

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

**FORM 8-K**

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

**Date of Report (Date of earliest event reported) October 6, 2019**

**BED BATH & BEYOND INC.**

(Exact name of registrant as specified in its charter)

**New York**  
(State or other jurisdiction  
of incorporation)

**0-20214**  
(Commission  
File Number)

**11-2250488**  
(I.R.S. Employer  
Identification No.)

**650 Liberty Avenue, Union, New Jersey 07083**  
(Address of principal executive offices) (Zip Code)

**(908) 688-0888**  
(Registrant's telephone number, including area code)

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

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

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common stock, \$.01 par value	BBBY	The Nasdaq Stock Market LLC (Nasdaq Global Select Market)

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

Emerging growth company

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

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

On October 6, 2019, the Board of Directors (the “Board”) of Bed Bath & Beyond Inc. (the “Company”) appointed Mark J. Tritton as the President and Chief Executive Officer of the Company, effective as of November 4, 2019 (the “Effective Date”). Mr. Tritton, 55, has served as Executive Vice President and Chief Merchandising Officer of Target Corporation since June 2016. Prior to Target Corporation, Mr. Tritton served as President of Nordstrom Product Group, of Nordstrom Inc., a fashion specialty retailer, from June 2009 to June 2016. The Company issued a press release on October 9, 2019 announcing Mr. Tritton’s appointment, a copy of which is attached as Exhibit 99.1 hereto.

Pursuant to the employment agreement between the Company and Mary A. Winston, the Company’s current Interim Chief Executive Officer, Ms. Winston will step down as the Company’s Interim Chief Executive Officer on the Effective Date. Ms. Winston will continue to serve as a member of the Board.

In connection with Mr. Tritton’s appointment as the President and Chief Executive Officer of the Company, the Company simultaneously entered into an employment agreement (the “Employment Agreement”) with Mr. Tritton, effective as of the Effective Date. The Employment Agreement and the compensation package contained therein were approved by the Compensation Committee of the Board (the “Committee”), which worked with its independent compensation consultant to design a competitive compensation framework that aligns with the compensation design pillars described in the Company’s 2019 proxy statement. The key terms of the Employment Agreement are as follows:

- **Term.** The Employment Agreement has an initial term of three years commencing on the Effective Date (the “Initial Term”). After the expiration of the Initial Term, the Employment Agreement automatically renews on an annual basis until either party provides 90 days’ notice of intent not to renew.
- **Cash Compensation.** Mr. Tritton’s annual base salary will equal \$1,200,000, and, beginning in fiscal year 2020, he will be eligible to receive a target annual bonus of 150% of his base salary, with a maximum bonus opportunity of 225% of his base salary, to be earned based upon the achievement of performance objectives to be determined by the Committee. For fiscal year 2019, Mr. Tritton will be eligible to receive a target annual bonus of \$750,000, to be earned based upon the achievement, between the Effective Date and the end of fiscal year 2019, of performance objectives as communicated by the Committee to Mr. Tritton.
- **Long-Term Equity Incentives.** In fiscal year 2020, Mr. Tritton will be eligible to receive a long-term, performance-based equity incentive award with a target value at grant of \$7,000,000 and a maximum value at grant of \$10,500,000 (the “LTI Awards”), under the Company’s 2012 Incentive Compensation Plan (“2012 Plan”) or the Company’s 2018 Incentive Compensation Plan (“2018 Plan”). These target and maximum award values will be reviewed annually for adjustment by the Compensation Committee in its sole discretion for performance-based equity incentive awards to be granted after fiscal year 2020. The performance criteria for LTI Awards will be determined by the Committee in its sole discretion, and the LTI Awards will be subject to the terms and conditions of the 2012 Plan or the 2018 Plan and any applicable award agreements.
- **Benefits.** Mr. Tritton will be eligible to participate in the Company’s employee benefit plans, policies and arrangements applicable to other executive officers generally, and will be eligible for certain benefits specified in the Employment Agreement, including home buyout and relocation assistance in connection with his relocation to the New York metropolitan area, financial planning and an automobile allowance.
- **Inducement Awards.**
  - **Cash.** On the Company’s first payroll date following the Effective Date, Mr. Tritton will receive a one-time sign-on inducement cash award of \$500,000. On March 13, 2020, subject, in general, to Mr. Tritton’s continued employment with the Company through such date, Mr. Tritton will also receive a make-whole cash bonus of \$710,000 (the “Make-Whole Cash Bonus”).
  - **Equity-Based.** As an inducement material to his entering into the Employment Agreement and commencing employment with the Company, Mr. Tritton will be granted the following inducement equity awards on the Effective Date:
    - On the Effective Date, Mr. Tritton will receive an inducement award in the form of time-vesting restricted stock units (“RSUs”) equal in value to \$500,000 on the Effective Date (the “Sign-On RSU Award”). The Sign-On RSU Award will vest on November 4, 2020, subject, in general, to Mr. Tritton remaining in the Company’s employ through the vesting date. On the Effective Date, Mr. Tritton will also receive an inducement award in the form of RSUs equal in value to \$6,900,000 on the Effective Date (the “Make-Whole RSU Award”). The RSUs granted pursuant to the Make-Whole RSU Award

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will vest as follows: (i) RSUs with a value at grant of \$3,500,000 will vest on March 31, 2020; (ii) RSUs with a value at grant of \$1,700,000 will vest on September 30, 2020; and (iii) RSUs with a value at grant of \$1,700,000 will vest on March 31, 2021, in each case subject, in general, to Mr. Tritton remaining in the Company's employ through the applicable vesting date.

- On the Effective Date, Mr. Tritton will also receive an inducement award in the form of performance stock units ("PSUs") equal in value to \$3,500,000 on the Effective Date (the "Make-Whole PSU Award"). The Make-Whole PSU Award will vest, if at all, based on the level of attainment of performance objectives that will be mutually set by the Committee and Mr. Tritton prior to the Effective Date. In the event that the Committee and Mr. Tritton are unable to agree on the performance goals that will be applicable to the Make-Whole PSU Award prior to the Effective Date, in lieu of receiving the Make-Whole PSU Award, Mr. Tritton will be granted RSUs equal in value at grant to \$3,500,000 on the Effective Date (the "Alternate RSU Award"). If granted, the Alternate RSU Award will vest on November 4, 2021, subject, in general, to Mr. Tritton remaining in the Company's employ through the vesting date.

The Make-Whole RSU Award, Make-Whole PSU Award and Make-Whole Cash Bonus are intended to replace certain equity and other incentive awards that were forfeited by Mr. Tritton upon his resignation from Target Corporation. The number of RSUs subject to the Sign-On RSU Award and the Make-Whole RSU Award, and the target number of PSUs subject to the Make-Whole PSU Award (or number of RSUs subject to the Alternate RSU Award, if applicable) on the Effective Date will be calculated based on the volume-weighted average closing per-share trading price of Company common stock over the twenty trading day period ending immediately prior to the Effective Date. The equity-based inducement awards discussed above will be issued outside of the 2012 Plan and the 2018 Plan, in accordance with Nasdaq Listing Rule 5635(c)(4), but will be subject to substantially the same terms as awards made under such plans.

- **Termination due to Death or Disability:** In the event of a termination of Mr. Tritton's employment due to his death or disability, (i) the Sign-On RSU Award, the Make-Whole RSU Award, and the Alternate RSU Award, if applicable and to the extent not previously vested, will immediately vest in full, (ii) the Make-Whole PSU Award, if applicable and to the extent not previously vested, will immediately vest in full at 100% of target level of performance, and (iii) the Company will pay Mr. Tritton (or his estate) the Make-Whole Cash Bonus and the annual bonus for 2019 fiscal year, to the extent not previously paid, within 30 days of such date (collectively, the "Inducement Award Acceleration"). Mr. Tritton (or his estate or legal representative) is required to deliver a formal release of all claims prior to, and as a condition of, his receipt of the payments and accelerated vesting described in the Employment Agreement following a termination of his employment due to death or disability.
- **Termination without Cause or for Good Reason.** The Employment Agreement provides that if the Company terminates Mr. Tritton's employment other than for "cause," or in the event Mr. Tritton terminates with "good reason," in each case, not in connection with a "change in control" (as defined in the 2018 Plan), then in addition to Inducement Award Acceleration, Mr. Tritton will receive severance pay equal to the sum of two times Mr. Tritton's base salary and his target annual bonus (payable over the 24 months following his termination date), any earned but unpaid annual bonus for the year prior to the year of termination, and up to 24 months of COBRA benefits at active employee rates. Severance pay will be paid in accordance with normal payroll. The definitions of "cause" and "good reason" are set forth in the Employment Agreement.

If the Company terminates Mr. Tritton's employment other than for "cause," or in the event Mr. Tritton terminates with "good reason," in each case, within 30 days prior to, or two years following, a "change in control" (as defined in the 2018 Plan), then Mr. Tritton will receive the entitlements described in the preceding paragraph, except that the severance pay will be paid in lump sum, Mr. Tritton's other outstanding time-based equity awards will immediately vest in full, and any other outstanding performance-based equity awards will vest, based on actual performance and prorated based on the number of days during the applicable performance period that Mr. Tritton remained employed by the Company, at the time that such awards would have otherwise vested had Mr. Tritton remained employed up to the vesting date. Mr. Tritton is required to deliver a formal release of all claims prior to, and as a condition of, his receipt of any of the severance payments, accelerated vesting, and other post-employment benefits described in the Employment Agreement.

- **Restrictive Covenants.** The Employment Agreement also provides for non-competition, non-solicitation and non-interference during the term of employment and for two years thereafter, and non-disparagement and confidentiality during the term of employment and surviving the end of the term of employment.

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The foregoing description of the Employment Agreement in this Current Report on Form 8-K is a summary of, and is qualified in its entirety by, the terms of the Employment Agreement. A copy of the Employment Agreement is attached hereto as Exhibit 10.1 and incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description</u>
10.1	<a href="#">Employment Agreement between the Company and Mark J. Tritton (dated October 6, 2019)</a>
99.1	<a href="#">Press Release issued by Bed Bath &amp; Beyond Inc. on October 9, 2019</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

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*SIGNATURES*

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

**BED BATH & BEYOND INC.**

(Registrant)

Date: October 10, 2019

By: /s/ Robyn M. D'Elia

Robyn M. D'Elia

Chief Financial Officer and Treasurer

(Principal Financial and Accounting Officer)

**EMPLOYMENT AGREEMENT**

THIS EMPLOYMENT AGREEMENT (this "Agreement"), dated as of October 6, 2019, is made by and between Bed Bath & Beyond Inc., a New York corporation (the "Company"), and Mark J. Tritton ("Executive"). This Agreement shall govern the relationship between Executive and the Company from and after November 4, 2019 (the "Start Date").

WHEREAS, the Company desires to employ Executive pursuant to the terms and conditions set forth in this Agreement; and

WHEREAS, Executive is willing and able to be employed by the Company and desires to do so on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the above recitals incorporated herein and the mutual covenants and promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the parties agree as follows:

**1. Retention and Duties.**

(a) The Company hereby engages and employs Executive for the Term (as defined in Section 2) on the terms and conditions expressly set forth in this Agreement. Executive hereby accepts and agrees to such engagement and employment, on the terms and conditions expressly set forth in this Agreement.

(b) During the Term, Executive shall serve as the President and Chief Executive Officer of the Company and shall perform such duties customarily performed by persons situated in similar executive capacities and as may from time to time be assigned to Executive by the Company's Board of Directors (the "Board"). As President and Chief Executive Officer of the Company, Executive shall report to the Board. In addition, the Board may from time to time, in its sole discretion, assign to the Executive such other reasonable duties, authorities and responsibilities that are not inconsistent with the Executive's position as the President and Chief Executive Officer of the Company, including without limitation, service as an officer and/or on the boards of directors and committees of one or more of the Company's subsidiaries, in each case, without additional compensation.

(c) Executive shall be located and perform his principal duties hereunder at the Company's principal headquarters located in Union, New Jersey. Executive acknowledges and agrees that he will be expected to relocate to the New York metropolitan area as soon as reasonably practicable following the Start Date, and in no event later than four (4) months following the Start Date. Notwithstanding the foregoing, Executive agrees and acknowledges that significant travel will be part of the performance of his services hereunder.

(d) During the Term, Executive shall devote his entire working time, attention, and energies to the Company and shall not be engaged in any other business activity, whether or not such business activity is pursued for gain, profit or other pecuniary advantage, without the prior written consent of the Board. While Executive serves as President and Chief Executive Officer of the Company, the foregoing is not intended to restrict (i) Executive's ability to serve on the boards of civic or charitable organization, or (ii) Executive's ability to serve on the board(s) set forth on Exhibit A attached hereto and any other board with the prior written consent of the Board (subject to compliance with the Company's Corporate Governance Guidelines); provided, that the foregoing activities are not competitive with the business of the Company and do not interfere or conflict with Executive's duties and obligations on behalf of the Company or create a potential business or fiduciary conflict of interest. Executive agrees to use best efforts to perform

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his duties and responsibilities within, and agrees to abide by, the Company's written general employment policies and practices and such other reasonable policies, practices and restrictions as the Company shall from time to time establish and maintain for its executives, including, without limitation, the Company's Corporate Governance Guidelines and Policy of Ethical Standards for Business Conduct.

(e) Executive shall, subject to the fiduciary duties of the Board, be nominated to, and be recommended to shareholders for, the management slate of directors at each annual meeting of shareholders that occurs during the Term, for a term equal to that of other directors being nominated at such meeting.

**2. Term.** The "Term" shall be the period commencing on the Start Date and ending at the close of business on the day before the third (3<sup>d</sup>) anniversary of the Start Date, unless Executive's employment with the Company terminates earlier pursuant to Section 5. The Term shall be extended automatically by successive one (1) year periods unless either party provides the other party with written notice of an intention to terminate the Agreement at least ninety (90) days prior to such termination or renewal date. The "Term" shall include any such automatic one (1) year extensions. The Term may be modified only by a written agreement between the parties and in such case, the term "Term" shall be deemed to mean the Term as so modified. Subject to the terms of this Agreement, Executive's employment with the Company shall be "at will."

### **3. Compensation and Reimbursement of Expenses.**

(a) **Base Salary.** During the Term, Executive's annual base salary (the "Base Salary") shall be \$1,200,000.00, payable in accordance with the Company's regular payroll practices in effect from time to time and subject to all applicable taxes and withholdings, but no less frequently than in semi-monthly installments. The Base Salary may be increased by the Compensation Committee of the Board (the "Compensation Committee") in its sole discretion. The parties acknowledge and agree that a portion of Executive's Base Salary shall constitute consideration for Executive's compliance with the restrictions and covenants set forth in Section 6 of this Agreement.

#### **(b) Annual Bonus.**

(i) Beginning in fiscal year 2020 and for each completed fiscal year thereafter during the Term, Executive shall be eligible to receive an annual cash performance bonus (the "Annual Bonus"), with a target Annual Bonus opportunity equal to one-hundred fifty percent (150%) of his Base Salary and a maximum Annual Bonus opportunity equal to two-hundred twenty-five percent (225%) of his Base Salary. The Annual Bonus opportunity may be increased by the Compensation Committee in its sole discretion. The Annual Bonus earned, if any, with respect to a fiscal year will be subject to the performance of Executive and the Company during such year, relative to performance goals established for such fiscal year by the Compensation Committee. The Compensation Committee shall determine the level of attainment of performance goals and the amount of the Annual Bonus following the end of each fiscal year, and the Company shall pay the Annual Bonus, to the extent payable in accordance with this Section 3(b)(i), on or before the date that is two and one-half (2½) months following the end of the fiscal year with respect to which it is earned, provided that Executive's employment with the Company has not terminated on or prior to such date (except as otherwise expressly provided in Section 5(c) below).

(ii) With respect to fiscal year 2019, Executive shall be eligible to receive an Annual Bonus with a target of \$750,000.00, to be earned, if at all, based on the level of attainment, as determined by the Compensation Committee, between the Start Date and the end of fiscal year 2019 of the performance objectives as communicated to Executive by the Compensation Committee (the "2019 Annual Bonus"). Notwithstanding anything herein to the contrary, the 2019 Annual Bonus earned, if any, shall be payable to Executive by no later than March 13, 2020, provided that Executive's employment with the Company has not terminated on or prior to such date (except as otherwise expressly provided in Section 5(c) below).

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**(c) Sign-On Cash Awards.**

(i) On the Company's first payroll payment date following the Start Date, the Company shall pay to Executive a lump-sum cash payment of \$500,000.00, subject to all applicable taxes and withholdings, as a one-time inducement cash bonus.

(ii) On March 13, 2020, provided that Executive's employment with the Company has not terminated on or prior thereto (except as otherwise expressly provided in Section 5(c) below), the Company shall pay to Executive a lump-sum cash payment of \$710,000.00, subject to all applicable taxes and withholdings, as a one-time make-whole cash bonus (the "Make-Whole Cash Bonus").

**(d) Sign-On and Inducement Equity Incentive Awards.**

(i) On the Start Date, as an inducement material to Executive entering into this Agreement and commencing employment with the Company, the Company shall grant to Executive, and Executive shall receive, the equity awards described below in accordance with the inducement grant exception to shareholder approval of equity plans set forth in Nasdaq Listing Rule 5635(c)(4). Each such award will be subject to the terms and conditions of the applicable equity award agreements:

(A) Time-vesting restricted stock units ("RSUs") with a value at grant of \$500,000.00, which will vest, subject to Executive's continued employment with the Company from the Start Date through the applicable vesting date (except as otherwise expressly provided in Section 5(c) below), on the first (1<sup>st</sup>) anniversary of the grant date thereof (the "Sign-On RSU Award");

(B) Time-vesting RSUs with an aggregate value at grant of \$6,900,000.00, which will vest as follows, subject to Executive's continued employment with the Company from the Start Date through the applicable vesting date (except as otherwise expressly provided in Section 5(c) below) (the "Make-Whole RSU Award"): (x) RSUs pursuant to the Make-Whole RSU Award with an aggregate value at grant of \$3,500,000.00 will vest on March 31, 2020, (y) RSUs pursuant to the Make-Whole RSU Award with an aggregate value at grant of \$1,700,000.00 will vest on September 30, 2020, and (z) RSUs pursuant to the Make-Whole RSU Award with an aggregate value at grant of \$1,700,000.00 will vest on March 31, 2021; and

(C) Performance stock units ("PSUs") for the performance period beginning on the Start Date and ending on the two (2) year anniversary of the Start Date, with a value at grant equal to \$3,500,000.00 (the "Make-Whole PSU Award"). The Make-Whole PSU Award will be earned, if at all, based on the level of attainment, as determined by the Compensation Committee, of performance objectives with respect thereto (the "PSU Objectives"). Between the date hereof and the Start Date, Executive and the Compensation Committee will work together to come to a mutual agreement regarding the PSU Objectives; provided, that notwithstanding anything herein to the contrary, to the extent that the parties are unable to come to a mutual agreement regarding the PSU Objectives prior to the Start Date, the Company will grant Executive, in lieu of the Make-Whole PSU

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Award, time-vesting RSUs with a value at grant equal to \$3,500,000.00, which will vest, subject to Executive's continued employment with the Company from the Start Date through the applicable vesting date (except as otherwise expressly provided in Section 5(c) below), on the second (2<sup>nd</sup>) anniversary of the grant date thereof (the "Alternate RSU Award").

(ii) The number of RSUs subject to the Sign-On RSU Award and Make-Whole RSU Award, and the target number of PSUs subject to the Make-Whole PSU Award (or number of RSUs subject to the Alternate RSU Award, if applicable), will be determined by dividing the grant values set forth above by the volume-weighted average closing price of a share of the Company's common stock over the twenty (20) trading day period ending immediately prior to the Start Date.

(iii) Notwithstanding anything to the contrary set forth in this Agreement, Executive shall hold, and not transfer or otherwise dispose of, forty percent (40%) of the shares of the Company's common stock acquired upon vesting of the Sign-On RSU Award, Make-Whole RSU Award and Make-Whole PSU Award (or Alternate RSU Award, if applicable), net of taxes (based on actual withholding taxes), until Executive has satisfied any applicable stock ownership guidelines that are maintained by the Company from time to time.

(e) **Performance-Based Long-Term Incentive Equity Awards.** In fiscal year 2020, the Company shall grant Executive PSUs under the Company's 2012 Incentive Compensation Plan, as amended from time to time or any successor plan (the "2012 Plan"), or the Company's 2018 Incentive Compensation Plan, as amended from time to time or any successor plan (the "2018 Plan"), as determined by the Compensation Committee in its sole discretion. The PSUs to be granted in fiscal year 2020 will have a target value at grant equal to \$7,000,000.00 and a maximum value at grant equal to \$10,500,000.00. The target and maximum award values set forth in this Section 3(e) will be reviewed annually for adjustment by the Compensation Committee in its sole discretion for performance-based equity awards to be granted after fiscal year 2020. The performance criteria with respect to the PSUs and any other performance-based equity awards will be determined by the Compensation Committee in its sole discretion, and such awards will be subject to the terms and conditions of the 2012 Plan or 2018 Plan and any applicable award agreements thereunder. The determination of the target and maximum number of shares subject to the PSUs based on the values set forth above and any other performance-based equity awards granted hereunder, and the timing for such grants, will be made in accordance with the Compensation Committee Procedures for Equity Grants as in effect from time to time.

(f) **Home Sale/Buyout Assistance; Relocation Package.** In connection with the commencement of Executive's employment and Executive's relocation to the New York metropolitan area, the Company shall provide Executive with the home sale and relocation benefits outlined on Exhibit B hereto.

(g) **Reimbursement of Legal Expenses.** The Company shall pay or reimburse Executive for his reasonable out-of-pocket legal expenses incurred in connection with the negotiation and execution of this Agreement, up to a maximum of \$25,000.00. Executive shall provide the Company with such receipts or invoices as the Company deems reasonably necessary to verify the amount of such expenses.

(h) **Reimbursement of Business Expenses.** Executive is authorized to incur reasonable expenses in carrying out his duties hereunder and shall, upon receipt by the Company of proper documentation with respect thereto (setting forth the amount, business purpose and establishing payment) be reimbursed for all such reasonable business expenses incurred during the Term, subject to the Company's written expense reimbursement policies and any written pre-approval policies in effect from time to time.

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#### **4. Employee Benefits.**

(a) **Company Employee Benefit Plans.** During the Term, Executive shall be provided the opportunity to participate in all standard employee benefit programs made available by the Company to the Company's senior executive employees generally, in accordance with the terms and conditions of such plans, including the eligibility and participation provisions of such plans and programs, as such plans or programs may be in effect from time to time. The Company reserves the right to amend any employee benefit plan, policy, program or arrangement from time to time, or to terminate such plan, policy, program or arrangement, consistent with the terms thereof at any time and for any reason without providing Executive with notice.

(b) **Financial Planning Benefit.** Upon presentation of appropriate documentation, the Company will reimburse Executive for up to \$20,000.00 annually for assistance with tax preparation and financial planning.

(c) **Automobile Allowance.** The Company will provide Executive with an automobile allowance of \$30,000.00 per year, which may be applied toward the cost of leasing or purchasing an automobile, or towards the cost of a car service or other similar transportation service.

(d) **Vacation and Other Leave.** During the Term, Executive shall accrue paid vacation time in accordance with and subject to the Company's vacation policies in effect from time to time. Executive shall also be eligible for all other holiday and leave pay generally available to other executives of the Company.

#### **5. Termination of Employment.**

(a) **Termination by the Company; Termination Due to Death.** Executive's employment with the Company, and the Term, may be terminated by the Company immediately upon notice to Executive for an involuntary termination of employment for Cause (as defined in Section 5(f)(ii)), and with no less than sixty (60) calendar days' advance written notice to Executive if without Cause or due to Executive's Disability (as defined in Section 5(f)(iii)). Executive's employment with the Company, and the Term, shall automatically terminate upon Executive's death.

(b) **Termination by Executive.** Executive's employment with the Company, and the Term, may be terminated by Executive for any reason with no less than sixty (60) calendar days' advance written notice to the Company.

(c) **Benefits Upon Termination.** If Executive's employment with the Company is terminated during the Term for any reason by the Company or by Executive, the Company shall have no further obligation to make or provide to Executive, and Executive shall have no further right to receive or obtain from the Company, any payments or benefits except as follows:

(i) **Any Termination.** The Company shall pay Executive (or, in the event of his death, Executive's estate) any Accrued Obligations (as defined in Section 5(f)(i)) within the thirty (30) day period (or such earlier period as required by law) following the date Executive's employment terminates (the "Separation Date"), and Executive shall receive any vested accrued benefits for which Executive remains eligible under the Company's employee welfare benefit and retirement plans, payable according to the terms of such plans.

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(ii) Death or Disability. If Executive's employment with the Company ends due to Executive's death or Disability, then, in addition to the amounts payable under Section 5(c)(i), subject to Executive's (or his estate's or legal representative's) timely execution, delivery, and non-revocation of the general release described in Section 5(e) (the "General Release"), (A) the Sign-On RSU Award and the Make-Whole RSU Award will immediately vest in full as of the Separation Date, (B) the Make-Whole PSU Award will immediately vest at one-hundred percent (100%) of target as of the Separation Date (or, if applicable, the Alternate RSU Award will immediately vest in full as of the Separation Date), and (C) to the extent not yet paid, the Company will pay Executive (or his estate or legal representative) the Make-Whole Cash Bonus and the 2019 Annual Bonus within thirty (30) days following the Separation Date.

(iii) Without Cause or For Good Reason. If Executive's employment with the Company ends as a result of an involuntary termination by the Company without Cause (including a non-renewal of the Term by the Company) or due to Executive's resignation for Good Reason, then, in addition to the amounts payable under Section 5(c)(i), subject to Executive's timely execution, delivery, and non-revocation of the General Release and the other conditions and limitations herein, the Company shall pay or provide Executive with the following benefits:

(A) Cash severance equal to, in the aggregate, two (2) times the sum of (x) Executive's Base Salary (at the rate in effect immediately prior to the Separation Date), and (y) Executive's target Annual Bonus for the performance year in which the Separation Date occurs, even if Employee's employment had terminated on or prior to that date, subject to all applicable taxes and withholdings (collectively, the "Severance Payment"), payable in substantially equal installments over the twenty-four (24) months following the Separation Date in accordance with the Company's regular payroll payment schedule; provided, that no installment or portion of the Severance Payment shall be payable or paid prior to the expiration of the applicable revocation period for the General Release; and provided further, that if the Severance Payment is subject to Section 409A (as defined in Section 5(f)(v)) and the timing of Executive's execution and delivery of the General Release could affect the calendar year in which any amount of the Severance Payment is paid because the Separation Date occurred toward the end of a calendar year, then no portion of the Severance Payment shall be paid until the Company's first payroll payment date in the year following the year in which the Separation Date occurs, and any amount that is not paid prior to such date due to such restriction shall be paid (subject to the applicable conditions) along with the installment scheduled to be paid on that date;

(B) Any earned but unpaid Annual Bonus for a performance year ending prior to the year in which the Separation Date occurs, which will be paid when otherwise payable under Section 3(b), even if Executive's employment had terminated on or prior to that date, or, if later, as soon as reasonably practicable following the expiration of the applicable revocation period for the General Release;

(C) To the extent not yet paid, the Make-Whole Cash Bonus;

(D) As of the Separation Date, immediate accelerated vesting of the Sign-On RSU Award and the Make-Whole RSU Award, and immediate accelerated vesting of the Make-Whole PSU Award at one-hundred percent (100%) of target (or, if applicable, the Alternate RSU Award will immediately vest in full as of the Separation Date); and

(E) Provided that Executive is eligible for and timely elects group health insurance continuation coverage for himself, his spouse and his dependents under a Company group health plan or plans pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, or any comparable state law (“COBRA”), the Company shall pay or reimburse Executive for a portion of the cost of such coverage, equal to the portion paid by the Company of the premium that was in effect under the applicable Company group health plan(s) immediately prior to Executive’s Separation Date, for the period beginning on the Separation Date and ending on the earliest of (x) the twenty-four (24) month anniversary of the Separation Date, (y) the date as of which Executive becomes eligible to receive comparable benefits from a subsequent employer, and (z) the date on which Executive is no longer eligible to receive COBRA coverage. Notwithstanding the foregoing, the Company shall have no obligation to make such payment or pay such reimbursement in the event that the provision of such benefit would result in noncompliance with applicable law or the assessment of penalties or fines against the Company.

(iv) Change in Control. If Executive’s employment is terminated by the Company without Cause (other than by reason of death or Disability) or if Executive resigns for Good Reason, in either case, during the period that begins thirty (30) days prior to a Change in Control (as defined below) and ends two (2) years following a Change in Control, then, in addition to the amounts payable under Section 5(c)(i) (and in lieu of the amounts set forth in Section 5(c)(iii)), subject to Executive’s timely execution, delivery and non-revocation of the General Release and the other conditions and limitations herein, the Company shall pay or provide Executive with the following benefits:

(A) The Severance Payment, which shall be payable in a single sum within thirty (30) days following the later of the effective date of the Change in Control or Executive’s Separation Date or, if later, as soon as reasonably practicable following the expiration of the applicable revocation period for the General Release;

(B) Any earned but unpaid Annual Bonus for a performance year ending prior to the year in which the Separation Date occurs, which will be paid within thirty (30) days following the later of the effective date of the Change in Control or Executive’s Separation Date or, if later, as soon as reasonably practicable following the expiration of the applicable revocation period for the General Release;

(C) To the extent not yet paid, the Make-Whole Cash Bonus, payable at the same time as the single sum under (A) above;

(D) As of the later of the Separation Date or the effective date of the Change in Control, (x) immediate accelerated vesting of the Sign-On RSU Award and the Make-Whole RSU Award, and immediate accelerated vesting of the Make-Whole PSU Award at one-hundred percent (100%) of target (or, if applicable, the Alternate RSU Award will immediately vest in full), (y) immediate accelerated vesting of any other outstanding time-vesting equity awards held by Executive that would have otherwise vested based on Executive’s continued employment, and (z) vesting of any other outstanding performance-vesting equity awards held by Executive, based on actual performance and prorated based on the number of days in the applicable performance period(s) during which Executive remained employed by the Company (with delivery of any such vested shares occurring following the end of the applicable performance period(s) at the same time as the shares with respect to corresponding awards held by other participants are delivered); and

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(E) Provided that Executive is eligible for and timely elects group health insurance continuation coverage for himself, his spouse and his dependents under a Company group health plan or plans pursuant to COBRA, the Company shall pay or reimburse Executive for a portion of the cost of such coverage, equal to the portion paid by the Company of the premium that was in effect under the applicable Company group health plan(s) immediately prior to Executive's Separation Date, for the period beginning on the Separation Date and ending on the earliest of (x) the twenty-four (24) month anniversary of the Separation Date, (y) the date as of which Executive becomes eligible to receive comparable benefits from a subsequent employer, and (z) the date on which Executive is no longer eligible to receive COBRA coverage. Notwithstanding the foregoing, the Company shall have no obligation to make such payment or pay such reimbursement in the event that the provision of such benefit would result in noncompliance with applicable law or the assessment of penalties or fines against the Company.

(d) **Cooperation Upon Termination.** Upon the Executive's termination of employment for any reason, Executive shall cooperate as reasonably requested by the Board to effect an orderly transition.

(e) **Release; No Other Severance Benefits.**

(i) This Section 5(e) shall apply notwithstanding anything else in this Agreement to the contrary. As a condition precedent to any Company obligation pursuant to Section 5(c)(ii), Section 5(c)(iii) or Section 5(c)(iv) (collectively, the "**Severance Benefits**"), Executive (or his estate or legal representative) shall provide the Company with a valid, executed General Release in substantially the form attached hereto as Exhibit C (as reasonably revised by the Company to comply with applicable law changes or interpretations or as otherwise necessary to ensure or bolster enforceability or tax effectiveness), and not revoke such General Release prior to the expiration of any revocation rights afforded under applicable law. The Company shall provide Executive (or his estate or legal representative) with the General Release prior to the Separation Date, and Executive (or his estate or legal representative) must deliver the executed General Release to the Company within twenty-one (21) calendar days (or, if greater, the minimum period required by applicable law) after the Separation Date, failing which Executive (or his estate or legal representative) will forfeit all rights to the Severance Benefits.

(ii) Executive agrees that the Severance Benefits shall be in lieu of any other severance benefit or other right or remedy to which Executive would otherwise be entitled under the Company's plans, policies or programs in effect on the Start Date or thereafter. Executive acknowledges and agrees that in the event Executive breaches any provision of Section 6 or the General Release, his right to receive the Severance Benefits shall automatically terminate and Executive shall repay, return and restore any and all Severance Benefits received.

(f) **Certain Defined Terms.** As used in this Agreement:

(i) "**Accrued Obligations**" means (A) any Base Salary that had accrued but had not been paid (including any amount for accrued and unused vacation time payable in accordance with the Company's vacation policy then in effect or applicable law) on or before the Separation Date, (B) any reimbursement due to Executive pursuant to Section 3(h) for expenses incurred by Executive on or before the Separation Date and (C) any other vested benefits or vested amounts due and owed to Executive under the terms of any plan, program or arrangement of the Company.

(ii) "**Cause**" means (A) Executive's indictment for or plea of *nolo contendere* to a felony or commission of an act involving moral turpitude; (B) Executive's commission of fraud, theft, embezzlement, self-dealing, misappropriation or other malfeasance against the business of the Company, its subsidiaries or affiliates (individually, a "**Company Group Member**") and

collectively, the “Company Group”); (C) Executive’s indictment for or plea of *nolo contendere* to any serious offense that results in or would reasonably be expected to result in material financial harm, materially negative publicity or other material harm to any Company Group Member; (D) Executive’s failure to perform any material aspect of his lawful duties or responsibilities for the Company or the Company Group (other than by reason of Disability), and if curable, fails to cure, in all material aspects, within thirty (30) calendar days after receiving notice from the Company identifying such failure; (E) Executive’s failure to comply with any lawful written policy of the Company (including, without limitation, the Company’s Corporate Governance Guidelines or Policy of Ethical Standards for Business Conduct) or reasonable directive of the Board, and in either case, if curable, fails to cure, in all material aspects, within thirty (30) calendar days after receiving notice from the Company identifying such failure; (F) Executive’s commission of acts or omissions constituting gross negligence or gross misconduct in the performance of any aspect of his lawful duties or responsibilities; (G) Executive’s breach of any fiduciary duty owed to the Company Group; (H) Executive’s violation or breach of any Restrictive Covenant (as defined in Section 7(a)) or any material term of the Agreement (including, without limitation, Section 7(b) hereof and the requirement that Executive relocate to the New York metropolitan area within four (4) months following the Start Date), and, if curable, fails to cure such violation or breach within thirty (30) calendar days after receiving notice from the Company identifying such violation or breach; or (I) Executive’s commission of any act or omission that damages or is reasonably likely to damage the financial condition or business of the Company or materially damages or is reasonably likely to materially damage the reputation, public image, goodwill, assets or prospects of the Company. In addition, Executive’s employment shall be deemed to have terminated for “Cause” if, on the date Executive’s employment terminates, facts and circumstances exist that would have justified a termination for Cause, to the extent that such facts and circumstances are discovered within four (4) months after such termination.

(iii) “Change in Control” shall have the meaning given to such term in the 2018 Plan.

(iv) “Disability” means a physical or mental impairment that renders Executive unable to perform the essential functions of his employment with the Company, even with reasonable accommodation that does not impose an undue hardship on the Company, for more than ninety (90) calendar days, whether consecutive or not consecutive, in any consecutive twelve (12) month period, unless a longer period is required by federal or state law, in which case that longer period would apply.

(v) “Good Reason” means, without Executive’s written consent, (A) a reduction in the Base Salary, other than a reduction of less than ten percent (10%) in connection with a comparable decrease applicable to all senior executives of the Company; (B) a requirement by the Company that Executive relocate his primary place of employment more than thirty-five (35) miles from its location as of the Start Date; (C) a material diminution in Executive’s duties, authority or responsibilities of employment; or (D) a change in Executive’s reporting line (i.e., Executive is no longer reporting directly to the Board) or in Executive’s title of Chief Executive Officer; provided, in each case, that Executive has given the Company written notice detailing the specific circumstances alleged to constitute Good Reason within sixty (60) calendar days after the first occurrence of such circumstances, and the Company shall have thirty (30) calendar days following receipt of such notice to cure such circumstances in all material respects; provided further, that no termination due to Good Reason shall occur after the one-hundred twentieth (120<sup>th</sup>) calendar day following the first occurrence of any grounds for Good Reason. Notwithstanding anything herein to the contrary, the removal of Executive’s title of President as of the Start Date, and the subsequent appointment of a separate President who would report to Executive, shall not give rise to Good Reason for resignation hereunder.

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(vi) "Section 409A" means Section 409A of the Internal Revenue Code of 1986, as amended (the "Code") and the regulations, rules and other guidance promulgated thereunder.

(g) **Officer/Board/Committee Resignations.** Upon the termination of Executive's employment for any reason, Executive will be deemed to have resigned, without any further action by Executive, from any and all positions (including, but not limited to, any officer and/or director positions or positions as a fiduciary of any of the Company Group's employee benefit plans) that Executive, immediately prior to such termination, (i) held within the Company Group and (ii) held with any other entities at the direction of, or as a result of Executive's affiliation with, the Company Group. If, for any reason, this Section 5(g) is deemed to be insufficient to effectuate such resignations, then Executive will, upon the Company's request, execute any documents or instruments that the Company may deem necessary or desirable to effectuate such resignations.

(h) **Section 409A.**

(i) It is intended that any amounts payable under this Agreement shall be exempt from and avoid the imputation of any tax, penalty or interest under Section 409A to the fullest extent permissible under applicable law; provided that if any such amount is or becomes subject to the requirements of Section 409A, it is intended that those amounts shall comply with such requirements. This Agreement shall be construed and interpreted consistent with that intent. In furtherance of that intent, if payment or provision of any amount or benefit hereunder that is subject to Section 409A at the time specified herein would subject such amount or benefit to any additional tax under Section 409A, the payment or provision of such amount or benefit shall be postponed to the earliest commencement date on which the payment or provision of such amount or benefit could be made without incurring such additional tax. In no event, however, shall the Company be liable for any tax, interest or penalty imposed on Executive under Section 409A or any damages for failing to comply with Section 409A.

(ii) A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits upon or following a termination of employment that are considered "nonqualified deferred compensation" under Section 409A unless such termination is also a "separation from service" within the meaning of Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." If Executive is a "specified employee" within the meaning of Treasury Regulation Section 1.409A-1(i) as of the Separation Date, Executive shall not be entitled to any payment or benefit pursuant to this Agreement that constitutes nonqualified deferred compensation for purposes of Section 409A and that is payable upon a separation from service (within the meaning of Section 409A) until the earlier of (A) the date which is six (6) months after his separation from service for any reason other than death, or (B) the date of Executive's death; provided that this paragraph shall only apply if, and to the extent, required to avoid the imputation of any tax, penalty or interest pursuant to Section 409A. Any amounts otherwise payable to Executive upon or in the six (6) month period following Executive's separation from service that are not so paid by reason of this Section 5(h)(ii) shall be paid (without interest) as soon as practicable (and in any event within thirty (30) calendar days) after the date that is six (6) months after Executive's separation from service (provided that in the event of Executive's death after such separation from service but prior to payment, then such payment shall be made as soon as practicable, and in all events within thirty (30) calendar days, after the date of Executive's death).

(iii) Any reimbursement payment or in-kind benefit due to Executive pursuant to Sections 3 or 4, to the extent that such reimbursements or in-kind benefits are taxable to him, shall be paid on or before the last day of Executive's taxable year following the taxable year in which the related expense was incurred. Executive agrees to provide prompt notice to the Company of any such expenses (and any other documentation that the Company may reasonably require to substantiate such expenses) in order to facilitate the Company's timely reimbursement of the same. Reimbursements and in-kind benefits pursuant to Sections 3 or 4 are not subject to liquidation or exchange for another benefit and the amount of such benefits that Executive receives in one taxable year shall not affect the amount of such reimbursements or benefits that Executive receives in any other taxable year.

(iv) For purposes of Section 409A, Executive's right to receive any installment payments hereunder shall be treated as a right to receive a series of separate and distinct payments. Whenever a payment under this Agreement specifies a payment period with reference to a number of days (e.g., payment shall be made within thirty (30) calendar days following the Separation Date), the actual date of payment within the specified period shall be within the sole discretion of the Company.

(i) **Section 280G.** Anything in this Agreement to the contrary notwithstanding, in the event that any compensation, payment or distribution by the Company and all affiliates to or for the benefit of Executive, whether paid or payable or distributed or distributable pursuant to the terms of this Agreement or otherwise, including but not limited to the acceleration of the exercisability and/or vesting of any equity awards (the "Severance Amounts"), would, but for this Section 5(i), constitute an "excess parachute payment" as defined in Section 280G of the Code, the following provisions shall apply: (A) if the Severance Amounts, reduced by the sum of (I) the Excise Tax (as defined below) and (II) the total of the federal, state, and local income and employment taxes payable by Executive on the amount of the Severance Amounts which are in excess of the Threshold Amount (as defined below), are greater than or equal to the Threshold Amount, Executive shall be entitled to the full benefits payable under this Agreement, and (ii) if the Threshold Amount is less than (A) the Severance Amounts, but greater than (B) the Severance Amounts reduced by the sum of (1) the Excise Tax and (2) the total of the federal, state, and local income and employment taxes on the amount of the Severance Amounts which are in excess of the Threshold Amount, then the benefits payable under this Agreement shall be reduced (but not below zero) to the extent necessary so that the maximum Severance Amounts shall not exceed the Threshold Amount. For the purposes of this Section 5(i), "Threshold Amount" shall mean three (3) times Executive's "base amount" within the meaning of Section 280G(b)(3) of the Code and the regulations promulgated thereunder less one dollar (\$1.00), and "Excise Tax" shall mean the excise tax imposed by Section 4999 of the Code, and any interest or penalties incurred by Executive with respect to such excise tax. The determination as to which of the alternative provisions of this Section 5(i) shall apply to Executive shall be made by a nationally recognized accounting firm selected by the Company or one of its affiliates (the "Accounting Firm"). For purposes of determining which of the alternative provisions of this Section 5(i) shall apply, Executive shall be deemed to pay federal income taxes at the highest marginal rate of federal income taxation applicable to individuals for the calendar year in which the determination is to be made, and state and local income taxes at the highest marginal rates of individual taxation in the state and locality of Executive's residence on the Separation Date, net of the maximum reduction in federal income taxes which could be obtained from deduction of such state and local taxes. Any determination by the Accounting Firm shall be binding upon the Company and Executive, absent fraud or manifest error. In addition, notwithstanding anything herein to the contrary, in the event any payments are to be reduced, the reduction shall take place in a manner that produces the greatest economic advantage to Executive (and if reduction of two or more payments produce the same economic advantage they shall be reduced proportionally) but taking into account, as applicable, compliance with Section 409A. In no event shall the Company be liable or responsible for any Excise Tax imposed on Executive; provided, however, that this Section 5(i) shall not be construed to limit the remedies available to Executive in the event that Executive becomes subject to any Excise Tax, in a material amount, as a result of any fraud or error by the Accounting Firm.

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## 6. Restrictive Covenants.

### (a) Non-Disclosure and Non-Use of Confidential Information.

(i) Executive shall not use or disclose to any individual or natural person, partnership (including a limited liability partnership), corporation, limited liability company, association, joint stock company, trust, joint venture, unincorporated organization or governmental authority (each, a “Person”), either during the Term or thereafter, any Confidential Information (as defined below) of which Executive is or becomes aware, whether or not such information is developed by him, for any reason or purpose whatsoever, nor shall he make use of any of the Confidential Information for his own purposes or for the benefit of any Person except for the Company Group, except (A) to the extent that such disclosure or use is directly related to and required by Executive’s performance in good faith of duties assigned to Executive by the Company or (B) to the extent required to do so by a law or legal process, including a court of competent jurisdiction. Executive shall not modify, reverse engineer, decompile, create other works from or disassemble any software programs contained in the Confidential Information of the Company unless permitted in writing by the Company. Executive will, at the sole expense of the Company, take all reasonable steps to safeguard Confidential Information and to protect it against disclosure, misuse, espionage, loss and theft.

(ii) For purposes of this Agreement, “Confidential Information” means information that is not generally known to the public and that is used, developed or obtained by any Company Group Member in connection with its business, including, but not limited to, information, observations and data obtained by Executive during the Term concerning (A) the business or affairs of the Company Group (or any predecessor thereof) and (B) products, services, fees, costs, pricing structures, analyses, drawings, photographs and reports, computer software (including operating systems, applications and program listings), data bases, accounting and business methods, inventions, devices, new developments, methods and processes (whether patentable or unpatentable and whether or not reduced to practice), customers and clients and customer and client lists, information on current and prospective independent sales agents, software vendors or partners and sponsor banks, all technology and trade secrets, and all similar and related information in whatever form. Notwithstanding the foregoing, “Confidential Information” will not include any information that has been published in a form generally available to the public prior to the date Executive proposes to disclose or use such information (except where such public disclosure was made by Executive without authorization).

(iii) For the avoidance of doubt, this Section 6(a) does not prohibit or restrict Executive (or Executive’s attorney) from responding to any inquiry about this Agreement or its underlying facts and circumstances by the Securities and Exchange Commission, the Financial Industry Regulatory Authority, or any other self-regulatory organization or governmental entity, or making other disclosures that are protected under the whistleblower provisions of federal law or regulation. Executive understands and acknowledges that he does not need the prior authorization of the Company to make any such reports or disclosures and that he is not required to notify the Company that he has made such reports or disclosures.

(iv) Under the Defend Trade Secrets Act of 2016, Executive shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that is (A) made in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and solely for the purpose of reporting or investigating a suspected violation of law; or (B) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Further, an individual who files a lawsuit for retaliation by an

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employer for reporting a suspected violation of law may disclose the employer's trade secrets to the attorney and use the trade secret information in the court proceeding if the individual: (x) files any document containing the trade secret under seal; and (y) does not disclose the trade secret, except pursuant to court order. Notwithstanding anything herein to the contrary and for the avoidance of doubt, nothing herein shall preclude the Company from disclosing the existence and/or terms and conditions of this Agreement, including without limitation, to the extent required by applicable law (including, without limitation, under applicable securities laws) or by judicial or administrative process.

**(b) Intellectual Property Rights.**

(i) Executive hereby assigns, transfers and conveys to the Company all of Executive's right, title and interest in and to all Work Product (as defined below). Executive agrees that all Work Product belongs in all instances to the Company. Executive will promptly disclose such Work Product to the Company and perform all actions reasonably requested by the Company (whether during or after the Term) to establish and confirm the Company's ownership of such Work Product (including, without limitation, the execution and delivery of assignments, consents, powers of attorney and other instruments) and to provide reasonable assistance to the Company (whether during or after the Term) in connection with the prosecution of any applications for patents, trademarks, trade names, service marks or reissues thereof or in the prosecution or defense of interferences relating to any Work Product. Executive recognizes and agrees that the Work Product, to the extent copyrightable, constitutes works for hire under the copyright laws of the United States.

(ii) For purposes of this Agreement, "Work Product" means all inventions, innovations, improvements, technical information, systems, software developments, methods, designs, analyses, drawings, reports, service marks, trademarks, trade names, trade dress, logos and all similar or related information (whether patentable or unpatentable) which relates to the actual or anticipated business, operations, research and development of existing or future products or services of the Company Group and which are conceived, developed or made by Executive (whether or not during usual business hours and whether or not alone or in conjunction with any other Person) during the Term together with all patent applications, letters patent, trademark, trade name and service mark applications or registrations, copyrights and reissues thereof that may be granted for or upon any of the foregoing. Notwithstanding the foregoing, "Work Product" shall not include the patents and other assets set forth on Exhibit D hereto. Executive hereby represents and warrants that the patents and other assets owned by Executive set forth on Exhibit D are not related in any way to the Company Group, except as stated therein.

(c) **Non-Competition.** During the Term and for twenty-four (24) months following the termination of Executive's employment for any reason, whether or not Executive is entitled to severance (the "Restricted Period"), Executive shall not, and shall cause his controlled affiliates not to, directly or indirectly, through or in association with any third party, engage or be interested in any Competitive Business in the United States as a shareholder, director, officer, employee, agent, broker, partner, individual proprietor, lender, consultant or in any other capacity (provided, that nothing herein contained will prevent Executive from owning less than one percent (1%) of any class of equity or debt securities of any publicly traded company). For purposes of this Agreement, "Competitive Business" means (i) any business or enterprise that includes the operation of any retail store which utilizes (or intends to utilize) more than thirty percent (30%) of the selling space of the store for the sale of any combination of: giftware; housewares; linens and domestics; home furnishings; and/or health and beauty care products; and/or products for infants and young children (including, without limitation, cribs and juvenile furniture, toys and games, infant's and young children's clothing, strollers, car seats, carriers, bedding, bath and safety accessories, and feeding and eating accessories); and/or (ii) any business or enterprise that includes the operation of any non-

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traditional retail format (such as, but not limited to, any online, internet, catalog or television format) which allocates (or intends to allocate) more than thirty percent (30%) of such format's listing space or time slots to the sale of any combination of: giftware; housewares; linens and domestics; home furnishings; and/or health and beauty care products; and/or products for infants and young children (including, without limitation, cribs and juvenile furniture, toys and games, infant's and young children's clothing, strollers, car seats, carriers, bedding, bath and safety accessories, and feeding and eating accessories); and/or (iii) any other material business or enterprise of the Company Group.

(d) **Non-Solicitation and Non-Interference.** During the Restricted Period, Executive shall not, and shall cause his controlled affiliates not to, directly or indirectly, through or in association with any third party, (i) call on, solicit or service, engage or contract with or take any action which may interfere with, impair, subvert, disrupt or alter the relationship, contractual or otherwise, between any Company Group Member and any current or prospective customer, supplier, distributor, developer, service provider, licensor or licensee, or other material business relation of such Company Group Member, (ii) solicit, induce, recruit or encourage any employees of or consultants to the Company Group to terminate their relationship with the Company Group or take away or hire such employees or consultants, (iii) divert or take away the business or patronage (with respect to products or services of the kind or type developed, produced, marketed, furnished or sold by the Company Group) of any of the clients, customers or accounts, or prospective clients, customers or accounts, of the Company Group or (iv) attempt to do any of the foregoing, either for Executive's own purposes or for any other third party.

(e) **Non-Disparagement.** Executive shall not, in any manner, directly or indirectly, make any oral or written statement to any Person that disparages or places any Company Group Member or any of their respective officers, shareholders, members or advisors, any member of the Board, or any agents or others with whom the Company has business relationships, in a false or negative light; provided, however, that Executive shall not be required to make any untruthful statement or to violate any law.

#### **7. Acknowledgment and Enforcement of Covenants; Representations.**

(a) **Acknowledgment.** Executive acknowledges that he has become familiar, or will become familiar with, the Company Group Members' trade secrets and with other confidential and proprietary information concerning the Company Group Members and their respective predecessors, successors, customers and suppliers, and that his services are of special, unique and extraordinary value to the Company. Executive acknowledges and agrees that the Company would not enter into this Agreement, providing for compensation and other benefits to Executive on the terms and conditions set forth herein, but for Executive's agreements herein (including those set forth in Section 6). Furthermore, Executive acknowledges and agrees that the Company will be providing Executive with additional special knowledge after the Start Date, with such special knowledge to include additional Confidential Information and trade secrets. Executive agrees that the covenants set forth in Section 6 (collectively, the "Restrictive Covenants") are reasonable and necessary to protect the Company Group's trade secrets and other Confidential Information, proprietary information, good will, stable workforce and customer relations.

#### **(b) Representations.**

(i) Without limiting the generality of Executive's agreement with the provisions of Section 7(a), Executive (A) represents that he is familiar with and has carefully considered the Restrictive Covenants; (B) represents that he is fully aware of his obligations hereunder; (C) agrees to the reasonableness of the length of time, scope and geographic coverage, as applicable, of the Restrictive Covenants; and (D) agrees that the Restrictive Covenants will continue in effect for the applicable periods set forth above regardless of whether Executive is then entitled to receive severance pay or benefits from the Company. Executive understands that the Restrictive Covenants

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may limit his ability to earn a livelihood in a business similar to the business of the Company Group, but he nevertheless believes that he has received and will receive sufficient consideration and other benefits as an employee of the Company and as otherwise provided hereunder or as described in the recitals hereto to clearly justify such restrictions which, in any event (given his education, skills and ability), Executive does not believe would prevent him from otherwise earning a living. Executive agrees that the Restrictive Covenants do not confer a benefit upon the Company disproportionate to the detriment of Executive.

(ii) Executive hereby represents and warrants to the Company that: (A) the information that has been provided regarding Executive's background regarding his candidacy for employment with the Company is truthful and accurate; (B) the execution and delivery of this Agreement and the performance by Executive of his duties hereunder do not and shall not constitute a breach of, conflict with, or otherwise contravene or cause a default under, the terms of any other agreement or policy to which Executive is a party or otherwise bound or any judgment, order or decree to which Executive is subject; (C) Executive has no information (including, without limitation, confidential information and trade secrets) relating to any other person or entity that would prevent Executive under the terms of any other agreement or arrangement from entering into this Agreement or carrying out his duties hereunder, or would give rise to a violation of such other agreement or arrangement; (D) Executive is not bound by any employment, consulting, non-competition, confidentiality, trade secret or similar agreement (other than this Agreement) with any other person or entity that would prevent Executive under the terms of any other agreement or arrangement from entering into this Agreement or carrying out his duties hereunder, or would give rise to a violation of such other agreement or arrangement; (E) Executive is not currently and has never been the subject of any allegation or complaint of harassment, discrimination, retaliation, or sexual or other misconduct in connection with any prior employment or otherwise, and has never been a party to any settlement agreement or nondisclosure agreement relating to such matters; and (F) Executive understands the Company will rely upon the accuracy and truth of the representations and warranties of Executive set forth herein and Executive consents to such reliance.

(c) **Enforcement.** Executive agrees that a breach by Executive of any of the Restrictive Covenants may cause immediate and irreparable harm to the Company or another Company Group Member that would be difficult or impossible to measure, and that damages to the Company or the Company Group Member for any such injury may therefore be an inadequate remedy for any such breach. Therefore, Executive agrees that in the event of any breach or threatened breach of any provision of the Restrictive Covenants, the Company shall be entitled, in addition to and without limitation upon all other remedies the Company may have under this Agreement at law or otherwise, to seek to obtain from any court of competent jurisdiction specific performance, injunctive relief and/or other appropriate relief (without posting any bond or deposit) in order to enforce or prevent any violations of the Restrictive Covenants, or require Executive to account for and pay over to the Company all compensation, profits, moneys, accruals, increments or other benefits derived from or received as a result of any transactions constituting a breach of the Restrictive Covenants if and when final judgment of a court of competent jurisdiction is so entered against Executive.

(d) **Severability.** If, at the time of enforcement of the Restrictive Covenants, a court or arbitrator holds that the Restrictive Covenants are unreasonable under the circumstances then existing, the parties agree that the maximum period, scope or geographical area reasonable under such circumstances shall be substituted for the stated period, scope or area determined to be reasonable under the circumstances by such court or arbitrator, as applicable. Executive covenants and agrees that Executive shall not assert as a defense to any action seeking enforcement of the Restrictive Covenants (including an action seeking injunctive relief) that such provisions are not enforceable due to lack of sufficient consideration received by Executive.

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(e) **Tolling.** In the event of any violation of the provisions of Section 6, Executive acknowledges and agrees that the post-termination restrictions contained in Section 6 shall be extended by a period of time equal to the period of such violation, it being the intention of the parties hereto that the running of the applicable post-termination restriction period shall be tolled during any period of such violation.

(f) **Survival of Provisions.** The obligations contained in Sections 6, 7, 9, 10 and 11 hereof shall survive any termination of Executive's employment with the Company and shall be fully enforceable thereafter.

**8. Withholding Taxes/Authorized Deductions.** Notwithstanding anything herein to the contrary, the Company may withhold (or cause to be withheld) from any amounts otherwise due or payable under or pursuant to this Agreement such federal, state and local income, social security, employment or other taxes as may be required to be withheld pursuant to any applicable law or regulation, and make such deductions as may be applicable pursuant to the Company's policies and employee benefit plans.

**9. Cooperation.** During and after the Term, Executive shall cooperate fully with any investigation or inquiry by the Company, or any governmental or regulatory agency or body concerning the Company or any other member of the Company Group; provided, that the Company shall reimburse Executive's reasonable expenses incurred in providing such cooperation subject to Executive's delivery of written notice to the Company prior to the time such expenses are incurred.

**10. Clawback.** To the extent required by applicable law or regulation, any applicable stock exchange listing standards or any clawback policy adopted by the Company pursuant to any such law, regulation or stock exchange listing standards, or to comport with good corporate governance practices, the Annual Bonus and any other incentive compensation granted to Executive (whether pursuant to this Agreement or otherwise) shall be subject to the provisions of any applicable clawback policies or procedures, which may provide for forfeiture and/or recoupment of such amounts paid or payable under this Agreement or otherwise, including the incentive equity awards granted to Executive under Sections 3(d) and/or 3(e) of this Agreement or any other incentive equity awards granted to Executive.

**11. Miscellaneous.**

(a) **Indemnification.** To the maximum extent permitted by law, Executive will be indemnified under the Company's Certificate of Incorporation and Bylaws while serving as President and Chief Executive Officer and will be covered by the Company's Directors and Officers liability insurance policies in accordance with their terms.

(b) **Insurance.** The Company may, at its option and for its benefit, obtain insurance with respect to Executive's death, disability or injury. Executive agrees to submit to such physical examinations and supply such information as may be reasonably required in order to permit the Company to obtain such insurance.

(c) **Governing Law.** This Agreement shall be construed and enforced in accordance with the internal laws of the State of New York, without regard to principles of conflicts of laws.

(d) **Consent to Jurisdiction.** All actions or proceedings arising out of or relating to this Agreement shall be tried and litigated only in the New York State or Federal courts located in the County of New York, State of New York. The parties hereto hereby irrevocably submit to the exclusive jurisdiction of such courts for the purpose of any such action or proceeding. Notwithstanding the foregoing, either party may seek injunctive or equitable relief to enforce the terms of this Agreement in any court of competent jurisdiction.

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(e) **Waiver of Jury Trial.** Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

(f) **Severability.** It is the desire and intent of the parties hereto that the provisions of this Agreement be enforced to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. Accordingly, if any particular provision of this Agreement shall be adjudicated by a court of competent jurisdiction to be invalid, prohibited or unenforceable under applicable law, such provision, as to such jurisdiction, shall be ineffective without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

(g) **Entire Agreement; Amendment.** This Agreement embodies the entire agreement of the parties hereto respecting the matters within its scope and supersedes all prior agreements (including, without limitation, any offer letters, term sheets and correspondence relating thereto), whether written or oral, that directly or indirectly bear upon the subject matter hereof. This Agreement may not be amended, modified or changed (in whole or in part), except by written agreement executed by both of the parties hereto.

(h) **Offsets.** To the extent not prohibited under applicable law, the Company, in its sole and absolute discretion, has the right to set off (or cause to be set off) any amounts otherwise due to Executive from the Company in satisfaction of any repayment obligation of Executive under this Agreement or otherwise, provided that any such amounts are exempt from, or set off in a manner intended to comply with, the requirements of Section 409A.

(i) **Waiver.** No waiver of any of any provision of this Agreement will constitute or be deemed to constitute a waiver of any other provision of this Agreement, nor will any such waiver constitute a continuing wavier unless otherwise expressly provided.

(j) **Successors and Assigns.** Neither party hereto may assign its rights or delegate its duties hereunder, except that the Company may assign its rights hereunder to any person that (i) acquires substantially all of the business and assets of the Company (whether by merger, consolidation, purchase of assets or other acquisition transaction), and (ii) agrees in writing to assume the obligations of the Company hereunder. This Agreement shall be binding on the successors and assigns of the Company. Nothing in this Agreement shall create, or be deemed to create, any third party beneficiary rights in any Person, including, without limitation, any employee of the Company, other than Executive.

(k) **Notices.** Any notice or other communication required or permitted to be given hereunder shall be deemed to have been duly given when personally delivered or when sent by registered mail, return receipt requested, postage prepaid, as follows:

If to the Company, at:

Bed Bath & Beyond Inc.  
650 Liberty Avenue  
Union, NJ 07083  
Attention: Chairperson of the Board

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If to Executive, at:

Executive's home address on file with the Company

Either party hereto may change its or his address for the purpose of this paragraph by written notice similarly given.

(l) **Legal Counsel; Mutual Drafting.** Each party recognizes that this is a legally binding contract and acknowledges and agrees that they have had the opportunity to consult with legal counsel of their choice. Each party has cooperated in the drafting, negotiation and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against either party on the basis of that party being the drafter of such language. Executive agrees and acknowledges that he has read and understands this Agreement, is entering into it freely and voluntarily, and has been advised to seek counsel prior to entering into this Agreement and has had ample opportunity to do so.

(m) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original as against any party whose signature appears thereon, and all of which together shall constitute one and the same instrument.

*[Signatures on Following Page]*

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**IN WITNESS WHEREOF**, the Company and Executive have executed this Agreement as of the date first written above.

**COMPANY**

BED BATH & BEYOND INC.

By: /s/ Patrick R. Gaston

Name: Patrick R. Gaston

Title: Chairman of the Board

**EXECUTIVE**

/s/ Mark J. Tritton

Mark J. Tritton

*[Signature Page to Employment Agreement]*

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**EXHIBIT A**

**PERMITTED ACTIVITIES**

None.

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## EXHIBIT B

### HOME BUYOUT AND RELOCATION ASSISTANCE

The Company agrees to provide Executive with relocation assistance, including the benefits described below, provided that Executive relocates to the New York metropolitan area within four (4) months following the Start Date:

1. The Company will reimburse Executive for reasonable expenses relating to his relocation to and purchase of a primary residence in the New York metropolitan area (including pre-move house-hunting expenses, temporary housing and living expenses, home purchase expenses (e.g., fees), household goods moving expenses, and final moving expenses), up to a gross maximum amount of \$250,000 (inclusive of any tax gross-ups), which will only be payable upon submission of appropriate documentation for expenses.
2. In addition to the relocation allowance described above, provided that Executive initiates usual and customary steps to sell his primary residence in the Minneapolis metropolitan area (the "Minneapolis Home") within nine (9) months following the Start Date, the Company will provide Executive with the following home buyout and home sale assistance benefits; provided, that the maximum amount payable to cover any loss due to a lower sales price, plus all expenses related to the sale (inclusive of any tax gross-ups), shall be \$400,000 (such maximum amount, the "Home Sale Cap"):
  - a. If Executive sells Minneapolis Home to a third party, other than to the Company pursuant to Section 2(b) of this Exhibit B, pursuant to a bona fide offer, for an amount that is less than the Appraised Value (as defined below), the Company shall pay Executive at the time of the closing of the sale of the Minneapolis Home an amount equal to the difference between the sale price of the Minneapolis Home and the Appraised Value.
  - b. If Executive has not entered into a contract for the sale of the Minneapolis Home within one-hundred twenty (120) days after he has put the Minneapolis Home on the market, and continuously marketed the Minneapolis Home in the usual and customary manner in the Minneapolis, Minnesota area, the Company shall offer in writing to buy the Minneapolis Home from Executive at the Appraised Value, provided that Executive has taken all steps and does all things which are usual and customary for a seller in connection with the sale of a home in the Minneapolis, Minnesota area. Executive shall have sixty (60) days to accept the Company's offer. If the Company does not receive a written acceptance of its offer from Executive, the Company shall have no obligation to Executive under this Section 2 of Exhibit B. If Executive does accept the offer, the closing shall take place within thirty (30) days following such acceptance, provided Executive has taken all steps, done all things and met all conditions usually and customarily required of a seller of a home in the Minneapolis, Minnesota area (collectively, the "Customary Seller Obligations"). If Executive does not fulfill the Customary Seller Obligations within the time which is usual and customary in the Minneapolis, Minnesota area in connection with the closing on the sale of a home, the Company shall have no obligation to the Employee under this Section 2 of Exhibit B. In the event that the Company purchases the Minneapolis Home from Executive in accordance with this Section 2(b) of Exhibit B and subsequently sells the Minneapolis Home for less than the Appraised Value, after no less than six (6) months on the market, Executive shall repay to the Company the difference between the Appraised Value and such subsequent sale price, to the extent that such difference, when aggregated with the value of all other benefits provided to Executive pursuant to this Section 2 of Exhibit B (and any tax gross-up associated therewith), exceeds the Home Sale Cap.

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- c. "Appraised Value" shall mean the appraised value of the Minneapolis Home which is determined by two (2) independent appraisers who are in the business of appraising homes in the market which includes the Minneapolis Home, selected by Executive, which appraisers are reasonably satisfactory to the Company. If the appraisals are within five percent (5%) of each other, they will be averaged to determine the Appraised Value. If the two appraisals are not within five percent (5%) of each other, Executive will choose a third appraiser of similar qualifications as the first two appraisers and all three appraisals will be averaged to determine the Appraised Value.
    - d. In connection with the sale of the Minneapolis Home, Executive shall be paid an amount equal to the closing costs and disbursements usually and customarily incurred by a seller of a similar home in the Minneapolis, Minnesota area; provided, however, that if the Company purchases the Minneapolis Home pursuant to Section 2(b) of this Exhibit B, the Company shall not pay Executive amounts to cover any brokerage commission. Executive agrees to be responsible to except any sale of the Minneapolis Home to the Company out of any agreement between Executive and a real estate broker.
  3. Some relocation expenses may be included as taxable wages and other expenses may be deductible and not subject to taxes. The Company will gross up any amounts paid on behalf of or reimbursed to Executive pursuant to this Exhibit B that are subject to payroll taxes.
  4. For the avoidance of doubt, this Exhibit B provides for the sole relocation benefits to which Executive is entitled, and Executive will not also be eligible to receive benefits pursuant to the Company's relocation assistance guidelines.
  5. All reimbursements pursuant to this Exhibit B shall be paid to Executive in calendar year 2020.
  6. If Executive voluntarily resigns without Good Reason or is involuntarily terminated by the Company for Cause (i) prior to the first (1<sup>st</sup>) anniversary of the Start Date, Executive agrees to repay the full gross amount (including any tax gross-up) of all payments, benefits and expense reimbursements paid by the Company pursuant to this Exhibit B, or (ii) on or after the first (1<sup>st</sup>) anniversary of the Start Date but prior to the second (2<sup>nd</sup>) anniversary of the Start Date, Executive agrees to repay fifty percent (50%) of the full gross amount (including any tax gross-up) of all payments, benefits and expense reimbursements paid by the Company pursuant to this Exhibit B. To the extent permitted by applicable law, Executive hereby expressly agrees and authorizes the Company to deduct any amounts owed to the Company pursuant to this Exhibit B from Executive's final paycheck and any other amounts that the Company might otherwise pay upon termination.

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**EXHIBIT C**

**FORM OF AGREEMENT AND GENERAL RELEASE**

THIS AGREEMENT AND GENERAL RELEASE (the "Agreement and General Release") is made and entered into on \_\_\_\_\_, 20\_\_ by and between Mark J. Tritton ("Executive") and Bed Bath & Beyond Inc., a New York corporation (the "Company").

WHEREAS, Executive has been employed by the Company and the parties wish to resolve all outstanding claims and disputes between them relating to such employment;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements set forth in this Agreement and General Release, the sufficiency of which the parties acknowledge, it is agreed as follows:

1. In consideration for Executive's promises, covenants and agreements in this Agreement and General Release, the Company agrees to provide the Severance Benefits set forth in Section 5(c)(iii) of that certain employment agreement between Executive and the Company, dated as of October 6, 2019 (the "Employment Agreement"), in accordance with the terms and subject to the conditions of such Employment Agreement. Executive would not otherwise be entitled to such payments but for his promises, covenants and agreements in this Agreement and General Release.
2. The parties agree that the payments described in Section 1 of this Agreement and General Release are in full, final and complete settlement of all Claims (as defined below) Executive, and Executive's heirs, beneficiaries, personal representatives, executors, administrators, successors and assigns (collectively, the "Releasors") may have against the Company, its past and present affiliates, parents, subsidiaries, divisions, joint ventures and/or partnerships, their predecessors, successors and assigns, and all of their past and present respective officers, directors, owners, shareholders, members, managers, supervisors, employees, agents, advisors, consultants, insurers, attorneys, representatives, and employee benefit or pension plans or funds (and the trustees, administrators, fiduciaries and insurers of such programs) as well as any predecessors, successors and/or assigns of each of the foregoing (collectively, the "Releasees"), arising out of or in any way connected with Executive's employment with the Company or any of its affiliates or the termination of such employment. Executive understands and acknowledges that except as otherwise specifically provided under this Agreement and General Release, and except as set forth in the Employment Agreement and any other existing agreement between Executive and the Company, Executive is entitled to no payments or any other benefits from Company. Executive acknowledges that Executive has received all wages for work performed, overtime compensation, bonuses, commissions, vacation pay and all other benefits and compensation due to Executive by virtue of Executive's employment with and termination of employment with the Company up through the effective date of this Agreement and General Release.
3. Nothing in this Agreement and General Release shall be construed as an admission of liability by the Company or any other Releasee, and the Company specifically disclaims liability to or wrongful treatment of Executive on the part of itself and all other Releasees. Executive expressly acknowledges and agrees that Executive has not asserted and does not have, the basis for asserting any claim, the factual foundation of which involves sexual harassment or sexual abuse, against the Company, and as such no portion of the consideration paid to Executive as part of this Agreement and General Release is attributable to any such claims; thus, Executive acknowledges and agrees that this Agreement and General Release does not constitute the settlement of a sexual harassment or sexual abuse claim.

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4. Executive hereby represents and warrants to Company that (a) Executive has not filed, caused or permitted to be filed any pending proceeding (nor has Executive lodged a complaint with any governmental or quasi-governmental authority) against Company, nor has Executive agreed to do any of the foregoing, (b) Executive has not assigned, transferred, sold, encumbered, pledged, hypothecated, mortgaged, distributed, or otherwise disposed of or conveyed to any third party any right or Claim against Company which has been released in this Agreement and General Release, and (c) Executive has not directly or indirectly encouraged or assisted any third party in filing, causing or assisting to be filed, any Claim against Company. In addition, Executive hereby represents and warrants to Company that Executive shall not encourage or solicit or voluntarily assist or participate in any way in the filing, reporting or prosecution by Executive or any third party of a proceeding or Claim against Company based upon or relating to any Claim released by Executive in this Agreement and General Release, unless expressly allowed by Section 7. If any court has or assumes jurisdiction of any action against the Company or any of its affiliates on behalf of Executive, Executive will request that court to withdraw from or dismiss the matter with prejudice.
  5. Executive represents that he has not filed any complaints or charges against the Company or any of its affiliates with the Equal Employment Opportunity Commission (“EEOC”), or with any other federal, state or local agency or court, and covenants that he will not seek to recover on any claim released in this Agreement and General Release. Executive further represents that he has reported to the Company in writing any and all work-related injuries that he has suffered or sustained during his employment with the Company or its affiliates.
  6. Executive, on his behalf and on behalf of each of the Releasors, hereby covenants not to sue, and fully and forever releases and discharges the Company and all other Releasees from any and all legally waivable Claims which Executive may have against any of the Releasees, arising on or prior to the date hereof, including those of which Executive is not aware and those not mentioned in this Agreement and General Release up to the effective Date of this Agreement and General Release. “Claims” means any and all actions, controversies, demands, causes of action, suits, rights, and/or claims whatsoever for debts, sums of money, wages, salary, severance pay, vacation pay, sick pay, fees and costs, attorneys’ fees, losses, penalties, damages, including damages for pain and suffering and emotional harm, arising, directly or indirectly, out of Executive’s employment with the Company, the terms and conditions of such employment, the termination of such employment and/or any of the events relating directly or indirectly to or surrounding the termination of that employment, including, but not limited to, Claims arising directly, or indirectly, from any promise, agreement, offer letter, contract, understanding, common law, tort, the laws, statutes, and/or regulations of the State of New Jersey, or any other state, and the United States, including, but not limited to, federal, state and local wage and hour laws, federal, state and local whistleblower laws, federal, state and local fair employment laws, federal, state and local anti-discrimination laws, federal, state and local labor laws, Section 1981 of the Civil Rights Act of 1866, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Equal Pay Act, the Americans with Disabilities Act, the Employment Retirement Income Security Act of 1974 (“ERISA”), the Vietnam Era Veterans Readjustment Assistance Act, the Fair Credit Reporting Act, the Fair Labor Standards Act, the Age Discrimination in Employment Act (“ADEA”), as amended by the Older Workers Benefit Protection Act, the Worker Adjustment and Retraining Notification Act of 1988, the Occupational Safety and Health Act, the Sarbanes-Oxley Act of 2002, the Family and Medical Leave Act, the Genetic Information Nondiscrimination Act of 2008, the New Jersey Law Against Discrimination, the New Jersey Family Leave Act, the New Jersey Civil Rights Act, the New Jersey Wage Payment Law, the New Jersey Conscientious Employee Protection Act, the New Jersey Millville Dallas Airmotive Plant Loss Job Notification Act, the New Jersey Paid Sick Leave Act,

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the New Jersey Equal Pay Act, and the New Jersey Workers' Compensation Anti-Retaliation Law, as each has been or may be amended from time to time, and Claims premised on any other legal theory, whether arising directly or indirectly from any act or omission, whether intentional or unintentional. Executive acknowledges that he is releasing claims based on age, race, color, sex, sexual orientation or preference, marital status, religion, national origin, citizenship, veteran status, disability and other legally protected categories. This provision is intended to constitute a general release of all of each Releasor's presently existing covered claims against the Releasees, to the maximum extent permitted by law.

7. Nothing in this Agreement and General Release shall be construed to: (a) waive any rights or claims of Executive that arise after Executive signs this Agreement and General Release; (b) waive any rights or claims of Executive to enforce the terms of this Agreement and General Release; (c) waive any claim for worker's compensation or unemployment benefits; (d) waive any rights or claims for the provision of accrued benefits conferred to Executive or his beneficiaries under the terms of the Company's medical, dental, life insurance or defined contribution retirement benefit plans; (e) waive or affect any claim that cannot be released by an agreement voluntarily entered into between private parties; (f) limit Executive's ability to file a charge or complaint with the EEOC, the National Labor Relations Board, the Occupational Safety and Health Administration, the Securities and Exchange Commission or any other federal, state or local governmental agency or commission ("Government Agencies"); (g) limit Executive's ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including providing documents or other information, without notice to the Company; (h) release claims challenging the validity of this Agreement under the ADEA; (i) disclose any allegations relating to a claim under the New Jersey Law against Discrimination; (j) release the Releasees or any of them from any claim that by law cannot be waived or released; (k) release any existing rights that Executive may have to indemnification pursuant to the Company's or an affiliate's governing documents and/or any directors' and officers' insurance policy of the Company for acts committed during the course of Executive's employment; or (l) waive any rights of Executive with respect to vested equity held by him in the Company. Executive expressly waives and agrees to waive any right to recover monetary damages for personal injuries in any charge, complaint or lawsuit filed by Executive or anyone else on behalf of Executive for any released claims. This Agreement and General Release does not limit Executive's right to receive an award for information provided to any Government Agencies.
8. Executive acknowledges that (a) he has been given at least twenty-one (21)<sup>1</sup> calendar days to consider this Agreement and General Release and that modifications hereof which are mutually agreed upon by the parties hereto, whether material or immaterial, do not restart the twenty-one (21) day period; (b) he has been advised to, and has had the opportunity to, consult Executive's independent counsel with respect to this Agreement and General Release; (c) he has seven (7) calendar days from the date he executes this Agreement and General Release in which to revoke it; (d) he executes this Agreement and General Release freely and voluntarily and that he understands the significance of this Agreement and General Release; and (e) this Agreement and General Release will not be effective or enforceable, nor the Severance Benefits paid, unless the seven-day revocation period ends without revocation by Executive. Revocation can be made by delivery and receipt of a written notice of revocation to Bed Bath & Beyond, 650 Liberty Avenue, Union, NJ 07083, Attention: [INSERT NAME/TITLE], by midnight on or before the seventh calendar day after Executive signs this Agreement and General Release.

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<sup>1</sup> To be extended to 45 days in the event of a group termination under the ADEA.

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9. This Agreement and General Release shall be binding on the Company and Executive and upon their respective heirs, representatives, successors and assigns, and shall run to the benefit of the Releasees and each of them and to their respective heirs, representatives, successors and assigns.
  10. This Agreement and General Release (and, to the extent explicitly provided herein, the Employment Agreement) sets forth the entire agreement between Executive and the Company, and fully supersede any and all prior agreements or understandings among them regarding its subject matter; provided, however, that nothing in this Agreement and General Release is intended to or shall be construed to limit, impair or terminate any obligation of Executive pursuant to any non-competition, non-solicitation, confidentiality or intellectual property agreements that have been signed by Executive where such agreements by their terms continue after Executive's employment with the Company terminates (including, but not limited to, the Restrictive Covenants in the Employment Agreement). This Agreement and General Release may only be modified by written agreement signed by both parties.
  11. The Company and Executive agree that in the event any provision of this Agreement and General Release is deemed to be invalid or unenforceable by any court or administrative agency of competent jurisdiction, or in the event that any provision cannot be modified so as to be valid and enforceable, then that provision shall be deemed severed from the Agreement and General Release and the remainder of the Agreement and General Release shall remain in full force and effect.
  12. This Agreement and General Release shall be construed and enforced in accordance with the internal laws of the State of New York, without regard to principles of conflicts of laws.
  13. All actions or proceedings arising out of or relating to this Agreement and General Release shall be tried and litigated only in the New York State or Federal courts located in the County of New York, State of New York. The parties hereto hereby irrevocably submit to the exclusive jurisdiction of such courts for the purpose of any such action or proceeding. Notwithstanding the foregoing, either party may seek injunctive or equitable relief to enforce the terms of this Agreement and General Release in any court of competent jurisdiction.
  14. Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement and General Release.
  15. The language of all parts of this Agreement and General Release in all cases shall be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties.

*[Signature Page Follows]*

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**PLEASE READ CAREFULLY. THIS  
AGREEMENT AND GENERAL RELEASE INCLUDES A  
RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.**

**COMPANY**

**Bed Bath & Beyond Inc.**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXECUTIVE**

\_\_\_\_\_  
Mark J. Tritton

Date: \_\_\_\_\_



**FOR IMMEDIATE RELEASE****Bed Bath & Beyond Inc. Names Mark J. Tritton as President and Chief Executive Officer**

UNION, N.J., October 9, 2019 — Bed Bath & Beyond Inc. (Nasdaq: BBBY) today announced the appointment of Mark J. Tritton as President and Chief Executive Officer (CEO) and as a member of its Board of Directors, effective November 4, 2019. He succeeds interim CEO, Mary A. Winston.

Mr. Tritton has over 30 years of experience in the retail industry, including most recently as Executive Vice President and Chief Merchandising Officer at Target Corporation, where he was instrumental in transforming the omni-channel shopping experience. He has end-to-end retail industry experience in merchandising, design, manufacturing, marketing and distribution at some of the world's leading iconic retailers and brands. In addition to Target, this includes Nordstrom, Inc., Timberland LLC and Nike, Inc.

"We are thrilled to announce a President and CEO with one of the most impressive resumes in the business," said Patrick R. Gaston, Bed Bath & Beyond's Chairman of the Board. "Mark's ability to re-define the retail experience and drive growth at some of the world's most successful retailers and brands makes him uniquely equipped to lead Bed Bath & Beyond during this critical time in our evolution. As an integral contributor to Target's impressive transformation, we will benefit from his vision, leadership, and creativity to successfully transform our business."

Mr. Gaston continued, "The Board and I would also like to thank Mary Winston for her dedication to the Company as interim CEO. In just a few months, she has put in place a strong foundation for Mark and the wider company to build upon in the years to come."

Ms. Winston has served as interim CEO since May 12, 2019, during the search for a permanent successor. She will continue to serve on the Board of Directors and will work closely with Mr. Tritton and Mr. Gaston to facilitate an orderly and efficient transition.

When Mr. Tritton joins Bed Bath & Beyond, his immediate focus will be on accelerating the Company's ongoing business transformation. This includes improving the omni-channel experience for consumers, enhancing the merchandise assortment and reviewing the Company's cost structure and asset base.

Mr. Tritton stated, "There is immense opportunity ahead for Bed Bath & Beyond, which remains one of the most recognizable and best loved retailers in the country today. The foundation of the Company's transformation has been set and I'm excited at the chance to apply my industry experience and expertise to build an even better business for customers, associates, and shareholders. I look forward to working together with all associates and the Board of Directors to achieve our ambitious vision for the future of Bed Bath & Beyond."

**Executive Profile**

Mark J. Tritton will become Bed Bath & Beyond's next President and CEO and a member of its Board of Directors on November 4, 2019. He is joining Bed Bath & Beyond from Target Corporation, the second-largest general merchandise retailer in the U.S. with 1,900 stores and distribution centers across all 50 states.

As Executive Vice President, Chief Merchandising Officer at Target, Mr. Tritton:

- Served as a key member of the executive leadership team that transformed the company, including building a new durable retail model that repositioned the retailer's long-term relevance with customers and positioned the business to grow profitably over time.

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- Created and executed a vision for turning around Target’s private-label strategy, reviving the company’s existing brands and launching over 30 brands in two and a half years.
  - Right-sized the company’s price-value equation and brand positioning, resulting in higher regular price sales and profitability.
  - During his tenure at Target, the company achieved eight straight quarters of comparable sales increases, the best two-year stock performance in over a decade.

Additionally, while serving as EVP President of Nordstrom’s Product Group (NPG), Mr. Tritton:

- Oversaw merchandising, design, manufacturing, marketing and the omni-channel distribution of over 50 private-label brands across the company’s full retail portfolio.
- Doubled the private-label business and created distinct brand assets. At approximately 10% of total Nordstrom multi-channel sales volume, NPG exceeded \$1.5 billion in annual revenue during his tenure.
- Established Nordstrom as a global benchmark for retailers, taking an integrated approach to their-store experience and digital marketing.

Mr. Tritton has served in leadership roles with other retail brands, including Timberland, LLC and Nike, Inc.

A native of Australia, he holds a Bachelor of Education in English and History from the University of Sydney.

#### **About the Company**

Bed Bath & Beyond Inc. and subsidiaries (the “Company”) is an omnichannel retailer that is the trusted expert for the home and heart-felt life events. The Company sells a wide assortment of domestics merchandise and home furnishings. The Company also provides a variety of textile products, amenities and other goods to institutional customers in the hospitality, cruise line, healthcare and other industries. Additionally, the Company is a partner in a joint venture which operates retail stores in Mexico under the name Bed Bath & Beyond.

The Company operates websites at [bedbathandbeyond.com](http://bedbathandbeyond.com), [bedbathandbeyond.ca](http://bedbathandbeyond.ca), [worldmarket.com](http://worldmarket.com), [buybuybaby.com](http://buybuybaby.com), [buybuybaby.ca](http://buybuybaby.ca), [christmastreeshops.com](http://christmastreeshops.com), [andthat.com](http://andthat.com), [harmondiscout.com](http://harmondiscout.com), [facevalues.com](http://facevalues.com), [ofakind.com](http://ofakind.com), [onekingslane.com](http://onekingslane.com), [personalizationmall.com](http://personalizationmall.com), [decorist.com](http://decorist.com), [harborlinen.com](http://harborlinen.com), and [t-ygroup.com](http://t-ygroup.com).

#### **Forward-Looking Statements**

This press release contains forward-looking statements, including, but not limited to, the Company’s outlook for its progress and anticipated progress towards its long-term objectives. Many of these forward-looking statements can be identified by use of words such as may, will, expect, anticipate, approximate, estimate, assume, continue, model, project, plan, goal, and similar words and phrases. The Company’s actual results and future financial condition may differ materially from those expressed in any such forward-looking statements as a result of many factors. Such factors include, without limitation: general economic conditions including the housing market, a challenging overall macroeconomic environment and related changes in the retailing environment; consumer preferences, spending habits and adoption of new technologies; demographics and other macroeconomic factors that may impact the level of spending for the types of merchandise sold by the Company; civil disturbances and terrorist acts; unusual weather patterns and natural disasters; competition from existing and potential competitors across all channels; pricing

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pressures; liquidity; the ability to achieve anticipated cost savings, and to not exceed anticipated costs, associated with organizational changes and investments; the ability to attract and retain qualified employees in all areas of the organization, the cost of labor, merchandise and other costs and expenses; potential supply chain disruption due to trade restrictions, political instability, labor disturbances, product recalls, financial or operational instability of suppliers or carriers, and other items; the ability to find suitable locations at acceptable occupancy costs and other terms to support the Company's plans for new stores; the ability to establish and profitably maintain the appropriate mix of digital and physical presence in the markets it serves; the ability to assess and implement technologies in support of the Company's development of its omnichannel capabilities; uncertainty in financial markets; volatility in the price of the Company's common stock and its effect, and the effect of other factors, on the Company's capital allocation strategy; risks associated with the ability to achieve a successful outcome for its business concepts and to otherwise achieve its business strategies; the impact of intangible asset and other impairments; disruptions to the Company's information technology systems including but not limited to security breaches of systems protecting consumer and employee information or other types of cybercrimes or cybersecurity attacks; reputational risk arising from challenges to the Company's or a third party product or service supplier's compliance with various laws, regulations or standards, including those related to labor, health, safety, privacy or the environment; reputational risk arising from third-party merchandise or service vendor performance in direct home delivery or assembly of product for customers; changes to statutory, regulatory and legal requirements, including without limitation proposed changes affecting international trade; changes to, or new, tax laws or interpretation of existing tax laws; new, or developments in existing, litigation, claims or assessments; changes to, or new, accounting standards; foreign currency exchange rate fluctuations; and the integration of acquired businesses. The Company does not undertake any obligation to update its forward-looking statements.

**CONTACTS:**

**Media Contact**

Dominic Pendry, (347) 604-0381 OR [dominic.pendry@bedbath.com](mailto:dominic.pendry@bedbath.com)

**Investor Relations Contact**

Janet M. Barth, (908) 613-5820 OR [IR@bedbath.com](mailto:IR@bedbath.com)

