIONS

113 The Company shall not engage in any Business Combination with any Interested Member for a period of three (3) years following the date that such Member became an Interested Member, unless:

113.1 prior to such date the Board approved either the Business Combination or the transaction which resulted in the Member becoming an Interested Member, or

113.2 upon consummation of the transaction which resulted in the Member becoming an Interested Member, the Interested Member owned at least eighty-five (85) percent of the Voting Shares of the Company outstanding at the time the transaction commenced, excluding for purposes of determining the number of Voting Shares outstanding (but not the outstanding Voting Shares owned by the Interested Member) those shares owned (i) by persons who are directors and also officers and (ii) employee share plans in which employee participants do not have the right to determine confidentially whether shares held subject to the plan will be tendered in a tender or exchange offer; or

113.3 on or subsequent to such date the Business Combination is approved by the Board and authorised at a general meeting of Members, and not by written consent, by the affirmative vote of at least sixty-six and two-thirds (66 2/3) percent of the outstanding Voting Shares which are not owned by the Interested Member.

114 The restrictions contained in the above Article shall not apply if:

114.1 a Member becomes an Interested Member inadvertently and (i) as soon as practicable divests itself of ownership of sufficient shares so that the Member ceases to be an Interested Member and (ii) would not, at any time within the three (3) year period immediately prior to a Business Combination between the Company and such Member, have been an Interested Member but for the inadvertent acquisition of ownership; or

114.2 the Business Combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required hereunder of a proposed transaction which (i) constitutes one of the transactions described in the second sentence of this sub-paragraph; (ii) is with or by a person who either was not an Interested Member during the previous three (3) years or who became an Interested Member with the approval of the Board; and (iii) is approved or not opposed by a majority of the members of the Board then in office (but not less than one (1)) who were Directors prior to any person becoming an Interested Member during the previous three (3) years or were recommended for appointment or appointed to succeed such Directors by a majority of such Directors. The proposed transactions referred to in the preceding sentence are limited to a

(A) a merger or consolidation of the Company (except for a merger in respect of which, pursuant to Section 251(f) of the General Corporation Law of the State of Delaware, U.S., no vote of the Members would be required if the Company were incorporated under the law of such State); (B) a sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions) whether as part of a dissolution or otherwise of assets of the Company or of any direct or indirect majority-owned subsidiary of the Company (other than to any direct or indirect wholly-owned subsidiary or to the Company) having an aggregate market value equal to fifty (50) percent. or more of either that aggregate market value of all of the assets of the Company determined on a consolidated basis or the aggregate market value of all the outstanding shares of the Company; or (C) a proposed tender or exchange offer for fifty (50) percent or more of the outstanding Voting Shares of the Company. The Company shall give not less than twenty (20) days' notice to all Interested Members prior to the consummation of any of the transactions described in clauses (A) or (B) of the second sentence of this sub-paragraph.

114.3 As used in the Articles under the above heading "**RESTRICTIONS ON THE COMPANY ENGAGING IN BUSINESS COMBINATIONS**", the term:

114.3.1 "**affiliate**" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, another person.

114.3.2 "**associate**" when used to indicate a relationship with any person means (A) any corporation, partnership,

unincorporated association or other entity of which such person is a director, officer or partner or is, directly or indirectly, the owner of twenty (20) percent. or more of any class of Voting Shares, (B) any trust or other estate in which such person has at least a twenty (20) percent beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity, and (C) any relative or spouse of such person, or any relative of such spouse, who has the same residence as such person.

114.3.3 "**Business Combination**", when used in reference to the Company and any Interested Member of the Company, means:

(a) any merger or consolidation of the Company or any direct or indirect majority-owned subsidiary of the Company with (I) the Interested Member, or (II) with any other corporation, partnership, unincorporated association or other entity if the merger or consolidation is caused by the Interested Member and as a result of such merger or consolidation the prohibition in the immediately preceding Article is not applicable to the surviving entity;

(b) any sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), except proportionately as a Member of the Company, to or with the Interested Member, whether as part of a dissolution or otherwise, of assets of the Company or of any direct or indirect majority-owned subsidiary of the Company which assets have an aggregate market value equal to ten (10) percent or more of either the aggregate market value of all the assets of the Company determined on a consolidated basis or the aggregate market value of all the outstanding shares of the Company;

(c) any transaction which results in the issuance or transfer by the Company or by any direct or indirect majority-owned subsidiary of the Company of any shares of the Company or of such subsidiary to the Interested Member, except (I) pursuant to the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into shares of the Company or any such subsidiary which securities were outstanding prior to the time that the Interested Member became such, (II) pursuant to a merger which could be accomplished under Section 251(g) of the General Corporation Law of the State of Delaware, U.S. if the Company were incorporated under the laws of such State, (III) pursuant to a dividend or distribution paid or made, or the exercise, exchange or conversion of securities exercisable for, exchangeable for or convertible into shares of such Company or any such subsidiary which security is distributed, pro rata to all holders of a class or series of shares of such Company subsequent to the time the Interested Shares became such, (IV) pursuant to an exchange offer by the Company to purchase made on the same terms to all holders of said shares, or (V) any issuance or transfer of shares by the Company, provided however, that in no case under (III)-(V) above shall there be an increase in the Interested Member's proportionate share of the shares of any class or series of the Company or of the Voting Shares of the Company;

(d) any transaction involving the Company or any direct or indirect majority-owned subsidiary of the Company which has the effect, directly or indirectly, of increasing the proportionate share of the shares of any class or series, or securities convertible into the shares of any class or series, of the Company or of any such subsidiary which is owned by the Interested Member, except as a result of immaterial changes due to fractional share adjustments or as a result of any purchase or redemption of any shares not caused, directly or indirectly, by the Interested Member; or

(e) any receipt by the Interested Member of the benefit, directly or indirectly (except proportionately as a Member of the Company) of any loans, advances, guarantees, pledges or other financial benefits (other than those expressly permitted in subparagraphs (a)-(d) above) provided by or through the Company or any direct or indirect majority owned subsidiary.

114.3.4 "**control**," including the term "controlling", "controlled by" and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and polices of a person whether through the ownership of Voting Shares, by contract or otherwise. A person who is the owner of twenty (20) percent. or more of the outstanding Voting Shares of any corporation, partnership, unincorporated association or other entity shall be presumed to have control of such entity in the absence of proof by a preponderance of the evidence to the contrary. Notwithstanding the foregoing, a presumption of control shall not apply where such person holds Voting Shares, in good faith and not for the purpose of circumventing this Article, as an agent, bank, broker, nominee, custodian or trustee for one or more owners

who do not individually or as a group have control of such entity.

114.3.5 "**Interested Member**" means any person (other than the Company and any direct or indirect majority- owned subsidiary of the Company) that

(a) is the owner of fifteen (15) percent or more of the outstanding Voting Shares of the Company, or

(b) is an affiliate or associate of the Company and was the owner of fifteen (15) percent. or more of the outstanding Voting Shares of the Company at any time within the three (3) year period immediately prior to the date on which it is sought to be determined whether such person is an Interested Member, and the affiliates and associates of such person; provided, however, that the term "Interested Member" shall not include any person whose ownership of shares in excess of the fifteen (15) percent. limitation set forth herein is the result of action taken solely by the Company provided that such person shall be an Interested Member if thereafter such person acquires additional Voting Shares of the Company, except as a result of further corporate action not caused, directly or indirectly, by such person. For the purpose of determining whether a person is an Interested Member, the Voting Shares of the Company deemed to be outstanding shall include shares deemed to be owned by the person through application of the definition of beneficial owner set out below under this Article but shall not include any other unissued shares of the Company which may be issuable pursuant to any agreement, arrangement or understanding, or upon exercise of conversion rights, warrants or options, or otherwise.

114.3.6 "**person**" means any individual, corporation, partnership, unincorporated association or other entity.

114.3.7 "**Voting Shares**" means with respect to any company or corporation, shares of any class or series entitled to vote generally in the appointment of directors and, with respect to any entity that is not a company or corporation, any equity interest entitled to vote generally in the appointment of the governing body of such entity. Every reference to a percentage of Voting Shares shall refer to such percentage of the votes of such Voting Shares.

114.3.8 "**owner"** including the terms "own" and "owned" when used with respect to any shares means a person that individually or with or through any of its affiliates or associates:

(a) beneficially owns such shares directly or indirectly; or

(b) has (I) the right to acquire such shares (whether such right is exercisable immediately or only after the passage of time) pursuant to any agreement, arrangement or understanding or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise; provided, however, that a person shall not be deemed the owner of shares tendered pursuant to a tender or exchange offer made by such person or any of such person's affiliates or associates until such tendered stock is accepted for purchase or exchange; or (II) the right to vote such shares pursuant to any agreement, arrangement or understanding; provided, however, that a person shall not be deemed the owner of any shares because of such person's right to vote such shares if the agreement, arrangement or understanding to vote such shares arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made to 10 or more persons; or

(c) has any agreement, arrangement or understanding for the purpose of acquiring, holding, voting (except voting pursuant to a revocable proxy or consent as described in item (II) of clause (b) of this definition, or disposing of such shares with any other person that beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, such shares.

115 In addition to any approval of Members required pursuant to the terms of any class or series of shares other than Common Shares, the approval of the holders of a majority of the issued shares generally entitled to vote at a meeting called for such purpose, following approval by the Board, shall be required in order for the Company to "sell, lease, or exchange all or substantially all of its property and assets" (as that phrase is interpreted for the purposes of Section 271 of the General Corporation Law of the State of Delaware, U.S., as amended or re-enacted from time to time), provided that the foregoing approval by Members shall not be required in the case of any transaction between the Company and any entity the Company "directly or indirectly controls" (as that phrase is defined in Rule 405 under the United States Securities Act of 1933, as amended or re-enacted from time to time).

MINUTES

116 The Board shall cause minutes to be made in books kept for the purpose of all appointments of officers made by the Board, all proceedings at meetings of the Company or the holders of any class of Shares and of the Board, and of committees of the Board including the names of the Directors present at each meeting.

DELEGATION OF THE BOARD'S POWERS

117 The Board may delegate any of its powers, authorities and discretions (including the power to sub-delegate) to any committee consisting of one or more Directors. The Board may also delegate to any Director such of their powers, authorities and discretions as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the Board may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered by the Board. Subject to any such conditions, the proceedings of a committee of the Board shall be governed by the Articles regulating the proceedings of the Board, so far as they are capable of applying.

118 The Board may by power of attorney or otherwise appoint any person to be the agent of the Company on such conditions as the Board may determine, provided that the delegation is not to the exclusion of their own powers and may be revoked by the Board at any time.

119 The Board may by power of attorney or otherwise appoint any company, firm, person or body of persons, whether nominated directly or indirectly by the Board, to be the attorney or authorised signatory of the Company for such purpose and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board under these Articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney or other appointment may contain such provisions for the protection and convenience of persons dealing with any such attorneys or authorised signatories as the Board may think fit and may also authorise any such attorney or authorised signatory to delegate all or any of the powers, authorities and discretions vested in him.

EXECUTIVE OFFICERS

120 The Board may from time to time appoint one or more Chairman of the Board, President, Chief Executive Officer, Chief Financial Officer and such other officers of the Company (including, for the avoidance of doubt and without limitation, any Secretary) as it considers necessary in the management of the business of the Company and as it may decide for such period and upon such terms as it thinks fit and upon such terms as to remuneration as it may decide in accordance with these Articles. Such officers need not also be a Director. Unless otherwise specified in the terms of his appointment, an officer of the Company may be removed by resolution of the Board. An officer of the Company may vacate his office at any time if he gives notice in writing to the Company that he resigns his office.

121 Every Director appointed to an office under the above Article hereof shall, without prejudice to any claim for damages that such Director may have against the Company or the Company may have against such Director for any breach of any contract of service between him and the Company, be liable to be dismissed or removed from such executive office by the Board. A Director appointed to an office under the above Article shall *ipso facto* and immediately cease to hold such executive office if he shall cease to hold the office of Director for any cause.

PROCEEDINGS OF THE BOARD

122 Except as otherwise provided by these Articles, the Board shall meet together for the despatch of business, convening, adjourning and otherwise regulating their meetings and procedures as they think fit. Questions arising at any meeting shall be decided by a majority of votes of the Board present at a meeting at which there is a quorum. In case of an equality of votes, the Chairman shall have a second or casting vote.

123 Regular meetings of the Board may be held at such times and places as may be provided for in resolutions adopted by the Board. No additional notice of a regularly scheduled meeting of the Board shall be required.

124 A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of the Board by at least two days' notice in writing to every Director which notice shall set forth the general nature of the business to be considered unless notice is waived by all the Directors either at, before or after the meeting is held and provided further if notice is given in person, by telephone, cable, telex, telecopy or email the same shall be deemed to have been given on the day it is delivered to the Directors or transmitting organisation as the case may be. The accidental omission to give notice of a meeting of the Board to, or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings of that meeting.

125 The quorum necessary for the transaction of the business of the Board may be fixed by the Board and unless so fixed

shall be a majority of Directors in office. In no event shall the Board fix a quorum that is less than one-third (1/3) of the total number of Directors, provided always that if there shall at any time be only a sole Director the quorum shall be one.

126 The continuing Directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to these Articles as the necessary quorum of Directors the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number, or of summoning a general meeting of the Company, but for no other purpose.

127 The Directors may elect a chairman of their Board and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the Chairman is not present within five (5) minutes after the time appointed for the meeting to commence, the Directors present may choose one of their number to be chairman of the meeting.

128 All acts done by any meeting of the Board or of a committee of the Board shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any Director and/or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and qualified to be a Director as the case may be.

129 Members of the Board or of any committee thereof may participate in a meeting of the Board or of such committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and participation in a meeting pursuant to this provision shall constitute presence in person at such meeting. Unless otherwise determined by the Board the meeting shall be deemed to be held at the place where the chairman is located at the start of the meeting.

130 A resolution in writing (in one or more counterparts), signed by all the Directors or all the members of a committee of the Board shall be as valid and effectual as if it had been passed at a meeting of the Directors or committee of the Board as the case may be duly convened and held.

PRESUMPTION OF ASSENT

131 A Director who is present at a meeting of the Board of Directors at which action on any Company matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the Minutes of the meeting or unless he shall file his written dissent from such action with the person acting as the chairman or secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to such person immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favour of such action.

SEAL

132 The Company may, if the Board so determines, have a Seal which shall only be used by the authority of the Board or of a committee of the Board authorised by the Board in that behalf and every instrument to which the Seal has been affixed shall be signed by at least one person who shall be either a Director or the Secretary or Secretary-Treasurer or some other officer of the Company or other person appointed by the Board for the purpose.

133 The Company may have for use in any place or places outside the Cayman Islands a duplicate Seal or Seals each of which shall be a facsimile of the common Seal of the Company and, if the Board so determines, with the addition on its face of the name of every place where it is to be used.

134 A Director, Secretary or other officer or representative or attorney of the Company may without further authority of the Board affix the Seal of the Company over his signature alone to any document of the Company required to be authenticated by him under Seal or to be filed with the Registrar of Companies in the Cayman Islands or elsewhere wheresoever.

DIVIDENDS, DISTRIBUTIONS AND RESERVE

135 Subject to the Statute and these Articles, the Board may from time to time declare or resolve to pay dividends (including interim dividends) or other distributions on Shares in issue and authorise payment of the dividends or other distributions out of the funds of the Company lawfully available therefor.

136 A dividend shall be deemed to be an interim dividend unless the terms of the resolution pursuant to which the Board resolves to pay such dividend specifically state that such dividend shall be a final dividend.

137 The Board may, before declaring or resolving to pay any dividends or other distributions, set aside such sums as they think proper as a reserve or reserves which shall at the discretion of the Directors, be applicable for any purpose of the Company and pending such application may, at the like discretion, be employed in the business of the Company.

138 No dividend or other distribution shall be payable except out of the realised or unrealised profits of the Company, out of the share premium account or as otherwise permitted by law.

139 Subject to the rights of persons, if any, entitled to Shares with special rights as to dividends or other distributions, if dividends or other distributions are to be declared on a class of Shares they shall be declared and paid according to the amounts paid or credited as paid on the Shares of such class outstanding on the record date for such dividend or distribution as determined in accordance with these Articles.

140 The Board may declare or resolve that any dividend or other distribution be paid wholly or partly by the distribution of specific assets and in particular (but without limitation) by the distribution of paid up Shares, debentures, or debenture stock of any other company or in any one or more of such ways and where any difficulty arises in regard to such distribution, the Board may settle the same as they think expedient and in particular may issue fractional certificates and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any Members upon the footing of the value so fixed in order to adjust the rights of all Members and may vest any such specific assets in trustees as may seem expedient to the Board.

141 Any dividend, other distribution, interest or other monies payable in cash in respect of Shares may be paid by cheque or warrant sent through the post or sent by any electronic or other means of payment, directed to the registered address of the holder or, in the case of joint holders, to the holder who is first named on the Register of Members or to such person and to such address as such holder or joint holders may in writing direct. Every such cheque or warrant or electronic or other payment shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses, or other monies payable in respect of the Share held by them as joint holders.

142 No dividend or other distribution shall bear interest against the Company.

143 Any dividend or other distribution which cannot be paid to a Member and/or which remains unclaimed after six months from the date on which such dividend or other distribution becomes payable, may in the discretion of the Board, be paid into a separate account in the Company's name, provided that the Company shall not be constituted as a trustee in respect of that account and the dividend or other distribution shall remain as a debt due to the Member. Any dividend or other distribution which remains unclaimed after a period of six years from the date of declaration of such dividend or other distribution shall be forfeited and shall revert to the Company.

CAPITALISATION

144 The Board may, if authorised by an Ordinary Resolution, at any time capitalise any sum standing to the credit of any of the Company's reserve accounts or funds (including share premium account and capital redemption reserve fund) or any sum standing to the credit of profit and loss account or otherwise available for distribution and to appropriate such sum to Members in the proportions in which such sum would have been divisible amongst such Members had the same been a distribution of profits by way of dividend or other distribution and to apply such sum on their behalf in paying up in full unissued Shares for allotment and distribution credited as fully paid up to and amongst them in the proportion aforesaid. In such event the Board shall do all acts and things required to give effect to such capitalisation, with full power given to the Board to make such provisions as they think fit for the case of Shares becoming distributable in fractions (including provisions whereby the benefit of fractional entitlements accrue to the Company rather than to the Members concerned). The Board may authorise any person to enter on behalf of all of the Members interested into an agreement with the Company providing for such capitalisation and matters incidental thereto and any agreement made under such authority shall be effective and binding on all such Members and the Company.

BOOKS OF ACCOUNT

145 The Board shall cause proper books of account (including, where applicable, material underlying documentation including contracts and invoices) to be kept with respect to all sums of money received and expended by the Company and the matters in respect of which the receipt or expenditure takes place, all sales and purchases of goods by the Company and the assets and liabilities of the Company. Such books of account must be retained for a minimum period of five years from the date on which they are prepared. Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to

explain its transactions.

146 The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by Statute or authorised by the Board or by the Company in general meeting.

147 The Board may from time to time cause to be prepared and to be laid before the Company in general meeting profit and loss accounts, balance sheets, group accounts (if any) and such other reports and accounts as may be required by law.

AUDIT

148 The appointment of and provisions relating to Auditors shall be in accordance with applicable law and the relevant code, rules and regulations applicable to the listing of the Shares on the Exchange.

149 In the event that no such code, rules and regulations referred to in the above Article apply, the appointment of and provisions relating to Auditors shall in accordance with the following provisions:

149.1 The Board may appoint an Auditor who shall hold office until removed from office by a resolution of the Board, on such terms as the Board determines and the Board may fix his or their remuneration.

149.2 Every Auditor shall have a right of access at all times to the books and accounts and vouchers of the Company and shall be entitled to require from the Directors and officers of the Company such information and explanation as may be necessary for the performance of the duties of the Auditor.

149.3 Auditors shall, if so required by the Directors, make a report on the accounts of the Company during their tenure of office at the next annual general meeting following their appointment and at any other time during their term of office, upon request of the Directors or any general meeting of the Members.

NOTICES

150 Notices shall be in writing and shall be given by the Company in accordance with applicable law and the relevant code, rules and regulations applicable to the listing of the Shares on the Exchange.

151 In the event that no such code, rules and regulations referred to in the above Article applies, notice shall be given in accordance with the following provisions:

151.1 notices shall be in writing and may be given by the Company to any Member either personally or by sending it by post, cable, telex, fax or e-mail to him or to his address as shown in the Register of Members (or where the notice is given by e-mail by sending it to the e-mail address provided by such Member). Any notice, if posted from one country to another, is to be sent airmail;

151.2 where a notice is sent by courier, service of the notice shall be deemed to be effected by delivery of the notice to a courier company, and shall be deemed to have been received on the third day (not including Saturdays or Sundays or public holidays) following the day on which the notice was delivered to the courier. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, pre-paying and posting a letter containing the notice, and shall be deemed to have been received on the fifth day (not including Saturdays or Sundays or public holidays) following the day on which the notice was posted. Where a notice is sent by cable, telex or fax, service of the notice shall be deemed to be effected by properly addressing and sending such notice and shall be deemed to have been received on the same day that it was transmitted. Where a notice is given by e-mail service shall be deemed to be effected by transmitting the e-mail to the e-mail address provided by the intended recipient and shall be deemed to have been received on the same day that it was sent, and it shall not be necessary for the receipt of the e-mail to be acknowledged by the recipient;

151.3 a notice may be given by the Company to the person or persons which the Company has been advised are entitled to a Share or Shares in consequence of the death or bankruptcy of a Member in the same manner as other notices which are required to be given under these Articles and shall be addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description at the address supplied for that purpose by the persons claiming to be so entitled, or at the option of the Company by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred;

151.4 notice of every general meeting shall be given in any manner hereinbefore authorised by the Articles to every person

shown as a Member in the Register of Members on the record date for such meeting except that in the case of joint holders the notice shall be sufficient if given to the joint holder first named in the Register of Members and every person upon whom the ownership of a Share devolves by reason of his being a legal personal representative or a trustee in bankruptcy of a Member where the Member but for his death or bankruptcy would be entitled to receive notice of general meetings, and no other person shall be entitled to receive notices of general meetings.

WINDING UP

151.5 If the Company shall be wound up the liquidator may, subject to the rights attaching to any Shares and with the approval of a Special Resolution of the Company and any other approval required by the Statute, divide amongst the Members in kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may for that purpose value any assets and determine how the division shall be carried out as between the Members or different classes of Members. The liquidator may, with the like approval, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the Members as the liquidator, with the like approval, shall think fit, but so that no Member shall be compelled to accept any asset upon which there is a liability.

151.6 If the Company shall be wound up, and the assets available for distribution amongst the Members shall be insufficient to repay the whole of the share capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the Members in proportion to the par value of the Shares held by them. If in a winding up the assets available for distribution amongst the Members shall be more than sufficient to repay the whole of the share capital at the commencement of the winding up, the surplus shall be distributed amongst the Members in proportion to the par value of the Shares held by them at the commencement of the winding up. This Article is without prejudice to the rights of the holders of Shares issued upon special terms and conditions.

INDEMNITY

152 To the fullest extent permitted by law, no Director, officer of the Company or trustee acting in relation to any of the affairs of the Company shall be personally liable to the Company or its Members for any loss arising or liability attaching to such Director or officer by virtue of any rule of law in respect of any negligence, default, breach of duty or breach of trust of which such Director or officer may be guilty in relation to the Company; provided, however, that this shall not apply to (a) any fraud or dishonesty of such Director or officer, (b) such Director's or officer's conscious, intentional or wilful breach of his obligation to act honestly, lawfully and in good faith with a view to the best interests of the Company, or (c) any claims or rights of action to recover any gain, personal profit, or other advantage to which the Director or officer is not legally entitled. Notwithstanding the preceding sentence, this section shall not extend to any matter that would render it void pursuant to the Statute or to any person holding the office of auditor in relation to the Company.

153 To the fullest extent permitted by law, the Company shall indemnify any current or former Director, officer of the Company, or any person who is serving or has served at the request of the Company as a director or officer and any trustee acting in relation to any of the affairs of the Company and their respective heirs, executors, administrators and personal representatives (each individually, a "**Covered Person**"), against any expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than a proceeding by, or in the name or on behalf of, the Company), to which he was, is, or is threatened to be made, a party or in which he is otherwise involved, (a "proceeding") by reason of the fact that he is or was a Covered Person; provided, however, that this provision shall not indemnify any Covered Person against any liability arising out of (a) any fraud or dishonesty in the performance of such Covered Person's duty to the Company, or (b) such Covered Person's conscious, intentional or wilful breach of his obligation to act honestly, lawfully and in good faith with a view to the best interests of the Company. Notwithstanding the preceding sentence, this section shall not extend to any matter which would render it void pursuant to the Statute, applicable law or to any person holding the office of auditor in relation to the Company.

154 In the case of any threatened, pending or completed proceeding by, or in the name or on behalf of, the Company, to the fullest extent permitted by law, the Company shall indemnify each Covered Person against expenses, including attorneys' fees, but excluding judgments, fines and amounts paid in settlement, actually and reasonably incurred by him in connection with the defence or settlement thereof, except that no indemnification for expenses shall be made in respect of any claim, issue or matter as to which such Covered Person shall have been finally adjudged to be liable for fraud or dishonesty in the performance of his duty to the Company, or for conscious, intentional or wilful breach of

his obligation to act honestly, lawfully and in good faith with a view to the best interests of the Company, unless and only to the extent that the Grand Court in the Cayman Islands or the court in which such proceeding was brought shall determine upon application that despite the adjudication of liability, but in view of all the circumstances of the case, such Covered Person is fairly and reasonably entitled to indemnity for such expenses as the court shall deem proper. Notwithstanding the preceding sentence, this section shall not extend to any matter that would render it void pursuant to the Statute or to any person holding the office of auditor in relation to the Company.

155 To the fullest extent permitted by law, expenses, including attorneys' fees, incurred by a Covered Person in defending any proceeding for which indemnification is permitted pursuant to these Articles shall be paid by the Company in advance of the final disposition of such proceeding upon receipt by the Board of an undertaking by or on behalf of such Covered Person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Company pursuant to these Articles.

156 Any indemnification pursuant to these Articles (unless ordered by a court of competent jurisdiction) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the Covered Person is proper in the circumstances because such person has met the applicable standard of conduct set forth in these Articles, as the case may be. Such determination shall be made, with respect to a Covered Person who is a Director or officer of the Company at the time of such determination, (a) by a majority vote of the Directors who are not parties to such proceeding, even though less than a quorum; (b) by a committee of such Directors designated by a majority vote of such Directors, even though less than a quorum; (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 Members by Ordinary Resolution. Such determination shall be made, with respect to any other Covered Person, by any person or persons having the authority to act on the matter on behalf of the Company. To the extent, however, that any Covered Person has been successful on the merits or otherwise in defence of any proceeding, or in defence of any claim, issue or matter therein, such Covered 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. Notwithstanding the any provision of these Articles relating to indemnification, the Company shall be required to indemnify or advance expenses to a Covered Person in connection a proceeding commenced by such Covered Person only if the commencement of such proceeding by such person was authorized by the Board.

157 It being the policy of the Company that indemnification of the persons specified in these Articles shall be made to the fullest extent permitted by law, the indemnification and advancement of expenses provided for by these Articles shall not be deemed exclusive (a) of any other rights to which those seeking indemnification or advancement of expenses may be entitled under these Articles, any agreement, any insurance purchased by the Company, vote of Members or disinterested Directors, or pursuant to the direction (however embodied) of any court of competent jurisdiction, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, or (b) of the power of the Company to indemnify any person who is or was an employee or agent of the Company or of another corporation, joint venture, trust or other enterprise which he is serving or has served at the request of the Company, to the same extent and in the same situations and subject to the same determinations as are hereinabove set forth with respect to a Covered Person.

158 The Board may, notwithstanding any interest of the Directors in such action, authorize the Company to purchase and maintain insurance on behalf of any Covered Person, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Company would have the power to indemnify him against such liability under the provisions of these Articles. As used in these Articles relating to indemnification, references to the "**Company**" include all constituent corporations in an amalgamation, consolidation or merger or similar arrangement in which the Company or a predecessor to the Company by amalgamation, consolidation or merger or similar arrangement was involved.

FINANCIAL YEAR

159 The financial year of the Company shall be as prescribed by the Board from time to time.

TRANSFER BY WAY OF CONTINUATION

160 If the Company is exempted as defined in the Statute, it shall, subject to the provisions of the Statute and with the approval of a Special Resolution, have the power to register by way of continuation as a body corporate under the laws of any jurisdiction outside the Cayman Islands and to be deregistered in the Cayman Islands.

MERGERS AND CONSOLIDATIONS

161 The Company shall have the power to merge or consolidate with one or more constituent companies (as defined in the Statute), upon such terms as the Directors may determine and (to the extent required by Statute) with the approval of a Special Resolution.

Exhibit 4.2

EXECUTION VERSION

HERBALIFE LTD.

(Company) UNION
BANK, N.A.
(Trustee)

2.00% Convertible Senior Notes due 2019 INDENTURE
Dated as of February 7, 2014

INDENTURE, dated as of February 7, 2014, between Herbalife Ltd., a Cayman Islands exempted company incorporated with limited liability, as issuer (the "**Company**"), and Union Bank, N.A., a national banking association, as trustee (the "**Trustee**").

RECITALS OF THE COMPANY

WHEREAS, the Company has duly authorized the creation of an issue of the Company's 2.00% Convertible Senior Notes due 2019 (the "**Notes**"), having the terms, tenor, amount and other provisions hereinafter set forth, and, to provide therefor, has duly authorized the execution and delivery of this Indenture; and

WHEREAS, all things necessary to make the Notes, when duly executed by the Company and authenticated and delivered hereunder and duly issued by the Company, the legal, valid and binding obligations of the Company, in accordance with the terms of the Notes and this Indenture, have been done and performed, and the execution of this Indenture and the issue hereunder of the Notes have in all respects been duly authorized.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, for and in consideration of the premises and the purchases of the Notes by the Holders (as defined below) thereof, it is mutually agreed, for the benefit of the Company and the equal and proportionate benefit of all Holders, as follows:

ARTICLE 1.
DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.01 *Definitions*. The terms defined in this Section 1.01 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.01. The words "herein", "hereof", "hereunder" and words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other Subdivision. The word "or" is not exclusive and the word "including" means including without limitation. The terms defined in this Article include the plural as well as the singular.

"**Act**" has the meaning specified in Section 1.03 hereof.

"**Additional Amount**" has the meaning specified in Section 2.16 hereof.

"**Additional Interest**" means all amounts, if any, payable pursuant to Section 5.08 and Section 6.03 hereof. Unless the context otherwise requires, all references in this Indenture to interest include Additional Interest, if any. Any express reference to Additional Interest in this Indenture shall not be construed as excluding Additional Interest in any other text where no such express reference is made.

"**Additional Notes**" means any Notes (other than the Initial Notes) issued under this Indenture in accordance with Section 2.01 hereof, with the same terms (except, if applicable, as to (i) their issue date, (ii) the date as of which interest shall begin to accrue on such Additional Notes and (iii) any differences in transfer restrictions required or permitted by the Securities Act.

"**Additional Shares**" has the meaning specified in Section 4.06(a) hereof.

"**Affiliate**" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"**Agent Members**" has the meaning specified in Section 2.06(b) hereof.

"**Applicable Procedures**" means, with respect to any matter at any time, the policies and procedures of a Depositary, if any, that are applicable to such matter at such time.

"**Applicable Taxes**" has the meaning specified in Section 2.16 hereof.

"**Authenticating Agent**" means any Person authorized by the Trustee to act on behalf of the Trustee to authenticate Notes. "**Averaging Period**" has the meaning specified in Section 4.04(e) hereof.

"**Bid Solicitation Agent**" means the Person appointed by the Company, from time to time, to solicit secondary market bid quotations for the Trading Price of the Notes in accordance with Section 4.01(b)(ii) hereof. The Company will be the initial Bid Solicitation Agent.

"**Board of Directors**" means either the board of directors of the Company or any duly authorized committee of that board. "**Board Resolution**" when used with reference to the

Company means a copy of a resolution certified by the Secretary or an

Assistant or Associate Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"**Business Day**" means any day other than a Saturday, a Sunday or a day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or to be closed.

"**Capital Stock**" means, for any Person, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) the equity of such Person, but excluding any debt securities convertible into such equity.

"**Close of Business**" means 5:00 p.m., New York City time.

"**Commission**" means the Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this Indenture such Commission is not existing and performing the duties now assigned to it under the Exchange Act or the Securities Act, as applicable, then the body performing such duties at such time.

"**Common Equity**" of any Person means the Capital Stock of such Person that is generally entitled (a) to vote in the election of directors of such Person or (b) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

"**Common Shares**" means the common shares, par value $0.001 per share, of the Company authorized at the date of this instrument as originally executed or shares of any class or classes of common shares resulting from any reclassification or reclassifications thereof.

The term "**common shares**" includes any stock of any class of Capital Stock which has no preference in respect of dividends or of amounts payable in the event of any voluntary or involuntary liquidation, dissolution or winding up of the issuer thereof and which is not subject to redemption by the issuer thereof.

"**Company**" has the meaning specified in the first paragraph of this Indenture, and subject to the provisions of Article 9, shall include its successors and assigns.

"**Company Order**" means a written request or order signed in the name of the Company by its Chief Executive Officer, its President, or its Chief Financial Officer, any of its Vice Presidents, its Treasurer, any Assistant Treasurer, its Secretary or any Assistant Secretary.

"**Conversion Agent**" has the meaning specified in Section 5.02 hereof. "**Conversion Date**" has the meaning specified in Section 4.02(b) hereof. "**Conversion Notice**" has the meaning specified in Section 4.02(b) hereof.

"**Conversion Price**" means, in respect of each Note, as of any date, $1,000 *divided by* the Conversion Rate in effect on such date.

"**Conversion Rate**" means initially 11.5908 Common Shares per $1,000 principal amount of Notes, subject to adjustment as set forth herein.

"**Corporate Trust Office**" means, with respect to the office of the Trustee, the designated corporate trust office of the Trustee at which this Indenture is administered, which office at the date hereof is located at Union Bank, N.A., 120 S. San Pedro Street, #400 MC 4-102-080 Los Angeles, California 90012, Attention: Corporate Trust Administration, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

"**Custodian**" means the Trustee, as custodian with respect to the Notes (so long as the Notes constitute Global Notes), or any successor entity.

"**Daily Conversion Value**" means, for each of the 25 consecutive VWAP Trading Days during the applicable Observation Period, one-twenty fifth (1/25th) of the product of (i) the Conversion Rate in effect on such VWAP Trading Day and (ii) the Daily VWAP on such VWAP Trading Day.

"**Daily Measurement Value**" means the quotient of (a) $1,000 divided by (b) 25.

"**Daily Settlement Amount**" means, for each of the 25 consecutive VWAP Trading Days during the applicable Observation Period:

(1) an amount of cash equal to the lesser of (x) the Daily Measurement Value and (y) the Daily Conversion Value for such VWAP Trading Day; and

(2) if such Daily Conversion Value is greater than the Daily Measurement Value, a number of Common Shares equal to (i) the excess of such Daily Conversion Value over such Daily Measurement Value, divided by (ii) the Daily VWAP for such VWAP Trading Day.

"**Daily VWAP**" means, for each of the 25 consecutive VWAP Trading Days during the applicable Observation Period, the per share volume-weighted average price of the Common Shares as displayed under the heading "Bloomberg VWAP" on Bloomberg page "HLF <EQUITY> AQR" (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or if such volume- weighted average price is unavailable, the market value of one Common Share on such VWAP Trading Day, reasonably determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose by the Company, which may include any of the Initial Purchasers). The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

"**Default**" means any event that is, or with the passage of time, or the giving of notice, or both, would be, an Event of Default.

"**Depositary**" means, with respect to the Notes issuable or issued in the form of a Global Note, The Depositary Trust Company or the Person designated as Depositary by the Company pursuant to the applicable provisions of this Indenture until a successor Depositary shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Depositary" shall mean or include each Person who is then a Depositary hereunder.

"**Distributed Property**" has the meaning specified in Section 4.04(c) hereof. "**Dividend Threshold**" has the meaning specified in Section 4.04(d) hereof.

"**Dollar**" or "**$**" means a dollar or other equivalent unit in such coin or currency of the United States of America that is legal tender for the payment of public and private debts at the time of payment.

"**Effective Date**" means, with respect to a Fundamental Change or a Make-Whole Fundamental Change, as applicable, the date such Fundamental Change or Make-Whole Fundamental Change, as applicable, occurs or becomes effective.

"**Event of Default**" has the meaning specified in Section 6.01 hereof.

"**Ex-Dividend Date**" means the first date on which the Common Shares trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question.

"**Exchange Act**" means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"**Form of Assignment and Transfer**" means the "Form of Assignment and Transfer" attached as Attachment 3 to the Form of Note attached hereto as Exhibit A.

"**Form of Fundamental Change Purchase Notice**" means the "Form of Fundamental Change Purchase Notice" attached as Attachment 2 to the Form of Note attached hereto as Exhibit A.

"**Form of Notice of Conversion**" means the "Form of Notice of Conversion" attached as Attachment 1 to the Form of Note attached hereto as Exhibit A.

"**Free Trade Date**" means the date that is one year after the last date of original issuance of the Notes.

"**Free Transferability Certificate**" means a certificate substantially in the form attached hereto as Exhibit B. "**Freely Tradable**" has the meaning specified in Section 5.08(a) hereof.

A "**Fundamental Change**" shall be deemed to have occurred at the time after the Notes are originally issued when any of the following occurs:

(1) a "person" or "group" within the meaning of Section 13(d) of the Exchange Act, other than the Company, its Subsidiaries or the employee benefit plans of the Company or its Subsidiaries, files a Schedule TO or any schedule, form or other report under the Exchange Act disclosing that such person or group has become the direct or indirect "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of the Company's Common Equity representing more than 50.0% of the voting power of the Company's Common Equity (or the Company becomes aware that such a filing is required but has not been made);

(2) consummation of (A) any recapitalization, reclassification or change of the Common Shares (other than changes resulting from a subdivision or combination) pursuant to which the Common Shares would be converted into, or exchanged for, or represent solely the right to receive, shares, stock, other securities, other property or assets (including cash or any combination thereof), (B) any share

exchange, consolidation, merger or similar event involving the Company pursuant to which the Common Shares will be converted into, or exchanged for, or represent solely the right to receive, shares, stock, other securities, other property or assets (including cash or any combination thereof) or (C) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any Person other than one or more of the Company's wholly owned Subsidiaries (any such share exchange, consolidation, merger, similar event, transaction or series of transactions being referred to in this clause (2) as an "**Event**"); provided, however, that any such Event described in clause (A) or (B) above where the persons that "beneficially owned," directly or indirectly, the Company's voting shares immediately prior to such event "beneficially own", directly or indirectly, more than 50.0% of the total voting power of all outstanding classes of voting shares or stock of the continuing or surviving Person or transferee or the parent thereof immediately after such Event and such holders' proportional voting power immediately after such transaction vis-à-vis each other with respect to the securities such holders receive in such transaction will be in substantially the same proportions as their respective voting power vis-à-vis each other immediately prior to such transaction will not constitute a "Fundamental Change";

(3) the holders of the Common Shares approve any plan or proposal for the Company's liquidation or dissolution;or

(4) the Common Shares (or other Common Equity into which the Notes are then convertible) cease to be listed or admitted for trading on the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or any successor to the foregoing) (each such exchange or market, a "**Permitted Exchange**"), or the announcement by any such Permitted Exchange on which the Common Shares (or such other Common Equity) are then listed or admitted for trading that the Common Shares (or such other Common Equity) will no longer be so listed or admitted for trading, unless the Common Shares (or such other Common Equity) have been accepted for listing or admitted for trading on another Permitted Exchange.

Notwithstanding the foregoing, a transaction or series of transactions described in clause (2) above (whether or not giving effect to the proviso thereto) shall not constitute a "Fundamental Change" if at least 90% of the consideration received or to be received by holders of the Common Shares (excluding cash payments for fractional shares and cash payments made in respect of dissenters' appraisal rights) in connection with such transaction or transactions consists of common shares traded on a Permitted Exchange, and, as a result of such transaction or transactions, such consideration will constitute "Reference Property" for the Notes. In addition, a transaction or event that constitutes a Fundamental Change under both clause (1) and clause (2) above will be deemed to constitute a Fundamental Change solely under clause (2) of this definition of "Fundamental Change."

If any transaction in which the Common Shares are replaced by the securities of another entity occurs, following completion of any related Make-Whole Fundamental Change Period and any related Fundamental Change Purchase Date, references to the Company in this definition of "Fundamental Change" will apply to such other entity instead.

"**Fundamental Change Company Notice**" has the meaning specified in Section 3.02(a) hereof. "**Fundamental Change Expiration Time**" has the meaning specified in Section 3.03(a)(i) hereof. "**Fundamental Change Purchase Date**" has the meaning specified in Section 3.01 hereof. "**Fundamental Change Purchase Notice**" has the meaning specified in Section 3.03(a)(i) hereof. "**Fundamental Change Purchase Price**" has the meaning specified in Section 3.01 hereof.

"**Global Note**" means a Note evidencing all or part of a series of Notes, issued to the Depositary for such series or its nominee, and registered in the name of such Depositary or nominee.

"**Global Notes Legend**" has the meaning specified in the Form of Note attached hereto as Exhibit A. "**Holder**" means the Person in whose name a Note is registered in the Register.

"**Indenture**" means this Indenture as amended or supplemented from time to time. "**Initial Notes**" has the meaning specified in Section 2.01 hereof.

"**Initial Purchasers**" means Credit Suisse Securities (USA) LLC, HSBC Securities (USA) Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Morgan Stanley & Co. LLC, Rabo Securities USA, Inc., ING Financial Markets LLC and Mitsubishi UFJ Securities (USA), Inc.

"**Interest Payment Date**" means, with respect to the payment of interest on the Notes, each February 15 and August 15 of each year, beginning on August 15, 2014.

"**Issue Date**" means, with respect to any Note, the first date of original issuance of such Note (and not, for the avoidance of doubt, the date of issuance of any Note issued in whole or in part upon registration or transfer of, or in exchange for, or in lieu of, other Notes pursuant to Sections 2.05, 2.06, 2.07, 2.08, 2.09, 2.11, 3.07 or 4.02).

"**Last Original Issuance Date**" means (i) with respect to the Initial Notes, February 7, 2014 (or, if, after February 7, 2014, the Initial Purchasers purchase any Additional Notes pursuant to the exercise of their option to purchase Additional Notes as set forth in the Purchase Agreement, the date of the closing of such purchase of Additional Notes pursuant to the Purchase Agreement); and

(ii) with respect to any Additional Notes, the last date of original issuance of such Notes.

"**Last Reported Sale Price**" of the Common Shares for any Trading Day means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid and last ask prices per share or, if more than one in either case, the average of the average last bid and the average last ask prices per share) on that Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Shares are traded. The Last Reported Sale Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours. If the Common Shares are not listed for trading on a U.S. national or regional securities exchange on the relevant Trading Day, the "Last Reported Sale Price" will be the last quoted bid price per share for the Common Shares in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization. If the Common Shares are not so quoted, the "Last Reported Sale Price" will be the average of the average of the mid-point of the last bid and last ask prices per share for the Common Shares on the relevant Trading Day from each of at least three nationally recognized independent investment banking firm selected by the Company for this purpose, which may include any of the Initial Purchasers. Any such determination will be conclusive absent manifest error.

"**Make-Whole Fundamental Change**" means any event that is a Fundamental Change (subject to any exceptions or exclusions to the definition other than the exclusion in the proviso to clause (2) of the definition of "Fundamental Change").

"**Make-Whole Fundamental Change Period**" has the meaning specified in Section 4.06(a) hereof.

"**Market Disruption Event**" means, if the Common Shares are listed for trading on The NewYork Stock Exchange or listed on another U.S. national or regional securities exchange, the occurrence or existence during the one-half hour period ending on the scheduled close of trading on any Scheduled Trading Day of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Shares or in any options, contracts or futures contracts relating to the Common Shares.

"**Maturity Date**" means August 15, 2019.

"**Measurement Period**" has the meaning specified in Section 4.01(b)(ii) hereof. "**Merger Event**" has the meaning specified in Section 4.07(a) hereof.
"**Note**" or "**Notes**" has the meaning specified in the first paragraph of the Recitals of this Indenture. "**Notice of Default**" has the meaning specified in Section 6.01(f) hereof.
"**Observation Period**" means, with respect to any Note surrendered for conversion, (i) if the relevant Conversion Date for such Note occurs prior to the 30th Scheduled Trading Day immediately preceding the Maturity Date, the 25 consecutive VWAP Trading Day period beginning on, and including, the second VWAP Trading Day immediately succeeding such Conversion Date, and
(ii) if the relevant Conversion Date occurs on or after the 30th

Scheduled Trading Day immediately preceding the Maturity Date, the 25 VWAP consecutive Trading Day period beginning on, and including, the 27th Scheduled Trading Day immediately preceding the Maturity Date (if such Scheduled Trading Day is not a Trading Day, the immediately following Trading Day).

"**Offer Expiration Date**" has the meaning specified in Section 4.04(e) hereof.

"**Officer**" or "**officer**" shall mean, the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Financial Officer, a Vice President (whether or not designated by a number or word or words added before or after the title "Vice President"), the Treasurer, any Assistant Treasurer, the Secretary, any Assistant or Associate Secretary or the Controller of the Company.

"**Officer's Certificate**" means a certificate signed by an Officer and delivered to the Trustee. '**Open of Business**" means 9:00 a.m., New York City time.

"**Opinion of Counsel**" means a written opinion of counsel, who may be an employee of, or counsel for, the Company or an Affiliate of the Company, or other counsel acceptable to the Trustee, that is delivered to the Trustee.

"**Outstanding**" means, with respect to the Notes any Notes authenticated by the Trustee except (i) Notes cancelled by it, (ii) Notes delivered to it for cancellation and (iii)(A) Notes replaced pursuant to Section 2.09 hereof, on and after the time such Note is replaced (unless the Trustee and the Company receive proof satisfactory to them that such Note is held by a *bona fide* purchaser), (B) Notes converted pursuant to Article 4 hereof, on and after their Conversion Date, (C) any and all Notes, as of the Maturity Date, if the Paying Agent holds, in accordance with this Indenture, money sufficient to pay all of the Notes then payable, and (D) any and all Notes owned by the Company or any other obligor upon the Notes, or for purposes of votes or consents, any Affiliate of the Company or of such other obligor, except that in determining whether the Trustee shall be protected in relying upon any request, demand, authorization, direction, notice, consent or waiver or other action that is to be made by a requisite principal amount of Outstanding Notes, only such Notes which a Responsible Officer of the Trustee actually knows to be so owned shall be disregarded.

"**Paying Agent**" means any Person authorized by the Company to pay the principal amount of, any premium on, interest on, or the Fundamental Change Purchase Price in respect of, any Notes on behalf of the Company.

"**Person**" means any individual, corporation, partnership, joint venture, trust, unincorporated organization or government or any agency or political subdivision thereof.

"**Physical Notes**" means permanent certificated Notes in definitive, fully registered form issued in denominations of $1,000 principal amount and integral multiples of $1,000 in excess thereof.

"**Preliminary Offering Memorandum**" means the Preliminary Offering Memorandum dated February 3, 2014 related to the offering of the Initial Notes.

"**Purchase Agreement**" means that certain Purchase Agreement, dated as of February 3, 2014, between the Company and the Initial Purchasers.

"**Reference Property**" has the meaning specified in Section 4.07(a) hereof. "**Reference Property Unit**" has the meaning specified in Section 4.07(a) hereof. "**Register**" and "**Registrar**" have the respective meanings specified in Section 2.06(a).

"**Regular Record Date**" means, with respect to any Interest Payment Date, February 1 (whether or not a Business Day) or August 1 (whether or not a Business Day), as the case may be, immediately preceding such Interest Payment Date.

"**Relevant Taxing Jurisdiction**" has the meaning specified in Section 2.16 hereof. "**Reporting Event of Default**" has the meaning specified in Section 6.03(a) hereof. "**Resale Restriction Termination Date**" has the meaning specified in Section 2.08(b)(ii).

"**Responsible Officer,**" shall mean, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"**Restricted Global Note**" has the meaning specified in Section 2.08(b)(i). "**Restricted Note**" has the meaning specified in Section 2.07(a)(i).

"**Restricted Notes Legend**" has the meaning specified in the Form of Note attached hereto as Exhibit A. "**Restricted Stock**" has the meaning specified in Section 2.07(b)(i).

"**Restricted Stock Legend**" means a legend substantially in the form set forth in Exhibit C hereto.

"**Rule 144**" means Rule 144 under the Securities Act (including any successor rule thereto), as the same may be amended from time to time.

"**Scheduled Trading Day**" means (i) for all purposes other than for purposes of determining amounts due upon conversion, a day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange or market on which the Common Shares are listed or admitted for trading; and (ii) for purposes of determining amounts due upon conversion, a day that is scheduled to be a VWAP Trading Day on the principal U.S. national or regional securities exchange or market on which the Common Shares are listed or admitted for trading. If in each of clauses (i) and (ii) above the Common Shares are not so listed or admitted for trading, then, for these purposes, "Scheduled Trading Day" means a Business Day.

"**Securities Act**" means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"**Significant Subsidiary**" means, with respect to any Person, a Subsidiary of such Person that would constitute a "significant subsidiary" as such term is defined in Article 1, Rule 1-02(w) of Regulation S-X, promulgated pursuant to the Securities Act, as in effect on the original date of issuance of the Notes.

"**Spin-Off**" has the meaning specified in Section 4.04(c) hereof. '**Stock Price**" has the meaning specified in Section 4.06(c) hereof.

"**Subsidiary**" of any Person means (a) any corporation, association or other business entity other than a partnership ofwhich more than 50% of the outstanding total voting power ordinarily entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, trustees or other voting members of the governing body thereof is at the time owned or controlled, directly or indirectly, by the Company or by one or more other Subsidiaries, or by the Company and one or more other Subsidiaries or (b) any partnership the sole general partner or the managing general partner of which is the Company or a Subsidiary of the Company or the only general partners of which are the Company or of one or more Subsidiaries of the Company (or any combination thereof).

"**Successor Company**" has the meaning specified in Section 9.01(a) hereof. '**Successor Subsidiary**" has the meaning specified in Section 2.16 hereof.

"**Trading Day**" means a Scheduled Trading Day on which (i) trading in the Common Shares generally occurs on The New York Stock Exchange or, if the Common Shares are not then listed on The New York Stock Exchange, on the principal other U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a
U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then traded and (ii) there is No Market Disruption Event. If the Common Shares are not so listed or traded, then, for these purposes, "Trading Day" means a Business Day.

"**Trading Price**" of the Notes on any Trading Day means the average of the secondary market bid quotations obtained by the Bid Solicitation Agent for $5,000,000 principal amount of the Notes at approximately 3:30 p.m., New York City time, on such Trading Day from three independent nationally recognized securities dealers selected by the Company, which may

include any of the Initial Purchasers; *provided* that, if three such bids cannot reasonably be obtained by the Bid Solicitation Agent but two such bids are obtained, then the average of the two bids shall be used, and if only one such bid can reasonably be obtained by the Bid Solicitation Agent that one bid shall be used. If, on any Trading Day the Bid Solicitation Agent cannot reasonably obtain at least one bid for $5,000,000 principal amount of the Notes from a nationally recognized securities dealer, then the Trading Price per $1,000 principal amount of Notes on such Trading Day will be deemed to be less than 98% of the product of (i) the Last Reported Sale Price of the Common Shares on such Trading Day and (ii) the Conversion Rate in effect on such Trading Day. Any such determination will be conclusive absent manifest error. If the Company is not acting as the Bid Solicitation Agent and the Company fails to instruct the Bid Solicitation Agent to obtain bids when required pursuant hereto, or if the Bid Solicitation Agent fails to solicit bids when required, the Trading Price per $1,000 principal amount of the Notes will be deemed to be less than 98% of the product of Last Reported Sale Price of the Common Shares and the applicable Conversion Rate on each day the Company or the Bid Solicitation Agent, as the case may be, fails to do so.

"**Trustee**" means the Person named as the "Trustee" in the first paragraph of this Indenture until a successor Trustee shall have become such pursuant to Section 10.12 hereof, and thereafter "Trustee" shall mean or include each Person who is then a Trustee hereunder.

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

"**Valuation Period**" has the meaning specified in Section 4.04(c) hereof.

"**Vice President,**" when used with respect to the Company or the Trustee, as applicable, means any vice president, whether or not designated by a number or a word or words added before or after the title "vice president".

"**VWAP Market Disruption Event**" means (i) a failure by the primary U.S. national or regional securities exchange or market on which the Common Shares are listed or admitted for trading to open for trading during its regular trading session or (ii) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled Trading Day for the Common Shares for more than one half hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Common Shares or in any options, contracts or future contracts relating to the Common Shares.

"**VWAP Trading Day**" means a day on which (i) there is no VWAP Market Disruption Event, and (ii) trading in the Common Shares generally occurs on The New York Stock Exchange or, if the Common Shares are not then listed on The New York Stock Exchange, on the principal other U.S. national or regional securities exchange on which the Common Shares are then listed or, if the Common Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Shares are then listed or admitted for trading. If the Common Shares are not so listed or admitted for trading, "VWAP Trading Day" means a Business Day.

Section 1.02 *References to Interest*. Any reference to interest on, or in respect of, any Note in the Indenture shall be deemed to include Additional Interest, if, in such context, Additional Interest is, was or would be payable pursuant hereto. Any express mention of the payment of Additional Interest in any provision hereof shall not be construed as excluding Additional Interest in those provisions hereof where such express mention is not made.

Section 1.03 *Acts of Holders.* (a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be made, given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent, or of the holding by any Person of Notes, shall be sufficient for any purpose of this Indenture and (subject to Section 10.01 hereof) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

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

(c) The amount of Notes held by any Person executing any such instrument or writings as the Holder thereof, and the numbers of such Notes, and the date of his holding the same, may be proved by the production of such Notes or by a certificate executed, as depositary, by any trust company, bank, banker or member of a national securities exchange (wherever situated), if such certificate is in form satisfactory to the Trustee, showing that at the date therein mentioned such Person had on deposit with such depositary, or exhibited to it, the Notes therein described; or such facts may be proved by the certificate or affidavit of the Person executing such instrument or writing as the Holder thereof, if such certificate or affidavit is in form satisfactory to the Trustee. The Trustee and the Company may assume that such ownership of any Notes continues until (1) another certificate bearing a later date issued in respect of the same Notes is produced or (2) such Notes are produced by some other Person or

(3) such Notes are no longer Outstanding.

(d) The fact and date of execution of any such instrument or writing and the amount and number of Notes held by the Person soexecuting such instrument or writing may also be proved in any other manner that the Trustee deems sufficient; and the Trustee may in any instance require further proof with respect to any of the matters referred to in this Sectionl.03.

(e) The principal amount (except as otherwise contemplated in clause (ii) of the proviso to the definition of"Outstanding") and serial numbers of Notes held by any Person, and the date of holding the same, shall be proved by the Registrar.

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

(g) The Company may but shall not be obligated to set a record date for purposes of determining the identity of Holders of any Outstanding Notes entitled to vote or consent to any action by vote or consent authorized or permitted by this Indenture. Such record date shall be not less than 10 nor more than 60 days prior to the first solicitation of such consent or the date of the most recent list of Holders of such Notes furnished to the Trustee pursuant to Section 5.13 prior to such solicitation.

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

ARTICLE 2. THE NOTES

Section 2.01 *Title and Terms; Payments*.

The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is initially limited to $1,000,000,000 (subject to increase by up to $150,000,000 aggregate principal amount of Additional Notes purchased by the Initial Purchasers pursuant to the exercise of their option to purchase Additional Notes as set forth in the Purchase Agreement) (the "**Initial Notes**") except for Notes authenticated and delivered upon registration or transfer

of, or in exchange for, or in lieu of, other Notes pursuant to Sections 2.05, 2.06, 2.07, 2.08, 2.09, 2.11, 3.07 or 4.02. The Company may, without notice to or consent of the Holders, from time to time after the execution of this Indenture, execute and deliver to the Trustee for authentication Additional Notes of an unlimited aggregate principal amount, and the Trustee shall thereupon authenticate and deliver said Additional Notes to or upon receipt of a Company Order, without any further action by the Company hereunder; *provided*, *however*, that if any such Additional Notes are not fungible with the Initial Notes for federal income tax purposes, then such Additional Notes will have a separate CUSIP number. All Notes issued hereunder shall be treated as a single class for all purposes under this Indenture and shall vote together as one class on all matters with respect to the Notes.

The Notes shall be known and designated as the "2.00% Convertible Senior Notes due 2019" of the Company. The principal amount shall be payable on the Maturity Date. The Notes shall not be redeemable by the Company prior to the Maturity Date, and no sinking fund is provided for the Notes.

The principal amount of Physical Notes shall be payable at the Corporate Trust Office and at any other office or agency in Los Angeles, California or the continental United States, maintained by the Company for such purpose. Interest on Physical Notes will be payable (i) to Holders holding Physical Notes having an aggregate principal amount of $5,000,000 or less of Notes, by check mailed to such Holders at the address set forth in the Register and (ii) to Holders holding Physical Notes having an aggregate principal amount of more than $5,000,000 of Notes, either by check mailed to such Holders or, upon written application by a Holder to the Registrar not later than the relevant Regular Record Date for such interest payment, by wire transfer in immediately available funds to such Holder's account within the United States, which application shall remain in effect until the Holder notifies the Registrar to the contrary in writing. The Company will pay or cause the Paying Agent to pay principal of, and interest on, Global Notes in immediately available funds to The Depository Trust Company or its nominee, as the case may be, as the registered Holder of such Global Note, on each Interest Payment Date, Fundamental Change Purchase Date or other payment date, as the case may be.

Any Notes repurchased by the Company will be retired.

Section 2.02 *Ranking*. The Notes constitute direct unsecured obligations of the Company and are not required to be guaranteed by any of its Subsidiaries.

Section 2.03 *Denominations.* The Notes shall be issuable only in registered form without coupons and in denominations of $1,000 and any integral multiple of $1,000 in excess thereof.

Section 2.04 *Execution, Authentication, Delivery and Dating.* The Notes shall be executed by manual or facsimile signature on behalf of the Company by any one of its Chief Executive Officer, its President, its Chief Financial Officer or any of its Vice Presidents, its Treasurer, any Assistant Treasurer or its Corporate Secretary.

Notes bearing the manual or facsimile signatures of individuals who were at any time an Officer of the Company shall bind the Company, notwithstanding that such individual has ceased to hold such office prior to the authentication and delivery of such Notes or did not hold such office at the date of such Notes.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes. The Company Order shall specify the amount of Notes to be authenticated, and shall further specify the amount of such Notes to be issued as one or more Global Notes or as one or more Physical Notes. The Trustee in accordance with such Company Order shall authenticate and deliver such Notes as provided in this Indenture and not otherwise.

Each Note shall be dated the date of its authentication.

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

Section 2.05 *Temporary Notes*. Pending the preparation of Physical Notes, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Notes that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the Physical Notes in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the Officer executing such Notes may determine, as evidenced by such Officer's execution of such Notes; *provided*, that any such temporary Notes shall bear legends on the face of such Notes as set forth in the Form of Note attached hereto as Exhibit A and Sections 2.07 and 2.11.

After the preparation of Physical Notes, the temporary Notes shall be exchangeable for Physical Notes upon surrender of the temporary Securities at any office or agency of the Company designated pursuant to Section 5.02, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Company shall execute and the Trustee shall, upon Company Order, authenticate and deliver in exchange therefor a like principal amount of Physical Notes of authorized denominations. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits under this Indenture as Physical Notes.

Section 2.06 *Registration; Registration of Transfer and Exchange.*

(a) The Company shall cause to be kept at the applicable Corporate Trust Office of the Trustee a register (the register maintained in such office and in any other office or agency designated pursuant to Section 5.02 being herein sometimes collectively referred to as the "**Register**") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Notes and of transfers of Notes. The Trustee is hereby appointed "Registrar" (the '**Registrar**") for the purpose of registering Notes and transfers of Notes as herein provided.

Upon surrender for registration of transfer of any Note at an office or agency of the Company designated pursuant to Section 5.02 for such purpose, the Company shall execute, and upon receipt of a Company Order the Trustee shall authenticate
and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denomination andof a like aggregate principal amount and tenor, each such Notes bearing such restrictive legends as may be required by this Indenture (including the Form of Note attached hereto as Exhibit A and Sections 2.07 and 2.11).

At the option of the Holder and subject to the other provisions of Sections 2.07 and 2.11, Notes may be exchanged for other Notes of any authorized denomination and of a like aggregate principal amount and tenor, upon surrender of the Notes to be exchanged at such office or agency. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall, upon receipt of a Company Order, authenticate and deliver, the Notes which the Holder making the exchange is entitled to receive.

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

Every Note presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Registrar duly executed by the Holder thereof or his attorney duly authorized in writing. As a condition to the registration of transfer of any Restricted Notes, the Company or the Trustee may require evidence satisfactory to them as to the compliance with the restrictions set forth in the legend on such Notes.

No service charge shall be made for any registration of transfer or exchange of Notes, but the Company and the Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Notes, other than exchanges pursuant to Section 2.11 not involving any transfer.

Neither the Company nor the Registrar shall be required to exchange or register a transfer of any Security in the circumstances set forth in Section 2.11(a)(iv).

(b) Neither any members of, or participants in, the Depositary (collectively, the "**Agent Members**") nor any other Persons on whose behalf any Agent Member may act shall have any rights under this Indenture with respect to any Global Note registered in the name of the Depositary or any nominee thereof, or under any such Global Note, and the Depositary or such nominee, as the case may be, may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner and Holder of such Global Note for all purposes whatsoever. The Trustee shall have no liability, responsibility or obligation to any Agent Members or any other Person on whose behalf Agent Members may act with respect to (i) any ownership interests in the Global Note, (ii) the accuracy of the records of the Depositary or its nominee, (iii) any notice required hereunder, (iv) any payments under or with respect to the Global Note or (v) actions taken or not taken by any Agent Members.

(c) Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written or electronic certification, proxy or other authorization furnished by the Depositary or such nominee, as the case may be, or impair, as between the Depositary, its Agent Members and any other Person on whose behalf an Agent Member may act, the operation of customary practices of such Persons governing the exercise of the rights of a Holder of any Note. The registered Holder of a Global Note may grant proxies and otherwise authorize any Person, including Agent Members and persons that may hold interests through Agent Members, to take any action that a Holder is entitled to take under this Indenture or the Notes.

Section 2.07 *Transfer Restrictions*.

(a) *Restricted Notes*.

(i) Every Note (and all securities issued in exchange therefor or substitution thereof) that bears, or that is required under this Section 2.07 to bear, the Restricted Notes Legend will be deemed to be a "**Restricted Note**." Each Restricted Note will be subject to the restrictions on transfer set forth in this Indenture (including in the Restricted Notes Legend) and will bear the restricted CUSIP number for the Notes unless such restrictions on transfer are eliminated or otherwise waived by written consent of the Company (including, without limitation, by the Company's delivery of the Free Transferability Certificate as provided herein), and each Holder of a Restricted Note, by such Holder's acceptance of such Restricted Note, will be deemed to be bound by the restrictions on transfer applicable to such RestrictedNote.

(ii) Until the Resale Restriction Termination Date, any Note will bear the Restricted Notes Legendunless:

(A) such Note, since last held by the Company or an affiliate (within the meaning of Rule 144) of the Company, if ever, was transferred (1) to a Person other than (x) the Company or (y) an affiliate (within the meaning of Rule 144) of the Company or a Person that was an affiliate (within the meaningof

Rule 144) of the Company within the three months immediately preceding such transfer and (2) pursuant to a registration statement that was effective under the Securities Act at the time of such transfer;

(B) such Note was transferred (1) to a Person other than (x) the Company or (y) an affiliate (within the meaning of Rule 144) of the Company or a Person that was an affiliate (within the meaning of Rule 144) of the Company within the three months immediately preceding such transfer and (2) pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act; or

(C) the Company delivers written notice to the Trustee and the Registrar (including, without limitation, by the Company's delivery of the Free Transferability Certificate as provided herein) stating that the Restricted Notes Legend may be removed from such Note and all Applicable Procedures have been complied with.

(iii) In addition, until the Resale Restriction Termination Date:

(A) no transfer of any Note will be registered by the Registrar prior to the Resale Restriction Termination Date unless the transferring Holder delivers a notice substantially in the form of the Form of Assignment and Transfer, with the appropriate box checked, to the Trustee; and

(B) the Registrar will not register any transfer of any Note that is a Restricted Note to a Person that is an affiliate (within the meaning of Rule 144) of the Company or has been an affiliate (within the meaning of Rule 144) of the Company within the three months immediately preceding the date of such proposed transfer.

(iv) On and after the Resale Restriction Termination Date, any Note will bear the Restricted Note Legend at any time the Company determinates that, to comply with law, such Note must bear the Restricted Notes Legend.

(b) *Restricted Stock.*

(i) Every Common Share that bears, or that is required under this Section 2.07 to bear, the Restricted Stock Legend will be deemed to be "**Restricted Stock**". Each share of Restricted Stock will be subject to the restrictions on transfer set forth in this Indenture (including in the Restricted Stock Legend) and will bear a restricted CUSIP number unless such restrictions on transfer are eliminated or otherwise waived by written consent (including, without limitation, by the Company's delivery of the Free Transferability Certificate as provided herein) of the Company, and each Holder of Restricted Stock, by such Holder's acceptance of Restricted Stock, will be deemed to be bound by the restrictions on transfer applicable to such Restricted Stock.

(ii) Until the Resale Restriction Termination Date, any Common Shares issued upon the conversion of a Note, and any Common Shares issued upon conversion of a Restricted Note, will be issued in book-entry form and will bear the Restricted Stock Legend unless the Company delivers written notice to the transfer agent for the Common Shares stating that such Common Shares need not bear the Restricted Stock Legend.

(iii) On and after the Resale Restriction Termination Date, Common Shares will be issued in book-entry form and will bear the Restricted Stock Legend at any time the Company reasonably determinates that, to comply with law, such Common Shares must bear the Restricted Stock Legend.

(c) As used in this Section 2.07, the term "transfer" means any sale, pledge, transfer, loan, hypothecation or otherdisposition whatsoever of any Restricted Note, any interest therein or any Restricted Stock.

Section 2.08 *Expiration of Restrictions.*

(a) *Physical Notes*. Any Physical Note (or any security issued in exchange or substitution therefor) that does not constitute a Restricted Note may be exchanged for a new Note or Notes of like tenor and aggregate principal amount that do not bear the Restricted Notes Legend required by Section 2.07. To exercise such right of exchange, the Holder of such Note must surrender such Note in accordance with the provisions of Section 2.11 and deliver any additional documentation reasonably required by the Company, the Trustee or the Registrar in connection with such exchange.

(b) *Global Notes; Resale Restriction Termination Date.*

(i) If, on the Free Trade Date, or the next succeeding Business Day if the Free Trade Date is not a BusinessDay, any Notes are represented by a Global Note that is a Restricted Note (any such Global Note, a "**Restricted Global Note**"), the Company will use its reasonable best efforts to effect an exchange of every beneficial interest in each Restricted Global Note for beneficial interests in Global Notes that are not subject to the restrictions set forth in the Restricted Notes Legend and in Section 2.07 hereof on or prior to the 365th day after the Issue Date of such Notes.

(ii) To effect such automatic exchange, the Company will (A) deliver to the Depositary an instruction letter for the Depositary's mandatory exchange process within a period of time that is reasonably likely to result in such exchange occurring on or prior to the 365th day after the Issue Date of the relevant Notes and (B) deliver to each of the Trustee and the Registrar a duly completed Free Transferability Certificate promptly after the Free Trade Date. The first date on which both the Trustee and the Registrar have received the Free Transferability Certificate will be known as the "**Resale Restriction Termination Date**".

(iii) Immediately upon receipt of the Free Transferability Certificate by each of the Trustee and the Registrar:

(A) the Restricted Notes Legend will be deemed removed from each of the Global Notes specified in such Free Transferability Certificate and the restricted CUSIP number will be deemed removed from each of such Global Notes and deemed replaced with an unrestricted CUSIP number;

(B) the Restricted Stock Legend will be deemed removed from any Common Shares previously issued upon conversion of the Notes; and

(C) thereafter, Common Shares issued upon conversion of the Notes, if any, will be assigned an unrestricted CUSIP number and will not bear the Restricted Stock Legend (except as provided in Section 2.07(b)(iii)) or any similar legend.

(iv) Promptly after the Resale Restriction Termination Date, the Company will provide Bloomberg LLP with a copy of the Free Transferability Certificate and will use reasonable efforts to cause Bloomberg LLP to adjust its screen page for the Notes to indicate that the Notes are no longer Restricted Notes and are then identified by an unrestricted CUSIP number.

(v) Prior to the Company's delivery of the Free Transferability Certificate and afterwards, the Company and the Trustee will comply with the Applicable Procedures and the Company will otherwise use reasonable efforts to cause each Global Note to be identified by an unrestricted CUSIP number in the facilities of the Depositary by the date the Free Transferability Certificate is delivered to the Trustee and the Registrar or as promptly as possible thereafter.

(vi) Notwithstanding anything to the contrary in Sections 2.08(b)(i), (ii), (iii) or (iv) the Company will not be required to deliver the Free Transferability Certificate if it reasonably believes that removal of the Restricted Notes Legend or the changes to the CUSIP numbers for the Notes could result in or facilitate transfers of the Notes in violation of applicable law.

Section 2.09 *Mutilated, Destroyed, Lost and Stolen Notes.* If any mutilated Note is surrendered to the Trustee, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Note of like tenor and principal amount and bearing a number not contemporaneously outstanding. If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Note and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless and such other reasonable requirements as may be imposed by the Company as permitted by Section 8-405 of the Uniform Commercial Code have been satisfied, then, in the absence of notice to the Company or the Trustee that such Note has been acquired by a *bona fide* purchaser, the Company shall execute and the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Note, a new Note of like tenor and principal amount and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Note, pay such Note.

Upon the issuance of any new Note under this Section 2.09, the Company may require payment by the Holder of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Note issued pursuant to this Section 2.09 in lieu of any destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

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

Section 2.10 *Persons Deemed Owners.* Prior to due presentment of a Note for registration of transfer, the Company, the Trustee, the Registrar and any agent of the Company, the Trustee or the Registrar may treat the Person in whose name such Note is registered in the Register as the owner of such Note for the purpose of receiving payment of the principal and interest of such Note and for all other purposes whatsoever, whether or not such Note be overdue, and neither the Company, the Trustee, the Registrar nor any agent of the Company, the Trustee or the Registrar shall be affected by notice to the contrary.

Section 2.11 *Transfer and Exchange.*

(a) *Provisions Applicable to All Transfers and Exchanges.*

(i) Subject to the restrictions set forth in this Section 2.11, Physical Notes and beneficial interests in Global Notes may be transferred or exchanged from time to time as desired, and each such transfer or exchange will be noted by the Registrar in the Register.

(ii) All Notes issued upon any registration of transfer or exchange in accordance with this Indenture will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

(iii) No service charge will be imposed on any Holder of a Physical Note or any owner of a beneficial interest in a Global Note for any exchange or registration of transfer, but each of the Company, the Trustee or the Registrar may require such Holder or owner of a beneficial interest to pay a sum sufficient to cover any transfer tax, assessment or other governmental charge imposed in connection with such registration of transfer or exchange.

(iv) Unless the Company specifies otherwise, none of the Company, the Trustee, the Registrar or any co-Registrar will be required to exchange or register a transfer of any Note (x) that has been surrendered for conversion or (y) as to which a Fundamental Change Purchase Notice has been delivered and not duly withdrawn, except to the extent any portion of such Note is not subject to the foregoing.

(v) The Trustee will have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depositary participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof. Neither the Trustee nor any Agent shall have any responsibility or liability for any actions taken or not taken by the Depository.

(b) *In General; Transfer and Exchange of Beneficial Interests in Global Notes.* So long as the Notes are eligible for book- entry settlement with the Depositary, unless otherwise required by law, except to the extent required by Section 2.11(c):

(i) all Notes will be represented by one or more Global Notes;

(ii) every transfer and exchange of a beneficial interest in a Global Note will be effected through the Depositary in accordance with the Applicable Procedures and the provisions of this Indenture (including the restrictions on transfer set forth in Section 2.07); and

(iii) each Global Note may be transferred only as a whole and only (A) by the Depositary to a nominee of the Depositary, (B) by a nominee of the Depositary to the Depositary or to another nominee of the Depositary, or (C) by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary.

(c) *Transfer and Exchange of Global Notes*.

(i) Notwithstanding any other provision of this Indenture, each Global Note will be exchanged for Physical Notes if the Depositary delivers notice to the Company that:

(A) the Depositary is unwilling, unable or no longer permitted under applicable law to continue to act as Depositary; or

(B) the Depositary is no longer registered as a clearing agency under the Exchange Act or is otherwise no longer permitted under applicable law to continue as Depositary for such Global Note;

and, in each case, the Company promptly delivers a copy of such notice to the Trustee and the Company fails to appoint a successor Depositary within 90 days after receiving notice from the Depositary.

In each such case, each Global Note will be deemed surrendered to the Trustee for cancellation, and the Trustee will cause each Global Note to be cancelled in accordance with the Applicable Procedures, and the Company, in accordance with Section 2.04, will promptly execute, and, upon receipt of a Company Order, the Trustee will, in accordance with Section 2.04, will promptly authenticate and deliver, for each beneficial interest in each Global Note so exchanged, an aggregate principal amount of Physical Notes equal to the aggregate principal amount of such beneficial interest, registered in such names and in such authorized denominations as the Depositary specifies, and bearing any legends that such Physical Notes are required to bear under Section 2.07.

(ii) In addition, if (x) the Company, in its sole discretion, notifies the Trustee in writing that it wishes to terminate and exchange all or part of a Global Note for Physical Notes and the beneficial owners of the majority of the principal amount of such Global Note (or portion thereof) to be exchanged consent to such exchange, the Company may exchange all beneficial interests in such Global Note (or portion thereof) for Physical Notes by delivering a written request to the Registrar or (y) an Event of Default has occurred with regard to the Notes represented by the relevant Global Note and such Event of Default has not been cured or waived, any owner of a beneficial interest in a Global Note may deliver a written request to the Registrar to exchange such beneficial interest for Physical Notes.

In such case, (A) the Registrar will deliver notice of such request to the Company and the Trustee, which notice will identify the aggregate principal amount of such beneficial interest and the CUSIP of the relevant Global Note; (B) the Company will, in accordance with Section 2.04, promptly execute, and, upon receipt of a Company Order, the Trustee, in accordance with Section 2.04, will promptly authenticate and deliver, to such owner, for the beneficial interest so exchanged by such owner, Physical Notes registered in such owner's name having an aggregate principal amount equal to the aggregate principal amount of such beneficial interest and bearing any legends that such Physical Notes are required to bear under Section 2.07, and (C) the Registrar, in accordance with the Applicable Procedures, will cause the principal amount of such Global Note to be decreased by the aggregate principal amount of the beneficial interest so exchanged. If all of the beneficial interests in a Global Note are so exchanged, such Global Note will be deemed surrendered to the Trustee for cancellation, and the Trustee will cause such Global Note to be cancelled in accordance with the Applicable Procedures.

(d) *Transfer and Exchange of Physical Notes*.

(i) If Physical Notes are issued, a Holder may transfer a Physical Note by: (A) surrendering such Physical Note for registration of transfer to the Registrar, together with any endorsements or instruments of transfer required by any of the Company, the Trustee or the Registrar; (B) if such Physical Note is a Restricted Note, delivering any documentation that the Company, the Trustee or the Registrar require to ensure that such transfer complies with Section 2.07 and any applicable securities laws; and (C) satisfying all other requirements for such transfer set forth in this Section 2.11 and Section 2.07. Upon the satisfaction of conditions (A), (B) and (C), the Company, in accordance with Section 2.04, will promptly execute and deliver to the Trustee, and the Trustee, upon receipt of a Company Order, will, in accordance with Section 2.04, promptly authenticate and deliver, in the name of the designated transferee or transferees, one or more new Physical Notes, of any authorized denomination, having like aggregate principal amount and bearing any restrictive legends required by Section 2.07 and/or the Form of Note attached hereto as Exhibit A.

(ii) If Physical Notes are issued, a Holder may exchange a Physical Note for other Physical Notes of any authorized denominations and aggregate principal amount equal to the aggregate principal amount of the Notes to be exchanged by surrendering such Notes, together with any endorsements or instruments of transfer required by any of the Company, the Trustee or the Registrar, at any office or agency maintained by the Company for such purposes pursuant to Section 5.02. Whenever a Holder surrenders Notes for exchange, the Company, in accordance with Section 2.04, will promptly execute and deliver to the Trustee, and the Trustee, upon receipt of a Company Order, will, in accordance with Section 2.04, promptly authenticate and deliver the Notes that such Holder is entitled to receive, bearing registration numbers not contemporaneously outstanding and any restrictive legends that such Physical Notes are required to bear under Section 2.07.

(iii) If Physical Notes are issued, a Holder may transfer or exchange a Physical Note for a beneficial interest in a Global Security by (A) surrendering such Physical Note for registration of transfer or exchange, together with any endorsements or instruments of transfer required by any of the Company, the Trustee or the Registrar, at any office or agency maintained by the Company for such purposes pursuant to Section 5.05; (B) if such Physical Note is a Restricted Note, delivering any documentation the Company, the Trustee or the Registrar reasonably require to ensure that such transfer complies with Section 2.07 and any applicable securities laws; (C) satisfying all other requirements for such transfer set forth in this Section 2.11 and Section 2.07; and (D) providing written instructions to the Trustee to make, or to direct the Registrar to make, an adjustment in its books and records with respect to the applicable Global Note to reflect an increase in the aggregate principal amount of the Notes represented by such Global Note, which instructions will contain information regarding the Depositary account to be credited with such increase. Upon the satisfaction of conditions (A), (B), (C) and (D), the Trustee will cancel such Physical Note and cause, or direct the Registrar to cause, in accordance with the Applicable

Procedures, the aggregate principal amount of Notes represented by such Global Note to be increased by the aggregate principal amount of such Physical Note, and will credit or cause to be credited the account of the Person specified in the instructions provided by the exchanging Holder in an amount equal to the aggregate principal amount of such Physical Note. If no Global Notes are then Outstanding, the Company, in accordance with Section 2.04, will promptly use reasonable efforts to execute and deliver to the Trustee, and the Trustee, upon receipt of a Company Order, will, in accordance with Section 2.04, authenticate, a new Global Note in the appropriate aggregate principal amount.

Section 2.12 *Cancellation.* The Company at any time may deliver to the Trustee for cancellation any Notes previously authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and may deliver to the Trustee for cancellation any Notes previously authenticated hereunder which the Company has not issued and sold. The Trustee shall cancel all Notes surrendered for registration of transfer, exchange, payment, purchase, repurchase, conversion or cancellation in accordance with its customary practices. If the Company shall acquire any of the Notes, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Notes unless and until the same are delivered to the Trustee for cancellation. The Notes so acquired, while held by or on behalf of the Company or any of its Subsidiaries, shall not entitle the Holder thereof to convert the Notes. The Company may not issue new Notes to replace Notes it has paid in full or delivered to the Trustee for cancellation. The Company may from time to time repurchase Notes in open market purchases or negotiated transactions without giving prior notice to Holders.

The Registrar shall retain, in accordance with its customary procedures, copies of all letters, notices and other written communications received pursuant to this Section 2.12. The Company shall have the right to inspect and make copies of all such letters, notices or other written communications at any reasonable time upon the giving of reasonable written notice to the Registrar.

Section 2.13 *CUSIP Numbers*. In issuing the Notes, the Company may use "CUSIP" numbers (if then generally in use); *provided* that the Trustee shall have no liability for any defect in the CUSIP numbers as they appear on any Notes, notice, or elsewhere and; *provided further,* that any such notice may state that no representation is made as to the correctness of such numbers. The Company will promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

Section 2.14 *Payment and Computation of Interest.* The Notes will bear cash interest at a rate of 2.00% per year until maturity. Interest on the Notes will accrue from, and including, the most recent date on which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from, and including, February 7, 2014. Interest will be paid to the Person in whose name a Note is registered at the Close of Business on the Regular Record Date immediately preceding the relevant Interest Payment Date semiannually in arrears on each Interest Payment Date; *provided*, alternate record dates may be established by the Company and the Trustee with respect to any interest not paid on its originally scheduled due date. Interest on the Notes shall be computed on the basis of a 360-day year consisting of twelve 30-day months. For the avoidance of doubt, the payment, or lack of payment, of interest on Notes surrendered for conversion will be governed by Section 4.03(d) hereof.

Section 2.15 *Business Day.* If any Interest Payment Date, the Maturity Date, or any Fundamental Change Purchase Date falls on a day that is not a Business Day, the required payment will be made on the next succeeding Business Day and no interest on such payment will accrue in respect of the delay.

Section 2.16 *Additional Amounts.* All payments and deliveries made by, or on behalf of, the Company under or with respect to the Notes, including, but not limited to, payments of principal (including, if applicable, the Fundamental Change Purchase Price), payments of interest and deliveries of Common Shares or other Reference Property (together with payment of cash in lieu of any fractional Common Shares) upon conversion, will be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature (including interest and penalties related thereto) (collectively, "**Applicable Taxes**") imposed or levied by or within the jurisdiction in which the Company is, for tax purposes, organized or resident or doing business or through which payment is made or deemed made by, or on behalf of, the Company for purposes of the tax law of that jurisdiction (or, in each case, any political subdivision or taxing authority thereof or therein) (each, as applicable, a "**Relevant Taxing Jurisdiction**"), unless such withholding or deduction is required by law or by regulation or governmental policy having the force of law. In the event that any such withholding or deduction is so required, the Company will pay to the Holder of each Note such additional amounts (the "**Additional Amounts**") as may be necessary to ensure that the net amount received by the beneficial owners after such withholding or deduction (and after deducting any Applicable Taxes on the Additional Amounts) will equal the amounts that would have been received by such beneficial owners had no such withholding or deduction been required; provided, however, that no Additional Amounts will be payable:

(a) for or on account of:

(i) any Applicable Taxes to the extent such Applicable Taxes would not have been imposed but for:

(A) the existence of any present or former connection between the Holder or beneficial owner of such Noteand the Relevant Taxing Jurisdiction, including, without limitation, being or having been a national, domiciliary or resident of such Relevant Taxing Jurisdiction or treated as a resident thereof or being or having been physically present or engaged in a trade or business therein or having or having had a permanent establishment therein, but excluding the mere holding or enforcement of such Note or the receipt of payments thereunder;

(B) the presentation of such Note (in cases in which presentation is required) more than 30 days after the laterof the date on which the payment of the principal of (including the Fundamental Change Purchase Price, if applicable) and interest on, such Note or the delivery of Common Shares and other Reference Property (together with payment of cash in lieu of any fractional Common Shares) upon conversion of such Note became due and payable pursuant to the terms thereof or was made or duly provided for;

(C) the failure of the Holder or beneficial owner (to the extent it is legally entitled to do so) to comply with a timely request from the Company, addressed to the Holder or beneficial owner, as the case may be, to provide certification, information, documents or other evidence concerning such Holder's or beneficial owner's nationality, residence, identity or connection with the Relevant Taxing Jurisdiction, or to make any declaration or satisfy any other reporting requirement relating to such matters, if and to the extent that due and timely compliance with such request is required by statute, regulation, treaty or administrative practice of the Relevant Taxing Jurisdiction in order to reduce or eliminate any withholding or deduction as to which Additional Amounts would have otherwise been payable to such Holder or beneficial owner;

(ii) any estate, inheritance, gift, sale, transfer, personal property or similar ApplicableTaxes;

(iii) any Applicable Taxes to the extent such Applicable Taxes are required to be imposed pursuant to European Council Directive 2003/48/EC or any other directive implementing the conclusions of the ECOFIN Council meetings of November 26 and 27, 2000 on the taxation of savings income or any law implementing or complying with, or introduced in order to conform to, any suchdirectives;

(iv) any Applicable Taxes to the extent such Applicable Taxes result from the presentation of any Note for payment (where presentation is required for payment) and the payment can be made without such withholding or deduction by the presentation of the Note for payment by at least one other Paying Agent in a member state of the European Union;

(v) any Applicable Taxes that are payable otherwise than by withholding from payments under or with respect to the Notes;and

(vi) any combination of Applicable Taxes referred to in the preceding clauses (i) through(v).

In addition to the foregoing, the Company will pay and indemnify the Holder or beneficial owner for any present or future stamp, issue, registration, transfer, court or documentary taxes, or any other excise or property taxes, charges or similar levies or Applicable Taxes levied by any jurisdiction on the execution, delivery, registration or enforcement of any of the Notes or any other document or instrument referred to therein, or the receipt of any payments with respect thereto (limited, solely in the case of Applicable Taxes attributable to the receipt of any payments with respect thereto, to any such taxes imposed in a Relevant Tax Jurisdiction that are not excluded under clauses (i) through (iv) and (vi) immediately above or any combination thereof).

Furthermore, Additional Amounts shall not be paid for any Applicable Taxes with respect to any payment of the principal of (including the Fundamental Change Purchase Price, if applicable) and interest on, such Note or the delivery of Common Shares or other Reference Property (together with payment of cash in lieu of any fractional Common Shares) upon conversion of such Note to a Holder, if the Holder is a fiduciary, partnership or person other than the sole beneficial owner of that payment to the extent that such payment would be required to be included in the income under the laws of the Relevant Taxing Jurisdiction, for tax purposes, of a beneficiary or settlor with respect to the fiduciary, a partner or member of that partnership or a beneficial owner who would not have been entitled to such Additional Amounts had that beneficiary, settlor, partner, member or beneficial owner been the Holder thereof.

Whenever there is mentioned in any context the delivery of Common Shares or other Reference Property (together with payment of cash in lieu of any fractional Common Shares) upon conversion of any Note or the payment of principal of (including the Fundamental Change Purchase Price, if applicable) and interest on, any Note or any other amount payable with respect to such Note, such mention shall be deemed to include payment of Additional Amounts provided for herein to the extent that, in such context, Additional Amounts are, were or would be payable in respect thereof.

Each Holder entitled to any Additional Amounts shall cooperate with the Company and the Trustee in providing any information or documentation reasonably requested by the Company or the Trustee to confirm the identity and/or tax status of such Holder and any affected beneficial owner (to the extent necessary to establish such Holder's entitlement to Additional Amounts) and to assist the Company or the Trustee in determining the applicable withholding tax rate and the amount of Additional Amounts payable in respect thereof. The Company will furnish to the Trustee an Officer's Certificate and any other documentation reasonably satisfactory to the Trustee evidencing payment of any Applicable Taxes so deducted or withheld and the amount of any Additional Amounts payable thereon. Copies of such documentation will be made available by the Trustee to Holders upon written request to the Trustee.

The obligations of this Section 2.16 will survive termination, defeasance or discharge of this Indenture or any transfer by a Holder or beneficial owner of its Notes and will apply *mutatis mutandis* to any jurisdiction where any successor to the Company, for tax purposes, organized or resident or doing business or through which payment is made or deemed made by, or on behalf of, any successor to the Company (or any political subdivision or taxing authority thereof or therein).

ARTICLE 3.
REPURCHASE AT THE OPTION OF THE HOLDERS

Section 3.01 *Purchase at Option of Holders upon a Fundamental Change.* If a Fundamental Change occurs at any time, then each Holder shall have the right at such Holder's option, to require the Company to purchase for cash any or all of such Holder's Notes, or any portion thereof, that is an integral multiple of $1,000 in principal amount, on a date (the "**Fundamental Change Purchase Date**") specified by the Company that is not less than 20 Business Days or more than 35 Business Days following the date on which the Company delivers the Fundamental Change Company Notice, at a purchase price equal to 100% of the principal amount of the Notes

to be purchased, plus accrued and unpaid interest thereon, if any, to, but excluding, the Fundamental Change Purchase Date (the "**Fundamental Change Purchase Price**"); *provided*, *however*, that if the Company purchases a Note on a Fundamental Change Purchase Date that is after a Regular Record Date and on or prior to the Interest Payment Date corresponding to such Regular Record Date, the Company shall instead pay such accrued and unpaid interest on such Note on the Interest Payment Date to the Holder of record of such Note as of the Close of Business on such Regular Record Date and the Fundamental Change Purchase Price shall then be equal to 100% of the principal amount of the Notes the Company purchases on such Fundamental Change Purchase Date.

Notwithstanding the foregoing, no Notes may be purchased at the option of the Holders pursuant to this Section 3.01 if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to the Fundamental Change Purchase Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Purchase Price with respect to such Notes). The Trustee will promptly return to the respective Holders thereof any Physical Notes held by it during the acceleration of the Notes (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Purchase Price with respect to such Notes) and shall deem to be cancelled any instructions for book-entry transfer of the Notes in compliance with the Applicable Procedures, in which case, upon such return or cancellation, as the case may be, the Fundamental Change Purchase Notice with respect thereto shall be deemed to have been withdrawn.

Section 3.02 *Fundamental Change Company Notice.*

(a) On or before the fifth (5th) Business Day after the occurrence of a Fundamental Change, the Company shall provide to all Holders of the Notes, the Trustee and the Paying Agent (in the case of any Paying Agent other than the Trustee) a written notice (the "**Fundamental Change Company Notice**") of the occurrence of such Fundamental Change and of the purchase right at the option of the Holders arising as a result thereof. Such notice shall be sent by first class mailor, in the case of any Global Notes, in accordance with the Applicable Procedures for providing notices. Simultaneously with providing such Fundamental Change Company Notice, the Company shall publish a press release and publish such information on the Company's website. Each Fundamental Change Company Notice shall specify:

(i) the events causing the Fundamental Change;

(ii) the Effective Date of the Fundamental Change, whether the Fundamental Change is a Make-Whole Fundamental Change, and, if so, the Effective Date of such Make-Whole Fundamental Change;

(iii) the last date on which a Holder of Notes may exercise the purchase right pursuant to Section3.01;

(iv) the Fundamental Change Purchase Price;

(v) the Fundamental Change Purchase Date;

(vi) the name and address of the Paying Agent and the Conversion Agent, if applicable;

(vii) the applicable Conversion Rate and any adjustments to the applicable Conversion Rate resulting from the Fundamental Change, if applicable;

(viii) if applicable, that the Notes with respect to which a Fundamental Change Purchase Notice has been delivered by a Holder may be converted only if the Holder withdraws the Fundamental Change Purchase Notice in accordance with this Indenture;

(ix) that the Holder must exercise the purchase right prior to the Fundamental Change Expiration Time;

(x) that the Holder shall have the right to withdraw any Notes surrendered for purchase prior to the Fundamental Change Expiration Time; and

(xi) the procedures that Holders must follow to require the Company to purchase their Notes.

(b) No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to Section 3.01.

(c) At the Company's written request, the Trustee shall give such notice in the Company's name and at the Company's expense; *provided*, *however*, that, in all cases, the text of such Fundamental Change Company Notice shall be prepared by the Company; *provided*, *further* that the Company shall have delivered to the Trustee, at least three (3) Business Days before the Fundamental Change Company Notice is required to be mailed (or such shorter period agreed to by the Trustee), an Officer's Certificate requesting that the Trustee give such notice and setting forth the complete form of such notice and the information to be stated in such notice. Neither the Trustee nor the Paying Agent shall be responsible for determining if a Fundamental Change has occurred or for delivering a Fundamental Change Company Notice to Holders.

Section 3.03 *Repurchase Procedures.*

(a) Purchases of Notes under Section 3.01 shall be made, at the option of the Holder thereof, upon:

(i) if the Notes to be purchased are Physical Notes, delivery to the Paying Agent by the Holder of a duly completed notice (the "**Fundamental Change Purchase Notice**"), in the form set forth in Attachment 2 to the Form of Note attached hereto as Exhibit A, together with the Notes duly endorsed for transfer, prior to Close of Business on the Business Day immediately preceding the Fundamental Change Purchase Date, (the "**Fundamental Change Expiration Time**"); and

(ii) if the Notes to be purchased are Global Notes, delivery of the Notes, by book-entry transfer, in compliance with the Applicable Procedures and the satisfaction of any other requirements of the Depositary in connection with tendering beneficial interests in a Global Note for purchase, by the Fundamental Change Expiration Time.

The Fundamental Change Purchase Notice in respect of any Notes to be purchased shall state:

(i) if certificated, the certificate numbers of such Notes;

(ii) the portion of the principal amount of such Notes to be purchased, which must be an integral multiple of $1,000; and

(iii) that such Notes are to be purchased by the Company pursuant to the applicable provisions of the Notes and this Indenture.

(b) *Notice to Company*. The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Purchase Notice or written notice of withdrawal thereof.

Section 3.04 *Effect of Fundamental Change Purchase Notice*. Upon receipt by the Paying Agent of a Fundamental Change Purchase Notice specified in Section 3.03, the Holder of the Note in respect of which such Fundamental Change Purchase Notice was given shall (unless such Fundamental Change Purchase Notice is withdrawn in accordance with Section 3.05) thereafter be entitled to receive solely the Fundamental Change Purchase Price in cash with respect to such Note. Such Fundamental Change Purchase Price shall be paid to such Holder, subject to receipt of funds by the Paying Agent, on the later of (x) the applicable Fundamental Change Purchase Date (provided the conditions in this Article 3 have been satisfied, and subject to extensions to comply with applicable law) and (y) the time of delivery or book-entry transfer of such Note to the Paying Agent by the Holder thereof in the manner required by Section 3.01.

Section 3.05 *Withdrawal of Fundamental Change Purchase Notice*. A Fundamental Change Purchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Paying Agent in accordance with the Fundamental Change Company Notice at any time prior to the Fundamental Change Expiration Time specifying:

(a) the principal amount of the withdrawn Notes, which must be an integral multiple of $1,000, with respect to which such notice of withdrawal is being submitted;

(b) if certificated, the certificate numbers of the withdrawn Notes; and

(c) the principal amount, if any, of each Note that remains subject to the Fundamental Change Purchase Notice which must be an integral multiple of $1,000;

provided, however, that if the Notes are Global Notes, the notice must comply with the Applicable Procedures.

The Paying Agent will promptly return to the respective Holders thereof any Physical Notes with respect to which a Fundamental Change Purchase Notice has been withdrawn in compliance with the provisions of this Section 3.05.

Section 3.06 *Deposit of Fundamental Change Purchase Price* Prior to 11:00 a.m., New York City time, on the Fundamental Change Purchase Date, the Company shall deposit with the Paying Agent (or, if the Company or a Subsidiary or an Affiliate of the Company is acting as the Paying Agent, shall segregate and hold in trust as provided herein) an amount of money (in immediately available funds if deposited on such Business Day) sufficient to pay the Fundamental Change Purchase Price of all the Notes or portions thereof that are to be purchased as of the Fundamental Change Purchase Date. If the Paying Agent holds cash sufficient to pay the Fundamental Change Purchase Price of the Notes for which a Fundamental Change Purchase Notice has been tendered and not withdrawn in accordance with this Indenture on the Fundamental Change Purchase Date, then, subject to the proviso to Section 3.01, as of such Fundamental Change Purchase (a) such Notes will cease to be Outstanding and interest will cease to accrue thereon (whether or not book-entry transfer of such Notes is made or such Notes have been delivered to the Paying Agent) and (b) all other rights of the Holders in respect thereof will terminate (other than the right to receive the Fundamental Change Purchase Price and any previously accrued and unpaid interest on such Notes upon delivery or book-entry transfer of such Notes).

Section 3.07 *Notes Purchased in Whole or in Part.* Any Note that is to be purchased pursuant to this Article 3, whether in whole or in part, shall be surrendered at the office of the Paying Agent (with due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing) and, to the extent that only a part of the Note so surrendered is to be purchased, the Company shall execute and, upon receipt of a Company Order, the Trustee shall authenticate and deliver to the Holder of such Note, without service charge, a new Note or Notes, of any authorized denomination as requested by such Holder in aggregate principal amount equal to, and in exchange for, the portion of the principal amount of the Note so surrendered that is not purchased.

Section 3.08 *Covenant To Comply with Applicable Laws upon Purchase of Notes* In connection with any offer to purchase Notes under Sections 3.01, the Company shall, in each case if required by law, (i) comply with Rule 13e-4, Regulation 14E and any other tender offer rules under the Exchange Act that may then be applicable, (ii) file a Schedule TO or any other required schedule under the Exchange Act and (iii) otherwise comply with all U.S. federal or state securities laws applicable to the Company in connection with such purchase offer, in each case, so as to permit the rights and obligations under this Article 3 to be exercised in the time and in the manner specified under this Article 3.

Section 3.09 *Repayment to the Company.* To the extent that the aggregate amount of cash deposited by the Company pursuant to Section 3.06 exceeds the aggregate Fundamental Change Purchase Price of the Notes or portions thereof that the Company is obligated to purchase as of the Fundamental Change Purchase Date then, following the Fundamental Change Purchase Date, the Paying Agent shall promptly return any such excess to the Company.

ARTICLE 4.
CONVERSION

Section 4.01 *Right To Convert.* (a) Subject to and upon compliance with the provisions of the Indenture, each Holder shall have the right, at such Holder's option, to convert all of its Notes or any portion thereof having a principle amount equal to an integral multiple of $1,000, in accordance with Section 4.03(a) hereof, (x) prior to the Close of Business on the Business Day immediately preceding May 15, 2019, only upon satisfaction of one or more of the conditions described in Section 4.01(b) hereof, and (y) on or after May 15, 2019, at any time prior to the Close of Business on the second Scheduled Trading Day immediately preceding the Maturity Date regardless of the conditions set forth in Section 4.01(b) hereof.

(b) (i) Prior to the Close of Business on the Business Day immediately preceding May 15, 2019, a Holder may surrender Notes for conversion during any calendar quarter commencing after March 31, 2014 (and only during such calendar quarter) if the Last Reported Sale Price of the Common Shares for at least 20 Trading Days (whether or not consecutive) during the period of 30 consecutive Trading Days ending on, and including, the last Trading Day of the immediately preceding calendar quarter is greater than 130% of the applicable Conversion Price in effect on each applicable Trading Day.

(ii) Prior to the Close of Business on the Business Day immediately preceding May 15, 2019, a Holder may surrender, all or a portion of its Notes that is an integral multiple of $1,000 in principal amount for conversion during the five consecutive Business Day period immediately after any five consecutive Trading Day period (the "**Measurement Period**") in which the Trading Price per $1,000 principal amount of Notes, as determined following a request by a Holder in accordance with the procedures set forth in this Section 4.01(b)(ii), for each Trading Day of such Measurement Period was less than 98% of the product of (x) the Last Reported Sale Price of the Common Shares on such Trading Day and (y) the Conversion Rate in effect on such Trading Day. The Trading Price shall be determined by the Bid Solicitation Agent pursuant to this Section 4.01(b)(ii) and the definition of "Trading Price" set forth in Section 1.01 hereof. If not then acting as the Bid Solicitation Agent, the Company shall provide notice to the Bid Solicitation Agent of the three independent nationally recognized securities dealers selected by the Company in accordance with the definition of Trading Price, along with the appropriate contact information for each. If the Company is not acting as the Bid Solicitation Agent, the Bid Solicitation Agent shall have no obligation to determine the Trading Price of the Notes unless the Company has requested such determination in writing, and the Company shall have no obligation to make such request unless a Holder of a Note provides it with reasonable evidence that the Trading Price per $1,000 principal amount of Notes would be less than 98% of the product of (x) the Last Reported Sale Price of the Common Shares on such Trading Day and (y) the Conversion Rate in effect on such Trading Day. If a Holder provides the Company with such evidence, the Company shall instruct the Bid Solicitation Agent to (or, if the Company is acting as the Bid Solicitation Agent, the Company shall) determine the Trading Price per

$1,000 principal amount of the Notes beginning on the next Trading Day and on each successive Trading Day until the Trading Price per $1,000 principal amount of Notes for a Trading Day is greater than or equal to 98% of the product of

(x) the Last Reported Sale Price of the Common Shares on such Trading Day and (y) the applicable Conversion Rate in effect on such Trading Day. Whenever the condition to conversion set forth in this Section 4.01(b)(ii) has been met, the Company shall so notify the Holders, the Trustee and the Conversion Agent (if other than the Trustee). If, at any time after the condition to conversion set forth in this Section 4.01(b)(ii) has been met, the condition to conversion set forth in this Section 4.01(b)(ii) ceases to be met, the Company will so notify the Holders, the Trustee and the Conversion Agent (if other than the Trustee) on the first Trading Day on which such condition ceases to be met.

(iii) If prior to the Close of Business on the Business Day immediately preceding May 15, 2019, the Company

(x) issues to all or substantially all holders of the Common Shares any rights, options or warrants entitling them, for a period of not more than 60 calendar days after the date of such issuance, to subscribe for or purchase Common Shares, at a price per share less than the average of the Last Reported Sale Prices of the Common Shares for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance; or

(y) distributes to all or substantially all holders of the Common Shares the Company's assets, debt securities or rights to purchase the Company's securities, which distribution has a per share value, as reasonably determined by the Board of Directors or a committee thereof, exceeding 10% of the Last Reported Sale Price of the Common Shares on the Trading Day immediately preceding the date of announcement of such distribution, then, in either case, the Company must deliver notice of such issuance or distribution, and of the Ex-Dividend Date for such issuance or distribution, to the Holders at least 30 Scheduled Trading Days prior to the Ex-Dividend Date for such issuance or distribution. After the Company has delivered such notice, Holders may surrender their Notes for conversion at any time until the earlier of (a) the Close of Business on the Business Day immediately preceding such Ex-Dividend Date and (b) the Company's announcement that such issuance or distribution will not take place, even if the Notes are not otherwise convertible at such time. No Holder may convert any of its Notes pursuant to the conditions set forth in this Section 4.01(b)(iii) if such Holder otherwise participates in such issuance or distribution, at the same time and upon the same terms as holders of Common Shares and as a result of holding the Notes, without having to convert their Notes, as if they held a number of Common Shares equal to the applicable Conversion Rate, multiplied by the principal amount (expressed in thousands) of Notes held by such Holder.

(iv) If prior to the Close of Business on the Business Day immediately preceding May 15, 2019 (x) a Fundamental Change or a Make-Whole Fundamental Change occurs or (y) the Company is a party to (a) a consolidation, merger or binding share exchange or (b) a sale or lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated

assets of the Company and its Subsidiaries, taken as a whole, in each case in clauses (a) and (b) of this Section 4.01(b)(iv) pursuant to which the Common Shares would be converted into cash, securities or other assets (other than, in the case of clauses (a) and (b), any such transaction to which the Company is a party solely for the purpose of changing its jurisdiction of incorporation, and which results in a reclassification, conversion or exchange of the outstanding Common Shares solely into common shares of the surviving entity, excluding cash payments for fractional shares and cash payments made in respect of dissenters' appraisal rights), then the Notes may be surrendered for conversion at any time from or after the date which is 30 Scheduled Trading Days prior to the anticipated effective date of such transaction (or, if later, the Business Day after the Company gives notice of such transaction) until the Close of Business (x) if such transaction or event is a Fundamental Change, on the Business Day immediately preceding the related Fundamental Change Purchase Date, and

(y) otherwise, on the 35th Business Day immediately following the effective date for such transaction or event. The Company shall notify the Holders and the Trustee of any such transaction or event as promptly as practicable following the date the Company publicly announces such transaction but, if the Company has knowledge of such transaction at least 30 Scheduled Trading Days prior to the anticipated effective date of such transaction, in no event less than 30 Scheduled Trading Days prior to such anticipated effective date, or, if the Company does not have knowledge of such transaction at least 30 Scheduled Trading Days prior to the anticipated effective date of such transaction, within three Business Days of the date upon which the Company receives notice, or otherwise becomes aware, of such transaction, but in no event later than the actual effective date of such transaction.

Section 4.02 *Conversion Procedures*.

(a) Each Note shall be convertible at the office of the Conversion Agent and, if applicable, in accordance with the Applicable Procedures.

(b) To exercise the conversion privilege with respect to a beneficial interest in a Global Note, the Holder must comply with the Applicable Procedures for converting a beneficial interest in a Global Note and pay the funds, if any, required by Section 4.02(f) and any taxes or duties if required pursuant to Section 4.02(g), and the Conversion Agent must be informed of the conversion in accordance with the customary practice of the Depositary.

To exercise the conversion privilege with respect to any Physical Notes, the Holder of such Physical Notes shall:

(i) complete and manually sign a conversion notice in the form set forth in the Form of Notice of Conversion (the "**Conversion Notice**") or a facsimile of the Conversion Notice;

(ii) deliver the Conversion Notice, which is irrevocable, and the Note to the Conversion Agent;

(iii) if required, furnish appropriate endorsements and transfer documents;

(iv) if required, pay all transfer or similar taxes as set forth in Section 4.02(g); and

(v) if required, make any payment required under Section 4.02(f).

Notwithstanding anything herein or in the Notes to the contrary, if a Note has been submitted for repurchase pursuant to a Fundamental Change Purchase Notice such Note may not be converted except to the extent such Note has been withdrawn by the Holder or unless such Fundamental Change Purchase Notice is withdrawn in accordance with Section 3.05 hereof prior to the relevant Fundamental Change Expiration Time.

For any Note, the date on which the Holder of such Note satisfies all of the applicable requirements set forth above with respect to such Note shall be the "**Conversion Date**" with respect to such Note.

Each conversion shall be deemed to have been effected as to any such Notes (or portion thereof) surrendered for conversion at the Close of Business on the applicable Conversion Date; *provided*, *however*, that the Person in whose name any Common Shares shall be issuable upon conversion, if any, shall be treated as a stockholder of record as of the Close of Business on the last VWAP Trading Day of the applicable Observation Period. For the avoidance of doubt, until a Holder is deemed to become the holder of record of Common Shares, if any, issuable upon conversion of such Holder's Notes as contemplated in the immediately preceding sentence, such Holder shall not have any rights as a holder of Common Shares with respect to such Common Shares issuable upon conversion of such Notes. At the Close of Business on the Conversion Date for a Note, the converting Holder shall no longer be the Holder of such Note.

(c) *Endorsement*. Any Notes surrendered for conversion shall, unless Common Shares issuable on conversion are to be issued in the same name as the registration of such Notes, be duly endorsed by, or be accompanied by instruments of transfer in form satisfactory to the Company duly executed by, the Holder or its duly authorized attorney.

(d) *Physical Notes*. If any Physical Notes in a denomination greater than $1,000 shall be surrendered for partial conversion, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of the Physical Notes so surrendered, without charge, new Physical Notes in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Physical Notes.

(e) *Global Notes*. Upon the conversion of a beneficial interest in Global Notes, the Conversion Agent shall make anotation in its records as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any conversions of Notes effected through any Conversion Agent other than the Trustee.

(f) *Interest Due Upon Conversion*. If a Holder converts a Note during the period after the Close of Business on a Regular Record Date to the Open of Business on the Interest Payment Date corresponding to such Regular Record Date, such Holder must accompany such Note with an amount of cash equal to the amount of interest that will be payable on such Note on the corresponding Interest Payment Date; *provided*, *however*, that a Holder need not make such payment (1) if the Conversion Date follows the Regular Record Date immediately preceding the Maturity Date; (2) if the Company has specified a Fundamental Change Purchase Date that is after a Regular Record Date and on or prior to the corresponding Interest Payment Date; or (3) only to the extent of any overdue interest, if any overdue interest exists at the time of conversion with respect to such Note.

(g) *Taxes Due upon Conversion*. If a Holder converts a Note, the Company will pay any documentary, stamp or similar issue or transfer tax due on the issue of any Common Shares upon the conversion, unless the tax is due because the Holder requests that any shares be issued in a name other than the Holder's name, in which case the Holder will pay that tax.

Section 4.03 *Settlement Upon Conversion.*

(a) Except as provided in Section 4.06 and Section 4.07, if a Holder surrenders a Note for conversion, the Company will satisfy its obligation to convert the Note by delivering, on the third Business Day immediately following the final VWAP Trading Day of the Observation Period corresponding to the Conversion Date for such Note, cash and, if applicable, Common Shares consisting of the sum of the Daily Settlement Amounts for each of the 25 consecutive VWAP Trading Days during the Observation Period for such Note, *provided*, *however*, that with respect to any conversion date occurring on or after May 15, 2019, settlement will occur on the Maturity Date.

(b) *Fractional Shares*. Notwithstanding the foregoing, the Company will not issue fractional Common Shares as part of the consideration deliverable upon conversion of any Note. Instead, if the number of Common Shares deliverable upon such conversion includes a fraction of a Common Share, the Company will, in lieu of delivering such fraction of a Common Share, pay an amount of cash equal to the product of (i) such fraction of a share and (ii) the Daily VWAP on the last VWAP Trading Day of the applicable Observation Period.

(c) *Conversion of Multiple Notes by Single Holder.* If a Holder surrenders more than one Note for conversion on a single day, the number of Common Shares, if any, that the Company will deliver, and the amount of cash that the Company will pay in lieu of fractional Common Shares, if any, shall be determined based on the aggregate principal amount of Notes surrendered by such Holder.

(d) *Settlement of Accrued Interest and Deemed Payment of Principal.* If a Holder converts a Note, the Company will not adjust the Conversion Rate to account for any accrued and unpaid interest on such Note, and, subject to Section 4.02(f), the Company's delivery or payment, as the case may be, of cash and, if applicable, Common Shares into which a Note is convertible will be deemed to satisfy and discharge in full the

Company's obligation to pay the principal of, and accrued and unpaid interest, including Additional Interest, if any, on, such Note to, but excluding, the Conversion Date*provided*, *however*, that subject to Section 4.02(f), if a Holder converts a Note after the Close of Business on a Regular Record Date and prior to the Open of Business on the corresponding Interest Payment Date, the Company will still be obligated to pay, on such Interest Payment Date, the interest due on such Interest Payment Date to the Holder of such Note as of the Close of Business on such Regular Record Date.

As a result, except as otherwise provided in the proviso to the immediately preceding sentence or in Section 4.02(f), any accrued and unpaid interest with respect to a converted Note will be deemed to be paid in full rather than cancelled, extinguished or forfeited. In addition, if the Daily Settlement Amount for any Note includes both cash and Common Shares, accrued and unpaid interest will be deemed to be paid first out of the amount of cash delivered upon such conversion.

(e) *Notices*. Whenever a Conversion Date occurs with respect to a Note, the Conversion Agent will, as promptly aspossible, and in no event later than the Open of Business on the Business Day immediately following such Conversion Date, deliver to the Company and the Trustee, if it is not then the Conversion Agent, notice that a Conversion Date has occurred, which notice will state such Conversion Date, the principal amount of Notes converted on such Conversion Date and the names of the Holders that converted Notes on such Conversion Date.

(f) On the first Business Day immediately following the last VWAP Trading Day of the Observation Period applicable to any Note surrendered for conversion, the Company will deliver a written notice to the Conversion Agent and the Trustee (if not also the Conversion Agent) stating the amount of cash and the number of Common Shares, if any, that the Company is obligated to pay or deliver, as the case may be, to satisfy its conversion obligation with respect to each Note converted on such Conversion Date.

Section 4.04 *Adjustment of Conversion Rate.* The Conversion Rate will be adjusted as described in this Section 4.04, except that the Company shall not make any adjustment to the Conversion Rate if each Holder participates (other than in the case of a share split or share combination), at the same time and upon the same terms as holders of the Common Shares and as a result of holding the Notes, in any of the transactions described below without having to convert their Notes, as if it held a number of Common Shares equal to the applicable Conversion Rate, multiplied by the principal amount (expressed in thousands) of Notes held by such Holder.

(a) If the Company exclusively issues Common Shares as a dividend or distribution on all or substantially all Common Shares, or if the Company effects a share split or share combination, the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_1}{OS_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date of such dividendor distribution, or immediately prior to the Open of Business on the effective date of such share split or combination, as applicable;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date or sucheffective date, as applicable;

OS_0 = the number of Common Shares outstanding immediately prior to the Open of Business on such Ex-Dividend Dateor such effective date, as applicable; and

OS_1 = the number of Common Shares that would be outstanding immediately after giving effect to such dividendor distribution, or immediately after the effectiveness of such share split or share combination, as applicable.

Any adjustment made under this Section 4.04(a) shall become effective immediately after the Open of Business on the Ex- Dividend Date for such dividend or distribution, or immediately after the Open of Business on the effective date for such share split or share combination. If any dividend or distribution of the type described in this Section 4.04(a) is declared but not so paid or made or any share split or share combination of the type described in this Section 4.04(a) is announced but not consummated, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such share split or share combination, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared or share split or share combination had been announced.

(b) If the Company issues to all or substantially all holders of the Common Shares any rights, options or warrants entitling them, for a period of not more than 60 calendar days after the date of such issuance, to subscribe for or purchase Common Shares, at a price per share less than the average of the Last Reported Sale Prices of the Common Shares for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement for such issuance, the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date for suchissuance; CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date;

OS_0 = the number of Common Shares outstanding immediately prior to the Open of Business on such Ex-DividendDate; X = the total number of Common Shares issuable pursuant to such rights, options or warrants; and

Y = the number of Common Shares equal to the aggregate price payable to exercise such rights, options or warrants*divided by* the average of the Last Reported Sale Prices of the Common Shares for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance.

Any increase made under this Section 4.04(b) will be made successively whenever any such rights, options or warrants are issued and shall become effective immediately after the Open of Business on the Ex-Dividend Date for such issuance. To the extent that such rights, options or warrants are not exercised prior to their expiration or Common Shares are not delivered upon the expiration of such rights, options or warrants, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect had the increase in the Conversion Rate with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of Common Shares actually delivered. If such rights, options or warrants are not so issued, or if such rights, options or warrants are not exercised prior to their expiration, the Conversion Rate shall be readjusted to be the Conversion Rate that would then be in effect if such issuance had not occurred.

For purposes of this Section 4.04(b) and clause (x) of Section 4.01(b)(iii) hereof, in determining whether any rights, options or warrants entitle the holders of the Common Shares to subscribe for or purchase Common Shares at a price per share less than such average of the Last Reported Sale Prices of the Common Shares for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the date of announcement of such issuance, and in determining the aggregate offering price of such Common Shares, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise thereof, the value of such consideration, if other than cash, to be determined by the Board of Directors.

(c) If the Company distributes “shares” (which term, for purposes of this Section 4.04(c), shall be deemed to mean Capital Stock), evidences of its indebtedness, other assets or property of the Company or rights, options or warrants to acquire its shares or other securities, to all or substantially all holders of the Common Shares,excluding:

(i) dividends, distributions, rights, options or warrants as to which an adjustment is effected pursuant to Section4.04(a) hereof or Section 4.04(b) hereof;

(ii) dividends or distributions paid exclusively in cash as to which an adjustment is effected pursuant to Section4.04(d) hereof;

(iii) regular cash dividends that do not exceed the Dividend Threshold in effect on the Ex-Dividend Date forsuch regular cash dividend; and

(iv) Spin-Offs as to which the provisions set forth below in this Section 4.04(c) shallapply;

(any of such shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants to acquire Capital Stock or other securities of the Company, the "**Distributed Property**"), then the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date forsuch distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on such Ex-DividendDate;

SP_0 = the average of the Last Reported Sale Prices of the Common Shares for the 10 consecutive Trading Day periodending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined by the Board of Directors) of Distributed Property distributed with respectto each outstanding Common Share as of the Open of Business on the Ex-Dividend Date for such distribution.

If "FMV" (as defined above) is equal to or greater than the "SP_0" (as defined above), in lieu of the foregoing increase, each Holder shall receive, in respect of each $1,000 principal amount of Notes it holds, at the same time and upon the same terms as holders of the Common Shares, the amount and kind of Distributed Property that such Holder would have received as if such Holder owned a number of Common Shares equal to the Conversion Rate in effect immediately prior to the record date for the distribution.

Any increase made pursuant to the immediately preceding formula in this Section 4.04(c) will become effective immediately after the Open of Business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be readjusted to be the Conversion Rate that would then be in effect if such distribution had not been declared.

With respect to an adjustment pursuant to this Section 4.04(c) where there has been a payment of a dividend or other distribution on the Common Shares of any class or series of shares, or any similar equity interest, of or relating to any Subsidiaries of the Company or business units of the Company, and such shares or similar equity interest is listed or quoted (or will be listed or quoted upon the consummation of the distribution) on a U.S. national securities exchange or a reasonably comparable non-U.S. equivalent (a "**Spin-Off**"), the Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date for such Spin-Off; CR_1 = the Conversion Rate in effect immediately after the Open of Business on the Ex-Dividend Date for such Spin-Off; FMV_0 = the average of the Last Reported Sale Prices of the shares or similar equity interest distributed to holders of Common Shares applicable to one Common Share over the first 10 consecutive Trading Day period after, but excluding, the effective date of the Spin-Off (the "**Valuation Period**"); and

MP_0 = the average of the Last Reported Sale Prices of the Common Shares over theValuation Period.

Any increase made pursuant to the immediately preceding formula in this Section 4.04(c),will become effective immediately after the Open of Business on the Ex-Dividend Date for such Spin-Off. If the distribution constituting such Spin-Off is not so paid or made, the Conversion Rate shall be readjusted to be the Conversion Rate that would then be in effect if such distribution had not been declared.

If a Holder converts a Note and the first VWAP Trading Day of the Observation Period applicable to such Note occurs after the first Trading Day of the Valuation Period for a Spin-Off, but on or before the last Trading Day of the Valuation Period for such Spin-Off, then the reference in the above definition of "FMV_0" to "10" Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the first Trading Day of the Valuation Period for such Spin-Off to, but excluding, the first VWAP Trading Day of such Observation Period. If a Holder converts a Note and one or more VWAP Trading Days of the Observation Period for such Note occurs on or after the Ex-Dividend Date for a Spin-Off but on or prior to the first Trading Day of the Valuation Period for such Spin-Off, such Observation Period will be suspended from, and including, the first such Trading Day to, and including, the first Trading Day of the Valuation Period for such Spin-Off and will resume immediately after the first Trading Day of the Valuation Period for such Spin-Off, with the reference in the above definition of "FMV_0" to "10 consecutive" Trading Days deemed replaced with a reference to "one (1)" Trading Day.

(d) If any cash dividend or distribution (other than a regular, quarterly cash dividend that does not exceed $0.30 per Common Share, subject to adjustment as set forth below (such figure, as so adjusted from time to time, the "**Dividend Threshold**")) is made to all or substantially all holders of the Common Shares, the Conversion Rate shall be adjusted based on the following formula:

$$CR_1 = CR_0 \times \frac{SP_0 - T}{SP_0 - C}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date for such dividend or distribution;

CR_1 = the Conversion Rate in effect immediately after the Open of Business on the Ex-Dividend Date for such dividend or distribution;

SP_0 = the average of the Last Reported Sale Prices of the Common Shares on the three consecutive Trading Day period immediately preceding the Ex-Dividend Date for such dividend or distribution;

T = the Dividend Threshold; *provided*, *however*, that if the dividend or distribution is not a regular quarterly cash dividend, then the Dividend Threshold will be deemed to be zero; and

C = the amount in cash per share that the Company distributes to all or substantially all holders of the Common Shares. The Dividend Threshold is subject to adjustment in a manner inversely proportional to adjustments to the Conversion Rate;

provided, *however*, that no adjustment will be made to the Dividend Threshold for any adjustment to the Conversion Rate under this Section 4.04(d).

If "C" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder shall receive, for each $1,000 principal amount of Notes it holds, at the same time and upon the same terms as holders of Common Shares, the amount of cash that such Holder would have received if such Holder had owned a number of Common Shares equal to the Conversion Rate in effect immediately prior to the record date for such cash dividend or distribution. Any increase under this Section 4.04(d) shall become effective immediately after the Open of Business on the Ex-Dividend Date for such dividend or distribution. If such dividend or distribution is not so paid, the Conversion Rate shall be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(e) If the Company or any of its Subsidiaries make a payment in respect of a tender offer or exchange offer for theCommon Shares, to the extent that the cash and value of any other consideration included in the payment per Common Share exceeds the Last Reported Sale Price of the Common Shares on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (such last date, the "**Offer Expiration Date**"), the Conversion Rate shall be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP_1 \times OS_1)}{OS_0 \times SP_1}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the Close of Business on the Offer ExpirationDate; CR_1 = the Conversion Rate in effect immediately after the Close of Business on the Offer Expiration Date;

AC = the aggregate value of all cash and any other consideration (as determined by the Board of Directors) paid orpayable for Common Shares purchased in such tender or exchange offer;

OS_0 = the number of Common Shares outstanding immediately prior to the expiration time of the tender or exchange offer on the Offer Expiration Date (prior to giving effect to the purchase of all shares accepted for purchase or exchange in such tender or exchange offer);

OS_1 = the number of Common Shares outstanding immediately after the expiration time of the tender or exchange offer on the Offer Expiration Date (after giving effect to the purchase of all shares accepted for purchase or exchange in such tender or exchange offer); and

SP_1 = the average of the Last Reported Sale Prices of the Common Shares over the 10 consecutive Trading Dayperiod commencing on, and including, the Trading Day next succeeding the Offer Expiration Date (the "**Averaging Period**").

If a Holder converts a Note and the first VWAP Trading Day of the Observation Period for such Note occurs after the first Trading Day of the Averaging Period for such tender or exchange offer, but on or before the last Trading Day of the Averaging Period for such tender or exchange offer, the reference in the above definition of "SP_1" to "10" shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the first Trading Day of the Averaging Period for such tender or exchange offer to, but excluding, the first VWAP Trading Day of such Observation Period. If a Holder converts a Note and one or more VWAP Trading Days of the Observation Period for such Note occurs on or after the Offer Expiration Date for a tender or exchange offer,

but on or prior to the first Trading Day in the Averaging Period for such tender or exchange offer, such Observation Period will be suspended on the first such Trading Day and will resume immediately after the first Trading Day of the Averaging Period for such tender or exchange offer and the reference in the above definition of "SP1" to "10" shall be deemed replaced with a reference to "one."

(f) *Special Settlement Provisions*.

Notwithstanding anything to the contrary herein, if a Holder converts a Note and:

(A) the record date, effective date or Offer Expiration Date for any event that requires an adjustment to the Conversion Rate under any of Sections 4.04(a) through (e) hereof occurs:

1. on or after the first VWAP Trading Day of such Observation Period; and
2. on or prior to the last VWAP Trading Day of such Observation Period; and

(B) the Daily Settlement Amount for any VWAP Trading Day in such Observation Period that occurs on or prior to such record date, effective date or Offer Expiration Date:

1. includes Common Shares that do not entitle their holder to participate in such event; and
2. is calculated based on a Conversion Rate that is not adjusted on account of such event;

then on account of such conversion, the Company will, on such record date, effective date or Offer Expiration Date, treat such Holder, as a result of having converted such Notes, as though it were the record holder of a number of Common Shares equal to the total number of Common Shares that:

(A) are deliverable as part of the Daily Settlement Amount:

1. for a VWAP Trading Day in such Observation Period that occurs on or prior to such record date, effective date or Offer Expiration Date; and
2. is calculated based on a Conversion Rate that is not adjusted for such event; and

(B) if not for this provision, would not entitle such Holder to participate in such event.

In addition, notwithstanding anything to the contrary herein, if a Holder converts a Note and the Daily Settlement Amount for any VWAP Trading Day during the Observation

Period applicable to such Note (i) is calculated based on a Conversion Rate adjusted on account of any event described in Section 4.04(a) through Section 4.04(e) and (ii) includes any Common Share that, but for this provision, would entitle the Holder to participate in such event, then, although the Company will otherwise treat such Holder as the holder of record of such Common Shares on the last VWAP Trading Day of such Observation Period, the Company shall not permit such Holder to participate in such event on account of such Common Shares.

(g) *Poison Pill*. If a Holder converts a Note, on any VWAP Trading Day in the Observation Period applicable to such Note, the Holder converting such Note will receive, in addition to any Common Shares to which it is entitled in connection with such conversion, the rights under any shareholders rights plan of the Company in effect at such time, unless prior to the applicable Conversion Date, the rights have separated from the Common Shares, in which case, the Conversion Rate will be adjusted at the time of separation as if the Company distributed to all holders of the Common Shares, Distributed Property as described in Section 4.04(c) hereof, subject to readjustment in the event of the expiration, termination or redemption of such rights. In all other cases, the issuance of rights pursuant to a rights plan will not result in an adjustment to the Conversion Rate pursuant to Section 4.04(c) hereof.

(h) *Deferral of Adjustments*. Notwithstanding anything to the contrary herein, the Company will not be required to adjust the Conversion Rate unless such adjustment would require an increase or decrease of at least one percent (1%) in the Conversion Rate; *provided, however*, that the Company shall carry forward any adjustment that is less than one percent (1%) of the Conversion Rate, shall take such carried-forward adjustments into account in any subsequent adjustment, and shall make such carried-forward adjustments, regardless of whether the aggregate adjustment is less than one percent (1%), (i) annually on the anniversary of the first date of issue of the Notes and (ii) otherwise (A) on each VWAP Trading Day during the Observation Period with respect to a Note surrendered for conversion or (B) prior to any Fundamental Change Purchase Date, unless such adjustment has already been made.

(i) *Limitation on Adjustments*. Except as stated in this Section 4.04, the Company will not adjust the Conversion Rate for the issuance of Common Shares or any securities convertible into or exchangeable for Common Shares or the right to purchase Common Shares or such convertible or exchangeable securities. Notwithstanding anything herein or in the Notes to the contrary, if the application of the formulas in Sections 4.04(a) through (e) hereof would result in a decrease in the Conversion Rate, then, except to the extent of any readjustment to the Conversion Rate, no adjustment to the Conversion Rate will be made (other than as a result of a reverse share split or share combination).

In addition, notwithstanding anything to the contrary herein, the Conversion Rate will not be adjusted:

(i) on account of share repurchases that are not tender offers referred to in Section 4.04(e) hereof, including structured or derivative transactions, or transactions pursuant to a share repurchase program approved by the Board of Directors or otherwise;

(ii) upon the issuance of any Common Shares pursuant to any present or future plan providing for the reinvestmentof dividends or interest payable on the Company's securities and the investment of additional optional amounts in Common Shares under any plan;

(iii) upon the issuance of any Common Shares or options or rights to purchase those shares pursuant to any presentor future employee, director or consultant benefit plan, program or agreement of or assumed by the Company or any of its Subsidiaries;

(iv) upon the issuance of any Common Shares pursuant to any option, warrant, right or exercisable, exchangeableor convertible security not described in Section 4.04(i) (iii) immediately above and outstanding as of the date the Notes were first issued;

(v) for a change in the par value of the Common Shares;or

(vi) for accrued and unpaid interest on the Notes, ifany.

In addition, the Company will not undertake any action that would result in the Company being required, pursuant to this Indenture, to adjust the Conversion Rate such that the Conversion Price per Common Share will be less than the par value per Common Share.

(j) For purposes of this Section 4.04, the number of Common Shares at any time outstanding shall not include shares heldin the treasury of the Company so long as the Company does not pay any dividend or make any distribution on Common Shares held in the treasury of the Company, but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of Common Shares.

(k) Whenever the Company is required to calculate or make adjustments to the Conversion Rate, the Company will do soto the nearest 1/10,000th of a Common Share, rounding any additional decimal places up or down in a commercially reasonable manner.

Section 4.05 *Discretionary and Voluntary Adjustments*.

(a) *Discretionary Adjustments*. Whenever any provision of this Indenture requires the Company to calculate the Last Reported Sale Prices, the DailyVWAPs or any function thereof over a span of multiple days (including during an Observation Period and the Stock Price for purposes of a Make-Whole Fundamental Change), the Board of Directors will make appropriate adjustments to each to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the effective date, Ex-Dividend Date or Offer Expiration Date, as applicable, of the event occurs, at any time during the period when such Last Reported Sale Prices, the Daily VWAPs or function thereof is to be calculated.

(b) *Voluntary Adjustments*. To the extent permitted by applicable law and applicable requirements of The New York Stock Exchange, the Company is permitted to increase the Conversion Rate of the Notes by any amount for a period of at least 20 Business Days if the Board of Directors determines that such increase would be in the Company's best interest. To the extent permitted by applicable law and applicable requirements of The New York Stock Exchange, the Company may also (but is not required to) increase the Conversion Rate to avoid or diminish income tax to holders of Common Shares or rights to purchase Common Shares in connection with a dividend or distribution of shares (or rights to acquire shares) or similar event.

Section 4.06 *Adjustment to Conversion Rate Upon Conversion in Connection with a Make-Whole Fundamental Change*

(a) *Increase in the Conversion Rate.* If a Make-Whole Fundamental Change occurs and a Holder elects to convert its Notes in connection with such Make-Whole Fundamental Change, then the Company shall, to the extent provided herein, increase the Conversion Rate for the Notes so surrendered for conversion by a number of additional Common Shares (the "**Additional Shares**"), as described in this Section 4.06. A conversion of Notes shall be deemed for these purposes to be "in connection with" a Make-Whole Fundamental Change if the relevant Conversion Notice is received by the Conversion Agent during the period from, and including, the Effective Date of the Make-Whole Fundamental Change up to, and including, the Close of Business on the Business Day immediately prior to the related Fundamental Change Purchase Date or, if such Make-Whole Fundamental Change is not also a Fundamental Change, the 35th Business Day immediately following the Effective Date for such Make-Whole Fundamental Change (such period, the "**Make-Whole Fundamental Change Period**").

(b) *Cash Mergers*. Notwithstanding anything to the contrary herein, if the consideration paid to holders of the Common Shares in any Make-Whole Fundamental Change described in clause (2) of the definition of "Fundamental Change" is comprised entirely of cash, then, for any conversion of Notes following the Effective Date of such Make-Whole Fundamental Change, the payment and delivery obligations upon the conversion of a Note shall be calculated based solely on the Stock Price for such Make-Whole Fundamental Change and shall be deemed to be a cash amount equal to the applicable Conversion Rate (including any adjustment as described in this Article 4) multiplied by such Stock Price. In such event, the Company's conversion obligation will be determined and paid to Holders in cash on the third Business Day following the applicable Conversion Date. Otherwise, the Company will settle any conversion of the Notes following the Effective Date for a Make-Whole Fundamental Change in accordance with Section 4.03 hereof (but subject to Section 4.04 hereof).

(c) *Determining the Number of Additional Shares.* The number of Additional Shares, if any, by which the Conversion Rate will be increased for a Holder that converts its Notes in connection with a Make-Whole Fundamental Change shall be determined by reference to the table attached as Schedule A hereto, based on the Effective Date of such Make-Whole Fundamental Change and the price (the "**Share Price**") paid (or deemed paid) per Common Share in the Make-Whole Fundamental Change, as determined under

the two immediately following sentences. If the holders of the Common Shares receive only cash in a Make-Whole Fundamental Change described in clause (2) of the definition of "Fundamental Change," the Share Price shall be the cash amount paid per Common Share. Otherwise, the Share Price shall be the average of the Last Reported Sale Prices of the Common Shares over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Effective Date of the Make-Whole Fundamental Change.

(d) *Interpolation and Limits*. The exact Share Prices and Effective Dates may not be set forth in the table in Schedule A, in which case:

(i) if the Share Price is between two Share Prices in the table or the Effective Date is between two dates in the table, the number of Additional Shares shall be determined by a straight-line interpolation between the number of Additional Shares set forth for the higher and lower Share Prices and the earlier and later dates, as applicable, based on a 365- or 366- day year, as applicable;

(ii) if the Share Price is greater than $200.00 per share (subject to adjustment in the same manner as the SharePrices set forth in the column headings of the table in Schedule A hereof), no Additional Shares will be added to the Conversion Rate;and

(iii) if the Share Price is less than $69.02 per share (subject to adjustments in the same manner as the Share Prices set forth in the column headings of the table in Schedule A hereof), no Additional Shares will be added to the Conversion Rate.

Notwithstanding the foregoing, in no event will the Conversion Rate be increased on account of a Make-Whole Fundamental Change to exceed 14.4885 Common Shares per $1,000 principal amount of Notes, subject to adjustments in the same manner as the Conversion Rate is required to be adjusted as set forth in Section 4.04 hereof.

The Share Prices set forth in the column headings of the table in Schedule A hereto shall be adjusted as of any date on which the Conversion Rate of the Notes is otherwise required to be adjusted. The adjusted Share Prices shall equal the Share Prices applicable immediately prior to such adjustment, multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to such adjustment giving rise to the Share Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of Additional Shares set forth in such table shall be adjusted in the same manner and at the same time as the Conversion Rate is required to be adjusted as set forth in Section 4.04.

(e) *Notices*. The Company shall notify the Holders of the Effective Date of any Make-Whole Fundamental Change and issue a press release announcing such Effective Date no later than five Business Days after such Effective Date.

Section 4.07 *Effect of Recapitalization, Reclassification, Consolidation, Merger or Sale*.

(a) *Merger Event*. In the case of:

(i) any recapitalization, reclassification or change of the Common Shares (other than a change in par value, or frompar value to no par value, or from no par value to par value, or as a result of a split, subdivision or combination);

(ii) any consolidation, merger or combination involving the Company;

(iii) any sale, lease or other transfer to a third party of the consolidated assets of the Company and its Subsidiaries substantially as an entirety; or

(iv) any binding share exchange;

and, in each case, as a result of which the Common Shares would be converted into, or exchanged for, or represent solely the right to receive, shares, stock, other securities, other property or assets (including cash or any combination thereof) (such shares, stock, securities, property or assets, "**Reference Property**," and the amount and kind of Reference Property that a holder of one Common Share would be entitled to receive on account of such transaction, a "**Reference Property Unit**") (any such event, a "**Merger Event**"), then, notwithstanding anything to the contrary herein or in the Notes, at the effective time of such Merger Event, the consideration due upon conversion of any Notes, and the conditions to any such conversion, will be determined in the same manner as if each reference to any number of Common Shares in this Article 4 were instead a reference to the same number of Reference Property Units. For these purposes, the Daily VWAP or Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or in the case of cash denominated in U.S. Dollars, the face amount thereof). The Company (and such other Persons, if any, specified in the immediately following paragraph) shall, as a condition precedent to such Merger Event execute and deliver to the Trustee a supplemental indenture hereto in form reasonably satisfactory to the Trustee giving effect to the provisions of this
Section 4.07.

The Company shall not become a party to any Merger Event unless its terms are consistent with this Section 4.07. Such supplemental indenture described in the first paragraph of this Section 4.07(a) shall provide for adjustments which shall be as nearly equivalent to the adjustments provided for in this Article 4 in the judgment of the Board of Directors or the board of directors of the successor Person. If, in the case of any such Merger Event, the Reference Property receivable thereupon by a holder of Common Shares includes shares of stock, securities or other property or assets (including cash or any combination thereof) of a Person other than the successor or purchasing Person, as the case may be, in such Merger Event, then such indenture shall also be executed by such other Person.

(b) *Notice of Supplemental Indentures*. The Company shall cause written notice of the execution of such supplemental indenture to be mailed to each Holder, at the address of such Holder as it appears on the register of the Notes maintained by the Registrar, within 20 calendar days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture. The above provisions of this Section 4.07 shall similarly apply to successive MergerEvents.

(c) *Composition of the Reference Property Unit.* If the Reference Property in any Merger Event consists of more than a single type of consideration (determined based in part upon any form of shareholder election), then the composition of the Reference Property Unit will be deemed to be (i) the weighted average, per Common Share, of the types and amounts of consideration received, per Common Share, by the holders of a majority of the Common Shares that affirmatively make such an election or (ii) if no holders of Common Shares affirmatively make such election, the types and amounts of consideration actually received by the holders of the Common Shares. The Company shall notify Holders of the weighted average as soon as practicable after such determination is made.

(d) *Adjustment to the Dividend Threshold.* In connection with any adjustment to the conversion right pursuant to this Section 4.07, the Company shall also adjust the Dividend Threshold based on the number of common shares comprising the reference property and (if applicable) the value of any non-stock consideration comprising the Reference Property. If the Reference Property is composed solely of non-stock consideration, then the Dividend Threshold shall be zero.

(e) *Cash Merger Events*. Notwithstanding anything to the contrary herein or in the Notes, if the Reference PropertyUnit consists entirely of cash, then the Company shall settle all conversions of Notes within three Business Days of the relevant Conversion Date.

Section 4.08 *Certain Covenants*.

(a) *Reservation of Shares.* To the extent necessary to satisfy its obligations under this Indenture, prior to issuing any Common Shares, the Company will reserve out of its authorized but unissued Common Shares a sufficient number of Common Shares to permit the conversion of the Notes.

(b) *Certain other Covenants.* The Company covenants that all Common Shares that may be issued upon conversion of Notes shall be issued in book-entry format, shall be newly issued shares or treasury shares, shall be duly authorized, validly issued, fully paid and non-assessable and shall be free from preemptive rights and free from any tax, lien or charge (other than those created by the Holder or due to a change in registered owner). The Company shall list or cause to have quoted any Common Shares to be issued upon conversion of Notes on each national securities exchange or over-the-counter or other domestic market on which the Common Shares are then listed or quoted. For the avoidance of doubt, the Company is under no obligation to register, under the Securities Act, the issuance of any Common Shares due upon settlement of the conversion of any Note.

Section 4.09 *Responsibility of Trustee*. The Trustee and any Conversion Agent shall not at any time be under any duty or responsibility to any Holder of Notes to determine or calculate the

Conversion Rate, to determine whether any facts exist which may require any adjustment of the Conversion Rate, or to confirm the accuracy of any such adjustment when made or the appropriateness of the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any Common Shares or of any cash or other securities or property that may at any time be issued or delivered upon the conversion of any Notes; and the Trustee and the Conversion Agent make no representations with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any Common Shares or stock certificates or other securities or property or cash upon the surrender of any Notes for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article 4. The rights, privileges, protections, immunities and benefits given to the Trustee, including without limitation its right to be compensated, reimbursed and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, including its capacity as Conversion Agent.

Section 4.10 *Notice of Adjustment to the Trustee.* Whenever the Conversion Rate is adjusted as herein provided, the Company shall promptly (i) file with the Trustee and any Conversion Agent (if other than the Trustee) an Officer's Certificate setting forth the Conversion Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment; *provided* that unless and until a Responsible Officer of the Trustee shall have received such Officer's Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Rate and may assume that the last Conversion Rate of which it has knowledge is still in effect and (ii) deliver written notice to the Holders, at his or her last address appearing on the Register provided for in Section 2.06 of this Indenture, stating that such adjustment has become effective and the Conversion Rate or conversion privilege as adjusted.
Failure to deliver such notice shall not affect the legality, effectiveness or validity of any such adjustment and shall not be an Event of Default under this Indenture.

Section 4.11 *Notice to Holders.*

(a) *Notice to Holders Prior to Certain Actions.* The Company shall deliver written notices of the events specified below at the times specified below and containing the information specified below unless, in each case, (i) pursuant to this Indenture, the Company is already required to deliver notice of such event containing at least the information specified below at an earlier time or (ii) the Company, at the time it is required to deliver a notice, does not have knowledge of all of the information required to be included in such notice, in which case, the Company shall (A) deliver notice at such time containing only the information that it has knowledge of at such time (if it has knowledge of any such information at such time), and (B) promptly upon obtaining knowledge of any such information not already included in a notice delivered by the Company, deliver notice to each Holder containing such information. In each case, the failure by the Company to give such notice, or any defect therein, shall not affect the legality or validity of such event.

(i) *Issuances, Distributions, and Dividends and Distributions*. If the Company (A) announces any issuance of any rights, options or warrants that

would require an adjustment in the Conversion Rate pursuant to Section 4.04(b) hereof; (B) authorizes any distribution that would require an adjustment in the Conversion Rate pursuant to Section 4.04(c) hereof (including any separation of rights from the Common Shares described in Section 4.04(g) hereof); or (C) announces any dividend or distribution that would require an adjustment in the Conversion Rate pursuant to Section 4.04(d) hereof, then the Company shall deliver to the Holders, as promptly as practicable after the holders of the Common Shares are notified of such event, notice describing such issuance, dividend or distribution, as the case may be, and stating the expected Ex-Dividend Date and record date for such issuance, dividend or distribution, as the case may be. In addition, the Company shall deliver to the Holders written notice if the consideration included in such issuance, dividend or distribution, or the Ex-Dividend Date or record date of such issuance, dividend or distribution, as the case may be, changes.

(ii) *Tender and Exchange Offers.* If the Company announces any tender or exchange offer that could require an adjustment in the Conversion Rate pursuant to Section 4.04(e) hereof, the Company shall deliver to the Holders on the day it announces such tender or exchange offer, and, if the Company is required to file with the Commission a Schedule TO in connection with such tender or exchange offer, an additional written notice (i) when the Company first files such Schedule TO, which notice shall include the address at which such Schedule TO is available on the Commission's EDGAR system (or any successor thereto), and (ii) whenever the Company files an amendment to such Schedule TO, which notice shall include the address at which such amendment is available on the Commission's EDGAR system (or any successor thereto).

(iii) *Voluntary Increases*. If the Company increases the Conversion Rate pursuant to Section 4.05(b), the Company shall deliver notice to the Holders at least two Scheduled Trading Days prior to the date on which such increase will become effective, which notice shall state the date on which such increase will become effective and the amount by which the Conversion Rate will be increased.

(iv) *Dissolutions, Liquidations and Winding-Ups*. If there is a voluntary or involuntary dissolution, liquidation or winding-up of the Company, the Company shall deliver notice to the Holders at promptly as possible, but in any event prior to the earlier of (i) the date on which such dissolution, liquidation or winding-up, as the case may be, is expected to become effective or occur, and (ii) the date as of which it is expected that holders of Common Shares of record shall be entitled to exchange their Common Shares for securities or other property deliverable upon such dissolution, liquidation or winding-up, as the case may be, which notice shall state the expected effective date and record date for such event, as applicable, and the amount and kind of property that a holder of one Common Share is expected to be entitled, or may elect, to receive in such event. The Company shall deliver an additional written notice to Holders, as promptly as practicable, whenever the expected effective date or record date, as applicable, or the amount and kind of property that a holder of one Common Share is expect to be entitled to receive in such event, changes.

Section 4.12 *Certain Requirements of the New York Stock Exchange.*

Notwithstanding anything to the contrary herein or in the Notes, the Company shall not enter into any transaction, or take any other action, that would result in any increase to the Conversion Rate (whether pursuant to Section 4.04(b) through (e) or Section 4.06) that would result, in the aggregate, in the Notes being convertible into a number of Common Shares in excess of any limitations imposed by the continued listing standards of The New York Stock Exchange, without complying, if applicable, with the shareholder approval rules contained in such listing standards.

ARTICLE 5.
COVENANTS

Section 5.01 *Payment of Principal, Interest and Fundamental Change Purchase Price*

The Company covenants and agrees that it will cause to be paid the principal of (including the Fundamental Change Purchase Price), accrued and unpaid interest, if any, on each of the Notes (and, for the avoidance of doubt, all related Additional Amounts, if applicable) at the places, at the respective times and in the manner provided herein and in the Notes.

Section 5.02 *Maintenance of Office or Agency.*

The Company will maintain in Los Angeles, California (or such other place in the continental United States), an office of the Paying Agent, an office of the Registrar and an office or agency where Notes may be surrendered for conversion ("**Conversion Agent**") and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office or the office or agency of the Trustee in Los Angeles, California.

The Company may also from time to time designate as co-registrars one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided* that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in Los Angeles, California (or such other place in the continental United States), for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency. The terms "Paying Agent" and "Conversion Agent" include any such additional or other offices or agencies, as applicable.

The Company hereby initially designates the Trustee as the Paying Agent, Registrar, Custodian and Conversion Agent, and the Corporate Trust Office shall be considered as one such office or agency of the Company for each of the aforesaid purposes. The Company or its Affiliates may act as Paying Agent or Registrar, until and unless an Event of Default shall have occurred under this Indenture, at which time the Trustee shall be the Paying Agent.

With respect to any Global Note, the Corporate Trust Office of the Trustee or any Paying Agent shall be the place of payment where such Global Note may be presented or surrendered for payment or conversion or for registration of transfer or exchange, or where successor Notes may be delivered in exchange therefor; *provided, however*, that any such payment, conversion, presentation, surrender or delivery effected pursuant to the Applicable Procedures for such Global Note shall be deemed to have been effected at the place of payment for such Global Note in accordance with the provisions of this Indenture.

Section 5.03 *Provisions as to Paying Agent.*

(a) If the Company shall appoint a Paying Agent other than the Trustee, the Company will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 5.03:

(i) that it will hold all sums held by it as such agent for the payment of the principal of, any premium on, accrued and unpaid interest, if any, on, or any Fundamental Change Purchase Price for, the Notes (and, for the avoidance of doubt, all related Additional Amounts, if applicable) held in trust for the benefit of the holders of the Notes;

(ii) that it will give the Trustee prompt written notice of any failure by the Company to make any payment of the principal of, any premium on, accrued and unpaid interest, if any, on, or any Fundamental Change Purchase Price for, the Notes when the same shall be due and payable; and

(iii) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held in trust.

The Company shall, on or before each due date of the principal of, any premium on, accrued and unpaid interest, if any, on, or any Fundamental Change Purchase Price for, the Notes, deposit with the Paying Agent a sum sufficient to pay such principal, premium, accrued and unpaid interest, or any Fundamental Change Purchase Price (and, for the avoidance of doubt, all related Additional Amounts, if applicable), as the case may be, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee in writing of any failure to take such action, *provided* that, if such deposit is made on the due date, such deposit must be received by the Paying Agent by 11:00 a.m., New York City time, on such date.

(b) If the Company shall act as its own Paying Agent, it will, on or before each due date of the principal of, any premium on, accrued and unpaid interest, if any, on, or any Fundamental Change Purchase Price for, the Notes, set aside, segregate and hold in trust for the benefit of the Holders of the Notes a sum sufficient to pay such amount (and, for the avoidance of doubt, all related Additional Amounts, if applicable), so

becoming due and will promptly notify the Trustee in writing of any failure to take such action and of any failure by the Company to make any such payment when the same shall become due and payable.

(c) Anything in this Section 5.03 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by the Company or any Paying Agent hereunder as required by this Section 5.04, such sums to be held by the Trustee upon the trusts herein contained and upon such payment by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability with respect to such sums.

(d) Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, any premium on, accrued and unpaid interest, if any, on, or any Fundamental Change Purchase Price for, any Note and remaining unclaimed for two years after such principal, premium, accrued and unpaid interest, or any Fundamental Change Purchase Price has become due and payable shall be paid to the Company on request of the Company contained in an Officer's Certificate, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease;

(e) To the extent the Company maintains a Paying Agent in a member state of the European Union, the Company will ensure that it maintains at least one Paying Agent in a member state of the European Union that will not be obligated to withhold or deduct tax pursuant to the European Union Directive 2003/48/EC or any other directive implementing the conclusions of the ECOFIN Council meeting of November 26 and 27, 2000 on the taxation of savings income, or any law implementing, or complying with or introduced in order to conform to, such directive.

Section 5.04 *Reports*.

The Company will file with the Trustee, within 15 calendar days after it is required to file the same with the Commission (after giving effect to any grace period provided by Rule 12b-25 under the Exchange Act), copies of the quarterly and annual reports and of the information, documents and other reports, if any, that it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act. Any such report, information or document that the Company files with the Commission through the EDGAR system (or any successor thereto) will be deemed to be delivered to the Trustee for the purposes of this Section 5.04 at the time of such filing through the EDGAR system (or such successor thereto); *provided, however*, that the Trustee shall have no responsibility to determine whether such filings have been made; *provided, further*, that the Company shall not be required to deliver to the Trustee any material for which the Company is in good faith seeking, or has received, confidential treatment by the Commission.

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

At any time the Company is not subject to Section 13 or 15(d) of the Exchange Act, the Company will, so long as any of the Notes or the Common Shares, if any, delivered upon conversion of the Notes will, at such time, constitute "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, promptly provide to the Trustee and will, upon written request, provide to any Holder, beneficial owner or prospective purchaser of such Notes or such Common Shares the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes or such Common Shares pursuant to Rule 144A under the Securities Act. The Company shall take such further action as any Holder or beneficial owner of any Note or such Common Shares may reasonably request from time to time to enable such Holder or beneficial owner to sell such Notes or Common Shares in accordance with Rule 144A under the Securities Act, as such rule may be amended from time to time.

Section 5.05 *Statements as to Defaults.* The Company is required to deliver to the Trustee, within 120 days after the end of each fiscal year, an Officer's Certificate stating whether or not to the knowledge of the signers thereof the Company is in default in the performance and observance of any of the terms, provisions and conditions of this Indenture (without regard to any period of grace or requirement of notice provided under this Indenture) and, if the Company is in default, specifying all such Default or Event of Defaults and the nature and the status thereof of which they may have knowledge. In addition, the Company shall deliver to the Trustee, as soon as possible, and in any event within 30 calendar days after the Company becomes aware of the occurrence of any Default or Event of Default, an Officer's Certificate setting forth the details of such Default or Event of Default, its status and the action that the Company proposes to take with respect thereto. Such Officer's Certificate shall also comply with any additional requirements set forth in
Section 5.07 hereof. The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof.

Section 5.06 *Additional Interest Notice*. If Additional Interest is payable by the Company pursuant to Section 5.08 hereof or Section 6.03 hereof, the Company shall deliver to the Trustee an Officer's Certificate, prior to the Regular Record Date for each applicable Interest Payment Date, to that effect stating (a) the amount of such Additional Interest that is payable and (b) the date on which such interest is payable. Unless and until a Responsible Officer of the Trustee receives at the Corporate Trust Office such a certificate, the Trustee may assume without inquiry that no such Additional Interest is payable. If the Company has paid Additional Interest directly to the Persons entitled to it, the Company shall deliver to the Trustee an Officer's Certificate setting forth the particulars of such payment.

Section 5.07 *Compliance Certificate and Opinions of Counsel*.

(a) Except as otherwise expressly provided in this Indenture, upon any application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee an Officer's Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with, except that in the case of any such application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

(b) Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(i) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(iii) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

(c) All applications, requests, certificates, statements or other instruments given under this Indenture shall be without personal recourse to any individual giving the same and may include an express statement to such effect.

Section 5.08 *Additional Interest*.

(a) If, at any time during the six-month period beginning on, and including, the date which is six months after the Last Original Issuance Date of any Notes, the Company fails to timely file any periodic report that the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, as applicable (other than current reports on Form 8-K), or such Notes are not otherwise freely tradable (including pursuant to Rule 144) by Holders other than "persons" who are, or, at any time during the three months immediately preceding the date of the proposed transfer, were "affiliates" (as such terms are defined in Rule 144) (whether as a result of restrictions pursuant to U.S. securities law or the terms of the Indenture or the Notes) ("**Freely Tradable**"), the Company shall pay Additional Interest that will accrue on such Notes at the rate of 0.50% per annum of the principal amount of such Notes then Outstanding for

each day during such period for which the Company's failure to file has occurred and is continuing or for which the restrictions on transfer are applicable; *provided* that such period shall end on the date that is one year from the Last Original Issuance Date of such Notes.

(b) The Company will use its reasonable best efforts to cause each Note, to bear an unrestricted CUSIP number no later than the 365th day after the Last Original Issuance Date of such Note, subject to the Depositary's procedures. If, and for so long as, the Restricted Notes Legend has not been removed from any Notes, any Notes are assigned a restricted CUSIP number or any Notes are not otherwise Freely Tradable, in each case as of the 365th day after the Last Original Issuance Date of such Notes, the Company will pay Additional Interest on such Notes. Such Additional Interest will accrue on such Notes at the rate of 0.50% per annum of the principal amount of such Notes then Outstanding until such Restricted Notes Legend is removed, such Notes are assigned an unrestricted CUSIP number and such Notes are Freely Tradable. At such time as the Company notifies the Trustee to remove the Restricted Notes Legend from any Notes, such legend will be deemed removed from any Global Note representing such Notes and an unrestricted CUSIP number for such Notes will be deemed to be the CUSIP number for such Notes.

(c) Such Additional Interest that is payable shall be payable in arrears on each Interest Payment Date following accrual in the same manner as regular interest on the Applicable Notes, and will be separate and distinct from, and in addition to, any Additional Interest that may accrue at the Company's election as the sole remedy relating to a Reporting Event of Default pursuant to Section 6.03 hereof.

Section 5.09 *Corporate Existence.* Subject to Article 9, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights (charter and statutory) and franchises; *provided*, *however*, that the Company shall not be required to preserve any such right or franchise if, in the judgment of the Company, the preservation thereof is no longer desirable in the conduct of the business of the Company.

Section 5.10 *Restriction on Resales*. The Company shall not, and shall procure that no Affiliate of the Company shall, resell any of the Notes that have been reacquired by the Company or any of such Affiliate.

Section 5.11 *Company to Furnish Trustee Names and Addresses of Holders.* The Registrar will preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders. If at any time the Trustee is not the Registrar, the Company will furnish or cause to be furnished to the Trustee

(a) semi-annually, not later than the 15th day after each Regular Record Date, a list, in such form as the Trustee may reasonably require, containing all the information in the possession or control of the Company, or any of its Paying Agents other than the Trustee, of the names and addresses of the Holders, as of such preceding Regular Record Date, and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished.

ARTICLE 6.
REMEDIES

Section 6.01 *Events of Default.* Each of the following events shall be an "**Event of Default**" with respect to the Notes:

(a) default in any payment of interest on any Note when due and payable, and the default continues for a period of 30 calendar days;

(b) default in the payment of the principal or premium, if any, on any Note (including the Fundamental Change Purchase Price) when due and payable on the Maturity Date, upon required repurchase, upon declaration of acceleration or otherwise;

(c) failure by the Company to comply with its obligations under Article 4 hereof to convert the Notes into cash and, if applicable, Common Shares upon exercise of a Holder's conversion right and such failure continues for three (3) Business Days;

(d) failure by the Company to comply with its obligations under Article 9 hereof;

(e) failure by the Company to issue a notice in accordance with the provisions of Section 3.02 hereof or Section 4.01(b)(iii) or (iv) hereof;

(f) failure by the Company for 60 days after written notice from the Trustee or the Holders of at least 25% in principal amount of the Notes then Outstanding (a copy of which notice, if given by Holders, must also to be given to the Trustee) has been received by the Company to comply with any of its other agreements contained in the Notes or this Indenture (other than a covenant or warranty a default in whose performance or whose breach is elsewhere in this Section 6.01 specifically provided for or that is not applicable to the Notes), which notice shall state that it is a "**Notice of Default**" hereunder;

(g) default by the Company or any of its Subsidiaries with respect to any mortgage, agreement or other instrument under which there may be outstanding, or by which there may be secured or evidenced, any indebtedness for money borrowed in excess of $100,000,000 (or its foreign currency equivalent at the time) in the aggregate of the Company and/or any of the Subsidiaries of the Company, whether such indebtedness now exists or shall hereafter be created (i) resulting in such indebtedness becoming or being declared due and payable or (ii) constituting a failure to pay the principal or interest of any such indebtedness when due and payable at its stated maturity, upon redemption, upon required repurchase, upon declaration of acceleration or otherwise;

(h) a final judgment for the payment of $100,000,000 (or its foreign currency equivalent at the time) or more (excluding any amounts covered by insurance or bond)

rendered against the Company or any of its Significant Subsidiaries by a court of competent jurisdiction, which judgment is not discharged, stayed, vacated, paid or otherwise satisfied within 60 days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished; or

(i) the Company or any Significant Subsidiary of the Company shall commence a voluntary case or other proceeding seeking the liquidation, reorganization or other relief with respect to the Company or such Significant Subsidiary or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or such Significant Subsidiary of the Company or any substantial part of the Company's or such Significant Subsidiary of the Company's property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due; or

(j) an involuntary case or other proceeding shall be commenced against the Company or any Significant Subsidiary of the Company seeking liquidation, reorganization or other relief with respect to the Company or such Significant Subsidiary of the Company or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or such Significant Subsidiary of the Company or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 90 consecutive days.

Section 6.02 *Acceleration; Rescission and Annulment*.

(a) If an Event of Default (other than an Event of Default specified in Section 6.01(i) hereof or Section 6.01(j) hereof with respect to the Company) occurs and is continuing, and is known to a Responsible Officer of the Trustee, the Trustee by notice to the Company, or the Holders of at least 25% in principal amount of the Notes then Outstanding by written notice to the Company and the Trustee, may, and the Trustee at the request of such Holders shall, declare 100% of the principal of, premium, ifany, and accrued and unpaid interest, ifany, on all the Notes then Outstanding to be due and payable immediately. If an Event of Default specified in Section 6.01(i) or Section 6.01(j) with respect to the Company occurs and is continuing, 100% of the principal of, premium, if any, and accrued and unpaid interest, ifany, on all Notes shall automatically become due and payable.

(b) Notwithstanding anything to the contrary herein, the provisions of Section 6.02(a), however, are subject to theconditions that if, at any time after the principal of, and accrued and unpaid interest, if any, on, the Notes shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained as herein provided:

(i) the Company pays or delivers, as the case may be, or deposits with the Trustee an amount of cash and the numberof Common Shares, if any (solely to settle outstanding conversions), sufficient to pay all matured installments of interest upon all the Notes, all cash and Common Shares, if any, due upon the conversion of any and all converted Notes, and the principal of and accrued and unpaid interest, if any, on all Notes which shall have become due otherwise than by acceleration (with interest on such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the rate or rates, ifany, specified in the Notes to the date of such payment or deposit), and such amount as shall be sufficient to cover all amounts owing under the Indenture to the Trustee and its agents and counsel;

(ii) rescission would not conflict with any judgment or decree of a court of competent jurisdiction;and

(iii) any and all Events of Default under this Indenture, other than the non-payment of the principal of the Notesthat became due because of the acceleration, shall have been cured, waived or otherwise remedied as provided herein,

then, the Holders of a majority of the aggregate principal amount of Notes then Outstanding, by written notice to the Company and to the Trustee, may waive all Defaults and Events of Default with respect to the Notes (other than a Default or an Event of Default resulting from the failure to pay the Fundamental Change Purchase Price, to pay or deliver, as the case may be, the amount of cash and, if applicable, Common Shares due upon conversion of a Note, or with respect to another covenant or provision of the Indenture that cannot be modified or amended without the consent of each affected Holder) and may rescind and annul the declaration of acceleration resulting from such Defaults or Events of Default (other than those resulting from the failure to pay the Fundamental Change Purchase Price, to pay or deliver, as the case may be, the amount of cash and, if applicable, Common Shares due upon conversion of a Note, or with respect to another covenant or provision of the Indenture that cannot be modified or amended without the consent of each affected Holder) and their consequences; *provided, however*, that no such rescission or annulment will extent to or will affect any subsequent Default or shall impair any right consequent on such Default.

Section 6.03 *Additional Interest*.

(a) Notwithstanding Section 6.02 hereof, to the extent the Company elects, the sole remedy for an Event of Default under Section 6.01(f) relating to the Company's failure to comply with Section 5.04 hereof (such Event of Default, a "**Reporting Event of Default**"), will consist exclusively of the right to receive Additional Interest on the Notes at a rate per year equal (i) 0.25% per annum of the principal amount of the Notes outstanding for each day during the first 90 days such Event of Default has occurred and is continuing, beginning on and including, the day on which such Event of Default occurred and (ii) 0.50% of the principal amount of the Notes outstanding for each day during the next 90 days such Event of Default has occurred and is continuing, beginning

on, and including, the 91st day after the day such Event of Default occurred. Such Additional Interest shall be payable in arrears at the same time and in the same manner as regular interest on the Notes.

(b) On the 181st day after the date on which the Reporting Event of Default occurred (if such Reporting Event of Default has not been cured or waived prior to such 181st day), the Notes will be subject to acceleration as provided in Section 6.02(a) hereof.

(c) In order to elect to pay the Additional Interest as the sole remedy during the first 180 days after the occurrence of a Reporting Event of Default, the Company must notify all Holders, the Trustee and the Paying Agent of such election prior to the beginning of such 180-day period. Upon the Company's failure to timely give such notice, the Notes shall be immediately subject to acceleration as provided in Section 6.02 hereof. In the event the Company does not elect to pay Additional Interest following a Reporting Event of Default or the Company elected to pay Additional Interest but does not pay the Additional Interest when due, the Notes will be subject to acceleration as provided in Section 6.02 hereof. Except as provided in the Section 6.03(d) below, nothing in this Section 6.03 shall affect the rights of Holders of Notes in the event of the occurrence of any other Event of Default.

(d) Such Additional Interest will be payable in arrears on each Interest Payment Date following accrual in the same manner as regular interest on the Notes and will be separate and distinct from, and in addition to, any Additional Interest that may accrue pursuant to Section 5.08. In the event that the Company is required to pay Additional Interest to holders of Notes pursuant to this Indenture, the Company will provide written notice ("**Additional Interest Notice**") to the Trustee of its obligation to pay Additional Interest no later than fifteen days prior to the proposed payment date for the Additional Interest, and the Additional Interest Notice shall set forth the amount of Additional Interest to be paid by the Company on such payment date. The Trustee shall not at any time be under any duty or responsibility to any holder of Notes to determine the Additional Interest, or with respect to the nature, extent, or calculation of the amount of Additional Interest owed, or with respect to the method employed in such calculation of the Additional Interest.

(e) No Additional Interest described in this Section 6.03 shall accrue on account of a Reporting Event of Default, and no right to declare the principal or other amounts due and payable in respect of the Notes shall exist on account of a Reporting Event of Default once such Reporting Event of Default has been cured.

Section 6.04 *Control by Majority.* At any time, the Holders of a majority of the aggregate principal amount of the then Outstanding Notes may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or, subject to the Trustee's duties under Article 11 hereof, that the Trustee determines to be unduly prejudicial to the rights of a Holder or to the Trustee, or that would involve the Trustee in personal liability. Prior to taking any action hereunder, the Trustee will be entitled to indemnification satisfactory to it in its sole discretion against all losses and expenses caused by taking or not taking such action.

Section 6.05 *Limitation on Suits.* Subject to Section 6.06 hereof, no Holder may pursue a remedy with respect to this Indenture or the Notes unless:

(a) such Holder has previously delivered to the Trustee written notice that an Event of Default has occurred and is continuing;

(b) the Holders of at least 25% of the aggregate principal amount of the then Outstanding Notes deliver to the Trustee a written request that the Trustee pursue a remedy with respect to such Event of Default;

(c) such Holder or Holders have offered and, if requested, provided to the Trustee reasonable indemnity satisfactory to the Trustee against any loss, liability or other expense of compliance with such written request;

(d) the Trustee has not complied with such written request within 60 days after receipt of such written request and offer of indemnity or security; and

(e) during such 60-day period, the Holders of a majority of the aggregate principal amount of the then Outstanding Notes did not deliver to the Trustee a direction inconsistent with such written request.

Section 6.06 *Rights of Holders to Receive Payment and to Convert* Notwithstanding anything to the contrary elsewhere in this Indenture, the right, which is absolute and unconditional, of any Holder to receive payment of the principal of, interest on, the Fundamental Change Purchase Price for, on or after the respective due date, and to convert its Notes and receive the payment or delivery of cash and, if applicable, Common Shares due with respect to such Notes in accordance with Article 4 hereof (including, for the avoidance of doubt, the right to receive any related Additional Amounts, if applicable), or to bring suit for the enforcement of any such payment or conversion rights, will not be impaired or affected without the consent of such Holder and will not be subject to the requirements of Section 6.05 hereof.

Section 6.07 *Collection of Indebtedness; Suit for Enforcement by Trustee* If an Event of Default specified in Section 6.01(a), 6.01(b) or 6.01(c) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, interest on, the Fundamental Change Purchase Price for, and the amount of cash and, if applicable, Common Shares due upon the conversion of, the Notes, as the case may be, and such further amount as is sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, as well as any other amounts that may be due under Section 10.07 hereof.

Section 6.08 *Trustee May Enforce Claims Without Possession of Notes*. All rights of action and claims under this Indenture or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as

trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the compensation, and reasonable expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders in respect of which such judgment has been recovered.

Section 6.09 *Trustee May File Proofs of Claim.* The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations, will be entitled to collect, receive and distribute any money or other property payable or deliverable on any such claims, and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and, in the event that the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 10.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 10.07 hereof out of the estate in any such proceeding, will be denied for any reason, payment of the same will be secured by a lien on, and is paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding, whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained will be deemed to authorize the Trustee to authorize or consent to, or to accept or to adopt on behalf of any Holder, any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 *Restoration of Rights and Remedies*. If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 6.11 *Rights and Remedies Cumulative*. Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.09 hereof, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, 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 appropriate right or remedy.

Section 6.12 *Delay or Omission Not a Waiver*. No delay or omission of the Trustee or of any Holder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article 6 or by law to the Trustee or to the Holders may be exercised from time to time and as often as may be deemed expedient by the Trustee (subject to the limitations contained in this Indenture) or by the Holders, as the case may be.

Section 6.13 *Priorities*. If the Trustee collects any money pursuant to this Article 6, it will pay out the money in the following order:

FIRST: to the Trustee, its agents and attorneys for amounts due under this Indenture, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

SECOND: to the Holders, for any amounts due and unpaid on the principal of, premium on, accrued and unpaid interest on, Fundamental Change Purchase Price for, and any cash due upon conversion of, any Note, without preference or priority of any kind, according to such amounts due and payable on all of the Notes; and

THIRD: the balance, if any, to the Company or to such other party as a court of competent jurisdiction directs.

The Trustee may fix a record date and payment date for any payment to the Holders pursuant to this Section 6.13. If the Trustee so fixes a record date and a payment date, at least 15 calendar days prior to such record date, the Trustee will deliver to each Holder a written notice, which notice will state such record date, such payment date and the amount of such payment.

Section 6.14 *Undertaking for Costs*. All parties to this Indenture agree, and each Holder, by such Holder's acceptance of a Note, shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided*, *however*, that the provisions of this Section 6.14 shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in aggregate principal amount of the Notes then Outstanding, or to any suit instituted by any Holder for the enforcement of the payment of the principal of, any premium on, accrued and unpaid interest, ifany, on, Fundamental Change Purchase Price for, any Note on or after the due date expressed or provided for in this Indenture or to any suit for the enforcement of the right to convert any Note in accordance with the provisions of Article 4 hereof (or, for the avoidance of doubt, to enforce the payment of any related Additional Amounts, if applicable).

Section 6.15 *Waiver of Stay, Extension and Usury Laws.* The Company covenants that, to the extent that it may lawfully do so, it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company, to the extent that it may lawfully do so, hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will instead suffer and permit the execution of every such power as though no such law has been enacted.

ARTICLE 7.
SATISFACTION AND DISCHARGE

Section 7.01 *Discharge of Liability on Notes.* When (a) the Company shall deliver to the Registrar for cancellation all Notestheretofore authenticated (other than any Notes that have been destroyed, lost or stolen and in lieu of or in substitution for which other Notes shall have been authenticated and delivered) and not theretofore canceled, or (b) all the Notes not theretofore canceled or delivered to the Trustee for cancellation shall have become due and payable (whether on the Maturity Date, on any Fundamental Change Purchase Date, upon conversion or otherwise) and the Company shall deposit with the Trustee, in trust, or deliver to the Holders, an amount of cash and, if applicable, Common Shares (solely to settle amounts due with respect to outstanding conversions), sufficient to pay all amounts due on all of such Notes (other than any Notes that shall have been mutilated, destroyed, lost or stolen and in lieu of or in substitution for which other Notes shall have been authenticated and delivered) not theretofore canceled or delivered to the Trustee for cancellation, including principal and interest due, accompanied, except in the event the Notes are due and payable solely in cash at the Maturity Date or upon an earlier Fundamental Change Purchase Date, by a verification report as to the sufficiency of the deposited amount from an independent certified accountant or other financial professional reasonably satisfactory to the Trustee, and if the Company shall also pay or cause to be paid all other sums payable hereunder by the Company, then this Indenture shall cease to be of further effect (except as to (i) rights hereunder of Holders to receive from such trust all amounts owing upon the Notes and the other rights, duties and obligations of Holders, as beneficiaries hereof with respect to the amounts, if any, so deposited with the Trustee and
(ii) the rights, obligations and immunities of the Trustee hereunder), and the Trustee, on written demand of the Company accompanied by an Officer's Certificate and an Opinion of Counsel and at the cost and expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture; the Company, however, hereby agrees to reimburse the Trustee for any costs or expenses thereafter reasonably incurred by the Trustee, including the fees and expenses of its counsel, and to compensate the Trustee for any services thereafter reasonably rendered by the Trustee in connection with this Indenture or the Notes.

Section 7.02 *Deposited Monies to Be Held in Trust by Trustee* Subject to Section 7.04 hereof, all monies and Common Shares, as the case may be, deposited with the Trustee pursuant to Section 7.01 hereof shall be held in trust for the sole benefit of the Holders of the Notes, and such monies and Common Shares shall be applied by the Trustee to the payment, either directly or through any Paying Agent (including the Company if acting as its own Paying Agent), to the Holders of the particular Notes for the payment or settlement of which such monies or Common Shares, or both, as the case may be, have been deposited with the Trustee, of all sums or amounts due and to become due thereon for principal and interest, if any.

Section 7.03 *Paying Agent to Repay Monies Held* Upon the satisfaction and discharge of this Indenture, all monies and Common Shares, as the case may be, then held by any Paying Agent (if other than the Trustee) shall, upon written request of the Company, be repaid to it or paid to the Trustee, and thereupon such Paying Agent shall be released from all further liability with respect to such monies and Common Shares, or both, as the case may be.

Section 7.04 *Return of Unclaimed Monies*. Subject to the requirements of applicable law, any monies and Common Shares deposited with or paid to the Trustee for payment of the principal of or interest, if any, on the Notes and not applied but remaining unclaimed by the Holders of the Notes for two (2) years after the date upon which the principal of or interest, if any, on such Notes, as the case may be, shall have become due and payable, shall be repaid to the Company by the Trustee on demand, and all liability of the Trustee shall thereupon cease with respect to such monies and Common Shares; and the Holder shall thereafter look only to the Company for any payment or delivery that such Holder may be entitled to collect unless an applicable abandoned property law designates another Person.

Section 7.05 *Reinstatement*. If the Trustee or the Paying Agent is unable to apply any money or Common Shares, or both, as the case may be, in accordance with Section 7.02 hereof by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under the Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 7.01 hereof until such time as the Trustee or the Paying Agent is permitted to apply all such money and Common Shares in accordance with Section 7.02 hereof; *provided*, *however*, that if the Company makes any payment of interest on, principal of or payment or delivery in respect of any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Common Shares, if any, held by the Trustee or Paying Agent.

ARTICLE 8.
SUPPLEMENTAL INDENTURES

Section 8.01 *Supplemental Indentures Without Consent of Holders*.

Without the consent of any Holder, the Company and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form satisfactory to the Trustee, for any of the following purposes:

(a) to cure any ambiguity, omission, defect or inconsistency in this Indenture or the Notes that does not adversely affect the rights of the Holders in any material respect;

(b) to conform the terms of this Indenture or the Notes to the "Description of the Notes" in the Preliminary Offering Memorandum, as supplemented by the pricing term sheet related to the offering of the Notes as evidenced in an Officer's Certificate delivered by the Company to the Trustee;

(c) (i) to evidence the succession by a Successor Company and to provide for the assumption by a Successor Company of the Company's obligations under the Indenture and (ii) to make any changes necessary to provide for conversion of the Notes into cash and, if applicable, Reference Property (including with respect to any changes to the Dividend Threshold);

(d) to add guarantees with respect to the Notes;

(e) to secure the Notes;

(f) to add to the Company's covenants such further covenants, restrictions or conditions for the benefit of the Holdersor surrender any right or power conferred upon the Company by the Indenture;

(g) to make any other change that does not adversely affect the rights of any Holder (other than any Holder that consentsto such change);

(h) to provide for a successor Trustee; or

(i) to comply with the Applicable Procedures.

Section 8.02 *Supplemental Indentures With Consent of Holders*.

With the consent of the Holders of not less than a majority in principal amount of the Outstanding Notes affected by such supplemental indenture (including, without limitation, consents obtained in connection with a purchase of, or tender or exchange offer for, Notes), (i) the Company, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders under this Indenture and (ii) any past Default or compliance with any covenants or provisions of this Indenture may be waived (other than a Default or an Event of Default resulting from the failure to pay the principal of, interest on, the Fundamental Change Purchase Price for, or to pay or deliver, as the case may be, the amount of cash and, if applicable, Common Shares due upon conversion of a Note (and, for the avoidance of doubt, any related Additional Amounts, if applicable)); *provided*, *however*, that no such supplemental indenture or waiver shall, without the consent of the Holder of each Outstanding Note affected thereby:

(a) reduce the percentage in aggregate principal amount of Notes then Outstanding necessary to waive any past Defaultor Event of Default;

(b) reduce the rate of interest on any Note or extend the time for payment of interest on anyNote;

(c) reduce the principal of or premium, if any, on any Note or change the Maturity Date of any Note;

(d) change the place or currency of payment on anyNote;

(e) make any change that impairs or adversely affects the conversion rights of anyNotes;

(f) reduce the Fundamental Change Purchase Price of any Note or amend or modify in any manner adverse to the rights of the Holders of the Notes the Company's obligation to pay the Fundamental Change Purchase Price, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;

(g) impair the right of any Holder of Notes to receive payment of principal of, and interest, if any, on, its Notes, or the right to receive payment or delivery, as the case may be, of the amount of cash and, if applicable, Common Shares due upon conversion of its Notes on or after the due dates therefor or to institute suit for the enforcement of any such payment or delivery, as the case may be, with respect to such Holder's Notes;

(h) modify the ranking provisions of this Indenture in a manner that is adverse to the rights of the Holders of the Notes;

(i) modify any provision of this Indenture relating to the payment of Additional Amounts in a manner that is adverse to any Holders of the Notes; or

(j) make any change to the provisions of this Article 8 that requires each Holder's consent or in the waiver provisions of this Indenture if such change is adverse to the rights of Holders of the Notes.

It shall not be necessary for any Act or consent of Holders under this Section 8.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act or consent shall approve the substance thereof. The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Persons entitled to consent to any indenture supplemental hereto. If a record date is fixed, the Holders on such record date, or their duly designated proxies, and only such Persons, shall be entitled to consent to such supplemental indenture, whether or not such Holders remain Holders after such record date; *provided* that, unless such consent shall have become effective by virtue of the requisite percentage having been obtained prior to the date which is 90 calendar days after such record date, any such consent previously given shall automatically and without further action by any Holder be cancelled and of no further effect.

Section 8.03 *Notice of Amendment or Supplement.* After an amendment or supplement under this Article 8 becomes effective, the Company shall provide to the Holders a written notice briefly describing such amendment or supplement. However, the failure to give such notice to all the Holders, or any defect in the notice, shall not impair or affect the validity of the amendment or supplement.

Section 8.04 *Trustee to Sign Amendments, Etc.* The Trustee shall sign any amendment or supplement authorized pursuant to this Article 8 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may, but need not, sign it. In signing or refusing to sign such amendment or supplement, the Trustee shall receive, and, shall be fully protected in conclusively relying upon, an Officer's Certificate and an Opinion of Counsel provided at the expense of the Company providing that such amendment or supplement is authorized or permitted by the Indenture and is the legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms.

ARTICLE 9.
SUCCESSOR COMPANY

Section 9.01 *Company May Consolidate, Etc. on Certain Terms.* The Company shall not amalgamate or consolidate with, consummate a binding share exchange with, merge with or into or convey, transfer or lease its properties and assets substantially as an entirety to another Person, unless:

(a) the resulting, surviving transferee or successor Person (the "**Successor Company**"), if not the Company, shall be (and, if the Company will remain a party to the Notes and this Indenture after giving effect to such transaction and the requirements in respect thereof under this Indenture, is) a corporation organized or incorporated and existing under the laws of the Cayman Islands, the United Kingdom, the Republic of Ireland or the United States of America, any State thereof or the District of Columbia, and the Successor Company (if not the Company) shall expressly assume, by supplemental indenture, executed and delivered to the Trustee, in form satisfactory to the Trustee, all of the obligations of the Company under the Notes and this Indenture as applicable to the Notes;

(b) immediately after giving effect to such transaction, no Default or Event of Default shall have occurred and be continuing under this Indenture with respect to the Notes;

(c) if, upon the occurrence of any such transaction, the Notes would become convertible into, or exchangeable for, securities issued by an issuer other than the resulting, surviving, transferee or successor corporation pursuant to the terms of this Indenture, then (x) such securities are Common Equity securities issued by a corporation organized or incorporated and existing under the laws of the Cayman Islands, the United Kingdom, the Republic of Ireland or the United States of America, any State thereof or the District of Columbia and (y) if such resulting, surviving, transferee or successor corporation is a wholly owned subsidiary of the issuer of such securities based on which the Notes have become convertible or exchangeable, such other issuer shall fully and unconditionally guarantee on a senior basis the resulting, surviving, transferee or successor corporation's obligations under the Notes; and

(d) all the conditions specified in this Article 9 are met.

As used in this Article 9, the term "corporation" shall include any entity that is (i) incorporated in the Cayman Islands as an exempted limited liability company, (ii) incorporated and registered in the Republic of Ireland as a public limited company, or (iii) incorporated under the laws of England and Wales as a public limited company and, in each case, that is treated as a corporation for purposes of U.S. federal income taxes.

Upon any such amalgamation, consolidation, merger, conveyance, share exchange, transfer or lease, the Successor Company (if not the Company) shall succeed to, and may exercise every right and power of the Company under this Indenture, and (except in the case of a lease) the Company shall be discharged from its obligations under the Notes and the Indenture except in the case of any such lease.

For purposes of this Section 9.01, (i) in the case of an amalgamation, consolidation, merger or binding share exchange pursuant to which the Company becomes a Subsidiary of one of its Subsidiaries (the "**Successor Subsidiary**") and holders of Common Shares prior to such transaction become holders of Common Equity of such Successor Subsidiary, the term "successor" shall be deemed to refer to the Successor Subsidiary and (ii) the conveyance, transfer or lease of the properties and assets of one or more Subsidiaries of the Company substantially as an entirety to another Person, which properties and assets, if held by the Company instead of such Subsidiary or Subsidiaries, would constitute the properties and assets of the Company substantially as an entirety on a consolidated basis, shall be deemed to be the transfer of the properties and assets of the Company substantially as an entirety to another Person.

Section 9.02 *Successor Corporation to Be Substituted.* In case of any such amalgamation, consolidation, merger, share exchange, conveyance, transfer or lease and upon the assumption by the Successor Company (if other than the Company), by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of and premium (including any Fundamental Change Purchase Price), if any, accrued and unpaid interest, if any, on all of the Notes, the due and punctual delivery or payment, as the case may be, of any consideration due upon conversion of the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Company under this Indenture, such Successor Company shall succeed to and be substituted for, and may exercise every right and power of, the Company under this Indenture, with the same effect as if it had been named herein as the party of the first part; *provided*, *however*, that in the case of a conveyance, transfer or lease to one or more of its Subsidiaries of all or substantially all of the properties and assets of the Company, the Notes will remain convertible based on the Common Shares and into cash and, if applicable, Common Shares in accordance with Section 4.03 hereof, but subject to adjustment (if any) in accordance with Section 4.07 hereof. Such Successor Company thereupon may cause to be signed, and may issue either in its own name or in the name of the Company any or all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that previously shall have been signed and delivered by the officers of the Company to the Trustee for authentication, and any Notes that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under this Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. In the event of any such amalgamation, consolidation, merger, share exchange, conveyance or transfer (but not in the case of a lease), the Person named as the "Company" in the first paragraph of this Indenture as of the date hereof or any successor that shall thereafter have become such in the manner prescribed in this Article 9 may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Notes and from its obligations under this Indenture.

In case of any such amalgamation, consolidation, merger, share exchange, conveyance, transfer or lease, such changes in phraseology and form (but not in substance) may be made in the Notes thereafter to be issued as may be appropriate.

Section 9.03 *Officer's Certificate and Opinion of Counsel to Be Given to Trustee.* In the case of any such amalgamation, merger, share exchange, consolidation, conveyance, transfer or lease the Trustee shall receive an Officer's Certificate and an Opinion of Counsel stating that any such amalgamation, consolidation, merger, share exchange, conveyance, transfer or lease and any such assumption and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, complies with the provisions of this Indenture.

ARTICLE 10. THE TRUSTEE

Section 10.01 *Duties and Responsibilities of Trustee.*

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee. In case an Event of Default has occurred (which has not been cured or waived) and the Trustee has notice of such fact, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care in their exercise, as a prudent person would use in the conduct of his or her own affairs.

(b) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default which may have occurred:

(A) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture and applicable law, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

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

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee, unless the Trustee was negligent in ascertaining the pertinent facts;

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the written direction of the Holders of not less than a majority in principal amount of the Notes at the time Outstanding determined as provided in Section 1.03 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture;

(iv) whether or not therein provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Section;

(v) the Trustee shall not be liable in respect of any payment (as to the correctness of amount, entitlement to receive or any other matters relating to payment) or notice effected by the Company or any Paying Agent or any records maintained by any co-Registrar with respect to the Notes; and

(vi) if any party fails to deliver a notice relating to an event the fact of which, pursuant to this Indenture, requires notice to be sent to the Trustee, the Trustee may conclusively rely on its failure to receive such notice as reason to act as if no such event occurred.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or in the exercise of any of its rights or powers.

Section 10.02 *Notice of Defaults.* If a Default has occurred and is continuing which a Responsible Officer of the Trustee has actual knowledge of, the Trustee shall provide notice thereof to each Holder within 90 days after the occurrence thereof. Except in the case of a default in the payment of principal (including the Fundamental Change Purchase Price) of, or interest on, any Note or a payment or delivery, as the case may be, of the amount of cash and, if applicable, Common Shares due upon conversion, the Trustee shall be protected in withholding such notice if and so long as it in good faith determines that the withholding of such notice is in the interest of the Holders of Notes.

Section 10.03 *Reliance on Documents, Opinions, Etc.* Except as otherwise provided in Section 10.01:

(a) the Trustee may conclusively rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, note, coupon or other paper or document (whether in its original or facsimile form) believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties;

(b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officer's Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any resolution of the Board of Directors may be evidenced to the Trustee by a Board Resolution;

(c) the Trustee may consult with counsel of its own selection and any advice or opinion of counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or opinion of counsel;

(d) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders pursuant to the provisions of this Indenture (including upon the occurrence and during the continuance of an Event of Default), unless such Holders shall have offered to the Trustee security or indemnity satisfactory to it against any loss, expenses and liabilities which may be incurred therein or thereby;

(e) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document;

(f) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed by it with due care hereunder;

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

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

(i) the Trustee shall not be deemed to have notice of any Default or Event of Default unless written notice of any event which is in fact such a Default or Event of Default is received by a Responsible Officer of the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and the Indenture;

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

(k) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers andduties hereunder;

(l) the Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titlesof officers authorized at such time to take specified actions pursuant to this Indenture; and

(m) the permissive rights of the Trustee enumerated herein shall not be construed as duties.

Section 10.04 *No Responsibility for Recitals, Etc.* The recitals contained herein and in the Notes (except in the Trustee's certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Notes. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds of any Notes authenticated and delivered by the Trustee in conformity with the provisions of this Indenture.

Section 10.05 *Trustee, Paying Agents, Exchange Agents or Registrar May Own Notes.* The Trustee, any Paying Agent, any Conversion Agent or Registrar, in its individual or any other capacity, may become the owner or pledgee of Notes with the same rights it would have if it were not Trustee, Paying Agent, Conversion Agent or Registrar.

Section 10.06 *Monies to be Held in Trust* All monies and properties received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as may be agreed in writing from time to time by the Company and the Trustee.

Section 10.07 *Compensation and Expenses of Trustee.* The Company covenants and agrees to pay to the Trustee from time to time, and the Trustee shall be entitled to, such compensation for all services rendered by it hereunder in any capacity (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) as mutually agreed to from time to time in writing between the Company and the Trustee, and the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances reasonably incurred or made by the Trustee in accordance with any of the provisions of this Indenture (including the reasonable compensation and the expenses and disbursements of its counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its negligence or willful misconduct.

The Company also covenants to indemnify the Trustee (or any officer, director or employee of the Trustee), in any capacity under this Indenture and its agents and any Authenticating Agent for, and to hold them harmless against, any and all loss, liability, claim or expense incurred without negligence or willful misconduct on the part of the Trustee or such officers, directors, employees and agent or Authenticating Agent, as the case may be, and arising out of or in connection with the acceptance or administration of this trust or in any other capacity

hereunder, including the costs and expenses of defending themselves against any claim (whether asserted by the Company, a Holder or any other Person) of liability in the premises. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Trustee may have one firm of separate counsel except in the event local counsel shall be required and the Company shall pay the reasonable fees and expenses of such counsel and local counsel, as applicable. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Company under this Section 10.07 to compensate or indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall be secured by a lien prior to that of the Notes upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Notes. The obligation of the Company under this Section shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

When the Trustee and its agents and any Authenticating Agent incur expenses or render services after an Event of Default specified in Section 6.01(h) and 6.01(i) with respect to the Company occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any bankruptcy, insolvency or similar laws.

Section 10.08 *Officer's Certificate as Evidence*. Except as otherwise provided in Section 10.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee.

Section 10.09 *Conflicting Interests of Trustee.* If the Trustee has or shall acquire a conflicting interest within the meaning of Section 310 of the Trust Indenture Act of 1939 (as in force at the date of this Indenture), the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, this Indenture.

Section 10.10 *Eligibility of Trustee.* There shall at all times be a Trustee hereunder which shall be a Person that has a combined capital and surplus of at least $50,000,000 (or if such Person is a member of a bank holding company system, its bank holding company shall have a combined capital and surplus of at least $50,000,000). If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 10.10, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

Section 10.11 *Resignation or Removal of Trustee.*

(a) The Trustee may at any time resign by giving written notice of such resignation to the Company and to the Holders of Notes. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment thirty (30) days after the mailing of such notice of resignation to the Holders, the resigning Trustee may, upon ten (10) Business Days' notice to the Company and the Holders, appoint a successor identified in such notice or may petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor trustee, or, if any Holder who has been a bona fide Holder of a Note or Notes for at least six (6) months may, subject to the provisions of Section 6.14, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall fail to comply with Section 10.09 after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Note or Notes for at least six (6) months; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 10.10 and shall fail to resign after written request therefor by the Company or by any such Holder; or

(iii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case, the Company may remove the Trustee and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 6.14, any Holder who has been a bona fide Holder of a Note or Notes for at least six (6) months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee; *provided, however*, that if no successor trustee shall have been appointed and have accepted appointment thirty (30) days after either the Company or the Holders has removed the Trustee, the Trustee so removed may petition at the Company's expense any court of competent jurisdiction for an appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Notes at the time Outstanding may at any time remove the Trustee and nominate a successor

trustee which shall be deemed appointed as successor trustee unless, within ten (10) days after notice to the Company of such nomination, the Company objects thereto, in which case the Trustee so removed or any Holder, or if such Trustee so removed or any Holder fails to act, the Company, upon the terms and conditions and otherwise as in Section 10.11(a) provided, may petition any court of competent jurisdiction for an appointment of a successor trustee.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 10.11 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 10.12.

Section 10.12 *Acceptance by Successor Trustee.* Any successor trustee appointed as provided in Section 10.11 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, the Trustee ceasing to act shall, upon payment of any amount then due it pursuant to the provisions of Section 10.07, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the Trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any Trustee ceasing to act shall, nevertheless, retain a lien upon all property and funds held or collected by such Trustee as such, except for funds held in trust for the benefit of Holders of particular Notes, to secure any amounts then due it pursuant to the provisions of Section 10.07.

No successor trustee shall accept appointment as provided in this Section 10.12 unless, at the time of such acceptance, such successor trustee shall be qualified under the provisions of Section 10.09 and be eligible under the provisions of Section 10.10.

Upon acceptance of appointment by a successor trustee as provided in this Section 10.12, the Company (or the former Trustee, at the written direction of the Company) shall mail or cause to be mailed notice of the succession of such trustee hereunder to the Holders of Notes at their addresses as they shall appear on the Register. If the Company fails to mail such notice within ten (10) days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be mailed at the expense of the Company.

Section 10.13 *Succession by Merger, Etc.* Any corporation into which the Trustee may be merged or exchanged or with which it maybe consolidated, or any corporation resulting from any merger, exchange or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee (including any trust created by this Indenture), shall be the successor to the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, *provided* that in the case of any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, such corporation shall be qualified under the provisions of Section 10.09 and eligible under the provisions of Section 10.10.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor Trustee or Authenticating Agent appointed by such predecessor Trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee or any Authenticating Agent appointed by such successor trustee may authenticate such Notes in the name of the successor trustee; and in all such cases such certificates shall have the full force that is provided in the Notes or in this Indenture; *provided*, *however*, that the right to adopt the certificate of authentication of any predecessor Trustee or authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, exchange or consolidation.

Section 10.14 *Trustee's Application for Instructions from the Company*. Any application by the Trustee for written instructions from the Company (other than with regard to any action proposed to be taken or omitted to be taken by the Trustee that affects the rights of the Holders of the Notes under this Indenture) may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three (3) Business Days after the date any officer of the Company actually receives such application, unless any such officer shall have consented in writing to any earlier date) unless prior to taking any such action (or the effective date in the case of an omission), the Trustee shall have received written instructions in response to such application specifying the action to be taken or omitted.

ARTICLE 11.
MISCELLANEOUS

Section 11.01 *Effect on Successors and Assigns*. All agreements of the Company, the Trustee, the Registrar, the Paying Agent, the Bid Solicitation Agent and the Conversion Agent in this Indenture and the Notes will bind their respective successors.

Section 11.02 *Governing Law*. This Indenture and the Notes, and any claim, controversy or dispute arising under or related tothe Indenture or the Notes, will be governedby, and construed in accordance with, the laws of the State of New York.

Section 11.03 *No Note Interest Created*. Nothing in this Indenture or in the Notes, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction.

Section 11.04 *Benefits of Indenture*. Nothing in this Indenture or in the Notes, expressed or implied, will give to any Person, other than the parties hereto, any Paying Agent, any Conversion Agent, any Authenticating Agent, any Registrar or their successors hereunder or the Holders of the Notes, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 11.05 *Calculations.* Except as otherwise provided in this Indenture, the Company shall be responsible for making all calculations called for under the Indenture and the Notes. These calculations include, but are not limited to, determinations of the Last Reported Sale Prices and Daily VWAPs of the Common Shares, accrued interest, Additional Interest, ifany, and Additional Amounts, if any, payable on the Notes and the Conversion Rate. The Company shall make all these calculations in good faith and, absent manifest error, its calculations will be final and binding on Holders. The Company shall provide a schedule of its calculations to each of the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent is entitled to rely conclusively upon the accuracy of the Company's calculations without independent verification. The Trustee shall forward the Company's calculations to any Holders upon the written request of that Holder.

Section 11.06 *Execution in Counterparts.* This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 11.07 *Notices, Etc. to Trustee and Company.*

(a) Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, election, waiveror Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

(i) the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing (including facsimile) or electronically in PDF format to or with the Trustee at its Corporate Trust Office; or

(ii) the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid (and, in the case of securities held in book- entry form, by electronic transmission), to the Company addressed to it at 800 West Olympic Blvd., Suite 406, Los Angeles, CA 90015, Attention: General Counsel or at any other address furnished in writing to the Trustee by the Company prior to such mailing or electronically in PDF format.

(b) The Company or the Trustee, by notice given to the other in the manner provided in this Section 11.08, may designate additional or different addresses for subsequent notices or communications.

(c) Whenever the Company is required to deliver notice to the Holders, the Company will, by the date it is requiredto deliver such notice to the Holders, deliver a copy of such notice to the Trustee, the Paying Agent, the Registrar and the Conversion Agent. Each notice to the Trustee, the Paying Agent, the Registrar and the Conversion

Agent shall be sufficiently given if in writing and mailed, first-class postage prepaid to the Corporate Trust Office of the Trustee or such address most recently indicated by the Trustee, the Paying Agent, the Registrar or the Conversion Agent, as the case may be, in writing to the Company.

(d) Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by the Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

(e) Where this Indenture provides for notice of any event to a Holder of a Global Note, such notice shall be sufficiently given if given to the Depositary for such Note (or its designee), pursuant to its Applicable Procedures, not later than the latest date (if any), and not earlier than the earliest date (if any), prescribed for the giving of suchnotice.

Section 11.08 *No Recourse Against Others*. No director, officer, employee, incorporator or stockholder of the Company shall have any liability for any obligations of the Company under the Notes, the Indenture or any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder, by accepting a Note, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

Section 11.09 *Tax Withholding*. Each Holder agrees, and each beneficial owner of an interest in a Note by its acquisition of such interest is deemed to agree, that if the Company or other applicable withholding agent pays withholding taxes (such as backup withholding) on behalf of the Holder or beneficial owner as a result of an adjustment to the Conversion Rate, the Company or other applicable withholding agent may, at its option, set off such payments against payments of cash and Common Shares on the Note (or, in certain circumstances, against any payments on the Common Shares).

Section 11.10 *Waiver of Jury Trial*. EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

Section 11.11 *U.S.A. Patriot Act*. The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

Section 11.12 *Force Majeure*. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by,

directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

[Remainder of the page intentionally left blank] 84

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

HERBALIFE LTD.

By:
John DeSimone Name: John DeSimone
Title: Chief Financial Officer

UNION BANK, N.A.,
as Trustee

By:
Timothy P. Miller Name: Timothy P. Miller Title: Vice President

SCHEDULE A

The following table sets forth the number of Additional Shares by which the Conversion Rate shall be increased pursuant to Section 4.06 based on the Share Price and the dates set forth below.

	Stock Price								
Effective Date	**$69.02**	**$75.00**	**$80.00**	**$86.275**	**$100.00**	**$125.00**	**$150.00**	**$175.00**	**$200.00**
February 7, 2014	2.8977	2.5773	2.1183	1.6759	1.0099	0.4228	0.1628	0.0445	0.0026
August 15, 2014	2.8977	2.5773	2.1183	1.6759	1.0099	0.4222	0.1589	0.0411	0.0015
August 15, 2015	2.8977	2.5773	2.1183	1.6759	1.0238	0.4104	0.1460	0.0331	0.0004
August 15, 2016	2.8977	2.5773	2.1183	1.6594	0.9747	0.3579	0.1108	0.0168	0.0000
August 15, 2017	2.8977	2.5032	2.0110	1.5264	0.8280	0.2507	0.0527	0.0010	0.0000
August 15, 2018	2.8977	2.2357	1.7003	1.1914	0.5190	0.0807	0.0006	0.0000	0.0000
August 15, 2019	2.8977	1.7425	0.9092	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

EXHIBIT A

[FORM OF FACE OF SECURITY]

NO AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY OR PERSON THAT HAS BEEN AN AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY DURING THE IMMEDIATELY PRECEDING THREE MONTHS MAY PURCHASE, OTHERWISE ACQUIRE OR HOLD THIS SECURITY OR A BENEFICIAL INTEREST HEREIN.

[For Global Notes, include the following legend (the "**Global Notes Legend**"):]

[THIS SECURITY IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY MAY NOT BE EXCHANGED IN WHOLE OR INPART FOR A SECURITY REGISTERED, AND NO TRANSFER OF THIS SECURITY IN WHOLE OR IN PART MAY BE REGISTERED, IN THE NAME OF ANY PERSON OTHER THAN SUCHDEPOSITARY OR A NOMINEE THEREOF (OR TO A SUCCESSOR DEPOSITARY OR NOMINEE THEREOF), EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.]

[For all Notes that are Restricted Notes, include the following legend (the "**Restricted Notes Legend**"):]

[THIS SECURITY AND THE COMMON SHARES, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND ACCORDINGLY, PRIOR TO THE RESALE RESTRICTION TERMINATION DATE (AS DEFINED BELOW), MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

(2) AGREES FOR THE BENEFIT OF THECOMPANY THAT IT WILL NOT OFFER, SELL, PLEDGE OROTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE RESALE RESTRICTION TERMINATION DATE (AS DEFINED BELOW), EXCEPT:

(A) TO HERBALIFE LTD. (THE "COMPANY") OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THESECURITIES ACT, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHERAVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

THE "RESALE RESTRICTION TERMINATION DATE" MEANS THE DATE: (A) THAT IS AT LEAST ONE YEAR AFTER THE LAST ORIGINAL ISSUANCE DATE OF THE NOTES; AND (B) ON WHICH THE COMPANY HAS INSTRUCTED THE TRUSTEE THAT THIS LEGEND WILL NO LONGERAPPLY IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE INDENTURE.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH (2)(D) ABOVE, THE COMPANY AND THE TRUSTEE FOR THIS SECURITY OR THE TRANSFER AGENT FOR THE COMMON SHARES, AS APPLICABLE, RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.]

Herbalife Ltd.

2.00% Convertible Senior Notes due 2019

No.: [ ]

CUSIP: [] [; *provided* that, at such time as the Company provides the Free Transferability Certificate to the Trustee and the Registrar, this CUSIP number will be deemed removed and replaced with the CUSIP number [].]

ISIN: [] [; *provided* that, at such time as the Company provides the Free Transferability Certificate to the Trustee and the Registrar, this ISIN number will be deemed removed and replaced with the ISIN number [].]

Principal Amount [ ] [*For Global Notes, include the following*: as revised by the Schedule of Increases and Decreases in the Global Note attached hereto]
$

Herbalife Ltd., a Cayman Islands exempted company incorporated with limited liability (the "**Company**"), promises to pay to [ ] [*include* "*Cede & Co." for Global Security*] or registered assigns, the principal amount of [*add principal amount in words*]
$[ ] [*For Global Notes, include the following*: , as revised by the Schedule of Increases and Decreases in the Global Noteattached hereto,] on August 15, 2019 (the "**Maturity Date**").

Interest Payment Dates: February 15 and August 15. Regular Record Dates: February 1 and August 1.

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

IN WITNESS WHEREOF, Herbalife Ltd. has caused this instrument to be signed manually or by facsimile by one of its duly authorized Officers.

HERBALIFE LTD.

By:
Name:
Title:

This is one of the Notes of the series designated herein, referred to in the within-mentioned Indenture.

Dated:

UNION BANK, N.A., as Trustee

By:
Authorized Signatory

[FORM OF REVERSE OF NOTE]

Herbalife Ltd.

2.00 % Convertible Senior Notes due 2019

This Note is one of a duly authorized issue of securities of the Company (herein called the "**Notes**"), issued under the Indenture dated as of February 7, 2014 by and between the Company and Union Bank, N.A., herein called the "**Trustee**," and reference is hereby made to the Indenture for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered. In the event of a conflict between the terms of the Indenture and this Note, the terms of the Indenture shall govern.

The Company will pay cash interest on the unpaid principal amount of this Note at a rate of 2.00% peryear. Interest will accrue from the most recent date on which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from,and including, [*insert February 7, 2014 for Initial Notes*]. Except as provided in the Indenture, interest will be paid to the Person in whose name this Note is registered at the Close of Business on the Regular Record Date immediately preceding the relevant Interest Payment Date semiannually in arrears on each Interest Payment Date; *provided* that, if any Interest Payment Date, Maturity Date or Fundamental Change Purchase Date with respect to this Note falls on a day that is not a Business Day, the required payment will be made on the next succeeding Business Day and no interest on such payment will accrue in respect of thedelay. Interest on the Notes shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Except as provided in the Indenture, no interest shall be paid with respect to Notes surrendered for conversion.

This Note does not benefit from a sinking fund.

As provided in and subject to the provisions of the Indenture, upon the occurrence of a Fundamental Change the Holder of this Note will have the right, at such Holder's option, to require the Company to purchase this Note, or any portion of this Note such that the principal amount of this Note that is not purchased equals $1,000 or an integral multiple of $1,000 in excess thereof, on the Fundamental Change Purchase Date at a price equal to the Fundamental Change Purchase Price for such Fundamental Change Purchase Date.

As provided in and subject to the provisions of the Indenture, the Holder hereof has the right, at its option (i) during certain periods and upon the occurrence of certain conditions specified in the Indenture, prior to the Close of Business on the Business Day immediately preceding May 15, 2019, and (ii) on or after May 15, 2019, at any time prior to the Close of Business on the second Scheduled Trading Day immediately preceding the Maturity Date, to convert this Note or a portion of this Note such that the principal amount of this Note that is not converted equals $1,000 or an integral multiple of $1,000 in excess thereof, into an amount of cash and, if applicable, Common Shares as determined in accordance with Article 4 of the Indenture.

As provided in and subject to the provisions of the Indenture, the Company will make all payments in respect of the Fundamental Change Purchase Price for, and the principal amount of, this Note to the Holder that surrenders this Note to the Paying Agent to collect such payments in respect of this Note. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Notes to be effected under the Indenture at any time by the Company and the Trustee with the consent of the Holders of a majority in principal amount of the Notes at the time Outstanding. The Indenture also contains provisions permitting the Holders of specified percentages in principal amount of the Notes at the time Outstanding, on behalf of the Holders of all Notes, to waive compliance by the Company with certain provisions of the Indenture and certain past Defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Note.

As provided in and subject to the provisions of the Indenture, the Holder of this Note shall not have the right to institute any proceeding with respect to the Indenture, or for the appointment of a receiver or trustee, or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Note, the Holders of not less than 25% in principal amount of the Notes at the time Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee indemnity satisfactory to it, and the Trustee shall have failed to institute any such proceeding, for 60 days after receipt of such notice, request and offer of indemnity, and shall not have received from the Holders of a majority in principal amount of Notes at the time Outstanding a direction inconsistent with such request. The foregoing shall not apply to any suit instituted by the Holder of this Note for the enforcement of any payment of the principal hereof, premium, if any, or interest hereon, the Fundamental Change Purchase Price, and the amount of cash and, if applicable, Common Shares due upon conversion of this Note or after the respective due dates expressed in the Indenture.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay or deliver, as the case may be, the principal of (including the Fundamental Change Purchase Price), premium, interest on and the amount of cash and, if applicable, Common Shares due upon conversion of this Note (and, for the avoidance of doubt, any related Additional Amounts, if applicable) at the time, place and rate, and in the coin and currency herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Note is registrable in the Register, upon surrender of this Note for registration of transfer to the Trustee, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Registrar duly executed by, the Holder hereof or its attorney duly authorized in writing, and thereupon a new Note of this series and of like tenor for the same aggregate principal amount will be issued to the designated transferee.

The Notes are issuable only in registered form without coupons in denominations of $1,000 and integral multiples of $1,000 in excess thereof. As provided in the Indenture and subject to certain limitations therein set forth, the Notes are exchangeable for a like aggregate principal amount of Notes and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

Prior to due presentment of this Note for registration of transfer, the Company, the Trustee and any agent of the Company or Trustee may treat the Person in whose name the Note is registered as the owner hereof for all purposes, whether or not this Note be overdue, and neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

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

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

All defined terms used in this Note that are defined in the Indenture shall have the meanings assigned to them in the Indenture. If any provision of this Note limits, qualifies or conflicts with a provision of the Indenture, such provision of the Indenture shall control.

This Note shall not become valid or become obligatory for any purpose until the certificate of authentication shall been signed manually by the Trustee or a duly authorized Authenticating Agent under the Indenture.

[FORM OF NOTICE OF CONVERSION]

To: Herbalife Ltd.

The undersigned owner of this Note hereby irrevocably exercises the option to convert this Note, or a portion hereof (whose principal amount equals $1,000 or an integral multiple of $1,000 in excess thereof) below designated, into an amount of cash and, if applicable, Common Shares in accordance with the terms of the Indenture referred to in this Note, and directs that any cash payable and any Common Shares issuable and deliverable upon conversion, together with any Notes representing any unconverted principal amount hereof, be paid and/or issued and/or delivered, as the case may be, to the registered Holder hereof unless a different name is indicated below.

Subject to certain exceptions set forth in the Indenture, if this notice is being delivered during the period after the Close of Business on a Regular Record Date to the Open of Business on the Interest Payment Date corresponding to such Regular Record Date, this notice must be accompanied by payment of an amount equal to the interest payable on such Interest Payment Date on the principal amount of this Note to be converted. If any Common Shares are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect to such issuance and transfer as set forth in the Indenture.

Principal amount to be converted (if less than all):

$ Dated:

Signature(s)
(Sign exactly as your name appears on the other side of this Note)

Signature Guarantee
(Signature(s) must be guaranteed by an institution which is a member of one of the following recognized signature Guarantee Programs:
(i)
The Notes Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange Medallion Program (MNSP); (iii) The Stock Exchange Medallion Program (SEMP) or (iv) another guarantee program acceptable to the Trustee.)

Fill in if a check is to be issued, or Common Shares or Notes are to be registered, otherwise than to or in the name of the registered Holder.

(Name)
(Address)
Please print name and address (including zip code) (Social Security or other Taxpayer Identifying Number) Dated:

Signature(s)
(Sign exactly as such Person's name appears above)

Signature Guarantee
(Signature(s) must be guaranteed by an institution which is a member of one of the following recognized signature Guarantee Programs: (i) The Notes Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange Medallion Program (MNSP); (iii) The Stock Exchange Medallion Program (SEMP) or (iv) another guarantee program acceptable to the Trustee.)

[FORM OF FUNDAMENTAL CHANGE PURCHASE NOTICE]

To: Herbalife Ltd.

The undersigned registered owner of this Note hereby requests and instructs Herbalife Ltd. to pay to the registered holder hereof, in accordance with the applicable provisions of the Indenture referred to in this Note, the Fundamental Change Purchase Price on the Fundamental Change Purchase Date pursuant to Article 3 of such Indenture.

Principal amount to be purchased (if less than all):

$

Certificate number (if Notes are in certificated form) Dated:

Signature(s)
(Sign exactly as your name appears on the other side of this Note)

Social Security or Other Taxpayer Identification Number

[FORM OF ASSIGNMENT AND TRANSFER]

For value received,

hereby sell(s), assign(s) and transfer(s) unto

(Please insert social security or Taxpayer Identification Number of assignee)

the within Note, and hereby irrevocably constitutes and appoints to transfer the said Note on the books of the Company, with full power of substitution in the premises.

In connection with any transfer of the within Note occurring prior to the Resale Restriction Termination Date, as defined in the Indenture governing such Note, the undersigned confirms that such Note is being transferred:

☐ To Herbalife Ltd. or a subsidiary thereof; or

☐ Pursuant to a registration statement which has become effective under the Securities Act of 1933, as amended;or

☐ To a qualified institutional buyer in compliance with Rule 144A under the Securities Act of 1933, as amended;or

☐ Pursuant to an exemption from registration provided by Rule 144 under the Securities Act of 1933, as amended, or anyother available exemption from the registration requirements of the Securities Act of 1933, as amended.

TO BE COMPLETED BY PURCHASER IF THE THIRD BOX ABOVE IS CHECKED

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a "qualified institutional buyer" within the meaning of
Rule 144A under the Securities Act and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned's foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Date: Signed:

Unless one of the above boxes is checked, the Trustee will refuse to register any of the Notes evidenced by this certificate in the name of any Person other than the registered Holder thereof, *provided* that if the fourth box is checked, the Company or the Trustee may require, prior to registering any such transfer of the Notes, in its sole discretion, such legal opinions, certifications and other information as the Company or the Trustee may reasonably request to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act.

If none of the foregoing boxes is checked, the Trustee or Registrar shall not be obligated to register this Note in the name of any Person other than the Holder hereof unless and until the conditions to any such transfer of registration set forth herein and in Section 2.11 of the Indenture shall have been satisfied.

Dated:

Signature(s)

(Sign exactly as your name appears on the other side of this Note)

Signature Guarantee

(Signature(s) must be guaranteed by an institution which is a member of one of the following recognized signature Guarantee Programs: (i) The Notes Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange Medallion Program (MNSP); (iii) The Stock Exchange Medallion Program (SEMP) or (iv) another guarantee program acceptable to the Trustee)

[*Insert for Global Note*]

SCHEDULE OF INCREASES AND DECREASES IN THE GLOBAL NOTE
Initial Principal Amount of Global Note:

Date	Amount of Increase in Principal Amount of Global Note	Amount of Decrease in Principal Amount of Global Note	Principal Amount of Global Note After Increase or Decrease	Notation by Registrar, Note Custodian or authorized signatory of Trustee

EXHIBIT B

[FORM OF FREE TRANSFERABILITY CERTIFICATE]

Officer's Certificate

[NAME OF OFFICER], the [TITLE] of Herbalife Ltd., a Cayman Islands exempted company incorporated with limited liability (the "**Company**") does hereby certify, in connection with the sale of $[ ] aggregate principal amount of the Company's 2.00% Convertible Senior Notes due 2019 (the "**Notes**") pursuant to the terms of the Indenture, dated as of February 7, 2014 (as may be amended or supplemented from time to time, the "**Indenture**"), by and among the Company and Union Bank, N.A. (the "**Trustee**"), that:

1. The undersigned is permitted to sign this "Officer's Certificate" on behalf of the Company, as the term "Officer's Certificate" is defined in the Indenture.

2. The undersigned has read the Indenture and the definitions therein relating thereto.

3. In the opinion of the undersigned, the undersigned has made such examination as is necessary to enable the undersigned to express an informed opinion as to whether or not all conditions precedent to the delivery of this certificate provided for in the Indenture have been complied with.

4. To the best knowledge of the undersigned, all conditions precedent described herein as provided for in the Indenture have been compliedwith.

In accordance with Section 2.08 of the Indenture, the Company hereby instructs the Trustee as follows:

As of , 201 , the Restricted Notes Legend may be deemed removed from the Global Notes and all Applicable Procedures have been complied with.

[*Signature page follows.*] B-1

IN WITNESS WHEREOF, we have signed this certificate as of [ ].

Herbalife Ltd.

By:
Name:
Title:

EXHIBIT C

[FORM OF RESTRICTED STOCK LEGEND]

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND ACCORDINGLY, PRIOR TO THE RESALE RESTRICTION TERMINATION DATE (AS DEFINED BELOW), MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

(2) AGREES FOR THE BENEFIT OF THECOMPANY THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO HERBALIFE LTD. (THE "COMPANY") OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THESECURITIES ACT, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHERAVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

THE "RESALE RESTRICTION TERMINATION DATE" MEANS THE DATE: (A) THAT IS AT LEAST ONE YEAR AFTER THE LAST ORIGINAL ISSUANCE DATE OF THE NOTES (INCLUDING ISSUANCE OF ADDITIONAL NOTES PURSUANT TO THE EXERCISE OF THE INITIAL PURCHASER'S OPTION TO PURCHASE ADDITIONAL NOTES); AND (B) ON WHICH THE COMPANY HAS INSTRUCTED THE TRUSTEE THAT THIS LEGEND WILL NO LONGER APPLY IN ACCORDANCE WITH THE PROCEDURES DESCRIBED IN THE INDENTURE.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH (2)(D) ABOVE, THE COMPANY AND THE TRANSFER AGENT FOR THIS

SECURITY RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE ASMAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLESTATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

Exhibit 10.21

February 3, 2014

To: Herbalife Ltd.
990 West 190th Street Torrance,
CA 90502 Attn: Richard Caloca
Telephone: (310) 851-2300
From: [*Insert Dealer name and address*]
Re: Issuer Forward Repurchase Transaction

Ladies and Gentlemen:

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the Transaction entered into between [*Insert Dealer name*] ("**Dealer**") and Herbalife Ltd. ("**Counterparty**") on the Trade Date specified below (the "**Transaction**"). This Confirmation constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (including the Annex thereto) (the **2006 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**", and together with the 2006 Definitions, the "**Definitions**"), in each case as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**"). In the event of any inconsistency between the 2006 Definitions and the Equity Definitions, the Equity Definitions will govern. The Transaction is a Share ForwardTransaction.

Certain defined terms used herein have the meanings assigned to them in the Indenture to be dated as of February 7, 2014 between Counterparty and Union Bank, N.A., as trustee (the "**Indenture**") relating to the $1 billion principal amount of 2.00% convertible senior notes due August 15, 2019 (the "**Convertible Notes**"). In the event of any inconsistency between the terms defined in the Indenture and this Confirmation, this Confirmation shall govern. References herein to sections of the Indenture are based on the draft of the Indenture most recently reviewed by the parties at the time of execution of this Confirmation. If any relevant sections of the Indenture are changed, added or renumbered between the execution of this Confirmation and the execution of the Indenture, the parties will amend this Confirmation in good faith to preserve the economic intent of the parties based on the draft of the Indenture so reviewed. The parties further acknowledge that references to the Indenture herein are references to the Indenture as in effect on the date of its execution and if the Indenture is amended following its execution, any such amendment will be disregarded for purposes of this Confirmation unless the parties agree otherwise in writing. The Transaction is subject to early unwind if the closing of the Convertible Notes is not consummated for any reason, as set forth below in Section 8(b).

This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall be subject to an agreement (the "**Agreement**") in the form of the 2002 ISDA Master Agreement as if Dealer and Counterparty had executed an agreement in such form (without any Schedule, except for the election that the "Cross Default" provisions of Section 5(a)(vi) shall apply to Counterparty with a "Threshold Amount" of USD 100.0 million and with the phrase ", or becoming capable at such time of being declared," deleted from Section 5(a)(vi)(1) of the Agreement, and with the elections set forth in this Confirmation). The Transaction shall be the only transaction under the Agreement.

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation except as expressly modified herein. In the event of any inconsistency between this Confirmation and either the Equity Definitions or the Agreement, this Confirmation shall govern.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms:

Trade Date:	February 3, 2014
Effective Date:	February 7, 2014, subject to cancellation of the Transaction as provided in Section 8(b) "Early Unwind," below.
Seller:	Dealer
Buyer:	Counterparty
Shares:	The common shares, $0.001 par value, of Counterparty (Ticker Symbol: "HLF").
Number of Shares:	Initially [] Shares, as reduced on each Valuation Date by the Daily Number of Shares for such Valuation Date.
Daily Number of Shares:	(a) For any Valuation Date occurring prior to the first day of the Final Valuation Period, the number of Shares specified by Dealer in the related Settlement Notice (as defined below under "Valuation Dates") and (b) for each Valuation Date occurring on or after the Final Valuation Period Start Date, the lesser of (i) the Final Period Daily Number and (ii) the Number of Shares on such Valuation Date; *provided* that (x) if a Market Disruption Event occurs on any Valuation Date in the Final Valuation Period and Calculation Agent determines that such Valuation Date is a Disrupted Day only in part, the Calculation Agent will reduce the Daily Number of Shares for such Valuation Date and shall designate one or more additional Valuation Dates at the end of the Final Valuation Period as the Valuation Date(s) for the remaining Daily Number of Shares and (y) Dealer may increase the Daily Number of Shares on any Valuation Date during the Final Valuation Period by delivery of a Settlement Notice specifying the additional Daily Number of Shares for such Valuation Date to Counterparty. For the avoidance of doubt, the aggregate of the Daily Number of Shares for all Valuation Dates shall equal the initial Number of Shares; and *provided further* that, if the final Settlement Date has not occurred pursuant to the preceding proviso as of the Final Disruption Date, then Dealer shall have the right to elect that the Final Disruption Date shall be considered the final Settlement Date. "**Final Disruption Date**" means (x) with respect to any Valuation Date occurring on or after the Final Valuation Period Start Date, the eighth Scheduled Trading Day immediately following the Maturity Date (as defined in the Indenture) and (y) with respect to any other Valuation Date, the eighth Scheduled Trading Day immediately following such Valuation Date.
Final Period Daily Number:	[ ] Shares
Prepayment:	Applicable
Prepayment Amount:	$[ ]
Prepayment Date:	The Effective Date; *provided* that no cancellation of the Transaction has occurred as provided in Section 8(b) hereof.

Variable Obligation:	Not Applicable
Exchange:	The New York Stock Exchange
Related Exchange(s):	All Exchanges
Calculation Agent:	Dealer. Upon receipt of written request from Counterparty, the Calculation Agent shall promptly provide Counterparty with a written explanation describing in reasonable detail any calculation, adjustment or determination made by it (including any quotations, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing Dealer's proprietary models or other information that may be proprietary or subject to contractual, legal or regulatory obligations to not disclose such information), and shall use commercially reasonable efforts to provide such written explanation within five (5) Exchange Business Days from the receipt of such request.
Settlement Terms:	
Physical Settlement:	Applicable. In lieu of Section 9.2(a)(iii) of the Equity Definitions, Dealer will deliver to Counterparty the Daily Number of Shares for each Valuation Date on the related Settlement Date. Section 9.11 of the Equity Definitions shall be amended by excluding any representations therein to the extent relating to restrictions, obligations, limitations or requirements under applicable securities or other laws or otherwise arising as a result of the fact that Counterparty is the Issuer of the Shares.
Restricted Certificated Shares:	Notwithstanding anything to the contrary in the Equity Definitions, Dealer may, in whole or in part, deliver Shares in certificated form (and/or by delivery of a Share transfer form to Counterparty or its transfer agent, as applicable) representing the Number of Shares to be Delivered to Counterparty in lieu of delivery through the Clearance System.
Valuation Dates:	(a) Any Exchange Business Day following the Effective Date designated by Dealer as a Valuation Date in a written notice (a "**Settlement Notice**") to Counterparty, which notice shall specify the Daily Number of Shares for such Valuation Date and (b) each Exchange Business Day in the Final Valuation Period that is not a Disrupted Day in full.
Final Valuation Period:	The period of consecutive Exchange Business Days equal in number to (i) the Number of Shares as of the Final Valuation Period Start Date *divided by* (ii) the Final Period Daily Number, beginning with, and including, the Final Valuation Period Start Date (or, if such date is not an Exchange Business Day, the next following Exchange Business Day).

Final Valuation Period Start Date:	The 27th Scheduled Trading Day (as defined in the Indenture) immediately preceding the Maturity Date (as defined in the Indenture).
Settlement Date:	With respect to each Valuation Date, the date that is one Settlement Cycle following such Valuation Date.
Market Disruption Event:	Section 6.3(a) of the Equity Definitions is hereby amended (A) by deleting the words "during the one hour period that ends at the relevant Valuation Time, Latest Exercise Time, Knock-in Valuation Time or Knock-out Valuation Time, as the case may be" in clause (ii) thereof, and (B) by replacing the words "or (iii) an Early Closure." therein with "(iii) an Early Closure, or (iv) a Regulatory Disruption." Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term "Scheduled Closing Time" in the fourth line thereof.
Regulatory Disruption:	Any event that Dealer, in its reasonable discretion and in good faith, based on advice of counsel, determines makes it appropriate with regard to any legal, regulatory or self-regulatory requirements or related policies and procedures for Dealer to refrain from or decrease any market activity in connection with the Transaction. Dealer shall notify Counterparty as soon as reasonably practicable that a Regulatory Disruption has occurred and the Valuation Date(s) affected by it.
Dividends:	
Dividend Payment:	In lieu of Section 9.2(a)(iii) of the Equity Definitions, Dealer will pay to Counterparty the relevant Dividend Amount on each Dividend Payment Date.
Dividend Amount:	(a) 100% of any cash dividend or distribution per Share declared by Counterparty and paid to holders of Shares the ex-dividend date for which occurs during the period from, and including, the Effective Date to, but excluding, the final Valuation Date, *multiplied by* (b) the Number of Shares on such ex-dividend date (after giving effect to any reduction on such ex-dividend date, if such ex-dividend date is a Valuation Date).
Dividend Payment Date:	Each date that is five Exchange Business Days after the date on which the relevant Dividend Amount is paid or distributed by Counterparty to holders of Shares.
Share Adjustments:	
Method of Adjustment:	Calculation Agent Adjustment. For the avoidance of doubt, any dividend or distribution of the type described in Sections 11.2(e)(i) or 11.2(e)(ii)(A) of the Equity Definitions, the Calculation Agent shall make a proportional adjustment to the Number of Shares to reflect such dividend or distribution.

Extraordinary Events:

New Shares: In the definition of New Shares in Section 12.1(i) of the Equity Definitions, the text in clause (i) shall be deleted in its entirety and replaced with "publicly quoted, traded or listed on any of the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors)".

Consequences of Merger Events: In addition to, and without limitation of, Section 12.2 of the Equity Definitions, if, in connection with any Merger Event, (i) the consideration for the Shares includes (or, at the option of a holder of the Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof or the District of Columbia, the United Kingdom, the Republic of Ireland or the Cayman Islands or (ii) the counterparty to the Transaction following such Merger Event will not be a corporation or will not be the Issuer of the relevant Shares following such Merger Event (after giving effect to the provisions of this Confirmation in respect thereof, as determined by the Calculation Agent), then Cancellation and Payment may apply at Dealer's sole election. In addition, if the consideration for the Shares includes (or, at the option of a holder of the Shares, may include) shares of an entity or person that is organized under the laws of the United Kingdom or the Republic of Ireland and the Calculation Agent determines, in its sole discretion, that (A)(x) treating such shares as "Reference Property" (as defined in the Indenture) or (y) Cancellation and Payment not applying to the Transaction with respect to such Merger Event, in either case of clause (x) or clause (y), will have a material adverse effect on any combination of the following: Dealer's rights or obligations in respect of the Transaction, on its hedging activities in respect of the Transaction or on the costs (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position) of engaging in any of the foregoing, and (B) Dealer cannot promptly avoid the occurrence of each such material adverse effect by amending the terms of this Confirmation (whether because amendments would not avoid such occurrence or because Counterparty fails to agree promptly to such amendments) then Cancellation and Payment may apply at Dealer's sole election.

Notice of Merger Consideration: Upon the occurrence of a Merger Event that causes the Shares to beconverted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), Counterparty shall reasonably promptly (but in any event prior to the relevant merger date) notify the Calculation Agent of (i) the weighted average of the types and amounts of consideration received by the holders of Shares entitled to receive cash, securities or other property or assets with respect to or in exchange for such Shares in any Merger Event who affirmatively make such an election and (ii) the details of the adjustment made under the Indenture in respect of such Merger Event.

Share-for-Share:	Modified Calculation Agent Adjustment
Share-for-Other:	Modified Calculation Agent Adjustment or Cancellation and Payment (Calculation Agent Determination), as determined by Dealer in its sole discretion
Share-for-Combined:	Component Adjustment or Cancellation and Payment (Calculation Agent Determination), as determined by Dealer in its sole discretion
Tender Offer:	Applicable
Share-for-Share:	Modified Calculation Agent Adjustment
Share-for-Other:	Modified Calculation Agent Adjustment
Share-for-Combined:	Modified Calculation Agent Adjustment
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); *provided* that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it shall also constitute a Delisting if the Shares are not immediately re-listed, re- traded or re-quoted on any of the New York Stock Exchange, the NASDAQ Global Market or the NASDAQ Global Select Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall be deemed to be the Exchange. In addition, (i) the definition of "Announcement Date" in Section 12.1(l) of the Equity Definitions shall be amended by by deleting subsection (v) thereof in its entirety and replacing it with "(v) in the case of Insolvency, the date of (A) the institution of a proceeding or presentation of a petition or the passing of a resolution (or the convening of a meeting to pass a resolution or the proposing of a written resolution) that leads to Insolvency within the meaning of subsection (A) of the definition thereof, (B) the first public announcement of the institution of a proceeding or presentation of a petition or passing of a resolution (or other analogous procedure in any jurisdiction) that leads to the Insolvency or (C) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer" and (ii) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting "(A)" after "means" in the first line thereof and replacing "(A)" and "(B)" in the third and fourth lines thereof with "(1)" and "(2)" respectively, (2) deleting from the fourth line thereof the word "or" after the word "official" and inserting a comma therefor, (3) inserting at the end of renumbered subsection (2) thereof the following wording, "or, under the laws of the Cayman Islands, any other impediment to or restriction on the transfer of any Share arises or becomes applicable including, without limitation, where (x) any transfer of a Share or alteration of the status of the members of the Issuer would be void unless a court of the Cayman Islands orders otherwise or (y) any transfer of a Share not being a transfer with the sanction of a liquidator, and any

alteration in the status of the Issuer's members would be void" and (4) deleting the semi-colon at the end of renumbered subsection (2) thereof and inserting the following words therefor "or (B) at Dealer's option, the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer.".

Additional Disruption Events:

Change in Law:	Applicable; provided that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase ", or public announcement of, the formal or informal interpretation", (ii) by replacing the word "Shares" where it appears in clause (X) thereof with the words "Hedge Position" and (iii) by immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by Dealer on the Trade Date or in another commercially reasonable manner (it being understood that such party need not take any action that does not meet the Avoidance Criteria)"; provided further that (i) any determination as to whether (A) the adoption of or any change in any applicable law or regulation (including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption or promulgation of new regulations authorized or mandated by existing statute) or (B) the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), in each case, constitutes a "Change in Law" shall be made without regard to Section 739 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 or any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, and (ii) Section 12.9(a)(ii) of the Equity Definitions is hereby amended by replacing the parenthetical beginning after the word "regulation" in the second line thereof the words "(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption or promulgation of new regulations authorized or mandated by existing statute)". "Avoidance Criteria" means, with respect to an action, as determined by the Calculation Agent in good faith, that (i) such action is legal and complies with all applicable regulations, rules (including by self- regulatory organizations) and policies, (ii) if such party is to establish one or more alternative Hedge Positions, there is sufficient liquidity in those alternative Hedge Positions available for that Hedging Party to hedge and (iii) by taking such action, there would not be a material risk that such Hedging Party would incur, any one or more of an increased performance cost, increased hedging cost or increased capital charges.
Insolvency Filing:	Applicable.
Failure to Deliver:	Applicable.

Hedging Disruption:	Applicable, subject to the limitations and other provisions set forth in Section 8(c) below; provided that: (i) Section 12.9(a)(v) of the Equity Definitions is hereby modified by inserting the following three sentences at the end of such Section: "Such inability described in phrases (A) or (B) above shall not constitute a "Hedging Disruption" if such inability results solely from the Hedging Party's creditworthiness or financial position. For the avoidance of doubt, the term "equity price risk" shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms"; and (ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words "to terminate the Transaction", the words "or a portion of the Transaction affected by such Hedging Disruption".
Increased Cost of Hedging:	Applicable; *provided* that, (i) such increased cost described in Section 12.9(a)(vi) of the Equity Definitions shall not constitute an "Increased Cost of Hedging" if such increased cost results solely from the Hedging Party's creditworthiness or financial position and (ii) the Hedging Party will use good faith efforts to avoid such increased cost (it being understood that such party need not take any action that does not meet the Avoidance Criteria).
Determining Party:	For all Additional Disruption Events and Extraordinary Events, Dealer. Upon receipt of written request from Counterparty, the Determining Party shall promptly provide Counterparty with a written explanation describing in reasonable detail any calculation, adjustment or determination made by it (including any quotations, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing Dealer's proprietary models or other information that may be proprietary or subject to contractual, legal or regulatory obligations to not disclose such information), and shall use commercially reasonable efforts to provide such written explanation within five (5) Exchange Business Days from the receipt of such request.
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable

3. Account Details:

(a) Account for payments to Counterparty:

HSBC-HLF Stock Option
SWIFT: MRMDUS33
Account #: 001846884
Address: 660 S. Figueroa Street, Suite 800 Los Angeles, CA 90017

Account for delivery of Shares to Counterparty:

ComputerShare
520 Pike Street, Suite 1220
Seattle, WA 98101

(b) Account for payments to Dealer: [*Insert Dealer account information*]

4. Offices:

The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a MultibranchParty. The Office of Dealer for the Transaction is: [ ]

5. Notices: For purposes of this Confirmation:

(a) Address for notices or communications to Counterparty: Herbalife Ltd.
990 West 190th Street
Torrance, CA 90502 Attn:
Richard Caloca
Telephone: (310) 851-2300

With a copy to:
Herbalife Ltd.
800 Olympic Blvd.
Suite 406
Los Angeles, CA 90015 Attn:
Jim Berklas

(b) Address for notices or communications to Dealer: [*Insert Dealer contact information*]

6. Representations, Warranties and Agreements.

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date (A) none of Counterparty and its officers and directors is aware of any material nonpublic information regarding Counterparty or the Shares and (B) all reports and other documents filed by Counterparty with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), when considered as a whole (with the more recent such reports and documents deemed to amend inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that Dealer is not making any representations or warranties or taking any position or expressing any view with respect to the treatment of the Transaction under any accounting standards including ASC Topic 260, *Earnings Per Share*, ASC Topic 815, *Derivatives and Hedging*, or ASC Topic 480, *Distinguishing Liabilities from Equity* and ASC 815-40, *Derivatives and Hedging – Contracts in Entity's Own Equity* (or any successor issue statements) or under FASB's Liabilities & Equity Project.

(iii) (A) On or prior to the Trade Date, Counterparty shall deliver to Dealer a resolution of Counterparty's board of directors authorizing the Transaction and (B) on the Effective Date, Counterparty shall deliver to Dealer a solvency certificate with respect to Dealer signed by an authorized officer of Counterparty certifying the solvency of Counterparty as of the Trade Date and as of the Effective Date (after giving effect to Counterparty's payment of amounts required to be paid by Counterparty on such date under the Transaction and the other transactions described under "Use of Proceeds" in the offering memorandum related to the offering of the Convertible Notes), which solvency certificate is reasonably satisfactory to Dealer.

(iv) Counterparty is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or otherwise in violation of the Exchange Act.

(v) Counterparty is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(vi) On and immediately after each of the Trade Date and the Prepayment Date, (A) Counterparty is not "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**")), (B) Counterparty would be able to purchase the Shares with an aggregate purchase price equal to the Premium in compliance with the laws of the jurisdiction of Counterparty's incorporation and Counterparty's constitutional documents and (C) for the purposes of Cayman Islands law, Counterparty is able to pay its debts.

(vii) Counterparty understands no obligations of Dealer to it hereunder will be entitled to the benefit of deposit insurance and that such obligations will not be guaranteed by any Affiliate of Dealer or any governmental agency.

(viii) (A) On the Trade Date, (B) on each day during the period from, and including, the 27th Scheduled Trading Day immediately preceding the Maturity Date (as defined in the Indenture) to, and including, the 25th VWAP Trading Day (as defined in the Indenture) thereafter (the "**Final Observation Period**"), (C) on each day during any "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) applicable to the Relevant Convertible Notes, (D) on each Valuation Date and (E) on each day during any Early Termination Period (as defined below), neither Counterparty nor any "affiliate" or "affiliated purchaser" (each as defined in Rule 10b-18 of the Exchange Act ("**Rule 10b-18**")) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument other than the Transaction) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares other than, for the avoidance of doubt, the forward transactions described under "Use of Proceeds" in the offering memorandum related to the offering of the Convertible Notes (the "**Specified Share Forwards**"); unless, solely in the case of clauses (C), (D) or (E) above (and solely to the extent that a binding agreement to effect such purchase activity during the

relevant "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) or Early Termination Period or on the relevant Valuation Date, as applicable, had been entered into prior to notice of such period to Counterparty (whether under the Indenture or from Dealer, as applicable)), Counterparty has provided written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the relevant purchase activity not later than the Scheduled Trading Day immediately preceding the first day on which such purchase activity will occur; *provided* that (I) Counterparty shall provide written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the end of such purchase activity not later than the last day of such purchase activity, (II) Counterparty acknowledges and agrees that any notice under this Section 6(a)(viii) may result in a Regulatory Disruption or Excess Ownership Position (as defined below but with the reference to "9%" in clause (1) of the definition thereof replaced with a reference to "5%", a "**Relevant Excess Ownership Position**") to the extent the relevant purchase activity coincides with any period referred to in clauses (C), (D) or (E) above and (III) the Calculation Agent may make a corresponding adjustment in respect of any one or more of the terms relevant to the exercise, settlement or payment of the Options (including, for the avoidance of doubt, a postponement or extension pursuant to Section 8(d)) to the extent necessary to preserve the fair value of the Options to Dealer after taking into account such Regulatory Disruption or Relevant Excess Ownership Position (as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of such Regulatory Disruption or Relevant Excess Ownership Position); *provided further* that (a) this Section 6(a)(viii) shall not limit Counterparty's ability (or the ability of any "affiliate" or "affiliated purchaser" of Counterparty), (i) pursuant to its employee incentive plans, to re-acquire Shares in connection with the related equity transactions; (ii) to withhold shares to cover exercise price and/or tax liabilities associated with such equity transactions; or (iii) to grant Shares and options to "affiliates" or "affiliated purchasers" (as defined in Rule 10b-18) or the ability of such affiliates or affiliated purchasers to acquire such Shares or options, in connection with Counterparty's compensatory plans for directors, officers and employees or any agreements with respect to the compensation of directors, officers or employees of any entities that are acquisition targets of Counterparty, so long as, in the case of clause (i), (ii) or
(iii) of this proviso, any such re-acquisition, withholding, grant, acquisition or other purchase does not constitute a "Rule 10b-18 Purchase" (as defined in Rule 10b-18) and (b) Counterparty or such "affiliate" or "affiliated purchaser" may purchase Shares in privately negotiated (off-market) transactions that do not, directly or indirectly, involve purchases on the Exchange and are not "Rule 10b-18 purchases" (as defined in Rule 10b-18), in each case without Dealer's consent.

(ix) (A) (i) On the Trade Date, (ii) on each day during the Final Observation Period, (iii) on each day during any "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) applicable to the Relevant Convertible Notes, (iv) on each Valuation Date and (v) in the event an Early Termination Date is designated with respect to the Transaction or a portion thereof or the Transaction or a portion thereof is cancelled pursuant to Article 12 of the Equity Definitions, in either case, on each day during a period starting on or about such Early Termination Date as reasonably determined by Dealer and notified to Counterparty (an "**Early Termination Period**"), in each case, the Shares or securities that are convertible into, or exchangeable or exercisable for, Shares, are not, and shall not be, subject to a "restricted period," as such term is defined in Regulation M under the Exchange Act ("**Regulation M**") (determined, for the avoidance of doubt, after giving effect to any applicable exceptions set forth in Sections 101(b) and 102(b) of Regulation M) and (B), without limiting the generality of the immediately preceding clause (A), Counterparty shall not engage in any "distribution," as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b) and 102(b) of Regulation M, during (i) the period from, and including, the Trade Date to, and including, the second Exchange Business Day thereafter, (ii) the period comprised of the Final Observation Period and the period from, and including, the last day of the Final Observation Period to, and including, the second Exchange Business Day thereafter, (iii) the period comprised of any such Observation Period (other than the Final Observation Period) and the period from,and including, the last day of such Observation Period (other than the Final Observation Period) to, and including, the second Exchange Business Day thereafter, (iv) the period from, and including, any Valuation Date to, and including, the

second Exchange Business Day thereafter or (v) the period comprised of any such Early Termination Period and the period from, and including, the last day of such Early Termination Period to, and including, the second Exchange Business Day thereafter, as applicable; *unless*, solely in the case of clauses (A)(iii), (A)(iv), (A)(v), (B)(iii), (B)(iv) or (B)(v) above (and solely to the extent that a binding agreement to effect the "distribution" that would give rise to the relevant "restricted period" during the relevant "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) or Early Termination Period or on the relevant Valuation Date, as applicable, had been entered into prior to notice of such period to Counterparty (whether under the Indenture or from Dealer, as applicable)), Counterparty has provided written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the relevant "restricted period" not later than the Scheduled Trading Day immediately preceding the first day of such "restricted period"; *provided* that (I) Counterparty shall provide written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the end of such "restricted period" not later than the last day of such "restricted period", (II) Counterparty acknowledges and agrees that any notice under this Section 6(a)(ix) may result in a Regulatory Disruption or Relevant Excess Ownership Position to the extent the relevant transaction coincides with any period referred to in the case of clauses (iii), (iv) or (v) above and (III) the Calculation Agent may make a corresponding adjustment in respect of any one or more of the terms relevant to the exercise, settlement or payment of the Options (including, for the avoidance of doubt, a postponement or extension pursuant to Section 8(d)) to the extent necessary to preserve the fair value of the Options to Dealer after taking into account such Regulatory Disruption or Relevant Excess Ownership Position (as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of such Regulatory Disruption or Relevant Excess Ownership Position).

(x) To Counterparty's knowledge, based on due inquiry, no state or local (including non-U.S. jurisdictions) law, rule, regulation or regulatory order applicable to the Shares (not including laws, rules, regulations or regulatory orders of any jurisdiction that are generally applicable to equity securities of U.S.-incorporated issuers that are listed on the Exchange solely as a result of Dealer's and/or its affiliates' activities, assets or business, other than Dealer's hedging activities in connection with the Transaction) would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares in connection with the Transaction.

(xi) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker- dealer in writing; and (C) has total assets of at least $50 million.

(xii) *Reserved*.

(xiii) (A)(i) Counterparty understands that the Transaction is subject to complex risks, which it has duly considered and which may arise without warning and may at times be volatile, and that losses may occur quickly and in unanticipated magnitude; (ii) Counterparty has duly authorized its entry into the Transaction and such action does not violate any laws of its jurisdiction of incorporation, organization or residence; (iii) Counterparty has consulted with its legal, financial and accounting advisor(s) and has reached its own conclusions about the Transaction, and any legal, regulatory, tax, accounting or economic consequences arising from the Transaction; and (iv) the board of directors of Counterparty (the "**Board"**) and/or any duly appointed committee of directors of Counterparty to which responsibility for approving and authorizing this Transaction has been duly delegated by the Board (the "**Relevant Committee**") has concluded that the Transaction is suitable for Counterparty, for its commercial benefit and in its best interests, in light of its own investment objectives, financial condition and expertise. (B) The Transaction has been duly approved and authorized by the Board or the Relevant Committee after due consideration by the Board and/or the Relevant Committee of the matters.

(xiv) The representations and warranties of Counterparty set forth in Section 3 of the Agreement and Section 1(a) of the Purchase Agreement between Issuer and Credit Suisse Securities (USA) LLC, HSBC Securities (USA) Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Morgan Stanley & Co. LLC and the other initial purchasers party thereto (the "**Purchase Agreement**"), are true and correct as of the respective dates as of which such representations and warranties are made thereunder and are hereby deemed to be repeated to Dealer as if set forthherein.

(b) Each of Dealer and Counterparty agrees and represents that it is an "eligible contract participant" as defined in Section1a(18) of the U.S. Commodity Exchange Act, as amended.

(c) Counterparty acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the "**Securities Act**"), by virtue of Section 4(2) thereof. Accordingly, Counterparty represents and warrants to Dealer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment, (ii) it is an "accredited investor" as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account without a view to the distribution or resale thereof and (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws.

(d) Counterparty agrees and acknowledges that Dealer is a "financial institution" and a "financial participant" within the meaning of Sections 101(22), 101(53C) and 101(22A) of Title 11 of the United States Code (the "**Bankruptcy Code**"). The parties hereto further agree and acknowledge that it is the intent of the parties that (A) this Confirmation is a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder or in connection herewith is a "termination value," "payment amount" or "other transfer obligation" within the meaning of Section 362 of the Bankruptcy Code and a "settlement payment," within the meaning of Section 546 of the Bankruptcy Code, and (B) Dealer is entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(o), 546(e), 548(d)(2), 555 and 561 of the BankruptcyCode.

(e) Counterparty shall deliver to Dealer opinions of counsel, from U.S. and Cayman Islands counsel to the Issuer, dated as ofthe Effective Date and reasonably acceptable to Dealer in form and substance, with respect to the matters set forth in Section 3(a) of the Agreement and Sections 6(a)(v) and 6(a)(xiii) of this Confirmation (replacing, solely for these purposes and solely with respect to Section 6(a)(xiii), the words "On the Trade Date and at all times until termination or earlier expiration of the Transaction" with the words "On the Trade Date"), subject to customary assumptions, qualifications and exceptions.

7. Matters Relating to Agent.

(a) In connection with the Transaction confirmed hereby, the Agent, a broker-dealer registered under the Exchange Act will be responsiblefor: (a) effecting the Transaction (though the Agent shall not be responsible for negotiating the terms of the Transaction), (b) issuing all required confirmations and statements to Counterparty relating to the Transaction, (c) as between Dealer and theAgent, extending or arranging for the extension of any credit to Counterparty in connection with the Transaction, (d) maintaining required books and records relating to the Transaction, (e) complying, to the extent applicable, with Rule 15c3-1 under the Exchange Act and (f) unless otherwise permitted under applicable law or applicable interpretations thereof, receiving, delivering and safeguardingfunds and securities in compliance with Rule 15c3-3 under the Exchange Act.

(b) The Agent is acting hereunder solely in its capacity as agent (and not as principal or guarantor) in connection with the Transaction entered into between Counterparty and Dealer, pursuant to instructions received from Counterparty and Dealer, and shall have no responsibility or liability to Counterparty or Dealer arising from any failure by either of them to pay or perform any obligation hereunder. Each of Counterparty and Dealer acknowledges the foregoing and agrees that it will proceed solely against the other to collect or recover any funds or securities owing to it in connection with or arising from the Transaction. The Agent shall not be deemed to have endorsed or guaranteed the Transaction confirmed hereby and shall have no responsibility or liability to either Counterparty or Dealer except for gross negligence or willful misconduct in the performance of its duties as agent.

(c) Dealer is regulated by the Financial Services Authority and is a member of the London Stock Exchange, the Irish Stock Exchange,Virt-x and ISMA. Dealer has entered into the Transaction as principal. The time of the Transaction shall be notified to Counterparty upon request.

8. Other Provisions.

(a) *Repurchase Notices*. Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a "**Repurchase Notice**") on such day, if, following such repurchase, the Notice Percentage as determined on such date is (i) greater than 4.5% and (ii) greater by 0.5% than the Notice Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Notice Percentage as of the date hereof). The "**Notice Percentage**" as of any day is the fraction, expressed as a percentage, the numerator of which is the Number of Shares for the Transaction and the denominator of which is the number of Shares outstanding on such day.

Counterparty agrees to indemnify and hold harmless Dealer, its affiliates and its assignees and their respective directors, officers, employees, agents and controlling persons (Dealer and each such person being an "**Indemnified Party**") from and against any and all losses (including losses relating to Dealer's hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 "insider", including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to any Transaction), claims, damages and liabilities (or actions in respect thereof), joint or several, to which such Indemnified Party may become subject, under the Securities Act, the Exchange Act, under other applicable securities laws, under any other state or federal law, regulation or regulatory order or otherwise, relating to or arising out of a failure by Counterparty to provide Dealer with a Repurchase Notice on the day and in the manner set forth above. Counterparty shall be relieved from liability under this indemnity resulting from an action to the extent that Counterparty both (i) has not received notice that such action has commenced within 60 calendar days thereof and (ii) is materially prejudiced as a result of not receiving such notice. If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient to hold harmless any Indemnified Party, then Counterparty shall contribute, to the maximum extent permitted by law, to the amount paid or payable by the Indemnified Party as a result of such loss, claim, damage or liability. In addition, Counterparty will reimburse any Indemnified Party for all expenses (including reasonable counsel fees and expenses) as they are incurred (after notice to Counterparty) in connection with the investigation of, preparation for or defense or settlement of any pending or threatened claim or any action, suit or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto and whether or not such claim, action, suit or proceeding is initiated or brought by or on behalf of Counterparty. This indemnity shall survive the completion of the Transaction and any assignment and/or delegation of the Transaction made pursuant to the Agreement and/or this Confirmation shall inure to the benefit of any permitted assignee of Dealer.

(b) *Early Unwind*. In the event the sale by Counterparty of the "Initial Securities" (as defined in the Purchase Agreement) is not consummated with the initial purchasers for any reason by the close of business in New York on February 7, 2014 (or such later date as agreed upon by the parties, which in no event shall be later than February 21, 2014) (February 7, 2014 or such later date being the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**"), on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty thereunder shall be cancelled and terminated and (ii) following the payment or delivery, as applicable, referred to below, each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date (other than under the indemnity under the second paragraph of Section 8(a)); *provided* that, except to the extent that the Early Unwind Date occurred as a result of a breach of the Purchase Agreement by Dealer (or its affiliate, as applicable) in its capacity as initial purchaser Counterparty shall pay to Dealer an amount in cash equal to the aggregate amount of costs and expenses relating to the unwinding of Dealer's hedging activities in respect of the Transaction (including market losses incurred in reselling any Shares purchased by Dealer or its affiliates in connection with such hedging activities, unless Counterparty agrees to purchase any such Shares at the cost at which Dealer purchased such Shares) or, at the election of Counterparty, deliver to Dealer (at the times, and in the amounts, reasonably requested by Dealer) Shares with a value equal to such amount, as commercially reasonably determined by the Calculation Agent, in which event the parties shall enter into customary and commercially reasonable documentation relating to the registered or exempt resale of such Shares (in which case, the Calculation Agent shall make any adjustment to the number of such Shares that is necessary, in its reasonable judgment, to compensate Dealer for any discount from the public market price of the Shares incurred on the sale of such Shares in a private placement) (it being understood, for the avoidance of doubt, that Counterparty shall have the right to elect that an exempt, as opposed to registered, resale of such Shares shall apply in accordance with the requirements set forth herein); *provided* that, if Counterparty makes such election to deliver Shares, notwithstanding

the foregoing, the number of Shares so delivered will not exceed a number of Shares equal to two*multiplied by* the Number of Shares (with such Number of Shares determined, for the avoidance of doubt, as if the relevant Convertible Notes had been issued).

(c) *Transfer or Assignment*. Dealer may transfer any of its rights or obligations under the Transaction with the prior written consent of Counterparty, such consent not to be unreasonably withheld; *provided* that Dealer may transfer or assign without any consent of Counterparty its rights and obligations hereunder, in whole or in part, to (i) any of its affiliates (A) with a credit quality equivalent to Dealer or Dealer's guarantor or (B) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer or its relevant affiliate for similar transactions, by Dealer, an affiliate of Dealer with credit quality equivalent to Dealer or Dealer's parent entity or other guarantor, or (ii) if an Excess Ownership Position (as defined below) or Hedging Disruption exists, but only to the extent of such Excess Ownership Position or to the extent such assignment would eliminate such Hedging Disruption, to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than A- by Standard and Poors Rating Group, Inc. or its successor ("**S&**P"), or A3 by Moody's Investor Service, Inc. or its successor ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer. Dealer shall promptly notify Counterparty of any such assignment provided for above. If at any time at which (1) the Equity Percentage exceeds 9%, (2) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under any state or federal bank holding company or banking laws, or other federal, state or local regulations or regulatory orders applicable to ownership of Shares ("**Applicable Laws**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would, in Dealer's reasonable judgment based on advice of counsel, give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person under Applicable Laws and with respect to which such requirements have not been met or the relevant approval has not been received *minus* (y) 1% of the number of Shares outstanding on the date of determination (either such condition described in clause (1) or (2), an "**Excess Ownership Position**"), or (3) a Hedging Disruption has occurred and is continuing, if Dealer, in its discretion, is unable to effect a transfer or assignment to a third party in accordance with the requirements set forth above after using its commercially reasonable efforts on pricing terms reasonably acceptable to Dealer such that an Excess Ownership Position or a Hedging Disruption, as the case may be, no longer exists, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the "**Terminated Portion**") of the Transaction, such that such Excess Ownership Position or Hedging Disruption, as the case may be, no longer exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement and Section 8(a) of this Confirmation as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction, (ii) Counterparty shall be the sole Affected Party with respect to such partial termination and (iii) such portion of the Transaction shall be the only Terminated Transaction. The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer (collectively, "**Dealer Group**") "beneficially own" (within the meaning of Section 13 of the Exchange Act) without duplication on such day and (B) the denominator of which is the number of Shares outstanding on such day.

(d) *Right to Extend.* Dealer may, as Dealer determines appropriate in good faith, postpone or add, in whole or in part, anyValuation Date or Settlement Date or any other date of valuation or delivery by Dealer, in which event the Calculation Agent shall make appropriate adjustments to the Number of Shares and the Daily Number of Shares with respect to any affected Valuation Date, to the extent Dealer determines, in its reasonable discretion based on advice of counsel in the case of the immediately following clause (ii), that such postponement or addition is reasonably necessary or appropriate (i) to preserve Dealer's commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the cash market or the stock borrow market or other relevant market or (ii) to enable Dealer to effect purchases of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer and the Transaction.

(e) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events*. If Dealer shall owe Counterparty any amount pursuant to Article 12 of the Equity Definitions or pursuant to Section 6 of the Agreement (a "**Payment Obligation**"), Counterparty shall have the right, in its sole discretion, to require Dealer to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 9:30 A.M. New York City time on the relevant Early Termination Date or date of cancellation or termination in respect of an Extraordinary Event, as applicable ("**Notice of Share Termination**"); *provided* that if Counterparty does not elect to require Dealer to satisfy its Payment Obligation by the Share Termination Alternative, Dealer shall have the right, in its sole discretion, to elect to satisfy its Payment Obligation by the Share Termination Alternative, notwithstanding Counterparty's failure to elect or election to the contrary; and *provided further* that Counterparty shall not have the right to so elect (but, for the avoidance of doubt, Dealer shall have the right to so elect) in the event of (i) an Insolvency (as amended by this Confirmation), a Nationalization or a merger event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash, (ii) an Insolvency Filing, (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, which Event of Default or Termination Event resulted from an event or events within Counterparty's control or (iv) the Bankruptcy of Counterparty. Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the relevant merger date, Announcement Date, Early Termination Date or date of cancellation or termination in respect of an Extraordinary Event, as applicable:

Share Termination Alternative:	Applicable and means that Dealer shall deliver to Counterparty the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant Article 12 of the Equity Definitions or Section 6 of the Agreement, as applicable, or such later date as the Calculation Agent may reasonably determine (the "**Share Termination Payment Date**"), in satisfaction of the Payment Obligation.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of the aggregate amount of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit on the date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.
Share Termination Delivery Unit:	In the case of a Termination Event, Event of Default, Delisting or Additional Disruption Event, one Share or, in the case of an Insolvency or Nationalization, one Share or a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency or Nationalization, as applicable. If such Insolvency or Nationalization involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9, 9.10 and 9.11 (except that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities or other laws or otherwise arising as a result of the fact that Counterparty is the issuer of the Shares or any portion of the Share Termination Delivery Units) of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction, except that all references to "Shares" shall be read as references to "Share Termination Delivery Units."

(f) *No Netting and Set-off*. Notwithstanding any provision of the Agreement (including without limitation Section 6(f) thereof) and this Confirmation (including without limitation this Section 8(f)) or any other agreement between the parties to the contrary, each party waives any and all rights it may have to set off obligations arising under the Agreement and the Transaction against other obligations between the parties, whether arising under any other agreement, applicable law or otherwise.

(g) *Equity Rights*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect to the Transaction that are senior to the claims of common stockholders in the event of Counterparty's bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Counterparty's bankruptcy to any claim arising as a result of a breach by Counterparty of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that this Confirmation is not secured by any collateral that would otherwise secure the obligations of Counterparty herein under or pursuant to any other agreement.

(h) *Payment by Counterparty*. In the event that an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) after Counterparty's payment of the Prepayment Amount in full and, as a result, Counterparty owes to Dealer an amount calculated under Section 6(e) of the Agreement, such amount shall be deemed to be zero.

(i) *Reserved*.

(j) *Staggered Settlement*. If Dealer reasonably determines it is appropriate with respect to any applicable legal, regulatory or self-regulatory requirements (including any requirements relating to Dealer's hedging activities with respect to the Transaction) or restrictions, or with related policies and procedures applicable to Dealer and the Transaction, and/or to avoid an Excess Ownership Position, Dealer may, by notice to Counterparty prior to any Settlement Date (a "**Nominal Settlement Date**"), elect to deliver the Shares or Share Termination Delivery Units, as applicable, on one or more dates (each, a "**Staggered Settlement Date**") or at two or more times on the Nominal Settlement Date as follows:

(i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to such Nominal Settlement Date) or delivery times and how it will allocate the Shares it is required to deliver among the Staggered Settlement Dates or delivery times; and

(ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates and delivery times will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date.

(k) *Disclosure*. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.

(l) *Additional Termination Events*. The occurrence of (x) an event of default with respect to Counterparty under the terms of the Convertible Notes as set forth in Section 6.01 of the Indenture that results in the Convertible Notes becoming or being declared immediately due and payable under the terms of Section 6.02(a) of the Indenture, or (y) an Amendment Event shall be an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Counterparty is the sole Affected Party, and Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement.

"**Amendment Event**" means that Counterparty amends, modifies, supplements or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion price, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend, in each case without the prior consent of Dealer.

(m) *Governing Law; Jurisdiction*. **THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO ITS CHOICE OF LAW DOCTRINE).**

(n) *Waiver of Jury Trial*. EACH OF COUNTERPARTY AND DEALER HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THE TRANSACTION OR THE ACTIONS OF COUNTERPARTY OF ITS AFFILIATES OR DEALER OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF.

(o) *Wall Street Transparency and Accountability Act of 2010*. The parties hereby agree that none of (v) Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), (w) any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, (x) the enactment of WSTAA or any regulation under the WSTAA, (y) any requirement under WSTAA nor (z) an amendment made by WSTAA, shall limit or otherwise impair either party's rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, Increased Cost of Hedging, Loss of Stock Borrow, Increased Cost of Stock Borrow, an Excess Ownership Position or Illegality (as defined in the Agreement)).

(p) *Foreign Account Tax Compliance Act and HIRE Act*. "Tax" and "Indemnifiable Tax" each as defined in Section 14 of the Agreement shall not include (i) any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**") or any regulations issued thereunder or (ii) any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "**FATCA Withholding Tax**"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement. Counterparty shall promptly upon request by Dealer, provide tax forms and documents required to be delivered pursuant to Section 1471(b) or Section 1472(b)(1) of the Code and any other forms and documents reasonably requested by Dealer.

(q) *ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol.* Parts I to III of the attachment to the ISDA 2013 EMIR Portfolio Reconciliation, Dispute Resolution and Disclosure Protocol published by the International Swaps and Derivatives Association Inc. on 19 July 2013 and available on the ISDA website (www.isda.org) (the "**PDD Protocol**") are incorporated into and apply to the Agreement as if set out in full in the Agreement but with the following amendments and elections:

(i) The definition of "Adherence Letter" is deleted and references to "Adherence Letter", "such party's Adherence Letter" and "Adherence Letter of such party" are deemed to be references to this Section 8(q).

(ii) References to "Implementation Date" are deemed to be references to the Trade Date.

(iii) The definition of "Protocol" is deemed to be deleted.

(iv) The definitions of "Portfolio Data Sending Entity" and "Portfolio Data Receiving Entity" are replaced with the following:

"Portfolio Data Receiving Entity" means Counterparty, subject to Part I(2)(a) above.

"Portfolio Data Sending Entity" means Dealer, subject to Part I(2)(a) above.

(v) Local Business Days for the purposes of portfolio reconciliation and dispute resolution.

(A) Dealer specifies the following place(s) for the purposes of the definition of Local Business Day as it applies to it for the purposes of portfolio reconciliation and dispute resolution only: London.

(B) Counterparty specifies the following place(s) for the purposes of the definition of Local Business Day as it applies to it for the purposes of portfolio reconciliation and dispute resolution only: New York.

(vi) *Contact details for the purposes of portfolio reconciliation and dispute resolution.* Notwithstanding Section 5 above and unless otherwise agreed between the parties in writing, the following items shall be delivered to the respective parties as follows:

(A) Notices to Dealer:

Portfolio Data:	[ ]
Notice of a discrepancy:	[ ]
Dispute Notice:	[ ]

(B) Notices to Counterparty:

Portfolio Data:	richardc@herbalife.com
Notice of a discrepancy:	richardc@herbalife.com
Dispute Notice:	richardc@herbalife.com

Any notice given by email in accordance with this Section 8(q) will be deemed effective on the date it is delivered unless the date of that delivery (or attempted delivery) is not a Local Business Day (in respect of the receiving party) or, subject to Part I(1)(a)(iv) of the PDD Protocol, that communication is delivered (or attempted) after the close of business on a Local Business Day (in respect of the receiving party), in which case that communication will be deemed given and effective on the first following day that is a Local Business Day (in respect of the receiving party).

(vii) *Use of a third party service provider.* For the purposes of Part I(3)(b), Dealer and Counterparty confirm that they may use a third party service provider as may be separately agreed between them in writing from time to time.

[*Signatures to follow on separate page*] 20

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing the copy of this Confirmation enclosed for that purpose and returning it to us.

Yours sincerely, [DEALER]
By:
Name:
Title:

Confirmed as of the date first above written:
HERBALIFE LTD.

By:
Name: Title:

Exhibit 10.22

Opening Transaction

To: Herbalife Ltd.

From: [*Insert Dealer name and address*]
Re: Base Capped Call Transaction
Date: February 3, 2014

Dear Sir(s):

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the "**Transaction**") between [*Insert Dealer name*] ("**Dealer**") and Herbalife Ltd. ("**Counterparty**"). The additional terms of the Transaction shall be set forth in a Trade Notification in the form of Schedule A hereto (the "**Trade Notification**"), which shall supplement, form a part of, and be subject to this Confirmation. This communication, together with the Trade Notification, constitutes a "Confirmation" as referred to in the Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (the "**2006 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**", and together with the 2006 Definitions, the "**Definitions**"), in each case as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**"). Certain defined terms used herein have the meanings assigned to them in the Indenture to be dated as of February 7, 2014 between Counterparty and Union Bank, N.A., as trustee (the "**Indenture**") relating to the $1 billion principal amount of 2.00% convertible senior notes due 2019 (the "**Convertible Notes**"). In the event of any inconsistency between the terms defined in the Indenture and this Confirmation, this Confirmation shall govern. References herein to sections of the Indenture are based on the draft of the Indenture most recently reviewed by the parties at the time of execution of this Confirmation. If any relevant sections of the Indenture are changed, added or renumbered between the execution of this Confirmation and the execution of the Indenture, the parties will amend this Confirmation in good faith to preserve the economic intent of the parties based on the draft of the Indenture so reviewed. The parties further acknowledge that references to the Indenture herein are references to the Indenture as in effect on the date of its execution and if the Indenture is amended following its execution, any such amendment will be disregarded for purposes of this Confirmation unless the parties agree otherwise in writing. The Transaction is subject to early unwind if the closing of the Convertible Notes is not consummated for any reason, as set forth below in Section 8(j).

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties' entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

This Confirmation, together with the Trade Notification, evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation and the Trade Notification shall be subject to an agreement (the "**Agreement**") in the form of the 1992 ISDA Master Agreement (Multicurrency—Cross Border), as published by ISDA, as if Dealer and Counterparty had executed an agreement in such form on the date hereof (but without any Schedule except for (i) the election of Loss and Second Method and US Dollars ("**USD**") as the

Termination Currency, (ii) the replacement of the word "third" in the last line of Section 5(a)(i) with the word "first", and (iii) the election that the "Cross Default" provisions of Section 5(a)(vi) shall apply to Counterparty with a "Threshold Amount" of USD 100.0 million and with the phrase ", or becoming capable at such time of being declared," deleted from Section 5(a)(vi)(1) of the Agreement). The Transaction shall be the only Transaction under the Agreement.

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation and the Trade Notification except as expressly modified herein. In the event of any inconsistency between this Confirmation, the Trade Notification, the Agreement, the 2006 Definitions and/or the Equity Definitions, as the case may be, the following will prevail in the order of precedence indicated: (i) the Trade Notification, (ii) this Confirmation, (iii) the Agreement, (iv) the Equity Definitions and (v) the 2006 Definitions.

2. The Transaction constitutes a Share Option Transaction for purposes of the Equity Definitions. Set forth below arethe terms and conditions that, together with the terms and conditions set forth in the Trade Notification, shall govern the Transaction to which this Confirmation relates:

General Terms:

Trade Date:	February 3, 2014
Effective Date:	The closing date of the initial issuance of the ConvertibleNotes.
Option Style:	Modified American, as described under "Procedures for Exercise"below.
Option Type:	Call
Seller:	Dealer
Buyer:	Counterparty
Shares:	The Common Shares of Counterparty, par value USD0.001 per share(Ticker Symbol: "HLF").
Number of Options:	1,000,000. Notwithstanding anything to the contrary herein, in theEquity Definitions or in the Agreement, as of any date prior to the end of the Hedge Period the Number of Options will not exceed the number of Options with respect to which Dealer has established its Hedge Positions with respect to the Transaction as of such date, subject to reduction upon the exercise, termination or other early unwind of any Options hereunder.
Option Entitlement:	As of any date, a number of Shares per Option equal to the "Conversion Rate" (as defined in the Indenture, but without regard to any adjustments to the Conversion Rate pursuant to Section 4.04(f), 4.05(b) or 4.06(a) of the Indenture) as of such date.
Strike Price:	As of any date, an amount in USD, rounded to the nearest cent (with 0.5 cents being rounded upwards), equal to USD1,000 *divided by* the Option Entitlement as of such date.
Cap Price:	USD120.7850
Applicable Percentage:	[ ]%

Number of Shares:	The product of (i) the Number of Options, (ii) the Option Entitlement and (iii) the Applicable Percentage.
Premium:	As specified in the Trade Notification, to be the sum of the Daily Premium Amounts for each Exchange Business Day that is not a Disrupted Day in full during the Hedge Period. Section 2.4 of the Equity Definitions will not apply to the Transaction.
Daily Premium Amount:	For each Exchange Business Day that is not a Disrupted Day in full during the Hedge Period, an amount in USD determined by the Calculation Agent by reference to the table set forth in Schedule B hereto based on the Hedge Reference Price for such Exchange Business Day. If the exact Hedge Reference Price for such Exchange Business Day does not appear in such table, the Daily Premium Amount for such Exchange Business Day shall be determined by the Calculation Agent by linear interpolation or extrapolation, as applicable, using the two closest Hedge Reference Prices appearing in such table.
Initial Premium Payment:	Counterparty shall pay to Dealer the Initial Premium on the Initial Premium Payment Date.
Initial Premium:	USD[ ]
Initial Premium Payment Date:	The Effective Date
Additional Premium Payment:	(i) If the Additional Premium Amount is greater than zero, then Counterparty shall pay to Dealer such Additional Premium Amount on the Additional Premium Payment Date and (ii) if the Additional Premium Amount is less than zero, then Dealer shall pay to Counterparty the absolute value of such Additional Premium Amount on the Additional Premium Payment Date.
Additional Premium Amount:	As specified in the Trade Notification, to be an amount in USD equal to the Premium minus the Initial Premium.
Additional Premium Payment Date:	As specified in the Trade Notification, to be the third Currency Business Day immediately following the Hedge Completion Date.
Exchange:	The New York Stock Exchange
Related Exchange:	All
Exchanges Hedge Period Terms:	
Hedge Period:	The period from, and including, the first Scheduled Trading Day immediately following the Trade Date to, and including, the fifth Exchange Business Day that is not a Disrupted Day in full immediately following the Trade Date.

Hedge Completion Date:	The last day of the Hedge Period.
Hedge Reference Price:	For each Exchange Business Day that is not a Disrupted Day in full during the Hedge Period, the volume-weighted average price at which Dealer effects transactions to establish its initial hedge of the equity price risk and market risk under the Transaction on such Exchange Business Day.
Market Disruption Event:	For purposes of determining any Hedge Reference Price: The third and fourth lines of Section 6.3(a) of the Equity Definitions are hereby amended by deleting the words "during the one hour period that ends at the relevant Valuation Time" and replacing them with "at any time prior to the relevant Valuation Time". Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term "Scheduled Closing Time" in the fourth line thereof. Any Scheduled Trading Day on which, as of the date hereof, the Exchange is scheduled to close prior to its normal close of trading shall be deemed not to be a Scheduled Trading Day; if a closure of the Exchange prior to its normal close of trading on any Scheduled Trading Day is scheduled following the date hereof, then such Scheduled Trading Day shall be deemed to be a Disrupted Day in full.
Disrupted Day:	For purposes of determining any Hedge Reference Price: Without limiting the generality of Section 6.4 of the Equity Definitions, any Scheduled Trading Day on which a Regulatory Disruption occurs shall also constitute a Disrupted Day.
Regulatory Disruption:	In the event that Dealer concludes, in its reasonable discretion and in goodfaith, based on advice of counsel, that it is appropriate with respect to any legal, regulatory or self-regulatory requirements or related policies and procedures (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer), for it to refrain from purchasing or selling Shares on any Scheduled Trading Day or Days, Dealer shall use its reasonable efforts to notify Counterparty in writing that a Regulatory Disruption has occurred on such Scheduled Trading Day or Days (for the avoidance of doubt, without being required to specify or otherwise communicate to Counterparty the nature of such Regulatory Disruption).

Hedge Period Disruption:	Notwithstanding anything to the contrary in the Equity Definitions, to theextent that a Disrupted Day occurs in the Hedge Period, the Calculation Agentmay, in its good faith and commercially reasonable discretion, extend the Hedge Period. If any such Disrupted Day is a Disrupted Day because of a Market Disruption Event (including, for the avoidance of doubt, a Regulatory Disruption as provided herein), the Calculation Agent shall determine whether (i) such Disrupted Day is a Disrupted Day in full, in which case the Daily Premium Amount, if any, for such Disrupted Day shall not be included for purposes of determining the Premium or (ii) such Disrupted Day is a Disrupted Day only in part, in which case the Hedge Reference Price for such Disrupted Day shall be determined by the Calculation Agent based on transactions in the Shares effected by or on behalf of Dealer before the relevant Market Disruption Event occurred and/or after the relevant Market Disruption Event ended, and the Daily Premium Amount for such Disrupted Day (and, if applicable, the Daily Premium Amount for any subsequent Exchange Business Day that is not a Disrupted Day in full during the Hedge Period), including the weighting thereof for purposes of determining the Premium, shall be adjusted in a commercially reasonable manner by the Calculation Agent for purposes of determining the Premium, with such adjustments based on, among other factors, the transactions in the Shares effected by or on behalf of Dealer before the relevant Market Disruption Event occurred and/or after the relevant Market Disruption Event ended and the volume, historical trading patterns and price of the Shares. If a Disrupted Day occurs during the Hedge Period, and each of the nine immediately following Scheduled Trading Days is a Disrupted Day, then the Calculation Agent, in its good faith and commercially reasonable discretion, may deem such ninth Scheduled Trading Day to be an Exchange Business Day that is not a Disrupted Day and determine the Hedge Reference Price for such ninth Scheduled Trading Day using its good faith estimate of the value of the Shares on such ninth Scheduled Trading Day based on the volume, historical trading patterns and price of the Shares and such other factors as it deems appropriate.
Procedures for Exercise:	
Exercise Date:	Each Conversion Date.
Conversion Date:	Each “Conversion Date” (as defined in the Indenture) occurring during the Exercise Period for Convertible Notes (such Convertible Notes, each in denominations of USD1,000 principal amount, the “**Relevant Convertible Notes**” for such Conversion Date).

Exercise Period:	The period from and excluding the Trade Date to and including theExpiration Date.
Expiration Date:	The earlier of (i) the last day on which any Convertible Notes remain outstanding and (ii) the second "Scheduled Trading Day" (as defined in the Indenture) immediately preceding the "Maturity Date" (as defined in the Indenture).
Automatic Exercise on Conversion Dates:	On each Conversion Date, a number of Options equal to (i) the number of Relevant Convertible Notes for such Conversion Date in denominations of USD1,000 principal amount *minus* (ii) the number of Applicable Conversion Options (as defined below), if any, corresponding to such Conversion Date shall be automatically exercised, subject to "Notice of Exercise" below.
Excluded Convertible Notes:	Relevant Convertible Notes surrendered for conversion on any date prior to the start of the Final Conversion Period (as defined below). The provisions of Section 8(d) below will apply to the exercise of any Options hereunder in connection with the conversion of any Excluded Convertible Notes.
Notice Deadline:	In respect of any exercise of Options hereunder, the Scheduled Trading Day (as defined in the Indenture) immediately preceding the first Scheduled Trading Day of the relevant "Observation Period" (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture), subject to "Notice of Exercise" below; *provided* that in the case of any exercise of Options hereunder in connection with the conversion of any Relevant Convertible Notes for any Conversion Date occurring during the period starting on the 30th Scheduled Trading Day immediately preceding the Maturity Date (the "**Final Conversion Period**"), the Notice Deadline shall be 5:00 PM, New York City time, on the "Scheduled Trading Day" (as defined in the Indenture) immediately preceding the "Maturity Date" (as defined in the Indenture).
Notice of Exercise:	Notwithstanding anything to the contrary in the Equity Definitions, Dealer shall have no obligation to make any payment or delivery in respect of any exercise of Options hereunder unless Counterparty notifies Dealer in writing prior to 5:00 PM, New York City time, on the Notice Deadline in respect of such exercise of (i) the number of Convertible Notes being converted on such Exercise Date (including, if applicable, whether all or any portion of such Convertible Notes are Convertible Notes as to which additional Shares would be added to the "Conversion Rate" (as defined in the Indenture) pursuant to Section 4.06(a) of the Indenture (the "**Make-Whole Convertible Notes**")), (ii) the scheduled settlement

date under the Indenture for the Relevant Convertible Notes for the related Conversion Date, and (iii) the first Scheduled Trading Day of the Observation Period (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture) for such Relevant Convertible Notes; *provided* that in the case of any exercise of Options hereunder in connection with the conversion of any Relevant Convertible Notes for any Conversion Date occurring during the Final Conversion Period, the content of such notice shall be as set forth in clause (i) above. For the avoidance of doubt, if Counterparty fails to give such notice when due in respect of any exercise of Options hereunder, Dealer's obligation to make any payment or delivery in respect of such exercise shall be permanently extinguished, and late notice shall not cure such failure; *provided* that notwithstanding the foregoing, such notice, except in connection with the conversion of any Relevant Convertible Notes for any Conversion Date occurring during the Final Conversion Period, shall be effective (including for purposes of Section 8(d) below) if given after the Notice Deadline, but prior to 5:00 PM New York City time, on the fifth Exchange Business Day following the Notice Deadline, in which event the Calculation Agent shall have the right to adjust the Delivery Obligation as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of Dealer not having received such notice on or prior to the Notice Deadline.

Dealer's Telephone Number and Telex and/or Facsimile Number and Contact Details for purpose of Giving Notice:

[*Insert Dealer contact information*]

Settlement Terms:

Settlement Date: For any Exercise Date, the settlement date for the Shares, if any, and cash to be delivered in respect of the Relevant Convertible Notes for the Conversion Date occurring on such Exercise Date under the terms of the Indenture; *provided* that the Settlement Date shall not be prior to the latest of (i) the date three Exchange Business Days following the final day of the relevant Observation Period (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture, except that, if there is no Observation Period (as defined in the Indenture) applicable to the Relevant Convertible Notes as a result of such

provisions of the Indenture, then such date referred to above in this clause (i) will be deemed to be the date as promptly as commercially reasonably practicable following the related settlement date for the Relevant Convertible Notes), (ii) the Exchange Business Day immediately following the date on which Counterparty gives notice to Dealer of such Settlement Date prior to 5:00 PM, New York City time, and (iii) the Exchange Business Day immediately following the date Counterparty provides the Notice of Delivery Obligation prior to 5:00 PM, New York City time.

Delivery Obligation: In lieu of the obligations set forth in Sections 8.1 and 9.1 of theEquity Definitions, and subject to "Notice of Exercise" above, in respect of any Exercise Date, Dealer will deliver to Counterparty on the related Settlement Date a number of Shares equal to the product of (i) the Applicable Percentage and (ii) the aggregate number of Shares, if any, that Counterparty is obligated to deliver to the holder(s) of the Relevant Convertible Notes for such Conversion Date pursuant to Section 4.03(a) of the Indenture (except that such aggregate number of Shares shall be determined without taking into consideration any rounding pursuant to Section 4.03(b) of the Indenture and shall be rounded down to the nearest whole number and cash shall be delivered in lieu of fractional shares, if any, resulting from such rounding) (such product, the "**Convertible Obligation**"); *provided* that (i) if the Convertible Obligation exceeds the Capped Convertible Obligation, then the Delivery Obligation shall be the Capped Convertible Obligation; and (ii) the Convertible Obligation (and, for the avoidance of doubt, the Capped Convertible Obligation) shall be determined excluding any Shares, if any, and cash that Counterparty is obligated to deliver to holder(s) of the Relevant Convertible Notes as a direct or indirect result of any adjustments to the Conversion Rate pursuant to Sections 4.04(f), 4.05(b) or 4.06(a) of the Indenture and any interest payment that Counterparty is (or would have been) obligated to deliver to holder(s) of the Relevant Convertible Notes for such Conversion Date; and *provided further* that if such exercise relates to the conversion of Relevant Convertible Notes in connection with which holders thereof are entitled to receive additional Shares and/or cash pursuant to the adjustments to the Conversion Rate set forth in Section 4.06(a) of the Indenture, then, notwithstanding the foregoing, the Delivery Obligation shall include the Applicable Percentage of such additional Shares, except that the Delivery Obligation shall be capped so that the value of the Delivery Obligation per Option (with the value of any Shares included in the Delivery Obligation determined by the Calculation Agent using the "Daily

VWAP" (as defined in the Indenture) on the last day of the relevant Observation Period (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture)) does not exceed the amount as determined by the Calculation Agent that would be payable by Dealer pursuant to Section 6 of the Agreement if such Conversion Date were an Early Termination Date resulting from an Additional Termination Event with respect to which the Transaction (except that, for purposes of determining such amount, (x) the Number of Options shall be deemed to be equal to the number of Options exercised on such Exercise Date and (y) such amount payable will be determined as if Sections 4.04(f), 4.05(b) or 4.06(a) of the Indenture were deleted) was the sole Affected Transaction and Counterparty was the sole Affected Party (determined without regard to Section 8(a) of this Confirmation). For the avoidance of doubt, if the "Daily Conversion Value" (as defined in the Indenture) for each VWAP Trading Day (as defined in the Indenture) occurring in the relevant Observation Period (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture) is less than or equal to USD40.00, Dealer will have no Delivery Obligation hereunder in respect of the relevant Conversion Date.

Capped Convertible Obligation: In respect of an Exercise Date occurring on a Conversion Date, the Convertible Obligation that would apply if the "Daily VWAP" for each "VWAP Trading Day" in the "Observation Period" (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture) were the lesser of (x) the Cap Price and (y) the actual Daily VWAP for such VWAP Trading Day.

Applicable Limit Price: On any day, the opening price as displayed under the heading "Op" on Bloomberg page "HLF <equity>" (or any successor thereto).

Notice of Delivery Obligation: No later than the Exchange Business Day immediately following the last day of the relevant Observation Period (as defined in the Indenture) (or, if earlier, the settlement date for the Shares, if any, and cash delivered upon conversion of the Relevant Convertible Notes), Counterparty shall give Dealer notice of the final number of Shares, if any, and amount of cash comprising the relevant Convertible Obligation; *provided* that, with respect to any Exercise Date occurring during the Final Conversion Period, Counterparty may provide Dealer with a single notice of the aggregate number of Shares, if any, and amount of cash comprising the Convertible Obligations for all Exercise Dates occurring during such period (it being understood, for the avoidance of

doubt, that the requirement of Counterparty to deliver such notice shall not limit Counterparty's obligations with respect to Notice of Exercise or Dealer's obligations with respect to Delivery Obligation, each as set forth above, in any way).

Other Applicable Provisions: To the extent Dealer is obligated to deliver Shares hereunder, the provisions of

Sections 9.1(c), 9.8, 9.9, 9.10 and 9.11 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction; *provided* that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein to the extent relating to restrictions, obligations, limitations or requirements under applicable securities or other laws or otherwise that exist as a result of the fact that Buyer is the issuer of the Shares.

Restricted Certificated Shares: Notwithstanding anything to the contrary in the Equity Definitions, Dealer may, in

whole or in part, deliver Shares in certificated form (and/or by delivery of a Share transfer form to Counterparty or its Transfer Agent, as applicable) representing the Number of Shares to be Delivered to Counterparty in lieu of delivery through the Clearance System.

Adjustments:

Method of Adjustment: Notwithstanding Section 11.2 of the Equity Definitions, (i) upon the occurrence of

any event or condition set forth in Section 4.04(a), (b), (c), (d), (e) and 4.05(a) of the Indenture (an "**Adjustment Event**"), the Calculation Agent shall make (A) a corresponding adjustment in accordance with the methodology set forth in the Indenture to one or more of the Number of Options, the Option Entitlement and any other variable relevant to the exercise, settlement or payment of the Transaction (other than the Cap Price), to the extent an analogous adjustment is made under the Indenture and (B) a corresponding adjustment to the Cap Price to the extent any adjustment is made to the Strike Price pursuant to clause (A) above; and (ii) upon the occurrence of any Potential Adjustment Event, the Calculation Agent may, in its commercially reasonable discretion but without duplication of any adjustment pursuant to clause (i) above, make any further adjustment consistent with the Calculation Agent Adjustment set forth in Section 11.2(c) of the Equity Definitions (as modified pursuant to this Confirmation, including Section 8(r) below) to the Cap Price to the extent necessary to preserve the fair value of the Options to Dealer, after taking into account such Potential Adjustment Event; *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that the parties agree that neither a Share repurchase transaction referred to under

Section 4.04(i)(i) of the Indenture nor the Specified Share Forwards (as define below), in either case, shall constitute a Potential Adjustment Event under Section 11.2(e)(v) of the Equity Definitions. Immediately upon the occurrence of any Adjustment Event, Counterparty shall notify the Calculation Agent of such Adjustment Event; and once the adjustments to be made to the terms of the Indenture and the Relevant Convertible Notes in respect of such Adjustment Event have been determined, Counterparty shall immediately notify the Calculation Agent in writing of the details of such adjustments.

If Counterparty or its board of directors is permitted or required to exercise discretion under the terms of the Indenture with respect to any determination, calculation or adjustment (including, without limitation, pursuant to Section 4.05(a) of the Indenture or in connection with any proportional adjustments or the determination of the fair value of any securities, property, rights or other assets) (any such determination, calculation or adjustment, a "**Counterparty Determination**"), Counterparty shall consult with Dealer with respect thereto and, if the Calculation Agent disagrees in good faith with such Counterparty Determination, notwithstanding anything herein to the contrary, the Calculation Agent shall make the relevant determination, calculation or adjustment for purposes of this Transaction (and for the avoidance of doubt, such determination, calculation or adjustment shall be made (A) in accordance with the methodology set forth in the Indenture, except as set forth in this paragraph, and (B) using, where relevant, variables determined by the Calculation Agent).

Extraordinary Dividend: Any dividend, or portion thereof, with respect to the Shares that the Calculation Agent determines to be an "extraordinary" dividend, including, for the avoidance of doubt, any cash dividend or distribution on the Shares with an ex-dividend date occurring on or after the Trade Date and on or prior to the Expiration Date the amount of which differs from the Ordinary Dividend Amount for such dividend or distribution. If no such ex-dividend date occurs within a regular quarterly dividend period, an ex-dividend date with a cash dividend or distribution of zero shall be deemed to have occurred on the last Scheduled Trading Day of such regular quarterly dividend period.

Ordinary Dividend Amount: For any regularly quarterly dividend period, USD 0.30 for the first cash dividend

or distribution on the Shares for which the ex-dividend date falls within such period, and zero for any subsequent dividend or distribution on the Shares for which the ex-dividend date falls within the same period.

Extraordinary Events:

Merger Events:	Notwithstanding Section 12.1(b) of the Equity Definitions, a "Merger Event" means the occurrence of any event or condition set forth in the definition of "Merger Event" in Section 4.07(a) of the Indenture.
Consequences of Merger Events/Tender Offers:	Notwithstanding Sections 12.2 and 12.3 of the Equity Definitions, (i) upon the occurrence of a Merger Event, the Calculation Agent shall make (A) the corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares, the Number of Options, the Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction (other than the Cap Price), to the extent an analogous adjustment is made under the Indenture in respect of such Merger Event; *provided* that such adjustment shall be made without regard to any adjustment to the Conversion Rate for the issuance of additional Shares as set forth in Section 4.04(f), 4.05(b) or 4.06(a) of the Indenture and (B) a corresponding adjustment to the Cap Price to the extent any adjustment is made to the Strike Price pursuant to clause (A) above; and (ii) upon the occurrence of a Merger Event that results in an adjustment under the Indenture and/or upon the occurrence of a Tender Offer, the Calculation Agent may, in its commercially reasonable discretion, make any further adjustment to the Cap Price consistent with the Modified Calculation Agent Adjustment set forth in Section 12.2(e) or 12.3(d) of the Equity Definitions, as applicable; *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that if (i) the consideration for the Shares includes (or, at the option of a holder of the Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof or the District of Columbia, the United Kingdom, the Republic of Ireland or the Cayman Islands or (ii) the counterparty to the Transaction following such Merger Event will not be a corporation or will not be the Issuer of the relevant Shares following such Merger Event (after giving effect to the provisions of this Confirmation in respect thereof, as determined by the Calculation Agent), then Cancellation and Payment (Calculation Agent Determination) may apply at Dealer's sole election. In addition, if the consideration for the Shares includes (or, at the option of a holder of the Shares, may include) shares of an entity or person that is organized under the laws of the United Kingdom or the Republic of Ireland and the Calculation Agent determines, in its sole

discretion, that (A)(x) treating such shares as "Reference Property" (as defined in the Indenture) or (y) Cancellation and Payment not applying to the Transaction with respect to such Merger Event, in either case of clause (x) or clause (y), will have a material adverse effect on any combination of the following: Dealer's rights or obligations in respect of the Transaction, on its hedging activities in respect of the Transaction or on the costs (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position) of engaging in any of the foregoing, and (B) Dealer cannot promptly avoid the occurrence of each such material adverse effect by amending the terms of this Confirmation (whether because amendments would not avoid such occurrence or because Counterparty fails to agree promptly to such amendments) then Cancellation and Payment (Calculation Agent Determination) may apply at Dealer's sole election.

Notice of Merger Consideration: Upon the occurrence of a Merger Event that causes the Shares to be converted into the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), Counterparty shall reasonably promptly (but in any event prior to the relevant merger date) notify the Calculation Agent of (i) the weighted average of the types and amounts of consideration received by the holders of Shares entitled to receive cash, securities or other property or assets with respect to or in exchange for such Shares in any Merger Event who affirmatively make such an election and (ii) the details of the adjustment made under the Indenture in respect of such Merger Event.

Tender Offer: Applicable to the extent provided above under the heading "Consequences of Merger Events/Tender Offers."

Consequences of Announcement Event: If an Announcement Event occurs, then on the earliest to occur of the date on which the transaction described in such Announcement Event (as amended or modified) is cancelled, withdrawn, discontinued, otherwise terminated or results in a Merger Date or Tender Offer Date, as applicable, or the Expiration Date, Early Termination Date or other date of cancellation or termination in respect of any Option (the "**Announcement Event Adjustment Date**"), the Calculation Agent will determine the cumulative economic effect on the relevant Options of the Announcement Event (without duplication in respect of any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement, regardless of whether the Announcement Event actually results in a Merger Event or Tender Offer, and taking into account such

factors as the Calculation Agent may commercially reasonably determine, including, without limitation, changes in volatility, expected dividends, stock loan rate or liquidity relevant to the Shares or the Transaction whether within a commercially reasonable period of time prior to or after the Announcement Event or for any commercially reasonable period of time such changes are in effect, including, without limitation, if applicable, the period from the Announcement Event to the relevant Announcement Event Adjustment Date); *provided* that, for the avoidance of doubt the occurrence of an Announcement Event Adjustment Date in respect of the cancellation, withdrawal, discontinuation or other termination of the transaction described in an Announcement Event (as amended or modified) shall not preclude the occurrence of a later Announcement Event with respect to such transaction. If the Calculation Agent determines that such cumulative economic effect on any Option is material, then on the Announcement Event Adjustment Date for such Option, the Calculation Agent may make such adjustment to the Cap Price as the Calculation Agent determines appropriate to account for such economic effect, which adjustment shall be effective immediately prior to the exercise, termination or cancellation of such Option, as the case may be.

Announcement Event: (i) The public announcement of any Merger Event or Tender Offer or the intention to enter into a Merger Event or Tender Offer, (ii) the public announcement by Counterparty of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include, a Merger Event or Tender Offer or (iii) any subsequent public announcement of a change to a transaction or intention that is the subject of an announcement of the type described in clause (i) or (ii) of this sentence (including, without limitation, a new announcement, whether or not by the same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention) (in each case, whether such announcement is made by Counterparty or a third party); *provided* that, for the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention.

Announcement Date: The definition of "Announcement Date" in Section 12.1 of the Equity Definitions is hereby amended by (i) replacing the words "a firm" with the word "any" in the second and fourth lines thereof, (ii) replacing the word "leads to the" with the words ", if completed, would lead to a" in the third and the fifth

lines thereof, (iii) replacing the words "voting shares" with the word "Shares" in the fifth line thereof, (iv) inserting the words "by any entity" after the word "announcement" in the second and the fourth lines thereof and (v) by deleting subsection (v) thereof in its entirety and replacing it with "(v) in the case of Insolvency, the date of (A) the institution of a proceeding or presentation of a petition or the passing of a resolution (or the convening of a meeting to pass a resolution or the proposing of a written resolution) that leads to Insolvency within the meaning of subsection (A) of the definition thereof, (B) the first public announcement of the institution of a proceeding or presentation of a petition or passing of a resolution (or other analogous procedure in any jurisdiction) that leads to the Insolvency or (C) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer".

Nationalization, Insolvency or Delisting: Cancellation and Payment (Calculation Agent Determination); *provided* that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors); if the Shares are immediately re- listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

(a) Change in Law: Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase ", or public announcement of, the formal or informal interpretation", (ii) by replacing the word "Shares" where it appears in clause (X) thereof with the words "Hedge Position" and (iii) by immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by Dealer on the Trade Date or in another commercially reasonable manner (it being understood that such party need not take any action that does not meet the Avoidance Criteria)"; *provided further* that (i) any determination as to whether (A) the adoption of or any change in any applicable law or regulation (including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption or promulgation of new regulations authorized or mandated by existing statute) or (B) the promulgation of or any change in the interpretation

by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), in each case, constitutes a "Change in Law" shall be made without regard to Section 739 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 or any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, and (ii) Section 12.9(a)(ii) of the Definitions is hereby amended by replacing the parenthetical beginning after the word "regulation" in the second line thereof the words "(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption or promulgation of new regulations authorized or mandated by existing statute)". "**Avoidance Criteria**" means, with respect to an action, as determined by the Calculation Agent in good faith, that (i) such action is legal and complies with all applicable regulations, rules (including by self-regulatory organizations) and policies, (ii) if such party is to establish one or more alternative Hedge Positions, there is sufficient liquidity in those alternative Hedge Positions available for that Hedging Party to hedge and (iii) by taking such action, there would not be a material risk that such Hedging Party would incur, any one or more of an increased performance cost, increased hedging cost or increased capital charges.

(b) Failure to Deliver:Applicable

(c) Insolvency Filing:Applicable

(d) Hedging Disruption:Applicable, subject to the limitations and other provisions set forth in Section8(g) below; *provided* that:

(i) Section 12.9(a)(v) of the Equity Definitions is hereby modified by inserting the following three sentences at the end of such Section:

"Such inability described in phrases (A) or (B) above shall not constitute a "Hedging Disruption" if such inability results solely from the Hedging Party's creditworthiness or financial position. For the avoidance of doubt, the term "equity price risk" shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms"; and

(ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words "to terminate the Transaction", the words "or a portion of the Transaction affected by such Hedging Disruption".

(e) Increased Cost of Hedging: Applicable; *provided* that, (i) such increased cost described in Section 12.9(a)(vi) of the Equity Definitions shall not constitute an "Increased Cost of Hedging" if such increased cost results solely from the Hedging Party's creditworthiness or financial position and (ii) the Hedging Party will use good faith efforts to avoid such increased cost (it being understood that such party need not take any action that does not meet the Avoidance Criteria).

Hedging Party: Dealer

Determining Party: Dealer

Non-Reliance: Applicable

Agreements and Acknowledgments Regarding Hedging Activities: Applicable

Additional Acknowledgments: Applicable

3. Calculation Agent: Dealer. Upon receipt of written request from Counterparty, the Calculation Agent shall promptly provide Counterparty with a written explanation describing in reasonable detail any calculation, adjustment or determination made by it (including any quotations, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing Dealer's proprietary models or other information that may be proprietary or subject to contractual, legal or regulatory obligations to not disclose such information), and shall use commercially reasonable efforts to provide such written explanation within five (5) Exchange Business Days from the receipt of such request.

4. Account Details:

Dealer Payment Instructions:

[*Insert Dealer account information*]

Counterparty Payment Instructions:

HSBC-HLF Stock Option
SWIFT: MRMDUS33
Account #: 001846884
Address: 660 S. Figueroa Street, Suite 800 Los Angeles CA 90017

Counterparty Transfer Agent for Purposes of Share delivery: ComputerShare
520 Pike Street, Suite 1220
Seattle, WA 98101

5. Offices:

The Office of Dealer for the Transaction is: [ ]

The Office of Counterparty for the Transaction is: Not applicable

6. Notices: For purposes of this Confirmation:

(a) Address for notices or communications to Counterparty:
Herbalife Ltd.
990 West 190th Street
Torrance, CA 90502
Tel: (310) 851-2300
Attn: Richard Caloca With a
copy to:
Herbalife Ltd.
800 Olympic Blvd.
Suite 406
Los Angeles, CA 90015 Attn:
Jim Berklas

(b) Address for notices or communications to Dealer:
To: [*Insert Dealer contact information*]

7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date, (A) none of Counterparty and its officers and directors is aware of any materialnonpublic information regarding Counterparty or the Shares and (B) all reports and other documents filed by Counterparty with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), when considered as a whole (with the more recent such reports and documents deemed to amend inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) (A) On each day during the period from, and including, the Trade Date to, and including, the Hedge Completion Date (the "**Relevant Hedging Period**"), (B) on each day during the period from, and including, the 27th Scheduled Trading Day immediately preceding the Maturity Date (as defined in the Indenture) to, and including, the 25th VWAP Trading Day (as defined in the Indenture) thereafter (the "**Final Observation Period**"), (C) on each day during any "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) applicable to the Relevant Convertible Notes and (D) on each day during any Early Termination Period (as defined below), neither Counterparty nor any "affiliate" or "affiliated purchaser" (each as defined in Rule 10b-18 of the Exchange Act ("**Rule 10b-18**")) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument other than the Transaction) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares other than, for the avoidance of doubt, the forward transactions described under "Use of Proceeds" in the offering memorandum

related to the offering of the Convertible Notes (the '**Specified Share Forwards**"); *unless*, solely in the case of clauses (C) or (D) above (and solely to the extent that a binding agreement to effect such purchase activity during the relevant "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) or Early Termination Period, as applicable, had been entered into prior to notice of such period to Counterparty (whether under the Indenture or from Dealer, as applicable)), Counterparty has provided written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the relevant purchase activity not later than the Scheduled Trading Day immediately preceding the first day on which such purchase activity will occur; *provided* that (I) Counterparty shall provide written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the end of such purchase activity not later than the last day of such purchase activity, (II) Counterparty acknowledges and agrees that any notice under this Section 8(a)(ii) may result in a Regulatory Disruption or Excess Ownership Position (as defined below but with the reference to "9%" in clause (1) of the definition thereof replaced with a reference to "5%", a "**Relevant Excess Ownership Position**") to the extent the relevant purchase activity coincides with any period referred to in clauses
(C) or (D) above and (III) the Calculation Agent may make a corresponding adjustment in respect of any one or more of the terms relevant to the exercise, settlement or payment of the Options (including, for the avoidance of doubt, a postponement or extension pursuant to Section 8(e)) to the extent necessary to preserve the fair value of the Options to Dealer after taking into account such Regulatory Disruption or Relevant Excess Ownership Position (as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of such Regulatory Disruption or Relevant Excess Ownership Position); *provided further* that (a) this Section 7(a)(ii) shall not limit Counterparty's ability (or the ability of any "affiliate" or "affiliated purchaser" of Counterparty), (i) pursuant to its employee incentive plans, to re-acquire Shares in connection with the related equity transactions; (ii) to withhold shares to cover exercise price and/or tax liabilities associated with such equity transactions; or (iii) to grant Shares and options to "affiliates" or "affiliated purchasers" (as defined in Rule 10b-18) or the ability of such affiliates or affiliated purchasers to acquire such Shares or options, in connection with Counterparty's compensatory plans for directors, officers and employees or any agreements with respect to the compensation of directors, officers or employees of any entities that are acquisition targets of Counterparty, so long as, in the case of clause (i), (ii) or (iii) of this proviso, any such re-acquisition, withholding, grant, acquisition or other purchase does not constitute a "Rule 10b-18 Purchase" (as defined in Rule 10b-18) and (b) Counterparty or such "affiliate" or "affiliated purchaser" may purchase Shares in privately negotiated (off-market) transactions that do not, directly or indirectly, involve purchases on the Exchange and are not "Rule 10b-18 purchases" (as defined in Rule 10b-18), in each case without Dealer's consent.

(iii) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that Dealer is not making any representations or warranties with respect to the treatment of the Transaction under any accounting standards including FASB Statements 128, 133 (as amended), 149 or 150, EITF Issue No. 00-19, 01-6, 03-6 or 07-5(or any successor issue statements) or under FASB's Liabilities & Equity Project.

(iv) Without limiting the generality of Section 3(a)(iii) of the Agreement, the Transaction will not violateRule 13e-1 or Rule 13e-4 under the Exchange Act.

(v) (A) On or prior to the Trade Date, Counterparty shall deliver to Dealer a resolution of Counterparty's board of directors authorizing the Transaction and (B) on the Effective Date, Counterparty shall deliver to Dealer a solvency certificate with respect to Dealer signed by an authorized officer of Counterparty certifying the solvency of Counterparty as of the Trade Date and as of the Effective Date (after giving effect to Counterparty's payment of amounts

required to be paid by Counterparty on such date under the Transaction and the other transactions described under "Use of Proceeds" in the offering memorandum related to the offering of the Convertible Notes), which solvency certificate is reasonably satisfactory to Dealer.

(vi) Counterparty is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or to otherwise violate the Exchange Act.

(vii) Counterparty is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(viii) On and immediately after each of the Trade Date, the Initial Premium Payment Date and the Additional Premium Payment Date, (A) Counterparty is not "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**")), (B) Counterparty would be able to purchase the Shares with an aggregate purchase price equal to the Premium in compliance with the laws of the jurisdiction of Counterparty's incorporation and Counterparty's Constitutional documents and (C) for the purposes of Cayman Islands law, Counterparty is able to pay its debts.

(ix) The representations and warranties of Counterparty set forth in Section 3 of the Agreement and Section 1(a) of the Purchase Agreement between Issuer and Credit Suisse Securities (USA) LLC, HSBC Securities (USA) Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Morgan Stanley & Co. LLC and the other, as representatives of the initial purchasers party thereto (the "**Purchase Agreement**"), are true and correct as of the respective dates as of which such representations and warranties are made thereunder and are hereby deemed to be repeated to Dealer as if set forth herein.

(x) (A) (i) On each day during the Relevant Hedging Period, (ii) on each day during the Final Observation Period, (iii) on each day during any "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) applicable to the Relevant Convertible Notes and (iv) in the event an Early Termination Date is designated due to an Additional Termination Event pursuant to Section 8(d)(ii), on each day during a period starting on or about such Early Termination Date as reasonably determined by Dealer and notified to Counterparty (an "**Early Termination Period**"), in each case, the Shares or securities that are convertible into, or exchangeable or exercisable for, Shares, are not, and shall not be, subject to a "restricted period," as such term is defined in Regulation M under the Exchange Act ("**Regulation M**") (determined, for the avoidance of doubt, after giving effect to any applicable exceptions set forth in Sections 101(b) and 102(b) of Regulation M) and (B), without limiting the generality of the immediately preceding clause (A), Counterparty shall not engage in any "distribution," as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b) and 102(b) of Regulation M, during (i) the period comprised of the Relevant Hedging Period and the period from, and including, Hedge Completion Date to, and including, the second Exchange Business Day thereafter, (ii) the period comprised of the Final Observation Period and the period from, and including, the last day of the Final Observation Period to, and including, the second Exchange Business Day thereafter, (iii) the period comprised of any such Observation Period (other than the Final Observation Period and the period from, and including, the last day of such Observation Period (other than the Final Observation Period) to, and including, the second Exchange Business Day thereafter or (iv) the period comprised of any such Early Termination Period and the period from, and including, the last day of such Early Termination Period to, and including, the second Exchange Business Day thereafter, as applicable; *unless*, solely in the case of clauses (A)(iii), (A)(iv), (B)(iii) or (B)(iv) above (and solely to the extent that a binding agreement to effect the "distribution" that would give rise to the relevant "restricted period" during the relevant "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) or Early Termination Period, as applicable, had been entered into prior to notice of such period to Counterparty (whether under the Indenture or from Dealer, as applicable)), Counterparty has provided written notice (which notice shall be deemed to contain a

representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the relevant "restricted period" not later than the Scheduled Trading Day immediately preceding the first day of such "restricted period"; *provided* that (I) Counterparty shall provide written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the end of such "restricted period" not later than the last day of such "restricted period", (II) Counterparty acknowledges and agrees that any notice under this Section 8(a)(x) may result in a Regulatory Disruption or Relevant Excess Ownership Position to the extent the relevant transaction coincides with any period referred to in the case of clauses (iii) or (iv) above and (III) the Calculation Agent may make a corresponding adjustment in respect of any one or more of the terms relevant to the exercise, settlement or payment of the Options (including, for the avoidance of doubt, a postponement or extension pursuant to Section 8(e)) to the extent necessary to preserve the fair value of the Options to Dealer after taking into account such Regulatory Disruption or Relevant Excess Ownership Position (as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of such Regulatory Disruption or Relevant Excess Ownership Position).

(xi) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regardto all transactions and investment strategies involving a security or securities, (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing, and (C) has total assets of at least $50 million.

(xii) To Counterparty's knowledge, based on due inquiry, no state or local (including non-U.S. jurisdictions)law, rule, regulation or regulatory order applicable to the Shares (not including laws, rules, regulations or regulatory orders of any jurisdiction that are generally applicable to equity securities of U.S.-incorporated issuers that are listed on the Exchange solely as a result of Dealer's and/or its affiliates' activities, assets or business, other than Dealer's hedging activities in connection with the Transaction) would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares in connection with the Transaction.

(xiii) Counterparty is entering into this Confirmation and the Transaction in good faith and not as part of aplan or scheme to evade the prohibitions of Rule 10b5-1 under the Exchange Act ("**Rule 10b5-1**") or any other antifraud or anti-manipulation provisions of the federal or applicable state securities laws and that it has not entered into or altered, and will not enter into or alter, any corresponding or hedging transaction or position with respect to the Transaction. Counterparty acknowledges that it is the intent of the parties that the Transaction comply with the requirements of paragraphs (c)(1)(i)(A) and (B) of Rule 10b5-1 and that the Transaction shall be interpreted to comply with the requirements of Rule 10b5-1(c).

(xiv) Counterparty acknowledges and agrees that it has no right to, and will not seek to, control orinfluence Dealer's decision to make any "purchases or sales" (within the meaning of Rule 10b5-1(c)(1)(i)(B)(3)) under the Transaction, including, without limitation, Dealer's decision to enter into any hedging transactions. Counterparty represents and warrants that it has consulted with its own advisors as to the legal aspects of its adoption and implementation of this Confirmation and the Trade Notification under Rule 10b5-1.

(xv) Counterparty acknowledges and agrees that any amendment, modification, waiver or termination of this Confirmation or the Trade Notification must be effected in accordance with the requirements of Rule 10b5-1(c). Without limiting the generality of the foregoing, to the extent required by Rule 10b5-1(c), any such amendment, modification, waiver or termination of this Confirmation or the Trade Notification shall be made in good faith and not as

part of a plan or scheme to evade the prohibitions of Rule 10b-5, and, to the extent prohibited by Rule 10b5-1(c), no such amendment, modification, waiver or termination of, or settlement election under, this Confirmation or the Trade Notification be made at any time at which Counterparty or any officer, director, manager or similar person of Counterparty is aware of any material non-public information regarding the Shares or Counterparty.

(xvi) (A)(i) Counterparty understands that the Transaction is subject to complex risks, which it has duly considered and which may arise without warning and may at times be volatile, and that losses may occur quickly and in unanticipated magnitude; (ii) Counterparty has duly authorized its entry into the Transaction and such action does not violate any laws of its jurisdiction of incorporation, organization or residence; (iii) Counterparty has consulted with its legal, financial and accounting advisor(s) and has reached its own conclusions about the Transaction, and any legal, regulatory, tax, accounting or economic consequences arising from the Transaction; and (iv) the board of directors of Counterparty (the "**Board**") and/or any duly appointed committee of directors of Counterparty to which responsibility for approving and authorizing this Transaction has been duly delegated by the Board (the "**Relevant Committee**") has concluded that the Transaction is suitable for Counterparty, for its commercial benefit and in its best interests, in light of its own investment objectives, financial condition and expertise. (B) The Transaction has been duly approved and authorized by the Board or the Relevant Committee after due consideration by the Board and/or the Relevant Committee of the matters.

(b) Each of Dealer and Counterparty agrees and represents that it is an "eligible contract participant" as definedin Section 1a(18) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Counterparty acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the "**Securities Act**"), by virtue of Section 4(2) thereof. Accordingly, Counterparty represents and warrants to Dealer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment and its investments in and liabilities in respect of the Transaction, which it understands are not readily marketable, are not disproportionate to its net worth, and it is able to bear any loss in connection with the Transaction, including the loss of its entire investment in the Transaction, (ii) it is an "accredited investor" as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account and without a view to the distribution or resale thereof, (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws, and (v) its financial condition is such that it has no need for liquidity with respect to its investment in the Transaction and no need to dispose of any portion thereof to satisfy any existing or contemplated undertaking or indebtedness and is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the Transaction.

(d) Each of Dealer and Counterparty agrees and acknowledges that Dealer is a "financial institution," "swap participant"and "financial participant" within the meaning of Sections 101(22), 101(53C) and 101(22A) of Title 11 of the United States Code (the "**Bankruptcy Code**"). The parties hereto further agree and acknowledge (A) that this Confirmation is (i) a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a "settlement payment," as such term is defined in Section 741(8) of the Bankruptcy Code, and (ii) a "swap agreement," as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a "transfer," as such term is defined in Section 101(54) of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code.

(e) Counterparty shall deliver to Dealer opinions of counsel, from U.S. and Cayman Islands counsel to the Issuer, dated as of the Effective Date and reasonably acceptable to Dealer in form and substance, with respect to the matters set forth in Section 3(a) of the Agreement, subject to customary assumptions, qualifications and exceptions.

(f) Counterparty acknowledges that:

(i) During the term of the Transaction, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to establish, adjust or unwind its hedge position with respect to the Transaction;

(ii) Dealer and its affiliates may also be active in the market for the Shares other than in connection with hedging activities in relation to the Transaction;

(iii) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in Counterparty's securities shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Hedge Reference Price and/or the Daily VWAP (as defined in the Indenture);

(iv) Any market activities of Dealer and its affiliates with respect to the Shares may affect the market price and volatility of the Shares, as well as the Hedge Reference Price and/or the Daily VWAP (as defined in the Indenture), each in a manner that may be adverse to Counterparty; and

(v) The Transaction is a derivatives transaction with embedded optionality; Dealer may purchase shares for its own account at an average price that may be greater than, or less than, the price paid by Counterparty under the terms of the Transaction.

8. Other Provisions:

(a) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events.* If Dealer shall owe Counterparty any amount pursuant to "Consequences of Merger Events/Tender Offers" above or Sections 12.6, 12.7 or 12.9 of the Equity Definitions or pursuant to Section 6(d)(ii) of the Agreement (a "**Payment Obligation**"), Counterparty shall have the right, in its sole discretion, to require Dealer to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, between the hours of 9:00
A.M. and 4:00 P.M. New York City time on the relevant merger date, announcement date, Early Termination Date or date of cancellation or termination in respect of an Additional Disruption Event ("**Notice of Share Termination**"); *provided* that if Counterparty does not elect to require Dealer to satisfy its Payment Obligation by the Share Termination Alternative, Dealer shall have the right, in its sole discretion, to elect to satisfy its Payment Obligation by the Share Termination Alternative, notwithstanding Counterparty's failure to elect or election to the contrary; and *provided further* that Counterparty shall not have the right to so elect (but, for the avoidance of doubt, Dealer shall have the right to so elect) in the event of (i) an Insolvency (as amended by this Confirmation), a Nationalization or a merger event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash, (ii) an Insolvency Filing, (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, which Event of Default or Termination Event resulted from an event or events within Counterparty's control or (iv) the Bankruptcy of Counterparty. Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the relevant merger date, announcement date, Early Termination Date or date of cancellation or termination in respect of an Additional Disruption Event, as applicable:

Share Termination Alternative:	Applicable and means that Dealer shall deliver to Counterparty the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant to "Consequences of Merger Events/Tender Offers" above, Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as applicable (the "**Share Termination Payment Date**"), in satisfaction of the Payment Obligation.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the

	Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of the aggregate amount of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit onthe date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.
Share Termination Delivery Unit:	In the case of a Termination Event, Event of Default, Delisting or Additional Disruption Event, one Share or, in the case of an Insolvency, Nationalization or Merger Event, one Share or a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization or Merger Event. If such Insolvency, Nationalization or Merger Event involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction, except that all references to "Shares" shall be read as references to "Share Termination Delivery Units"; *provided* that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities or other laws or otherwise as a result of the fact that Counterparty is the issuer of any Share Termination Delivery Units (or any part thereof).

(b) *Disposition of Hedge Shares.* Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, the Shares (the "**Hedge Shares**") acquired by Dealer for the purpose of hedging its obligations pursuant to the Transaction cannot be sold in the U.S. public market by Dealer without registration under the Securities Act, Counterparty shall, at its election: (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act to cover the resale of such Hedge Shares and (A) enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement for a registered offering, (B) provide accountant's "comfort" letters in customary form for registered offerings of equity securities, (C) provide disclosure opinions of nationally recognized outside counsel to Counterparty reasonably acceptable to Dealer, (D) provide other customary opinions, certificates and closing documents customary in form for registered offerings of equity securities and (E) afford Dealer a reasonable opportunity to conduct a "due diligence" investigation with respect to Counterparty customary in scope for underwritten offerings of equity securities; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this Section 8(b) shall apply at the election of Counterparty; (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, to enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities, in form and substance reasonably satisfactory to Dealer, including customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Hedge Shares from Dealer), opinions and certificates and such other documentation as is customary for private placements agreements,

all reasonably acceptable to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its reasonable judgment, to compensate Dealer for any discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement); or (iii) purchase the Hedge Shares from Dealer at the VWAP Price on such Exchange Business Days, and in the amounts, requested by Dealer."**VWAP Price**" means, on any Exchange Business Day, the per Share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page HLF <equity> VAP (or any successor thereto) in respect of the period from 9:30 a.m. to 4:00 p.m. (New York City time) on such Exchange Business Day (or if such volume-weighted average price is unavailable, the market value of one Share on such Exchange Business Day, as determined by the Calculation Agent using a volume-weighted method).

(c) *Repurchase Notices*. Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a "**Repurchase Notice**") on such day if, following such repurchase, the Notice Percentage as determined on such day is (i) greater than 6% and (ii) greater by 0.5% than the Notice Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Notice Percentage as of the date hereof). The "**Notice Percentage**" as of any day is the fraction, expressed as a percentage, the numerator of which is the Number of Shares and the denominator of which is the number of Shares outstanding on such day.

Counterparty agrees to indemnify and hold harmless Dealer, its affiliates and its assignees and their respective directors, officers, employees, agents and controlling persons (Dealer and each such person being an "**Indemnified Party**") from and against any and all losses (including losses relating to Dealer's hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 "insider", including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to any Transaction), claims, damages and liabilities (or actions in respect thereof), joint or several, to which such Indemnified Party may become subject, under the Securities Act, the Exchange Act, under other applicable securities laws, under any other state or federal law, regulation or regulatory order or otherwise, relating to or arising out of a failure by Counterparty to provide Dealer with a Repurchase Notice on the day and in the manner set forth above. Counterparty shall be relieved from liability under this indemnity resulting from an action to the extent that Counterparty both (i) has not received notice that such action has commenced within 60 calendar days thereof and (ii) is materially prejudiced as a result of not receiving such notice. If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient to hold harmless any Indemnified Party, then Counterparty shall contribute, to the maximum extent permitted by law, to the amount paid or payable by the Indemnified Party as a result of such loss, claim, damage or liability. In addition, Counterparty will reimburse any Indemnified Party for all expenses (including reasonable counsel fees and expenses) as they are incurred (after notice to Counterparty) in connection with the investigation of, preparation for or defense or settlement of any pending or threatened claim or any action, suit or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto and whether or not such claim, action, suit or proceeding is initiated or brought by or on behalf of Counterparty. This indemnity shall survive the completion of the Transaction and any assignment and/or delegation of the Transaction made pursuant to the Agreement and/or this Confirmation shall inure to the benefit of any permitted assignee of Dealer.

(d) *Additional Termination Events*.

(i) The occurrence of (x) an event of default with respect to Counterparty under the terms of the Convertible Notes as set forth in Section 6.01 of the Indenture that results in the Convertible Notes becoming or being declared immediately due and payable under the terms of Section 6.02(a) of the Indenture, or (y) an Amendment Event shall be an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Counterparty is the sole Affected Party, and Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement.

"**Amendment Event**" means that Counterparty amends, modifies, supplements or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of

Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion price, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend, in each case without the prior consent of Dealer.

(ii) Notwithstanding anything to the contrary in this Confirmation, the receipt by Dealer from Counterparty, within the applicable time period set forth under "Notice of Exercise" above, of any Notice of Exercise in respect of the exercise of any Options that, according to such Notice of Exercise, relate to Relevant Convertible Notes that are Excluded Convertible Notes shall constitute an Additional Termination Event as provided in this paragraph and shall not result in the exercise of any Options. Upon receipt of any such Notice of Exercise, Dealer shall designate an Exchange Business Day following such Additional Termination Event as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the "**Applicable Conversion Options**") equal to the lesser of (A) the aggregate principal amount of Excluded Convertible Notes specified in such Notice of Exercise, *divided by* USD1,000, and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Applicable Conversion Options. Any payment hereunder with respect to such termination (the "**Early Conversion Unwind Payment**") shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Applicable Conversion Options (which shall, solely for purposes of determining such amount, be deemed not to constitute "Applicable Conversion Options" under such hypothetical Transaction), (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event, (3) the terminated portion of the Transaction were the sole Affected Transaction and (4) solely for purposes of determining such amount, the Conversion Date in respect of the corresponding Relevant Convertible Notes had not occurred and such Relevant Convertible Notes remain outstanding (and, in determining the amount payable pursuant to Section 6 of the Agreement, the Calculation Agent shall not take into account any adjustments to the "Conversion Rate" (as defined in the Indenture) pursuant to Section 4.04(f), 4.05(b) or 4.06(a) of the Indenture); *provided* that, the Early Conversion Unwind Payment shall not be greater than (x) the Applicable Percentage *multiplied by* (y) the number of Applicable Conversion Options *multiplied by* (z) the excess of (I) the "Conversion Rate" (as defined in the Indenture without taking into account any adjustments to the "Conversion Rate" (as defined in the Indenture) pursuant to Section 4.04(f), 4.05(b) or 4.06(a) of the Indenture), *multiplied by* the Applicable Limit Price on the settlement date for the cash and Shares, if any, to be delivered pursuant to Section 4.03(a) of the Indenture in respect of the Excluded Convertible Notes relating to such Early Conversion Unwind Payment, *over* (II) USD1,000.

(iii) Within five Scheduled Trading Days promptly following any Repayment Event (as defined below), Counterparty shall notify Dealer of such Repayment Event and the aggregate principal amount of Convertible Notes subject to such Repayment Event (any such notice, a "**Repayment Notice**"); *provided* that such Repayment Notice shall contain an acknowledgement by Counterparty of its responsibilities under applicable securities laws, and in particular Section 9 and 10(b) of the Exchange Act and the rules and regulations promulgated thereunder and shall remake the representations set forth in Section 7(a)(i)(A), in each case in respect of such repurchase and delivery of such Repayment Notice. The receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional Termination Event as provided in this paragraph. Upon receipt of any such Repayment Notice, Dealer shall designate an Exchange Business Day following receipt of such Repayment Notice as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the "**Repayment Options**") equal to the lesser of (A) the aggregate principal amount of such Convertible Notes specified in such Repayment Notice, *divided by* USD1,000, and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the "**Repayment Unwind Payment**") shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the

number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional TerminationEvent, (3) the terminated portion of the Transaction were the sole Affected Transaction and (4) solely for purposes of determining such amount, the Relevant Repayment Event had not yet occurred and the relevant Convertible Notes remain outstanding. "**Repayment Event**" means that (i) any Convertible Notes are repurchased (whether in connection with or as a result of a fundamental change, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (ii) any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of such party (howsoever described), (iii) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (for any reason other than as a result of an acceleration of the Convertible Notes that results in an Additional Termination Event pursuant to the preceding Section 8(a)(i)), or (iv) any Convertible Notes are exchanged by or for the benefit of the holders thereof for any other securities of Counterparty or any of its subsidiaries (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes pursuant to the terms of the Indenture shall not constitute a Repayment Event.

Counterparty acknowledges and agrees that (x) it will immediately cancel pursuant to Section 2.12 of the Indenture any Convertible Notes that are subject to any Repayment Event and (y) each such Convertible Note that is subject to a Repayment Event will be deemed to no longer be outstanding for all purposes hereunder.

(e) *Right to Extend.* Dealer may postpone or add, in whole or in part, as Dealer determines appropriate in good faith, any Settlement Date or any other date of valuation or delivery by Dealer, with respect to any relevant Options (in which event the Calculation Agent shall make appropriate adjustments to the Delivery Obligation), to the extent Dealer determines, in its reasonable discretion based on advice of counsel in the case of the immediately following clause (ii), that such extension is reasonably necessary or appropriate (i) to preserve Dealer's commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the cash market or the stock borrow market or other relevant market or (ii) to enable Dealer to effect purchases of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer and the Transaction.

(f) *Staggered Settlement*. If Dealer reasonably determines it is appropriate with respect to any applicable legal, regulatoryor self-regulatory requirements (including any requirements relating to Dealer's hedging activities with respect to the Transaction) or restrictions, or with related policies and procedures applicable to Dealer and the Transaction, and/or to avoid an Excess Ownership Position, Dealer may, by notice to Counterparty prior to any Settlement Date (a "**Nominal Settlement Date**"), elect to deliver the Shares or Share Termination Delivery Units, as applicable, on one or more dates (each, a "**Staggered Settlement Date**") or at two or more times on the Nominal Settlement Date as follows:

(i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to such Nominal Settlement Date) or delivery times and how it will allocate the Shares or Share Termination Delivery Units, as applicable, it is required to deliver under "Delivery Obligation" (above) among the Staggered Settlement Dates or delivery times; and

(ii) the aggregate number of Shares or Share Termination Delivery Units, as applicable, that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates and delivery times will equal the number of Shares or Share Termination Delivery Units, as applicable, that Dealer would otherwise be required to deliver on such Nominal Settlement Date.

(g) *Transfer and Assignment*. Either party may transfer any of its rights or obligations under the Transaction with the prior written consent of the non-transferring party, such consent not to be unreasonably withheld; *provided* that Dealer may transfer or assign without any consent of Counterparty its rights and obligations hereunder, in whole or in part, to (i) any of its affiliates (A) with a credit quality equivalent to Dealer or Dealer's guarantor or (B) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer or its relevant affiliate for similar transactions, by Dealer, an affiliate of Dealer with credit quality equivalent to Dealer or Dealer's parent

entity or other guarantor, or (ii) if an Excess Ownership Position (as defined below) or Hedging Disruption exists, but only to theextent of such Excess Ownership Position or to the extent such assignment would eliminate such Hedging Disruption, to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than A- by Standard and Poors Rating Group, Inc. or its successor ("**S&**P"), or A3 by Moody's Investor Service, Inc. or its successor ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer. Dealer shall promptly notify Counterparty of any such assignment provided for above. If at any time at which (1) the Equity Percentage exceeds 9%, (2) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under any state or federal bank holding company or banking laws, or other federal, state or local regulations or regulatory orders applicable to ownership of Shares ("**Applicable Laws**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would, in Dealer's reasonable judgment based on advice of counsel, give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person under Applicable Laws and with respect to which such requirements have not been met or the relevant approval has not been received *minus* (y) 1% of the number of Shares outstanding on the date of determination (either such condition described in clause (1) or (2), an "**Excess Ownership Position**"), or (3) a Hedging Disruption has occurred and is continuing, if Dealer, in its discretion, is unable to effect a transfer or assignment to a third party in accordance with the requirements set forth above after using its commercially reasonable efforts on pricing terms reasonably acceptable to Dealer such that an Excess Ownership Position or a Hedging Disruption, as the case may be, no longer exists, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the "**Terminated Portion**") of the Transaction, such that such Excess Ownership Position or Hedging Disruption, as the case may be, no longer exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement and Section 8(a) of this Confirmation as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction, (ii) Counterparty shall be the sole Affected Party with respect to such partial termination and (iii) such portion of the Transaction shall be the only Terminated Transaction. The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer (collectively, "**Dealer Group**") "beneficially own" (within the meaning of Section 13 of the Exchange Act) without duplication on such day and
(B) the denominator of which is the number of Shares outstanding on such day.

(h) *Equity Rights*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect tothe Transaction that are senior to the claims of common stockholders in the event of Counterparty's bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Counterparty's bankruptcy to any claim arising as a result of a breach by Counterparty of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that this Confirmation is not secured by any collateral that would otherwise secure the obligations of Counterparty herein under or pursuant to any other agreement.

(j) *No Netting and Set-off*. Notwithstanding any provision of the Agreement (including without limitation Section 6(f) thereof) and this Confirmation (including without limitation this Section 8(j)) or any other agreement between the parties to the contrary, each party waives any and all rights it may have to set off obligations arising under the Agreement and the Transaction against other obligations between the parties, whether arising under any other agreement, applicable law or otherwise.

(j) *Early Unwind*. In the event the sale by Counterparty of the "Initial Securities" (as defined in the Purchase Agreement)is not consummated with the initial purchasers for any reason by the close of business in New York on February 7, 2014 (or such later date as agreed upon by the parties, which in no event shall be later than February 21, 2014) (February 7, 2014 or such later date being the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**"), on the Early Unwind

Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty thereunder shall be cancelled and terminated and (ii) following the payment or delivery, as applicable, referred to below, each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date (other than under the indemnity under the second paragraph of Section 8(c)); *provided* that, except to the extent that the Early Unwind Date occurred as a result of a breach of the Purchase Agreement by Dealer (or its affiliate, as applicable) in its capacity as initial purchaser Counterparty shall pay to Dealer an amount in cash equal to the aggregate amount of costs and expenses relating to the unwinding of Dealer's hedging activities in respect of the Transaction (including market losses incurred in reselling any Shares purchased by Dealer or its affiliates in connection with such hedging activities, unless Counterparty agrees to purchase any such Shares at the cost at which Dealer purchased such Shares) or, at the election of Counterparty, deliver to Dealer (at the times, and in the amounts, reasonably requested by Dealer) Shares with a value equal to such amount, as commercially reasonably determined by the Calculation Agent, in which event the parties shall enter into customary and commercially reasonable documentation relating to the registered or exempt resale of such Shares (in which case, the Calculation Agent shall make any adjustment to the number of such Shares that is necessary, in its reasonable judgment, to compensate Dealer for any discount from the public market price of the Shares incurred on the sale of such Shares in a private placement) (it being understood, for the avoidance of doubt, that Counterparty shall have the right to elect that an exempt, as opposed to registered, resale of such Shares shall apply in accordance with the requirements set forth herein); *provided* that, if Counterparty makes such election to deliver Shares, notwithstanding the foregoing, the number of Shares so delivered will not exceed a number of Shares equal to two *multiplied by* the Number of Shares (with such Number of Shares determined, for the avoidance of doubt, as if the relevant Convertible Notes had been issued and the Hedge Completion Date had occurred).

(k) *Designation by Dealer*. Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities and otherwise to perform Dealer's obligations in respect of the Transaction and any such designee may perform such obligations. Dealer shall be discharged of its obligations to Counterparty to the extent of any such performance.

(l) *Disclosure.* Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.

(m) *Counterparts*. This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(n) *Waiver of Trial by Jury*. EACH OF COUNTERPARTY AND DEALER HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THE TRANSACTION OR THE ACTIONS OF COUNTERPARTY OF ITS AFFILIATES OR DEALER OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF.

(o) *Submission to Jurisdiction.* Each party hereby irrevocably and unconditionally submits for itself and its property in any legal action or proceeding by the other party against it relating to the Transaction to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the Supreme Court of the State of New York, sitting in New York County, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof.

(p) *Governing Law*. THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO ITS CHOICE OF LAW DOCTRINE).

(q) [*Reserved*]

(r) *Amendments to Equity Definitions*.

(i) Section 11.2(a) of the Equity Definitions is hereby amended by (1) deleting the words "a diluting or concentrative" and replacing them with the words "a material" and (2) adding the phrase "or options on the Shares" at the end of the sentence.

(ii) Section 11.2(c) of the Equity Definitions is hereby amended by (1) replacing the words "a diluting or concentrative" with "a material", (2) adding the phrase "or options on the Shares" following the words "the theoretical value of the relevant Shares", (3) deleting the words "diluting or concentrative" following the words "the Calculation Agent determines appropriate to account for that" and (4) deleting the phrase "(provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)" and replacing it with the phrase "(and, for the avoidance of doubt, other than in the case of a Share split, reverse Share split or equivalent transaction, adjustments may be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)."

(iii) Section 11.2(e)(vii) of the Equity Definitions is hereby amended by (1) deleting the words "that may have a diluting or concentrative" and replacing them with the words "that is the result of a corporate event involving Issuer or its securities that could reasonably be expected to have a material" and (2) adding the phrase "or options on the Shares" at the end of the sentence.

(iv) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting "(A)" after "means" in the first line thereof and replacing "(A)" and "(B)" in the third and fourth lines thereof with "(1)" and "(2)" respectively,
(2) deleting from the fourth line thereof the word "or" after the word "official" and inserting a comma therefor,
(3) inserting at the end of renumbered subsection (2) thereof the following wording, "or, under the laws of the Cayman Islands, any other impediment to or restriction on the transfer of any Share arises or becomes applicable including, without limitation, where (x) any transfer of a Share or alteration of the status of the members of the Issuer would be void unless a court of the Cayman Islands orders otherwise or (y) any transfer of a Share not being a transfer with the sanction of a liquidator, and any alteration in the status of the Issuer's members would be void" and
(4) deleting the semi-colon at the end of renumbered subsection (2) thereof and inserting the following words therefor "or (B) at Dealer's option, the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer."

(v) Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing "either party may elect" with "Dealer may elect" and (2) replacing "notice to the other party" with "notice to Counterparty" in the first sentence of such section.

(s) *General Obligations Law of New York*. With respect to the Transaction, (i) this Confirmation is a "qualified financial contract", as such term is defined in Section 5-701(b)(2) of the General Obligations Law of New York (the "**General Obligations Law**"); (ii) this Confirmation constitutes a "confirmation in writing sufficient to indicate that a contract has been made between the parties" hereto, as set forth in Section 5-701(b)(3)(b) of the General Obligations Law; and (iii) this Confirmation constitutes a prior "written contract" as set forth in Section 5-701(b)(1)(b) of the General Obligations Law, and each party hereto intends and agrees to be bound by this Confirmation, as supplemented by the related Trade Notification.

(t) *Foreign Account Tax Compliance Act and HIRE Act.* "Tax" and "Indemnifiable Tax" each as defined in Section 14 of the Agreement shall not include (i) any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**") or any regulations issued thereunder or (ii) any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "**FATCA Withholding Tax**"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or

withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement. Counterparty shall promptly upon request by Dealer, provide tax forms and documents required to be delivered pursuant to Section 1471(b) or Section 1472(b)(1) of the Code and any other forms and documents reasonably requested by Dealer.

Counterparty hereby agrees (a) to check this Confirmation carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by Dealer) correctly sets forth the terms of the agreement between Dealer and Counterparty with respect to the Transaction, by manually signing this Confirmation or this page hereof as evidence of agreement to such terms and providing the other information requested herein and immediately returning an executed copy to Dealer.

Yours faithfully,

[DEALER]

By:
Name:
Title:

Agreed and Accepted By:

HERBALIFE LTD.

By:
Name: Title:

SCHEDULE A
TRADE NOTIFICATION

To: Herbalife Ltd.

From: [*Insert Dealer name and address*]
Re: Base Capped Call Transaction
Date: [ ], 2014

Dear Sir(s):

The purpose of this Trade Notification is to notify you of certain terms in the Transaction entered into between [*Insert Dealer name*] ("**Dealer**") and Herbalife Ltd. ("**Counterparty**") with the Trade Date of February 3, 2014.

This Trade Notification supplements, forms part of, and is subject to the Confirmation dated as of February 3, 2014 (the "**Confirmation**") between Dealer and Counterparty, as amended and supplemented from time to time.

Hedge Completion Date: [ ]

Premium: USD [ ]

Additional Premium Amount: USD [ ]

Additional Premium Payment Date: [ ]

Exchange Business Day	**Hedge Reference Price**	**Daily Premium Amount**
1.		
2.		
3.		
4.		
5.		
…		

Yours faithfully,

[DEALER]

By:
Name:
Title:

SCHEDULE B

Hedge Reference Price	Daily Premium Amount

Exhibit 10.23

Opening Transaction

To: Herbalife Ltd.

From: [*Insert Dealer name and address*]
Re: Additional Capped Call Transaction
Date: February 7, 2014

Dear Sir(s):

The purpose of this communication (this "**Confirmation**") is to set forth the terms and conditions of the above-referenced transaction entered into on the Trade Date specified below (the "**Transaction**") between [*Insert Dealer name*] ("**Dealer**") and Herbalife Ltd. ("**Counterparty**"). The additional terms of the Transaction shall be set forth in a Trade Notification in the form of Schedule A hereto (the "**Trade Notification**"), which shall supplement, form a part of, and be subject to this Confirmation. This communication, together with the Trade Notification, constitutes a "Confirmation" as referred to in the Agreement specified below.

1. This Confirmation is subject to, and incorporates, the definitions and provisions of the 2006 ISDA Definitions (the "**2006 Definitions**") and the definitions and provisions of the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**", and together with the 2006 Definitions, the "**Definitions**"), in each case as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**"). Certain defined terms used herein have the meanings assigned to them in the Indenture to be dated as of February 7, 2014 between Counterparty and Union Bank, N.A., as trustee (the "**Indenture**") relating to the $1 billion principal amount of 2.00% convertible senior notes due 2019 and the additional $150 million principal amount of 2.00% convertible senior notes due 2019 issued pursuant to the option exercised on the date hereof (the "**Convertible Notes**"). In the event of any inconsistency between the terms defined in the Indenture and this Confirmation, this Confirmation shall govern. References herein to sections of the Indenture are based on the Indenture as executed. The parties further acknowledge that references to the Indenture herein are references to the Indenture as in effect on the date of its execution and if the Indenture is amended following its execution, any such amendment will be disregarded for purposes of this Confirmation unless the parties agree otherwise in writing. The Transaction is subject to early unwind if the closing of the Convertible Notes is not consummated for any reason, as set forth below in Section 8(j).

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties' entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

This Confirmation, together with the Trade Notification, evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation and the Trade Notification shall be subject to an agreement (the "**Agreement**") in the form of the 1992 ISDA Master Agreement (Multicurrency—Cross Border), as published by ISDA, as if Dealer and Counterparty had executed an agreement in such form on the date hereof (but without any Schedule except for (i) the election of Loss and Second Method and US Dollars ("**USD**") as the Termination Currency, (ii) the replacement of the word "third" in the last line of Section 5(a)(i) with the

word “first”, and (iii) the election that the “Cross Default” provisions of Section 5(a)(vi) shall apply to Counterparty with a “Threshold Amount” of USD 100.0 million and with the phrase “, or becoming capable at such time of being declared,” deleted from Section 5(a) (vi)(1) of the Agreement). The Transaction shall be the only Transaction under the Agreement.

All provisions contained in, or incorporated by reference to, the Agreement will govern this Confirmation and the Trade Notification except as expressly modified herein. In the event of any inconsistency between this Confirmation, the Trade Notification, the Agreement, the 2006 Definitions and/or the Equity Definitions, as the case may be, the following will prevail in the order of precedence indicated: (i) the Trade Notification, (ii) this Confirmation, (iii) the Agreement, (iv) the Equity Definitions and (v) the 2006 Definitions.

2. The Transaction constitutes a Share Option Transaction for purposes of the Equity Definitions. Set forth below arethe terms and conditions that, together with the terms and conditions set forth in the Trade Notification, shall govern the Transaction to which this Confirmation relates:

General Terms:

Trade Date:	February 7, 2014
Effective Date:	The closing date of the Convertible Notes issued pursuant to the option to purchase additional Convertible Notes exercised on the date hereof.
Option Style:	Modified American, as described under “Procedures for Exercise”below.
Option Type:	Call
Seller:	Dealer
Buyer:	Counterparty
Shares:	The Common Shares of Counterparty, par value USD0.001 per share(Ticker Symbol: “HLF”).
Number of Options:	150,000. Notwithstanding anything to the contrary herein, in the Equity Definitions or in the Agreement, as of any date prior to the end of the Hedge Period the Number of Options will not exceed the number of Options with respect to which Dealer has established its Hedge Positions with respect to the Transaction as of such date, subject to reduction upon the exercise, termination or other early unwind of any Options hereunder.
Option Entitlement:	As of any date, a number of Shares per Option equal to the “Conversion Rate” (as defined in the Indenture, but without regard to any adjustments to the Conversion Rate pursuant to Section 4.04(f), 4.05(b) or 4.06(a) of the Indenture) as of such date.
Strike Price:	As of any date, an amount in USD, rounded to the nearest cent (with 0.5 cents being rounded upwards), equal to USD1,000 *divided by* the Option Entitlement as of such date.
Cap Price:	USD120.7850
Applicable Percentage:	[ ]%

Number of Shares:	The product of (i) the Number of Options, (ii) the Option Entitlement and (iii) the Applicable Percentage.
Premium:	As specified in the Trade Notification, to be the sum of the Daily Premium Amounts for each Exchange Business Day that is not a Disrupted Day in full during the Hedge Period. Section 2.4 of the Equity Definitions will not apply to the Transaction.
Daily Premium Amount:	For each Exchange Business Day that is not a Disrupted Day in full during the Hedge Period, an amount in USD determined by the Calculation Agent by reference to the table set forth in Schedule B hereto based on the Hedge Reference Price for such Exchange Business Day. If the exact Hedge Reference Price for such Exchange Business Day does not appear in such table, the Daily Premium Amount for such Exchange Business Day shall be determined by the Calculation Agent by linear interpolation or extrapolation, as applicable, using the two closest Hedge Reference Prices appearing in such table.
Initial Premium Payment:	Counterparty shall pay to Dealer the Initial Premium on the Initial Premium Payment Date.
Initial Premium:	USD[ ]
Initial Premium Payment Date:	The Effective Date
Additional Premium Payment:	(i) If the Additional Premium Amount is greater than zero, then Counterparty shall pay to Dealer such Additional Premium Amount on the Additional Premium Payment Date and (ii) if the Additional Premium Amount is less than zero, then Dealer shall pay to Counterparty the absolute value of such Additional Premium Amount on the Additional Premium Payment Date.
Additional Premium Amount:	As specified in the Trade Notification, to be an amount in USD equal to the Premium *minus* the Initial Premium.
Additional Premium Payment Date:	As specified in the Trade Notification, to be the third Currency Business Day immediately following the Hedge Completion Date.
Exchange:	The New York Stock Exchange
Related Exchange:	All Exchanges
Hedge Period Terms:	
Hedge Period:	The period from, and including, the first Scheduled Trading Day immediately following the Trade Date to, and including, the first Exchange Business Day that is not a Disrupted Day in full immediately following the Trade Date.

Hedge Completion Date:	The last day of the Hedge Period.
Hedge Reference Price:	For each Exchange Business Day that is not a Disrupted Day in full during the Hedge Period, the volume-weighted average price at which Dealer effects transactions to establish its initial hedge of the equity price risk and market risk under the Transaction on such Exchange Business Day.
Market Disruption Event:	For purposes of determining any Hedge Reference Price: The third and fourth lines of Section 6.3(a) of the Equity Definitions are hereby amended by deleting the words "during the one hour period that ends at the relevant Valuation Time" and replacing them with "at any time prior to the relevant Valuation Time". Section 6.3(d) of the Equity Definitions is hereby amended by deleting the remainder of the provision following the term "Scheduled Closing Time" in the fourth line thereof. Any Scheduled Trading Day on which, as of the date hereof, the Exchange is scheduled to close prior to its normal close of trading shall be deemed not to be a Scheduled Trading Day; if a closure of the Exchange prior to its normal close of trading on any Scheduled Trading Day is scheduled following the date hereof, then such Scheduled Trading Day shall be deemed to be a Disrupted Day in full.
Disrupted Day:	For purposes of determining any Hedge Reference Price: Without limiting the generality of Section 6.4 of the Equity Definitions, any Scheduled Trading Day on which a Regulatory Disruption occurs shall also constitute a Disrupted Day.
Regulatory Disruption:	In the event that Dealer concludes, in its reasonable discretion and in goodfaith, based on advice of counsel, that it is appropriate with respect to any legal, regulatory or self-regulatory requirements or related policies and procedures (whether or not such requirements, policies or procedures are imposed by law or have been voluntarily adopted by Dealer), for it to refrain from purchasing or selling Shares on any Scheduled Trading Day or Days, Dealer shall use its reasonable efforts to notify Counterparty in writing that a Regulatory Disruption has occurred on such Scheduled Trading Day or Days (for the avoidance of doubt, without being required to specify or otherwise communicate to Counterparty the nature of such Regulatory Disruption).

Hedge Period Disruption:	Notwithstanding anything to the contrary in the Equity Definitions, to the extent that a Disrupted Day occurs in the Hedge Period, the Calculation Agent may, in its good faith and commercially reasonable discretion, extend the Hedge Period. If any such Disrupted Day is a Disrupted Day because of a Market Disruption Event (including, for the avoidance of doubt, a Regulatory Disruption as provided herein), the Calculation Agent shall determine whether (i) such Disrupted Day is a Disrupted Day in full, in which case the Daily Premium Amount, if any, for such Disrupted Day shall not be included for purposes of determining the Premium or (ii) such Disrupted Day is a Disrupted Day only in part, in which case the Hedge Reference Price for such Disrupted Day shall be determined by the Calculation Agent based on transactions in the Shares effected by or on behalf of Dealer before the relevant Market Disruption Event occurred and/or after the relevant Market Disruption Event ended, and the Daily Premium Amount for such Disrupted Day (and, if applicable, the Daily Premium Amount for any subsequent Exchange Business Day that is not a Disrupted Day in full during the Hedge Period), including the weighting thereof for purposes of determining the Premium, shall be adjusted in a commercially reasonable manner by the Calculation Agent for purposes of determining the Premium, with such adjustments based on, among other factors, the transactions in the Shares effected by or on behalf of Dealer before the relevant Market Disruption Event occurred and/or after the relevant Market Disruption Event ended and the volume, historical trading patterns and price of the Shares. If a Disrupted Day occurs during the Hedge Period, and each of the nine immediately following Scheduled Trading Days is a Disrupted Day, then the Calculation Agent, in its good faith and commercially reasonable discretion, may deem such ninth Scheduled Trading Day to be an Exchange Business Day that is not a Disrupted Day and determine the Hedge Reference Price for such ninth Scheduled Trading Day using its good faith estimate of the value of the Shares on such ninth Scheduled Trading Day based on the volume, historical trading patterns and price of the Shares and such other factors as it deems appropriate.
Procedures for Exercise:	
Exercise Date:	Each Conversion Date.
Conversion Date:	Each “Conversion Date” (as defined in the Indenture) occurring during the Exercise Period for Convertible Notes that are not “Relevant Convertible Notes” under, and as defined in, the confirmation between the parties hereto regarding the Base Capped Call Transaction dated February 3, 2014 (the “**Base**

	Capped Call Transaction Confirmation") (such Convertible Notes, each in denominations of USD1,000 principal amount, the "**Relevant Convertible Notes**" for such Conversion Date). For the purposes of determining whether any Convertible Notes will be Relevant Convertible Notes hereunder or under the Base Capped Call Transaction Confirmation, Convertible Notes that are converted pursuant to the Indenture shall be allocated first to the Base Capped Call Transaction Confirmation until all Options thereunder are exercised or terminated.
Exercise Period:	The period from and excluding the Trade Date to and including theExpiration Date.
Expiration Date:	The earlier of (i) the last day on which any Convertible Notes remain outstanding and (ii) the second "Scheduled Trading Day" (as defined in the Indenture) immediately preceding the "Maturity Date" (as defined in the Indenture).
Automatic Exercise on Conversion Dates:	On each Conversion Date, a number of Options equal to (i) the number of Relevant Convertible Notes for such Conversion Date in denominations of USD1,000 principal amount *minus* (ii) the number of Applicable Conversion Options (as defined below), if any, corresponding to such Conversion Date shall be automatically exercised, subject to "Notice of Exercise" below.
Excluded Convertible Notes:	Relevant Convertible Notes surrendered for conversion on any date prior tothe start of the Final Conversion Period (as defined below). The provisions of Section 8(d) below will apply to the exercise of any Options hereunder in connection with the conversion of any Excluded Convertible Notes.
Notice Deadline:	In respect of any exercise of Options hereunder, the Scheduled Trading Day (as defined in the Indenture) immediately preceding the first Scheduled Trading Day of the relevant "Observation Period" (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture), subject to "Notice of Exercise" below; *provided* that in the case of any exercise of Options hereunder in connection with the conversion of any Relevant Convertible Notes for any Conversion Date occurring during the period starting on the 30th Scheduled Trading Day immediately preceding the Maturity Date (the "**Final Conversion Period**"), the Notice Deadline shall be 5:00 PM, New York City time, on the "Scheduled Trading Day" (as defined in the Indenture) immediately preceding the "Maturity Date" (as defined in the Indenture).
Notice of Exercise:	Notwithstanding anything to the contrary in the Equity Definitions, Dealer shall have no obligation to

make any payment or delivery in respect of any exercise of Options hereunder unless Counterparty notifies Dealer in writing prior to 5:00 PM, New York City time, on the Notice Deadline in respect of such exercise of (i) the number of Convertible Notes being converted on such Exercise Date (including, if applicable, whether all or any portion of such Convertible Notes are Convertible Notes as to which additional Shares would be added to the "Conversion Rate" (as defined in the Indenture) pursuant to Section 4.06(a) of the Indenture (the "**Make- Whole Convertible Notes**")), (ii) the scheduled settlement date under the Indenture for the Relevant Convertible Notes for the related Conversion Date and (iii) the first Scheduled Trading Day of the Observation Period (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture) for such Relevant Convertible Notes; *provided* that in the case of any exercise of Options hereunder in connection with the conversion of any Relevant Convertible Notes for any Conversion Date occurring during the Final Conversion Period, the content of such notice shall be as set forth in clause (i) above; *provided*, *further*, that any "Notice of Exercise" delivered to Dealer pursuant to the Base Capped Call Transaction Confirmation shall be deemed to be a Notice of Exercise pursuant to this Confirmation and the terms of such Notice of Exercise shall apply, *mutatis mutandis*, to this Confirmation. For the avoidance of doubt, if Counterparty fails to give such notice when due in respect of any exercise of Options hereunder, Dealer's obligation to make any payment or delivery in respect of such exercise shall be permanently extinguished, and late notice shall not cure such failure; *provided* that notwithstanding the foregoing, such notice, except in connection with the conversion of any Relevant Convertible Notes for any Conversion Date occurring during the Final Conversion Period, shall be effective (including for purposes of Section 8(d) below) if given after the Notice Deadline, but prior to 5:00 PM New York City time, on the fifth Exchange Business Day following the Notice Deadline, in which event the Calculation Agent shall have the right to adjust the Delivery Obligation as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of Dealer not having received such notice on or prior to the Notice Deadline.

Dealer's Telephone Number and Telex and/or Facsimile Number and Contact Details for purpose of Giving Notice:

[*Insert Dealer contact information*]

Settlement Terms:

Settlement Date:	For any Exercise Date, the settlement date for the Shares, if any, and cash to be delivered in respect of the Relevant Convertible Notes for the Conversion Date occurring on such Exercise Date under the terms of the Indenture; *provided* that the Settlement Date shall not be prior to the latest of (i) the date three Exchange Business Days following the final day of the relevant Observation Period (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture, except that, if there is no Observation Period (as defined in the Indenture) applicable to the Relevant Convertible Notes as a result of such provisions of the Indenture, then such date referred to above in this clause (i) will be deemed to be the date as promptly as commercially reasonably practicable following the related settlement date for the Relevant Convertible Notes), (ii) the Exchange Business Day immediately following the date on which Counterparty gives notice to Dealer of such Settlement Date prior to 5:00 PM, New York City time, and (iii) the Exchange Business Day immediately following the date Counterparty provides the Notice of Delivery Obligation prior to 5:00 PM, New York City time.
Delivery Obligation:	In lieu of the obligations set forth in Sections 8.1 and 9.1 of the Equity Definitions, and subject to "Notice of Exercise" above, in respect of any Exercise Date, Dealer will deliver to Counterparty on the related Settlement Date a number of Shares equal to the product of (i) the Applicable Percentage and (ii) the aggregate number of Shares, if any, that Counterparty is obligated to deliver to the holder(s) of the Relevant Convertible Notes for such Conversion Date pursuant to Section 4.03(a) of the Indenture (except that such aggregate number of Shares shall be determined without taking into consideration any rounding pursuant to Section 4.03(b) of the Indenture and shall be rounded down to the nearest whole number and cash shall be delivered in lieu of fractional shares, if any, resulting from such rounding) (such product, the "**Convertible Obligation**"); *provided* that (i) if the Convertible Obligation exceeds the Capped Convertible Obligation, then the Delivery Obligation shall be the Capped Convertible Obligation; and (ii) the Convertible Obligation (and, for the avoidance of doubt, the Capped Convertible Obligation) shall be determined excluding any Shares, if any, and cash that Counterparty is obligated to deliver to holder(s) of the Relevant Convertible Notes as a direct or

indirect result of any adjustments to the Conversion Rate pursuant to Sections 4.04(f), 4.05(b) or 4.06(a) of the Indenture and any interest payment that Counterparty is (or would have been) obligated to deliver to holder(s) of the Relevant Convertible Notes for such Conversion Date; and *provided further* that if such exercise relates to the conversion of Relevant Convertible Notes in connection with which holders thereof are entitled to receive additional Shares and/or cash pursuant to the adjustments to the Conversion Rate set forth in Section 4.06(a) of the Indenture, then, notwithstanding the foregoing, the Delivery Obligation shall include the Applicable Percentage of such additional Shares, except that the Delivery Obligation shall be capped so that the value of the Delivery Obligation per Option (with the value of any Shares included in the Delivery Obligation determined by the Calculation Agent using the "Daily VWAP" (as defined in the Indenture) on the last day of the relevant Observation Period (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture)) does not exceed the amount as determined by the Calculation Agent that would be payable by Dealer pursuant to Section 6 of the Agreement if such Conversion Date were an Early Termination Date resulting from an Additional Termination Event with respect to which the Transaction (except that, for purposes of determining such amount, (x) the Number of Options shall be deemed to be equal to the number of Options exercised on such Exercise Date and (y) such amount payable will be determined as if Sections 4.04(f), 4.05(b) or 4.06(a) of the Indenture were deleted) was the sole Affected Transaction and Counterparty was the sole Affected Party (determined without regard to Section 8(a) of this Confirmation). For the avoidance of doubt, if the "Daily Conversion Value" (as defined in the Indenture) for each VWAP Trading Day (as defined in the Indenture) occurring in the relevant Observation Period (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture) is less than or equal to USD40.00, Dealer will have no Delivery Obligation hereunder in respect of the relevant Conversion Date.

Capped Convertible Obligation: In respect of an Exercise Date occurring on a Conversion Date, the Convertible Obligation that would apply if the "Daily VWAP" for each "VWAP Trading Day" in the "Observation Period" (as defined in the Indenture but determined, for the avoidance of doubt, without regard to Section 4.06(b) of the Indenture) were the lesser of (x) the Cap Price and (y) the actual Daily VWAP for such VWAP Trading Day.

Applicable Limit Price: On any day, the opening price as displayed under the heading "Op" on Bloomberg page "HLF <equity>" (or any successor thereto).

Notice of Delivery Obligation: No later than the Exchange Business Day immediately following the last day of the relevant Observation Period (as defined in the Indenture) (or, if earlier, the settlement date for the Shares, if any, and cash delivered upon conversion of the Relevant Convertible Notes), Counterparty shall give Dealer notice of the final number of Shares, if any, and amount of cash comprising the relevant Convertible Obligation; *provided* that, with respect to any Exercise Date occurring during the Final Conversion Period, Counterparty may provide Dealer with a single notice of the aggregate number of Shares, if any, and amount of cash comprising the Convertible Obligations for all Exercise Dates occurring during such period (it being understood, for the avoidance of doubt, that the requirement of Counterparty to deliver such notice shall not limit Counterparty's obligations with respect to Notice of Exercise or Dealer's obligations with respect to Delivery Obligation, each as set forth above, in any way).

Other Applicable Provisions: To the extent Dealer is obligated to deliver Shares hereunder, the provisions of Sections 9.1(c), 9.8, 9.9, 9.10 and 9.11 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction; *provided* that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein to the extent relating to restrictions, obligations, limitations or requirements under applicable securities or other laws or otherwise that exist as a result of the fact that Buyer is the issuer of the Shares.

Restricted Certificated Shares: Notwithstanding anything to the contrary in the Equity Definitions, Dealer may, in whole or in part, deliver Shares in certificated form (and/or by delivery of a Share transfer form to Counterparty or its Transfer Agent, as applicable) representing the Number of Shares to be Delivered to Counterparty in lieu of delivery through the Clearance System.

Adjustments:

Method of Adjustment: Notwithstanding Section 11.2 of the Equity Definitions, (i) upon the occurrence of any event or condition set forth in Section 4.04(a), (b), (c), (d), (e) and 4.05(a) of the Indenture (an "**Adjustment Event**"), the Calculation Agent shall make (A) a corresponding adjustment in accordance with the methodology set forth in the Indenture to one or more of the Number of Options, the Option Entitlement and any other variable relevant to the exercise, settlement or payment of the Transaction (other than

the Cap Price), to the extent an analogous adjustment is made under the Indenture and (B) a corresponding adjustment to the Cap Price to the extent any adjustment is made to the Strike Price pursuant to clause (A) above; and (ii) upon the occurrence of any Potential Adjustment Event, the Calculation Agent may, in its commercially reasonable discretion but without duplication of any adjustment pursuant to clause (i) above, make any further adjustment consistent with the Calculation Agent Adjustment set forth in Section 11.2(c) of the Equity Definitions (as modified pursuant to this Confirmation, including Section 8(r) below) to the Cap Price to the extent necessary to preserve the fair value of the Options to Dealer, after taking into account such Potential Adjustment Event; *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that the parties agree that neither a Share repurchase transaction referred to under Section 4.04(i)(i) of the Indenture nor the Specified Share Forwards (as defined below), in either case, shall constitute a Potential Adjustment Event under Section 11.2(e)(v) of the Equity Definitions. Immediately upon the occurrence of any Adjustment Event, Counterparty shall notify the Calculation Agent of such Adjustment Event; and once the adjustments to be made to the terms of the Indenture and the Relevant Convertible Notes in respect of such Adjustment Event have been determined, Counterparty shall immediately notify the Calculation Agent in writing of the details of such adjustments.

If Counterparty or its board of directors is permitted or required to exercise discretion under the terms of the Indenture with respect to any determination, calculation or adjustment (including, without limitation, pursuant to
Section 4.05(a) of the Indenture or in connection with any proportional adjustments or the determination of the fair value of any securities, property, rights or other assets) (any such determination, calculation or adjustment, a "**Counterparty Determination**"), Counterparty shall consult with Dealer with respect thereto and, if the Calculation Agent disagrees in good faith with such Counterparty Determination, notwithstanding anything herein to the contrary, the Calculation Agent shall make the relevant determination, calculation or adjustment for purposes of this Transaction (and for the avoidance of doubt, such determination, calculation or adjustment shall be made (A) in accordance with the methodology set forth in the Indenture, except as set forth in this paragraph, and
(B) using, where relevant, variables determined by the Calculation Agent). 11

Extraordinary Dividend:	Any dividend, or portion thereof, with respect to the Shares that the Calculation Agent determines to be an "extraordinary" dividend, including, for the avoidance of doubt, any cash dividend or distribution on the Shares with an ex-dividend date occurring on or after the Trade Date and on or prior to the Expiration Date the amount of which differs from the Ordinary Dividend Amount for such dividend or distribution. If no such ex-dividend date occurs within a regular quarterly dividend period, an ex-dividend date with a cash dividend or distribution of zero shall be deemed to have occurred on the last Scheduled Trading Day of such regular quarterly dividend period.
Ordinary Dividend Amount:	For any regularly quarterly dividend period, USD 0.30 for the first cash dividend or distribution on the Shares for which the ex-dividend date falls within such period, and zero for any subsequent dividend or distribution on the Shares for which the ex-dividend date falls within the same period.
Extraordinary Events:	
Merger Events:	Notwithstanding Section 12.1(b) of the Equity Definitions, a "Merger Event" means the occurrence of any event or condition set forth in the definition of "Merger Event" in Section 4.07(a) of the Indenture.
Consequences of Merger Events/Tender Offers:	Notwithstanding Sections 12.2 and 12.3 of the Equity Definitions, (i) upon the occurrence of a Merger Event, the Calculation Agent shall make (A) the corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares, the Number of Options, the Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction (other than the Cap Price), to the extent an analogous adjustment is made under the Indenture in respect of such Merger Event; *provided* that such adjustment shall be made without regard to any adjustment to the Conversion Rate for the issuance of additional Shares as set forth in Section 4.04(f), 4.05(b) or 4.06(a) of the Indenture and (B) a corresponding adjustment to the Cap Price to the extent any adjustment is made to the Strike Price pursuant to clause (A) above; and (ii) upon the occurrence of a Merger Event that results in an adjustment under the Indenture and/or upon the occurrence of a Tender Offer, the Calculation Agent may, in its commercially reasonable discretion, make any further adjustment to the Cap Price consistent with the Modified Calculation Agent Adjustment set forth in Section 12.2(e) or 12.3(d) of the Equity Definitions, as applicable; *provided* that in no event shall the Cap Price be less than the Strike Price; *provided further* that if (i) the consideration for the

Shares includes (or, at the option of a holder of the Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof or the District of Columbia, the United Kingdom, the Republic of Ireland or the Cayman Islands or (ii) the counterparty to the Transaction following such Merger Event will not be a corporation or will not be the Issuer of the relevant Shares following such Merger Event (after giving effect to the provisions of this Confirmation in respect thereof, as determined by the Calculation Agent), then Cancellation and Payment (Calculation Agent Determination) may apply at Dealer's sole election. In addition, if the consideration for the Shares includes (or, at the option of a holder of the Shares, may include) shares of an entity or person that is organized under the laws of the United Kingdom or the Republic of Ireland and the Calculation Agent determines, in its sole discretion, that (A)(x) treating such shares as "Reference Property" (as defined in the Indenture) or (y) Cancellation and Payment not applying to the Transaction with respect to such Merger Event, in either case of clause (x) or clause (y), will have a material adverse effect on any combination of the following: Dealer's rights or obligations in respect of the Transaction, on its hedging activities in respect of the Transaction or on the costs (including, without limitation, due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position) of engaging in any of the foregoing, and (B) Dealer cannot promptly avoid the occurrence of each such material adverse effect by amending the terms of this Confirmation (whether because amendments would not avoid such occurrence or because Counterparty fails to agree promptly to such amendments) then Cancellation and Payment (Calculation Agent Determination) may apply at Dealer's sole election.

Notice of Merger Consideration: converted into

Upon the occurrence of a Merger Event that causes the Shares to be the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), Counterparty shall reasonably promptly (but in any event prior to the relevant merger date) notify the Calculation Agent of (i) the weighted average of the types and amounts of consideration received by the holders of Shares entitled to receive cash, securities or other property or assets with respect to or in exchange for such Shares in any Merger Event who affirmatively make such an election and (ii) the details of the adjustment made under the Indenture in respect of such Merger Event.

Tender Offer:	Applicable to the extent provided above under the heading "Consequences of Merger Events/Tender Offers."
Consequences of Announcement Event:	If an Announcement Event occurs, then on the earliest to occur of the date on which the transaction described in such Announcement Event (as amended or modified) is cancelled, withdrawn, discontinued, otherwise terminated or results in a Merger Date or Tender Offer Date, as applicable, or the Expiration Date, Early Termination Date or other date of cancellation or termination in respect of any Option (the "**Announcement Event Adjustment Date**"), the Calculation Agent will determine the cumulative economic effect on the relevant Options of the Announcement Event (without duplication in respect of any other adjustment or cancellation valuation made pursuant to this Confirmation, the Equity Definitions or the Agreement, regardless of whether the Announcement Event actually results in a Merger Event or Tender Offer, and taking into account such factors as the Calculation Agent may commercially reasonably determine, including, without limitation, changes in volatility, expected dividends, stock loan rate or liquidity relevant to the Shares or the Transaction whether within a commercially reasonable period of time prior to or after the Announcement Event or for any commercially reasonable period of time such changes are in effect, including, without limitation, if applicable, the period from the Announcement Event to the relevant Announcement Event Adjustment Date); *provided* that, for the avoidance of doubt the occurrence of an Announcement Event Adjustment Date in respect of the cancellation, withdrawal, discontinuation or other termination of the transaction described in an Announcement Event (as amended or modified) shall not preclude the occurrence of a later Announcement Event with respect to such transaction. If the Calculation Agent determines that such cumulative economic effect on any Option is material, then on the Announcement Event Adjustment Date for such Option, the Calculation Agent may make such adjustment to the Cap Price as the Calculation Agent determines appropriate to account for such economic effect, which adjustment shall be effective immediately prior to the exercise, termination or cancellation of such Option, as the case may be.
Announcement Event:	(i) The public announcement of any Merger Event orTender Offer or the intention to enter into a Merger Event or Tender Offer, (ii) the public announcement by Counterparty of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include, a Merger Event or Tender Offer or (iii) any subsequent public announcement of a change to a transaction or

	intention that is the subject of an announcement of the type described in clause (i) or (ii) of this sentence (including, without limitation, a new announcement, whether or not by the same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention) (in each case, whether such announcement is made by Counterparty or a third party); *provided* that, for the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention.
Announcement Date:	The definition of "Announcement Date" in Section 12.1 of the Equity Definitions is hereby amended by (i) replacing the words "a firm" with the word "any" in the second and fourth lines thereof, (ii) replacing the word "leads to the" with the words ", if completed, would lead to a" in the third and the fifth lines thereof, (iii) replacing the words "voting shares" with the word "Shares" in the fifth line thereof, (iv) inserting the words "by any entity" after the word "announcement" in the second and the fourth lines thereof and (v) by deleting subsection (v) thereof in its entirety and replacing it with "(v) in the case of Insolvency, the date of (A) the institution of a proceeding or presentation of a petition or the passing of a resolution (or the convening of a meeting to pass a resolution or the proposing of a written resolution) that leads to Insolvency within the meaning of subsection (A) of the definition thereof, (B) the first public announcement of the institution of a proceeding or presentation of a petition or passing of a resolution (or other analogous procedure in any jurisdiction) that leads to the Insolvency or (C) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer".
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); *provided* that in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the NASDAQ Global Select Market or the NASDAQ Global Market (or their respective successors); if the Shares are immediately re- listed, re-traded or re- quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

(a) Change in Law:Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase ", or public announcement of, the formal or informal interpretation", (ii) by replacing the word "Shares" where it appears in clause (X) thereof with the words "Hedge Position" and (iii) by immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by Dealer on the Trade Date or in another commercially reasonable manner (it being understood that such party need not take any action that does not meet the Avoidance Criteria)"; *provided further* that (i) any determination as to whether (A) the adoption of or any change in any applicable law or regulation (including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption or promulgation of new regulations authorized or mandated by existing statute) or (B) the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law or regulation (including any action taken by a taxing authority), in each case, constitutes a "Change in Law" shall be made without regard to Section 739 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 or any similar legal certainty provision in any legislation enacted, or rule or regulation promulgated, on or after the Trade Date, and (ii) Section 12.9(a)(ii) of the Definitions is hereby amended by replacing the parenthetical beginning after the word "regulation" in the second line thereof the words "(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption or promulgation of new regulations authorized or mandated by existing statute)". "**Avoidance Criteria**" means, with respect to an action, as determined by the Calculation Agent in good faith, that (i) such action is legal and complies with all applicable regulations, rules (including by self-regulatory organizations) and policies, (ii) if such party is to establish one or more alternative Hedge Positions, there is sufficient liquidity in those alternative Hedge Positions available for that Hedging Party to hedge and (iii) by taking such action, there would not be a material risk that such Hedging Party would incur, any one or more of an increased performance cost, increased hedging cost or increased capital charges.

(b) Failure to Deliver:Applicable

(c) Insolvency Filing:Applicable

(d) Hedging Disruption: Applicable, subject to the limitations and other provisions set forth in Section 8(g) below; *provided* that:

(i) Section 12.9(a)(v) of the Equity Definitions is hereby modified by inserting the following three sentences at the end of such Section:

"Such inability described in phrases (A) or (B) above shall not constitute a "Hedging Disruption" if such inability results solely from the Hedging Party's creditworthiness or financial position. For the avoidance of doubt, the term "equity price risk" shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms"; and

(ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words "to terminate the Transaction", the words "or a portion of the Transaction affected by such Hedging Disruption".

(e) Increased Cost of Hedging: Applicable; *provided* that, (i) such increased cost described in Section 12.9(a)(vi) of the Equity Definitions shall not constitute an "Increased Cost of Hedging" if such increased cost results solely from the Hedging Party's creditworthiness or financial position and (ii) the Hedging Party will use good faith efforts to avoid such increased cost (it being understood that such party need not take any action that does not meet the Avoidance Criteria).

Hedging Party:	Dealer
Determining Party:	Dealer
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable

3. Calculation Agent: Dealer. Upon receipt of written request from Counterparty, the Calculation Agent shall promptly provide Counterparty with a written explanation describing in reasonable detail any calculation, adjustment or determination made by it (including any quotations, market data or information from internal or external sources used in making such calculation, adjustment or determination, as the case may be, but without disclosing Dealer's proprietary models or other information that may be proprietary or subject to contractual, legal or regulatory obligations to not disclose such information), and shall use commercially reasonable efforts to provide such written explanation within five (5) Exchange Business Days from the receipt of such request.

4. Account Details:

Dealer Payment Instructions:

[*Insert Dealer account information*]

Counterparty Payment Instructions:

HSBC-HLF Stock Option SWIFT:
MRMDUS33
Account #: 001846884
Address: 660 S. Figueroa Street, Suite 800 Los Angeles
CA 90017

Counterparty Transfer Agent for Purposes of Share delivery: ComputerShare
520 Pike Street, Suite 1220
Seattle, WA 98101

5. Offices:

The Office of Dealer for the Transaction is: [ ]

The Office of Counterparty for the Transaction is: Not applicable

6. Notices: For purposes of this Confirmation:

(a) Address for notices or communications to Counterparty:
Herbalife Ltd.
990 West 190th Street
Torrance, CA 90502
Tel: (310) 851-2300
Attn: Richard Caloca

With a copy to: Herbalife Ltd.
800 Olympic Blvd.
Suite 406
Los Angeles, CA 90015 Attn:
Jim Berklas

(b) Address for notices or communications to Dealer:
To: [*Insert Dealer contact information*]

7. Representations, Warranties and Agreements:

(a) In addition to the representations and warranties in the Agreement and those contained elsewhere herein, Counterparty represents and warrants to and for the benefit of, and agrees with, Dealer as follows:

(i) On the Trade Date, (A) none of Counterparty and its officers and directors is aware of any materialnonpublic information regarding Counterparty or the Shares and (B) all reports and other documents filed by Counterparty with the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), when considered as a whole (with the more recent such reports and documents deemed to amend inconsistent statements contained in any earlier such reports and documents), do not contain any untrue statement of a material fact or any omission of a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances in which they were made, not misleading.

(ii) (A) On each day during the period from, and including, the Trade Date to, and including, the Hedge Completion Date (the "**Relevant Hedging Period**"), (B) on each day during the period from, and including, the 27th Scheduled Trading Day immediately preceding the Maturity Date (as defined in the Indenture) to, and including, the 25th VWAP Trading Day (as defined in the Indenture) thereafter (the "**Final Observation Period**"), (C) on each day during any "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) applicable to the Relevant Convertible Notes and (D) on each day during any Early Termination Period (as defined below), neither Counterparty nor any "affiliate" or "affiliated purchaser" (each as defined in Rule 10b-18 of the Exchange Act ("**Rule 10b-18**")) shall directly or indirectly (including, without limitation, by means of any cash-settled or other derivative instrument other than the Transaction) purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares (or an equivalent interest, including a unit of beneficial interest in a trust or limited partnership or a depository share) or any security convertible into or exchangeable or exercisable for Shares other than, for the avoidance of doubt, the forward transactions described under "Use of Proceeds" in the offering memorandum related to the offering of the Convertible Notes (the "**Specified Share Forwards**"); *unless*, solely in the case of clauses (C) or (D) above (and solely to the extent that a binding agreement to effect such purchase activity during the relevant "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) or Early Termination Period, as applicable, had been entered into prior to notice of such period to Counterparty (whether under the Indenture or from Dealer, as applicable)), Counterparty has provided written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the relevant purchase activity not later than the Scheduled Trading Day immediately preceding the first day on which such purchase activity will occur; *provided* that (I) Counterparty shall provide written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the end of such purchase activity not later than the last day of such purchase activity, (II) Counterparty acknowledges and agrees that any notice under this Section 8(a)(ii) may result in a Regulatory Disruption or Excess Ownership Position (as defined below but with the reference to "9%" in clause (1) of the definition thereof replaced with a reference to "5%", a "**Relevant Excess Ownership Position**") to the extent the relevant purchase activity coincides with any period referred to in clauses (C) or (D) above and (III) the Calculation Agent may make a corresponding adjustment in respect of any one or more of the terms relevant to the exercise, settlement or payment of the Options (including, for the avoidance of doubt, a postponement or extension

pursuant to Section 8(e)) to the extent necessary to preserve the fair value of the Options to Dealer after taking into account such Regulatory Disruption or Relevant Excess Ownership Position (as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of such Regulatory Disruption or Relevant Excess Ownership Position); *provided further* that (a) this Section 7(a)(ii) shall not limit Counterparty's ability (or the ability of any "affiliate" or "affiliated purchaser" of Counterparty), (i) pursuant to its employee incentive plans, to re-acquire Shares in connection with the related equity transactions; (ii) to withhold shares to cover exercise price and/or tax liabilities associated with such equity transactions; or (iii) to grant Shares and options to "affiliates" or "affiliated purchasers" (as defined in Rule 10b-18) or the ability of such affiliates or affiliated purchasers to acquire such Shares or options, in connection with Counterparty's compensatory plans for directors, officers and employees or any agreements with respect to the compensation of directors, officers or employees of any entities that are acquisition targets of Counterparty, so long as, in the case of clause (i), (ii) or (iii) of this proviso, any such re-acquisition, withholding, grant, acquisition or other purchase does not constitute a "Rule 10b-18 Purchase" (as defined in Rule 10b-18) and (b) Counterparty or such "affiliate" or "affiliated purchaser" may purchase Shares in privately negotiated (off-market) transactions that do not, directly or indirectly, involve purchases on the Exchange and are not "Rule 10b-18 purchases" (as defined in Rule 10b-18), in each case without Dealer's consent.

(iii) Without limiting the generality of Section 13.1 of the Equity Definitions, Counterparty acknowledges that Dealer is not making any representations or warranties with respect to the treatment of the Transaction under any accounting standards including FASB Statements 128, 133 (as amended), 149 or 150, EITF Issue No. 00-19, 01-6, 03-6 or 07-5(or any successor issue statements) or under FASB's Liabilities & Equity Project.

(iv) Without limiting the generality of Section 3(a)(iii) of the Agreement, the Transaction will not violateRule 13e-1 or Rule 13e-4 under the Exchange Act.

(v) (A) On or prior to the Trade Date, Counterparty shall deliver to Dealer a resolution of Counterparty's board of directors authorizing the Transaction and (B) on the Effective Date, Counterparty shall deliver to Dealer a solvency certificate with respect to Dealer signed by an authorized officer of Counterparty certifying the solvency of Counterparty as of the Trade Date and as of the Effective Date (after giving effect to Counterparty's payment of amounts required to be paid by Counterparty on such date under the Transaction and the other transactions described under "Use of Proceeds" in the offering memorandum related to the offering of the Convertible Notes), which solvency certificate is reasonably satisfactory to Dealer.

(vi) Counterparty is not entering into this Confirmation to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for Shares) or to otherwise violate the Exchange Act.

(vii) Counterparty is not, and after giving effect to the transactions contemplated hereby will not be, required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(viii) On and immediately after each of the Trade Date, the Initial Premium Payment Date and the Additional Premium Payment Date, (A) Counterparty is not "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**")), (B) Counterparty would be able to purchase the Shares with an aggregate purchase price equal to the Premium in compliance with the laws of the jurisdiction of Counterparty's incorporation and Counterparty's Constitutional documents and (C) for the purposes of Cayman Islands law, Counterparty is able to pay its debts.

(ix) The representations and warranties of Counterparty set forth in Section 3 of the Agreement and Section 1(a) of the Purchase Agreement between Issuer and Credit Suisse

Securities (USA) LLC, HSBC Securities (USA) Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Morgan Stanley & Co. LLC and the other, as representatives of the initial purchasers party thereto (the "**Purchase Agreement**"), are true and correct as of the respective dates as of which such representations and warranties are made thereunder and are hereby deemed to be repeated to Dealer as if set forth herein.

(x) (A) (i) On each day during the Relevant Hedging Period, (ii) on each day during the Final Observation Period, (iii) on each day during any "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) applicable to the Relevant Convertible Notes and (iv) in the event an Early Termination Date is designated due to an Additional Termination Event pursuant to Section 8(d)(ii), on each day during a period starting on or about such Early Termination Date as reasonably determined by Dealer and notified to Counterparty (an "**Early Termination Period**"), in each case, the Shares or securities that are convertible into, or exchangeable or exercisable for, Shares, are not, and shall not be, subject to a "restricted period," as such term is defined in Regulation M under the Exchange Act ("**Regulation M**") (determined, for the avoidance of doubt, after giving effect to any applicable exceptions set forth in Sections 101(b) and 102(b) of Regulation M) and (B), without limiting the generality of the immediately preceding clause (A), Counterparty shall not engage in any "distribution," as such term is defined in Regulation M, other than a distribution meeting the requirements of the exceptions set forth in sections 101(b) and 102(b) of Regulation M, during (i) the period comprised of the Relevant Hedging Period and the period from, and including, Hedge Completion Date to, and including, the second Exchange Business Day thereafter, (ii) the period comprised of the Final Observation Period and the period from, and including, the last day of the Final Observation Period to, and including, the second Exchange Business Day thereafter, (iii) the period comprised of any such Observation Period (other than the Final Observation Period and the period from, and including, the last day of such Observation Period (other than the Final Observation Period) to, and including, the second Exchange Business Day thereafter or (iv) the period comprised of any such Early Termination Period and the period from, and including, the last day of such Early Termination Period to, and including, the second Exchange Business Day thereafter, as applicable; *unless*, solely in the case of clauses (A)(iii), (A)(iv), (B)(iii) or (B)(iv) above (and solely to the extent that a binding agreement to effect the "distribution" that would give rise to the relevant "restricted period" during the relevant "Observation Period" (as defined in the Indenture) (other than the Final Observation Period) or Early Termination Period, as applicable, had been entered into prior to notice of such period to Counterparty (whether under the Indenture or from Dealer, as applicable)), Counterparty has provided written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the relevant "restricted period" not later than the Scheduled Trading Day immediately preceding the first day of such "restricted period"; *provided* that (I) Counterparty shall provide written notice (which notice shall be deemed to contain a representation and warranty that, as of the time such notice is given, Counterparty is not in possession of, and is not delivering such notice on the basis of, material nonpublic information with respect to Counterparty or the Shares) to Dealer of the end of such "restricted period" not later than the last day of such "restricted period", (II) Counterparty acknowledges and agrees that any notice under this Section 7(a)(x) may result in a Regulatory Disruption or Relevant Excess Ownership Position to the extent the relevant transaction coincides with any period referred to in the case of clauses (iii) or (iv) above and (III) the Calculation Agent may make a corresponding adjustment in respect of any one or more of the terms relevant to the exercise, settlement or payment of the Options (including, for the avoidance of doubt, a postponement or extension pursuant to Section 8(e)) to the extent necessary to preserve the fair value of the Options to Dealer after taking into account such Regulatory Disruption or Relevant Excess Ownership Position (as appropriate to reflect the additional costs (including, but not limited to, hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities (including the unwinding of any hedge position) as a result of such Regulatory Disruption or Relevant Excess Ownership Position).

(xi) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regardto all transactions and investment strategies involving a security or securities, (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing, and (C) has total assets of at least $50 million.

(xii) To Counterparty's knowledge, based on due inquiry, no state or local (including non-U.S. jurisdictions)law, rule, regulation or regulatory order applicable to the Shares (not including laws, rules, regulations or regulatory orders of any jurisdiction that are generally applicable to equity securities of U.S.-incorporated issuers that are listed on the Exchange solely as a result of Dealer's and/or its affiliates' activities, assets or business, other than Dealer's hedging activities in connection with the Transaction) would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares in connection with the Transaction.

(xiii) Counterparty is entering into this Confirmation and the Transaction in good faith and not as part of aplan or scheme to evade the prohibitions of Rule 10b5-1 under the Exchange Act ("**Rule 10b5-1**") or any other antifraud or anti-manipulation provisions of the federal or applicable state securities laws and that it has not entered into or altered, and will not enter into or alter, any corresponding or hedging transaction or position with respect to the Transaction. Counterparty acknowledges that it is the intent of the parties that the Transaction comply with the requirements of paragraphs (c)(1)(i)(A) and (B) of Rule 10b5-1 and that the Transaction shall be interpreted to comply with the requirements of Rule 10b5-1(c).

(xiv) Counterparty acknowledges and agrees that it has no right to, and will not seek to, control orinfluence Dealer's decision to make any "purchases or sales" (within the meaning of Rule 10b5-1(c)(1)(i)(B)(3)) under the Transaction, including, without limitation, Dealer's decision to enter into any hedging transactions. Counterparty represents and warrants that it has consulted with its own advisors as to the legal aspects of its adoption and implementation of this Confirmation and the Trade Notification under Rule 10b5-1.

(xv) Counterparty acknowledges and agrees that any amendment, modification, waiver or termination of this Confirmation or the Trade Notification must be effected in accordance with the requirements of Rule 10b5-1(c). Without limiting the generality of the foregoing, to the extent required by Rule 10b5-1(c), any such amendment, modification, waiver or termination of this Confirmation or the Trade Notification shall be made in good faith and not as part of a plan or scheme to evade the prohibitions of Rule 10b-5, and, to the extent prohibited by Rule 10b5-1(c), no such amendment, modification, waiver or termination of, or settlement election under, this Confirmation or the Trade Notification be made at any time at which Counterparty or any officer, director, manager or similar person of Counterparty is aware of any material non-public information regarding the Shares or Counterparty.

(xvi) (A) (i) Counterparty understands that the Transaction is subject to complex risks, which it has duly considered and which may arise without warning and may at times be volatile, and that losses may occur quickly and in unanticipated magnitude; (ii) Counterparty has duly authorized its entry into the Transaction and such action does not violate any laws of its jurisdiction of incorporation, organization or residence; (iii) Counterparty has consulted with its legal, financial and accounting advisor(s) and has reached its own conclusions about the Transaction, and any legal, regulatory, tax, accounting or economic consequences arising from the Transaction; and (iv) the board of directors of Counterparty (the "**Board**") and/or any duly appointed committee of directors of Counterparty to which responsibility for approving and authorizing this Transaction has been duly delegated by the Board (the "**Relevant Committee**") has concluded that the Transaction is suitable for Counterparty, for its commercial benefit and in its best interests, in light of its own investment objectives, financial condition and expertise. (B) The Transaction has been duly approved and authorized by the Board or the Relevant Committee after due consideration by the Board and/or the Relevant Committee of the matters.

(b) Each of Dealer and Counterparty agrees and represents that it is an "eligible contract participant" as definedin Section 1a(18) of the U.S. Commodity Exchange Act, as amended.

(c) Each of Dealer and Counterparty acknowledges that the offer and sale of the Transaction to it is intended to be exempt from registration under the Securities Act of 1933, as amended (the "**Securities Act**"), by virtue of Section 4(2) thereof. Accordingly, Counterparty represents and warrants to Dealer that (i) it has the financial ability to bear the economic risk of its investment in the Transaction and is able to bear a total loss of its investment and its investments in and liabilities in respect of the Transaction, which it understands are not readily marketable, are not disproportionate to its net worth, and it is able to bear any loss in connection with the Transaction, including the loss of its entire investment in the Transaction, (ii) it is an "accredited investor" as that term is defined in Regulation D as promulgated under the Securities Act, (iii) it is entering into the Transaction for its own account and without a view to the distribution or resale thereof, (iv) the assignment, transfer or other disposition of the Transaction has not been and will not be registered under the Securities Act and is restricted under this Confirmation, the Securities Act and state securities laws, and (v) its financial condition is such that it has no need for liquidity with respect to its investment in the Transaction and no need to dispose of any portion thereof to satisfy any existing or contemplated undertaking or indebtedness and is capable of assessing the merits of and understanding (on its own behalf or through independent professional advice), and understands and accepts, the terms, conditions and risks of the Transaction.

(d) Each of Dealer and Counterparty agrees and acknowledges that Dealer is a "financial institution," "swap participant"and "financial participant" within the meaning of Sections 101(22), 101(53C) and 101(22A) of Title 11 of the United States Code (the "**Bankruptcy Code**"). The parties hereto further agree and acknowledge (A) that this Confirmation is (i) a "securities contract," as such term is defined in Section 741(7) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a "settlement payment," as such term is defined in Section 741(8) of the Bankruptcy Code, and (ii) a "swap agreement," as such term is defined in Section 101(53B) of the Bankruptcy Code, with respect to which each payment and delivery hereunder is a "transfer," as such term is defined in Section 101(54) of the Bankruptcy Code, and (B) that Dealer is entitled to the protections afforded by, among other sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code.

(e) Counterparty shall deliver to Dealer opinions of counsel, from U.S. and Cayman Islands counsel to the Issuer, dated as of the Effective Date and reasonably acceptable to Dealer in form and substance, with respect to the matters set forth in Section 3(a) of the Agreement, subject to customary assumptions, qualifications and exceptions.

(f) Counterparty acknowledges that:

(i) During the term of the Transaction, Dealer and its affiliates may buy or sell Shares or other securities orbuy or sell options or futures contracts or enter into swaps or other derivative securities in order to establish, adjust or unwind its hedge position with respect to the Transaction;

(ii) Dealer and its affiliates may also be active in the market for the Shares other than in connectionwith hedging activities in relation to the Transaction;

(iii) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in Counterparty's securities shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Hedge Reference Price and/or the Daily VWAP (as defined in the Indenture);

(iv) Any market activities of Dealer and its affiliates with respect to the Shares may affect the market priceand volatility of the Shares, as well as the Hedge Reference Price and/or the Daily VWAP (as defined in the Indenture), each in a manner that may be adverse to Counterparty;and

(v) The Transaction is a derivatives transaction with embedded optionality; Dealer may purchase shares for its own account at an average price that may be greater than, or less than, the price paid by Counterparty under the terms of the Transaction.

8. Other Provisions:

(a) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events*. If Dealer shall owe Counterparty any amount pursuant to "Consequences of Merger Events/Tender Offers" above or Sections 12.6, 12.7 or 12.9 of the Equity Definitions or pursuant to Section 6(d)(ii) of the Agreement (a "**Payment Obligation**"), Counterparty shall have the right, in its sole discretion, to require Dealer to satisfy any such Payment Obligation by the Share Termination Alternative (as defined below) by giving irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, between the hours of 9:00 A.M. and 4:00 P.M. New York City time on the relevant merger date, announcement date, Early Termination Date or date of cancellation or termination in respect of an Additional Disruption Event ("**Notice of Share Termination**"); *provided* that if Counterparty does not elect to require Dealer to satisfy its Payment Obligation by the Share Termination Alternative, Dealer shall have the right, in its sole discretion, to elect to satisfy its Payment Obligation by the Share Termination Alternative, notwithstanding Counterparty's failure to elect or election to the contrary; and *provided further* that Counterparty shall not have the right to so elect (but, for the avoidance of doubt, Dealer shall have the right to so elect) in the event of (i) an Insolvency (as amended by this Confirmation), a Nationalization or a merger event, in each case, in which the consideration or proceeds to be paid to holders of Shares consists solely of cash, (ii) an Insolvency Filing, (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party, which Event of Default or Termination Event resulted from an event or events within Counterparty's control or (iv) the Bankruptcy of Counterparty. Upon such Notice of Share Termination, the following provisions shall apply on the Scheduled Trading Day immediately following the relevant merger date, announcement date, Early Termination Date or date of cancellation or termination in respect of an Additional Disruption Event, as applicable:

Share Termination Alternative:	Applicable and means that Dealer shall deliver to Counterparty the Share Termination Delivery Property on the date on which the Payment Obligation would otherwise be due pursuant to "Consequences of Merger Events/Tender Offers" above, Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) of the Agreement, as applicable (the "**Share Termination Payment Date**"), in satisfaction of the Payment Obligation.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of the aggregate amount of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit on the date such Share Termination Delivery Units are to be delivered as Share Termination Delivery Property, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation.
Share Termination Delivery Unit:	In the case of a Termination Event, Event of Default, Delisting or Additional Disruption Event, one Share or, in the case of an Insolvency, Nationalization or Merger Event, one Share or a unit consisting of the number or amount of each type of property received by a holder of one Share (without consideration of any requirement to

pay cash or other consideration in lieu of fractional amounts of any securities) in such Insolvency, Nationalization or Merger Event. If such Insolvency, Nationalization or Merger Event involves a choice of consideration to be received by holders, such holder shall be deemed to have elected to receive the maximum possible amount of cash.

Other applicable provisions: If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable as if "Physical Settlement" applied to the Transaction, except that all references to "Shares" shall be read as references to "Share Termination Delivery Units"; *provided* that the Representation and Agreement contained in Section 9.11 of the Equity Definitions shall be modified by excluding any representations therein relating to restrictions, obligations, limitations or requirements under applicable securities or other laws or otherwise as a result of the fact that Counterparty is the issuer of any Share Termination Delivery Units (or any part thereof).

(b) *Disposition of Hedge Shares.* Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, the Shares (the "**Hedge Shares**") acquired by Dealer for the purpose of hedging its obligations pursuant to the Transaction cannot be sold in the U.S. public market by Dealer without registration under the Securities Act, Counterparty shall, at its election: (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act to cover the resale of such Hedge Shares and (A) enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement for a registered offering, (B) provide accountant's "comfort" letters in customary form for registered offerings of equity securities, (C) provide disclosure opinions of nationally recognized outside counsel to Counterparty reasonably acceptable to Dealer, (D) provide other customary opinions, certificates and closing documents customary in form for registered offerings of equity securities and (E) afford Dealer a reasonable opportunity to conduct a "due diligence" investigation with respect to Counterparty customary in scope for underwritten offerings of equity securities; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this Section 8(b) shall apply at the election of Counterparty; (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, to enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities, in form and substance reasonably satisfactory to Dealer, including customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Dealer, due diligence rights (for Dealer or any designated buyer of the Hedge Shares from Dealer), opinions and certificates and such other documentation as is customary for private placements agreements, all reasonably acceptable to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its reasonable judgment, to compensate Dealer for any discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement); or (iii) purchase the Hedge Shares from Dealer at the VWAP Price on such Exchange Business Days, and in the amounts, requested by Dealer."**VWAP Price**" means, on any Exchange Business Day, the per Share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page HLF <equity> VAP (or any successor thereto) in respect of the period from 9:30 a.m. to 4:00 p.m. (New York City time) on such Exchange Business Day (or if such volume-weighted average price is unavailable, the market value of one Share on such Exchange Business Day, as determined by the Calculation Agent using a volume-weighted method).

(c) *Repurchase Notices.* Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice of such repurchase (a "**Repurchase Notice**") on such day if, following such repurchase, the Notice Percentage as determined on such day is (i) greater than 6% and (ii) greater by 0.5% than the Notice Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater than the Notice Percentage as of the date hereof). The "**Notice Percentage**" as of any day is the fraction, expressed as a percentage, the numerator of which is the Number of Shares and the denominator of which is the number of Shares outstanding on such day.

Counterparty agrees to indemnify and hold harmless Dealer, its affiliates and its assignees and their respective directors, officers, employees, agents and controlling persons (Dealer and each such person being an "**Indemnified Party**") from and against any and all losses (including losses relating to Dealer's hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 "insider", including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to any Transaction), claims, damages and liabilities (or actions in respect thereof), joint or several, to which such Indemnified Party may become subject, under the Securities Act, the Exchange Act, under other applicable securities laws, under any other state or federal law, regulation or regulatory order or otherwise, relating to or arising out of a failure by Counterparty to provide Dealer with a Repurchase Notice on the day and in the manner set forth above. Counterparty shall be relieved from liability under this indemnity resulting from an action to the extent that Counterparty both (i) has not received notice that such action has commenced within 60 calendar days thereof and (ii) is materially prejudiced as a result of not receiving such notice. If for any reason the foregoing indemnification is unavailable to any Indemnified Party or insufficient to hold harmless any Indemnified Party, then Counterparty shall contribute, to the maximum extent permitted by law, to the amount paid or payable by the Indemnified Party as a result of such loss, claim, damage or liability. In addition, Counterparty will reimburse any Indemnified Party for all expenses (including reasonable counsel fees and expenses) as they are incurred (after notice to Counterparty) in connection with the investigation of, preparation for or defense or settlement of any pending or threatened claim or any action, suit or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto and whether or not such claim, action, suit or proceeding is initiated or brought by or on behalf of Counterparty. This indemnity shall survive the completion of the Transaction and any assignment and/or delegation of the Transaction made pursuant to the Agreement and/or this Confirmation shall inure to the benefit of any permitted assignee of Dealer.

(d) *Additional Termination Events*.

(i) The occurrence of (x) an event of default with respect to Counterparty under the terms of the Convertible Notes as set forth in Section 6.01 of the Indenture that results in the Convertible Notes becoming or being declared immediately due and payable under the terms of Section 6.02(a) of the Indenture, or (y) an Amendment Event shall be an Additional Termination Event with respect to which the Transaction is the sole Affected Transaction and Counterparty is the sole Affected Party, and Dealer shall be the party entitled to designate an Early TerminationDate pursuant to Section 6(b) of the Agreement.

"**Amendment Event**" means that Counterparty amends, modifies, supplements or obtains a waiver in respect of any term of the Indenture or the Convertible Notes governing the principal amount, coupon, maturity, repurchase obligation of Counterparty, redemption right of Counterparty, any term relating to conversion of the Convertible Notes (including changes to the conversion price, conversion settlement dates or conversion conditions), or any term that would require consent of the holders of not less than 100% of the principal amount of the Convertible Notes to amend, in each case without the prior consent of Dealer.

(ii) Notwithstanding anything to the contrary in this Confirmation, the receipt by Dealer from Counterparty, within the applicable time period set forth under "Notice of Exercise" above, of any Notice of Exercise in respect of the exercise of any Options that, according to such Notice of Exercise, relate to Relevant Convertible Notes that are Excluded Convertible Notes shall constitute an Additional Termination Event as provided in this paragraph and shall not result in the exercise of any Options. Upon receipt of any such Notice of Exercise, Dealer shall designate an Exchange Business Day following such Additional Termination Event as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the "**Applicable Conversion Options**") equal to the lesser of (A) the aggregate principal amount of Excluded Convertible Notes specified in such Notice of Exercise, *divided by* USD1,000, and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Applicable Conversion

Options. Any payment hereunder with respect to such termination (the "**Early Conversion Unwind Payment**") shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Applicable Conversion Options (which shall, solely for purposes of determining such amount, be deemed not to constitute "Applicable Conversion Options" under such hypothetical Transaction), (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event, (3) the terminated portion of the Transaction were the sole Affected Transaction and (4) solely for purposes of determining such amount, the Conversion Date in respect of the corresponding Relevant Convertible Notes had not occurred and such Relevant Convertible Notes remain outstanding (and, in determining the amount payable pursuant to Section 6 of the Agreement, the Calculation Agent shall not take into account any adjustments to the "Conversion Rate" (as defined in the Indenture) pursuant to Section 4.04(f), 4.05(b) or 4.06(a) of the Indenture); *provided* that, the Early Conversion Unwind Payment shall not be greater than (x) the Applicable Percentage *multiplied by* (y) the number of Applicable Conversion Options *multiplied by* (z) the excess of (I) the "Conversion Rate" (as defined in the Indenture without taking into account any adjustments to the "Conversion Rate" (as defined in the Indenture) pursuant to Section 4.04(f), 4.05(b) or 4.06(a) of the Indenture), *multiplied by* the Applicable Limit Price on the settlement date for the cash and Shares, if any, to be delivered pursuant to Section 4.03(a) of the Indenture in respect of the Excluded Convertible Notes relating to such Early Conversion Unwind Payment, *over* (II) USD1,000.

(iii) Within five Scheduled Trading Days promptly following any Repayment Event (as defined below), Counterparty shall notify Dealer of such Repayment Event and the aggregate principal amount of Convertible Notes subject to such Repayment Event (any such notice, a "**Repayment Notice**"); *provided* that such Repayment Notice shall contain an acknowledgement by Counterparty of its responsibilities under applicable securities laws, and in particular Section 9 and 10(b) of the Exchange Act and the rules and regulations promulgated thereunder and shall remake the representations set forth in Section 7(a)(i)(A), in each case in respect of such repurchase and delivery of such Repayment Notice; *provided*, *further* that, any "Repayment Notice" delivered to Dealer pursuant to the Base Capped Call Transaction Confirmation shall deemed to be a Repayment Notice pursuant to this Confirmation and the terms of such Repayment Notice shall apply, *mutatis mutandis*, to this Confirmation. The receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional Termination Event as provided in this paragraph. Upon receipt of any such Repayment Notice, Dealer shall designate an Exchange Business Day following receipt of such Repayment Notice as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the "**Repayment Options**") equal to the lesser of (A) (x) the aggregate principal amount of such Convertible Notes specified in such Repayment Notice, *divided by* USD1,000, *minus* (y) the number of Repayment Options (as defined in the Base Capped Call Transaction Confirmation), if any, that relate to such Convertible Notes (and for the purposes of determining whether any Options under this Confirmation or under the Base Capped Call Transaction Confirmation will be among the Repayment Options hereunder or under, and as defined in, the Base Capped Call Transaction Confirmation, the Convertible Notes specified in such Repayment Notice shall be allocated first to the Base Capped Call Transaction Confirmation until all Options thereunder are exercised or terminated), and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the "**Repayment Unwind Payment**") shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event, (3) the terminated portion of the Transaction were the sole Affected Transaction and (4) solely for purposes of determining such amount, the Relevant Repayment Event had not yet occurred and the relevant Convertible Notes remain outstanding. "**Repayment Event**" means that (i) any Convertible Notes are repurchased (whether in connection with or as a result of a fundamental change, howsoever defined, or for any other reason) by Counterparty or any of its subsidiaries, (ii)

any Convertible Notes are delivered to Counterparty or any of its subsidiaries in exchange for delivery of any property or assets of such party (howsoever described), (iii) any principal of any of the Convertible Notes is repaid prior to the final maturity date of the Convertible Notes (for any reason other than as a result of an acceleration of the Convertible Notes that results in an Additional Termination Event pursuant to the preceding Section 8(a)(i)), or (iv) any Convertible Notes are exchanged by or for the benefit of the holders thereof for any other securities of Counterparty or any of its subsidiaries (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes pursuant to the terms of the Indenture shall not constitute a Repayment Event. Counterparty acknowledges and agrees that (x) it will immediately cancel pursuant to Section 2.12 of the Indenture any Convertible Notes that are subject to any Repayment Event and (y) each such Convertible Note that is subject to a Repayment Event will be deemed to no longer be outstanding for all purposes hereunder.

(e) *Right to Extend.* Dealer may postpone or add, in whole or in part, as Dealer determines appropriate in good faith, any Settlement Date or any other date of valuation or delivery by Dealer, with respect to any relevant Options (in which event the Calculation Agent shall make appropriate adjustments to the Delivery Obligation), to the extent Dealer determines, in its reasonable discretion based on advice of counsel in the case of the immediately following clause (ii), that such extension is reasonably necessary or appropriate (i) to preserve Dealer's commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions in the cash market or the stock borrow market or other relevant market or (ii) to enable Dealer to effect purchases of Shares in connection with its hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer and the Transaction.

(f) *Staggered Settlement*. If Dealer reasonably determines it is appropriate with respect to any applicable legal, regulatoryor self-regulatory requirements (including any requirements relating to Dealer's hedging activities with respect to the Transaction) or restrictions, or with related policies and procedures applicable to Dealer and the Transaction, and/or to avoid an Excess Ownership Position, Dealer may, by notice to Counterparty prior to any Settlement Date (a "**Nominal Settlement Date**"), elect to deliver the Shares or Share Termination Delivery Units, as applicable, on one or more dates (each, a "**Staggered Settlement Date**") or at two or more times on the Nominal Settlement Date as follows:

(i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which will be on or prior to such Nominal Settlement Date) or delivery times and how it will allocate the Shares or Share Termination Delivery Units, as applicable, it is required to deliver under "Delivery Obligation" (above) among the Staggered Settlement Dates or delivery times; and

(ii) the aggregate number of Shares or Share Termination Delivery Units, as applicable, that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates and delivery times will equal the number of Shares or Share Termination Delivery Units, as applicable, that Dealer would otherwise be required to deliver on such Nominal Settlement Date.

(g) *Transfer and Assignment*. Either party may transfer any of its rights or obligations under the Transaction with the prior written consent of the non-transferring party, such consent not to be unreasonably withheld; *provided* that Dealer may transfer or assign without any consent of Counterparty its rights and obligations hereunder, in whole or in part, to (i) any of its affiliates (A) with a credit quality equivalent to Dealer or Dealer's guarantor or (B) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer or its relevant affiliate for similar transactions, by Dealer, an affiliate of Dealer with credit quality equivalent to Dealer or Dealer's parent entity or other guarantor, or (ii) if an Excess Ownership Position (as defined below) or Hedging Disruption exists, but only to the extent of such Excess Ownership Position or to the extent such assignment would eliminate such Hedging Disruption, to any other third party with a rating for its long term, unsecured and unsubordinated indebtedness equal to or better than A- by Standard and Poors Rating Group, Inc. or its successor ("**S&**P"), or A3 by Moody's Investor Service, Inc. or its successor ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute ratingagency

mutually agreed by Counterparty and Dealer. Dealer shall promptly notify Counterparty of any such assignment provided for above. If at any time at which (1) the Equity Percentage exceeds 9%, (2) Dealer, Dealer Group (as defined below) or any person whose ownership position would be aggregated with that of Dealer or Dealer Group (Dealer, Dealer Group or any such person, a "**Dealer Person**") under any state or federal bank holding company or banking laws, or other federal, state or local regulations or regulatory orders applicable to ownership of Shares ("**Applicable Laws**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership in excess of a number of Shares equal to (x) the number of Shares that would, in Dealer's reasonable judgment based on advice of counsel, give rise to reporting or registration obligations or other requirements (including obtaining prior approval by a state or federal regulator) of a Dealer Person under Applicable Laws and with respect to which such requirements have not been met or the relevant approval has not been received *minus* (y) 1% of the number of Shares outstanding on the date of determination (either such condition described in clause (1) or (2), an "**Excess Ownership Position**"), or (3) a Hedging Disruption has occurred and is continuing, if Dealer, in its discretion, is unable to effect a transfer or assignment to a third party in accordance with the requirements set forth above after using its commercially reasonable efforts on pricing terms reasonably acceptable to Dealer such that an Excess Ownership Position or a Hedging Disruption, as the case may be, no longer exists, Dealer may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the "**Terminated Portion**") of the Transaction, such that such Excess Ownership Position or Hedging Disruption, as the case may be, no longer exists. In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment or delivery shall be made pursuant to Section 6 of the Agreement and Section 8(a) of this Confirmation as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction,
(ii) Counterparty shall be the sole Affected Party with respect to such partial termination and (iii) such portion of the Transactionshall be the only Terminated Transaction. The "**Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Dealer (collectively, "**Dealer Group**") "beneficially own" (within the meaning of Section 13 of the Exchange Act) without duplication on such day and (B) the denominator of which is the number of Shares outstanding on such day.

(h) *Equity Rights*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to it rights with respect tothe Transaction that are senior to the claims of common stockholders in the event of Counterparty's bankruptcy. For the avoidance of doubt, the parties agree that the preceding sentence shall not apply at any time other than during Counterparty's bankruptcy to any claim arising as a result of a breach by Counterparty of any of its obligations under this Confirmation or the Agreement. For the avoidance of doubt, the parties acknowledge that this Confirmation is not secured by any collateral that would otherwise secure the obligations of Counterparty herein under or pursuant to any other agreement.

(j) *No Netting and Set-off*. Notwithstanding any provision of the Agreement (including without limitation Section 6(f) thereof) and this Confirmation (including without limitation this Section 8(j)) or any other agreement between the parties to the contrary, each party waives any and all rights it may have to set off obligations arising under the Agreement and the Transaction against other obligations between the parties, whether arising under any other agreement, applicable law or otherwise.

(j) *Early Unwind*. In the event the sale by Counterparty of the "Option Securities" (as defined in the Purchase Agreement) is not consummated with the initial purchasers for any reason by the close of business in New York on February 7, 2014 (or such later date as agreed upon by the parties, which in no event shall be later than February 21, 2014) (February 7, 2014 or such later date being the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**"), on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty thereunder shall be cancelled and terminated and (ii) following the payment or delivery, as applicable, referred to below, each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date (other than under the indemnity under the second paragraph of Section 8(c)); *provided* that,

except to the extent that the Early Unwind Date occurred as a result of a breach of the Purchase Agreement by Dealer (or its affiliate,as applicable) in its capacity as initial purchaser Counterparty shall pay to Dealer an amount in cash equal to the aggregate amount of costs and expenses relating to the unwinding of Dealer's hedging activities in respect of the Transaction (including market losses incurred in reselling any Shares purchased by Dealer or its affiliates in connection with such hedging activities, unless Counterparty agrees to purchase any such Shares at the cost at which Dealer purchased such Shares) or, at the election of Counterparty, deliver to Dealer (at the times, and in the amounts, reasonably requested by Dealer) Shares with a value equal to such amount, as commercially reasonably determined by the Calculation Agent, in which event the parties shall enter into customary and commercially reasonable documentation relating to the registered or exempt resale of such Shares (in which case, the Calculation Agent shall make any adjustment to the number of such Shares that is necessary, in its reasonable judgment, to compensate Dealer for any discount from the public market price of the Shares incurred on the sale of such Shares in a private placement) (it being understood, for the avoidance of doubt, that Counterparty shall have the right to elect that an exempt, as opposed to registered, resale of such Shares shall apply in accordance with the requirements set forth herein); *provided* that, if Counterparty makes such election to deliver Shares, notwithstanding the foregoing, the number of Shares so delivered will not exceed a number of Shares equal to two *multiplied by* the Number of Shares (with such Number of Shares determined, for the avoidance of doubt, as if the relevant Convertible Notes had been issued and the Hedge Completion Date had occurred).

(k) *Designation by Dealer*. Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities to or from Counterparty, Dealer may designate any of its affiliates to purchase, sell, receive or deliver such Shares or other securities and otherwise to perform Dealer's obligations in respect of the Transaction and any such designee may perform such obligations. Dealer shall be discharged of its obligations to Counterparty to the extent of any such performance.

(l) *Disclosure*. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.

(m) *Counterparts*. This Confirmation may be executed in several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(n) *Waiver of Trial by Jury.* EACH OF COUNTERPARTY AND DEALER HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THE TRANSACTION OR THE ACTIONS OF COUNTERPARTY OF ITS AFFILIATES OR DEALER OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF.

(o) *Submission to Jurisdiction.* Each party hereby irrevocably and unconditionally submits for itself and its property in any legal action or proceeding by the other party against it relating to the Transaction to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the Supreme Court of the State of New York, sitting in New York County, the courts of the United States of America for the Southern District of New York, and appellate courts from any thereof.

(p) *Governing Law*. THIS CONFIRMATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (WITHOUT REFERENCE TO ITS CHOICE OF LAW DOCTRINE).

(q) [*Reserved*]

(r) *Amendments to Equity Definitions*.

(i) Section 11.2(a) of the Equity Definitions is hereby amended by (1) deleting the words "a diluting or concentrative" and replacing them with the words "a material" and (2) adding the phrase "or options on the Shares" at the end of the sentence.

(ii) Section 11.2(c) of the Equity Definitions is hereby amended by (1) replacing the words "a diluting or concentrative" with "a material", (2) adding the phrase "or options on the Shares" following the words "the theoretical value of the relevant Shares", (3) deleting the words "diluting or concentrative" following the words "the Calculation Agent determines appropriate to account for that" and (4) deleting the phrase "(provided that no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)" and replacing it with the phrase "(and, for the avoidance of doubt, other than in the case of a Share split, reverse Share split or equivalent transaction, adjustments may be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares)."

(iii) Section 11.2(e)(vii) of the Equity Definitions is hereby amended by (1) deleting the words "that may havea diluting or concentrative" and replacing them with the words "that is the result of a corporate event involving Issuer or its securities that could reasonably be expected to have a material" and (2) adding the phrase "or options on the Shares" at the end of the sentence.

(iv) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting "(A)" after "means" in the first line thereof and replacing "(A)" and "(B)" in the third and fourth lines thereof with "(1)" and "(2)" respectively,
(2) deleting from the fourth line thereof the word "or" after the word "official" and inserting a commatherefor,
(3) inserting at the end of renumbered subsection (2) thereof the following wording, "or, under the laws of the Cayman Islands, any other impediment to or restriction on the transfer of any Share arises or becomes applicable including, without limitation, where (x) any transfer of a Share or alteration of the status of the members of the Issuer would be void unless a court of the Cayman Islands orders otherwise or (y) any transfer of a Share not being a transfer with the sanction of a liquidator, and any alteration in the status of the Issuer's members would be void" and
(4) deleting the semi-colon at the end of renumbered subsection (2) thereof and inserting the following wordstherefor "or (B) at Dealer's option, the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer."

(v) Section 12.9(b)(i) of the Equity Definitions is hereby amended by (1) replacing "either party may elect"with "Dealer may elect" and (2) replacing "notice to the other party" with "notice to Counterparty" in the first sentence of such section.

(s) *General Obligations Law of New York*. With respect to the Transaction, (i) this Confirmation is a "qualified financial contract", as such term is defined in Section 5-701(b)(2) of the General Obligations Law of New York (the "**General Obligations Law**"); (ii) this Confirmation constitutes a "confirmation in writing sufficient to indicate that a contract has been made between the parties" hereto, as set forth in Section 5-701(b)(3)(b) of the General Obligations Law; and (iii) this Confirmation constitutes a prior "written contract" as set forth in Section 5-701(b)(1)(b) of the General Obligations Law, and each party hereto intends and agrees to be bound by this Confirmation, as supplemented by the related Trade Notification.

(t) *Foreign Account Tax Compliance Act and HIRE Act.* "Tax" and "Indemnifiable Tax" each as defined in Section 14 of the Agreement shall not include (i) any tax imposed on payments treated as dividends from sources within the United States under Section 871(m) of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**") or any regulations issued thereunder or (ii) any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "**FATCA Withholding Tax**"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement. Counterparty shall promptly upon request by Dealer, provide tax forms and documents required to be delivered pursuant to Section 1471(b) or Section 1472(b)(1) of the Code and any other forms and documents reasonably requested by Dealer.

Counterparty hereby agrees (a) to check this Confirmation carefully and immediately upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing (in the exact form provided by Dealer) correctly sets forth the terms of the agreement between Dealer and Counterparty with respect to the Transaction, by manually signing this Confirmation or this page hereof as evidence of agreement to such terms and providing the other information requested herein and immediately returning an executed copy to Dealer.

Yours faithfully,

[DEALER]

By:
Name:
Title:

Agreed and Accepted By:

HERBALIFE LTD.

By:
Name: Title:

SCHEDULE A
TRADE NOTIFICATION

To: Herbalife Ltd.

From: [*Insert Dealer name and address*]
Re: Additional Capped Call Transaction
Date: [ ], 2014

Dear Sir(s):

The purpose of this Trade Notification is to notify you of certain terms in the Transaction entered into between [*Insert Dealer name*] ("**Dealer**") and Herbalife Ltd. ("**Counterparty**") with the Trade Date of February 7, 2014.

This Trade Notification supplements, forms part of, and is subject to the Confirmation dated as of February 7, 2014 (the "**Confirmation**") between Dealer and Counterparty, as amended and supplemented from time to time.

Hedge Completion Date:	[
Premium:	USD [ ]
Additional Premium Amount: [ ]	USD
Additional Premium Payment Date:	[ ]

Exchange Business Day	**Hedge Reference Price**	**Daily Premium Amount**
1.		
...		

Yours faithfully,

[DEALER]

By:
Name:
Title:

Schedule B

Hedge Reference Price	Daily Premium Amount

Exhibit 10.24

HERBALIFE LTD.
2005 STOCK INCENTIVE PLAN

STOCK APPRECIATION RIGHT AWARD AGREEMENT

STOCK APPRECIATION RIGHT AGREEMENT (this "Agreement") dated as of December , 2013(the "Grant Date") between HERBALIFE LTD. (the "Company"), and ("Participant").

WHEREAS, pursuant to the Herbalife Ltd. 2005 Stock Incentive Plan (the "Plan"), the Committee desires to grant to Participant an award of stock appreciation rights; and

WHEREAS, Participant desires to accept such award subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements contained herein, the Company and Participant, intending to be legally bound, hereby agree as follows:

1. Grant.

(a) The Company hereby grants to the Participant anAward ofStock Appreciation Rights (the "Award") in accordance with Section 8 of the Plan and subject to the terms and conditions set forth herein and in the Plan (each as amended from time to time). Each Stock Appreciation Right represents the right to receive, upon exercise of the Stock Appreciation Right pursuant to this Agreement, from the Company, a payment, paid in Common Shares, par value $.001 per share, of the Company (the "Common Shares"), equal to
(i) the excess of the Fair Market Value, on the date of exercise, of one Common Share (as adjusted from time to time pursuant to Section 12 of the Plan) over the Base Price (as defined below) of the Stock Appreciation Right, divided by (ii) the Fair Market Value, on the date of exercise, of one Common Share, subject to terms and conditions set forth herein and in the Plan (each as amended from time to time).

(b) The "Base Price" for the Stock Appreciation Right shall be $per share (subject to adjustment as set forth in Section 12of the Plan).

(c) Except as otherwise defined herein, capitalized terms used herein shall have the meanings set forth in thePlan.

2. Time for Exercise; Amount of Vesting.

(a) Subject to Section 2(b), Section 2(c) and Section 3, the applicable percentage (as determined below) of any then-unvested portion of theAward will become vested and exercisable on June 21st of the year following the Committee's determination, in itssole discretion, of the average of the annual sales leader retention rates of the Company for its fiscal years 2013, 2014 and 2015. The applicable percentage of any then-unvested portion of the Award shall be determined as follows (without rounding):

Average of the Company's Annual Sales Leader Retention Rates 2013-2015	**Applicable Percentage (Vesting)**
50% or more	100%
45% - 49.99%	75%
42% - 44.99%	50%
Less than 42%	0

The following example illustrates how the average of the Company's annual sales leader retention rates is intended to be calculated following the completion of the Company's 2015 fiscal year (these numbers are provided merely for illustration and are not actual results):

EXAMPLE ONLY

Fiscal Year	**Retention Rate**
2013	48.00%
2014	49.00%
2015	50.00%
Average:	**49.00%**

In this example, the average of the Company's 2013-2015 annual sales leader retention rates is 49%, resulting in 75% of the then- unvested portion of the award becoming vested and exercisable by the recipient. For the avoidance of doubt, any unvested portion of the Award that does not vest as a result of the satisfaction of the criteria above shall be forfeited as of the Vesting Date.

(b) Notwithstanding the foregoing, in the event that the Committee determines that the Company's annual sales leader retention rate (i) for 2013 is 50% or more, 20% of the Award shall become vested and exercisable, and (ii) for 2014 is 50% or more, 20% of the Award shall become vested and exercisable, in each case on and as on June 21st of the year following the date of any such determination by the Committee (i.e., June 21, 2014 if earlier that year the Committee had determined that the Company's 2013 annual sales leader retention rate was 50% or more).

(c) In the event of a Change of Control, the Committee as constituted immediately before such Change of Control may, in its sole discretion, accelerate the vesting and exercisability of this Award upon such Change of Control or take such other actions as provided in Section 13 of the Plan.

3. Expiration. The Award shall expire on the tenth (10th) anniversary of the date hereof; provided, however, that theAward may earlier terminate as provided in this Paragraph 3 and/or in Section 13 of the Plan.

(a) Upon termination of Participant's employment with the Company for any reason, if the Award has not yet vested and become exercisable (after giving effect to any acceleration of vesting pursuant to this Agreement or otherwise), the Award will terminate on the date of such termination of employment.

(b) Upon termination of Participant's employment with the Company, if the Award has not yet vested and become exercisable, the Award will terminate in accordance with the following:

(i) if Participant's employment with the Company is terminated for Cause, the Award will terminate on the date of such termination;

(ii) if Participant's employment with the Company is terminated by reason of Participant's death or disability (as such term is defined in Section 22(e) of the Code), the Award will terminate on the date that is ninety (90) days immediately following the date of suchtermination;

(iii) if Participant's employment with the Company is terminated for any reason other than death, disability or Cause,the Award will terminate on the date that is thirty (30) days immediately following the date of such termination.

(c) Notwithstanding anything herein to the contrary, if Participant's employment with the Company is terminated for any reason other than a termination by the Company for Cause, and at any time during the thirty-day period following the effective date of such termination of employment Participant is subject to a "trading blackout" or "quiet period" with respect to the Common Shares or if the Company determines, upon the advice of legal counsel, that Participant may not to trade in the Common Shares due to Participant's possession of material non-public information, the Company shall extend the period during which Participant may exercise his Award, provided that the Award is vested and exercisable, until the later of (i) the expiration date of the Award determined pursuant to Paragraph 2(b) and (ii) the date that is thirty days following the first date on which Participant is no longer subject to such restrictions on trading with respect to the Common Shares.

(d) For purposes of this Agreement, the term "Cause" shall have the meaning ascribed to such term in any written employment agreement between Participant and the Company or one or more of its Subsidiaries, as the same may be amended or modified from time to time, or if Participant is not party to any such written employment agreement, then the term "Cause" shall mean the occurrence of any of the following acts or circumstances: (i) conviction of a felony, a crime of moral turpitude, dishonesty, breach of trust or unethical business conduct,

or any crime involving the Company or any of its Subsidiaries; (ii) willful misconduct, willful or gross neglect, fraud, misappropriation or embezzlement; (iii) performance of Participant's duties in a manner that is detrimental to the Company or any of its Subsidiaries, including, but not limited to that which results in, the severe deterioration of the financial performance of the Company or any of its Subsidiaries; (iv) failure to adhere to the reasonable/lawful directions of the Chief Executive Officer of the Company or the Board, to adhere to the Company's or any Subsidiary's policies or practices or to devote substantially all of Participant's business time and efforts to the business of the Company; (v) breach of any provision of any agreement, including an employment agreement, between Participant and the Company or any of its Subsidiaries, which covers confidentiality or proprietary information or contains nonsolicitation or non-competition provisions; or (vi) breach in any material respect of the terms and provisions of Participant's employment agreement, if any, or any agreement between Participant and the Company or any of its Subsidiaries.

4. Method of Exercise. The Award may be exercised by delivery to the Company (attention: Secretary) of a notice of exercise in the form specified by the Company specifying the number of shares with respect to which the Award is being exercised.

5. Fractional Shares. No fractional shares may be purchased upon any exercise.

6. Compliance with Legal Requirements.

(a) The Award shall not be exercisable and no Common Shares shall be issued or transferred pursuant to this Agreement or the Plan unless and until the Tax Withholding Obligation (as defined below), and all legal requirements applicable to such issuance or transfer have, in the opinion of counsel to the Company, been satisfied. Such legal requirements may include, but are not limited to,
(i) registering or qualifying such Common Shares under any state or federal law or under the rules of any stock exchange or trading system, (ii) satisfying any applicable law or rule relating to the transfer of unregistered securities or demonstrating the availability of an exemption from applicable laws, (iii) placing a restricted legend on the Common Shares issued pursuant to the exercise of the Award, or (iv) obtaining the consent or approval of any governmental regulatory body.

(b) Participant understands that the Company is under no obligation to register for resale the Common Shares issued upon exercise of the Award. The Company may impose such restrictions, conditions or limitations as it determines appropriate as to the timing and manner of any exercise of the Award and/or any resales by Participant or other subsequent transfers by Participant of any Common Shares issued as a result of the exercise of the Award, including without limitation (i) restrictions under an insider trading policy, (ii) restrictions that may be necessary in the absence of an effective registration statement under the Securities Act of 1933, as amended, covering the Award and/or the Common Shares underlying the Award and (iii) restrictions as to the use of a specified brokerage firm or other agent for exercising the Award and/or for such resales or other transfers. The sale of the shares underlying the Award must also comply with other applicable laws and regulations governing the sale of such shares.

7. Shareholder Rights. Participant shall not be deemed a shareholder of the Company with respect to any of the CommonShares subject to the Award, except to the extent that such shares shall have been purchased and transferred to Participant.

8. Withholding Taxes.

(a) Participant is liable and responsible for all taxes owed in connection with theAward, regardless of any action the Company takes with respect to any tax withholding obligations that arise in connection with the Award. The Company does not make any representation or undertaking regarding the treatment of any tax withholding in connection with the grant, vesting or settlement of the Award or the subsequent sale of Common Shares issuable pursuant to the Award. The Company does not commit and is under no obligation to structure the Award to reduce or eliminate Participant's tax liability.

(b) Prior to any event in connection with theAward (e.g., vesting or payment in respect of the Award) that the Company determines may result in any domestic or foreign tax withholding obligation, whether national, federal, state or local, including any social tax obligation (the "Tax Withholding Obligation"), Participant is required to arrange for the satisfaction of the amount ofsuch Tax Withholding Obligation in a manner acceptable to the Company.

(c) Unless the Committee provides otherwise, at any time not less than five (5) business days before anyTax Withholding Obligation arises (e.g., at the time the Award is exercised, in whole or in part), Participant shall notify the Company of Participant's electionto pay Participant's Tax Withholding Obligation by wire transfer, cashier's check or other means permitted by the Company. In such case, Participant shall satisfy his or her tax withholding obligation by paying to the Company on such date as it shall specify an amount that the Company determines is sufficient to satisfy the expected Tax Withholding Obligation by (i) wire transfer to such account as the Company may direct, (ii) delivery of a cashier's check payable to the Company, Attn: General Counsel, at the Company's principal executive offices, or such other address as the Company may from time to time direct, or (iii) such other means as the Company may establish or permit. Participant agrees and acknowledges that prior to the date the Tax Withholding Obligation arises, the Company will be required to estimate the amount of theTax Withholding Obligation and accordingly may require the amount paid to the Company under this Paragraph 8(c) to be more than the minimum amount that may actually be due and that, if Participant has not delivered payment of a sufficient amount to the Company to satisfy the Tax Withholding Obligation (regardless of whether as a result of the Company underestimating the required payment or Participant failing to timely make the required payment), the additional Tax Withholding Obligation amounts shall be satisfied such other means as the Committee deems appropriate.

9. Assignment or Transfer Prohibited. The Award may not be assigned or transferred otherwise than by will or by the laws ofdescent and distribution, and may be exercised during the life of Participant only by Participant or Participant's guardian or legal representative. Neither the Award nor any right hereunder shall be subject to attachment, execution or other similar process. In the event of any attempt by Participant to alienate, assign, pledge,

hypothecate or otherwise dispose of the Award or any right hereunder, except as provided for herein, or in the event of the levy or any attachment, execution or similar process upon the rights or interests hereby conferred, the Company may terminate the Award by notice to Participant, and the Award shall thereupon become null and void.

10. Committee Authority. Any question concerning the interpretation of this Agreement or the Plan, any adjustments required to be made under this Agreement or the Plan, and any controversy that may arise under this Agreement or the Plan shall be determined by the Committee in its sole and absolute discretion. All decisions by the Committee shall be final and binding.

11. Application of the Plan. The terms of this Agreement are governed by the terms of the Plan, as it exists on the date of hereof and as the Plan is amended from time to time. In the event of any conflict between the provisions of this Agreement and the provisions of the Plan, the terms of the Plan shall control, except as expressly stated otherwise herein. As used herein, the term "Section" generally refers to provisions within the Plan, and the term "Paragraph" refers to provisions of this Agreement.

12. No Right to Continued Employment. Nothing in the Plan, in this Agreement or any other instrument executed pursuant thereto or hereto shall confer upon Participant any right to continued employment with the Company or any of its subsidiaries or affiliates.

13. Further Assurances. Each party hereto shall cooperate with each other party, shall do and perform or cause to be done and performed all further acts and things, and shall execute and deliver all other agreements, certificates, instruments, and documents as any other party hereto reasonably may request in order to carry out the intent and accomplish the purposes of this Agreement and the Plan.

14. Entire Agreement. This Agreement and the Plan together set forth the entire agreement and understanding between the parties as to the subject matter hereof and supersede all prior oral and written and all contemporaneous or subsequent oral discussions, agreements and understandings of any kind or nature.

15. Successors and Assigns. The provisions of this Agreement will inure to the benefit of, and be binding on, the Company and its successors and assigns and Participant and Participant's legal representatives, heirs, legatees, distributees, assigns and transferees by operation of law, whether or not any such person will have become a party to this Agreement and agreed in writing to join herein and be bound by the terms and conditions hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

HERBALIFE LTD.

(Participant Name)

Michael O. Johnson
Chairman and Chief Executive Officer

Exhibit 10.47

SEPARATION AGREEMENT AND GENERAL RELEASE

Richard P. Goudis ("Employee") and Herbalife International of America, Inc. (the "Company") have reached the following agreement as set forth in this Separation Agreement and General Release ("Agreement") on January 8, 2019 (the "Separation Date").

RECITALS:

The Company and Employee agree that effective as of the Separation Date, Employee hereby voluntarily resigns from his position as Chief Executive Officer of Herbalife Nutrition Ltd. and from all other positions that Employee may hold as an officer, director, and/or employee of the Company or any of its parents, subsidiaries, or affiliates. Employee agrees that his resignation shall not be considered a resignation for Good Reason (as defined under the Company's Executive Officer Severance Plan).

Employee will continue to receive his current base salary and benefits through the Separation Date. Employee acknowledges that he has received all wages and monies due and owing from the Company and any of its parents, subsidiaries, or affiliates, including all benefits due to Employee as of the Separation Date, and that the Company and its parents, subsidiaries, or affiliates have satisfied every obligation owing to Employee, except as set forth in this Agreement. Notwithstanding the foregoing, Employee will have thirty days from the Separation Date to submit any expenses incurred in connection with his employment such that he may recoup those expenses in accordance with the Company's expense reimbursement policies.

NOW, THEREFORE, the parties agree that the terms and conditions contained herein provide adequate consideration for the enforcement of this Agreement, and the parties agree as follows:

1. Payment.

(a) Provided Employee executes this Agreement within twenty-one (21) days from the date hereof (and provided Employee does not revoke the Agreement), the Company will pay Employee remuneration in the amount of $3,500,000 (the "Payment"), in accordance with the following schedule:

(i) Seventy-five percent (75%) of the Payment shall be paid to Employee in equal installments between the date this Agreement becomes effective and irrevocable and November 30, 2019, on dates consistent with the Company's standard payroll schedule; and

(ii) Twenty-five percent (25%) of the Payment shall be paid to Employee in a single, lump-sum amount on the first regular payroll date after December 1, 2019, and in no circumstances, later than December 31, 2019.

Employee understands and agrees that the Company will deduct from the Payment (and all installments thereof) all federal and state withholding taxes and other deductions that the Company is required by law to make. Employee further understands that Employee will receive no further wage, vacation, equity, awards, or other similar payments or benefits from the Company, other than those already paid, and/or as set forth in this Agreement.

2. Employee Benefits. Employee's employee medical, dental, and vision benefits will terminate on th e Separation Date. Following the termination of Employee's benefits, Employee will be eligible to continue his health care coverage pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("**COBRA**"), as amended, and the requirements and limitations thereof for the maximum period of time permitted under applicable law and the terms of the Company's applicable benefit plans . If Employee elects continued coverage under COBRA, Employee will receive information about continuing his health coverage under COBRA in a later mailing, including a form through which he may elect continued coverage. Employee's entitlement to any payments owed pursuant to the Company's Executive Deferred Compensation Plan, as well as any 401K or retirement plan, shall be paid to Employee in accordance with the terms of such plans.

3. Equity Awards. Employee understands and agrees that Employee's equity awards issued by the Company or its parents, subsidiaries, or affiliates shall continue to vest in accordance with their existing terms up to through the Separation Date. Thereafter, all unvested equity awards will be forfeited, and any vested and unexercised stock appreciation rights shall expire in accordance with their existing terms.

4. Release. In consideration for promises set forth in this Agreement, including, but not limited to, receipt of the payments described in Paragraph 1 above, Employee agrees to release and hereby releases the Company, any parent, subsidiary, affiliate and/or related companies of the Company, and the employees, officers, directors, agents, attorneys, insurers, and/or any other representatives of the Company and its parents, subsidiaries, and affiliates (individually and collectively, the "Releasees"), from all claims or demands Employee may have based upon Employee's employment with or separation from the Company, including, without limitation, a release of any rights or claims Employee may have under the Americans with Disabilities Act, Age Discrimination in Employment Act of 1967, the Civil Rights Act of 1991, the Employee Retirement Income Security Act, the Equal Pay Act, the Genetic Information Non-discrimination Act, the Family and Medical Leave Act, Section 1981 of U.S.C., Title VII of the Civil Rights Act, California's Fair Employment and Housing Act, the Unruh Civil Rights Act, the California Business and Professions Code, California Equal Pay Law, California Whistleblower Protection Laws, California Family Rights Act, California Pregnancy Disability Leave Law, California Compensation Law, California WARN law, any applicable California Industrial Welfare Commission Wage Order, the United States Constitution, the California Constitution, or any common law. This also includes a release by Employee of any claims for constructive or wrongful discharge, retaliation, violation of public policy, libel, slander, defamation, or any other tort or contract claim. Employee further confirms that Employee has not filed any claim for workers' compensation and that Employee makes no claim for workplace injuries. This release covers both claims that Employee knows about and that Employee may not know about.

Employee waives and relinquishes Employee's rights and benefits provided by Section 1542 of the Civil Code of the State of California, and does so understanding and acknowledging the significance of this specific waiver of Section 1542. Section 1542 states as follows:

> **A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him OR her must have materially affected his OR her settlement with the debtor.**

Notwithstanding the provisions of Section 1542 and for the purpose of implementing a full and complete release, Employee expressly acknowledges that this Agreement is intended to include

all claims which Employee does not know or suspect to exist in Employee's favor at the time of Employee's signature on the Agreement, and that this Agreement will extinguish any such claim(s).

5. Indemnification. Nothing in Paragraph 4 will be deemed to release Employee's rights to indemnification under any indemnification agreement Employee has with the Company or any other Releasee and/or under the Company's or any Releasee's charter or bylaws, or to whatever coverage Employee may have under the Company's or any Releasee's directors' and officers' insurance policy for acts and omissions when Employee was an officer or director of the Company or of any Releasee.

6. Cooperation. Notwithstanding Paragraph 7 herein, Employee shall cooperate with the Company and its parents, subsidiaries, and affiliates following the Separation Date by making himself available to the Company and its parents, subsidiaries, and any affiliate in connection with any internal or external investigation, as well as any action, suit, or proceeding (whether civil or criminal, and whether administrative or investigative), and to reasonably assist the Company and its parents, subsidiaries and any such affiliate in any such action, suit, or proceeding including by providing information and meeting and consulting with the Board of Directors of the Company and its parents, subsidiaries and its representatives or counsel, or representatives or counsel to the Company or any such parent, subsidiary and affiliate, as reasonably requested by the Company. Such cooperation further includes attending and participating in any meeting, interview or sworn testimony arranged by the Company or sought by any governmental agency regarding any matter in which Employee was involved (or alleged to have been involved) while employed with the Company or of which Employee has knowledge by virtue of Employee's employment with the Company. In connection with Employee's cooperation with the Company and its parents, subsidiaries and affiliates, the Company will, in its discretion, either provide Employee with an attorney, who is mutually agreeable to both the Company and Employee, or pay or reimburse Employee for reasonable attorneys' fees incurred by Employee in connection with his compliance with this Paragraph. The Company agrees that Employee's current counsel, Miller & Chevalier Chartered, shall qualify as mutually agreeable for purposes of this Agreement. The Company further agrees to reimburse Employee for reasonable commercial travel expenses incurred in connection with his compliance with this Paragraph, and, notwithstanding Employee's separation from the Company, the Company will reimburse Employee consistent with the terms of the Company's Executive Travel Plan then in effect. The Company agrees in connection with any cooperation sought from Employee under this Agreement to provide reasonable access to information and documents necessary to facilitate effective representation of the Employee in connection with that cooperation. Employee agrees that this access can be provided in a manner that protects the Company's rights and privileges and ability to avoid conflicts of interest. The Company's obligations in this regard are subject to the Company's separate obligations and interests, including the Company's interest in cooperating with any government investigation. Employee understands that failure to comply with this Paragraph 6 qualifies as a material breach of this Agreement and will justify the Company's withholding or recoupment of the payments set forth in Paragraph 1. For the avoidance of doubt, any finding of liability and/or wrongdoing regarding any conduct committed and/or alleged to have been committed by Employee pursuant to any investigation, action, suit, or proceeding does not constitute a breach of this Paragraph 6, provided that Employee otherwise cooperates with the Company and its parents, subsidiaries and affiliates in connection with such any investigation, action, suit, or proceeding.

7. No Future Lawsuits/Non-Assistance. Employee represents that Employee has not filed, and hereby promises never to file, any charges or grievances or lawsuits asserting any claims that are released in Paragraph 4 above. Employee further agrees that Employee shall not assist, aid,

encourage, communicate, or collaborate with any person or entity, including, but not limited to, any media, governmental agency , or any other entity or person, suing or purporting to sue, or bringing a claim or claims against, or purporting to review or inquire about, or seeking to investigate or is investigating, or in any way purporting to examine the Company or its parents, subsidiaries or affiliates, or purporting to opine or make negative reference regarding the Company o r its parents, subsidiaries or affiliates or any aspect of the Company o r its parents, subsidiaries or affiliates or their business or products, unless required by law or as set forth in Paragraph 8 of this Agreement.

8. Reports to Government Entities. Notwithstanding the foregoing, nothing contained in this Agreement is intended to prohibit or restrict Employee or the Company (along with its employees, members of its Board of Directors, or any of its agents) in any way from filing, testifying, or participating in or otherwise assisting in a proceeding relating to, or reporting, an alleged violation of any federal, state, or municipal law or any rule or regulation of the Securities and Exchange Commission ("SEC") or any self-regulatory organization, or making other disclosures that are protected under the whistleblower provisions of federal or state law or regulation. Prior authorization from the Company shall not be required to make any reports or disclosures under this Paragraph 8, and Employee is not required to notify the Company that Employee has made such reports or disclosures. However, Employee acknowledges and agrees that, to the maximum extent permitted by law, he cannot recover any monetary damages or equitable relief in connection with a charge or proceeding brought by Employee or through any action brought by a third party with respect to the claims released and waived in this Agreement. This Agreement does not, however, waive or release the Company's or Employee's right to receive a monetary award from the SEC.

9. Consequences of Employee's Violation of Promises. If Employee breaches any of his obligations contained in Paragraphs 4, 6, 11, 12, 13, or 14 of this Agreement, or files any action based on claims that Employee has released herein, all future payments under Paragraph 1 shall stop and Employee shall repay to the Company all of the money paid to Employee pursuant to Paragraph 1 herein. Employee acknowledges that notwithstanding Paragraph 5 of the Agreement, the Company will not indemnify Employee with respect to any claim or action that the Company files against Employee regarding any alleged breach of this Agreement by Employee.

10. Non-Admission of Liability. By entering into this Agreement, neither the Company nor Employee admits that either has done anything wrong.

11. Confidentiality. Employee agrees that the negotiations surrounding this Agreement are and will remain strictly confidential and will not be disclosed by Employee without the express prior written approval of the Company, unless required by law or as set forth in Paragraph 8 of this Agreement. Employee also agrees that any confidentiality agreement executed by Employee in connection with Employee's employment at the Company will remain in full force and effect pursuant to its terms. Employee acknowledges that Employee's promises of confidentiality, as set forth herein, are material and essential consideration for the Company's promises and agreements herein.

12. Non-Disparagement. Employee agrees not to disparage, defame, or make negative or derogatory statements or remarks, directly or indirectly, about the Company, any Releasee, or any of the Company's affiliates or any past or current Company officer, director, employee, or member, and further agrees not to disparage, defame, or make negative or derogatory statements or remarks, directly or indirectly, about the Company's business model or any past or current product of the Company. The Company hereby agrees that it will ensure that its named executive officers and

members of its Board of Directors do not disparage, defame, or make negative or derogatory statements or remarks, directly or indirectly, about Employee. Notwithstanding the foregoing, nothing contained in this Paragraph 12 limits the Company or Employee from making any of the disclosures described in Paragraph 8 of this Agreement, nor does this Paragraph restrict either party's right to make truthful statements concerning Employee's employment with the Company or his separation therefrom during any civil or criminal proceeding. Employee further agrees that this Paragraph 12 does not prevent the Company or its parent from issuing a press release on the Separation Date or other communication regarding the circumstances of Employee's separation from the Company.

13. No Competition. Employee agrees that, during Employee's employment with or provision of services to the Company and through December 31, 2019, Employee will not directly or indirectly (including through another person) (a) engage in any Competitive Business for Employee's own account, (b) enter the employ of, or render any services to, any person engaged in any Competitive Business, or (c) acquire a material financial interest in any Competitive Business. Nothing herein shall, however, prohibit Employee from being a passive owner of not more than five percent (5%) of the outstanding stock of any class of a company or corporation that is publicly quoted or listed, so long as Employee has no active participation in the business of such company or corporation. As used in this Agreement: (i) "Competitive Business" means the development, distribution, or sale of weight management, nutritional, sports nutrition, and/or wellness supplements or personal care products through multi-level marketing or other direct selling channels; (ii) "person" means an individual, a corporation, limited liability company, partnership, association, trust, or any other entity; and (iii) activity undertaken "directly or indirectly" includes any direct or indirect ownership or profit participation interest in such enterprise, whether as an owner or a stockholder, member, partner, joint venturer, or otherwise, and includes any direct or indirect participation in such enterprise as an employee, consultant, director, officer, licensor of technology, or otherwise.

14. No Solicitation. Employee agrees that, between the Separation Date and December 31, 2019 (the "Nonsolicitation Period"), he will not directly or indirectly through another entity (i) induce or attempt to induce any employee or Distributor of the Company or any of its parents, subsidiaries or affiliates to leave the employment of, or cease to maintain its distributor relationship with, the Company, it parents, subsidiaries or such affiliate, or in any way interfere with the relationship between the Company or any such parent, subsidiary or affiliate and any employee or Distributor thereof, (ii) hire any person who was an employee of the Company, its parents, subsidiaries or any of its affiliates at any time during the Nonsolicitation Period unless such person's employment was terminated by the Company or such parent, subsidiary or affiliate or enter into a distributor relationship with any person or entity who was a Distributor of the Company, parent, subsidiary or any of its affiliates at any time during the Nonsolicitation Period, (iii) induce or attempt to induce any Distributor, supplier, licensor, licensee or other business relation of the Company or any of its parents, subsidiaries or affiliates to cease doing business with the Company or such entities, or in any way interfere with the relationship between such Distributor, supplier, licensor, licensee or business relation and the Company, its parents, subsidiaries or any of its affiliates or (iv) use any trade secrets or other confidential information of the Company, its parents, subsidiaries or any of its affiliates to directly or indirectly participate in any means or manner in any business which is a direct competitor of the Company or of its parents, subsidiaries or any of its affiliates. In addition, during the Nonsolicitation Period, Employee will not, in any capacity, either directly or indirectly, induce, encourage, or assist any other individual or entity directly or indirectly, to: (A) solicit or encourage any customer of the Company or of its parents, subsidiaries or any of its affiliates to terminate or diminish its relationship with the Company or such entities; (B) seek to persuade any customer (or any individual or entity who was a customer

of the Company or such entities within the 12 months prior to the date such solicitation or encouragement commences or occurs, as the case may be) or prospective customer of the Company or such entities to conduct with anyone else any business or activity that such customer or prospective customer conducts or could conduct with the Company or such entities; or (C) attempt to divert, divert, or otherwise usurp any actual or potential business opportunity or transaction that you learned about during your employment with the Company. For purposes of this Paragraph 14, "in any capacity" includes, but is not limited to, as an employee, independent contractor, volunteer, or owner ; and "Distributor" means the identities of the Company's and its parents', subsidiaries' and affiliates' distributors and customers and potential distributors and customers.

15. Public Announcements. Unless required by law or as set forth in Paragraph 8 of this Agreement, Employee agrees that he will not make any public statements (informal or formal) to any news and/or media company, as well as on any social media platform, that contradicts the factual statements contained within the press release published by the Company on the Separation Date concerning Employee's separation from the Company.

16. Section 409A. It is the intention of the parties that the provisions of the Agreement shall comply with the requirements of the short-term deferral exception to Section 409A of the Code and U.S. Treasury Regulations §1.409A-1(b)(4). Accordingly, to the extent there is any ambiguity as to whether one or more provisions of the Agreement would otherwise contravene the requirements or limitations of Section 409A of the Code applicable to such short-term deferral exception, then those provisions shall be interpreted and applied in a manner that does not result in a violation of the requirements or limitations of Section 409A of the Code and the U.S. Treasury Regulations issued thereunder that apply to such exception.

17. Return of Company Materials and Property. Employee agrees to return to the Company immediately any and all documents, books, manuals, drawings, writings, computer records or other tangible property or equipment which is in Employee's possession or control (including all copies thereof) which Employee procured during or in connection with Employee's employment with the Company, including but not limited to any computer equipment, elevator fob, and/or parking card provided to Employee by the Company. Employee further acknowledges that Employee's conduct pursuant to this Paragraph 17 is material consideration for the Payment referenced in Paragraph 1. The Company agrees to allow Employee to use the services of the Company's IT department to copy any personal information maintained on his Company-issued cell phone, computer, and/or iPad to another device, so long as the information Employee intends to copy does not otherwise constitute sensitive, confidential, or proprietary information of the Company, as determined by the Company in its sole discretion.

18. Entire Agreement. This Agreement constitutes the entire agreement between Employee and the Company and supersedes all other agreements between Employee and the Company, with respect to the terms of Employee's employment and the termination thereof; except that this Agreement shall not relieve the Company from any obligations it may have to the Employee under any employee benefit plan including any health, retirement, 401(k), or deferred compensation plan or any other agreement described in Paragraph 3, nor shall this Agreement relieve Employee of any contractual or common law obligations Employee may have to the Company or any of its parents, subsidiaries or affiliates that by their nature are intended to survive the termination of Employee's employment with the Company, or any such superseded agreement including, without limitation, to maintain the Company's confidential information and its proprietary and trade secret information as confidential, and not to use such information for Employee's benefit or the benefit

of any third party. The Company has made no promise to Employee other than as set forth in this Agreement .

19. Severability. If at any time after the date of the execution of this Agreement, any court or administrative agency finds that any provision of this Agreement is illegal, void, or unenforceable, that provision will no longer have any force and effect. However, any such finding as to a particular provision shall not be deemed to impair the enforceability of any other provision of this Agreement.

20. Injunctive Relief. The parties acknowledge that the interests protected by this Agreement are unique, and that no adequate remedy exists at law if either the Company or Employee breaches their obligations hereunder. The parties further acknowledge that it would be extremely difficult to ascertain the amount of damages resulting from either party's breach of this Agreement, and that such breach would cause great and irreparable injury to the non-breaching party. Accordingly, the parties agree that the Company and Employee would be entitled to injunctive relief to prevent or restrain any breach of this Agreement including, but not limited to, a temporary restraining order and/or preliminary injunction. Nothing in this provision shall preclude either party from also seeking damages and/or any other legal remedies against the other in the event of a breach of the terms of this Agreement.

21. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

22. Waiver. By signing this Agreement, Employee acknowledges that:

(a) Employee has carefully read this Agreement and understands this Agreement;

(b) The Company advised Employee to consult with an attorney and/or any other advisor of Employee's choice before signing this Agreement;

(c) Employee has been given twenty-one (21) days to consider his rights and obligations under this Agreement and to consult with an attorney about both;

(d) Employee understands that this Agreement is **LEGALLY BINDING** and that by signing it Employee gives up certain rights;

(e) Employee has voluntarily chosen to enter into this Agreement and has not been forced or pressured in any way to sign it;

(f) Employee acknowledges and agrees that the payments and benefits set forth in Paragraph 1 of this Agreement are contingent on execution of this Agreement, which releases all of Employee's claims against the Company and the Releasees, and Employee **KNOWINGLY AND VOLUNTARILY AGREES TO RELEASE** the Company and the Releasees from any and all claims Employee may have, known or unknown, in exchange for the benefits Employee has obtained by signing, and that these benefits are in addition to any benefit Employee would have otherwise received if Employee did not sign this Agreement;

(g) Employee has seven (7) days after signing this Agreement to revoke it by notifying the Company in writing by contacting Jonathan Layne at JLayne@gibsondunn.com. The Agreement will not become effective or enforceable until the seven (7) day revocation period has expired;

(h) This Agreement includes a **WAIVER OF ALL RIGHTS AND CLAIMS** Employee may have under the Age Discrimination in Employment Act of 1967 (29 U.S.C. §621 *et seq.*); and

(i) This Agreement does not waive any rights or claims that may arise after this Agreement becomes effective, which is seven (7) days after Employee executes it, provided that Employee does not exercise his right to revoke this Agreement.

DATED: 1-8-19 /s/ Richard P. Goudis
Richard P. Goudis

DATED: 1-8-19 /s/ Michael O. Johnson
Herbalife International of America, Inc.

Exhibit 21.1

SUBSIDIARIES OF HERBALIFE NUTRITION LTD.
As of December 31, 2018

Subsidiaries	State or other jurisdiction of incorporation or organization
Gestión Y Soporte Administrativo Las Fuentes, S. De R.L. De C.V.	Mexico
HBL Luxembourg Holdings S.à R.L.	Luxembourg
HBL Ltd.	Cayman Islands
HBL Products, SA	Switzerland
HBL Swiss Financing GmbH	Switzerland
Herbalife (China) Health Products Ltd.	People's Republic of China
Herbalife (Jiangsu) Health Products Ltd.	People's Republic of China
Herbalife (Shanghai) Management Co., Ltd.	People's Republic of China
Herbalife (N.Z.) Limited	New Zealand
Herbalife (U.K.) Limited	United Kingdom
Herbalife Africa S.à r.l.	Luxembourg
Herbalife Asia Pacific Services Limited	Hong Kong
Herbalife Australasia Pty, Ltd.	Australia
Herbalife Bela LLC	Belarus
Herbalife Bolivia Ltda.	Bolivia
Herbalife Bulgaria EOOD	Bulgaria
Herbalife (Cambodia) Co., Ltd.	Kingdom of Cambodia
Herbalife Central America LLC	Delaware, USA
Herbalife China, LLC	Delaware, USA
Herbalife Czech Republic s.r.o.	Czech Republic
Herbalife d.o.o. (Croatia)	Croatia
Herbalife Del Ecuador, S.A.	Ecuador
Herbalife Denmark ApS	Denmark
Herbalife Distribution Ltd.	Cayman Islands
Herbalife Dominicana, S.R.L.	Dominican Republic
Herbalife EMEA Finance and Operations Service Center S.p.z.o.o.	Poland
Herbalife Europe Limited	United Kingdom
Herbalife Hungary Trading, Limited (also known as Herbalife Magyarorszag Kereskedelmi Kft.)	Hungary
Herbalife Internacional de México, S.A. de C.V.	Mexico
Herbalife International (Hong Kong) Ltd.	Hong Kong
Herbalife International (Thailand), Ltd.	California, USA
Herbalife International (Netherlands) B.V.	The Netherlands
Herbalife International Argentina, S.A.	Argentina
Herbalife International Belgium, S.A.	Belgium
Herbalife International Communications, LLC	California, USA
Herbalife International Costa Rica, Sociedad de Responsabilidad Limitada	Costa Rica
Herbalife International de Colombia, Inc.	California, USA
Herbalife International Del Ecuador, Inc.	California, USA
Herbalife International Deutschland GmbH	Germany
Herbalife International Distribution, Inc.	California, USA
Herbalife International Do Brasil Ltda.	Brazil and Delaware, USA
Herbalife International España, S.A.	Spain
Herbalife International Finland OY	Finland
Herbalife International France S.A.	France
Herbalife International Greece S.A.	Greece
Herbalife International India Private Limited	India
Herbalife International Luxembourg S.à R.L.	Luxembourg
Herbalife International of America, Inc.	Nevada, USA
Herbalife International of Europe, Inc.	California, USA

Subsidiaries	State or other jurisdiction of incorporation or organization
Herbalife International of Hong Kong Limited	Hong Kong
Herbalife International of Israel (1990) Ltd.	Israel
Herbalife International Philippines, Inc.	Philippines
Herbalife International Products N.V.	Netherlands Antilles
Herbalife International Singapore, Pte. Ltd.	Singapore
Herbalife International South Africa, Ltd.	South Africa and California, USA
Herbalife International Urunleri Ticaret Limited Sirketi	Turkey and Delaware, USA
Herbalife International, Inc.	Nevada, USA
Herbalife International, S.A.	Portugal
Herbalife Italia S.p.A.	Italy
Herbalife Kazakhstan LLP	Kazakhstan
Herbalife Korea Co., Ltd.	South Korea and Delaware, USA
Herbalife Luxembourg Distribution S.à R.L.	Luxembourg
Herbalife Macau Limited	Macau
Herbalife Manufacturing LLC	Delaware, USA
Herbalife Mexicana, S.A. de C.V.	Mexico
Herbalife Mongolia LLC	Mongolia
Herbalife NatSource (Hunan) Natural Products Co., Ltd.	People's Republic of China
Herbalife Natural Products L.P.	Cayman Islands
Herbalife Norway Products AS	Norway
Herbalife of Canada, Ltd.	Canada
Herbalife of Ghana Limited	Ghana
Herbalife of Japan K.K.	Japan and Delaware, USA
Herbalife Paraguay S.R.L.	Paraguay
Herbalife Peru S.R.L.	Peru
Herbalife Polska Sp.z o.o	Poland
Herbalife Products Malaysia SDN. BHD.	Malaysia
Herbalife Puerto Rico, LLC	Puerto Rico
Herbalife RO S.R.L.	Romania
Herbalife Slovakia, s.r.o.	Slovak Republic
Herbalife Sweden Aktiebolag	Sweden
Herbalife Taiwan, Inc.	California, USA
Herbalife Uruguay S.R.L.	Uruguay
Herbalife Venezuela Holdings, LLC	Delaware, USA
Herbalife VH International, LLC	Delaware, USA
Herbalife VH Intermediate International, LLC	Delaware, USA
Herbalife Vietnam SMLLC	Vietnam
Herbalife Worldwide Events LLC	Delaware, USA
HIIP Investment Co., LLC	Delaware, USA
HIL Swiss International GmbH	Switzerland
HLF Colombia Ltda.	Colombia
HLF Financing SaRL, LLC	Delaware, USA
HLF Financing US, LLC	Delaware, USA
HLF Luxembourg Distribution S.à R.L.	Luxembourg
HLF Luxembourg Holdings, Inc.	Delaware, USA
HV Holdings Ltd.	Cayman Islands
iChange Network, Inc.	California, USA
I.C.S. Herbalife MA, S.R.L.	Republic of Moldova
Importadora y Distribuidora Herbalife International de Chile, Limitada	Chile
Limited Liability Company Herbalife International RS	Russian Federation
Herbalife Ukraine, LLC	Ukraine
Promotions One, Inc.	California, USA
PT Herbalife Indonesia	Indonesia
Servicios Integrales HIM, S.A. de C.V.	Mexico
Suplementos Para El Bienestar, S. De R.L. De C.V.	Mexico

Subsidiaries	State or other jurisdiction of incorporation or organization
Vida Herbal Dutch, LLC	Delaware, USA
VHSA, LLC	Delaware, USA
Vida Herbal Suplementos Alimenticios, C.A.	Venezuela
WH Capital Corporation	Nevada, USA
WH Intermediate Holdings Ltd.	Cayman Islands
WH Luxembourg Holdings S.à R.L.	Luxembourg
WH Luxembourg Intermediate Holdings S.à R.L., LLC	Delaware, USA
WHBL Luxembourg S.à R.L.	Luxembourg

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (Nos. 333-211165, 333-195798, 333-173876, 333-166513, 333-149922, 333-129885, 333-122871, and 333-116335) of Herbalife Nutrition Ltd. of our report dated February 19, 2019 relating to the financial statements and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP

Los Angeles, California
February 19, 2019

Exhibit 31.1

RULE 13a-14(a) CERTIFICATION

I, Michael O. Johnson, certify that:

1. I have reviewed this Annual Report on Form 10-K of Herbalife Nutrition Ltd.;

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.

/s/ MICHAEL O. JOHNSON
Michael O. Johnson
Chairman of the Board and Chief Executive Officer

Dated: February 19, 2019

Exhibit 31.2

RULE 13a-14(a) CERTIFICATION

I, Bosco Chiu, certify that:

1. I have reviewed this Annual Report on Form 10-K of Herbalife Nutrition Ltd.;

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.

/s/ BOSCO CHIU
Bosco Chiu
Executive Vice President, Chief Financial Officer

Dated: February 19, 2019

Exhibit 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
Pursuant to 18 U.S.C. Section 1350
Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Annual Report of Herbalife Nutrition Ltd., or the Company, on Form 10-K for the period ended December 31, 2018 as filed with the Securities and Exchange Commission on the date hereof, or the Report, I, Michael O. Johnson, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that: (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ MICHAEL O. JOHNSON
Michael O. Johnson
Chairman of the Board and Chief Executive Officer

Dated: February 19, 2019

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

Exhibit 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
Pursuant to 18 U.S.C. Section 1350
Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Annual Report of Herbalife Nutrition Ltd., or the Company, on Form 10-K for the period ended December 31, 2018 as filed with the Securities and Exchange Commission on the date hereof, or the Report, I, Bosco Chiu, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that: (1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ BOSCO CHIU
Bosco Chiu
Executive Vice President, Chief Financial Officer

Dated: February 19, 2019

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.