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

FORM 10-K

- ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended **December 31, 2016**
or
- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period from _____ to _____
Commission File No. **0-51754**

CROCS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

20-2164234
(I.R.S. Employer
Identification No.)

7477 East Dry Creek Parkway
Niwot, Colorado 80503
(303) 848-7000

(Address, including zip code and telephone number, including area code, of registrant's principal executive offices)
Securities registered pursuant to Section 12(b) of the Act:

Title of each class:

Name of each exchange on which registered:

Common Stock, par value \$0.001 per share

The NASDAQ Global Select Market

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

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

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

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of the Form 10-K or any amendment to the Form 10-K.

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

Large accelerated filer

Accelerated filer

Non-accelerated filer
(do not check if a
smaller reporting company)

Smaller reporting company

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

The aggregate market value of the voting common stock held by non-affiliates of the registrant as of June 30, 2016 was \$650.6 million. For the purpose of the foregoing calculation only, all directors and executive officers of the registrant and owners of more than 10% of the registrant's common stock are assumed to be affiliates of the registrant. This determination of affiliate status is not necessarily conclusive for any other purpose.

The number of shares of the registrant's common stock outstanding as of February 22, 2017 was 73,690,901

DOCUMENTS INCORPORATED BY REFERENCE

Part III incorporates certain information by reference from the registrant's proxy statement for the 2017 annual meeting of stockholders to be filed no later than 120 days after the end of the registrant's fiscal year ended December 31, 2016.

Cautionary Note Regarding Forward-Looking Statements

This Annual Report on Form 10-K contains “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934 (the “Exchange Act”). From time to time, we may also provide oral or written forward-looking statements in other materials we release to the public. Such forward-looking statements are subject to the safe harbor created by the Private Securities Litigation Reform Act of 1995.

Statements that refer to industry trends, projections of our future financial performance, anticipated trends in our business and other characterizations of future events or circumstances are forward-looking statements. These statements, which express management’s current views concerning future events or results, use words like “anticipate,” “assume,” “believe,” “continue,” “estimate,” “expect,” “future,” “intend,” “plan,” “project,” “strive,” and future or conditional tense verbs like “could,” “may,” “might,” “should,” “will,” “would,” and similar expressions or variations. Examples of forward-looking statements include, but are not limited to, statements we make regarding:

- our belief that we have sufficient liquidity to fund our business operations during the next twelve months;
- our expectations regarding our level of capital expenditures in 2017; and
- our expectations regarding future trends, expectations and performance of our business.

Forward-looking statements are subject to risks and uncertainties that may cause actual results to differ materially (both favorably and unfavorably) from future results expressed or implied by such forward-looking statements. These risks and uncertainties include, but are not limited to those described in Part I — Item 1A. *Risk Factors* of this Annual Report, elsewhere throughout this report, and those described from time to time in our past and future reports filed with the Securities and Exchange Commission (the “SEC”). Caution should be taken not to place undue reliance on any such forward-looking statements. Forward-looking statements speak only as of the date when made and we undertake no obligation to update any forward-looking statement, whether as a result of new information, future events or otherwise.

Crocs, Inc.
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For the Year Ended December 31, 2016

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PART I

ITEM 1. Business

The Company

Crocs, Inc. and its consolidated subsidiaries (collectively the "Company," "we," "our," or "us") are engaged in the design, development, manufacturing, worldwide marketing, distribution and sale of casual lifestyle footwear and accessories for men, women, and children. We strive to be the global leader in the sale of molded footwear featuring comfort, color, and functionality. The Company, a Delaware corporation, is the successor to a Colorado corporation of the same name, and was originally organized in 1999 as a limited liability company. Our products include footwear and accessories that utilize our proprietary closed-cell resin, called Croslite, as well as casual lifestyle footwear that use a range of materials. Our Croslite™ material enables us to produce innovative, lightweight, non-marking, and odor-resistant footwear. We currently sell our products in more than 90 countries through domestic and international retailers and distributors, and directly to consumers through our company-operated retail stores, outlets, e-commerce store sites, and kiosks.

Since the initial introduction of our original Classic clog designs in 2002, we have expanded our product ranges to include a variety of styles and products. Going forward, we are focusing on our core molded styles, clogs, sandals, flips and slides as well as developing select casual styles. The broad appeal of our footwear has allowed us to market our products through a wide range of distribution channels, our own Crocs single-branded stores including both full price and outlet stores, our own e-commerce sites, traditional multi-branded stores including family footwear stores, sporting goods stores and a variety of specialty and independent retail channels, and third-party e-commerce sites. In select markets we also sell to distributors that are typically granted the rights to distribute our products in a given geographical area.

Products

Our product offerings have grown significantly since we first introduced the single-style clog in six colors in 2002. Recognized across the world for our iconic clog silhouette, we have taken the successful formula of a simple design aesthetic paired with modern comfort and expanded into a wide variety of casual footwear products including sandals, flips and slides, shoes, and boots that meet the needs of the whole family.

At the heart of our brand reside the Classic and Crocband clogs, our most iconic styles for adults and kids - product that embodies our innovation in molding, simplicity of design and all-day comfort. A key differentiating feature of our footwear products is our proprietary closed-cell resin Croslite material, which is uniquely suited for comfort and functionality. For further information on Croslite, see Raw Materials below.

We strive to provide our global consumer with a year-round product assortment featuring fun, comfortable, casual, colorful, and innovative styles. Our collections are designed to meet the needs of the family by focusing on key wearing occasions. Our goal is to deliver product assortments for the family with all of the comfort, features and benefits Crocs is known for.

The unique look and feel of the Classic clog can be experienced throughout our entire product line due to the use and design of Croslite. We have expanded our core molded product line, with the addition of dual density technology, warm lined styles, sandals, flips and slides, shoes and boots. We enjoy highly successful licensing partnerships with Disney, Marvel, Nickelodeon, and Warner Bros., among others, which allows us to bring popular global franchises and characters to life on our product in a fun, exciting way.

We continue to leverage our expertise and innovation in injection molding to create a fresh, distinctive point of view in the casual footwear market and to deliver a winning combination of comfort, style and versatility to our consumer year round.

Sales and Marketing

Each season we focus on presenting a compelling brand story and experience for our new product introductions as well as our on-going core products. Our marketing efforts center on story-telling across diverse wearing occasions and product silhouettes. For the years ended December 31, 2016, 2015, and 2014, total advertising costs were approximately \$56.0 million, \$58.2 million, and \$44.7 million, respectively.

We run our business across three major geographic regions: the Americas, Asia Pacific, and Europe, which are discussed in more detail in Business Segments and Geographic Information below. In developing our market growth and expansion strategies, we prioritize five core markets including: (i) the United States, (ii) Japan, (iii) China, (iv) South Korea and (v) Germany. These countries have been identified as large-scale geographies where we believe the greatest opportunities for growth exist. We are also focusing our marketing efforts on these countries in an effort to increase customer awareness of both our brand and our full product range.

We have three primary sales channels: wholesale, which includes distributors, Crocs owned retail, and Crocs e-commerce (discussed in more detail below). Our marketing efforts are aimed at driving business to both our wholesale partners and our company-operated Crocs retail stores and e-commerce sites. Our marketing efforts in the wholesale and retail channels are focused on social and digital outreach to consumers to shop and visual merchandising. Company operated retail stores provide a unique opportunity to engage with consumers at a deeper level by showcasing our full assortment of molded and casual footwear. No single wholesale customer accounted for 10% or more of our revenues for any of the years ended December 31, 2016, 2015, and 2014.

Wholesale Channel

During the years ended December 31, 2016, 2015, and 2014, approximately 52.7%, 54.2% and 55.7% of revenues, respectively, were derived through the wholesale channel which consists of distributors and third-party retailers. Wholesale customers include family footwear retailers, national and regional retail chains, sporting goods stores, independent footwear retailers as well as e-tailers.

Many of our agreements allow us to accept returns from wholesale customers for defective products, on an exception basis, and to extend pricing discounts in lieu of such returns. We also may accept returns from our wholesale customers, on an exception basis, for the purpose of stock re-balancing, to ensure that our products are merchandised in the proper assortments.

Outside the United States, in addition to wholesale customers, we use third-party distributors in select markets where we believe such arrangements are preferable to direct sales. These third-party distributors purchase products pursuant to a price list and are granted the right to resell the products in a defined territory, usually a country or group of countries. Our typical distribution agreements have terms of one to five years, are generally terminable upon 30 days prior notice, and have minimum sales requirements that allow us to terminate or renegotiate the contract if minimum requirements are not met.

Retail Channel

During the years ended December 31, 2016, 2015, and 2014, approximately 34.7%, 34.7%, and 35.5%, respectively, of our revenues were derived from sales through our retail channel. We operate our retail channel through three integrated platforms: full-price retail locations, outlet locations, kiosk and store-in-store locations. Our three types of store platforms enable us to promote the breadth of our product offering in high-traffic, highly visible locations. With the worldwide consumer shift in shopping patterns out of traditional retail to e-commerce, we are focused on carefully managing and reducing our physical retail portfolio. We intend to continue to moderate the pace of our retail expansion in 2017 with a focus on outlet locations as well as enhancing the profitability of existing locations. We opened 83 company-operated stores during the year ended December 31, 2016 and closed 84 company-operated stores. As retail store performance will vary in new and existing markets due to many factors, including maturity of the market and brand recognition, we periodically evaluate the fixed assets and leasehold improvements related to our retail locations for impairment.

Full-Price Retail Locations

Our company-operated full-price retail locations allow us to effectively showcase the full extent of our product ranges to consumers. In addition, our full-price retail locations provide us with the opportunity to interact with our consumers directly. The optimal space for our retail locations is between approximately 1,500 and 1,800 square feet, and is located in high-traffic shopping malls or districts. During the year ended December 31, 2016, we closed 66 stores and opened 19 new full-price retail stores. As of December 31, 2016, 2015, and 2014, we operated 228, 275, and 311 full-price retail stores, respectively.

Outlet Locations

Our company-operated outlet locations allow us to sell discontinued and overstock merchandise directly to consumers at discounted prices. We also sell full-priced products in certain of our outlet stores as well as built for outlet products in certain locations. Outlet locations are similar in size to our full-price retail stores; however, they are generally located within outlet shopping centers. During the year ended December 31, 2016, we closed four outlet locations and opened 50 outlet locations. As of December 31, 2016, 2015, and 2014, we operated 232, 186, and 174 outlet stores, respectively.

Kiosk / Store-in-Store Locations

Our company-operated kiosks and store-in-store locations allow us to market specific product lines with the further flexibility to tailor products to consumer preferences in shopping malls and other high foot traffic areas. With efficient use of retail space, and limited capital investment, we believe that kiosks and store-in-store locations can be an effective vehicle for marketing our products where this business model is applicable. During the year ended December 31, 2016, we closed 14 kiosk and store-in-store locations and opened 14 new kiosk and store-in-store locations. As of December 31, 2016, 2015, and 2014, we operated 98, 98, and 100 kiosks and store-in-stores, respectively.

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The following table illustrates the net change in 2016 with respect to the number of our company-operated retail locations by reportable operating segment and country:

Company-Operated Retail Locations	December 31, 2015	Opened	Closed	December 31, 2016
Americas				
United States	179	7	12	174
Canada	10	—	—	10
Puerto Rico	7	—	1	6
Total Americas	196	7	13	190
Asia Pacific				
Korea	84	9	6	87
Japan	52	1	4	49
China	55	43	19	79
Hong Kong	21	5	9	17
Singapore	15	3	—	18
Australia	11	5	8	8
United Arab Emirates	14	1	3	12
South Africa	9	—	9	—
Total Asia Pacific	261	67	58	270
Europe				
Russia	37	2	3	36
Germany	18	—	—	18
Great Britain	10	—	3	7
France	12	—	2	10
Netherlands	6	—	1	5
Finland	5	—	1	4
Spain	6	—	1	5
Austria	—	7	1	6
Other	8	—	1	7
Total Europe	102	9	13	98
Total	559	83	84	558

E-commerce Channel

As of December 31, 2016, we offered our products through 12 company-operated e-commerce sites worldwide. We also offer our products through third-party e-commerce sites. Revenues from third-party e-commerce sites are reported in our wholesale channel. During the years ended December 31, 2016, 2015, and 2014, approximately 12.6%, 11.1% and 8.8%, respectively, of our revenues were derived from sales through our e-commerce channel. Our e-commerce presence enables us to have increased access to our consumers and provides us with an opportunity to educate them about our products and brand. Improving our e-commerce capabilities is one of our key growth strategies. We will continue to improve our consumer's online experience, and our in stock reliability and will look for new ways to leverage digital technologies to connect with consumers, including mobile optimization of our sites.

Business Segments and Geographic Information

We have three reportable operating segments based on the geographic nature of our operations: Americas, Asia Pacific, and Europe. We also have an "Other businesses" category which aggregates insignificant operating segments that do not meet the reportable operating segment threshold, including manufacturing operations located in Mexico and Italy, and corporate operations. See additional discussion of our segments and geographic information, including results of operations and assets by segment and geography in Note 16 — Operating Segments and Geographic Information in the accompanying notes to the consolidated financial statements included in Part II — Item 8. *Financial Statements and Supplementary Data* of this Annual Report.

Americas

The Americas segment consists of revenues and expenses related primarily to product sales in North and South America. Regional wholesale channel customers consist of a broad range of family footwear, sporting goods and e-tailers as well as independent retailers and distributors. The Americas retail channel sells directly to consumers through 190 company-operated retail store locations in the Americas as well as through e-commerce sites. During the years ended December 31, 2016, 2015, and 2014, revenues from the Americas segment were approximately 45.1%, 43.7%, and 40.9% of our consolidated revenues, respectively. Specifically, revenues from the United States were approximately 37.1%, 35.8%, and 36.3% of our consolidated revenues, respectively, for the years ended December 31, 2016, 2015, and 2014.

Asia Pacific

The Asia Pacific segment consists of revenues and expenses related primarily to product sales throughout Asia, Australia, New Zealand, Africa and the Middle East. The Asia Pacific wholesale channel consists of sales to a broad range of retailers similar to the wholesale channel we have established in the Americas segment, plus distributors in select markets. We also sell products directly to consumers through 270 company-operated retail stores located in Asia as well as through our e-commerce sites. During the years ended December 31, 2016, 2015, and 2014, revenues from our Asia Pacific segment were 38.1%, 39.0%, and 39.6%, of our consolidated revenues, respectively.

Europe

The Europe segment consists of revenues and expenses related primarily to product sales throughout Western Europe, Eastern Europe and Russia. The Europe segment wholesale channel customers consist of a broad range of retailers, similar to the wholesale channel we have established in the Americas segment, plus distributors in select markets. We also sell our products directly to consumers through 98 company-operated retail stores located in Europe as well as through our e-commerce sites. During the years ended December 31, 2016, 2015, and 2014, revenues from the Europe segment were 16.7 %, 17.3%, and 19.5% of our consolidated revenues, respectively.

Distribution and Logistics

On an ongoing basis, we look to enhance our distribution and logistics network to further streamline our supply chain, increase our speed to market, and lower operating costs. During the year ended December 31, 2016, we stored our raw material and finished goods inventories in company-operated warehouse and distribution facilities located in the United States, Mexico, the Netherlands, Japan, Russia, and Italy. We also utilize third-party operated distribution centers located in China, Japan, Hong Kong, Australia, Korea, Singapore, India, Taiwan, the United Arab Emirates, Russia, Brazil, Argentina, Chile, Puerto Rico, and Italy. As of December 31, 2016, our company-operated warehouse and distribution facilities provided us with approximately 0.9 million square feet and our third-party operated distribution facilities provided us with approximately 0.5 million square feet. We also ship a portion of our products directly to our wholesale customers from our internal and third-party manufacturers.

Raw Materials

Croslite, our branded proprietary closed-cell resin, is the primary raw material used in the majority of our footwear and some of our accessories. Croslite is soft, durable, and allows our products to be non-marking and extremely lightweight. Croslite is carefully formulated to create extremely lightweight, odor-resistant, water-resistant and non-marking footwear that conforms to the shape of the foot and increases comfort.

We continue to invest in research and development in order to refine our materials to enhance these properties and to develop new properties for specific applications.

Croslite material is produced by compounding elastomer resins that we or one of our third-party processors purchase from major chemical manufacturers, together with certain other production inputs such as color dyes. We have identified multiple suppliers that produce the elastomer resins used in the Croslite material. We may also in the future identify and utilize materials produced by other suppliers as an alternative to, or in addition to, the elastomer resins we currently use in the production of our proprietary material. All of the other raw materials that we use to produce the Croslite products are readily available for purchase from multiple suppliers.

Since our inception in 2002, we have substantially increased the number of footwear products we offer. Many of these new products are constructed using leather, textile fabrics, or other non-Croslite materials. We, or our third-party manufacturers, obtain these materials from a number of third-party sources and we believe these materials are broadly available. We also outsource the compounding of the Croslite material and continue to purchase a portion of our compounded raw materials from a third-party in Europe.

Research, Design and Development

We continue to dedicate significant resources to product design and development as we expand the footwear styles we offer based on opportunities we identify in the marketplace. Our design and development process is highly collaborative and we continually strive to improve our development function so we can bring products to market quickly and at reduced costs, while maintaining product quality. We spent \$11.9 million, \$14.0 million, and \$16.7 million in research, design, and development activities for the years ended December 31, 2016, 2015, and 2014, respectively.

Manufacturing and Sourcing

Our strategy is to maintain a flexible, globally diversified, low-cost manufacturing base. We currently have company-operated production facilities in Mexico and Italy. We also contract with third-party manufacturers to produce certain of our footwear styles or to provide support to our internal production processes.

In the years ended December 31, 2016, 2015, and 2014, we manufactured approximately 14.6%, 11.3%, and 13.9%, respectively, of our footwear products internally. We sourced the remaining footwear production from multiple third-party manufacturers primarily in China, Vietnam, Eastern Europe and South America. During the years ended December 31, 2016, 2015, and 2014, our largest third-party manufacturer in China produced approximately 23.4%, 26.6%, and 27.5%, respectively, of our third-party footwear unit volume. We do not have written supply agreements with our primary third-party manufacturers in Asia.

Intellectual Property and Trademarks

We rely on a combination of trademarks, copyrights, trade secrets, trade dress and patent protections to establish, protect and enforce our intellectual property rights in our product designs, brands, materials, and research and development efforts, although no such methods can afford complete protection. We own or license the material trademarks used in connection with the marketing, distribution, and sale of all of our products, both domestically and internationally, in most countries where our products are currently either sold or manufactured. Our major trademarks include the Crocs logo and the Crocs word mark, both of which are registered or pending registration in the U.S., the European Union, Japan, Taiwan, China, and Canada among other countries. We also have registrations or pending trademark applications for other marks and logos in various countries around the world.

In the U.S., our patents are generally in effect for up to 20 years from the date of filing the patent application. Our trademarks registered within and outside of the U.S. are generally valid as long as they are in use and their registrations are properly maintained and have not been found to become generic. We believe our trademarks and copyrights are crucial to the successful marketing and sale of our products. We will continue to strategically register, both domestically and internationally, the trademarks and copyrights we utilize today and those we develop in the future. We also intend to continue to aggressively police our patents, trademarks and copyrights and pursue those who infringe upon them, both domestically and internationally, as we deem necessary.

We consider the formulations of the materials covered by our trademark Croslite and used to produce our shoes to be a valuable trade secret. Croslite material is manufactured through a process that combines a number of components in various proportions to achieve the properties for which our products are known. We use multiple suppliers to source these components but protect the formula by using exclusive supply agreements for key components, confidentiality agreements with our third-party processors, and by requiring our employees to execute confidentiality agreements concerning the protection of our confidential information. Other than our third-party processors, we are unaware of any third party using our formula in the production of shoes. We believe the comfort and utility of our products depend on the properties achieved from the compounding of Croslite material and constitute a key competitive advantage for us, and we intend to continue to vigorously protect this trade secret.

We also actively combat counterfeiting through monitoring of the global marketplace. We use our employees, sales representatives, distributors, and retailers, as well as outside investigators and attorneys, to police against infringing products by encouraging them to notify us of any suspect products and to assist law enforcement agencies. Our sales representatives and distributors are also educated on our patents, pending patents, trademarks and trade dress to assist in preventing potentially infringing products from obtaining retail shelf space. The laws of certain countries do not protect intellectual property rights to the same extent or in the same manner as do the laws of the U.S., and, therefore, we may have difficulty obtaining legal protection for our intellectual property in certain foreign jurisdictions.

Seasonality

Due to the seasonal nature of our footwear, which is more heavily focused on styles suitable for warm weather, revenues generated during our fourth quarter are typically less than revenues generated during our first three quarters, when the northern hemisphere is experiencing warmer weather. We continue to expand our product line to include more winter oriented styles to reduce the seasonality of our revenues. Our quarterly results of operations may also fluctuate significantly as a result of a variety of other factors, including the timing of new model introductions, or general economic conditions, or consumer confidence. Accordingly,

results of operations and cash flows for any one quarter are not necessarily indicative of expected results for any other quarter or for any other year.

Backlog

We receive a significant portion of orders from our wholesale customers and distributors that remain unfilled as of any date and, at that point, represent orders scheduled to be shipped at a future date. We refer to these unfilled orders as backlog, which can be canceled by our customers at any time prior to shipment. Backlog only relates to wholesale and distributor orders for the next season and current season fill-in orders, and excludes potential sales in our retail and e-commerce channels. Backlog as of a particular date is affected by a number of factors, including seasonality, manufacturing schedules and the timing of product shipments. Backlog also is affected by the timing of customers' orders and product availability. Due to these factors and business model differences around the globe, we believe backlog is an imprecise indicator of future revenues that may be achieved in a fiscal period and cannot be relied upon.

Competition

The global casual, athletic and fashion footwear markets are highly competitive. Although we believe that we do not compete directly with any single company with respect to the entire spectrum of our products, we believe portions of our wholesale, retail, and e-commerce businesses compete with companies including, but not limited to, Nike Inc., adidas AG, Under Armour, Inc., Deckers Outdoor Corporation, Skechers USA, Inc., Steve Madden, Ltd., Wolverine World Wide, Inc. and VF Corporation. Our company-operated retail locations also compete with footwear retailers such as Genesco, Inc., Macy's Inc., Dillard's, Inc., Dick's Sporting Goods, Inc., The Finish Line Inc., and Foot Locker, Inc.

The principal elements of competition in these markets include brand awareness, product functionality, design, comfort, quality, pricing, customer service, and marketing and distribution. We believe that our unique footwear designs, our Croslite material, our prices, our expanded product line, and our distribution network continue to position us well in the marketplace. However, a number of companies in the casual footwear industry have greater financial resources, more comprehensive product lines, broader market presence, longer standing relationships with wholesalers, longer operating histories, greater distribution capabilities, stronger brand recognition and greater marketing resources than we have. Furthermore, we face competition from new companies who have been attracted to the market with products similar to ours as the result of the unique design and success of our footwear products.

Foreign Currency Fluctuations on Revenues and Net Income (Loss)

As a global company, we have significant revenues and costs denominated in currencies other than the U.S. Dollar. We are exposed to the risk of gains and losses resulting from changes in exchange rates on monetary assets and liabilities within our international subsidiaries that are denominated in currencies other than the subsidiary's functional currency. Likewise, our U.S. companies are also exposed to the risk of gains and losses resulting from changes in exchange rates on monetary assets and liabilities that are denominated in a currency other than the U.S. Dollar.

We have experienced, and will continue to experience, changes in international currency rates, impacting both results of operations and the value of assets and liabilities denominated in foreign currencies. We enter into forward foreign exchange contracts to buy or sell various foreign currencies to selectively protect against volatility in the value of non-functional currency denominated monetary assets and liabilities. Changes in the fair value of these forward contracts are recognized in earnings.

Changes in exchange rates have a direct effect on our reported U.S. Dollar consolidated financial statements because we translate the operating results and financial position of our international subsidiaries to U.S. Dollars using current period exchange rates. Specifically, we translate the statements of operations of our foreign subsidiaries into the U.S. Dollar reporting currency using average exchange rates each reporting period. As a result, comparisons of reported results between reporting periods may be impacted significantly by differences in the exchange rates used to translate the operating results of our international subsidiaries.

For example, in our European segment, when the U.S. Dollar strengthens relative to the Euro, our reported U.S. Dollar results are less than if there had been no change in the exchange rate, because more Euros are required to generate the same U.S. Dollar translated amount. Conversely, when the U.S. Dollar weakens relative to the Euro, the reported U.S. Dollar results of our Europe segment are higher compared to a period with a stronger U.S. Dollar relative to the Euro. Similarly, the reported U.S. Dollar results of our Asia Pacific segment, where the functional currencies are primarily the Japanese Yen, Chinese Yuan, Korean Won and the Singapore Dollar, are comparatively lower or higher when the U.S. Dollar strengthens or weakens, respectively, relative to these currencies. See Item 7. *Management's Discussion and Analysis of Financial Condition and Results of Operations* in Part II of this Form 10-K for a discussion of the impact of the change in foreign exchange rates on our U.S. Dollar consolidated statements of operations for the years ended December 31, 2016 and 2015.

Employees

As of December 31, 2016, we had approximately 5,068 full-time, part-time, and seasonal employees, of which approximately 3,390 were engaged in retail-related functions.

Available Information

We file with, or furnish to, the SEC reports, including our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended. These reports are available free of charge on our corporate website (www.crocs.com) as soon as reasonably practicable after they are electronically filed with or furnished to the SEC. Copies of any materials we file with the SEC can be obtained at www.sec.gov or at the SEC's public reference room at 100 F Street, N.E., Washington, D.C. 20549. Copies of any of these documents will be provided in print to any stockholder who submits a request in writing to Integrated Corporate Relations, 761 Main Avenue, Norwalk, CT 06851. The foregoing website addresses are provided as inactive textual references only. The information provided on our website (or any other website referred to in this report) is not part of this report and is not incorporated by reference as part of this Annual Report on Form 10-K.

ITEM 1A. Risk Factors

The reader should carefully consider the following risk factors and all other information presented within this report. The risks set forth below are those that our management believes are applicable to our business and the industry in which we operate. These risks have the potential to have a material adverse effect on our business, results of operations, cash flows, financial condition, liquidity, or access to sources of financing. The risks included here are not exhaustive and there may be additional risks that are not presently material or known. You should carefully consider each of the following risks described below in conjunction with all other information presented in this report. Since we operate in a very competitive and rapidly changing environment, new risk factors emerge from time to time and it is not possible for management to predict all risk factors, nor can it assess the impact of all such risk factors on our business.

Risks Specific to Our Company

Uncertainty about current and future global economic conditions may adversely affect consumer spending and the financial health of our customers and others with whom we do business, which may adversely affect our financial condition, results of operations and cash resources.

Uncertainty about current and future global economic conditions may cause consumers and retailers to defer purchases or cancel purchase orders for our products in response to tighter credit, decreased cash availability, and weakened consumer confidence. Our financial success is sensitive to changes in general economic conditions, both globally and in specific markets, that may adversely affect the demand for our products including recessionary economic cycles, higher interest rates, higher fuel and other energy costs, inflation, increases in commodity prices, higher levels of unemployment, higher consumer debt levels, higher tax rates and other changes in tax laws, or other economic factors. For example, in 2015 and 2014, we experienced difficulty in our Asia Pacific segment primarily due to decreased performance in our China business which resulted in delayed collections of receivables and increased the risk of customer nonpayment. Due to the continued adverse macroeconomic conditions in China during 2016 and 2015, we also experienced volatility in revenues in our Asia Pacific segment. If global economic and financial market conditions deteriorate further or remain weak for an extended period of time, the following factors, among others, could have a material adverse effect on our business and financial results:

- Changes in foreign currency exchange rates relative to the U.S. Dollar could have a material impact on our reported financial results.
- Slower consumer spending may result in our inability to maintain or increase our sales to new and existing customers, cause reduced product orders or product order cancellations from wholesale accounts that are directly impacted by fluctuations in the broader economy, difficulties managing inventories, higher discounts, and lower product margins.
- If consumer demand for our products declines, we may not be able to profitably establish new retail stores, or continue to operate existing stores, due to higher fixed costs of the retail business.
- A decrease in credit available to our wholesale or retail customers, product suppliers and other service providers, or financial institutions that are counterparties to our credit facility or derivative instruments may result in credit pressures other financial difficulties or insolvency for these parties, with a potential adverse impact on our ability to obtain future financing, our business and our financial results.
- If our wholesale customers experience diminished liquidity, we may experience a reduction in product orders, an increase in customer order cancellations, and/or the need to extend customer payment terms which could lead to larger balances and delayed collection of our accounts receivable, reduced cash flows, greater expenses for collection efforts, and increased risk of nonpayment by our wholesalers.
- If our manufacturers or other parties in our supply chain experience diminished liquidity, and as a result are unable to fulfill their obligations to us, we may be unable to provide our customers with our products in a timely manner, resulting in lost sales opportunities or a deterioration in our customer relationships.

China's deteriorating macro-economic environment could adversely affect sales in our Asia Pacific segment which may adversely affect our business financial results.

Current and future global economic conditions may adversely affect consumer spending and the financial health of our customers and others with whom we do business, which may adversely affect our financial condition, results of operations, and cash resources. Macro-economic conditions in China have deteriorated over the past several quarters resulting in softening consumer demand and payment delays from our China distributors which have negatively impacted the sales volumes and cash collections for our China operations. During 2015 we discontinued relationships with several distributors and also changed terms to require cash payment at delivery. During 2015, we increased our allowance for doubtful accounts receivable in China by \$23.2 million as a result of a

default by several distributors that were unable to make payments to us. If the economic conditions in China continue to decline, we may experience further reductions in consumer demand in the China market resulting in additional losses. As our China operations represent approximately 7% of our total revenues, the impact of declining sales volumes in China could have a material adverse impact on our business and financial results in future periods.

Changes in foreign exchange rates, most significantly but not limited to the Singapore Dollar, Chinese Yuan, Japanese Yen, Korean Won, the Euro and British Pound, could have a material adverse effect on our business and financial results.

As a global company, we have significant revenues and costs denominated in currencies other than the U.S. Dollar (“USD”). We pay the majority of our overseas third-party manufacturers, located primarily in China and Vietnam, in USD. Our ability to sell our products in foreign markets and the USD value of the sales made in foreign currencies can be significantly influenced by changes in exchange rates. A decrease in the value of foreign currencies relative to the USD could result in lower revenues, product price pressures, and increased losses from currency exchange rates. Foreign exchange rate volatility could also disrupt the business of the third-party manufacturers that produce our products by making their purchases of raw materials more expensive and more difficult to finance, as we generally pay our overseas third-party manufacturers in U.S. Dollars. In 2016, we experienced an increase of approximately \$3.3 million in our Asia Pacific segment revenues as a result of increases in the value of Asian currencies relative to the U.S. Dollar, and a decrease of approximately \$3.2 million in our Europe revenues as a result of decreases in the Euro and Russian Ruble relative to the U.S. Dollar. Strengthening of the USD against Asian and European currencies, and various other global currencies would adversely impact our USD reported results due to the impact on foreign currency translation. While we enter into foreign currency exchange forward contracts as economic cash flow hedges to reduce our exposure to changes in exchange rates, the volatility of foreign currency exchange rates is dependent on many factors that cannot be forecasted with reliable accuracy and as a result our forward contracts may not prove effective in reducing our exposures.

We face significant competition.

The footwear industry is highly competitive. Continued growth in the market for casual footwear has encouraged the entry of new competitors into the marketplace and has increased competition from established companies. Our competitors include most major athletic and non-athletic footwear companies and retailers with their own private label footwear products. A number of our competitors have significantly greater financial resources than us, more comprehensive product lines, a broader market presence, longer standing relationships with wholesalers, a longer operating history, greater distribution capabilities, stronger brand recognition, and spend substantially more than we do on product marketing. Our competitors' greater financial resources and capabilities in these areas may enable them to better withstand periodic downturns in the footwear industry and general economic conditions, compete more effectively on the basis of price and production, and more quickly develop new products. Some of our competitors are offering products that are substantially similar, in design and materials, to our products. In addition, access to offshore manufacturing is also making it easier for new companies to enter the markets in which we compete. If we are unable to compete successfully in the future, our sales and profits may decline, we may lose market share, our business and financial results may deteriorate, and the market price of our common stock would likely fall.

Our business relies significantly on the use of information technology. A significant disruption to our operational technology or failure to protect the integrity and security of customer and employee information could harm our reputation and/or our ability to effectively operate our business.

We rely heavily on the use of information technology systems and networks in our operations and supporting departments including marketing, accounting, finance, and human resources. The future success and growth of our business depend on streamlined processes made available through information systems, global communications, internet activity, and other network processes. We rely exclusively on information services providers worldwide for our information technology functions including network, help desk, hardware and software configuration. Additionally, we rely on internal networks and information systems and other technology, including the internet and third-party hosted services, to support a variety of business processes and activities, including procurement and supply chain, manufacturing, distribution, invoicing and collection of payments. We use information systems for certain human resource activities and to process our employee benefits, as well as to process financial information for internal and external reporting purposes and to comply with various reporting, legal and tax requirements. We also have outsourced a significant portion of work associated with our finance and accounting, human resources and other information technology functions to third-party service providers. Despite our current security measures, our systems, and those of our third-party service providers, we may be vulnerable to information security breaches, acts of vandalism, computer viruses, credit card fraud, phishing, and interruption or loss of valuable business data. Any disruption to these systems or networks could result in product fulfillment delays, key personnel being unable to perform duties or communicate throughout the organization, loss of retail and internet sales, significant costs for data restoration, and other adverse impacts on our business and reputation.

Over the last several years, we have implemented numerous information systems designed to support various areas of our business, including a fully-integrated global accounting, operations, and finance enterprise resource planning system, and warehouse

management, order management, retail point-of-sale, and internet point-of-sale systems, as well as various interfaces between these systems and supporting back office systems. Issues in implementing or integrating new systems with our current operations, failure of these systems to operate effectively, problems with transitioning to upgraded or replacement systems, or a breach in security of these systems could cause delays in product fulfillment and reduced efficiency of our operations and require significant additional capital investments, to remediate, and may have an adverse effect on our business and financial results.

We routinely possess sensitive customer and employee information. Hackers and data thieves are increasingly sophisticated and operate large-scale and complex automated attacks. Any breach of our network may result in the loss of valuable business data, misappropriation of our consumers' or employees' personal information, or a disruption of our business. Despite our existing security procedures and controls, if our network becomes compromised, it could give rise to unwanted media attention, materially damage our customer relationships, harm our business, our reputation, and our financial results, which could result in fines or lawsuits, and may increase the costs we incur to protect against such information security breaches, such as increased investment in technology, the costs of compliance with consumer protection laws, and costs resulting from consumer fraud.

We may be unable to successfully execute our long-term growth strategy, maintain or grow our current revenue and profit levels, or accurately forecast geographic demand and supply for our products.

Our ability to maintain our revenue and profit levels or to grow in the future depends on, among other things, the continued success of our efforts to maintain our brand image, our ability to bring compelling and profit enhancing footwear offerings to market, and our ability to expand within our current distribution channels and increase sales of our products into new locations internationally. Successfully executing our long-term growth and profitability strategy will depend on many factors, including:

- Our ability to strengthen our brand globally into a leading casual lifestyle footwear provider;
- Our ability to focus on relevant geographies and markets, product innovation and profitable new growth platforms while maintaining demand for our current offerings;
- Our ability to effectively manage our retail stores (including closures of existing stores) while meeting operational and financial targets at the retail store level;
- Our ability to accurately forecast the global demand for our products and the timely execution of supply chain strategies to deliver product around the globe efficiently based on that demand;
- Our ability to use and protect the Crocs brand and our other intellectual property in new markets and territories;
- Our ability to achieve and maintain a strong competitive position in new and existing markets;
- Our ability to attract and retain qualified distributors, agents, and to continue to develop direct sales channels;
- Our ability to consolidate our distribution and supply chain network to leverage resources and simplify our fulfillment process; and
- Our ability to execute a multi-channel advertising and marketing campaign to effectively communicate our message directly to our consumers and employees.

If we are unable to successfully implement any of the above mentioned strategies and the many other factors mentioned throughout these risk factors, our business may fail to grow, our brand may suffer, and our business and financial results may be adversely impacted.

There can be no assurance that the strategic plans we have begun to implement will be successful.

In July 2014, we announced strategic plans for long-term improvement and growth of our business, which is comprised of four key initiatives: (1) streamlining the global product and marketing portfolio, (2) reducing direct investment in smaller geographic markets, (3) creating a more efficient organizational structure including reducing duplicative and excess overhead which will also enhance the decision making process, and (4) optimizing our retail locations around the world.

While these strategic plans, along with other steps to be taken, are intended to improve and grow our business, there can be no assurance that this will be the case, or that additional steps or accrual of additional material accounting charges will not be required. If additional steps are required, there can be no assurance that they will be properly implemented or will be successful. The initial charges for the strategic plan were incurred in the first quarter of 2014 and continued through 2015. During 2014 and 2015, we closed 172 retail locations, offset in part by 112 new retail locations opened. We completed our restructuring plan in 2015.

We conduct significant business activity outside the U.S. which exposes us to risks of international commerce.

A significant portion of our revenues is from foreign sales. Our ability to maintain the current level of operations in our existing international markets is subject to risks associated with international sales operations as well as the difficulties associated with promoting products in unfamiliar cultures. In addition to foreign manufacturing, we operate retail stores and sell our products to retailers outside of the U.S. Foreign manufacturing and sales activities are subject to numerous risks including: tariffs, anti-dumping fines, import and export controls, and other non-tariff barriers such as quotas and local content rules; delays associated with the manufacture, transportation and delivery of products; increased transportation costs due to distance, energy prices, or other factors; delays in the transportation and delivery of goods due to increased security concerns; restrictions on the transfer of funds; restrictions, due to privacy laws, on the handling and transfer of consumer and other personal information; changes in governmental policies and regulations; political unrest, changes in law, terrorism, or war, any of which can interrupt commerce; potential violations of U.S. and foreign anti-corruption and anti-bribery laws by our employees, business partners or agents, despite our policies and procedures relating to compliance with these laws; expropriation and nationalization; difficulties in managing foreign operations effectively and efficiently from the U.S.; difficulties in understanding and complying with local laws, regulations and customs in foreign jurisdictions; longer accounts receivable payment terms and difficulties in collecting foreign accounts receivables; difficulties in enforcing contractual and intellectual property rights; greater risk that our business partners do not comply with our policies and procedures relating to labor, health and safety; and increased accounting and internal control costs. In addition, we are subject to customs laws and regulations with respect to our export and import activity which are complex and vary within legal jurisdictions in which we operate. We cannot assure that there will be not be a control failure around customs enforcement despite the precautions we take. We are currently subject to audits by various customs authorities including the U.S. and Mexico. Any failure to comply with customs laws and regulations could be discovered during a U.S. or foreign government customs audit, or customs authorities may disagree with our tariff treatments, and such actions could result in substantial fines and penalties, which could have an adverse effect on our business and financial results. In addition, changes to U.S. trade laws may adversely impact our operations.

In addition, as a global company, we are subject to foreign and U.S. laws and regulations designed to combat governmental corruption, including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act. Violations of these laws and regulations could result in fines and penalties, criminal sanctions against us, our officers, or our employees, prohibitions on the conduct of our business and on our ability to offer our products and services in one or more countries and a materially negative effect on our brands and our operating results. Although we have implemented policies and procedures designed to ensure compliance with these foreign and U.S. laws and regulations, including the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act, there can be no assurance that our employees, business partners or agents will not violate our policies.

Our success depends substantially on the value of our brand and failure to strengthen and preserve this value, either through our actions or those of our business partners, could have a negative impact on our financial results.

We believe much of our success has been attributable to the strengthening of the Crocs global brand. To be successful in the future, particularly outside of the U.S., where the Crocs global brand is less well-known and perceived differently, we believe we must timely and appropriately respond to changing consumer demand and leverage the value of our brand across all sales channels. We may have difficulty managing our brand image across markets and international borders as certain consumers may perceive our brand image to be out of style, outdated, one-dimensional or otherwise undesirable. Brand value is based in part on consumer perceptions on a variety of subjective qualities. In the past, several footwear companies including ours have experienced periods of rapid growth in revenues and earnings followed by periods of declining sales and losses, and our business may be similarly affected in the future. Business incidents that erode consumer trust, such as perceived product safety issues, whether isolated or recurring, in particular incidents that receive considerable publicity or result in litigation, can significantly reduce brand value and have a negative impact on our business and financial results. Consumer demand for our products and our brand equity could diminish significantly if we fail to preserve the quality of our products, are perceived to act in an unethical or socially irresponsible manner, fail to comply with laws and regulations, or fail to deliver a consistently positive consumer experience in each of our markets. Additionally, counterfeit reproductions of our products or other infringement of our intellectual property rights, including unauthorized uses of our trademarks by third parties, could harm our brand and adversely impact our business.

If our online e-commerce store sites do not function effectively, our business and financial results could be materially adversely affected.

Many of our customers buy our products on our e-commerce store sites as well as third-party e-commerce store sites. Any failure on our part or third-party platform providers to provide effective, reliable, user-friendly e-commerce platforms that offer a wide assortment of our merchandise could place us at a competitive disadvantage, result in the loss of sales, and could have a material adverse impact on our business and financial results. Sales in our e-commerce channel may also divert sales from our retail and wholesale channels.

Opening retail stores globally involves substantial investment, including the construction costs of leasehold improvements, furniture and fixtures, equipment, information systems, inventory and personnel. Operating global retail stores incurs fixed

costs. If we are unable to generate sales, operate our retail stores profitably or otherwise fail to meet expectations, we may be unable to reduce such fixed costs and avoid losses or negative cash flows.

Opening and operating additional retail locations requires substantial financial commitments, including fixed costs, and are subject to numerous risks including consumer preferences, location and other factors that we do not control. Declines in revenue and operating performance of our retail locations could cause us to record impairment charges and have a material adverse effect on our business and financial results. During 2016, we opened, closed and operated 19, 66 and 228 retail locations, respectively.

Although we have slowed the expansion of our retail sales channel, we intend to continue to open new retail locations globally. Our ability to open new locations successfully depends on our ability to identify suitable store locations, negotiate acceptable lease terms, hire, train, and retain store personnel and satisfy the fashion preferences in new geographic areas. Many of our retail locations are located in shopping malls and our success depends in part on obtaining prominent locations and the overall ability of the malls to successfully generate and maintain customer traffic. We cannot control the success of individual malls or store closures by other retailers, which may lead to mall vacancies and reduced customer foot traffic. Reduced customer foot traffic could reduce sales at our retail stores or hinder our ability to open retail stores in new markets, which could in turn negatively affect our business and financial results. In addition, some of our retail stores and kiosks occupy street locations that are heavily dependent on customer traffic generated by tourism. Any substantial decrease in tourism resulting from an economic slowdown, political, terrorism, social or military events or otherwise, is likely to adversely affect sales in our existing stores and kiosks. For example, in 2016 we closed our retail locations in Belgium in part as a result of the terrorist attacks in Europe.

We may be required to record impairments of long-lived assets relating to our retail operations.

Impairment testing of our retail stores' long-lived assets requires us to make estimates about our future performance and cash flows that are inherently uncertain. These estimates can be affected by numerous factors, including changes in economic conditions, our results of operations, and competitive conditions in the industry. Due to the fixed-cost structure associated with our retail operations, negative cash flows or the closure of a store could result in write-downs of inventory, impairment of leasehold improvements, impairment of other long-lived assets, severance costs, significant lease termination costs or the loss of working capital, which could adversely impact our business and financial results. For example, during 2016, 2015, and 2014, we recorded impairments of which \$2.7 million, \$9.6 million and \$8.8 million, respectively, related to our retail stores. These impairment charges may increase as we continue to evaluate our retail operations. The recording of additional impairments in the future may have a material adverse impact on our business and financial results.

We depend on key personnel across the globe, the loss of whom would harm our business.

We rely on executives and senior management to drive the financial and operational performance of our business. Turnover of executives and senior management can adversely impact our stock price, our results of operations, and our client relationships and may make recruiting for future management positions more difficult or may require us to offer more generous executive compensation packages to attract top executives. Changes in other key management positions may temporarily affect our financial performance and results of operations as new management becomes familiar with our business. In recent years, we have experienced management turnover. Our future success depends on our ability to identify, attract and retain qualified personnel on a timely basis. In addition, we must successfully integrate any newly hired management personnel within our organization in order to achieve our operating objectives. The key initiatives directed by these executives may take time to implement and yield positive results, if at all. If our new executives do not perform up to expectations, we may experience declines in our financial performance and/or delays in our long-term growth strategy.

As a global company, we also rely on the expertise and knowledge of a limited number of key international personnel in many of our geographic regions. In certain instances, one or two personnel may be the primary knowledge base for business operations in a geographic region. The loss of key international personnel could adversely impact our operations and our client relationships.

If we do not accurately forecast consumer demand, we may have excess inventory to liquidate or have greater difficulty filling our customers' orders, either of which could adversely affect our business.

The footwear industry is subject to cyclical variations, consolidation, contraction and closings, as well as fashion trends, rapid changes in consumer preferences, the effects of weather, general economic conditions and other factors affecting consumer demand. In addition, sales to our wholesale customers are generally subject to rights of cancellation and rescheduling by the customer. These factors make it difficult to forecast consumer demand. If we overestimate demand for our products, we may be forced to liquidate excess inventories at discounted prices resulting in lower gross margins. Conversely, if we underestimate consumer demand, we could have inventory shortages which can result in lower sales, delays in shipments to customers, expedited shipping costs, and adversely affect our relationships with our customers and diminish brand loyalty. A decline in demand for our products, or any failure on our part to satisfy increased demand for our products, could adversely affect our business and financial results.

Refining our footwear product line may be difficult and expensive. If we are unable to do so successfully, our brand may be adversely affected and we may not be able to maintain or grow our current revenue and profit levels.

To successfully refine our footwear product line, we must anticipate, understand, and react to the rapidly changing tastes of consumers and provide appealing merchandise in a timely manner. New footwear models that we introduce may not be successful with consumers or our brand may fall out of favor with consumers. If we are unable to anticipate, identify, or react appropriately to changes in consumer preferences, our revenues may decrease, our brand image may suffer, our operating performance may decline, and we may not be able to execute our growth plans.

In producing new footwear models, we may encounter difficulties that we did not anticipate during the product development stage. Our development schedules for new products are difficult to predict and are subject to change in response to consumer preferences and competing products. If we are not able to efficiently manufacture new products in quantities sufficient to support retail and wholesale distribution, we may not be able to recover our investment in the development of new styles and product lines and we would continue to be subject to the risks inherent to having a limited product line. Even if we develop and manufacture new footwear products that consumers find appealing, the ultimate success of a new style may depend on our pricing. We have a limited history of introducing new products in certain target markets; as such, we may set the prices of new styles too high for the market to bear or we may not provide the appropriate level of marketing in order to educate the market and potential consumers about our new products. Achieving market acceptance will require us to exert substantial product development and marketing efforts, which could result in a material increase in our selling, general and administrative expenses and there can be no assurance that we will have the resources necessary to undertake such efforts effectively or that such efforts will be successful. Failure to gain market acceptance for new products could impede our ability to maintain or grow current revenue levels, reduce profits, adversely affect the image of our brands, erode our competitive position and result in long-term harm to our business and financial results.

Our quarterly revenues and operating results are subject to fluctuation as a result of a variety of factors, including seasonal variations, which could increase the volatility of the price of our common stock.

Sales of our products are subject to seasonal variations and are sensitive to weather conditions. A significant portion of our revenues are attributable to footwear styles that are more suitable for fair weather and are derived from sales in the northern hemisphere. We typically experience our highest sales activity during the second and third quarters of the calendar year, when there is warmer weather in the northern hemisphere. While we continue to create new footwear styles that are more suitable for cold weather, the effects of favorable or unfavorable weather on sales can be significant enough to affect our quarterly results which could adversely affect our common stock price. Quarterly results may also fluctuate as a result of other factors, including new style introductions, general economic conditions or changes in consumer preferences. Results for any one quarter are not necessarily indicative of results to be expected for any other quarter or for any year. This could lead to results outside of analyst and investor expectations, which could increase volatility of our stock price.

We depend heavily on third-party manufacturers located outside the U.S.

Third-party manufacturers located in China and Vietnam produced the majority of our footwear products in 2016 and are expected to do so in 2017. We depend on the ability of these manufacturers to finance the production of goods ordered, maintain adequate manufacturing capacity and meet our quality standards. We compete with other companies for the production capacity of our third-party manufacturers, and we do not exert direct control over the manufacturers' operations. As such, from time to time we have experienced delays or inability to fulfill customer demand and orders, particularly in China and Vietnam. We cannot guarantee that any third-party manufacturer will have sufficient production capacity, meet our production deadlines or meet our quality standards.

In addition, we do not have supply contracts with many of these third-party manufacturers and any of them may unilaterally terminate their relationship with us at any time or seek to increase the prices they charge us. As a result, we are not assured of an uninterrupted supply of products of an acceptable quality and price from our third-party manufacturers. Foreign manufacturing is subject to additional risks, including transportation delays and interruptions, work stoppages, political instability, expropriation, nationalization, foreign currency fluctuations, changing economic conditions, changes in governmental policies and the imposition of tariffs, import and export controls, and other barriers. We may not be able to offset any interruption or decrease in supply of our products by increasing production in our internal manufacturing facilities due to capacity constraints, and we may not be able to substitute suitable alternative third-party manufacturers in a timely manner or at acceptable prices. Any disruption in the supply of products from our third-party manufacturers may harm our business and could result in a loss of sales and an increase in production costs, which would adversely affect our results of operations. In addition, manufacturing delays or unexpected demand for our products may require us to use faster, more expensive transportation methods, such as aircraft, which could adversely affect our profit margins. The cost of fuel is a significant component in transportation costs. Increases in the price of petroleum products can adversely affect our product margins.

In addition, because our footwear products are manufactured outside the U.S., the possibility of adverse changes in trade or political relations between the U.S. and other countries, political instability, increases in labor costs, changes in international trade agreements and tariffs, or adverse weather conditions could significantly interfere with the production and shipment of our products, which would have a material adverse effect on our operations and financial results. For example, the Trump Administration has suggested modifying existing trade agreements and/or imposing tariffs on foreign products. Changes in existing trade agreements, including the North American Free Trade Agreement ("NAFTA"), or the imposition of tariffs on our products could have a material adverse effect on our operations and financial results.

We manufacture a portion of our products which causes us to incur greater fixed costs. Any difficulties or disruptions in our manufacturing operations could adversely affect our sales and results of operations.

We produce a portion of our footwear products at our company-owned internal manufacturing facilities in Mexico and Italy. There are significant fixed costs associated with the ownership and operations of these facilities and, as a result, efficient production of a sufficient volume of products is necessary to enable recovery of these costs. In addition, the manufacture of our products from the Croslite material requires the use of a complex process and we may experience difficulty in producing footwear that meets our high quality control standards. We absorb the manufacturing and disposal costs of products that do not meet our quality standards. Further, significant excess capacity at any of our manufacturing facilities as a result of increased efficiencies in our supply chain process or continued volume declines, could result in under-utilization of our facilities, which could lead to excess fixed overhead costs per unit and reduced product margins. Any increases in our manufacturing costs, lack of operating efficiency or product quality could adversely impact our product margins. Furthermore, our manufacturing capabilities are subject to many of the same risks and challenges faced by our third-party manufacturers, including our ability to scale our production capabilities to meet the needs of our customers. Our manufacturing may also be disrupted for reasons beyond our control, including work stoppages, fires, earthquakes, floods or other natural disasters. Any disruption to our manufacturing operations will hinder our ability to deliver products to our customers in a timely manner and could have a material and adverse effect on our business and financial results.

Our third-party manufacturing operations must comply with labor, trade and other laws; failure to do so may adversely affect us.

We require our third-party manufacturers to meet our quality control standards and footwear industry standards for working conditions and other matters, including compliance with applicable labor, environmental, and other laws; however, we do not control our third-party manufacturers or their respective labor practices. A failure by any of our third-party manufacturers to adhere to quality standards or labor, environmental and other laws could cause us to incur additional costs for our products, generate negative publicity, damage our reputation and the value of our brand, and discourage customers from buying our products. We also require our third-party manufacturers to meet certain product safety standards. A failure by any of our third-party manufacturers to adhere to such product safety standards could lead to a product recall which could result in critical media coverage and harm our business, brand and reputation and cause us to incur additional costs.

In addition, if we or our third-party manufacturers violate U.S. or foreign trade laws or regulations, we may be subject to extra duties, significant monetary penalties, the seizure and the forfeiture of the products we are attempting to import, or the loss of our import privileges. Possible violations of U.S. or foreign laws or regulations could include inadequate record keeping of our imported products, misstatements or errors as to the origin, quota category, classification, marketing or valuation of our imported products, and fraudulent visas or labor violations. The effects of these factors could render our conduct of business in a particular country undesirable or impractical and have a negative impact on our operating results. We cannot predict whether additional U.S. or foreign customs quotas, duties, taxes other charges, or restrictions will be imposed upon the importation of foreign produced products in the future or what effect such actions could have on our business, or results.

Our senior revolving credit facility agreement (the "Credit Agreement") contains financial covenants that require us to maintain certain financial measures, ratios and includes restrictive covenants that limit our ability to take certain actions. A breach of restrictive covenants may cause us to be in default under the facility, and our lenders could foreclose on our assets.

Our Credit Agreement requires us to maintain certain financial covenants. A failure to maintain current revenue levels or an inability to control costs or capital expenditures could negatively impact our ability to meet these financial covenants. If we breach any of these restrictive covenants, the lenders could either refuse to lend funds to us or and accelerate the repayment of any outstanding borrowings under the Credit Agreement. In February 2016, we obtained a waiver to remedy noncompliance with certain coverage ratios in December 2015 and amended our Credit Agreement with more favorable terms. We may not have sufficient assets to repay such indebtedness upon a default or receive a waiver of the default from the lender. If we are unable to repay the indebtedness, the lender could initiate a bankruptcy proceeding or collection proceedings with respect to our assets, all of which secure our indebtedness under the Credit Agreement.

The Credit Agreement also contains certain restrictive covenants that limit and in some circumstances prohibit, our ability to, among other things incur additional debt, sell, lease or transfer our assets, pay dividends on our common stock, make capital expenditures and investments, guarantee debt or obligations, create liens, repurchase our common stock, enter into transactions with our affiliates and enter into certain merger, consolidation or other reorganizations transactions. These restrictions could limit our ability to obtain future financing, make acquisitions or needed capital expenditures, withstand the current or future downturns in our business or the economy in general, conduct operations or otherwise take advantage of business opportunities that may arise, any of which could place us at a competitive disadvantage relative to our competitors.

Our financial success may be limited to the strength of our relationships with our wholesale and distribution customers and the success of our wholesalers and distributors.

Our financial success is related to the willingness of our current and prospective wholesale and distributors customers to carry our products. We do not have long-term contracts and sales to our wholesalers and distributors are generally on an order-by-order basis and subject to cancellation and rescheduling. If we cannot fill orders in a timely manner, the sales of our products and our relationships may suffer. Alternatively, if our wholesalers or distributors experience diminished liquidity or other financial issues, we may experience a reduction in product orders, an increase in order cancellations and/or the need to extend payment terms which could lead to larger outstanding balances, delays in collections of accounts receivable, increased expenses associated with collection efforts, increases in bad debt expenses and reduced cash flows if our collection efforts are unsuccessful. For example, we recorded an increase in bad debts expense of approximately \$23.2 million in China in 2015, primarily as a result of delayed payments and payment defaults from certain distribution partners in China. Additional problems with our distribution customers, including continued payment delays in the Asia Pacific segment or other segments, may have a material adverse effect on our product sales, financial condition, results of operations and our ability to grow our product line.

We depend on a limited number of suppliers for key production materials, and any disruption in the supply of such materials could interrupt product manufacturing and increase product costs.

We depend on a limited number of sources for the primary materials used to make our footwear. We source the elastomer resins that constitute the primary raw materials used in compounding our Croslite products, which we use to produce our various footwear products, from multiple suppliers. If the suppliers we rely on for elastomer resins were to cease production of these materials, we may not be able to obtain suitable substitute materials in time to avoid interruption of our production schedules. We are also subject to market issues related to supply and demand for our raw materials. We may have to pay substantially higher prices in the future for the elastomer resins or any substitute materials we use, which would increase our production costs and could have an adverse impact on our product margins. If we are unable to obtain suitable elastomer resins or if we are unable to procure sufficient quantities of the Croslite material, we may not be able to meet our production requirements in a timely manner or may need to modify our product characteristics, which could result in less favorable market acceptance, lost potential sales, delays in shipments to customers, strained relationships with customers and diminished brand loyalty.

Failure to adequately protect our trademarks and other intellectual property rights and counterfeiting of our brands could divert sales, damage our brand image and adversely affect our business.

We utilize trademarks, trade names, copyrights, trade secrets, issued and pending patents and trade dress, and designs on nearly all of our products. We believe that having distinctive marks that are readily identifiable trademarks and intellectual property is important to our brand, our success and our competitive position. The laws of some countries, for example, China, do not protect intellectual property rights to the same extent as do U.S. laws. We frequently discover products that are counterfeit reproductions of our products or that otherwise infringe on our intellectual property rights. If we are unsuccessful in challenging another party's products on the basis of trademark or design or utility patent infringement, particularly in some foreign countries, or if we are required to change our name or use a different logo, or it is otherwise found that we infringe on others intellectual property rights, continued sales of such competing products by third parties could harm our brand or we may be forced to cease selling certain products, which could adversely impact our business, financial condition, revenues, and results of operations by resulting in the shift of consumer preference away from our products. If our brands are associated with inferior counterfeit reproductions, the integrity and reputation of our brands could be adversely affected. Furthermore, our efforts to enforce our intellectual property rights are typically met with defenses and counterclaims attacking the validity and enforceability of our intellectual property rights. We may face significant expenses and liability in connection with the protection of our intellectual property, and if we are unable to successfully protect our rights or resolve intellectual property conflicts with others, our business or financial condition could be adversely affected.

We also rely on trade secrets, confidential information, and other unpatented proprietary rights and information related to, among other things, the Croslite material and product development, particularly where we do not believe patent protection is appropriate or obtainable. Using third-party manufacturers and compounding facilities may increase the risk of misappropriation of our trade secrets, confidential information and other unpatented proprietary information. The agreements we use in an effort to protect our

intellectual property, confidential information, and other unpatented proprietary information may be ineffective or insufficient to prevent unauthorized use or disclosure of such trade secrets and information. A party to one of these agreements may breach the agreement and we may not have adequate remedies for such breach. As a result, our trade secrets, confidential information, and other unpatented proprietary rights and information may become known to others, including our competitors. Furthermore, our competitors or others may independently develop or discover such trade secrets and information, which would render them less valuable to us.

We have substantial cash requirements in the U.S. However, a majority of our cash is generated and held outside of the U.S. The risks of maintaining significant cash abroad could adversely affect our cash flows in the U.S. business and financial results.

We have substantial cash requirements in the U.S., but the majority of our cash is generated and held abroad. We generally consider unremitted earnings of subsidiaries operating outside the U.S. to be indefinitely reinvested and it is not our current intent to change this position. Cash held outside of the U.S. is primarily used for the ongoing operations of the business in the locations in which the cash is held. Most of the cash held outside of the U.S. could be repatriated to the U.S., but under current law, would be subject to U.S. federal and state income taxes, less applicable foreign tax credits. In some countries, repatriation of certain foreign balances is restricted by local laws and could have adverse tax consequences if we were to move the cash to another country. Certain countries, including China, may have monetary laws which may limit our ability to utilize cash resources in those countries for operations in other countries. These limitations may affect our ability to fully utilize our cash resources for needs in the U.S. or other countries and may adversely affect our liquidity. Since repatriation of such cash is subject to limitations and may be subject to significant taxation, we cannot be certain that we will be able to repatriate such cash on favorable terms or in a timely manner. If we incur operating losses on a continued basis and require cash that is held in international accounts for use in our U.S. operations, a failure to repatriate such cash in a timely and cost-effective manner could adversely affect our business and financial results. Further, U.S. legislative initiatives to reform U.S. tax law could have a material impact on our future tax rate and our repatriation plans.

We are subject to periodic litigation, which could result in unexpected expense of time and resources.

From time to time, we are called upon to defend ourselves against lawsuits relating to our business. Due to the inherent uncertainties of litigation, we cannot accurately predict the ultimate outcome of any such proceedings. We are currently involved in several, potentially adverse legal proceedings. For a detailed discussion of our current material legal proceedings, see Item 3. *Legal Proceedings* in Part I of this Form 10-K. An unfavorable outcome in any of these proceedings or any future legal proceedings could have an adverse impact on our business, and financial results. In addition, any significant litigation in the future, regardless of its merits, could divert management's attention from our operations and result in substantial legal fees. In the past, securities class action litigation has been brought against us. If our stock price is volatile, we may become involved in this type of litigation in the future. Any litigation could result in substantial costs and a diversion of management's attention and resources that are needed to successfully run our business.

We may fail to meet analyst expectations, which could cause the price of our stock to decline.

Our common stock is traded publicly and various securities analysts follow our financial results and frequently issue reports on us which include information about our historical financial results as well as their estimates of our future performance. These estimates are based on their own opinions and are often different from management's estimates or expectations of our business. If our operating results are below the estimates or expectations of public market analysts and investors, our stock price could decline.

Changes in tax laws and unanticipated tax liabilities and the results of tax audits or litigation could adversely affect our effective income tax rate and profitability.

We are subject to income taxes in the United States and numerous foreign jurisdictions. Our effective income tax rate in the future could be adversely affected by a number of factors, including changes in the mix of earnings in countries with differing statutory tax rates, changes in the valuation of deferred tax assets and liabilities, changes in tax laws, the outcome of income tax audits in various jurisdictions around the world and any repatriation of non-U.S. earnings for which we have not previously provided for U.S. taxes. We regularly assess all of these matters to determine the adequacy of our tax provision, which is subject to significant discretion and we could face significant adverse impact if our assumptions are incorrect and/or face significant cost to defend our practices from international and U.S. tax authorities. We are regularly subject to, and are currently undergoing, audits by tax authorities in the United States and foreign jurisdictions for prior tax years. Please refer to Item 3. *Legal Proceedings* in Part I of this Form 10-K as well as Note 15 — Commitments and Contingencies in the accompanying notes to the consolidated financial statements for additional details regarding current tax audits. Although we believe our tax estimates are reasonable and we intend to defend our positions through litigation if necessary, the final outcome of tax audits and related litigation is inherently uncertain and could be materially different than that reflected in our historical income tax provisions and accruals. Moreover, we could be

subject to assessments of substantial additional taxes and/or fines or penalties relating to ongoing or future audits. The unfavorable resolution of any audits or litigation could have an adverse effect on our financial position and results of operations. Future changes in domestic or international tax laws and regulations could also adversely affect our income tax liabilities. Recent developments, including the European Commission's investigations of local country tax authority rulings and whether those rulings comply with European Union rules on state aid, as well as the Organization for Economic Co-operation and Development's project on Base Erosion and Profit Shifting, may result in changes to long-standing tax principles. Any such changes could adversely affect our effective tax rate or result in higher cash tax liabilities.

Our financial results may be adversely affected if substantial investments in businesses and operations fail to produce expected returns.

From time to time, we may invest in business infrastructure, acquisitions of new businesses, and expansion of existing businesses, such as our retail operations, which require substantial cash investment and management attention. We believe cost effective investments are essential to business growth and profitability; however, significant investments are subject to risks and uncertainties inherent in acquiring or expanding a business. The failure of any significant investment to provide the returns or profitability we expect or the failure to integrate newly acquired businesses could have a material adverse effect on our financial results and divert management attention from more profitable business operations.

If our internal controls are ineffective, our operating results and market confidence in our reported financial information could be adversely affected.

Our internal control over financial reporting may not prevent or detect misstatements because of its inherent limitations, including the possibility of human error, the circumvention or overriding of controls or fraud. Even effective internal controls can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements. If we fail to maintain the adequacy of our internal controls or if we experience difficulties in their implementation, our business and operating results and market confidence in our reported financial information could be harmed, we could incur significant costs to evaluate and remediate weaknesses, and we could fail to meet our financial reporting obligations.

As of December 31, 2015, we identified material weaknesses in our internal control over financial reporting, which led us to conclude that our internal control over financial reporting as of such date was not effective. The material weaknesses identified were related to controls over the period end closing procedures and inventory monitoring, which we believe have been remediated as of December 31, 2016 as further explained in Item 9A. *Controls and Procedures* in Part II of this Form 10-K.

The existence of a material weakness precludes management from concluding that our internal control over financial reporting is effective and precludes our independent auditors from issuing an unqualified opinion that our internal controls are effective. In addition, a material weakness could cause investors to lose confidence in our financial reporting and may negatively affect the price of our common stock. We also can make no assurances that we will be able to remediate any future internal control deficiencies timely and in a cost effective manner. Moreover, effective internal controls are necessary to produce reliable financial reports and to prevent fraud. If we are unable to satisfactorily remediate future deficiencies or if we discover other deficiencies in our internal control over financial reporting, such deficiencies may lead to misstatements in our financial statements or otherwise negatively impact our business, financial results and reputation.

Natural disasters could negatively impact our operating results and financial condition.

Natural disasters such as earthquakes, hurricanes, tsunamis or other adverse weather and climate conditions, whether occurring in the U.S. or abroad, and the consequences and effects thereof, including damage to our supply chain, manufacturing or distribution centers, retail locations, energy shortages, and public health issues, could disrupt our operations or the operations of our vendors other suppliers, or customers, or result in economic instability that may negatively impact our operating results and financial condition. Additionally, certain catastrophes are not covered by our general insurance policies, which could result in significant unrecoverable losses.

Our restated certificate of incorporation, amended and restated bylaws and Delaware law contain provisions that could discourage a third party from acquiring us and consequently decrease the market value of an investment in our stock.

Our restated certificate of incorporation, amended and restated bylaws, and Delaware corporate law each contain provisions that could delay, defer, or prevent a change in control of us or changes in our management. These provisions could discourage proxy contests and make it more difficult for our stockholders to elect directors and take other corporate actions, which may prevent a change of control or changes in our management that a stockholder might consider favorable. In addition, Section 203 of the Delaware General Corporation Law may discourage, delay, or prevent a change in control of us. Any delay or prevention of a change of control or change in management that stockholders might otherwise consider to be favorable could cause the market price of our common stock to decline.

Risks Specific to Our Capital Stock

The issuance of 200,000 shares of our Series A Convertible Preferred Stock ("Series A") to Blackstone Capital Partners VI L.P. ("Blackstone") in 2014 and certain of its permitted transferees reduces the relative voting power of holders of our common stock, may dilute the ownership of such holders, and may adversely affect the market price of our common stock.

On January 27, 2014, we issued 200,000 shares of Series A Preferred Stock to Blackstone and certain of its permitted transferees (collectively, the "Blackstone Purchasers") pursuant to an Investment Agreement between us and Blackstone, dated December 28, 2013 (as amended, the "Investment Agreement"). The Blackstone Purchasers currently own all of the outstanding shares of Series A Preferred Stock, and based on the number of shares of our common stock outstanding as of December 31, 2016, the Blackstone Purchasers collectively own Series A Preferred Stock convertible into approximately 15.8% of our common stock. As holders of our Series A Preferred Stock are entitled to vote, on an as-converted basis, together with holders of our common stock as a single class on all matters submitted to a vote of our common stockholders, the issuance of the Series A Preferred Stock to the Blackstone Purchasers has effectively reduced the relative voting power of the holders of our common stock.

In addition, conversion of the Series A Preferred Stock to common stock will dilute the ownership interest of existing holders of our common stock, and any sales in the public market of the common stock issuable upon conversion of the Series A Preferred Stock could adversely affect prevailing market prices of our common stock. We have granted the Blackstone Purchasers registration rights in respect of the shares of Series A Preferred Stock and any shares of common stock issued upon conversion of the Series A Preferred Stock. These registration rights would facilitate the resale of such securities into the public market, and any such resale would increase the number of shares of our common stock available for public trading. Sales by the Blackstone Purchasers of a substantial number of shares of our common stock in the public market, or the perception that such sales might occur, could have a material adverse effect on the price of our common stock.

We are required to pay regular dividends on the Series A issued to Blackstone in 2014, which ranks senior to our common stock, and we may be required under certain circumstances to repurchase the outstanding shares of Series A Preferred Stock; such obligations could adversely affect our liquidity and financial condition.

The Series A Preferred Stock ranks senior to our common stock with respect to dividend rights, and holders of Series A Preferred Stock are entitled to quarterly cumulative cash dividends at a rate of 6% per annum of the stated value of \$1,000 per share. If we fail to make timely dividend payments, the dividend rate will increase to 8% per annum until such time as all accrued but unpaid dividends have been paid in full. In addition, the holders of our Series A Preferred Stock have certain redemption rights, including upon certain change in control events involving us, which, if exercised, could require us to repurchase all of the outstanding shares of Series A Preferred Stock at 100% or more of the stated value of the shares, plus all accrued but unpaid dividends. Our obligations to pay regular dividends to the holders of our Series A Preferred Stock or any required repurchase of the outstanding shares of Series A Preferred Stock could impact our liquidity and reduce the amount of cash flows available for working capital, capital expenditures, growth opportunities, acquisitions, and other general corporate purposes. Our obligations to the holders of Series A Preferred Stock could also limit our ability to obtain additional financing or increase our borrowing costs, which could have an adverse effect on our business and financial results.

Blackstone may exercise significant influence over us, including through its ability to elect up to two members of our Board of Directors.

As of December 31, 2016, the shares of Series A Preferred Stock owned by the Blackstone Purchasers represent approximately 15.8% of the voting rights of our common stock, on an as-converted basis, so the Blackstone Purchasers will have the ability to significantly influence the outcome of any matter submitted for the vote of our stockholders. In addition, the Certificate of Designations of the Series A Preferred Stock grants certain consent rights to the holders of Series A Preferred Stock in respect of certain actions by the Company, including the issuance of *pari passu* or senior equity securities of the Company, certain amendments to our certificate of incorporation or bylaws, any increase in the size of our Board of Directors (the "Board") above eight members, the payment of certain distributions to our stockholders, and the origination or refinancing of a certain level of indebtedness. The Blackstone Purchasers may have interests that diverge from, or even conflict with, those of our other stockholders. For example, Blackstone and its affiliates may have an interest in directly or indirectly pursuing acquisitions, divestitures, financings or other transactions that, in their judgment, could enhance their other equity investments, even though such transactions might involve risks to us. Blackstone and its affiliates are in the business of making or advising on investments in companies, including businesses that may directly or indirectly compete with certain portions of our business. They may also pursue acquisition opportunities that may be complementary to our business, and, as a result, those acquisition opportunities may not be available to us.

In addition, the Investment Agreement grants Blackstone certain rights to designate directors to serve on our Board. For so long as the Blackstone Purchasers (i) beneficially own at least 95% of the Series A Preferred Stock or the as-converted common stock purchased pursuant to the Investment Agreement or (ii) maintain beneficial ownership of at least 12.5% of our outstanding common stock (the "Two-Director Threshold"), Blackstone will have the right to designate for nomination two directors to our Board. For

so long as the Blackstone Purchasers beneficially own shares of Series A Preferred Stock or the as-converted common stock purchased pursuant to the Investment Agreement that represent less than the Two-Director Threshold but more than 25% of the number of shares of the as-converted common stock purchased pursuant to the Investment Agreement, Blackstone will have the right to designate for nomination one director to our Board. The directors designated by Blackstone are entitled to serve on Board committees, subject to applicable law and stock exchange rules.

ITEM 1B. Unresolved Staff Comments

None.

ITEM 2. Properties

Our principal executive and administrative offices are located at 7477 East Dry Creek Parkway, Niwot, Colorado 80503. We lease all of our domestic and international facilities. We currently enter into short-term and long-term leases for kiosk, manufacturing, office, retail, and warehouse space. The terms of our leases include fixed monthly rents and/or contingent rents based on percentage of revenues for certain of our retail locations, and expire at various dates through the year 2033. The general location, use and approximate size of our principal properties, and the reportable operating segment are given below.

<u>Location</u>	<u>Reportable Operating Segment</u>	<u>Use</u>	<u>Approximate Square Feet</u>	<u>Expiration ⁽¹⁾</u>
Ontario, California	Americas	Warehouse	339,000	Mar 2019
Shenzen, China	Asia Pacific	Warehouse/offices	266,000	Jun 2017
Rotterdam, the Netherlands	Europe	Warehouse	174,000	Dec 2021
Leon, Mexico	Americas, Other Businesses	Manufacturing/warehouse/offices	166,000	Mar 2019
Narita, Japan	Asia Pacific	Warehouse	156,000	Apr 2019
Niwot, Colorado	Americas	Corporate headquarters and regional offices	98,000	Jun 2021
Padova, Italy	Americas, Other Businesses	Manufacturing/warehouse/offices	45,000	Sep 2018
Hoofddorf, the Netherlands	Europe	Regional offices	31,000	May 2020
Singapore	Asia Pacific	Regional offices	17,000	Dec 2018
Westwood, Massachusetts	Americas	Global Commercial Center	16,000	Sep 2021
Tokyo, Japan	Asia Pacific	Regional offices	14,000	Oct 2018
Shanghai, China	Asia Pacific	Regional offices	13,000	Jul 2018
Bhiwandi, India	Asia Pacific	Warehouse	11,000	Oct 2017
Moscow, Russia ⁽²⁾	Europe	Warehouse/offices	11,000	Dec 2016

⁽¹⁾ Expiration of the initial or existing lease term, excluding optional renewals.

⁽²⁾ On month-to-month renewal after December 2016.

In addition to the principal properties listed above, we maintain sales offices in the United States, Canada, South America, Hong Kong, Australia, Korea, China, the United Arab Emirates, India and Europe. We also lease more than 550 retail, outlet and kiosk/store in store locations worldwide. See Item 1. *Business* of this Form 10-K for further discussion regarding global company-operated stores.

ITEM 3. Legal Proceedings

The Company is currently subject to an audit by U.S. Customs & Border Protection (“CBP”) in respect of the period from 2006 to 2010. In October 2013, CBP issued the final audit report. In that report CBP projects that unpaid duties totaling approximately \$12.4 million are due for the period under review and recommends collection of the duties due. The Company responded that these projections are erroneous and provided arguments that demonstrate the amount due in connection with this matter is considerably less than the projection. Additionally, on December 12, 2014, we made an offer to settle CBP’s potential claims and paid \$3.5 million. In 2016, after discussions with CBP’s local counsel, we increased our settlement offer to \$7.0 million and paid an additional \$3.5 million in the quarterly period ended December 31, 2016. The revised offer is subject to formal acceptance by the CBP. At this time, it is not possible to determine how long this process will take or to predict whether a negotiated settlement can be reached. Likewise, if a settlement cannot be reached, it is not possible to predict with any certainty whether CBP will seek to assert a claim for penalties in addition to any unpaid duties, but such an assertion is a possibility.

We are currently subject to an audit by the Brazilian Federal Tax Authorities related to imports of footwear from China between 2010 and 2014. On January 13, 2015, we were notified about the issuance of assessments totaling approximately \$4.5 million for the period January 2010 through May 2011. The Company has disputed these assessments and asserted defenses to the claims. On February 25, 2015, we received additional assessments totaling approximately \$10.2 million related to the remainder of the audit period. We have also disputed these assessments and asserted defenses and filed appeals to these claims. On May 11, 2016, we were notified of a decision rejecting the defense filed against the first assessment covering the period of January 2010 through May 2011. We filed an appeal against that decision on June 8, 2016. It is anticipated that this matter will take up to two or more years to be resolved. It is not possible at this time to predict the outcome of this matter.

For all other claims and other disputes, where we are able to estimate possible losses or a range of possible losses, we estimate that as of December 31, 2016, it is reasonably possible that losses associated with these claims and other disputes could potentially exceed amounts accrued by us by up to \$0.4 million.

In the aggregate, the Company has accrued \$7.4 million associated with our estimated obligations related to legal claims, which is reported in the consolidated balance sheet in 'Accrued expenses and other liabilities'.

Although the Company is subject to other litigation from time to time in the ordinary course of business, including employment, intellectual property and product liability claims, the Company is not party to any other pending legal proceedings that we believe would reasonably have a material adverse impact on our business and financial results.

ITEM 4. Mine Safety Disclosures

Not applicable.

PART II

ITEM 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market Information

Our common stock is listed on the NASDAQ Global Select Market and trades under the stock symbol "CROX". The following table shows the high and low sales prices of our common stock for the periods indicated.

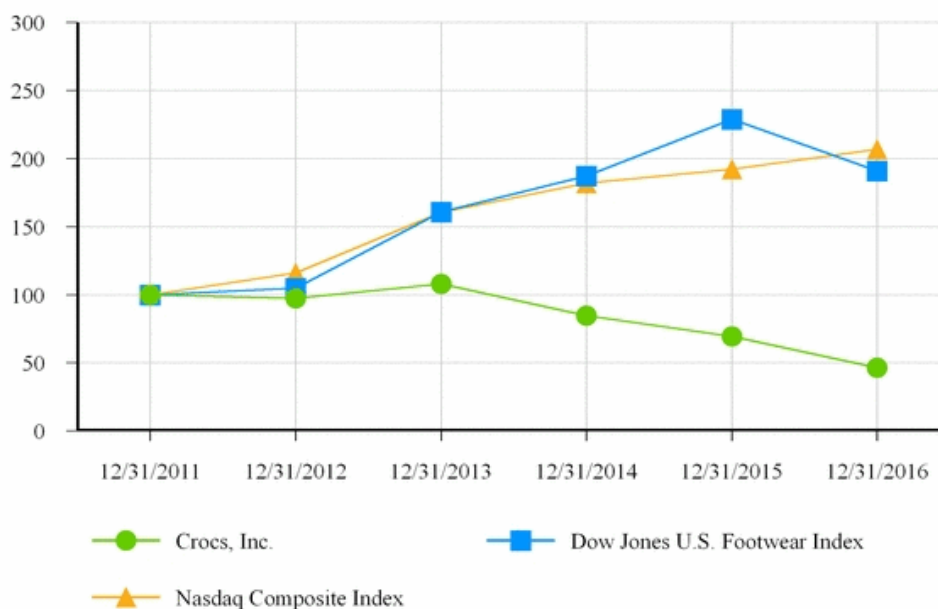
2016	High	Low
First quarter	\$ 10.16	\$ 8.09
Second quarter	11.50	7.63
Third quarter	12.54	8.02
Fourth quarter	8.99	6.70

2015	High	Low
First quarter	\$ 12.78	\$ 10.25
Second quarter	16.05	11.55
Third quarter	15.86	12.52
Fourth quarter	12.30	9.26

Performance Graph

The following performance graph illustrates a five-year comparison of cumulative total return of our common stock, the NASDAQ Composite Index and the Dow Jones U.S. Footwear Index from December 31, 2011 through December 31, 2016. The graph assumes an investment of \$100.00 on December 31, 2011 and assumes the reinvestment of all dividends and other distributions.

Comparison of Cumulative Total Return on Investment



	<u>12/31/2012</u>	<u>12/31/2013</u>	<u>12/31/2014</u>	<u>12/31/2015</u>	<u>12/31/2016</u>
Crocs, Inc.	\$ 97.43	\$ 107.79	\$ 84.56	\$ 69.33	\$ 46.45
Dow Jones U.S. Footwear Index	104.78	160.80	187.09	228.72	190.92
Nasdaq Composite Index	115.91	160.32	181.80	192.21	206.63

The Dow Jones U.S. Footwear Index is a sector index and includes companies in the major line of business in which we compete. This index does not encompass all of our competitors or all of our product categories and lines of business. The Dow Jones U.S. Footwear Index consists of Crocs, Inc., NIKE, Inc., Deckers Outdoor Corporation., Iconix Brand Group, Inc., Skechers U.S.A., Inc., Steven Madden Ltd. and Wolverine World Wide, Inc., among other companies. As Crocs, Inc. is part of the Dow Jones U.S. Footwear Index, the price and returns of our stock have an effect on this index. The Nasdaq Composite Index is a market capitalization-weighted index and consists of more than 3,000 common equities, including Crocs, Inc. The stock performance shown on the performance graph above is not necessarily indicative of future performance. We do not make or endorse any predictions as to future stock performance.

Holders

The approximate number of stockholders of record of our common stock was 84 as of February 22, 2017.

Dividends

We have never declared or paid cash dividends on our common stock, and we do not anticipate paying any cash dividends on our common stock in the foreseeable future. Our financing arrangements contain certain restrictions on our ability to pay cash dividends on our common stock. In addition, the Certificate of Designations governing the Series A Convertible Preferred Stock that we issued in January 2014 restricts us from declaring and paying certain dividends on our common stock if we fail to pay all accumulated and unpaid regular dividends and/or declared and unpaid participating dividends to which the preferred holders are entitled. Any future determination to declare cash dividends on our common stock will be made at the discretion of our Board, subject to compliance with covenants under any then-existing financing agreements and the terms of the Certificate of Designations.

Purchases of Equity Securities by the Issuer

On December 26, 2013, our Board approved the repurchase of up to \$350 million of our common stock, which was announced on December 30, 2013. We did not purchase any shares of our common stock during the twelve months ended December 31, 2016. As of December 31, 2016, authorization to repurchase up to approximately \$118.7 million of our shares remained available. The number, price, structure and timing of repurchases, if any, may be made at our sole discretion, subject to limitations in our Credit Agreement. We may transact repurchases on the open market or in privately negotiated transactions. The repurchase authorization does not expire and we have no obligation to repurchase any additional common shares. The Board may suspend, modify, or terminate the repurchase authorization at any time without prior notice.

ITEM 6. Selected Financial Data

The following table presents selected historical financial data for each of our last five years. The information in this table should be read in conjunction with our consolidated financial statements and accompanying notes presented in Item 8. *Financial Statements and Supplementary Data*, and Item 7. *Management's Discussion and Analysis of Financial Conditions and Results of Operations* in Part II of this Form 10-K.

	Year Ended December 31,				
	2016	2015	2014	2013	2012
	(in thousands, except per share data)				
Revenues	\$ 1,036,273	\$ 1,090,630	\$ 1,198,223	\$ 1,192,680	\$ 1,123,301
Cost of sales	536,109	579,825	603,893	569,482	515,324
Restructuring charges	—	—	3,985	—	—
Gross profit	500,164	510,805	590,345	623,198	607,977
Gross margin %	48.3%	46.8%	49.3%	52.3%	54.1%
Selling, general and administrative expenses	503,174	559,095	565,712	549,154	460,393
Selling, general and administrative expenses as a % of revenues	48.6%	51.3%	47.2%	46.0%	41.0%
Restructuring charges	—	8,728	20,532	—	—
Asset impairments ⁽¹⁾	3,144	15,306	8,827	10,949	1,410
Income (loss) from operations	(6,154)	(72,324)	(4,726)	63,095	146,174
Income (loss) before income taxes	(7,213)	(74,744)	(8,549)	59,959	145,548
Income tax (expense) benefit	(9,281)	(8,452)	3,623	(49,539)	(14,205)
Net income (loss)	(16,494)	(83,196)	(4,926)	10,420	131,343
Dividends on Series A convertible preferred stock	(12,000)	(11,833)	(11,301)	—	—
Dividend equivalents on Series A convertible preferred shares related to redemption value accretion and beneficial conversion feature	(3,244)	(2,978)	(2,735)	—	—
Net income (loss) attributable to common stockholders	\$ (31,738)	\$ (98,007)	\$ (18,962)	\$ 10,420	\$ 131,343
Net income (loss) per share					
Basic income (loss) per share	\$ (0.43)	\$ (1.30)	\$ (0.22)	\$ 0.12	\$ 1.46
Diluted income (loss) per share	\$ (0.43)	\$ (1.30)	\$ (0.22)	\$ 0.12	\$ 1.44
Weighted average common shares					
Basic shares	73,371	75,604	85,140	87,989	89,571
Diluted shares	73,371	75,604	85,140	89,089	90,588
Cash provided by (used in) operating activities	\$ 39,754	\$ 9,698	\$ (11,651)	\$ 83,464	\$ 128,356
Cash used in investing activities	18,657	(18,627)	(57,992)	(69,758)	(65,943)
Cash provided by (used in) financing activities ⁽²⁾	(16,443)	(101,260)	23,431	(1,161)	(16,625)

⁽¹⁾ Asset impairments consist primarily of long-lived assets of closed retail locations in all years, and \$0.4 million of goodwill in 2016.

⁽²⁾ Cash used in financing activities includes approximately \$85.9 million and \$145.9 million including commissions used to repurchase the Company's common shares during 2015 and 2014, respectively.

	As of December 31,				
	2016	2015	2014	2013	2012
	(in thousands)				
Cash and cash equivalents	\$ 147,565	\$ 143,341	\$ 267,512	\$ 317,144	\$ 294,348
Inventories	147,029	168,192	171,012	162,341	164,804
Working capital	276,335	278,852	441,523	453,149	455,177
Total assets	566,390	608,020	806,931	875,159	829,638
Long-term liabilities	17,966	19,294	27,849	63,487	54,300
Total stockholders' equity	220,383	245,972	452,518	624,744	617,400

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

Business Overview

Crocs, Inc. and its consolidated subsidiaries (collectively, the "Company," "Crocs," "we," "our," or "us") are engaged in the design, development, manufacturing, worldwide marketing, distribution and sale of casual lifestyle footwear and accessories for men, women, and children. The broad appeal of our footwear has allowed us to market our products through a wide range of distribution channels, our own Crocs single-branded stores including both full price and outlet stores, our own e-commerce sites, traditional multi-branded stores including family footwear stores, sporting goods stores and a variety of specialty and independent retail channels, and third-party e-commerce sites. In select markets we also sell to distributors that are typically granted the rights to distribute our products in a given geographical area.

Known or Anticipated Trends

Based on our recent operating results and current perspectives on our operating environment, we anticipate certain trends to impact our operating results:

- Softening of the global economy and a cautious retail environment may continue to negatively affect customer purchasing trends.
- Foreign exchange rates may continue to unfavorably impact revenues from our foreign operations for the foreseeable future.
- Consumers spending preferences continue to shift toward e-commerce and away from brick and mortar stores. This has resulted in continued sales growth in our e-commerce channel, which has been largely offset by declining foot traffic in our retail locations.

Use of Non-GAAP Financial Measures

In addition to financial measures presented on the basis of accounting principles generally accepted in the United States of America ("U.S. GAAP"), we present "non-GAAP selling, general, and administrative expenses", which is a non-GAAP financial measure, within this Management's Discussion and Analysis of Financial Condition and Results of Operation ("MD&A"). Adjusted results exclude the impact of items that management believes affect the comparability or underlying business trends in our consolidated financial statements in the periods presented.

We also present certain information related to our current period results of operations in this MD&A through "constant currency", which is a non-GAAP financial measure and should be viewed as a supplement to our results of operations and presentation of reportable operating segments under U.S. GAAP. Constant currency represents current period results that have been recast using prior year average foreign exchange rates for the comparative period to enhance the visibility of the underlying business trends excluding the impact of foreign currency exchange rate fluctuations.

Management uses adjusted results to assist in comparing business trends from period to period on a consistent non-GAAP basis in communications with the Board, stockholders, analysts, and investors concerning our financial performance. We believe that these non-GAAP measures are useful to investors and other users of our consolidated financial statements as an additional tool to evaluate operating performance. We believe they also provide a useful baseline for analyzing trends in our operations. Investors should not consider these non-GAAP measures in isolation from, or as a substitute for, financial information prepared in accordance with U.S. GAAP. Please refer to our 'Results of Operations' within this section for a reconciliation of adjusted selling, general and administrative expenses to U.S. GAAP selling, general and administrative expenses.

2016 Financial Highlights

During the year ended December 31, 2016, we experienced a decrease in our revenues of 5.0% compared to the year ended December 31, 2015. The decrease in 2016 revenues as compared to 2015 revenues was due to: (i) lower sales volumes, including store closures, which reduced revenues by \$46.3 million, or 4.2%; (ii) lower average selling prices which decreased revenues by \$4.7 million, or 0.5%; and (iii) unfavorable changes in exchange rates which reduced revenues by \$3.4 million or 0.3%.

The following are significant developments in our business during the year ended December 31, 2016:

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- We sold 56.1 million pairs of shoes worldwide, a decrease of 4.2% from 58.6 million compared to 2015.
- Gross profit decreased \$10.6 million, or 2.1%, to \$500.2 million. However, our gross profit percentage increased 150 basis points to 48.3% compared to 46.8% in 2015, in spite of unfavorable exchange rates which reduced our gross profit by \$2.2 million, or 1.5%.
- Selling, general and administrative ("SG&A") expenses decreased \$55.9 million, or 10.0%, to \$503.2 million compared to the same period in 2015. This change was primarily driven by decreased sales, building and bad debt expense.
- We incurred \$3.1 million in asset impairments during 2016, which included \$2.7 million related to certain underperforming retail locations in our Americas, Europe, and Asia Pacific segments, and \$0.4 million of goodwill in a retail business within our Europe segment.
- Net loss attributable to common stockholders decreased \$66.3 million to a net loss of \$31.7 million compared to a net loss of \$98.0 million for 2015. Net loss per share was \$0.43 during the year ended December 31, 2016 compared to net loss per share of \$1.30 during the year ended December 31, 2015. The decrease in our net loss is primarily the result of decreased asset impairment charges, restructuring charges and SG&A expenses.
- We continued to focus on improving the efficiency and effectiveness of our operations, including continuing to shift the mix of our retail business from full-price retail to outlet stores. During the year ended December 31, 2016, we opened 50 outlet stores and closed 66 full-price stores. In total, during the year ended December 31, 2016 we opened 83 stores and closed 84 stores.
- We continued to focus on simplifying our product line and disciplined inventory management and reduced our inventory by \$21.2 million or 12.6% from \$168.2 million to \$147.0 million.
- During 2016, we did not repurchase any shares.

Future Outlook

We intend to continue our strategic plans for long-term improvement and growth of the business, which comprise these key initiatives:

- (1) developing **powerful product stories** supported with effective marketing,
- (2) driving global **cohesive brand positioning**,
- (3) increasing **working marketing spend**,
- (4) enhancing engagement with **key wholesale accounts**,
- (5) gaining greater strategic and **economic leverage** from our direct-to-consumer assets,
- (6) prioritizing investment in **larger-scale geographies**,
- (7) streamlining the **cost structure** by reducing duplication & complexity across regional offices & the corporate center, and
- (8) investing to drive **supply chain effectiveness and reliability**.

We believe these changes will better position Crocs to adapt to changing consumer demands and global economic developments. We are focusing on our core molded footwear heritage by narrowing our product line with an emphasis on higher margin units, as well as developing innovative new casual lifestyle footwear platforms. By streamlining the product portfolio and reducing non-core product development, we believe we will create a more powerful consumer connection to the brand.

We are refining our business model around the world, prioritizing direct investment in larger-scale geographies to focus our resources on the markets with the largest growth prospects, moving away from direct investment in the retail and wholesale businesses in smaller markets and transferring significant commercial responsibilities to distributors and third party agents. Further, we intend to expand our engagement with leading wholesale accounts in select markets to drive sales growth, optimize product placement and enhance brand reputation.

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Additionally, we addressed the declining collection rates we experienced in 2015 from our China operations by limiting or terminating our relationship with distributors who we have identified as being a significant credit risk. In 2015, we recorded bad debts expense of \$23.2 million associated with our China operations. As of December 31, 2016, we have terminated our relationship with multiple distributors in China and we expanded our relationship with existing business partners who are in a stronger financial position and who have a proven track record. We have also implemented a more restrictive credit policy for several China distributors to reduce our exposure in that market. For the year ended December 31, 2016, our bad debt expense related to our China operations was lower by \$22.1 million compared to the year ended December 31, 2015. We are unable to predict future economic conditions in China, but if economic conditions in China continue to decline, we may experience further declines in consumer demand in our China markets. As our China operations represents 7% of our total revenues, the net impact of declining sales volumes in China could have a material adverse impact on our financial results in future periods.

Results of Operations

Comparison of the Years Ended December 31, 2016 to 2015

	Year Ended December 31,		Change	
	2016	2015	\$	%
(in thousands, except per share data and average selling price)				
Revenues	\$ 1,036,273	\$ 1,090,630	\$ (54,357)	(5.0)%
Cost of sales	536,109	579,825	(43,716)	(7.5)%
Gross profit	500,164	510,805	(10,641)	(2.1)%
Selling, general and administrative expenses	503,174	559,095	(55,921)	(10.0)%
Restructuring charges	—	8,728	(8,728)	(100.0)%
Asset impairments	3,144	15,306	(12,162)	(79.5)%
Loss from operations	(6,154)	(72,324)	66,170	(91.5)%
Foreign currency loss, net	(2,454)	(3,332)	878	(26.4)%
Interest income	692	967	(275)	(28.4)%
Interest expense	(836)	(969)	133	(13.7)%
Other income, net	1,539	914	625	68.4%
Income (loss) before income taxes	(7,213)	(74,744)	67,531	(90.3)%
Income tax expense	(9,281)	(8,452)	(829)	9.8%
Net loss	\$ (16,494)	\$ (83,196)	\$ 66,702	(80.2)%
Dividends on Series A convertible preferred stock	(12,000)	(11,833)	(167)	1.4%
Dividend equivalents on Series A convertible preferred shares related to redemption value accretion and beneficial conversion feature	(3,244)	(2,978)	\$ (266)	8.9%
Net loss attributable to common stockholders	\$ (31,738)	\$ (98,007)	\$ 66,269	(67.6)%
Net loss per common share:				
Basic	\$ (0.43)	\$ (1.30)	\$ 0.87	(66.9)%
Diluted	\$ (0.43)	\$ (1.30)	\$ 0.87	(66.9)%
Gross profit	48.3%	46.8%	143 bps	3.1%
Operating loss	(0.6)%	(6.6)%	600 bps	6.1%
Footwear unit sales	56,097	57,763	(1,666)	(3.7)%
Average footwear selling price	\$ 18.21	\$ 18.53	\$ (0.32)	(1.7)%

Revenues. During the year ended December 31, 2016, revenue decreased 5.0% compared to the same period in 2015. The decrease in revenue is due to the net impact of (i) a \$46.3 million, or 4.2%, decrease associated with lower sales volumes, (ii) a \$4.7 million or 0.5% decrease associated with lower average selling prices per pair, and (iii) a \$3.4 million or 0.3% decrease associated with unfavorable changes in foreign currency rates.

During the year ended December 31, 2016, revenues from our wholesale channel decreased \$45.0 million, or 7.6%, compared to the same period in 2015. The decrease in wholesale channel revenue is driven primarily by a \$23.4 million decrease in our Asia Pacific segment due to lower average selling prices related to a lower priced product mix, the unfavorable impact of foreign currency translation, and store closures.

During the year ended December 31, 2016, revenues from our retail channel decreased \$18.9 million, or 5.0%, compared to the same period in 2015, primarily driven by the Asia Pacific segment, which decreased \$11.3 million primarily as a result of a lower average selling prices related to a lower priced product mix and the unfavorable impact of foreign currency translation.

During the year ended December 31, 2016, revenues from our e-commerce channel increased \$9.5 million, or 7.9%, compared to the same period in 2015, primarily driven by increased sales volumes in all segments, partially offset by the unfavorable impact of foreign currency translation and lower average selling prices, also in all segments. Our e-commerce sales totaled approximately 12.6% and 11.1% of our consolidated net sales during the year ended December 31, 2016 and 2015, respectively. We continue to

benefit from our online presence through e-commerce sites worldwide enabling us to have increased access to our consumers in a low cost, attractive manner and providing us with an opportunity to educate them about our products and brand.

Cost of sales. During the year ended December 31, 2016, cost of sales decreased \$43.7 million, or 7.5%, compared to the same period in 2015. The decrease in cost of sales was primarily due to the net impact of: (i) a \$24.6 million, or 4.2% decrease, due to lower sales volumes, (ii) an \$18.6 million, or 3.2%, decrease due to a lower average cost per unit sold, and (iii) a \$0.5 million, or 0.1%, decrease due to the impact of foreign currency translation. The impact of sales volumes on cost of sales was reduced by approximately \$1.6 million as a result of the sale of our South Africa operations, which was completed on April 15, 2016.

Gross profit. During the year ended December 31, 2016, gross profit decreased \$10.6 million, or 2.1%, and gross margin increased 143 basis points to 48.3% compared to the same period in 2015. The decrease in gross profit is primarily due to the net impact of: (i) a \$21.6 million, or 4.2%, decrease due to lower sales volumes, (ii) a \$14.0 million, or 2.7%, increase due to the combined impact of a lower average cost of sales per unit partially offset by a lower average selling price, and (iii) a \$3.0 million, or 0.6%, decrease due to the unfavorable impact of foreign currency translation. Gross profit declined by approximately \$1.0 million as a result of the sale of our South Africa operations, which was completed on April 15, 2016.

SG&A. SG&A decreased \$55.9 million, or 10.0%, during the year ended December 31, 2016 compared to the same period in 2015. This change was primarily driven by (i) bad debt expense decrease of \$22.8 million, (ii) an \$8.7 million decrease in rent expenses associated with contingent rents and closed retail stores partially offset by (iii) \$4.3 million increase in outside services expense. During the year ended December 31, 2016, our bad debt expense was \$3.2 million compared to \$26.0 million in the same period in the prior year. Substantially all of this decrease in bad debt expense is due to stricter credit collection policies from our China operations, which is included in our Asia Pacific segment.

During the year ended December 31, 2016 and 2015, our bad debt expense was \$3.2 million and \$26.0 million, respectively. Of the \$3.2 million expense recorded during the year ended December 31, 2016, immaterial amounts related to our China operations. The decrease in bad debt expense associated with our China operations is primarily due to the implementation of a more restrictive credit policy for several China distributors in 2016, to reduce our exposure in that market.

In addition to these fluctuations, we have identified certain SG&A expenses that affect the comparability or underlying business trends in our consolidated financial statements. The following table summarizes these expenses and describes the additional drivers of the decrease above by reconciling our U.S. GAAP SG&A to non-GAAP SG&A.

	Year Ended December 31,	
	2016	2015
	(in thousands)	
Selling general and administrative expenses reconciliation:		
U.S. GAAP SG&A expenses	\$ 503,174	\$ 559,095
Reorganization charges ⁽¹⁾	(458)	(8,391)
Customs audit settlements ⁽²⁾	(354)	—
ERP implementation and other contract termination fees ⁽³⁾	(1,361)	(12,569)
Improper disbursements and related legal fees ⁽⁴⁾	—	(7,895)
Bad debt expense related to South Africa ⁽⁵⁾	—	(613)
Total adjustments	<u>(2,173)</u>	<u>(29,468)</u>
Non-GAAP Selling, general and administrative expenses	<u>\$ 501,001</u>	<u>\$ 529,627</u>

⁽¹⁾ Relates to severance expenses, bonuses, store closure costs, consulting fees, and other expenses related to restructuring and reorganization activities and our investment agreement with Blackstone.

⁽²⁾ Amount paid in partial settlement of a customs audit.

⁽³⁾ Represents operating expenses incurred in 2015 related to the implementation of our enterprise resource planning system ("ERP") and the termination of certain information technology, royalty and other contracts. Expense in 2016 relates to early lease termination costs.

⁽⁴⁾ Represents legal expenses related to invalid disbursements that occurred in 2015 and California wage settlements.

⁽⁵⁾ Represents certain bad debt and impairment expenses in 2015 related to the sales of operations in South Africa.

Restructuring charges. During 2015, we incurred \$8.7 million of restructuring charges related to the 2014 plan to create efficiencies and close global retail locations. The Company concluded its restructuring efforts on December 31, 2015.

Asset impairment charges. During the years ended December 31, 2016 and 2015, we incurred \$2.7 million and \$15.3 million, respectively, in retail asset impairment charges related to certain underperforming retail locations, primarily in our Americas segment, that were unlikely to generate sufficient cash flows to fully recover the carrying value of the stores' assets over their remaining economic life. In addition, we incurred \$0.4 million in goodwill impairment charges.

Foreign currency loss, net. 'Foreign currency loss, net' consists of foreign currency gains and losses from the re-measurement and settlement of monetary assets and liabilities denominated in non-functional currencies and foreign currency derivative instruments. During the year December 31, 2016, we recognized a net loss of \$2.5 million compared to a net loss of \$3.3 million on foreign currency transactions during the year ended December 31, 2015.

Income tax expense. During the year ended December 31, 2016, we recognized income tax expense of \$9.3 million on pre-tax book loss of \$7.2 million, representing an effective tax rate of (128.7)%, compared to income tax expense of \$8.5 million on pre-tax book loss of \$74.7 million in 2015, which represented an effective tax rate of (11.3)%. Generally, our effective tax rate has varied dramatically during 2016 and in recent years due to differences in our profitability level and relative operating earnings across multiple jurisdictions, and is most notably impacted by the significant amount of operating losses that cannot be benefitted for tax purposes.

The following are some of our key jurisdictions and the income tax expense for each in 2016 and 2015, respectively:

For the Year Ended December 31, 2016								
	United States	Netherlands	Japan	Canada	China	Korea	Other	Total
	(in thousands)							
Book income (loss)	\$ (55,617)	\$ 39,184	\$ (5,229)	\$ 740	\$ 821	\$ 2,529	\$ 10,359	\$ (7,213)
Income tax expense (benefit)	437	4,711	—	361	(473)	511	3,734	9,281
Effective tax rate	(0.8)%	12.0%	—%	48.8%	(57.6)%	20.2%	36.0%	(128.7)%
For the Year Ended December 31, 2015								
	United States	Netherlands	Japan	Canada	China	Korea	Other	Total
	(in thousands)							
Book income (loss)	\$ (83,537)	\$ 25,988	\$ (69)	\$ (850)	\$ (21,572)	\$ 4,141	\$ 1,155	\$ (74,744)
Income tax expense (benefit)	(3,345)	4,262	2,345	(391)	4,433	1,081	67	8,452
Effective tax rate	4.0%	16.4%	(3,398.6)%	46.0%	(20.5)%	26.1%	5.8%	(11.3)%

The differences in total tax expense and effective rate variances in the table above resulted primarily from the following factors. We incurred significant changes in many of the key jurisdictions in book income/loss (U.S. losses of \$55.6 million in 2016 versus \$83.5 million in 2015, Netherlands income of \$39.2 million in 2016 versus \$26.0 million in 2015, Japanese losses of \$5.2 million in 2016 versus \$0.1 million in 2015, Chinese income of \$0.8 million in 2016 versus losses of \$21.6 million in 2015). Additionally, differences in the Netherlands income tax rate relates to consistent withholding tax expense year over year, compared with increased operating income in that jurisdiction during the same period. In 2016, the Company recorded a taxable loss position in Japan with no corresponding tax benefit realized as a result of a valuation allowance. In 2015, the total tax provision in Japan was impacted by the settlement of uncertain tax positions which resulted in a benefit of approximately \$3.6 million which was more than offset by the accrual of expense for an increased valuation allowance of \$4.8 million. While there are effective tax rate differences in China related to differences in operating losses, we also incurred additional tax expense in 2015 of approximately \$9.5 million due to increased valuation allowances established during 2015 which are unlikely to recur.

The tax effect of non-deductible/non-taxable items changed from a \$2.2 million tax benefit in 2015, which is a favorable rate impact of 2.9%, to a \$2.7 million tax expense in 2016, which is an unfavorable rate impact of 37.4%. The expense recognized in 2016 primarily relates to non-deductible executive and foreign share-based compensation. We anticipate that these expenses will recur in the foreseeable future.

The change in the 'Effect of rate differences' line of the rate reconciliation table in Note 13 — Income Taxes is principally driven by differences in pre-tax book income between the periods compared, and the source of this income, which is subject to different jurisdictional tax rates. During 2016, the effect of rate differences resulted in a \$12.6 million tax benefit compared to a \$3.7 million tax benefit in 2015. The primary reason for this incremental benefit results from increased foreign book earnings included in consolidated results. During 2016, foreign book income before taxes was \$48.4 million as compared with \$8.8 million in 2015, all of which is subject to tax at rates lower than the U.S. statutory rate. Further, we employ a tax planning strategy that directly impacts the total tax expense directly attributable to the level of foreign earnings in the specific jurisdictions. However, we note that the impact on the effective tax rate is different due to higher book earnings recorded in 2016 compared to 2015. The relative impact of this has existed in the recent past; however, there is no assurance that this circumstance will be recurring beyond 2019. Through at least 2019, we will continue to have an equivalent favorable impact on the tax provision and effective tax rate based on the specific foreign earnings. We currently do not anticipate significant near-term changes to our overall tax strategies, meaning that relative income tax benefits provided from the expected U.S. federal tax rate are anticipated to recur in the foreseeable future. The amount of this tax benefit, if any, is subject to continued profitability in various foreign jurisdictions.

The impact of the 'U.S. tax on foreign earnings' line of the rate reconciliation table includes the impact of foreign inclusions and the tax expense accrued on undistributed foreign earnings net of the related foreign tax credits. During 2016, inclusions for these items resulted in \$23.1 million of tax expense, reflecting an unfavorable impact of 320.6 % on the total provision. During 2015, inclusions for these items resulted in \$82.3 million of tax expense, reflecting an unfavorable impact of 110.0 % on the total provision. Foreign inclusions are primarily related to business results and cash repatriations during a specific period as well as the accrual on foreign earnings. During 2016, we provided for U.S. income taxes on an additional \$50 million of current year undistributed foreign earnings, for a combined total of \$178 million of undistributed foreign earnings for which U.S. tax has been accrued, representing a total deferred tax liability of approximately \$32.4 million. We further note that actual cash repatriations decreased from approximately \$127.3 million in 2015 to approximately \$37 million in 2016 (and note that no withholding tax is due with respect to the repatriation of these earnings to the U.S. and none has been provided for). Furthermore during 2015, there was a \$24.6 million tax charge recognized for the accrual of unremitted foreign earnings as compared to a \$7.9 million tax charge in 2016 for unremitted foreign earnings. As of 2016, we anticipate continued repatriation of foreign earnings to the extent of the \$178 million currently accrued. We will also continue to assess various cash needs in the U.S. and abroad, which could result in the prospective accrual and repatriation of some or all future current year earnings on an annual basis.

We continue to evaluate the realizability of our deferred tax assets. As such, additional valuation allowances of \$34.3 million were recorded on deferred tax assets are not anticipated to be realized. This is in addition to the \$56.6 million accrued on deferred tax assets during 2015. Furthermore, the change in the valuation allowance reflected on the cumulative schedule of deferred tax assets includes \$18.3 million, which does not impact the tax provision because this amount reflects the cumulative impact of unrecorded tax attributes related to the adoption in 2016 of new US GAAP guidance related to income tax effect of share-based compensation and changes in cumulative translation adjustment. The specific circumstances regarding management's assertion of the realizability of certain deferred tax assets is discussed as part of the disclosures in Note 13 — Income Taxes. We maintain total valuation allowances of approximately \$90.9 million as of December 31, 2016, which may be reduced in the future depending upon the achieved or sustained profitability of certain entities.

During both 2015 and 2016, we recorded tax expense for audits settled during the year of \$1.2 million and \$0.3 million, respectively. The amount included in settlements during 2016 is net against total uncertain tax position releases during the same period relating to the same positions. Furthermore, the uncertain tax benefits line item in 2016 includes net accruals related to current year positions recorded, and is consistent with amounts accrued during prior years. We have released a significant portion of historical uncertain tax benefits based on effective and actual settlements. As such, there is not currently an expectation that uncertain tax positions will significantly impact our tax expense on an ongoing basis.

We incur state income tax losses during the period due to net operating losses recorded in the U.S., as well as applicable state modifications related to the taxability of foreign dividends. The tax provision benefit of these losses are offset by a valuation allowance. We are subject to certain minimal state income taxes.

Revenues by Channel

	Year Ended December 31,		Change		Constant Currency Change ⁽¹⁾	
	2016	2015	\$	%	\$	%
(in thousands)						
Wholesale:						
Americas	\$ 202,211	\$ 210,887	\$ (8,676)	(4.1)%	\$ (5,555)	(2.6)%
Asia Pacific	232,541	255,897	(23,356)	(9.1)%	(26,408)	(10.3)%
Europe	110,511	123,131	(12,620)	(10.2)%	(11,441)	(9.3)%
Other businesses	745	1,096	(351)	(32.0)%	(352)	(32.1)%
Total wholesale	546,008	591,011	(45,003)	(7.6)%	(43,756)	(7.3)%
Retail:						
Americas	191,855	197,306	(5,451)	(2.8)%	(5,168)	(2.6)%
Asia Pacific	125,037	136,320	(11,283)	(8.3)%	(12,077)	(8.9)%
Europe	42,712	44,873	(2,161)	(4.8)%	(189)	(0.4)%
Total retail	359,604	378,499	(18,895)	(5.0)%	(17,434)	(4.6)%
E-commerce:						
Americas	72,940	68,017	4,923	7.2 %	5,088	7.5 %
Asia Pacific	37,500	32,274	5,226	16.2 %	5,741	17.8 %
Europe	20,221	20,829	(608)	(2.9)%	(578)	(2.8)%
Total e-commerce	130,661	121,120	9,541	7.9 %	10,251	8.5 %
Total revenues	\$ 1,036,273	\$ 1,090,630	\$ (54,357)	(5.0)%	\$ (50,939)	(4.7)%

(1) Reflects year over year change as if the current period results were in “constant currency,” which is a non-GAAP financial measure. See “Use of Non-GAAP Financial Measures” above for more information.

Wholesale channel revenues. During the year ended December 31, 2016, revenues from our wholesale channel decreased \$45.0 million, or 7.6%, compared to the same period in 2015. The decrease in wholesale channel revenues was due to the net impact of: (i) a \$42.0 million, or 7.1%, decrease in sales volumes, (ii) a \$3.6 million, or 1.0%, decrease due to a lower average selling price, and (iii) a \$1.5 million, or 0.4%, decrease due to the unfavorable impact of foreign currency translation. Sales volumes for the year ended December 31, 2016 were negatively impacted by approximately \$8.4 million as a result of the sale of our South Africa operations, which was completed on April 15, 2016.

Retail channel revenues. During the year ended December 31, 2016, revenues from our retail channel decreased \$18.9 million, or 5.0%, compared to the same period in 2015. The decrease in retail channel revenues was due to the net impact of: (i) a \$13.8 million, or 3.7%, decrease in sales volumes, (ii) a \$3.6 million, or 1.0%, decrease due to a lower average selling price, and (iii) a \$1.5 million, or 0.4%, decrease due to the unfavorable impact of foreign currency translation.

E-commerce channel revenues. During the year ended December 31, 2016, revenues from our e-commerce channel increased \$9.5 million, or 7.9%, compared to the same period in 2015. The increase in e-commerce revenues was due to the net impact of: (i) a \$30.2 million, or 24.9%, increase in sales volumes (primarily due to increased sales volumes in the Americas and Asia Pacific segments), (ii) a \$20.0 million, or 16.4%, decrease due to a lower average selling price, and (iii) a \$0.7 million, or 0.6%, decrease due to the unfavorable impact of foreign currency translation.

Future change in the average selling price per unit will be impacted by: (i) the mix of products sold, (ii) the sales channel (as we generally realize higher sales prices from our retail and e-commerce channels as compared to our wholesale channel), and (iii) the level of sales discounts and incentives we offer our customers.

Reportable Operating Segments

The following table sets forth information related to our reportable operating business segments for the years ended December 31, 2016 and 2015:

	Year Ended December 31,		Change		Constant Currency Change ⁽³⁾	
	2016	2015	\$	%	\$	%
(in thousands, except % data)						
Revenues:						
Americas	\$ 467,006	\$ 476,210	\$ (9,204)	(1.9)%	\$ (3,569)	(0.7)%
Asia Pacific	395,078	424,491	(29,413)	(6.9)	3,331	0.8
Europe	173,444	188,833	(15,389)	(8.1)	(3,181)	(1.7)
Total segment revenues	1,035,528	1,089,534	(54,006)	(5.0)	(3,419)	(0.3)
Other businesses	745	1,096	(351)	(32.0)	1	0.1
Total consolidated revenues	\$ 1,036,273	\$ 1,090,630	\$ (54,357)	(5.0)%	\$ (3,418)	(0.3)%
Operating income:						
Americas	\$ 58,844	\$ 49,422	\$ 9,422	19.1 %	\$ (1,372)	(2.8)
Asia Pacific	78,907	48,447	30,460	62.9	1,378	2.8
Europe	17,757	15,629	2,128	13.6	(249)	(1.6)
Total segment operating income	155,508	113,498	42,010	37.0	(243)	(0.2)
Reconciliation of total segment operating income to income before income taxes:						
Other businesses	(26,935)	(30,092)	3,157	(10.5)	3,006	(10.0)
Unallocated corporate and other ⁽¹⁾	(134,727)	(155,730)	21,003	(13.5)	23,341	(15.0)
Total consolidated operating income (loss)	\$ (6,154)	\$ (72,324)	\$ 66,170	(91.5)	\$ 26,104	(36.1)
Foreign currency transaction gain (loss), net	(2,454)	(3,332)	878	(26.4)		
Interest income	692	967	(275)	(28.4)		
Interest expense	(836)	(969)	133	(13.7)		
Other income (expense), net	1,539	914	625	68.4		
Income (loss) before income taxes	\$ (7,213)	\$ (74,744)	\$ 67,531	(90.3)%		

⁽¹⁾ Revenues for the year ended December 31, 2016 were negatively impacted by approximately \$8.4 million as a result of the sale of our South Africa operations, which was completed on April 15, 2016.

Americas Operating Segment

Revenues. During the year ended December 31, 2016, revenues for our Americas segment decreased \$9.2 million, or 1.9%, compared to the same period in 2015. The decrease in the Americas segment revenues was due to the net impact of: (i) a \$13.6 million, or 2.9%, decrease related to lower sales volumes, (ii) an \$8.0 million, or 1.7%, increase related to an increase in the average sales price, and (iii) a \$3.6 million, or 0.7%, decrease due to the unfavorable impact of foreign currency translation.

Future changes in the average sales price per unit in any of our operating segments will be impacted by: (i) the mix of products sold, (ii) the sales channel (as we generally realize higher sales prices from our retail and e-commerce channels as compared to our wholesale channel), and (iii) the level of sales discounts and incentives we offer our customers.

Cost of Sales. During the year ended December 31, 2016, cost of sales for our Americas segment decreased \$10.2 million, or 4.0%, compared to the same period in 2015. The decrease in the Americas segment cost of sales was due to the net impact of: (i) a \$7.2 million, or 2.9%, decrease due to lower sales volumes, (ii) a \$1.3 million, or 0.5%, decrease due to lower average costs per unit sold, and (iii) a \$1.6 million, or 0.6%, decrease due to the impact of foreign currency translation.

Gross Profit. During the year ended December 31, 2016, gross profit for the Americas segment increased \$1.0 million, or 0.4%, and gross margin increased 115 basis points to 48.3% compared to the same period in 2015. The increase in the Americas segment gross profit is due to the net impact of: (i) an \$6.4 million, or 2.9%, decrease due to lower sales volumes, (ii) an \$9.3 million, or 4.2%, increase due to the combined impact of a higher average sales price and a lower average cost of sales per unit, and (iii) a \$2.0 million, or 0.9%, decrease due to the impact of foreign currency translation.

SG&A. During the year ended December 31, 2016, SG&A for our Americas segment decreased \$1.7 million, or 1.0%, compared to the same period in 2015.

Asia Pacific Operating Segment

Revenues. During the year ended December 31, 2016, revenues for our Asia Pacific segment decreased \$29.4 million, or 6.9%, compared to the same period in 2015. The decrease in the Asia Pacific segment revenues was due to the net impact of: (i) a \$2.4 million, or 0.6%, decrease due to lower sales volumes, (ii) a \$30.3 million, or 7.1%, decrease in the average sales price and (iii) a \$3.3 million, or 0.8%, increase due to the favorable impact of foreign currency translation. Sales volumes for the year ended December 31, 2016 were negatively impacted by approximately \$8.4 million as a result of the sale of our South Africa operations, which was completed on April 15, 2016.

Cost of Sales. During the year ended December 31, 2016, cost of sales for our Asia Pacific segment decreased \$20.9 million, or 10.8%, compared to the same period in 2015. The decrease in the Asia Pacific segment cost of sales was due to the net impact of: (i) a \$1.1 million, or 0.6%, decrease due to lower sales volumes, (ii) a \$21.6 million, or 11.2%, decrease due to lower average costs per unit sold, and (iii) a \$1.5 million, or 1.5%, increase due to the impact of foreign currency translation. The impact of sales volumes on cost of sales includes approximately \$8.5 million as a result of the sale of our South Africa operations, which was completed on April 15, 2016.

Gross Profit. During the year ended December 31, 2016, gross profit for the Asia Pacific segment decreased \$8.5 million, or 3.7%, and gross margin increase 190 basis points to 56.3% compared to the same period in 2015. The decrease in the Asia Pacific segment gross profit is due to the net impact of: (i) a \$1.3 million, or 0.6%, decrease due to lower sales volumes, (ii) a \$8.8 million, or 3.7%, decrease due to a lower average sales prices in excess of a lower average cost per unit, and (iii) a \$1.5 million, or 0.6%, increase due to the impact of foreign currency translation. Gross profit declined by approximately \$0.1 million as a result of the sale of our South Africa operations, which was completed on April 15, 2016.

SG&A. During the year ended December 31, 2016, SG&A for our Asia Pacific segment decreased \$29.6 million, or 17.2%, compared to the same period in 2015. The decrease in SG&A was primarily due to the net impact of: (i) a \$25.4 million decrease associated with bad debt expense, (ii) a \$5.5 million increase associated with services, (iii) a \$6.3 million decrease in sales expense, (iv) a \$5.0 million decrease in rent expense, and (v) other items that are individually insignificant.

Europe Operating Segment

Revenues. During the year ended December 31, 2016, revenues for our Europe segment decreased \$15.4 million, or 8.1%, compared to the same period in 2015. The decrease in the Europe segment revenues was due to the net impact of: (i) a \$22.8 million, or 12.1%, decrease due to lower sales volumes, (ii) a \$10.6 million, or 5.7%, increase due to a higher average sales price, and (iii) a \$3.2 million, or 1.7%, decrease due to the impact of foreign currency translation.

Cost of Sales. During the year ended December 31, 2016, cost of sales for our Europe segment decreased \$11.2 million, or 11.3%, compared to the same period in 2015. The decrease in the Europe segment cost of sales was mainly due to the net impact of: (i) a \$12.0 million, or 12.1%, decrease due to lower sales volumes, (ii) a \$2.3 million or 2.3%, increase due to higher average cost per unit sold and (iii) a \$1.5 million, or 1.5%, decrease due to the impact of foreign currency translation.

Gross Profit. During the year ended December 31, 2016, gross profit for the Europe segment decreased \$4.2 million, or 4.7%, and gross margin increased 180 basis points to 48.9% compared to the same period in 2015. The decrease in the Europe segment gross profit is due to the net impact of: (i) a \$10.8 million, or 12.1%, decrease due to lower sales volumes, (ii) a \$8.3 million, or 9.3%, increase due to a higher average sales price in excess of higher costs per unit, and (iii) a \$1.7 million, or 1.9%, decrease due to the impact of foreign currency translation.

SG&A. During the year ended December 31, 2016, SG&A for our Europe segment decreased \$2.6 million, or 3.8%, compared to the same period in 2015. The decrease in SG&A was primarily due to the net impact of: (i) a \$2.0 increase in bad debt expense, (ii) a \$0.9 million decrease in rent expense, and (iv) other items that are individually insignificant.

The changes in the number of our company-operated retail locations by reportable operating segment and type of store were:

	December 31, 2015	Opened	Closed	December 31, 2016
Company-operated retail locations				
Type				
Kiosk/store in store	98	14	14	98
Retail stores	275	19	66	228
Outlet stores	186	50	4	232
Total	559	83	84	558
Operating segment				
Americas	196	7	13	190
Asia Pacific	261	67	58	270
Europe	102	9	13	98
Total	559	83	84	558

Comparable retail store sales and Direct to Consumer store sales by reportable operating segment are as follows:

	Constant Currency ⁽²⁾	
	Year Ended December 31, 2016	Year Ended December 31, 2015
Comparable store sales (retail only) ⁽¹⁾		
Americas	(2.3)%	(3.2)%
Asia Pacific	(5.9)%	(4.5)%
Europe	1.9 %	3.0 %
Global	(3.0)%	(2.8)%

	Constant Currency ⁽²⁾	
	Year Ended December 31, 2016	Year Ended December 31, 2015
DTC comparable store sales (includes retail and e-commerce) ⁽¹⁾		
Americas	0.3 %	3.3%
Asia Pacific	(0.4)%	3.0%
Europe	0.2 %	7.8%
Global	0.1 %	3.9%

(1) Comparable store status is determined on a monthly basis. Comparable store sales includes revenues of stores that have been in operation for more than twelve months. Stores in which selling square footage has changed more than 15% as a result of a remodel, expansion or reduction are excluded until the thirteenth month in which they have comparable prior year revenues. Temporarily closed stores are excluded from the comparable store sales calculation during the month of closure. Location closures in excess of three months are excluded until the thirteenth month post re-opening. E-commerce revenues are based on same site sales period over period.

(2) Reflects quarter over quarter change on a “constant currency” basis, which is a non-GAAP financial measure that restates current period results using prior year foreign exchange rates for the comparative period to enhance visibility of the underlying business trends, excluding the impact of foreign currency.

Comparable store sales (retail only) decreased 3.0% on a global basis for the year ended December 31, 2016, compared to a decrease of 2.8% for the year ended December 31, 2015. Direct to Consumer (DTC) comparable store sales, which includes retail and e-commerce, increased 0.1% on a global basis for the year ended December 31, 2016, compared to an increase of 3.9% for the year ended December 31, 2015.

Impact on revenues due to foreign exchange rate fluctuations. Changes in average foreign currency exchange rates used to translate revenue from our functional currencies to our reporting currency during the year ended December 31, 2016 resulted in a \$3.4 million decrease in revenue compared to the same period in 2015.

Gross profit. During the year ended December 31, 2016, gross profit decreased \$10.6 million, or 2.1%, compared to the same period in 2015. The decrease in gross profit was primarily attributable to the 5.0% decrease in revenue partially offset by the gross margin increase of 150 basis points compared to the same period in 2015 due to a lower selling price.

Impact on gross profit due to foreign exchange rate fluctuations. Changes in average foreign currency exchange rates used to translate revenue and costs of sales from our functional currencies to our reporting currency during the year ended December 31, 2016 decreased our gross profit by \$2.1 million, or 0.4%, compared to the same period in 2015.

Comparison of the Years Ended December 31, 2015 to 2014

	Year Ended December 31,		Change	
	2015	2014	\$	%
(in thousands, except per share data and average selling price)				
Revenues	\$ 1,090,630	\$ 1,198,223	\$ (107,593)	(9.0)%
Cost of sales	579,825	603,893	(24,068)	(4.0)
Restructuring charges	—	3,985	(3,985)	(100.0)
Gross profit	510,805	590,345	(79,540)	(13.5)
Selling, general and administrative expenses	559,095	565,712	(6,617)	(1.2)
Restructuring charges	8,728	20,532	(11,804)	(57.5)
Asset impairments	15,306	8,827	6,479	73.4
Loss from operations	(72,324)	(4,726)	(67,598)	1,430.3
Foreign currency loss, net	(3,332)	(4,885)	1,553	(31.8)
Interest income	967	1,664	(697)	(41.9)
Interest expense	(969)	(806)	(163)	20.2
Other income, net	914	204	710	348.0
Loss before income taxes	(74,744)	(8,549)	(66,195)	774.3
Income tax (expense) benefit	(8,452)	3,623	(12,075)	(333.3)
Net loss	\$ (83,196)	\$ (4,926)	\$ (78,270)	1,588.9 %
Dividends on Series A convertible preferred stock	(11,833)	(11,301)	(532)	4.7
Dividend equivalents on Series A convertible preferred shares related to redemption value accretion and beneficial conversion feature	(2,978)	(2,735)	(243)	8.9
Net loss attributable to common stockholders	\$ (98,007)	\$ (18,962)	\$ (79,045)	416.9 %
Net income (loss) per common share:				
Basic	\$ (1.30)	\$ (0.22)	\$ (1.08)	490.9 %
Diluted	\$ (1.30)	\$ (0.22)	\$ (1.08)	490.9 %
Gross margin	46.8 %	49.3 %	(250)	(5.1)%
Operating margin	(6.6)%	(0.4)%	(620)	1,550.0 %
Footwear unit sales	57,763	55,700	2,063	3.7 %
Average footwear selling price	\$ 18.53	\$ 20.92	\$ (2.39)	(11.4)%

Revenues. During the year ended December 31, 2015, revenues declined \$107.6 million, or 9.0%, compared to the same period in 2014. The decrease in revenues is due to the net impact of (i) a \$85.3 million, or 7.1%, decrease associated with foreign currency exchange rate adjustments associated with a strong U.S. Dollar, (ii) a \$37.8 million, or 3.1%, increase associated with higher sales volumes, and (iii) a \$34.4 million, or 2.9%, decrease associated with store closures, partially offset by (iv) a \$25.7 million, or 2.1%, decrease associated with a lower average selling price due to changes in product mix.

During the year ended December 31, 2015, revenues from our wholesale channel decreased \$76.6 million, or 11.5%, compared to the same period in 2014. The decrease in wholesale channel revenue is driven primarily by a \$52.1 million unfavorable impact related to foreign currency translation, primarily in our Europe segment, a \$30.5 million unfavorable impact due to lower average sales prices related to a lower priced product style mix, primarily in our Americas segment, partially offset by higher sales volume in our Americas and Europe segments.

During the year ended December 31, 2015, revenues from our retail channel decreased \$47.3 million, or 11.1%, compared to the same period in 2014, primarily driven by the Asia Pacific segment, which decreased \$23.1 million primarily as a result of a lower average selling price related to a lower priced product mix, the unfavorable impact of foreign currency translation, and store closures. Additionally we experienced a \$15.4 million decrease in the Europe segment largely associated with the impact of store closures.

During the year ended December 31, 2015, revenues from our e-commerce channel increased \$16.3 million, or 15.6%, compared to the same period in 2014, primarily driven by increased sales volumes in all segments, partially offset by the unfavorable impact

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of foreign currency translation and lower average sales prices, also in all segments. Our e-commerce sales totaled approximately 11.1% and 8.7% of our consolidated net sales during the year ended December 31, 2015 and 2014, respectively. We continue to benefit from our online presence through web stores worldwide enabling us to have increased access to our customers in a low cost, attractive manner and providing us with an opportunity to educate them about our products and brand.

Cost of sales. Cost of sales, including restructuring charges, decreased \$28.1 million, or 4.8%, for the year ended December 31, 2015, as compared to the prior year. The net decrease in cost of sales is due to: (i) a \$44.4 million, or 7.4%, decrease due to the impact of foreign currency translation, (ii) a \$24.0 million, or 3.9%, increase due to a higher average costs, (iii) a \$22.8 million, or 3.8%, decrease associated with store closures, (iv) a \$19.1 million, or 3.2%, increase due to higher sales volumes, and (v) a \$4.0 million, or 0.7%, decrease associated with lower restructuring charges in cost of sales (these restructuring efforts were completed as of December 31, 2015).

Gross Profit. Gross profit decreased \$79.5 million, or 13.5%, for the year ended December 31, 2015, as compared to the prior year. The net decrease in gross profit is primarily due to the impact of: (i) a \$49.7 million, or 8.4%, decrease associated with lower average selling price and higher costs of sales, (ii) a \$40.9 million, or 6.9%, decrease associated with the unfavorable impact of foreign currency translation, (iii) a \$18.7 million, or 3.2%, increase associated with higher sales volumes (iv) an \$11.6 million, or 2.0%, decrease associated with store closures, and (v) a \$4.0 million, or 0.6%, increase associated with lower restructuring charges in cost of sales (these restructuring efforts were completed as of December 31, 2015). For the year ended December 31, 2015 we realized a gross profit margin of 46.8%.

SG&A. SG&A expenses decreased \$6.6 million, or 1.2%, during the year ended December 31, 2015 compared to the same period in 2014. This change was primarily driven by wage and salary decreases of \$22.1 million, and a \$17.0 million decrease in building expenses partially offset by a \$13.6 million increase in marketing expenses, and a \$13.6 million increase in bad debt expense, largely associated with our Asia Pacific operations relating to China. During the year ended December 31, 2015, our bad debt expense was \$25.7 million compared to \$12.1 million in the same period in the prior year. Substantially all of this increase in bad debt expense is due to lower collections from our China operations, which is included in our Asia Pacific segment.

We believe declining collections from our China operations is associated with deteriorating macro-economic conditions in China resulting in declining customer demand and the deteriorating working capital position of our distributors. We are unable to predict future economic conditions in China, but if economic conditions in China continue to decline, we may experience further reductions in consumer demand in our China markets. As our China operations represent approximately 8% of our total revenue in 2015, the net impact of declining sales volumes in China could have a material adverse impact on our financial results in future periods.

In addition to these fluctuations, we have identified certain selling, general and administrative expenses that affect the comparability or underlying business trends in our consolidated financial statements. The following table summarizes these expenses and describes the additional drivers of the increase above by reconciling our GAAP selling, general and administrative expenses to non-GAAP selling, general and administrative expenses:

	Year Ended December 31,	
	2015	2014
(in thousands)		
Selling, general and administrative expenses reconciliation:		
GAAP selling, general and administrative expenses	\$ 559,095	\$ 565,712
ERP implementation and other contract termination fees ⁽¹⁾	(12,569)	(13,268)
Reorganization charges ⁽²⁾	(8,391)	(8,872)
Legal settlements and disbursement ⁽³⁾	(7,895)	(2,646)
Bad debt expense related to South Africa ⁽⁴⁾	(613)	—
Non-GAAP selling, general and administrative expenses	<u>\$ 529,627</u>	<u>\$ 540,926</u>

(1) This represents operating expenses related to the implementation of our new enterprise resource planning ("ERP") system and the termination of certain IT contracts for better alignment with strategic initiatives as well as fees associated with the termination of certain royalty and other contracts.

(2) This relates to severance expenses, bonuses, store closure costs, consulting fees and other expenses related to recent restructuring and reorganization activities and our investment agreement with Blackstone.

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- (3) Expenses in 2015 relate primarily to legal expenses for matters surrounding disbursements to invalid vendors and California wage settlements. Expenses in 2014 relate primarily to other legal settlements.
- (4) Bad debt and impairment expenses were incurred in 2015 relating to the planned sale of operations in South Africa.

Impact on Selling, General, and Administrative Expenses due to Foreign Exchange Rate Fluctuations. Changes in average foreign currency exchange rates used to translate expenses from our functional currencies to our reporting currency during the year ended December 31, 2015, negatively impacted, or increased, selling, general and administrative expenses by approximately \$35.6 million compared to 2014.

Restructuring charges. During the years ended December 31, 2015 and 2014, we recorded \$8.7 million and \$24.5 million, respectively, in restructuring charges. These restructuring charges arose primarily as a result of our strategic plans for long-term improvement and growth of the business. Restructuring charges for the years ended December 31, 2015 and 2014 consisted of:

- \$5.5 million and \$12.5 million in severance costs during the years ended December 31, 2015 and 2014, respectively;
- \$2.6 million and \$4.2 million in contract termination costs primarily related to the early termination of operating leases during the years ended December 31, 2015 and 2014, respectively; and
- \$0.6 million and \$7.8 million in other restructuring charges primarily related to expenses to exiting stores and legal fees during the years ended December 31, 2015 and included the write-off of obsolete inventory and store exiting and legal fees for the year ended December 31, 2014.

Asset impairments. During the year ended December 31, 2015 and 2014, we incurred \$15.3 million and \$8.8 million, respectively, in asset impairment charges. For the year ended December 31, 2015, \$9.6 million of this amount related to certain underperforming retail locations, primarily in our Americas and Europe segments, which were unlikely to generate sufficient cash flows to fully recover the carrying value of the stores' assets over their remaining economic life and \$5.7 million related to the impairment of our South Africa asset group that is currently held for sale.

Foreign currency loss, net. Foreign currency loss, net is comprised of foreign currency gains and losses from the re-measurement and settlement of monetary assets and liabilities denominated in non-functional currencies and the impact of certain foreign currency derivative instruments. During the year ended December 31, 2015 and 2014, the effect of foreign currency transactions was a net loss of \$3.3 million and \$4.9 million, respectively.

Income Taxes: The following are some of our key jurisdictions and the income tax expense for each in 2015,

	For the Year Ended December 31, 2015							
	United States	Netherlands	Japan	Canada ⁽¹⁾	China	Korea	Other	Total
	(in thousands)							
Book income (loss)	\$ (83,537)	\$ 25,988	\$ (69)	\$ (850)	\$ (21,572)	\$ 4,141	\$ 1,155	\$ (74,744)
Income tax expense (benefit)	(3,345)	4,262	2,345	(391)	4,433	1,081	67	8,452
Effective tax rate	4.0%	16.4%	(3,398.6)%	46.0%	(20.5)%	26.1%	5.8%	(11.3)%

- (1) Primarily driven by a \$2.9 million net benefit related to a tax settlement with the Canada Revenue Agency. The principal drivers impacting the rate other than the overall profitability or loss of the Company disclosed in our rate reconciliation table in Note 13 — Income Taxes includes:

The differences in total tax expense and effective rate difference in the table above resulted primarily from the following factors. In the U.S. and Japan, the Company incurred significant changes in book income/loss (U.S. losses of \$84 million in 2015 versus \$34 million in 2014, and Japanese losses of \$69 thousand in 2015 versus income of \$9.6 million in 2014). In addition, in the U.S. in 2014, the Company received a net benefit of \$10.7 million related the settlement of a tax audit and the release of related uncertain tax positions. While the operating losses in the U.S. can differ in future years based upon the Company's performance and risk factors for the business, the benefits associated with the audit settlement and release of uncertain tax positions are not likely to recur in the future. Tax expense in Canada was also impacted materially by the net impact of \$9.8 million related to the settlement of a tax audit and release of related uncertain tax positions, which is not likely to recur in the future. While there are effective rate differences in China related to differences in operating losses, the Company also incurred additional tax expense of approximately

\$9.5 million due to increased valuation allowances established during 2015. The increase in valuation allowances or potential release of such allowances will depend upon the increase in future taxable income of the Company's China operations. The total tax expense, and associated effective tax rate, for Japan was also impacted in 2015 by the settlement of uncertain tax positions which resulted in a benefit of approximately \$3.6 million which is not likely to recur in the future, and the accrual of expense for an increased valuation allowance of \$4.8 million due to the ongoing operating losses in that jurisdiction. Lastly, the difference in the Netherlands effective tax rate relates to consistent withholding tax expense year over year, compared with decreased operating income in that jurisdiction in 2015.

Revenues by Channel

The following table summarizes our total revenue by channel for the years ended December 31, 2015 and 2014:

	Years Ended December 31,		Change		Constant Currency Change ⁽¹⁾	
	2015	2014	\$	%	\$	%
(in thousands)						
Wholesale:						
Americas	\$ 210,887	\$ 228,615	\$ (17,728)	(7.8)%	\$ (10,241)	(4.5)%
Asia Pacific	255,897	290,610	(34,713)	(11.9)	(16,194)	(5.6)
Europe	123,131	147,561	(24,430)	(16.6)	1,886	1.3
Other businesses	1,096	794	302	38.0	194	24.4
Total wholesale	591,011	667,580	(76,569)	(11.5)	(24,355)	(3.6)
Retail:						
Americas	197,306	206,053	(8,747)	(4.2)	(6,652)	(3.2)
Asia Pacific	136,320	159,464	(23,144)	(14.5)	(11,552)	(7.2)
Europe	44,873	60,309	(15,436)	(25.6)	(3,012)	(5.0)
Total retail	378,499	425,826	(47,327)	(11.1)	(21,216)	(5.0)
E-commerce:						
Americas	68,017	55,247	12,770	23.1	13,434	24.3
Asia Pacific	32,274	23,836	8,438	35.4	10,256	43.0
Europe	20,829	25,734	(4,905)	(19.1)	(380)	(1.5)
Total e-commerce	121,120	104,817	16,303	15.6	23,310	22.2
Total revenues	\$ 1,090,630	\$ 1,198,223	\$ (107,593)	(9.0)%	\$ (22,261)	(1.9)%

(1) Reflects year over year change as if the current period results were in "constant currency," which is a non-GAAP financial measure. See "Use of Non-GAAP Financial Measures" above for more information.

Wholesale channel revenues. During the year ended December 31, 2015, revenues from our wholesale channel decreased \$76.6 million, or 11.5%, compared to the same period in 2014. The decrease in wholesale channel revenues was due to the net impact of: (i) an \$8.7 million, or 1.3%, increase in sales volumes, (ii) a \$33.0 million, or 5.0%, decrease due to a lower average sales price, and (iii) a \$52.2 million, or 7.8%, decrease due to the unfavorable impact of foreign currency translation.

Retail channel revenues. During the year ended December 31, 2015, revenues from our retail channel decreased \$47.3 million, or 11.1%, compared to the same period in 2014. The decrease in retail channel revenues was due to the net impact of: (i) a \$7.0 million, or 1.6%, decrease in sales volumes, (ii) a \$14.2 million, or 3.4%, decrease due to a lower average sales price, and (iii) a \$26.1 million, or 6.1%, decrease due to the favorable impact of foreign currency translation.

E-commerce channel revenues. During the year ended December 31, 2015, revenues from our e-commerce channel increased \$16.3 million, or 15.6%, compared to the same period in 2014. The increase in e-commerce revenues was due to the net impact of: (i) a \$47.4 million, or 45.2%, increase in sales volumes (primarily due to increased sales volumes in the Americas and Asia Pacific segments), (ii) a \$24.1 million, or 22.9%, decrease due to a lower average sales price, and (iii) a \$7.0 million, or 6.7%, decrease associated with the unfavorable impact of foreign currency translation.

Reportable Operating Segments

The following table sets forth information related to our reportable operating business segments for the years ended December 31, 2015 and 2014:

	Year Ended December 31,		Change		Constant Currency Change ⁽³⁾	
	2015	2014	\$	%	\$	%
(in thousands, except % data)						
Revenues:						
Americas	\$ 476,210	\$ 489,915	\$ (13,705)	(2.8)%	\$ (3,459)	(0.7)%
Asia Pacific	424,491	473,910	(49,419)	(10.4)	(17,490)	(3.7)
Europe	188,833	233,604	(44,771)	(19.2)	(1,506)	(0.6)
Total segment revenues	1,089,534	1,197,429	(107,895)	(9.0)	(22,455)	(1.9)
Other businesses	1,096	794	302	38.0	194	24.4
Total consolidated revenues	\$ 1,090,630	\$ 1,198,223	\$ (107,593)	(9.0)%	\$ (22,261)	(1.9)%
Operating income:						
Americas	\$ 49,422	\$ 48,347	\$ 1,075	2.2 %	\$ 1,251	2.6 %
Asia Pacific	48,447	75,135	(26,688)	(35.5)	(20,730)	(27.6)
Europe	15,629	24,517	(8,888)	(36.3)	(2,507)	(10.2)
Total segment operating income	113,498	147,999	(34,501)	(23.3)	(21,986)	(14.9)
Reconciliation of total segment operating income to income before income taxes:						
Other businesses ⁽¹⁾	(30,092)	(19,400)	(10,692)	55.1	(13,410)	69.1
Intersegment eliminations	—	(1,498)	1,498	(100.0)	—	—
Unallocated corporate and other ⁽²⁾	(155,730)	(131,827)	(23,903)	18.1	(36,917)	28.0
Total consolidated operating income (loss)	\$ (72,324)	\$ (4,726)	\$ (67,598)	1,430.3	\$ (72,313)	1,530.1 %
Foreign currency loss, net	(3,332)	(4,885)	1,553	(31.8)		
Interest income	967	1,664	(697)	(41.9)		
Interest expense	(969)	(806)	(163)	20.2		
Other income (expense), net	914	204	710	348.0		
Income (loss) before income taxes	\$ (74,744)	\$ (8,549)	\$ (66,195)	774.3 %		

(1) During the year ended December 31, 2015, operating losses of Other businesses increased \$10.7 million compared to 2014, primarily due to a \$12.0 million decrease in gross margin.

(2) Includes a corporate component consisting primarily of corporate support and administrative functions, costs associated with share-based compensation, research and development, brand marketing, legal, depreciation on corporate and other assets not allocated to operating segments and other corporate costs. For the year ended December 31, 2015, 'Unallocated corporate and other' operating losses increased \$23.9 million compared to the same period in 2014, primarily due to an increase in administrative expenses.

(3) Reflects year over year change as if the current period results were in "constant currency," which is a non-GAAP financial measure. See "Use of Non-GAAP Financial Measures" above for more information.

Americas Operating Segment

Revenues. During the year ended December 31, 2015, revenues for our Americas segment decreased \$13.7 million, or 2.8%, compared to the same period in 2014. The decrease in the Americas segment revenues was due to the net impact of: (i) a \$17.8 million, or 3.6%, increase related to higher sales volumes, (ii) a \$21.3 million, or 4.3%, decrease related to a lower average sales price, and (iii) a \$10.2 million, or 2.1%, decrease due to the unfavorable impact of foreign currency translation.

Future changes in the average sales price per unit in any of our operating segments will be impacted by: (i) the mix of products sold, (ii) the sales channel (as we generally realize higher sales prices from our retail and e-commerce channels as compared to our wholesale channel), and (iii) the level of sales discounts and incentives we offer our customers.

Cost of Sales (including restructuring charge). During the year ended December 31, 2015, cost of sales for our Americas segment decreased \$4.0 million, or 1.6%, compared to the same period in 2014. The net decrease in cost of sales was due to: (i) a \$9.2 million, or 3.6%, increase due to higher sales volumes, (ii) a \$6.2 million, or 2.4%, decrease due to lower average costs per unit sold, (iii) a \$5.8 million, or 2.3%, decrease due to the impact of foreign currency translation, and (iv) a \$1.2 million, or 0.4%, decrease associated with lower restructuring charges recorded in cost of sales (these restructuring efforts were completed as of December 31, 2015).

Gross Profit. The combined impact of the decrease in the Americas segment revenues and cost of sales resulted in a \$9.7 million, or 4.2%, decrease in gross profit during the year ended December 31, 2015 compared to the same period in 2014. The net decrease in the Americas segment gross profit was due to: (i) a \$15.1 million, or 6.4%, decrease due to the combined impact of a lower average sale price partially offset by a lower average cost per unit sold, (ii) an \$8.6 million, or 3.7%, increase due to higher sales volumes, (iii) a \$4.4 million, or 1.9%, decrease due to the impact of foreign currency translation, and (iv) a \$1.2 million, or 0.4%, increase due to lower restructuring costs recorded in cost of sales.

SG&A. During the year ended December 31, 2015, SG&A for the Americas segment decreased \$12.3 million, or 6.9%, compared to the same period in 2014. This net decrease is primarily due to: (i) a \$7.3 million, or 4.1%, decrease in compensation expense, (ii) a \$4.2 million, or 2.3%, decrease in rent expense, (iii) a \$1.2 million, or 0.7%, decrease in contract labor, and (iv) and other items that are individually insignificant.

Restructuring Charges. Restructuring charges for the Americas segment decreased \$1.7 million as compared to the prior year as the majority of our restructure efforts were completed in 2014.

Asset Impairment Charges. Asset impairment charges for the Americas segment increased \$3.2 million for the year ended December 31, 2015 as compared to the same period in 2014. This increase is largely due to the impairment of certain retail locations that experienced declining sales volumes.

Income from Operations. The \$1.1 million, or 2.2%, increase in income from operations for the Americas segment is due to the net impact of: (i) a \$9.7 million decrease in gross profit, as discussed above, (ii) a \$12.3 million decrease in SG&A, as discussed above, (iii) a \$1.7 million decrease in restructure charges, as discussed above, and (iv) a \$3.2 million increase in asset impairment charges, as discussed above.

Asia Pacific Operating Segment

Revenues. During the year ended December 31, 2015, revenues for our Asia Pacific segment decreased \$49.4 million, or 10.4%, compared to the same period in 2014. The decrease in the Asia Pacific segment revenues was due to the net impact of: (i) an \$11.0 million, or 2.3%, increase due to higher sales volumes, (ii) a \$28.5 million, or 6.0%, decrease in the average sales price and (iii) a \$31.9 million, or 6.7%, decrease due to the unfavorable impact of foreign currency translation.

Cost of Sales. During the year ended December 31, 2015, cost of sales for our Asia Pacific segment decreased \$21.7 million, or 8.9%, compared to the same period in 2014. The decrease in the Asia Pacific segment cost of sales was due to the net impact of: (i) a \$4.9 million, or 2.3%, increase due to higher sales volumes, (ii) a \$9.6 million, or 4.5%, decrease due to lower average costs per unit sold, (iii) a \$14.2 million, or 6.7%, decrease due to the impact of foreign currency translation, and (iv) a \$2.8 million, or 1.3%, decrease associated with lower restructuring charges recorded in cost of sales (these restructuring efforts were completed as of December 31, 2015).

Gross Profit. During the year ended December 31, 2015, gross profit for the Asia Pacific segment decreased \$27.7 million, or 10.7%, and gross margin decreased 18 basis points compared to the same period in 2014 to 54.4%. The decrease in the Asia Pacific

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segment gross profit is due to the net impact of: (i) a \$6.1 million, or 2.4%, increase due to higher sales volumes, (ii) a \$16.1 million, or 6.3%, decrease due to a lower average sales prices in excess of a lower average cost per unit, and (iii) a \$17.7 million, or 6.8%, decrease due to the impact of foreign currency translation.

SG&A. During the year ended December 31, 2015, SG&A for our Asia Pacific segment decreased \$3.6 million, or 2.0%, compared to the same period in 2014. The decrease in SG&A was primarily due to the net impact of: (i) a \$10.0 million decrease associated with salaries and wages, (ii) a \$14.3 million increase associated with bad debt expense.

Restructuring Charges. Restructuring charges for the Asia Pacific segment were \$3.5 million for the year ended December 31, 2015 compared to \$3.5 million in the same period of 2014.

Asset Impairment Charges. Asset impairment charges for the Asia Pacific segment were \$6.5 million for the year ended December 31, 2015, compared to \$2.8 million in the same period of 2014, primarily due the impairments associated with the sale of the South Africa operations.

Our Asia Pacific operating segment continues to perform poorly primarily due to adverse macro-economic conditions and overall weakness in China's economy. The macro-economic environment in China has deteriorated over the past several quarters which has decreased revenue from our China operations by 53.0%, for the year ended December 31, 2015 as compared to the same period in 2014. We have also experienced significant declines in collection rates from our China operations due to the adverse macro-economic environment and the deteriorating working capital position of our distributors. The impact of these declines became apparent in September 2015, when multiple China distributors defaulted on their payment obligations. As a result, we have reassessed the collectability of our accounts receivable balances, for our China operations, and we concluded a significant increase in reserves is required. Accordingly, we have increased our China allowance for doubtful accounts by an additional \$23.2 million, resulting in total allowances for our China operations of \$30.3 million as of December 31, 2015. Our net accounts receivable balance for our China operations as of December 31, 2015 is \$5.1 million.

If the economic conditions in China continue to decline, we may experience further reductions in consumer demand in our China markets which could result in additional declines. As our China operations represent approximately 8% of our total revenue, declining sales volumes in China could have a material adverse impact on our financial results in future periods.

Europe Operating Segment

Revenues. During the year ended December 31, 2015, revenues for our Europe segment decreased \$44.8 million, or 19.2%, compared to the same period in 2015. The decrease in the Europe segment revenues was due to the net impact of: (i) an \$8.2 million, or 3.5%, increase due to higher sales volumes, (ii) a \$9.7 million, or 4.2%, decrease due to a lower average sales price, and (iii) a \$43.3 million, or 18.5%, decrease due to the impact of foreign currency translation.

Cost of Sales. During the year ended December 31, 2015, cost of sales for our Europe segment decreased \$16.4 million, or 14.1%, compared to the same period in 2015. The decrease in the Europe segment cost of sales was due to the net impact of: (i) a \$4.1 million, or 3.5%, increase due to higher sales volumes, (ii) a \$2.7 million or 2.3%, decrease due to lower average cost per unit sold and (iii) a \$17.9 million, or 15.4% decrease due to the impact of foreign currency translation.

Gross Profit. During the year ended December 31, 2015, gross profit for our Europe segment decreased \$28.4 million, or 24.2%, and gross margin decreased 311 basis points compared to the same period in 2015, to 47.2%. The decrease in the Europe segment gross profit is due to the net impact of: (i) a \$4.1 million, or 3.5%, increase due to higher sales volumes, (ii) a \$7.1 million, or 6.1%, decrease due to a lower average sales price in excess of the decrease in costs per unit, and (iii) a \$25.4 million, or 21.6%, decrease due to the impact of foreign currency translation.

SG&A. During the year ended December 31, 2015, SG&A for our Europe segment decreased \$17.9 million, or 20.6%, compared to the same period in 2014. The decrease in SG&A was primarily due to the net impact of: (i) a \$9.5 million decrease associated with salaries and wages, (ii) a \$6.7 million decrease associated with building expenses, and (iii) a \$2.2 million decrease in services expense.

Restructuring Charges. Restructuring charges for our Europe segment were \$2.8 million for the year ended December 31, 2015, compared to \$4.0 million in the same period of 2014.

Asset Impairment Charges. Asset impairment charges for our Europe segment were \$1.6 million for the year ended December 31, 2015, compared to \$2.0 million in the same period of 2014.

The changes in the number of our company-operated retail locations by reportable operating segment and type of store were:

	December 31, 2014	Opened	Closed	December 31, 2015
Company-operated retail locations				
Type				
Kiosk/store in store	100	11	13	98
Retail stores	311	15	51	275
Outlet stores	174	16	4	186
Total	585	42	68	559
Operating segment				
Americas	210	4	18	196
Asia Pacific	258	36	33	261
Europe	117	2	17	102
Total	585	42	68	559

Comparable retail store sales and Direct to Consumer store sales by reportable operating segment are as follows:

	Constant Currency ⁽²⁾ Year Ended December 31, 2015	Constant Currency ⁽²⁾ Year Ended December 31, 2014
Comparable store sales (retail only) ⁽¹⁾		
Americas	(3.2)%	(4.4)%
Asia Pacific	(4.5)%	(4.7)%
Europe	3.0 %	0.7 %
Global	(2.8)%	(3.7)%

	Constant Currency ⁽²⁾ Year Ended December 31, 2015	Constant Currency ⁽²⁾ Year Ended December 31, 2014
DTC comparable store sales (includes retail and e-commerce)⁽¹⁾		
Americas	3.3%	(3.8)%
Asia Pacific	3.0%	0.6 %
Europe	7.8%	(0.6)%
Global	3.9%	(1.9)%

(1) Comparable store status is determined on a monthly basis. Comparable store sales includes the revenues of stores that have been in operation for more than twelve months. Stores in which selling square footage has changed more than 15% as a result of a remodel, expansion or reduction are excluded until the thirteenth month in which they have comparable prior year sales. Temporarily closed stores are excluded from the comparable store sales calculation during the month of closure. Location closures in excess of three months are excluded until the thirteenth month post re-opening. E-commerce revenues are based on same site sales period over period.

(2) Reflects quarter over quarter change on a “constant currency” basis, which is a non-GAAP financial measure that restates current period results using prior year foreign exchange rates for the comparative period to enhance visibility of the underlying business trends, excluding the impact of foreign currency.

Comparable store sales decreased 2.8% on a global basis for the year ended December 31, 2015, compared to a decrease of 3.7% for the year ended December 31, 2014. Comparable store sales for our direct to consumer customers, which includes retail and ecommerce, increased 3.9% on a global basis for the year ended December 31, 2015, compared to a decrease of 1.9% for the year ended December 31, 2014.

Impact on revenues due to foreign exchange rate fluctuations. Changes in average foreign currency exchange rates used to translate revenue from our functional currencies to our reporting currency during the year ended December 31, 2015 resulted in an \$85.3 million decrease in revenue compared to the same period in 2014.

Gross profit. During the year ended December 31, 2015, gross profit decreased \$79.5 million, or 13.5%, compared to the same period in 2014, and was primarily attributable to the 9.0% decrease in revenue partially offset by a decrease of \$24.1 million, or 4.0% to cost of sales compared to the same period in 2014 primarily due to foreign currency translation. Gross margin percentage decreased 250 basis points compared to the same period in 2014.

Impact on gross profit due to foreign exchange rate fluctuations. Changes in average foreign currency exchange rates used to translate revenue and costs of sales from our functional currencies to our reporting currency during the year ended December 31, 2015 decreased our gross profit by \$41.7 million, or 7.1%, compared to the same period in 2014.

Liquidity and Capital Resources

Cash and cash equivalents were \$147.6 million at December 31, 2016, compared to \$143.3 million at December 31, 2015. Cash and cash equivalents increased during 2016 by \$4.2 million compared to a decrease of \$124.2 million during 2015. We did not make any repurchases of our common stock during 2016 compared to repurchases of \$85.9 million during 2015. The remaining increase in cash and cash equivalents in 2016 primarily resulted from increases of \$30.1 million in net loss adjusted for non-cash items and working capital items, \$13.5 million from the effects of exchange rates and \$1.1 million of other financing activities.

Year Ended December 31, 2016 Compared to Year Ended December 31, 2015

Cash Flows

	Years Ended December 31,		
	2016	2015	Change
	(in thousands)		
Cash provided by (used in) operating activities	\$ 39,754	\$ 9,698	\$ 30,056
Cash used in investing activities	(18,657)	(18,627)	(30)
Cash used in financing activities	(16,443)	(101,260)	84,817
Effect of exchange rate changes on cash	(430)	(13,982)	13,552
Net increase (decrease) in cash and cash equivalents	\$ 4,224	\$ (124,171)	\$ 128,395

Net Cash Provided by Operating Activities. Cash provided by operating activities increased to \$39.8 million during 2016 compared to \$9.7 million during 2015. The \$30.1 million net increase in cash provided by operating activities resulted from the net effects of a \$13.8 million increase in cash from net loss adjusted for non-cash items, and improved cash from operating assets of \$16.3 million, primarily in working capital. The \$13.8 million increase in cash from net loss adjusted for non-cash items include a \$66.7 million improvement in net loss, partially offset by a \$52.9 million decrease in non-cash items, which consist of: (i) a \$22.8 million decrease from the prior year in non-cash expense associated with doubtful accounts, primarily in Asia; (ii) a \$15.3 million decrease from the prior year in asset impairments related to closed retail locations and inventory reserves; (iii) an \$8.2 million increase in net unrealized foreign currency gains; and (iv) a \$6.7 million decrease from other non-cash items.

Improvements in cash from operating activities of \$16.3 million include: (i) reductions in accounts receivable of \$18.0 million; (ii) reductions in inventories of \$29.0 million due to increased inventory management efforts; offset in part by decreases in accounts payable and accrued expenses of \$29.6 million; and (iv) other working capital items that decreased cash from operations by \$1.1 million.

Net Cash Used in Investing Activities. Net cash used in investing activities was \$18.7 million during 2016 compared to \$18.6 million during 2015. The \$3.7 million increase in capital expenditures, primarily associated with enhancements to our information technology infrastructure, was offset by proceeds received of approximately \$2.4 million on the sale of our South Africa business and \$1.2 million of other investing activities.

Net Cash Used in Financing Activities. Net cash used in financing activities decreased to \$16.4 million during 2016 compared to \$101.3 million during 2015. The decrease of \$84.9 million was primarily attributable to the net impact of: (i) we made no repurchases of our common shares during 2016 as compared to repurchases of \$85.9 million during 2015; (ii) a \$1.4 million decrease in cash received in 2016 from issuances of common stock associated with our stock compensation plans compared to 2015; and (iii) other cash used in financing activities related to net borrowings and repayments associated with our Senior Revolving Credit Facility.

Year Ended December 31, 2015 Compared to Year Ended December 31, 2014

	Years Ended December 31,		
	2015	2014	Change
	(in thousands)		
Cash provided by (used in) operating activities	\$ 9,698	\$ (11,651)	\$ 21,349
Cash used in investing activities	(18,627)	(57,992)	39,365
Cash provided by (used in) financing activities	(101,260)	23,431	(124,691)
Effect of exchange rate changes on cash	(13,982)	(3,420)	(10,562)
Net increase (decrease) in cash and cash equivalents	<u>\$ (124,171)</u>	<u>\$ (49,632)</u>	<u>\$ (74,539)</u>

During the year ended December 31, 2015, cash and cash equivalents decreased \$124.2 million to \$143.3 million, compared to a decrease of \$49.6 million during December 31, 2014. The primary drivers of this decrease were the repurchase of \$85.9 million of our common stock including related commissions under our publicly-announced repurchase plan, strategic reinvestments into the business including \$5.8 million in capital spend primarily related to our ERP system implementation, dividend payments of \$11.9 million on our Series A Preferred Stock, of which \$3.0 million was recorded as dividends payable and prepaid dividends as of December 31, 2016, and debt payments, including principal and interest, of \$3.0 million related to long-term bank borrowings.

Cash provided by operations was \$9.7 million for the year ended December 31, 2015 compared to cash used in operations of \$11.7 million for the year ended December 31, 2014. This increase was primarily driven by the change in working capital accounts year over year which accounted for \$36.4 million of our cash provided by operating activities. During the year ended December 31, 2016, we paid \$19.9 million in cash related to taxes that were accrued for as of December 31, 2014, which accounted for half of this change.

As of December 31, 2015, accounts receivable, net decreased \$17.6 million compared to December 31, 2014. During the year ended December 31, 2015, we recorded a reserve for doubtful accounts of \$23.2 million in our Asia Pacific segment primarily as a result of delayed payments from our partner stores in China. As of December 31, 2015, other long-term assets decreased by approximately \$4.3 million primarily due to the decrease in derivative instruments recorded on our balance sheet, as no such instruments were outstanding as of December 31, 2015. As of December 31, 2015, accounts payable increased \$20.4 million compared to December 31, 2014. As a result of the January 2015 implementation of our new ERP system, we accelerated payments of our outstanding payables in late 2014 to accommodate the transition. Accrued expenses and other liabilities increased \$11.6 million compared to December 31, 2014 primarily due to an accrued loss on our South Africa operations held for sale as of December 31, 2015.

Sources of Liquidity

Our primary sources of liquidity are cash flows generated from our operations, our cash and cash equivalents and available borrowing capacity under our Senior Revolving Credit Facility.

The following table presents the total availability under our credit facilities as of December 31 2016:

Description	December 31, 2016		
	Borrowing Capacity	Borrowings Outstanding	Remaining Availability
	(in thousands)		
Senior Revolving Credit Facility ⁽¹⁾	\$ 80,000	\$ 1,253	\$ 78,747
Asia Revolving Credit Facility ⁽²⁾	8,625	—	—

⁽¹⁾ Borrowing capacity is subject to certain financial covenants as further described in Note 9 — Revolving Credit Facility and Bank Borrowings. Outstanding amount represents letters of credit. The term of this facility expires in February 2021.

⁽²⁾ Borrowing capacity is the U.S. Dollar equivalent of 60 million Chinese Renminbi and has been suspended as more fully described in Note 9 — Revolving Credit Facility and Bank Borrowings. The term of this facility expires in February 2021.

The Senior Revolving Credit Facility is with a single lender, PNC Bank. We have no reason to believe that the lender would be unable to fulfill its obligation to provide financing in accordance with the terms of the Senior Revolving Credit Facility in the event of our election to borrow funds.

We also have notes payable obligations totaling \$2.4 million as of December 31, 2016, which represent funds borrowed to finance the purchase and implementation of our ERP system under a Master IPA agreement that expires in February 2021, and certain insurance coverage premiums.

Repatriation of Cash

As we are a global business, we have cash balances which are located in various countries and are denominated in various currencies. Fluctuations in foreign currency exchange rates impact our results of operations and cash positions. Future fluctuations in foreign currencies may have a material impact on our cash flows and capital resources. Cash balances held in foreign countries may have additional restrictions and covenants associated with them which could adversely impact our liquidity and our ability to timely access and transfer cash balances between entities.

We generally consider unremitted earnings of subsidiaries operating outside of the U.S. to be indefinitely reinvested; however, our Board has approved a foreign cash repatriation strategy. As part of this strategy, we repatriated approximately \$37 million during the year ended December 31, 2016 for which income taxes have already been accrued or paid. Further cash repatriation will depend on future cash requirements in the U.S. We maintain approximately \$178 million of foreign earnings for which tax has previously been provided, and which has not been repatriated at this time.

Most of the cash balances held outside of the U.S. could be repatriated to the U.S., but under current law, would be subject to U.S. federal and state income taxes less applicable foreign tax credits. In some countries, repatriation of certain foreign balances is restricted by local laws and could have adverse tax consequences if we were to move the cash to another country. Certain countries have monetary laws which may limit our ability to utilize cash resources in those countries for operations in other countries. These limitations may affect our ability to fully utilize our cash resources for needs in the U.S. or other countries and could adversely affect our liquidity. As of December 31, 2016, we held \$121.9 million of our total \$147.6 million in cash in international locations. This cash is primarily used for the ongoing operations of the business in the locations in which the cash is held. Of the \$121.9 million, \$.3 million could potentially be restricted, as described above. If the remaining \$121.6 million were to be immediately repatriated to the U.S., no additional tax expense would be incurred as all amounts are currently provided for in the statement of operations.

Sale of Preferred Stock

On January 27, 2014, we sold 200,000 shares of the Company's Series A Convertible Preferred Stock ("Series A Preferred") for \$182.2 million of net proceeds. The Series A Preferred has a par value of \$0.001 per share, with a liquidation value of \$200.0 million, or \$1,000 per share, and an aggregate purchase price of \$198.0 million, or \$990.00 per share. We are obligated to pay cash dividends of \$3 million each quarter to the Holders of Series A Preferred in cash as well as any dividends declared or paid on our common stock. More information regarding the Series A Preferred is included in Note 10 — Equity.

Our sources of liquidity are used to fund our ongoing cash requirements, including our working capital, global retail, distribution and e-commerce development and construction, investments in our infrastructure including technology, payments of dividends, repayments of debt and borrowings, settlements of contingent liabilities (including uncertain tax positions), and other ongoing corporate activities. We believe that our existing sources of liquidity, including cash on hand, accounts receivable and borrowing capacity under our Senior Revolving Credit Facility will be sufficient to meet our liquidity needs over the next year as well as the foreseeable future.

Contractual Obligations

In December 2011, the Company renewed and amended its supply agreement with Finproject S.p.A. (formerly known as Finproject s.r.l.), which provides the Company the right to purchase certain raw materials used to manufacture its products. The supply agreement requires that the Company meet minimum purchase requirements throughout the term of the agreement, which renews annually on January 1st unless terminated by either party. Historically, the minimum purchase requirements have not been onerous and the Company does not expect them to become onerous in the future. Depending on the material purchased, pricing is based either on contracted price or is subject to quarterly reviews and fluctuates based on order volume, currency fluctuations, and raw material prices. Pursuant to the agreement, the Company guarantees the payment for certain third-party manufacturer purchases of these raw materials up to a maximum potential amount of €3.5 million (approximately \$3.7 million as of December 31, 2016).

The following table summarizes aggregate information about our significant contractual cash obligations as of December 31, 2016:

	Total	Less than 1 Year	1 - 3 Years	3 - 5 Years	More than 5 Years
	(in thousands)				
Operating lease obligations ⁽¹⁾	\$ 310,555	68,241	134,519	29,230	78,565
Inventory purchase obligations with third-party manufacturers ⁽²⁾	125,987	125,987	—	—	—
Dividends payable ⁽³⁾	60,866	12,000	24,000	24,000	866
Other contracts ⁽⁴⁾	39,872	27,442	10,083	2,347	—
Debt obligations ⁽⁵⁾⁽⁸⁾	2,329	2,329	—	—	—
Minimum licensing royalties ⁽⁶⁾	6,403	4,023	2,374	6	—
Capital lease obligations ⁽⁷⁾	49	9	29	11	—
Total	<u>\$ 546,061</u>	<u>\$ 240,031</u>	<u>\$ 171,005</u>	<u>\$ 55,594</u>	<u>\$ 79,431</u>

- (1) Our operating lease obligations consist of leases for retail stores, offices, warehouses, vehicles, and equipment expiring at various dates through 2033. This balance represents the minimum cash commitment under contract to various third parties for operating lease obligations including the effect of rent escalation clauses and deferred rent and minimum sublease rentals due in the future under non-cancelable subleases. This balance does not include certain contingent rent clauses that may require additional rental amounts based on sales volume, inventories, etc. as these amounts are not determinable for future periods.
- (2) Our inventory purchase obligations with third-party manufacturers consist of open purchase orders for footwear products and include an immaterial amount of purchase commitments with certain third-party manufacturers for yet-to-be-received finished product where title passes to us upon receipt. All purchase obligations with third-party manufacturers are expected to be paid within one year.
- (3) Dividends payable are associated with our Series A Preferred Stock at a rate of 6.0% of the stated value of the stock. The amounts represent expected dividend payments over the eight year redemption accretion period.
- (4) Other contracts consist of various agreements with third-party providers, primarily for IT and financial services, distribution and logistics service providers, and other agreements.
- (5) Our current debt obligations consist of five separate notes issued under our agreement with PNC to finance the purchase and implementation of our new ERP system, which bear interest rates ranging from 2.45% to 2.79% and maturities ranging from September 2016 to September 2017. We will continue to finance the ERP implementation on an as needed basis through this agreement. Interest rates and payment terms are subject to change as further financing occurs.
- (6) Our minimum licensing royalties consist of usage-based payments for the right to use various licenses, trademarks and copyrights in the production of our footwear and accessories. Royalty obligations are based on minimum guarantees under contract; however, may include additional royalty obligations based on sales volume that are not determinable for future periods.
- (7) Our capital lease obligations consist of leases for office equipment expiring at various dates through 2020. This balance represents the minimum cash commitment under contract to various third-parties for capital lease obligations.
- (8) Amounts include anticipated interest payments.

Excluded from the table above is a \$4.8 million liability for unrecognized tax benefits as of December 31, 2016, as we cannot make a reliable estimate of the period in which the liability will be settled, if ever.

Off-Balance Sheet Arrangements

In accordance with generally accepted accounting principles, our operating leases are not reflected in our consolidated balance sheets. See Part II—Item 8, *Financial Statements and Supplementary Data*, Note 15 — Commitments and Contingencies for further discussion of these off-balance sheet arrangements (as defined in Item 303(a)(4)(ii) of Regulation S-K). As of December 31, 2016, we did not have any other material off-balance sheet arrangements other than certain operating leases and other commitments.

Critical Accounting Policies and Estimates

General

Our discussion and analysis of financial condition and results of operations, outside of discussions regarding constant currency and non-GAAP financial measures, is based on the consolidated financial statements which have been prepared in accordance with GAAP. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities and contingencies as of the date of the financial statements and the reported amounts of revenues and expenses during the reporting periods. We evaluate our assumptions and estimates on an on-going basis.

An accounting policy is considered to be critical if it is important to our results of operations, financial condition, and cash flows, and requires significant judgment and estimates on the part of management in its application. Our estimates are often based on historical experience, complex judgments, assessments of probability, and assumptions that management believes to be reasonable, but that are inherently uncertain and unpredictable. We believe that the following discussion represents those accounting policies that are the most critical to the reporting of our financial condition and results of operations. For a discussion of our significant accounting policies, see Note 1 — Basis of Presentation and Significant Accounting Policies to the accompanying consolidated financial statements.

Reserves for Uncollectible Accounts Receivable

We make ongoing estimates related to the collectibility of our accounts receivable and maintain a reserve for estimated losses resulting from the inability of our customers to make required payments. Our estimates are based on a variety of factors, including the length of time receivables are past due, economic trends and conditions affecting our customer base, significant non-recurring events and historical write-off experience. Specific provisions are recorded for individual receivables when we become aware of a customer's inability or unwillingness to meet its financial obligations. Because we cannot predict future changes in the financial stability of our customers, actual future losses from uncollectible accounts may differ from our estimates and we may experience changes in the amount of reserves we recognize for accounts receivable that we deem uncollectible. If the financial condition of our customers were to deteriorate, resulting in their inability to make payments, a larger reserve might be required. In the event we determine that a smaller or larger reserve is appropriate, we would record a credit or a charge, respectively, to 'Selling, general and administrative expenses' in our consolidated statement of operations in the period in which we made such a determination.

See Note 12 — Allowances to the accompanying consolidated financial statements for an analysis of the activity in our allowance for doubtful accounts.

Sales Returns, Allowances and Discounts

A significant area of judgment affecting reported revenues and net income involves estimating reserves for sales returns, allowances and discounts, which represent the portion of revenues not expected to be realized. Wholesale revenues are reduced by estimates of returns, allowance, discounts and contractual discounts to major customers. We also accept returns at our sole discretion from our wholesalers and distributors to rebalance stock and to ensure that our products are merchandised in the proper assortments, and may provide markdown allowances at our sole discretion to key wholesalers and distributors to facilitate sales of slower moving products. We also record reductions to revenues for estimated customer credits as a result of price markdowns in certain markets. Retail revenues, including e-commerce store sales, are also reduced by an estimate of returns.

Our estimated sales returns and allowances are based on customer return history and actual outstanding returns yet to be received. Changes to our estimates for customer returns, allowances and discounts may be caused by many factors, including, but not limited to whether customers accept our new styles, customer inventory levels, shipping delays or errors, known or suspected product defects, the seasonal nature of our products and macroeconomic factors affecting our customers. Historically, actual amounts of customer returns, allowances and discounts have not differed significantly from our estimates. A hypothetical 1% increase in our reserves for returns, allowances and discounts as of December 31, 2016 would have decreased our 2016 revenues by approximately \$7.2 million.

See Note 12 — Allowances to the accompanying consolidated financial statements for an analysis of the activity in our sales returns, allowances and discounts.

Inventory Valuation

Our products are sold through wholesale distribution channels department stores, sporting goods stores, distributors, national, regional and independent retailers. We also sell directly to consumers through wholly-owned full-service retail stores, kiosks, outlet stores and e-commerce store sites. Substantially all of our inventories are finished goods, which are stated at the lower of cost or market, with cost determined using the moving average cost method.

We estimate the market value of inventory based on an analysis of historical sales trends of our individual product lines, the impact of market trends and economic conditions, and a forecast of future demand, giving consideration to the value of current orders in-house for future sales of inventory, as well as plans to sell discontinued or end of life inventory through our outlet stores, among other off-price channels. Estimates may differ from actual results due to the quantity, quality, and mix of products in inventory, consumer and retailer preferences, and market conditions. If the estimated market value is less than its carrying value, the carrying value is adjusted to the market value and the difference is recorded in 'Cost of sales' in our consolidated statements of operations. Reserves for the risk of physical loss of inventory are estimated based on historical experience and are adjusted based upon physical inventory counts, and recorded within 'Cost of sales' in our consolidated statements of operations. The ultimate results achieved in selling excess and discontinued products in future periods may differ significantly from our estimates. A hypothetical 1% increase in the level of our inventory reserves as of December 31, 2016 would have decreased our 2016 gross profit by approximately \$0.1 million.

See Note 3 — Inventories to the accompanying consolidated financial statements for a discussion of our inventory reserves.

Impairment of Other Long-Lived Assets

Property and equipment along with other long-lived assets are evaluated for impairment periodically whenever events or changes in circumstances indicate that their carrying values may not be fully recoverable. Testing of long-lived assets for impairment is at the level of an asset group, which is the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. In our retail business, the asset group for impairment testing is each individual retail store. In evaluating long-lived assets for recoverability, we use our best estimate of future cash flows expected to result from the use of the asset and its eventual disposition, where applicable. To the extent that estimated future undiscounted net cash flows attributable to the asset are less than its carrying value, an impairment loss is recognized equal to the difference between the carrying value of such asset and its fair value. Assets to be disposed of and for which there is a committed plan of disposal are reported at the lower of carrying value or fair value, less costs to sell.

In determining future cash flows, we take various factors into account, including the remaining useful life of each asset group, forecasted growth rates, pricing, working capital, capital expenditures, and other cash needs specific to the asset group. Additional considerations when assessing impairment include changes in our strategic operational and financial decisions, global and regional economic conditions, demand for our product and other corporate initiatives which may eliminate or significantly decrease the realization of future benefits from our long-lived assets. Since the determination of future cash flows is an estimate of future performance, future impairments may arise in the event that future cash flows do not meet expectations.

During 2016, 2015, and 2014, we recorded non-cash impairment of \$2.7 million, \$15.3 million, and \$8.8 million, respectively, to reduce the net carrying value of certain long-lived assets, primarily related to underperforming company owned retail stores, to their estimated fair values. See Note 4 — Property and Equipment to the accompanying consolidated financial statements for further information related to long-lived asset impairments.

Stock-Based Compensation

Stock Options

Stock options are granted to employees and non-employee directors with exercise prices equal to the fair market value of our common stock on the date of grant. We use the Black-Scholes option-pricing model to estimate the grant date fair value of stock options, which requires the use of assumptions, including the expected term of the option, expected volatility of our stock price, our expected dividend yield, and the risk-free interest rate, among others. These assumptions reflect our best estimates, however; they involve inherent uncertainties including market conditions and employee behavior that are generally outside of our control. Generally, once stock option values are determined, accounting practices do not permit them to be changed, even if the estimates used are different from actual results. We expense all stock-based compensation awarded to employees and non-employee directors based on the grant date fair value of the awards over the requisite service period, adjusted for forfeitures.

Restricted Stock Awards and Units ("RSUs")

We grant restricted shares of our common stock to our non-employee directors, and service-based RSUs to certain executives, as well as to certain non-executive employees. In addition, we grant performance-based RSUs to certain executives. The fair values of restricted stock shares and RSUs are based on the fair value of our unrestricted common stock, adjusted to reflect the absence of dividends for those restricted securities that are not entitled to dividend equivalents prior to vesting. Compensation expense for performance-based RSUs is recognized over the employees' requisite service period when attainment of the performance goals is deemed probable, which involves judgment as to achievement of certain performance metrics.

Our performance-based RSU awards vest based upon attainment of certain performance conditions, including earnings levels, revenue and cash flow targets, and certification by our Compensation Committee. The fair value of these awards is estimated using a Monte Carlo simulation valuation model prepared by an independent third party. This pricing model utilizes multiple input variables that determine the probability of satisfying each performance condition stipulated in the terms of the award to estimate its grant date fair value. Compensation expense, net of forfeitures, is updated for the Company's expected performance level against each related goal at the end of each reporting period.

Sensitivity

The assumptions used in calculating the grant date fair values of stock-based compensation awards represent our best estimates. In addition, judgment is required in estimating the number of stock-based awards that will vest upon achievement of performance conditions. If actual results differ significantly from our estimates and assumptions, if we change the assumptions used to estimate the grant date fair value for future stock-based award grants, or if there are changes in market conditions, stock-based compensation expense and, therefore, our results of operations could be materially impacted. A hypothetical 1% change in our stock-based compensation expense would have affected our 2016 net income by approximately \$0.1 million.

See Note 11 — Stock Compensation to the accompanying consolidated financial statements for further information related to stock-based compensation.

Contingencies and Legal Proceedings

We are periodically exposed to various contingencies in the ordinary course of conducting our business, including certain litigation, contractual disputes, employee relations matters, various tax or other governmental audits, and trademark and intellectual property matters and disputes. We record a liability for such contingencies to the extent that we conclude their occurrence is probable and the related losses are estimable. In addition, if it is reasonably possible that an unfavorable settlement of a contingency could exceed the established liability, we disclose the estimated impact on our liquidity, financial condition, and results of operations, if practicable. Management considers many factors in making these assessments. As the ultimate resolution of contingencies is inherently unpredictable, these assessments can involve a series of complex judgments about future events including, but not limited to, court rulings, negotiations between affected parties, and governmental actions. As a result, the accounting for loss contingencies relies heavily on management's judgment in developing the related estimates and assumptions. See Note 15 — Commitments and Contingencies in the accompanying notes to the audited consolidated financial statements for additional information regarding our contingencies and legal proceedings.

Income Taxes

We account for income taxes using the asset and liability method which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of temporary differences between the carrying amounts and the tax bases of other assets and liabilities. We provide for income taxes at the current and future enacted tax rates and laws applicable in each taxing jurisdiction. We use a two-step approach for recognizing and measuring tax benefits taken or expected to be taken in a tax return and disclosures regarding uncertainties in income tax positions. The impact of an uncertain tax position that is more likely than not of being sustained upon examination by the relevant taxing authority must be recognized at the largest amount that is more likely than not to be sustained. No portion of an uncertain tax position will be recognized if the position has less than a 50% likelihood of being sustained. Interest expense is recognized on the full amount of deferred benefits for uncertain tax positions. While the validity of any tax position is a matter of tax law, the body of statutory, regulatory and interpretive guidance on the application of the law is complex and often ambiguous. We recognize interest and penalties related to unrecognized tax benefits within the "Income tax expense" line in the accompanying consolidated statement of operations. Accrued interest and penalties are included within the related tax liability line in the consolidated balance sheets.

Our annual tax rate is based on our income, statutory tax rates, and tax planning opportunities available to us in the various jurisdictions in which we operate. Significant judgment is required in determining our annual tax expense and in evaluating our tax positions. Tax laws require items to be included in our tax returns at different times than when these items are reflected in the consolidated financial statements. As a result, the annual tax rate reflected in our consolidated financial statements is different than that reported in our tax return (our cash tax rate). Some of these differences are permanent, such as expenses that are not deductible in our tax return, and some differences reverse over time, such as depreciation expense. These timing differences create deferred tax assets and liabilities. Deferred tax assets and liabilities are determined based on temporary differences between the financial reporting and tax basis of assets and liabilities. The tax rates used to determine deferred tax assets or liabilities are the enacted tax rates in effect for the year in which the differences are expected to reverse. Based on an evaluation of all available information, we recognize future tax benefits, such as net operating loss carryforwards, to the extent that realizing these benefits is considered more likely than not.

We evaluate our ability to realize the tax benefits associated with deferred tax assets by analyzing our forecasted taxable income using both historical and projected future operating results, the reversal of existing temporary differences, taxable income in prior carry back years (if permitted) and the availability of tax planning strategies. A valuation allowance is required to be established unless management determines that it is more likely than not that we will ultimately realize the tax benefit associated with a deferred tax asset. Undistributed earnings of a subsidiary are accounted for as a temporary difference, except that deferred tax liabilities are not recorded for undistributed earnings of a foreign subsidiary that are deemed to be indefinitely reinvested in the foreign jurisdiction. We determine on a regular basis the amount of undistributed earnings that will be indefinitely reinvested in our non-U.S. operations. This assessment is based on the cash flow projections and operational and fiscal objectives of each of our U.S. and foreign subsidiaries. U.S. income and foreign withholding taxes have not been provided on approximately \$208.1 million of cumulative undistributed foreign earnings of the non-US subsidiaries as of December 31, 2016. These historical earnings are indefinitely reinvested outside of the United States. Should we change our plans, we would be required to record a significant amount of deferred tax liabilities. The amount of unrecognized deferred U.S. income tax liability on the unremitted earnings has not been determined because the hypothetical calculation is not practicable.

See Note 13 — Income Taxes in the accompanying notes to the consolidated financial statements for additional information regarding our income taxes.

Recent Accounting Pronouncements. See Note 2 — Recent Accounting Pronouncements in the accompanying notes to the consolidated financial statements for recently adopted and issued accounting pronouncements.

ITEM 7A. Quantitative and Qualitative Disclosures About Market Risk

Interest Rate Risk

We centrally manage our debt and investment portfolios considering investment opportunities and risks, tax consequences and overall financing strategies. Our exposure to market risk includes interest rate fluctuations in connection with our revolving credit facility and certain financial instruments. In addition to the revolving credit facility, we have incurred indebtedness related to the implementation of our enterprise resource planning software ("ERP") system. Borrowings under these debt instruments bear fixed interest rates and therefore, do not have the potential for market risk.

Borrowings under the revolving credit facility bear interest at a variable rate. For domestic rate loans, including swing loans, the interest rate is equal to a daily base rate plus a margin ranging from 0.50% to 0.75% based on certain conditions. For domestic London Interbank Borrowing Rate ("LIBOR") rate loans, the interest rate is equal to a LIBOR rate plus a margin ranging from 1.50% to 1.75% based on certain conditions.

Borrowings under the revolving credit facility are therefore subject to risk based upon prevailing market interest rates. Interest rates fluctuate as a result of many factors, including governmental monetary and tax policies, domestic and international economic and political considerations and other factors that are beyond our control. As of December 31, 2016 and 2015, there were no borrowings outstanding under the revolving credit facility.

We additionally hold cash equivalents including certificate of deposits, time deposits and money market funds. Interest income generated from these cash equivalents will fluctuate with the general level of interest rates. As of December 31, 2016, we held \$3.4 million in cash equivalents subject to variable interest rates. The effects of an increase or decrease of 10% in prevailing market interest rates earned on these investments on interest income during the year ended December 31, 2016, is not significant to our consolidated results of operations, financial condition or cash flows.

Foreign Currency Exchange Risk

As a global company, we have significant revenues and costs denominated in currencies other than the U.S. Dollar. We are exposed to the risk of gains and losses resulting from changes in exchange rates on monetary assets and liabilities within our international subsidiaries that are denominated in currencies other than the subsidiary's functional currency. Likewise, our U.S. companies are also exposed to the risk of gains and losses resulting changes in exchange rates on monetary assets and liabilities that are denominated in a currency other than the U.S. Dollar.

We have experienced and will continue to experience changes in international currency rates, impacting both results of operations and the value of assets and liabilities denominated in foreign currencies. We enter into forward foreign exchange contracts to buy or sell various foreign currencies to selectively protect against volatility in the value of non-functional currency denominated monetary assets and liabilities. Changes in the fair value of these forward contracts are recognized in earnings. As of December 31, 2016, the U.S. Dollar notional value of our outstanding foreign currency forward exchange contracts was approximately \$328.2 million. The net fair value of these contracts at December 31, 2016 was a liability \$0.2 million.

We perform a sensitivity analysis to determine the effects that market risk exposures may have on the fair values of our forward foreign currency exchange contracts. To perform the sensitivity analysis, we assess the risk of loss in fair values from the effect of hypothetical changes in foreign currency exchange rates. This analysis assumes a like movement by the foreign currencies in our hedge portfolio against the U.S. Dollar. As of December 31, 2016, a 10% appreciation in the value of the U.S. Dollar would result in a net increase in the fair value of our derivative portfolio of approximately \$5.5 million.

Effects of Changes in Exchange Rates on Translated Results of International Subsidiaries

Changes in exchange rates have a direct effect on our reported U.S. dollar consolidated financial statements because we translate the operating results and financial position of our international subsidiaries to U.S. dollars using current period exchange rates. Specifically, we translate the statements of operations of our foreign subsidiaries into the U.S. dollar reporting currency using average exchange rates each reporting period. As a result, comparisons of reported results between reporting periods may be impacted significantly due to differences in the exchange rates used in translate the operating results of our international subsidiaries.

For example, in our European segment, when the U.S. Dollar strengthens relative to the Euro, our reported U.S. Dollar results are lower than if there had been no change in the exchange rate, because more Euros are required to generate the same U.S. Dollar translated amount. Conversely, when the U.S. Dollar weakens relative to the Euro, the reported U.S. Dollar results of our Europe segment are higher compared to a period with a stronger U.S. Dollar relative to the Euro. Similarly, the reported U.S. Dollar results of our Asia Pacific segment, where the functional currencies are primarily the Japanese Yen, Chinese Yuan, Korean Won and the

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Singapore Dollar, are comparatively lower or higher when the U.S. Dollar strengthens or weakens, respectively, relative to these currencies.

An increase of 1% of the value of the U.S. Dollar relative to foreign currencies would have increased our loss before taxes during the year ended December 31, 2016 by approximately \$0.8 million. The volatility of the exchange rates is dependent on many factors that cannot be forecasted with reliable accuracy. See Item 7. *Management's Discussion and Analysis of Financial Condition and Results of Operations* in Part II of this Form 10-K for a discussion of the impact of the change in foreign exchange rates on our U.S Dollar consolidated statement of operations for the years ended December 31, 2016 and 2015.

ITEM 8. Financial Statements and Supplementary Data

The consolidated financial statements and supplementary data are as set forth in the index to consolidated financial statements on page F-1.

ITEM 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

ITEM 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of our disclosure controls and procedures as such item is defined under Rule 13a-15(e) under the Securities Exchange Act of 1934, as amended ("Exchange Act"). Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of December 31, 2016, to provide reasonable assurance that information required to be disclosed in our reports under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC rules and forms and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. Management necessarily applies its judgment in assessing the costs and benefits of such controls and procedures that, by their nature, can only provide reasonable assurance regarding management's control objectives.

Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining effective internal control over financial reporting as such term is defined in Exchange Act Rule 13a-15(f). Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become ineffective due to changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. Our Chief Executive Officer and Chief Financial Officer, with assistance from other members of management, assessed the effectiveness of our internal control over financial reporting as of December 31, 2016, based on the framework and criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on its evaluation, management has concluded that our internal control over financial reporting was effective as of December 31, 2016.

Our independent registered public accounting firm has audited the effectiveness of our internal control over financial reporting as of December 31, 2016, as stated in the report which appears herein.

Changes in Internal Controls over Financial Reporting

During 2016, the Company completed a number of initiatives designed to remediate certain material weaknesses with respect to internal controls over the Company's financial close process and inventory. Specifically, management completed the following with respect to its internal controls.

Financial Close Process.

The Company implemented internal control procedures over the financial close process, including: (i) added internal control review and documentation procedures that ensure that all manual journal entries, including deferred income tax and period end adjusting entries, are properly documented and reviewed by competent personnel; (ii) global account reconciliation procedures that ensure all key accounts are properly reconciled on a timely basis, documented and reviewed by competent personnel; (iii) hired personnel with the requisite skills in income taxes and accounting; (iv) improved the organizational structure of our tax and accounting departments; and (v) provided training to global accounting process owners on policies and controls over account analysis, documentation, review, and approval of manual journal entries, and data integrity procedures.

Inventory Accounting Controls.

The Company implemented internal control procedures over inventory accounting controls, including: (i) additional procedures to ensure all inventory physical observations and counts are performed timely, all resulting adjustments are recorded and appropriately documented in our inventory management system; (ii) additional inventory reconciliation procedures to ensure our inventory management system is appropriately reconciled to the general ledger on a regular basis; (iii) improvements to our analysis

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of inventory cost absorption to ensure the proper valuation; (iv) provided training to our supply chain personnel to ensure appropriate understanding of our inventory policies and procedures including the importance of timely and accurate recording; and (v) hired additional personnel to our inventory management team to implement and maintain our inventory accounting controls.

As described above in “Management’s Annual Report on Internal Control Over Financial Reporting”, the Company concluded that its internal control over financial reporting was effective as of December 31, 2016 based, in part, on the effectiveness of the changed and new controls implemented during 2016 as described above.

Other than the changes described above, there have been no changes in our internal controls over financial reporting (as defined in Rule 13(a)-15(f) of the Exchange Act) during the year ended December 31, 2016 that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

ITEM 9B. Other Information

None.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
Crocs, Inc.
Niwot, Colorado

We have audited the internal control over financial reporting of Crocs, Inc. and subsidiaries (the "Company") as of December 31, 2016, based on criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying "Management's Report on Internal Control Over Financial Reporting". Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

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

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

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2016, based on the criteria established in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements as of and for the year ended December 31, 2016 of the Company and our report dated March 1, 2017 expressed an unqualified opinion on those financial statements and included an explanatory paragraph regarding a change in the method of accounting for share-based payments due to the adoption of Accounting Standards Update (ASU) 2016-09, *Improvements to Employee Share-Based Payment Accounting*.

/s/ DELOITTE & TOUCHE LLP

Denver, CO
March 1, 2017

PART III**ITEM 10. Directors, Executive Officers and Corporate Governance**

The information required by this item is incorporated herein by reference to our definitive proxy statement for the 2017 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2016.

Code of Ethics

We have a written code of ethics in place that applies to all our employees, including our principal executive officer, principal financial officer, principal accounting officer and controller. A copy of our business code of conduct and ethics policy is available on our website: www.crocs.com. We are required to disclose certain changes to, or waivers from, our code of ethics for our senior financial officers. We intend to use our website as a method of disseminating any change to, or waiver from, our business code of conduct and ethics policy as permitted by applicable SEC rules.

ITEM 11. Executive Compensation

The information required by this item is incorporated herein by reference to our definitive proxy statement for the 2017 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2016.

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

The information required by this item is incorporated herein by reference to our definitive proxy statement for the 2017 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2016, with the exception of those items listed below.

Securities Authorized for Issuance under Equity Compensation Plans

As shown in the table below, we reserved 3.8 million shares of common stock for future issuance pursuant to exercise of outstanding awards under equity compensation plans as of December 31, 2016.

Plan Category	Number of Securities to be Issued on Exercise of Outstanding Options and Rights ⁽³⁾	Weighted Average Exercise Price of Outstanding Options ⁽²⁾	Number of Securities Remaining Available for Future Issuance Under Plans, Excluding Securities Available in First Column
Equity compensation plans approved by stockholders ⁽¹⁾	3,750,449	\$ 16.90	6,720,218
Equity compensation plans not approved by stockholders	—	—	—
Total	<u>3,750,449</u>	<u>\$ 16.90</u>	<u>6,720,218</u>

(1) On June 8, 2015, the Company's stockholders approved the Crocs, Inc. 2015 Equity Incentive Plan (the "Plan"). The number of shares available for issuance under the Plan (subject to changes in capitalization) consist of (i) 7.0 million newly available shares; (ii) 1.2 million shares available for issuance under the 2007 Plan as of June 8, 2015; and (iii) 2007 Plan shares associated with outstanding options or awards that are canceled or forfeited after June 8, 2015. The Plan provides for the grant of incentive and non-qualified stock options, stock appreciation rights, restricted stock, restricted stock units, performance units, and other stock-based awards. The Plan replaces the Company's 2007 Equity Incentive Plan (As Amended and Restated), and no further awards will be made under the 2007 Plan. The Plan became effective immediately upon stockholder approval.

(2) The weighted-average exercise price of outstanding options pertains only to 0.5 million shares issuable on the exercise of outstanding options and rights.

(3) At target performance.

ITEM 13. Certain Relationships and Related Transactions and Director Independence

The information required by this item is incorporated herein by reference to our definitive proxy statement for the 2017 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2016.

ITEM 14. Principal Accountant Fees and Services

The information required by this item is incorporated herein by reference to our definitive proxy statement for the 2017 Annual Meeting of Stockholders to be filed with the SEC within 120 days after December 31, 2016.

PART IV

ITEM 15. Exhibits and Financial Statement Schedules

(1) Financial Statements

The financial statements filed as part of this report are listed on the index to the consolidated financial statements on page F-1.

(2) Financial Statement Schedules

All financial statement schedules have been omitted because they are not required, are not applicable or the information is included in the consolidated financial statements or notes thereto.

(3) Exhibit list

Exhibit Number	Description
3.1	Restated Certificate of Incorporation of Crocs, Inc. (incorporated herein by reference to Exhibit 4.1 to Crocs, Inc.'s Registration Statement on Form S-8, filed on March 9, 2006 (File No. 333-132312)).
3.2	Certificate of Amendment to Restated Certificate of Incorporation of Crocs, Inc. (incorporated herein by reference to Exhibit 3.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on July 12, 2007).
3.3	Amended and Restated Bylaws of Crocs, Inc. (incorporated herein by reference to Exhibit 4.2 to Crocs, Inc.'s Registration Statement on Form S-8, filed on March 9, 2006 (File No. 333-132312)).
3.4	Certificate of Designations of Series A Convertible Preferred Stock of Crocs, Inc. (incorporated herein by reference to Exhibit 3.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on January 27, 2014).
4.1	Specimen Common Stock Certificate (incorporated herein by reference to Exhibit 4.2 to Crocs, Inc.'s Registration Statement on Form S-1/A, filed on January 19, 2006 (File No. 333-127526)).
10.1	* Form of Indemnification Agreement between Crocs, Inc. and each of its directors and executive officers (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Registration Statement on Form S-1, filed on August 15, 2005 (File No. 333-127526)).
10.2	* Crocs, Inc. 2005 Equity Incentive Plan (the "2005 Plan") (incorporated herein by reference to Exhibit 10.2 to Crocs, Inc.'s Registration Statement on Form S-1, filed on August 15, 2005 (File No. 333-127526)).
10.3	* Amendment No. 1 to the 2005 Plan (incorporated herein by reference to Exhibit 10.2.2 to Crocs, Inc.'s Registration Statement on Form S-1/A, filed on January 19, 2006 (File No. 333-127526)).
10.4	* Form of Notice of Grant of Stock Option under the 2005 Plan (incorporated herein by reference to Exhibit 10.3 to Crocs, Inc.'s Registration Statement on Form S-1, filed on August 15, 2005 (File No. 333-127526)).
10.5	* Form of Notice of Grant of Stock Option for Non-Exempt Employees under the 2005 Plan (incorporated herein by reference to Exhibit 10.4 to Crocs, Inc.'s Registration Statement on Form S-1, filed on August 15, 2005 (File No. 333-127526)).
10.6	* Form of Stock Purchase Agreement under the 2005 Plan (incorporated herein by reference to Exhibit 10.5 to Crocs, Inc.'s Registration Statement on Form S-1, filed on August 15, 2005 (File No. 333-127526)).
10.7	* Form of Stock Option Agreement under the 2005 Plan (incorporated herein by reference to Exhibit 10.6 to Crocs, Inc.'s Registration Statement on Form S-1, filed on August 15, 2005 (File No. 333-127526)).
10.8	* Form of Restricted Stock Award Grant Notice under the 2005 Plan (incorporated herein by reference to Exhibit 10.7 to Crocs, Inc.'s Registration Statement on Form S-1, filed on August 15, 2005 (File No. 333-127526)).
10.9	* Form of Restricted Stock Award Agreement under the 2005 Plan (incorporated herein by reference to Exhibit 10.8 to Crocs, Inc.'s Registration Statement on Form S-1, filed on August 15, 2005 (File No. 333-127526)).
10.10	* Form of Non Statutory Stock Option Agreement under the 2005 Plan (incorporated herein by reference to Exhibit 10.9 to Crocs, Inc.'s Registration Statement on Form S-1, filed on August 15, 2005 (File No. 333-127526)).
10.11	* Crocs, Inc. Amended and Restated 2007 Senior Executive Deferred Compensation Plan (incorporated herein by reference to Exhibit 10.15 to Crocs, Inc.'s Annual Report on Form 10-K, filed on March 17, 2009).

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Exhibit Number	Description
10.12 *	Crocs, Inc. 2007 Equity Incentive Plan (As Amended and Restated) (the "2007 Plan") (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on July 1, 2011).
10.13 *	Form of Incentive Stock Option Agreement under the 2007 Plan (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on November 14, 2007).
10.14 *	Form of Non-Statutory Option Agreement under the 2007 Plan (incorporated herein by reference to Exhibit 10.2 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on November 14, 2007).
10.15 *	Form of Non-Statutory Stock Option Agreement for Non-Employee Directors under the 2007 Plan (incorporated herein by reference to Exhibit 10.3 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on November 14, 2007).
10.16 *	Form of Restricted Stock Option Agreement under the 2007 Plan (incorporated herein by reference to Exhibit 10.2 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on November 14, 2007).
10.17 *	2008 Cash Incentive Plan (As Amended and Restated Effective June 4, 2012) (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on June 7, 2012).
10.18 *	Crocs, Inc. 2015 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on June 9, 2015).
10.19	Amended and Restated Credit Agreement, dated December 16, 2011, among Crocs, Inc., Crocs Retail, Inc., Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein and PNC Bank, National Association, as a lender and administrative agent for the lenders (the "Amended and Restated Credit Agreement") (incorporated herein by reference to Crocs, Inc.'s Current Report on Form 8-K, filed on December 19, 2011).
10.20	First Amendment to the Amended and Restated Credit Agreement, dated December 10, 2012, among Crocs, Inc., Crocs Retail, Inc., Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Crocs, Inc.'s Current Report on Form 8-K, filed on December 11, 2012).
10.21	Second Amendment to Amended and Restated Credit Agreement, dated June 12, 2013, among Crocs, Inc., Crocs Retail, Inc., Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Exhibit 10.2 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on July 30, 2013).
10.22	Third Amendment to Amended and Restated Credit Agreement, dated December 27, 2013, among Crocs, Inc., Crocs Retail, Inc., Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on December 30, 2013).
10.23	Fourth Amendment to Amended and Restated Credit Agreement, dated March 27, 2014, among Crocs, Inc., Crocs Retail, Inc., Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Exhibit 10.2 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on May 1, 2014).
10.24	Fifth Amendment to Amended and Restated Credit Agreement, dated September 26, 2014, among Crocs, Inc., Crocs Retail, Inc., Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Exhibit 10.2 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on October 29, 2014).
10.25	Sixth Amendment to Amended and Restated Credit Agreement, dated April 2, 2015, among Crocs, Inc., Crocs Retail, LLC, Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein, and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on August 7, 2015).

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Exhibit Number	Description
10.26	Seventh Amendment to Amended and Restated Credit Agreement, dated April 21, 2015, among Crocs, Inc., Crocs Retail, LLC, Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein, and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Exhibit 10.2 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on August 7, 2015).
10.27	Eighth Amendment to Amended and Restated Credit Agreement, dated September 1, 2015, among Crocs, Inc., Crocs Retail, LLC, Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein, and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on November 9, 2015).
10.28	Ninth Amendment to Amended and Restated Credit Agreement, dated November 3, 2015, among Crocs, Inc., Crocs Retail, LLC, Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein, and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Exhibit 10.2 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on November 9, 2015).
10.29	Tenth Amendment to Amended and Restated Credit Agreement, dated December 24, 2015, among Crocs, Inc., Crocs Retail, LLC, Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein, and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Exhibit 10.30 to Crocs, Inc.'s Annual Report on Form 10-K, filed February 29, 2016)..
10.30	Eleventh Amendment to Amended and Restated Credit Agreement, dated February 18, 2016, among Crocs, Inc., Crocs Retail, LLC, Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., and PNC Bank, National Association, as a lender and administrative agent. (incorporated herein by reference to Exhibit 10.1 to Crocs Inc.'s Quarterly Report on Form 10-Q, filed on August 5, 2016).
10.31	Twelfth Amendment to Amended and Restated Credit Agreement, dated June 13, 2016, among Crocs, Inc., Crocs Retail, LLC, Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein, and PNC Bank, National Association, as a lender and administrative agent (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on August 5, 2016).
10.32	† Thirteenth Amendment to Amended and Restated Credit Agreement, dated November 22, 2016, among Crocs, Inc., Crocs Retail, LLC, Ocean Minded, Inc., Jibbitz, LLC, Bite, Inc., the lenders named therein, and PNC Bank, National Association, as a lender and administrative agent.
10.33	* Crocs, Inc. Change of Control Plan (as Amended and Restated) (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on May 1, 2014).
10.34	Investment Agreement, dated December 28, 2013, between Crocs, Inc. and Blackstone Capital Partners VI L.P. (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on December 30, 2013).
10.35	First Amendment to Investment Agreement, dated January 27, 2014, between Crocs, Inc. and Blackstone Capital Partners VI L.P. (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on January 27, 2014).
10.36	* Form of Severance Agreement (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on July 30, 2014).
10.37	Registration Rights Agreement, dated January 27, 2014 (incorporated herein by reference to Exhibit 10.2 to Crocs, Inc.'s Current Report on Form 8-K, filed on January 27, 2014).
10.38	* Employment Agreement, dated May 18, 2009, between Crocs, Inc. and Daniel P. Hart (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Quarterly Report on Form 10-Q, filed on August 5, 2010).

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Exhibit Number	Description
10.39 *	Employment Offer Letter, dated May 13, 2014, between Crocs, Inc. and Andrew Rees (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on May 14, 2014).
10.40 *	Employment Offer Letter, dated December 15, 2014, between Crocs, Inc. and Gregg Ribatt (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on December 15, 2014).
10.41 *	Employment Offer Letter, dated November 4, 2015, between Crocs, Inc. and Carrie Teffner (incorporated herein by reference to Exhibit 10.1 to Crocs, Inc.'s Current Report on Form 8-K, filed on November 5, 2015).
21 †	Subsidiaries of the registrant.
23.1 †	Consent of Deloitte & Touche LLP.
31.1 †	Certification of the Chief Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934 as adopted pursuant to Section 302 of the Sarbanes-Oxley Act.
31.2 †	Certification of the Chief Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934 as adopted pursuant to Section 302 of the Sarbanes-Oxley Act.
32 †	Certification of the Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act.
101.INS †	XBRL Instance Document
101.SCH †	XBRL Taxonomy Extension Schema Document
101.CAL †	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF †	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB †	XBRL Taxonomy Extension Label Linkbase Document
101.PRE †	XBRL Taxonomy Extension Presentation Linkbase Document

* Compensatory plan or arrangement.

† Filed herewith.

Item 16. Form 10-K Summary.

None.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, as of March 1, 2017.

CROCS, INC.
a Delaware Corporation

By: /s/ GREGG S. RIBATT

Name: Gregg S. Ribatt

Title: *Chief Executive Officer*

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

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ GREGG S. RIBATT</u> Gregg S. Ribatt	Chief Executive Officer and Director (Principal Executive Officer)	March 1, 2017
<u>/s/ CARRIE W. TEFFNER</u> Carrie W. Teffner	Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)	March 1, 2017
<u>/s/ IAN M. BICKLEY</u> Ian M. Bickley	Director	March 1, 2017
<u>/s/ RONALD L. FRASCH</u> Ronald L. Frasch	Director	March 1, 2017
<u>/s/ JASON K. GIORDANO</u> Jason K. Giordano	Director	March 1, 2017
<u>/s/ PRAKASH A. MELWANI</u> Prakash A. Melwani	Director	March 1, 2017
<u>/s/ THOMAS J. SMACH</u> Thomas J. Smach	Chairman of the Board	March 1, 2017
<u>/s/ DOUGLAS J TREFF</u> Douglas J. Treff	Director	March 1, 2017
<u>/s/ DOREEN A. WRIGHT</u> Doreen A. Wright	Director	March 1, 2017

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REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
Crocs, Inc.
Niwot, Colorado

We have audited the accompanying consolidated balance sheets of Crocs, Inc. and subsidiaries (the "Company") as of December 31, 2016 and 2015, and the related consolidated statements of operations, comprehensive loss, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2016. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Crocs, Inc. and subsidiaries as of December 31, 2016 and 2015, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2016, in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 2 to the consolidated financial statements, the Company has changed its method of accounting for share-based payments for the year ended December 31, 2016 due to the adoption of Accounting Standards Update (ASU) 2016-09, *Improvements to Employee Share-Based Payment Accounting*.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2016, based on the criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 1, 2017 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/ DELOITTE & TOUCHE LLP

Denver, Colorado
March 1, 2017

CROCS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)

	Year Ended December 31,		
	2016	2015	2014
Revenues	\$ 1,036,273	\$ 1,090,630	\$ 1,198,223
Cost of sales	536,109	579,825	603,893
Restructuring charges	—	—	3,985
Gross profit	500,164	510,805	590,345
Selling, general and administrative expenses	503,174	559,095	565,712
Restructuring charges	—	8,728	20,532
Asset impairments	3,144	15,306	8,827
Loss from operations	(6,154)	(72,324)	(4,726)
Foreign currency loss, net	(2,454)	(3,332)	(4,885)
Interest income	692	967	1,664
Interest expense	(836)	(969)	(806)
Other income, net	1,539	914	204
Loss before income taxes	(7,213)	(74,744)	(8,549)
Income tax (expense) benefit	(9,281)	(8,452)	3,623
Net loss	(16,494)	(83,196)	(4,926)
Dividends on Series A convertible preferred stock	(12,000)	(11,833)	(11,301)
Dividend equivalents on Series A convertible preferred shares related to redemption value accretion and beneficial conversion feature	(3,244)	(2,978)	(2,735)
Net loss attributable to common stockholders	\$ (31,738)	\$ (98,007)	\$ (18,962)
Net loss per common share			
Basic	\$ (0.43)	\$ (1.30)	\$ (0.22)
Diluted	\$ (0.43)	\$ (1.30)	\$ (0.22)

The accompanying notes are an integral part of these consolidated financial statements.

CROCS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(in thousands)

	Year Ended December 31,		
	2016	2015	2014
Net loss	\$ (16,494)	\$ (83,196)	\$ (4,926)
Other comprehensive loss:			
Foreign currency translation loss, net	(4,683)	(32,561)	(33,004)
Total comprehensive loss	<u>\$ (21,177)</u>	<u>\$ (115,757)</u>	<u>\$ (37,930)</u>

The accompanying notes are an integral part of these consolidated financial statements.

CROCS, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(in thousands, except par value)

	December 31,	
	2016	2015
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 147,565	\$ 143,341
Accounts receivable, net of allowances of \$48,138 and \$49,364, respectively	78,297	83,616
Inventories	147,029	168,192
Income tax receivable	2,995	10,233
Other receivables	14,642	14,233
Restricted cash - current	2,534	2,554
Prepaid expenses and other assets	32,413	23,780
Total current assets	425,475	445,949
Property and equipment, net	44,090	49,490
Intangible assets, net	72,700	82,297
Goodwill	1,480	1,973
Deferred taxes, net	6,825	6,608
Restricted cash	2,547	3,551
Other assets	13,273	18,152
Total assets	\$ 566,390	\$ 608,020
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 61,927	\$ 63,336
Accrued expenses and other liabilities	78,282	92,573
Income taxes payable	6,593	6,416
Current portion of long-term borrowings and capital lease obligations	2,338	4,772
Total current liabilities	149,140	167,097
Long-term income tax payable	4,464	4,547
Long-term borrowings and capital lease obligations	40	1,627
Other liabilities	13,462	13,120
Total liabilities	167,106	186,391
Commitments and contingencies		
Series A convertible preferred stock, 1.0 million authorized, 0.2 million shares outstanding, liquidation preference \$203 million	178,901	175,657
Stockholders' equity:		
Preferred stock, par value \$0.001 per share, 4.0 million shares authorized, none outstanding		
Common stock, par value \$0.001 per share, 93.9 million and 93.1 million issued, 73.6 million and 72.9 million shares outstanding, respectively	94	94
Treasury stock, at cost, 20.3 million and 20.2 million shares, respectively	(284,237)	(283,913)
Additional paid-in capital	364,397	353,241
Retained earnings	195,725	227,463
Accumulated other comprehensive loss	(55,596)	(50,913)
Total stockholders' equity	220,383	245,972
Total liabilities and stockholders' equity	\$ 566,390	\$ 608,020

The accompanying notes are an integral part of these consolidated financial statements.

CROCS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(in thousands)

	Common Stock		Treasury Stock		Additional Paid in Capital	Retained Earnings	Accumulated Other Comprehensive (Loss)	Total Stock Holders' Equity
	Shares	Amount	Shares	Amount				
Balance—December 31, 2013	88,450	\$ 92	3,212	\$ (55,964)	\$ 321,532	\$ 344,432	\$ 14,652	\$ 624,744
Share-based compensation	(144)	—	—	—	12,767	—	—	12,767
Exercises of stock options and issuance of restricted stock awards	800	—	7	1,398	(843)	—	—	555
Repurchases of common stock	(10,590)	—	10,590	(145,858)	—	—	—	(145,858)
Series A preferred dividends	—	—	—	—	—	(11,301)	—	(11,301)
Series A preferred accretion	—	—	—	—	—	(2,735)	—	(2,735)
Series A preferred beneficial conversion	—	—	—	—	12,276	—	—	12,276
Net loss	—	—	—	—	—	(4,926)	—	(4,926)
Other comprehensive loss	—	—	—	—	—	—	(33,004)	(33,004)
Balance—December 31, 2014	78,516	\$ 92	13,809	\$ (200,424)	\$ 345,732	\$ 325,470	\$ (18,352)	\$ 452,518
Share-based compensation	—	—	—	—	11,186	—	—	11,186
Tax shortfall from share-based plans	—	—	—	—	(2,841)	—	—	(2,841)
Exercises of stock options and issuance of restricted stock awards	810	2	(34)	2,437	(836)	—	—	1,603
Repurchases of common stock	(6,475)	—	6,475	(85,926)	—	—	—	(85,926)
Series A preferred dividends	—	—	—	—	—	(11,833)	—	(11,833)
Series A preferred accretion	—	—	—	—	—	(2,978)	—	(2,978)
Net loss	—	—	—	—	—	(83,196)	—	(83,196)
Other comprehensive loss	—	—	—	—	—	—	(32,561)	(32,561)
Balance—December 31, 2015	72,851	\$ 94	20,250	\$ (283,913)	\$ 353,241	\$ 227,463	\$ (50,913)	\$ 245,972
Share-based compensation	—	—	—	—	10,736	—	—	10,736
Exercises of stock options and issuance of restricted stock awards	749	—	37	(324)	420	—	—	96
Series A preferred dividends	—	—	—	—	—	(12,000)	—	(12,000)
Series A preferred accretion	—	—	—	—	—	(3,244)	—	(3,244)
Net loss	—	—	—	—	—	(16,494)	—	(16,494)
Other comprehensive loss	—	—	—	—	—	—	(4,683)	(4,683)
Balance—December 31, 2016	<u>73,600</u>	<u>\$ 94</u>	<u>20,287</u>	<u>\$ (284,237)</u>	<u>\$ 364,397</u>	<u>\$ 195,725</u>	<u>\$ (55,596)</u>	<u>\$ 220,383</u>

The accompanying notes are an integral part of these consolidated financial statements.

CROCS, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	December 31,		
	2016	2015	2014
Cash flows from operating activities:			
Net income (loss)	\$ (16,494)	\$ (83,196)	\$ (4,926)
Adjustments to reconcile net income to net cash provided by (used in) operating activities:			
Depreciation and amortization	34,043	35,993	37,413
Unrealized (gain) loss on foreign exchange, net	(9,027)	(814)	(11,100)
Deferred income taxes	(388)	289	829
Asset impairment charges	3,144	15,306	8,827
Provision for doubtful accounts, net	3,230	25,997	12,087
Share-based compensation	10,736	11,236	12,503
Inventory write-down charges	—	3,108	7,490
Non-cash restructuring charges	—	—	6,413
Other non-cash items	503	4,029	534
Changes in operating assets and liabilities:			
Accounts receivable, net of allowances	2,408	(15,604)	(15,288)
Inventories	20,371	(8,586)	(31,251)
Prepaid expenses and other assets	(4,532)	1,755	21,698
Accounts payable	(1,354)	23,260	(12,106)
Accrued expenses and other liabilities	3,836	8,765	(15,824)
Accrued restructuring	(952)	(3,677)	4,859
Income taxes	(5,770)	(8,163)	(33,809)
Cash provided by (used in) operating activities	39,754	9,698	(11,651)
Cash flows from investing activities:			
Cash paid for purchases of property and equipment	(13,233)	(12,826)	(15,991)
Proceeds from disposal of property and equipment	2,438	(2)	236
Cash paid for intangible assets	(8,961)	(5,660)	(41,035)
Change in restricted cash	1,199	(139)	(1,202)
Other	(100)	—	—
Cash used in investing activities	(18,657)	(18,627)	(57,992)
Cash flows from financing activities:			
Proceeds from preferred stock offering, net of issuance costs of \$15.8 million	—	—	182,220
Dividends—Series A preferred stock	(12,000)	(11,900)	(8,234)
Proceeds from bank borrowings	31,582	—	—
Repayment of bank borrowings and capital lease obligations	(35,640)	(5,290)	(5,177)
Deferred debt issuance costs	(481)	191	(75)
Issuances of common stock	420	1,864	1,342
Purchase of treasury stock, net of issuances	—	(85,926)	(145,858)
Repurchase of common stock for tax withholding	(324)	(261)	(787)
Excess tax benefit from share-based compensation	—	62	—
Cash provided by (used in) financing activities	(16,443)	(101,260)	23,431
Effect of exchange rate changes on cash	(430)	(13,982)	(3,420)
Net increase (decrease) in cash and cash equivalents	4,224	(124,171)	(49,632)
Cash and cash equivalents—beginning of period	143,341	267,512	317,144
Cash and cash equivalents—end of period	\$ 147,565	\$ 143,341	\$ 267,512
Supplemental disclosure of cash flow information—cash paid during the period for:			
Interest, net of capitalized interest	\$ 653	\$ 917	\$ 616
Income taxes	12,344	19,923	33,655
Supplemental disclosure of non-cash investing and financing activities:			
Assets acquired under capitalized leases	39	20	—
Accrued purchases of property and equipment	2,195	851	771

Accrued purchases of intangibles	533	—	2,988
Intrinsic value of beneficial conversion feature—Series A preferred stock	—	—	12,276
Accrued dividends	3,000	3,000	3,067
Accretion of dividend equivalents	3,244	2,978	2,735
Change in assets held for sale	2,428	(1,595)	—
Vendor financed insurance premiums	2,082	—	—

The accompanying notes are an integral part of these consolidated financial statements.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. BASIS OF PRESENTATION & SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Unless otherwise noted in this report, any description of "we," "us" or "our" includes Crocs, Inc. ("Crocs" or the "Company,") and its wholly-owned subsidiaries within our reportable operating segments and Corporate. The Company is engaged in the design, development, manufacturing, worldwide marketing and distribution of casual lifestyle footwear and accessories for men, women, and children. We strive to be the global leader in the sale of molded footwear featuring fun, comfort, color, and functionality. Our reportable operating segments include: the Americas, operating in North and South America; Asia Pacific, operating throughout Asia, Australia, New Zealand, Africa and the Middle East; and Europe, operating throughout Europe and Russia.

Basis of Presentation and Consolidation

The Company's consolidated financial statements include its accounts and those of its wholly-owned subsidiaries. The consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("U.S. GAAP"). All intercompany accounts and transactions have been eliminated in consolidation.

Use of Estimates

Our consolidated financial statements are prepared in accordance with U.S. GAAP. These accounting principles require us to make certain estimates, judgments and assumptions. We believe that the estimates, judgments and assumptions used to determine certain amounts that affect the financial statements are reasonable, based on information available at the time they are made. Management believes that the estimates, judgments, and assumptions made when accounting for items and matters such as, but not limited to, the allowance for doubtful accounts, customer rebates, sales returns, impairment assessments and charges, recoverability of assets (including deferred tax assets), uncertain tax positions, share-based compensation expense, the assessment of lower of cost or market on inventory, useful lives assigned to long-lived assets, depreciation, and provisions for contingencies are reasonable based on information available at the time they are made. Management also makes estimates in the assessments of potential losses in relation to tax matters and threatened or pending legal proceedings (see Note 15 — Commitments and Contingencies and Note 17 — Legal Proceedings). To the extent there are differences between these estimates and actual results, our consolidated financial statements may be materially affected.

Reclassification Adjustments

The Company has reclassified certain amounts on the consolidated balance sheets, statements of stockholders' equity, Note 5 — Goodwill and Intangible Assets, Net, Note 6 — Accrued Expenses and Other Current Liabilities, and Note 8 — Derivative Instruments to conform to current period presentation.

Transactions with Affiliates

The Company receives inventory count services from RGIS, LLC ("RGIS"), a wholly owned subsidiary of Blackstone Capital Partners VI L.P. ("Blackstone"). Blackstone and certain of its permitted transferees currently beneficially owns all the outstanding shares of the Company's series A convertible preferred stock ("Series A Preferred Stock"), which is convertible into approximately 15.8% of the Company's common stock as of December 31, 2016. Two Blackstone representatives also serve on the Company's board of directors (the "Board"). During 2016 and 2015 the Company paid \$0.4 million and \$0.5 million, respectively, to RGIS for services. Expenses related to these services provided are reported in 'Selling, general and administrative expenses' in the consolidated statement of operations.

The Company receives cyber security and consulting services from Optiv, Inc. ("Optiv"), a subsidiary of Blackstone. The Company also receives workforce management services from Kronos Incorporated ("Kronos"), a subsidiary of Blackstone. During 2016 and 2015, the Company paid \$0.2 million in each year to Kronos, and \$0.2 million in each year to Optiv for services. Expenses related to these services are reported in 'Selling, general and administrative expenses' in the consolidated statement of operations.

Revenue Recognition

Revenue is recognized when persuasive evidence of an arrangement exists, the significant risks and rewards of ownership, including title and risk of loss, are transferred to the customer or distributor, the collection of the related receivables is probable, and the sales price is fixed or determinable. Title passes on shipment or on receipt by the customer depending on the country in which the sale occurs and the agreement terms with the customer. Sales of products are for cash or otherwise agreed upon credit terms. The

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. BASIS OF PRESENTATION & SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

estimated costs of sales incentives, discounts, returns, price promotions, rebates, loyalty and coupon programs are reported as a reduction of revenues.

Shipping and Handling Costs and Fees

Shipping and handling costs are expensed as incurred and are included in 'Cost of sales' in our consolidated statements of operations. Shipping and handling fees billed to customers are included in revenues.

Taxes Assessed by Governmental Authorities

Taxes assessed by governmental authorities that are directly imposed on a revenue transaction, including value added tax, are recorded on a net basis and are therefore excluded from revenues.

Cost of Sales

Our cost of sales includes costs we incur to make and ship our footwear. These costs include our raw materials, both direct and indirect labor, shipping and handling including freight costs, utilities, maintenance costs, depreciation, packaging, and other manufacturing overheads and costs.

Research, Design and Development

We continue to dedicate significant resources to product design and development as we expand the footwear styles we offer based on opportunities we identify in the marketplace. Our design and development process is highly collaborative and we continually strive to improve our development function so we can bring products to market quickly and at reduced costs, while maintaining product quality. We spent \$11.9 million, \$14.0 million, and \$16.7 million in research, design, and development activities for the years ended December 31, 2016, 2015, and 2014, respectively. Research and development costs are expensed as incurred and are included in 'Selling, general and administrative expenses' in our consolidated statements of operations.

Selling, General and Administrative Expenses

Our selling, general and administrative expenses include media advertising (television, radio, print, social, digital), tactical advertising (signs, banners, point-of-sale materials) and promotional costs. Production costs of advertising and promotional materials are expensed when the advertising is first run. Advertising expense was \$56.0 million, \$58.2 million and \$44.7 million for 2016, 2015 and 2014, respectively. Prepaid advertising costs of \$4.5 million and \$0.0 million, were included in other current assets in the consolidated balance sheets at December 31, 2016 and December 31, 2015, respectively.

Selling, general and administrative expenses also include costs for our marketing and sales organizations, and other functions including finance, legal, human resources and information technology, which consist primarily of labor and outside services, bad debt expense, legal costs, amortization of intangible assets, as well as certain depreciation costs related to non-production equipment and share-based compensation.

Interest Expense

Our interest expense is associated with borrowings to finance our operations. We capitalize interest cost as a part of the original cost of acquiring certain fixed assets if the cost of the capital expenditure and the expected time to complete the project are considered significant. No interest expense was capitalized in 2016 and 2015. Interest expense of \$0.4 million was capitalized in 2014.

Other Income, net

Other income, net primarily includes gains and losses associated with activities not directly related to making and selling footwear, as well as certain gains or losses on sales of non-operating assets.

Foreign Currency Loss, net

Foreign currency loss, net includes realized and unrealized foreign exchange gains and losses resulting from remeasurement and settlement of foreign-denominated monetary assets and liabilities, and realized and unrealized gains and losses on forward foreign

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. BASIS OF PRESENTATION & SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

exchange derivative contracts. Realized foreign exchange gains and losses are reported in the operating segment in which they occur; however, foreign exchange gains and losses on intercompany balances are reported within the Corporate segment. The initial recording of foreign denominated transactions is based on the nature of the transaction, with the unrealized or realized foreign exchange gains or losses resulting from the subsequent remeasurement of the monetary asset or liability, and its ultimate settlement, classified in other income, net.

Income Taxes

Deferred income taxes are provided for the expected future tax consequences of temporary differences between the financial reporting basis and the tax basis of our assets and liabilities. We provide for taxes that may be payable if undistributed earnings of overseas subsidiaries were to be remitted to the U.S., except for those earnings that we consider to be permanently reinvested. We record provisions for income taxes at the current and future enacted tax rates and laws applicable in each taxing jurisdiction. We use a two-step approach for recognizing and measuring tax benefits taken or expected to be taken in a tax return and disclosures regarding uncertainties in income tax positions. Interest, penalties and offsetting positions related to unrecognized tax benefits are recognized as a component of income tax expense. Our deferred tax valuation allowances are primarily the result of uncertainties regarding the future realization of recorded tax benefits on tax loss carryforwards from operations in various jurisdictions. These valuation allowances are primarily related to deferred tax assets generated from net operating losses. See Note 13 — Income Taxes for further discussion.

Accumulated Other Comprehensive Loss

Other comprehensive loss ("OCI") represents losses for the reporting period which are excluded from net loss and recognized directly within accumulated other comprehensive loss ("AOCI") as a component of equity. These amounts are expected to be reclassified out of AOCI in the future, at which point they will be recognized within the consolidated statement of operations as a component of net income (loss). Our AOCI consists solely of gains and losses resulting from translation of assets and liabilities of our foreign subsidiaries which are denominated in currencies other than the Company's US Dollar reporting currency. Foreign currency reclassification adjustments are reported within 'Foreign currency loss, net' on our consolidated statements of operations.

Cash and Cash Equivalents

Cash and cash equivalents represent cash and short-term, highly liquid investments with maturities of three months or less at the date of purchase. The Company reports receivables from credit card companies, if expected to be received within five days, in cash and cash equivalents.

Restricted Cash

Restricted cash primarily consists of funds to secure certain retail stores, certain customs requirements and other contractual arrangements.

Accounts Receivable, Net

Accounts receivable are recorded at invoiced amounts, net of reserves and allowances. The Company reduces the carrying value for estimated uncollectible accounts based on a variety of factors including the length of time receivables are past due, economic trends and conditions affecting the Company's customer base and historical collection experience. Specific provisions are recorded for individual receivables when the Company becomes aware of a customer's inability to meet its financial obligations. The Company write-off the accounts receivable to the reserves when it is deemed uncollectable or, in certain jurisdictions, when legally able to do so. See Note 12 — Allowances for further discussion related to provisions for doubtful accounts, sale returns and allowances, and reserve for unapplied rebates.

Inventory Valuation

Inventories are valued at the lower of cost or market. Inventory cost is determined primarily using the moving average cost method. We regularly evaluate inventory for possible impairment and estimate inventory market value based on several subjective assumptions including estimated future demand and market conditions, as well as other observable factors such as current sell-through of the Company's products, recent changes in product demand, global and regional economic conditions, historical experience selling through liquidation and price discounted channels, and the amount of inventory on hand. If the estimated inventory market value is less than its carrying value, the carrying value is adjusted to market value and the resulting impairment charge is recorded in 'Cost of sales' in the consolidated statements of operations. See Note 3 — Inventories for further discussion.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. BASIS OF PRESENTATION & SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Property and Equipment, Net

Property, equipment, furniture, and fixtures are stated at original cost, less accumulated depreciation. Depreciation is provided using the straight-line method over the estimated useful asset lives, which are reviewed periodically and have the following ranges: machinery and equipment: 2 - 5 years; furniture, fixtures and other: 2 - 10 years. Leasehold improvements are stated at cost and amortized on the straight-line basis over their estimated economic useful lives or the lease term, whichever is shorter. Costs of enhancements or modifications that substantially extend the capacity or useful life of an asset are capitalized and depreciated accordingly. Ordinary repairs and maintenance are expensed as incurred. Depreciation of manufacturing assets is included in cost of sales in our consolidated statements of operations. Depreciation related to corporate, non-product and non-manufacturing assets is included in 'Selling, general and administrative expenses' in our consolidated statements of operations. When property is retired or otherwise disposed of, the cost and accumulated depreciation are removed from our consolidated balance sheets and the resulting gain or loss, if any, is reflected in 'Loss from operations' on our consolidated statements of operations.

Properties held under capital lease are depreciated using the straight-line method over the estimated useful life or the lease term, whichever is shorter.

Assets and Liabilities Held for Sale

The Company classifies a disposal group to be sold as held for sale when management approves and commits to a formal plan to actively market a disposal group and expects the sale to close within twelve months. Upon classifying a disposal group as held for sale, the disposal group is recorded at the lower of its carrying amount or its estimated fair value, reduced for selling costs. In determining the fair value of a disposal group, the Company considers both the net book value of the disposal group as a whole and the impact of any related foreign currency translation adjustments recorded within stockholders' equity. Any losses are recognized as asset impairment charges in the consolidated statement of operations. Depreciation expense is no longer recorded for any assets within a disposal group that is classified as held for sale.

The fair value of a disposal group less any selling costs is assessed each reporting period it remains classified as held for sale and any subsequent changes are reported as an adjustment to the carrying value of the disposal group, as long as the new carrying value does not exceed the carrying value of the disposal group at the time it was initially classified as held for sale.

Goodwill and Other Intangible Assets, Net

Goodwill is allocated to the reporting unit in which the business that created the goodwill resides. A reporting unit is a reportable operating segment, or a business unit one level below a reportable operating segment, for which discrete financial information is prepared and regularly reviewed by segment management. The operations in each of the specific regions within our Americas, Asia Pacific and Europe reportable operating segments are considered components based on the availability of discrete financial information and the regular review by segment management and the Company's Chief Operating Decision Maker. We evaluate the carrying value of our goodwill and indefinite-lived intangible assets for impairment at the reporting unit level at least annually or when an interim triggering event occurs that would indicate that impairment may have taken place. Our annual test is performed as of the last day of our fiscal fourth quarter. We continuously monitor the performance of our other definite-lived intangible assets and evaluate for impairment when evidence exists that certain events or changes in circumstances indicate that the carrying amount of these assets may not be recoverable. Significant judgments and assumptions are required in such impairment evaluations. Definite-lived intangible assets are stated at cost less accumulated amortization. Amortization is recorded using the straight-line method over the estimated lives of the assets.

Direct costs of acquiring or developing internal-use computer software, including costs of employees, are capitalized and classified within properties. Software maintenance and training costs are expensed in the period incurred. Initial costs associated with internally-developed-and-used software are expensed until it is determined that the project has reached the application development stage, after which subsequent additions, modifications or upgrades are capitalized to the extent that they add functionality. The Company's capitalized software consists primarily of enterprise resource system software, warehouse management software, and point of sale software. Amortization is provided using the straight-line method over the estimated useful asset lives, which are reviewed periodically and range from 5 - 7 years. Amortization of capitalized software used in manufacturing activities is included in 'Cost of sales' in our consolidated statements of operations. Amortization related to corporate, non-product, and non-manufacturing assets, such as the Company's global information systems, is included in 'Selling, general, and administrative expenses' in our consolidated statements of operations.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. BASIS OF PRESENTATION & SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Impairment of Long-Lived Assets

Long-lived assets to be held and used are evaluated for impairment when events or circumstances indicate the carrying value of a long-lived asset or asset group is less than the undiscounted cash flows from its use and eventual disposition over its remaining economic life. Indicators of potential impairment include: (i) a significant decrease in its market price, (ii) a significant adverse change in the extent or manner in which it is being used or in its physical condition, (iii) a significant adverse change in legal factors or business climate that could affect its value, including an adverse action or assessment by a regulator, (iv) an accumulation of costs significantly in excess of the amount originally expected for its acquisition or construction, (v) its current period operating or cash flow losses combined with historical operating or cash flow losses or a forecast of its cash flows demonstrate continuing losses associated with its use, and (vi) a current expectation that, more likely than not, it will be sold or otherwise disposed of significantly before the end of its previously estimated useful life.

The Company assesses recoverability by comparing the sum of projected undiscounted cash flows from the use and eventual disposition over the remaining economic life of a long-lived asset or asset group to its carrying value, and records a loss from impairment if the carrying value is less than its undiscounted cash flows. An asset group is the lowest level of assets and liabilities for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. For assets involved in Crocs' retail business, the asset group is at the retail store level. Assets or asset groups to be abandoned or from which no future benefit is expected, are written down to zero in the period it is determined they will no longer be used and are removed entirely from service. See Note 4 — Property and Equipment for a discussion of impairment losses recorded during the periods presented.

Beneficial Conversion Feature

The Company's Series A Convertible Preferred Stock ("Series A Preferred") included a beneficial conversion feature, which is a conversion right with an effective strike price less than the market price of the underlying stock at the commitment date. The Company recognized the beneficial conversion feature by allocating the intrinsic value of the conversion option, which is the number of shares of common stock available upon conversion multiplied by the difference between the effective conversion price per share and the fair value of common stock per share on the commitment date, to additional paid-in capital. Accretion expense is recorded over the eight years from the date of issuance through the redemption date utilizing the effective interest method.

Share-based Compensation

The Company's share-based compensation plans provides for stock options, restricted stock, and stock performance awards to be granted to plan participants, which includes certain officers, employees and members of the Company's Board of Directors (the "Board"). The grant date fair value of awards granted under these plans is amortized over the vesting period using the straight-line method. The grant date fair value of stock options is calculated using a Black Scholes option pricing model, which requires estimates for expected volatility, expected dividends, the risk-free interest rate, and the term of the option. The grant date fair value of RSUs and RSA's is based on the closing market price of our common stock on the grant date, adjusted for dividend rights during the vesting period. If any of the assumptions used in these models or the anticipated number of shares to be awarded change significantly, share-based compensation expense may differ materially in the future from that recorded in the current period. Share-based compensation expense associated with manufacturing and retail employees is included in 'Cost of sales' in our consolidated statements of operations. Share-based compensation expense associated with selling, marketing and administrative employees is included 'Selling, general and administrative expenses' in our consolidated statements of operations. Share-based compensation directly associated with the construction or implementation of long-term projects is capitalized as part of the cost of the assets and amortized over their expected useful lives beginning on the asset in service date.

The Company changed its method of accounting for forfeitures of stock based compensation as further discussed in Note 2 — Recent Accounting Pronouncements. See also Note 11— Stock Compensation for additional information related to share-based compensation.

Earnings per Share

Basic and diluted earnings per common share ("EPS") is presented using the two-class method, which is an earnings allocation formula that determines earnings per share for common stock and any participating securities according to dividend rights and participation rights in undistributed earnings. Under the two-class method, EPS is computed by dividing the sum of distributed and undistributed earnings attributable to common stockholders by the weighted average number of shares of common stock outstanding during the period. A participating security is a security that may participate in undistributed earnings with common stock had those earnings been distributed in any form. The Company's Series A Preferred stock is a participating security because

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

1. BASIS OF PRESENTATION & SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

the holders are entitled to receive any and all dividends declared or paid on common stock on an as-converted basis. In addition, the Company's unvested restricted stock and restricted stock unit awards are participating securities because they include non-forfeitable rights to dividends. Participating securities are included in the computation of EPS pursuant to the two-class method on a pro-rata, if-converted basis. Diluted EPS reflects the potential dilution from securities that could share in the Company's earnings. In addition, the dilutive effect of each participating security, if any, is calculated using the more dilutive of the two-class method described above. This method assumes the if-converted method, which assumes conversion to common stock as of the beginning of the reporting date for any security that is more dilutive upon conversion. Anti-dilutive securities are excluded from diluted EPS. See Note 14 — Earnings Per Share for further discussion.

Derivative Foreign Currency Contracts

The Company enters into derivative financial instruments to mitigate the potential impact of foreign currency exchange rate risk, including foreign currency forward contracts and option contracts. The Company's derivative financial instruments are used to mitigate foreign currency risk and are not used for trading or speculative purposes. The fair value of the derivative financial instruments is reported either as assets or liabilities in our consolidated balance sheets. Changes in the fair value of our foreign currency derivatives not designated or effective as hedges are recorded in 'Foreign currency loss, net' in our consolidated statements of operations. The Company did not designate any derivative instruments for hedge accounting during any of the periods presented. See Note 8 — Derivative Financial Instruments for further discussion.

Foreign Currency Translation and Foreign Currency Transactions

The financial position and operating results of the Company's foreign operations are reported using their respective local currency as the functional currency. Local currency assets and liabilities are translated to U.S. Dollars at the rates of exchange in effect on the balance sheet date, and local currency revenues and expenses are translated to U.S. Dollars at average monthly rates of exchange in effect during the period. The resulting translation gains or losses are included in the consolidated statements of comprehensive income as a component of other comprehensive income (loss) and in the consolidated statements of equity within accumulated other comprehensive income (loss).

The Company also recognizes gains and losses on both third-party and intercompany transactions that are denominated in a currency other than the respective entity's functional currency. Foreign currency transaction gains and losses are recognized in earnings and reported in 'Foreign currency loss, net' in the consolidated statements of operations.

Fair Value

Fair value is the price that would be received from the sale of an asset or transfer of a liability in an orderly transaction between market participants, in the principal or most advantageous market in which a hypothetical sale or transfer would take place, and considers assumptions that market participants would use when pricing the asset or liability, such as inherent risk, transfer restrictions, and risk of non-performance.

U.S. GAAP guidance for fair value includes a hierarchy that prioritizes fair value measurements based on the types of inputs used for the various valuation techniques (market approach, income approach and cost approach). Our financial assets and liabilities are measured using inputs from the three levels of the fair value hierarchy.

The three levels of the fair value hierarchy are as follows:

Level 1—Inputs are unadjusted quoted prices in active markets for identical assets or liabilities in active markets;

Level 2—Inputs include quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar instruments in markets that are less active and inputs other than quoted market prices that are observable for the asset or liability (i.e., interest rates, yield curves, etc.), and inputs that are derived principally from, or corroborated by, observable market data by correlation or other means (market corroborated inputs); and

Level 3—Unobservable inputs for which there is little or no market data, that reflect the assumptions that we believe market participants would use in pricing the asset or liability. We develop these inputs based on the best information available, including our own data.

We categorize fair value measurements within the fair value hierarchy based upon the lowest level of the most significant inputs used to determine fair value. See Note 7 — Fair Value Measurements for further discussion related to fair value measurements.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

2. RECENT ACCOUNTING PRONOUNCEMENTS**New Accounting Pronouncements Adopted*****Stock Compensation***

In March 2016, the Financial Accounting Standards Board ("FASB") issued authoritative guidance intended to simplify and improve several aspects of the accounting for share-based payment transactions. The guidance includes amendments that require excess tax benefits or deficiencies resulting from share-based payments be recognized in the income statement as a component of the provision for income taxes, whereas previously these were recognized within additional paid-in-capital. Further, the new guidance provides an accounting policy election to account for forfeitures as they occur. The new standard also amends the presentation of employee share-based payment-related items in the statement of cash flows by requiring that: (i) excess tax benefits be classified as cash inflows provided by operating activities, and (ii) cash paid to taxing authorities arising from the withholding of shares from employees be classified as cash outflows used in financing activities. We early adopted this guidance during the quarter ended December 31, 2016. The provisions of the new guidance have been adopted as of January 1, 2016, which is the beginning of the annual period that includes the interim period of adoption.

The adoption of this guidance had no effect on our income tax expense or additional paid-in-capital as a result of the change in accounting for excess tax benefits or deficiencies for the three months or the year ended December 31, 2016 because the Company did not recognize any excess tax benefits during 2016. As permitted by this standard, the Company has elected to account for forfeitures as they occur when calculating share-based compensation expense (previously the Company had estimated forfeitures). The effect of this election on share-based compensation expense reported in 2016 was not significant. The adoption of this guidance did not have an impact on either net cash provided by operating activities or on net cash provided by financing activities because the Company had no recognizable excess tax benefits during 2016, and cash paid to taxing authorities arising from the withholding of shares from employees was reported within cash from financing activities, consistent with the adopted guidance.

The adoption of this guidance resulted in an increase to retained earnings for cumulative foreign tax credit and state net operating loss carryforward deferred tax assets attributable to excess tax benefits, not previously recognized as they did not reduce income taxes payable. The cumulative adjustment was fully offset by a valuation allowance for the same amount; thus the net effect of both adjustments was zero.

Deferred Tax Assets and Liabilities

In November 2015, the Financial Accounting Standards Board ("FASB") issued authoritative guidance simplifying the presentation of deferred taxes by requiring all deferred tax assets and liabilities to be classified as non-current on the balance sheet. We have early adopted this guidance on a prospective basis, effective December 31, 2015. Adoption of this guidance resulted in the reclassification of our current deferred tax assets and liabilities to non-current in our consolidated balance sheet as of December 31, 2015. No prior periods were retrospectively adjusted. See Note 13 — Income Taxes for further information related to the early adoption of this guidance.

Debt Issuance Costs

In April 2015, the FASB issued authoritative guidance intended to simplify the presentation of debt issuance costs. These amendments require that debt issuance costs be presented as a direct deduction from the carrying amount of the related debt liabilities, consistent with the presentation of debt discounts. This results in the elimination of debt issuance costs as an asset and reduces the carrying value of our debt liabilities. In August 2015, the FASB issued an announcement in stating that debt issuance costs related to line-of-credit arrangements may be reported as an asset and amortized pro rata over the term of the line-of-credit arrangement. We early adopted this guidance effective for our quarter ended March 2016, and have elected to continue to present our debt issuance costs associated with our line-of-credit arrangements as assets. The adoption of this guidance had no effect on our financial position.

New Accounting Pronouncements Not Yet Adopted***Inventory Measurement***

In July 2015, FASB issued authoritative guidance intended to simplify the measurement of inventory. The amendment requires entities to measure in-scope inventory at the lower of cost or net realizable value, and replaces the current requirement to measure in-scope inventory at the lower of cost or market, which considers replacement cost, net realizable value, and net realizable value less an approximate normal profit margin. This guidance is effective for annual reporting periods, and interim periods within those

CROCS, INC. AND SUBSIDIARIES**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)****2. RECENT ACCOUNTING PRONOUNCEMENTS (Continued)**

annual periods, beginning after December 15, 2016. The amendment should be applied prospectively with early adoption permitted. We do not expect this guidance to have a material effect on our financial position or results of operations upon adoption.

Statement of Cash Flows - Classification

In August 2016, the FASB issued authoritative guidance intended to clarify how entities should classify certain cash receipts and cash payments on the statement of cash flows. The amendment addresses eight specific cash flow issues with the objective of reducing the existing diversity in practice. These updates are effective for annual reporting periods beginning after December 15, 2017, and interim periods within those annual periods, with early adoption permitted. The guidance should be applied retrospectively unless it is impractical to do so; in which case, the guidance should be applied prospectively as of the earliest date practicable. We do not anticipate that this guidance will have an impact on our consolidated financial statements.

Prepaid Stored-Value Products

In March 2016, the FASB issued guidance related to the recognition of breakage for certain prepaid stored-value products. This update aligns recognition of the financial liabilities related to prepaid stored-value products (for example, prepaid gift cards), with Topic 606, Revenue from Contracts with Customers, for non-financial liabilities. In general, certain of these liabilities may be extinguished proportionally in earnings as redemptions occur, or when redemption is remote if issuers are not entitled to the unredeemed stored value. This standard is effective for annual periods (including interim periods) beginning after December 15, 2017, with early adoption permitted. At adoption, this update will be applied either using a modified retrospective transition method by means of a cumulative-effect adjustment to retained earnings as of the beginning of the fiscal year in which the guidance is effective or retrospectively to each period presented. The Company is currently assessing the adoption method and the impact that adopting this new accounting standard will have on its consolidated financial statements.

Leases

In February 2016, the FASB issued authoritative guidance intended to increase transparency and comparability among organizations by recognizing lease assets and liabilities on the balance sheet and disclosing key information about leasing arrangements. Under the new guidance, lessees will be required to recognize a right-of-use asset and a lease liability, measured on a discounted basis, at the commencement date for all leases with terms greater than twelve months. Additionally, this guidance will require disclosures to help investors and other financial statement users to better understand the amount, timing, and uncertainty of cash flows arising from leases, including qualitative and quantitative requirements. The guidance should be applied under a modified retrospective transition approach for leases existing at the beginning of the earliest comparative period presented in the adoption-period financial statements. Any leases that expire before the initial application date will not require any accounting adjustment. This guidance is effective for annual reporting periods beginning after December 15, 2018, including interim periods within those annual periods, with early adoption permitted.

The Company will adopt this guidance beginning with the quarterly reporting period ending March 31, 2019. The Company is evaluating the full impact this guidance will have on its consolidated financial statements, but expects that adoption will result in significant increases in lease related assets and liabilities on our consolidated balance sheet.

Revenue Recognition

In May 2014, the FASB issued authoritative guidance related to new accounting requirements for the recognition of revenue from contracts with customers. The core principle of the guidance is that an entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled to in exchange for the goods or services. Subsequent to the release of this guidance, the FASB has issued additional updates intended to provide interpretive clarifications and to reduce the cost and complexity of applying the new revenue recognition standard both at transition and on an ongoing basis. The new standard and related amendments are effective for annual reporting periods beginning after December 15, 2017, and interim periods within those annual periods. Upon adoption of the new standard, the use of either a full retrospective or cumulative effect transition method is permitted.

In December 2016 the Company established an implementation team (“team”) and engaged external advisers to develop a multi-phase plan to assess the company’s business and contracts, as well as any changes to accounting policies, processes or systems necessary to adopt the requirements of the new standard. The team is in the process of reviewing its contracts and assessing how adoption of the new standard will affect its consolidated financial statements and disclosures upon adoption, as well as the adoption method. The Company expects to complete its evaluation of the impact of the accounting and disclosure changes on its business processes, controls and systems during the first half of 2017. The Company will provide additional information regarding expected effects on its consolidated financial statements and disclosures, and the transition method in its Quarterly Reports during 2017.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

2. RECENT ACCOUNTING PRONOUNCEMENTS (Continued)

Other new pronouncements issued but not effective until after December 31, 2016 are not expected to have a material impact on the Company's consolidated financial statements.

3. INVENTORIES

The following table summarizes inventories by major classification:

	December 31,	
	2016	2015
(in thousands)		
Finished goods	\$ 142,333	\$ 162,341
Work-in-progress	654	918
Raw materials	4,042	4,933
Total inventories	<u>\$ 147,029</u>	<u>\$ 168,192</u>

The Company recorded approximately \$0.0 million, \$3.1 million, and \$11.5 million of inventory write-downs during the years ended December 31, 2016, 2015 and 2014, respectively, related to certain obsolete raw materials, footwear, and accessories. The write-downs for 2016 and 2015 are reported in 'Cost of sales' in the consolidated statement of operations. In 2014, write-downs of \$7.5 million and \$4.0 million are reported within 'Cost of sales' and 'Restructuring charges', respectively, in the consolidated statement of operations.

4. PROPERTY AND EQUIPMENT

Property and equipment, net consists of the following:

	December 31,	
	2016	2015
(in thousands)		
Machinery and equipment	\$ 33,163	\$ 36,864
Leasehold improvements	73,363	81,593
Furniture, fixtures and other	19,358	23,576
Other (1)	—	1,595
Construction-in-progress	6,809	3,512
Property and equipment	132,693	147,140
Less: Accumulated depreciation	(88,603)	(97,650)
Property and equipment, net	<u>\$ 44,090</u>	<u>\$ 49,490</u>

(1) Represents the South Africa disposal group, sold in April 2016.

During the years ended December 31, 2016, 2015, and 2014, depreciation expense was \$15.1 million, \$16.3 million, and \$23.2 million, respectively, of which \$1.8 million, \$1.8 million, and \$1.7 million, respectively, was recorded in 'Cost of sales', with the remaining amounts recorded in 'Selling, general and administrative expenses' in the consolidated statements of operations.

The Company recognized a loss on disposals of property and equipment of \$0.5 million, \$1.4 million and \$0.0 million for the year ended December 31, 2016, 2015, and 2014, which is included in 'Selling, general and administrative expenses' in the consolidated statement of operations.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

4. PROPERTY AND EQUIPMENT (Continued)

The Company is contractually obligated to restore certain retail and office facilities back to their original condition as specified in the related lease agreements. The estimated fair value of these liabilities is recorded at lease inception along with a related asset at inception of the leases. At December 31, 2016 and 2015 liabilities for asset retirement obligations were \$2.8 million and \$2.0 million, respectively. Asset retirement obligations are reported in "Other liabilities" in the consolidated balance sheets.

Asset Impairments

During the years ended December 31, 2016, 2015, and 2014, the Company recorded impairments of \$2.7 million, \$9.6 million, and \$8.8 million, respectively, for underperforming retail stores. During the year ended December 31, 2015, additional impairment of \$5.7 million related to the South Africa disposal group was recorded. Long-lived asset impairments by reportable operating segment, were:

	Year Ended December 31,					
	2016		2015		2014	
	Asset Impairment	Number of Stores	Asset Impairment	Number of Stores	Asset Impairment	Number of Stores
	(in thousands, except store count data)					
Americas	\$ 1,703	12	\$ 7,237	27	\$ 4,001	36
Asia Pacific ⁽¹⁾	672	21	6,450	36	2,807	14
Europe	338	9	1,584	21	2,019	27
Total	\$ 2,713	42	\$ 15,271	84	\$ 8,827	77

⁽¹⁾ In 2015, the Company recorded impairment of nine retail stores in South Africa of \$5.7 million.

5. GOODWILL AND INTANGIBLE ASSETS, NET

Goodwill

All goodwill is in the Europe segment. The changes in goodwill for the years ended December 31, 2016 and 2015 were:

	Goodwill (in thousands)
Gross goodwill at January 1, 2015	\$ 2,382
Accumulated impairments	(338)
Net goodwill at January 1, 2015	2,044
Foreign currency translation	(71)
Net goodwill at December 31, 2015	1,973
Foreign currency translation	(62)
Impairment ⁽¹⁾	(431)
Net goodwill at December 31, 2016 ⁽²⁾	\$ 1,480

⁽¹⁾ During the year ended we recognized impairment of goodwill in our Belgian retail business, due to declining business performance.

⁽²⁾ In December 2016, the Company completed its purchase accounting for the June 2016 acquisition of operations in Austria and concluded the acquisition did not result in goodwill.

For further information related to the goodwill impairment, see Note 7 — Fair Value Measurements.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

5. GOODWILL & INTANGIBLE ASSETS (Continued)

Intangible Assets, Net

Other intangible assets consist of the following:

	Useful Life (Years)	December 31, 2016			December 31, 2015		
		Gross	Accum. Amortiz.	Net	Gross	Accum. Amortiz.	Net
(in thousands)							
Intangible assets subject to amortization:							
Capitalized software ⁽¹⁾	2 - 7	\$ 142,358	\$ (74,530)	\$ 67,828	\$ 162,700	\$ (82,596)	\$ 80,104
Patents, copyrights and trademarks	6 - 25	6,438	(5,471)	967	6,892	(5,135)	1,757
Other	*	2,855	(2,855)	—	8,290	(8,151)	139
Intangibles not subject to amortization:							
In progress ⁽²⁾		3,616	—	3,616	—	—	—
Trademarks and other ⁽³⁾		289	—	289	297	—	297
Total		<u>\$ 155,556</u>	<u>\$ (82,856)</u>	<u>\$ 72,700</u>	<u>\$ 178,179</u>	<u>\$ (95,882)</u>	<u>\$ 82,297</u>

⁽¹⁾ Gross carrying amount at December 31, 2016 includes \$0.8 million of software held under a capital lease classified as capitalized software as of December 31, 2016, and \$4.1 million as of December 31, 2015. Accumulated amortization includes \$0.8 million and \$3.1 million for software held under a capital lease as of December 31, 2016, and December 31, 2015, respectively, and is amortized using the straight-line method over the useful life.

⁽²⁾ Primarily capitalized software project costs under development.

⁽³⁾ Change due to foreign currency translation.

As of December 31, 2016, estimated future annual amortization expense of intangible assets is:

	Amortization
	(in thousands)
2017	\$ 17,812
2018	15,819
2019	13,452
2020	10,698
2021	10,366
Thereafter	648
Total	<u>\$ 68,795</u>

During the years ended December 31, 2016, 2015, and 2014, total amortization expense was \$19.0 million, \$19.7 million and \$14.2 million, of which \$5.1 million, \$5.8 million and \$4.9 million, respectively, was reported in 'Cost of sales', with the remainder in 'Selling, general and administrative expenses' in the consolidated statements of operations. At December 31, 2016, the weighted average remaining useful life of intangibles subject to amortization was approximately 6.5 years.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

6. ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

Accrued expenses and other current liabilities consist of the following:

	December 31,	
	2016	2015
	(in thousands)	
Accrued compensation and benefits	\$ 20,898	\$ 20,973
Fulfillment, freight and duties	14,572	14,776
Professional services	10,900	15,019
Accrued rent and occupancy	7,335	7,639
Deferred revenue and royalties	7,475	1,430
Sales/use and value-added taxes	4,978	7,018
Accrued loss on disposal group ⁽¹⁾	—	6,743
Other ⁽²⁾	12,124	18,975
Total accrued expenses and other current liabilities	\$ 78,282	\$ 92,573

⁽¹⁾ Accrued loss on the South Africa disposal group, primarily a reclassification of the cumulative translation adjustment.

⁽²⁾ Includes current liabilities related to derivatives, Series A preferred stock dividends, legal, other accrued expenses and, in 2015, restructuring.

7. FAIR VALUE MEASUREMENTS

Recurring Fair Value Measurements

U.S. GAAP for fair value establishes a hierarchy that prioritizes fair value measurements based on the types of inputs used for the various valuation techniques (market approach, income approach and cost approach). The Company utilizes a combination of market and income approaches to value derivative instruments. The Company's financial assets and liabilities are measured using inputs from the three levels of the fair value hierarchy. The three levels of the hierarchy are as follows:

Level 1	Unadjusted quoted prices in active markets for identical assets and liabilities.
Level 2	Unadjusted quoted prices in active markets for similar assets and liabilities; or Unadjusted quoted prices for identical or similar assets or liabilities in markets that are not active; or Inputs other than quoted prices that are observable for the asset or liability.
Level 3	Unobservable inputs for the asset or liability.

The financial assets and liabilities that are measured and recorded at fair value on a recurring basis consist of the Company's derivative instruments. The Company's derivative instruments are forward foreign currency exchange contracts. The Company manages credit risk of its derivative instruments on the basis of its net exposure with its counterparty and has elected to measure the fair value in the same manner. All of the Company's derivative instruments are classified as Level 2 and are reported within 'Accrued expenses and other liabilities' in the consolidated balance sheets. There were no transfers between Level 1 or Level 2, nor were there any outstanding derivative instruments classified as Level 3 as of December 31, 2016 and 2015. The fair value of the Company's derivative instruments was \$0.2 million and \$0.1 million at December 31, 2016 and 2015, respectively. See Note 8 — Derivative Financial Instruments for more information.

The carrying amounts of the Company's cash and cash equivalents, accounts receivable, accounts payable and current accrued liabilities approximate their fair value as recorded due to the short-term maturity of these instruments, which approximates fair value.

The Company's borrowing instruments are recorded at their carrying values in the consolidated balance sheets, which may differ from their respective fair values. The fair values of the Company's notes payable outstanding approximate their carrying values at December 31, 2016 based on interest rates currently available to the Company for similar borrowings.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

7. FAIR VALUE MEASUREMENTS (Continued)

	December 31, 2016		December 31, 2015	
	Carrying Value	Fair Value	Carrying Value	Fair Value
	(in thousands)			
Notes payable and capital lease obligations	\$ 2,378	\$ 2,378	\$ 6,399	\$ 6,399

Non-Financial Assets and Liabilities

The Company's non-financial assets, which primarily consist of property and equipment, goodwill and other intangible assets, are not required to be carried at fair value on a recurring basis and are reported at carrying value. However, on a periodic basis or whenever events or changes in circumstances indicate that their carrying value may not be fully recoverable (and at least annually for goodwill and indefinite-lived intangible assets), non-financial instruments are assessed for impairment and, if applicable, written down to and recorded at fair value,

During 2016, 2015 and 2014 the Company recorded non-cash impairments to reduce the carrying values of certain retail store assets to their fair values. These impairments were recorded in 'Asset impairments' on the Company's consolidated statements of operations. In 2016, the Company recorded a non-cash impairment to the carrying value of goodwill in its European segment. The fair values of these assets were determined based on Level 3 measurements, including estimates of the amount and timing of future cash flows based upon historical experience, expected market conditions, and management's plans.

	December 31,		
	2016	2015	2014
	(in thousands)		
Retail store asset impairment	\$ 2,713	\$ 15,306	\$ 8,827
Goodwill impairment	431	—	—

The Company's remaining goodwill is reported within its European segment. The results of the Company's most recent quantitative impairment test for the remaining goodwill indicated that the fair value of the reporting unit exceeded its carrying value. See Note 4 — Property and Equipment, net and Note 5 — Goodwill and Intangible Assets, net for additional information.

8. DERIVATIVE FINANCIAL INSTRUMENTS

The Company transacts business in various foreign countries and is therefore exposed to foreign currency exchange rate risk that impacts the reported U.S. Dollar amounts of revenues, costs, and certain foreign currency monetary assets and liabilities. In order to manage exposure to fluctuations in foreign currency and to reduce the volatility in cash flows and earnings caused by fluctuations in foreign exchange rates, the Company enters into forward contracts to buy and sell foreign currency. By policy, the Company does not enter into these contracts for trading purposes or speculation.

Counterparty default risk is considered low because the forward contracts that the Company enters into are over-the-counter instruments transacted with highly-rated financial institutions. The Company was not required and did not post collateral as of December 31, 2016 and 2015.

The Company's derivative instruments are recorded at fair value as a derivative asset or liability in the consolidated balance sheets. The Company reports derivative instruments with the same counterparty on a net basis when a master netting arrangement is in place. Changes in fair value are recognized within 'Foreign currency loss, net' in the consolidated statements of operations. For purposes of the cash flow statement, the Company classifies cash flows from derivative instruments at settlement in the same category as the cash flows from the related hedged items, generally within 'Cash provided by (used in) operating activities'.

Results of Derivative Activities

The fair values of derivative assets and liabilities, which are reported within 'Accrued expenses and other liabilities' in the consolidated balance sheets were:

CROCS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)
8. DERIVATIVE FINANCIAL INSTRUMENTS (Continued)

	December 31, 2016		December 31, 2015	
	Derivative Assets	Derivative Liabilities	Derivative Assets	Derivative Liabilities
	(in thousands)			
Forward foreign exchange contracts				
Level 1	\$ —	\$ —	\$ —	\$ —
Level 2	6,541	(6,698)	—	(55)
Level 3	—	—	—	—
	6,541	(6,698)	—	(55)
Netting of counterparty contracts	(6,541)	6,541	—	—
Foreign exchange derivative liabilities	\$ —	\$ (157)	\$ —	\$ (55)

The notional amounts of outstanding foreign currency forward exchange contracts shown below report the total U.S. Dollar equivalent position of all contracts for each foreign currency position.

	December 31, 2016		December 31, 2015	
	Notional	Fair Value	Notional	Fair Value
Singapore Dollar	\$ 94,763	\$ (2,611)	\$ —	\$ —
Japanese Yen	87,171	4,180	98,390	—
Euro	71,228	(1,441)	34,219	—
British Pound Sterling	14,332	(660)	21,859	—
Other currencies	60,727	375	39,923	(55)
	\$ 328,221	\$ (157)	\$ 194,391	\$ (55)

Latest maturity date	January 2017	January 2016
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Amounts reported within 'Foreign currency loss, net' in the consolidated statements of operations include both realized and unrealized gains/losses from foreign currency transactions and derivative contracts, and are as follows:

	Year Ended December 31,		
	2016	2015	2014
	(in thousands)		
Foreign currency transaction gain (loss)	\$ 10,814	\$ 3,980	\$ (1,097)
Foreign currency loss on foreign currency forward contracts	(13,268)	(7,312)	(3,788)
Foreign currency loss, net	\$ (2,454)	\$ (3,332)	\$ (4,885)

9. REVOLVING CREDIT FACILITY AND BANK BORROWINGS

The Company's borrowings consist of:

	December 31,	
	2016	2015
	(in thousands)	
Notes payable	\$ 2,329	\$ 6,375
Capital lease obligations	49	24
Total notes payable and capital lease obligations	2,378	6,399
Less: short term notes payable and capital lease obligations	2,338	4,772
Total long-term notes payable and capital lease obligations	\$ 40	\$ 1,627

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

9. REVOLVING CREDIT FACILITY AND BANK BORROWINGS (Continued)

Senior Revolving Credit Facility

The Company's Senior Revolving Credit Facility (the "Facility"), as amended, provides for borrowings of up to \$80 million through February 2021. Borrowings under the Facility for domestic base rate loans, including swing loans, bear interest a daily base rate plus a margin ranging from 0.50% to 0.75%. Domestic London Interbank Borrowing Rate ("LIBOR") loans bear interest equal to a LIBOR rate plus a margin ranging from 1.50% to 1.75%. The Facility has financial covenants that restrict the amount available under the Facility, including limitations on: (i) stock repurchases to \$50.0 million per year, subject to certain restrictions; and (ii) capital expenditures and commitments to \$50.0 million per year. The Facility also requires the Company to meet certain financial covenant ratios, including a minimum fixed charge coverage ratio of 1.10 to 1.00, and a maximum leverage ratio to 2.00 to 1.00.

On November 22, 2016 the Company entered into the Thirteenth Amendment to the Facility, which slightly modified the definition of Consolidated EBITDA to be more favorable to the Company.

On June 13, 2016, the Company entered into the Twelfth Amendment to the Facility, which increased the borrowing capacity available from \$75.0 million to \$80.0 million. In addition, financial covenants were amended to become applicable when the average borrowings under the Facility exceed 25% of the total borrowing capacity, over a 30-day period, commencing 15 days prior to the last day of each fiscal quarter.

As of December 31, 2016, the Company had no borrowings under the Facility. The Company was in compliance with each of the covenants under the Facility as of December 31, 2016 as follows: (i) fixed charge coverage ratio (adjusted EBITDA plus fixed charges before tax for a rolling four quarters divided by fixed charges before tax plus interest for a rolling four quarters) was 1.98 to 1.00 (ii) leverage ratio (consolidated indebtedness divided by adjusted EBITDA for a rolling four quarters) was 0.26 to 1.00, (iii) stock repurchases were zero, and (iv) capital expenditures and commitments were \$23.9 million.

At December 31, 2016 the Company had outstanding letters of credit of \$1.3 million, which reduce the amounts available for borrowing under the terms of the Facility. As of December 31, 2016 and 2015, the Company had \$78.7 million and \$73.7 million, respectively, of available borrowing capacity.

Asia Revolving Credit Facility

On August 28, 2015, a wholly-owned subsidiary of the Company entered into a revolving credit facility agreement (the "Asia Facility") with HSBC Bank (China) Company Limited, Shanghai Branch ("HSBC"). The Asia Facility enables the Company to borrow uncommitted dual currency revolving loan facilities up to 40.0 million Chinese Renminbi ("RMB"), or \$5.8 million, with a combined facility limit of RMB 60.0 million or \$8.6 million through February 2021. For loans denominated in U.S. dollars, the interest rate is 2.1% per annum plus LIBOR for three months or any other period as may be determined by HSBC at the end of each three month interest period.

For RMB loans, interest equals the one year benchmark lending rate effective on the loan draw-down date set forth by the People's Bank of China plus 10%, payable on the maturity date of the related loan. The Asia Facility may be canceled or suspended at any time at the discretion of the lender and contains provisions requiring the Company to maintain compliance with certain restrictive covenants. As of December 31, 2016 and 2015, the Asia Facility remained suspended at the discretion of HSBC and the Company had no outstanding borrowings or borrowings available. The Asia Revolving Credit Facility will mature on February 18, 2021.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

9. REVOLVING CREDIT FACILITY AND BANK BORROWINGS (Continued)

Notes Payable

The Company financed the cost of its enterprise software system, which began in October 2012 and was substantially completed in early 2015 through a series of notes payable. In addition the Company financed certain insurance coverage premiums. The Company pays fixed interest at rates ranging from 1.85% to 2.79%.

The maturities of the Company's debt and capital lease obligations were:

	December 31, 2016	
	(in thousands)	
	2017 \$	2,338
	2018	13
	2019	12
	2020	15
Total principal debt maturities		2,378
Current portion		2,338
Non-current portion	\$	40

10. EQUITY

Common Stock

The Company has one class of common stock with a par value of \$0.001 per share. There are 250 million shares of common stock authorized for issuance. Holders of common stock are entitled to one vote per share voting together as a single class on all matters presented to the stockholders for their approval, except with respect to the election and removal of directors or as otherwise required by applicable law.

Common Stock Repurchase Program

On December 26, 2013, the Board of Directors approved and authorized a program to repurchase up to \$350 million of our common stock. The number, price and timing of the repurchases are at the Company's sole discretion, subject to certain restrictions on repurchases under the Company's Revolving Credit Facility, and may be made depending on market conditions, liquidity needs or other factors. The Company's Board of Directors may suspend, modify or terminate the program at any time without prior notice. Share repurchases may be made in the open market or in privately negotiated transactions. The repurchase authorization does not have an expiration date and does not obligate the Company to acquire any amount of its common stock. Under Delaware state law, these shares are not retired, and the issuer has the right to resell any of the shares repurchased.

The Company did not repurchase any of its common stock during 2016. During 2015, the Company repurchased 6.5 million shares for \$85.9 million including commissions. During 2014, the Company repurchased 10.6 million shares for \$145.9 million including commissions. As of December 31, 2016, the Company had authorization to repurchase approximately \$118.7 million of its common stock.

Preferred Stock

The Company has authorized and available for issuance 4 million shares of preferred stock. None of these preferred shares are issued or outstanding as of December 31, 2016 and 2015.

Series A Convertible Preferred Stock

The Company is authorized to issue up to 1.0 million shares of Series A convertible preferred stock ("Series A Preferred stock"), par value \$0.001 per share, of which 0.2 million shares have been issued to the Blackstone Purchasers. The Series A Preferred stock has a stated value of \$1,000 per share. Holders of Series A Preferred stock are entitled to receive dividends declared or paid

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

10. EQUITY (CONTINUED)

on the Company's common stock and are entitled to vote together with the holders of the Company's common stock as a single class, in each case, on an as-converted basis. Holders of Series A Preferred stock also have certain limited special approval rights, including with respect to the issuance of *pari passu* or senior equity securities of the Company.

Participation Rights and Dividends

The Series A preferred stock ranks senior to the Company's common stock with respect to rights to preferred dividends, liquidation, winding-up, and dissolution. Holders of Series A preferred stock are entitled to cumulative dividends payable quarterly in cash at a rate of 6% per annum. If the Company fails to make timely dividend payments, the dividend rate will increase to 8% per annum until such time as all accrued but unpaid dividends have been paid in full. As of December 31, 2016 and 2015, the Company had accrued preferred dividends of \$3.0 million at each balance sheet date which are reported within 'Accrued expenses and other liabilities' in the consolidated balance sheets. These accrued dividends were each paid in cash on January 3, 2017 and January 4, 2016.

Conversion Right

The Series A preferred stock is convertible at the option of the holders at any time into shares of common stock at a conversion price of \$14.50 per share, subject to adjustment for customary anti-dilution provisions. Anytime on or after January 27, 2017, provided the closing price of the Company's common stock has been equal to or greater than \$29.00 for 20 consecutive trading days, the Company may elect to convert all or a portion of the Series A preferred stock into an equivalent number of shares of common stock. At December 31, 2016, had the Company been entitled to exercise its conversion right, the Series A preferred stock would have been convertible into 13,793,100 shares of common stock.

Redemption Rights of the Company and Blackstone

The Company has the option to redeem the Series A preferred stock anytime on or after January 27, 2022 for 100% of the stated redemption value of \$200 million plus all accrued and unpaid dividends.

Blackstone has the option to redeem the Series A preferred stock any time after January 27, 2022 or upon a change in control. Further, upon certain change of control events, Blackstone can require the Company to repurchase the Series A preferred stock at 101% of the redemption value plus all accrued and unpaid dividends. The Series A preferred stock is reported as temporary or mezzanine equity in the consolidated balance sheets. The carrying value of the Series A preferred stock is accreted up to its \$200 million redemption value on a straight-line basis through the redemption date.

11. STOCK COMPENSATION

Equity Incentive Plans

The Company's 2015 Equity Incentive Plan (the "2015 Plan") provides for the issuance of common stock in connection with the grant of non-qualified stock options, incentive stock options, restricted stock, restricted stock units, stock appreciation rights, performance units, common stock, or any other share-based award to eligible employees, consultants, and members of the Board. The Company also had two predecessor plans, the 2005 Equity Incentive Plan (the "2005 Plan") and the 2007 Equity Incentive Plan (the "2007 Plan"). Shares of common stock reserved and authorized for issuance at December 31, 2016 under all plans were 9,969,331 shares, subject to adjustment for future stock splits, stock dividends, and similar changes in capitalization.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

11. STOCK COMPENSATION (Continued)

Stock Option Activity

Stock option activity for the years ended December 31, 2016, 2015, and 2014 was:

	Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value
(in thousands, except exercise price and years)				
Outstanding as of January 1, 2014	2,105	\$ 13.34	4.86	\$ 10,790
Granted	119	14.22		
Exercised	(266)	5.05		
Forfeited or expired	(262)	21.02		
Outstanding as of December 31, 2014	1,696	\$ 13.52	3.88	\$ 4,435
Granted	35	13.52		
Exercised	(285)	6.54		
Forfeited or expired	(150)	21.82		
Outstanding as of December 31, 2015	1,296	\$ 14.09	2.83	\$ 1,261
Granted	—	—		
Exercised	(104)	4.04		
Forfeited or expired	(674)	13.47		
Outstanding as of December 31, 2016	518	\$ 16.90	3.99	\$ 186,184
Exercisable at December 31, 2016	447	\$ 17.37	3.48	\$ 186,184
Vested and expected to vest at December 31, 2016	518	\$ 16.90	3.97	\$ 186,184

No stock options were granted during 2016. During the years ended December 31, 2015 and 2014 stock options were valued using a Black Scholes option pricing model using the following assumptions:

	Year Ended December 31,	
	2015	2014
Expected volatility	43%	44% - 50%
Dividend yield	—	—
Risk-free interest rate	1.50% - 1.72%	1.41% - 1.71%
Expected life (in years)	4.00	4.00

The weighted average grant date fair value of stock options granted during the years ended December 31, 2015 and 2014 was approximately \$4.74, and \$5.35, respectively. The aggregate intrinsic value of stock options exercised during the years ended December 31, 2016, 2015, and 2014 was \$0.5 million, \$1.7 million, and \$2.7 million, respectively. During the years ended December 31, 2016, 2015, and 2014 the Company received \$0.4 million, \$1.9 million and \$1.3 million cash in connection with the exercise of stock options. The total grant date fair value of stock options vested during the years ended December 31, 2016, 2015, and 2014 was \$0.3 million, \$0.7 million, and \$0.8 million, respectively.

As of December 31, 2016, the Company had \$0.3 million of total unrecognized share-based compensation expense related to unvested options, which is expected to be amortized over the remaining weighted average period of 1.81 years.

Stock options under both the 2005 Plan and the 2007 Plan generally vest ratably over four years with the first vesting occurring one year from the date of grant, followed by monthly vesting for the remaining three years.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

11. STOCK COMPENSATION (Continued)

Restricted Stock Awards and Units

From time to time, restricted stock awards ("RSAs") and restricted stock units ("RSUs") are granted to employees. RSAs and RSUs generally vest over three years, depending on the terms of the grant. Holders of unvested RSAs have the same rights as those of common stockholders including voting rights and non-forfeitable dividend rights. However, ownership of unvested RSAs cannot be transferred until vested. Holders of unvested RSUs have a contractual right to receive a share of common stock upon vesting. RSUs have dividend equivalent rights which accrue over the term of the award and are paid if and when the RSUs vest, but RSU holders have no voting rights. The Company grants time-based RSUs and performance-based RSUs.

Time-based RSUs are typically granted on an annual basis to certain executive and non-executive employees and vest on a straight-line basis in three annual installments, beginning one year after the grant date. During the years ended December 31, 2016, 2015, and 2014, the Board approved grants of 0.4 million, 0.4 million, and 0.3 million RSUs to certain non-executives.

During the years ended December 31, 2016, 2015, and 2014, the Board approved the grant of 1.2 million, 1.5 million, and 0.9 million, respectively, RSUs to certain executives as part of a performance incentive program.

Performance-based RSUs are granted on an annual basis to certain executive employees and consist of a time-based and performance-based component. Under the time-based component, RSUs vest at the end of each of the three years beginning one year from the grant date. The performance targets and vesting conditions for performance-based RSUs are based on achievement of multiple weighted performance goals, and vest upon certification of the compensation committee plus an additional service period.

RSA and RSU activity during the years ended December 31, 2016, 2015, and 2014 was:

	Restricted Stock Awards		Restricted Stock Units	
	Shares	Weighted Average Grant Date Fair Value	Units	Weighted Average Grant Date Fair Value
Unvested at January 1, 2014	210,490	\$ 13.43	1,965,667	\$ 16.50
Granted	9,973	15.04	1,749,993	16.05
Vested	(68,420)	15.03	(541,888)	17.64
Forfeited	(144,555)	12.67	(1,176,301)	16.51
Unvested at December 31, 2014	7,488	\$ 15.61	1,997,471	\$ 15.78
Granted	15,987	15.01	2,866,562	10.14
Vested	(15,480)	15.30	(505,025)	16.20
Forfeited	(1,328)	15.00	(1,270,630)	14.14
Unvested at December 31, 2015	6,667	\$ 15.00	3,088,378	\$ 10.75
Granted	22,860	10.28	2,312,121	9.16
Vested	(18,097)	12.02	(612,370)	13.05
Forfeited	—	—	(932,761)	11.26
Unvested at December 31, 2016	11,430	\$ 10.28	3,855,368	\$ 10.31

RSAs vested during the years ended December 31, 2016, 2015, and 2014 consisted entirely of time-based awards. RSUs vested during the year ended December 31, 2016 consisted of 31,396 performance-based awards and 599,071 time-based awards. RSUs vested during the year ended December 31, 2015 consisted of 67,893 performance-based awards and 437,132 time-based awards. RSUs vested during the year ended December 31, 2014 consisted of 30,946 performance-based awards and 510,942 time-based awards.

The total grant date fair value of RSAs vested during the years ended December 31, 2016, 2015, and 2014 was \$0.2 million, \$0.2 million, and \$1.0 million, respectively. As of December 31, 2016, there was \$0.1 million of total unrecognized share-based compensation expense related to non-vested restricted stock awards, all of which was related to time-based awards. As of December 31, 2016, unvested RSAs are expected to amortize over a remaining weighted average period of 0.43 years.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

11. STOCK COMPENSATION (Continued)

The total grant date fair value of RSUs vested during the years ended December 31, 2016, 2015, and 2014 was \$8.0 million, \$8.2 million and \$9.6 million, respectively. As of December 31, 2016, there was \$14.2 million of total unrecognized share-based compensation expense related to unvested restricted stock units, of which \$2.6 million is related to performance-based awards and \$11.6 million is related to time-based awards. As of December 31, 2016, unvested RSUs are expected to amortize over a remaining weighted average period of 1.63 years, which consists of a remaining weighted average period of 1.56 years related to performance-based awards and a remaining weighted average period of 1.71 years related to time-based awards.

Share-based Compensation Expense

During the years ended December 31, 2016, 2015, and 2014, the Company recorded \$10.7 million, \$11.2 million, and \$12.7 million, respectively, of pre-tax share-based compensation expense, of which \$0.5 million, \$0.5 million and \$0.8 million is reported within 'Cost of sales', and \$10.2 million, \$10.7 million and \$11.8 million, respectively in 'Selling, general and administrative expense in the consolidated statements of operations. During 2014, \$0.2 million of share compensation cost related to the Company's enterprise resource planning system was included in capitalized software cost.

12. ALLOWANCES

Changes in the allowance for doubtful accounts, the reserve for sales returns and allowances, and unapplied rebates were:

	Allowance for doubtful accounts	Reserve for sales returns and allowances	Reserve for unapplied rebates	Total
	(in thousands)			
Beginning balance at January 1, 2014	\$ 3,656	\$ 5,410	\$ 1,447	\$ 10,513
Reduction in revenues	—	69,834	5,397	75,231
Expense	12,087	—	—	12,087
Recoveries, applied amounts, and write-offs	(2,134)	(68,030)	4,725	(65,439)
Ending balance at December 31, 2014	13,609	7,214	11,569	32,392
Reduction in revenues	—	71,649	11,106	82,755
Expense	26,225	—	—	26,225
Recoveries, applied amounts, and write-offs	(3,466)	(74,224)	(14,318)	(92,008)
Ending balance at December 31, 2015	36,368	4,639	8,357	49,364
Reduction in revenues	—	72,995	9,036	82,031
Expense	6,079	—	—	6,079
Recoveries, applied amounts, and write-offs	(9,591)	(71,513)	(8,232)	(89,336)
Ending balance at December 31, 2016	<u>\$ 32,856</u>	<u>\$ 6,121</u>	<u>\$ 9,161</u>	<u>\$ 48,138</u>

During the year ended December 31, 2015, multiple China distributors defaulted on their payment obligations and, as a result, the Company recorded a \$23.2 million charge in 2015 to increase the China allowance for doubtful accounts to \$30.3 million at December 31, 2015. In addition to the allowance for doubtful accounts of \$30.3 million, the Company also maintained China reserves for sales returns and allowances and unapplied rebates, bringing the total China allowances to \$36.4 million as of December 31, 2015. As of December 31, 2015, China operations accounted for \$41.6 million of the Company's gross receivables, of which \$38.2 million were past due. Our net accounts receivable balance for our China operations as of December 31, 2015 was \$5.1 million.

The Company addressed the declining collection rates experienced in 2015 from our China operations by limiting or terminating its relationship with certain distributors. Beginning in late 2015, the Company implemented a more restrictive credit policy for several China distributors and also expanded its relationship with other, financially stronger existing business partners.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

12. ALLOWANCES (Continued)

Changes in the China allowance for doubtful accounts, the reserve for sales returns and allowances, and unapplied rebates were:

	Allowance for doubtful accounts	Reserve for sales returns and allowances	Reserve for unapplied rebates	Total
China Operations				
(in thousands)				
Beginning balance at January 1, 2014	\$ 24	\$ 225	\$ 1,051	\$ 1,300
Reduction in revenue	—	6,921	—	6,921
Expense	8,552	—	—	8,552
Recoveries, applied amounts, and write-offs	(136)	(3,103)	7,572	4,333
Ending balance at December 31, 2014	8,440	4,043	8,623	21,106
Reduction in revenue	—	7,769	3,511	11,280
Expense	23,163	—	—	23,163
Recoveries, applied amounts, and write-offs	(1,315)	(11,618)	(6,172)	(19,105)
Ending balance at December 31, 2015	30,288	194	5,962	36,444
Reduction in revenue	—	9,243	1,380	10,623
Expense	1,097	—	—	1,097
Recoveries, applied amounts, and write-offs	(5,752)	(8,575)	(1,013)	(15,340)
Ending balance at December 31, 2016	\$ 25,633	\$ 862	\$ 6,329	\$ 32,824

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

13. INCOME TAXES

The following table sets forth income before taxes and the expense for income taxes for the years ended December 31, 2016, 2015, and 2014:

	Year Ended December 31,		
	2016	2015	2014
	(in thousands)		
Income (loss) before taxes:			
U.S.	\$ (55,617)	\$ (83,537)	\$ (34,622)
Foreign	48,404	8,793	26,073
Total income (loss) before taxes	<u>\$ (7,213)</u>	<u>\$ (74,744)</u>	<u>\$ (8,549)</u>
Income tax expense:			
Current income taxes			
U.S. federal	\$ 49	\$ 480	\$ (12,049)
U.S. state	126	195	(23)
Foreign	9,494	7,488	7,620
Total current income taxes	<u>9,669</u>	<u>8,163</u>	<u>(4,452)</u>
Deferred income taxes:			
U.S. federal	263	(3,902)	400
U.S. state	—	(118)	236
Foreign	(651)	4,309	193
Total deferred income taxes	<u>(388)</u>	<u>289</u>	<u>829</u>
Total income tax expense (benefit)	<u>\$ 9,281</u>	<u>\$ 8,452</u>	<u>\$ (3,623)</u>

The increase in tax expense for 2016 versus 2015 was driven by the income tax effects on the pretax results in countries where the Company records a provision.

CROCS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)
13. INCOME TAXES (Continued)

The following table sets forth income reconciliations of the statutory federal income tax rate to actual rates based on income or loss before income taxes for the years ended December 2016, 2015, and 2014:

	December 31,					
	2016		2015		2014	
	(in thousands)					
Federal income tax rate	\$ (2,524)	35.0 %	\$ (26,160)	35.0 %	\$ (2,992)	35.0 %
State income tax rate, net of federal benefit	(202)	2.8	(543)	0.7	2,598	(30.4)
Effect of rate differences	(12,624)	175.0	(3,678)	4.9	(3,362)	39.3
Non-deductible / Non-taxable items	2,694	(37.4)	(2,181)	2.9	(9,904)	115.8
Change in valuation allowance	16,041	(222.4)	10,892	(14.5)	5,370	(62.8)
U.S. tax on foreign earnings	23,130	(320.6)	82,311	(110.0)	17,196	(201.2)
Foreign tax credits	(18,581)	257.6	(49,432)	66.1	(11,026)	129.0
Uncertain tax positions	19	(0.3)	(3,952)	5.3	(25,172)	294.4
Audit settlements	253	(3.5)	1,167	(1.6)	13,448	(157.3)
Stock Compensation Windfall / Shortfall	2,120	(29.4)	—	—	—	—
Deferred income tax account adjustments	(842)	11.7	—	—	8,679	(101.5)
Write-off of income tax receivable	—	—	—	—	1,577	(18.4)
Other	(203)	2.8	28	(0.1)	(35)	0.5
Effective income tax rate	<u>\$ 9,281</u>	<u>(128.7)%</u>	<u>\$ 8,452</u>	<u>(11.3)%</u>	<u>\$ (3,623)</u>	<u>42.4 %</u>

The 2015 and 2014 amounts have been recast to reflect the pertinent amounts on the rows that were added this year.

The following table sets forth deferred income tax assets and liabilities as of December 2016 and 2015:

	December 31,	
	2016	2015
	(in thousands)	
Non-current deferred tax assets:		
Stock compensation expense	\$ 4,597	\$ 7,142
Long-term accrued expenses	26,127	26,114
Net operating loss and charitable contribution carryovers	36,424	22,518
Intangible assets	3,654	4,725
Future uncertain tax position offset	396	456
Unrealized loss on foreign currency	—	466
Foreign tax credit	69,586	27,109
Other	5,481	5,548
Valuation allowance	(90,900)	(56,572)
Total non-current deferred tax assets	<u>\$ 55,365</u>	<u>\$ 37,506</u>
Non-current deferred tax liabilities:		
Intangible assets	\$ (41)	\$ (24,572)
Unremitted earnings of foreign subsidiary	(32,427)	(6,432)
Property and equipment	(16,072)	—
Total non-current deferred tax liabilities	<u>\$ (48,540)</u>	<u>\$ (31,004)</u>

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

13. INCOME TAXES (Continued)

We annually receive cash from our foreign subsidiaries' current year earnings. Separately, while we have accrued U.S. federal income tax on substantially all current year foreign earnings from 2010-2016, we treat all other accumulated foreign subsidiary earnings through December 31, 2016, as indefinitely reinvested under the accounting guidance, and accordingly have not provided for any U.S. or foreign tax thereon. In order to arrive at this conclusion, we considered factors including, but not limited to, past experience, domestic cash requirements, and cash requirements to satisfy the ongoing operations, capital expenditures and other financial obligations of our foreign subsidiaries. As of December 31, 2016, U.S. federal income tax expense on approximately \$178 million of undistributed earnings and profits attributable to foreign subsidiaries have been accrued. Furthermore, as of December 31, 2016, U.S. income and foreign withholding taxes have not been provided on for approximately \$208.1 million of unremitted earnings of subsidiaries operating outside of the U.S. as these amounts are considered to be indefinitely reinvested. These earnings are estimated to represent the excess of the financial reporting over the tax basis in Crocs' investments in those subsidiaries. These earnings, which are considered to be indefinitely reinvested, would become subject to U.S. income tax if they were remitted to the U.S. The amount of unrecognized deferred U.S. federal income tax liability on the unremitted earnings has not been determined because the hypothetical calculation is not practicable.

The Company adopted ASU 2016-09 during the year, which caused an increase in tax attributes recorded for provision purposes. As the net impact of these difference was recorded to retained earnings as a cumulative change, and subsequently valued, there was no net impact to the Company's financial statements.

During 2016, Crocs received a Private Letter Ruling from the IRS related to a request to claim bonus depreciation for tax years 2011-2013. As such, the Company filed amended tax returns for those periods and subsequently recorded additional deferred tax liabilities associated with our basis differences in fixed assets. This increase was offset against incremental deferred tax assets related to foreign tax credits.

During 2016, we recorded additional tax loss carryforwards in certain European, South American and Asian jurisdictions in the aggregate of \$18.2 million, primarily driven by operational losses recognized based on local statutory accounting requirements. As the carryforwards were generated in jurisdictions where we have historically had book losses or do not have strong future projections related to those operations, we concluded that it was more likely than not that the net operating losses would not be realized, and thus recorded a full valuation allowance on the associated deferred tax assets. As such, as of December 31, 2016, Crocs maintains a valuation allowance of \$90.9 million. The recognition of these deferred tax assets and fully offsetting valuation allowance resulted in a zero net impact to the consolidated statement of operations, balance sheet and statement of cash flows.

The following table sets forth a reconciliation of the beginning and ending amount of unrecognized tax benefits during the years ended December 31, 2016, 2015 and 2014:

	December 31,		
	2016	2015	2014
	(in thousands)		
Unrecognized tax benefit—January 1	\$ 4,957	\$ 8,444	\$ 31,616
Gross increases—tax positions in prior period	646	643	7
Gross decreases—tax positions in prior period	(664)	(385)	(3,711)
Gross increases—tax positions in current period	245	549	904
Settlements	(238)	(4,126)	(20,210)
Lapse of statute of limitations	(196)	(168)	(162)
Unrecognized tax benefit—December 31	<u>\$ 4,750</u>	<u>\$ 4,957</u>	<u>\$ 8,444</u>

The Company recorded net expense of \$0.3 million related to increases in 2016 unrecognized tax benefits combined with amounts effectively settled under audit. Unrecognized tax benefits as of December 31, 2016, relate to tax years that are currently open, and amounts may differ from those to be determined upon closing of the positions. Annual tax provisions include amounts considered sufficient to pay assessments that may result from examination of prior year tax returns; however, the amount ultimately paid upon resolution of issues may differ materially from the amount accrued. Given the uncertainty regarding the timing of the resolution, settlement, and closure of any audits, it is reasonably possible that the balance of gross unrecognized tax benefits could significantly change in the next 12 months. However, given the number of years remaining that are subject to examination, Crocs is unable to estimate the full range of possible adjustments to the balance of gross unrecognized tax benefits.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

13. INCOME TAXES (Continued)

As it relates to the impact of uncertain tax positions on the rate reconciliation, the primary impact includes audit settlements, net increases in position changes (both are noted as part of the tax position tabular disclosure), and accrued interest expense. The gross impact of positions effectively settled are disclosed separately as audit settlements. The net benefit related to 2014 audit settlements is not expected to recur in future periods. Note that the interest component, while carried as a liability on the balance sheet and recorded as a component of tax expense, is excluded from the tabular disclosure pursuant to the guidance under ASC 740-10-50.

Interest and penalties related to income tax liabilities are included in income tax expense in the consolidated statement of operations. For the years ended December 31, 2016, 2015 and 2014, Crocs recorded approximately \$0.2 million, \$0.2 million and \$0.8 million, respectively, of penalties and interest. During the year ended December 31, 2016, Crocs released \$0.1 million of interest from settlements, lapse of statutes, and change in certainty. The cumulative accrued balance of penalties and interest was \$0.6 million, \$0.5 million and \$0.9 million, as of December 31, 2016, 2015 and 2014, respectively.

Unrecognized tax benefits of \$4.8 million, \$5.0 million and \$8.4 million as of December 31, 2016, 2015 and 2014, respectively, if recognized, would reduce the annual effective tax rate offset by deferred tax assets recorded for uncertain tax positions.

The following table sets forth the tax years subject to examination for the major jurisdictions where we conduct business as of December 31, 2016:

Netherlands	2009 to 2016
Canada	2009 to 2016
Japan	2010 to 2016
China	2008 to 2016
Singapore	2012 to 2016
United States	2010 to 2016

State income tax returns are generally subject to examination for a period of three to five years after filing of the respective return. The state impact of any federal changes remains subject to examination by various state jurisdictions for a period up to two years after formal notification to the states. As such, U.S. state income tax returns for the Company are generally subject to examination for the years 2011 to 2016.

The Company has recorded deferred tax assets related to U.S. federal tax carryforwards, including foreign tax credits and net operating losses, which expire at various dates between 2020 and 2036 of \$57.3 million and \$21.9 million at December 31, 2016, and December 31, 2015, respectively. The Company has recorded deferred tax assets related to U.S. state tax net operating loss carryforwards which expire at various dates between 2017 and 2036 of \$9.4 million and \$7.0 million at December 31, 2016, and December 31, 2015, respectively. The Company has recorded deferred tax assets related to foreign tax carryforwards, including foreign tax credits and net operating losses, which expire starting in 2020 and some that do not expire of \$39.3 million and \$20.7 million as of December 31, 2016, and December 31, 2015, respectively. The significant increase in tax carryforwards is primarily driven by \$17.7 million of U.S. tax carryforwards recorded during 2016 which were previously unrecorded stock compensation windfall attributes and from current year net operating losses and foreign tax credit generation.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

14. EARNINGS PER SHARE

Basic and diluted earnings (loss) per share ("EPS") for the years ended December 31, 2016, 2015, and 2014 were:

	Year Ended December 31,		
	2016	2015	2014
	(in thousands)		
Numerator			
Net loss attributable to common stockholders—basic and diluted	\$ (31,738)	\$ (98,007)	\$ (18,962)
Denominator			
Weighted average common shares outstanding—basic and diluted	73,371	75,604	85,140
Net loss attributable per common share:			
Basic	\$ (0.43)	\$ (1.30)	\$ (0.22)
Diluted	\$ (0.43)	\$ (1.30)	\$ (0.22)

Diluted EPS is calculated using the two-class method for options and RSUs and the if-converted method for Series A preferred stock. For the years ended December 31, 2016, 2015, and 2014, 2.2 million, 2.1 million, and 2.0 million options and RSUs, respectively, were excluded from the calculation of diluted EPS under the two-class method because the effect was anti-dilutive. The Series A preferred shares were excluded in the calculation of diluted EPS under the if-converted method because the effect on was anti-dilutive. If converted, Series A preferred stock would represent approximately 15.8% of the Company's common stock outstanding, or 13.8 million additional common shares as of December 31, 2016.

15. COMMITMENTS AND CONTINGENCIES

Rental Commitments and Contingencies

The Company rents space for its retail stores, offices, warehouses, vehicles, and equipment under operating leases expiring at various dates through 2033. Certain leases contain rent escalation clauses. Rent expense for leases with escalations or rent holidays is recognized on a straight-line basis over the lease term beginning on the lease inception date. Certain leases also provide for contingent rents, which are generally determined as a percent of sales in excess of specified levels. A contingent rent liability is recognized together with the corresponding rent expense when specified levels have been achieved or when the Company determines that achieving the specified levels during the period is probable.

Deferred rent is included in the consolidated balance sheets in 'Accrued expenses and other current liabilities'. Future minimum lease payments under operating leases were as follows:

Year ending December 31,	December 31, 2016
	(in thousands)
2017	\$ 68,241
2018	56,125
2019	42,702
2020	35,692
2021	29,230
Thereafter	78,565
Total minimum lease payments	<u>\$ 310,555</u>

Minimum sublease rentals of \$0.2 million under non-cancelable subleases and contingent rentals, which may be paid under certain retail leases on a basis of percentage of sales in excess of stipulated amounts, are excluded from the commitment schedule.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

15. LEGAL PROCEEDINGS (Continued)

Rent expense under operating leases was:

	Year Ended December 31,		
	2016	2015	2014
	(in thousands)		
Minimum rentals	\$ 88,182	\$ 96,579	\$ 108,466
Contingent rentals	14,596	14,929	16,875
Less: Sublease rentals	(187)	(322)	(868)
Total rent expense	<u>\$ 102,591</u>	<u>\$ 111,186</u>	<u>\$ 124,473</u>

Minimum rentals include all lease payments, fixed and variable common area maintenance, parking and storage fees, which were approximately \$10.2 million, \$9.1 million, and \$9.6 million during the years ended December 31, 2016, 2015, and 2014, respectively.

Purchase Commitments

In December 2011, the Company renewed and amended its supply agreement with Finproject S.p.A. (formerly known as Finproject s.r.l.), which provides the Company the right to purchase certain raw materials used to manufacture its products. The supply agreement requires that the Company meet minimum purchase requirements throughout the term of the agreement, which renews annually on January 1st unless terminated by either party. Historically, the minimum purchase requirements have not been onerous and the Company does not expect them to become onerous in the future. Depending on the material purchased, pricing is based either on contracted price or is subject to quarterly reviews and fluctuates based on order volume, currency fluctuations, and raw material prices. Pursuant to the agreement, the Company guarantees the payment for certain third-party manufacturer purchases of these raw materials up to a maximum potential amount of €3.5 million (approximately \$3.7 million as of December 31, 2016).

As of December 31, 2016 and 2015, the Company had firm purchase commitments with other certain third-party manufacturers of \$125.9 million and \$158.2 million, respectively.

Government Tax Audits

The Company is regularly subject to, and is currently undergoing, audits by tax authorities in the United States and several foreign jurisdictions for prior tax years.

Other

During its normal course of business, the Company may make certain indemnities, commitments and guarantees under which it may be required to make payments in relation to certain matters. The Company cannot determine a range of estimated future payments and has not recorded any liability for indemnities, commitments and guarantees in the accompanying consolidated balance sheets.

See Note 17 — Legal Proceedings for further details regarding potential loss contingencies related to government tax audits and other current legal proceedings.

16. OPERATING SEGMENTS AND GEOGRAPHIC INFORMATION

The Company has three reportable operating segments based on the geographic nature of our operations: Americas, Asia Pacific, and Europe. We also have an 'Other businesses' category which aggregates insignificant operating segments that do not meet the reportable segment threshold, including manufacturing operations located in Mexico and Italy, and corporate operations.

Each of the reportable operating segments derives its revenues from the sale of footwear and accessories to external customers as well as inter-segment sales. Revenues of the Other businesses category are primarily made up of inter-segment sales. The remaining revenues for 'Other businesses' represent non-footwear product sales to external customers. Inter-segment sales are not included in the measurement of segment operating income and are eliminated when reporting total consolidated revenues.

CROCS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)
16. OPERATING SEGMENTS AND GEOGRAPHIC INFORMATION (Continued)

Segment performance is evaluated based on segment results without allocating corporate expenses, or indirect general, administrative, and other expenses. Segment profits or losses include adjustments to eliminate inter-segment sales. As such, reconciling items for segment operating income represent unallocated corporate and other expenses as well as inter-segment eliminations.

	Year Ended December 31,		
	2016	2015	2014
	(in thousands)		
Revenues:			
Americas	\$ 467,006	\$ 476,210	\$ 489,915
Asia Pacific	395,078	424,491	473,910
Europe	173,444	188,833	233,604
Total segment revenues	1,035,528	1,089,534	1,197,429
Other businesses	745	1,096	794
Total consolidated revenues	\$ 1,036,273	\$ 1,090,630	\$ 1,198,223
Operating income:			
Americas ⁽¹⁾	\$ 58,844	\$ 49,422	\$ 48,347
Asia Pacific ⁽²⁾	78,907	48,447	75,135
Europe ⁽³⁾	17,757	15,629	24,517
Total segment operating income	155,508	113,498	147,999
Reconciliation of total segment operating income to income before income taxes:			
Other businesses	(26,935)	(30,092)	(19,400)
Intersegment eliminations	—	—	(1,498)
Unallocated corporate and other ⁽⁴⁾	(134,727)	(155,730)	(131,827)
Total consolidated operating income (loss)	(6,154)	(72,324)	(4,726)
Foreign currency transaction loss, net	(2,454)	(3,332)	(4,885)
Interest income	692	967	1,664
Interest expense	(836)	(969)	(806)
Other income (expense), net	1,539	914	204
Income (loss) before income taxes	\$ (7,213)	\$ (74,744)	\$ (8,549)
Depreciation and amortization:			
Americas	\$ 5,787	\$ 7,401	\$ 11,670
Asia Pacific	4,264	3,913	6,724
Europe	2,133	2,229	3,761
Total segment depreciation and amortization	12,184	13,543	22,155
Other businesses	6,830	7,634	5,900
Unallocated corporate and other ⁽⁴⁾	15,029	14,816	9,358
Total consolidated depreciation and amortization	\$ 34,043	\$ 35,993	\$ 37,413
Cash paid for Property Plant and Equipment			
Americas	\$ 6,851	\$ 6,611	\$ 6,807
Europe	1,388	1,510	3,061
Asia Pacific	4,994	4,705	6,123
Total cash paid for Property Plant and Equipment	\$ 13,233	\$ 12,826	\$ 15,991
Cash paid for Intangible Assets			
Americas	\$ 8,961	\$ 5,459	\$ 40,532

CROCS, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)
16. OPERATING SEGMENTS AND GEOGRAPHIC INFORMATION (Continued)

Europe	—	201	208
Asia	—	—	295
Total cash paid for Intangible Assets	<u>\$ 8,961</u>	<u>\$ 5,660</u>	<u>\$ 41,035</u>

- (1) Includes \$1.7 million, \$7.2 million, and \$4.0 million for the years ended December 31, 2016, 2015, and 2014 respectively, of asset impairment charges related to 12, 27, and 36 underperforming retail locations, respectively.
- (2) Includes \$0.7 million, \$0.7 million, and \$2.8 million for the years ended December 31, 2016, 2015, and 2014, respectively, of asset impairment charges related to 21, 27, and 14 underperforming retail locations, respectively. Additionally in the year ended December 31, 2015, the company recorded \$5.7 million in impairment charges related to South Africa assets, pertaining to 9 retail locations, classified as available for sale.
- (3) Includes \$0.3 million, \$1.6 million, and \$2.0 million for the years ended December 31, 2016, 2015, and 2014 of asset impairment charges related to 9, 21, and 27 underperforming retail locations. Additionally in the year ended December 31, 2016, the Company recorded \$0.4 million in impairment charges related to goodwill in our European retail business.
- (4) Includes a corporate component consisting primarily of corporate support and administrative functions, costs associated with share-based compensation, research and development, marketing, legal, restructuring, depreciation and amortization of corporate and other assets not allocated to operating segments, and similar costs of certain corporate holding companies.

The following table sets forth asset information related to reportable operating segments:

	December 31,	
	2016	2015
	(in thousands)	
Assets ⁽¹⁾		
Americas	\$ 128,071	\$ 148,104
Asia Pacific	144,037	169,865
Europe	69,306	46,137
Total segment current assets	341,414	364,106
Supply Chain	12,343	14,778
Corporate ⁽²⁾	19,134	16,265
Income tax receivable	2,995	10,233
Other receivables	14,642	14,233
Restricted cash - current	2,534	2,554
Prepaid expenses and other current assets	32,413	23,780
Total current assets	425,475	445,949
Property and Equipment, net	44,090	49,490
Intangible assets, net	72,700	82,297
Goodwill	1,480	1,973
Deferred tax assets, net	6,825	6,608
Restricted cash	2,547	3,551
Other assets	13,273	18,152
Total consolidated assets	<u>\$ 566,390</u>	<u>\$ 608,020</u>

- (1) Assets by segment include cash and equivalents, net accounts receivable, and inventory.
- (2) Corporate assets primarily consist of cash and equivalents and inventory.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

16. OPERATING SEGMENTS AND GEOGRAPHIC INFORMATION (Continued)

There were no customers who represented 10% or more of consolidated revenues during the years ended December 31, 2016, 2015 and 2014. The following table sets forth certain geographical information regarding Crocs' revenues during the years ended December 31, 2016, 2015 and 2014:

	Year Ended December 31,		
	2016	2015	2014
	(in thousands)		
Location			
United States	\$ 384,939	\$ 392,463	\$ 435,154
International ⁽¹⁾	651,334	698,167	763,069
Total revenues	<u>\$ 1,036,273</u>	<u>\$ 1,090,630</u>	<u>\$ 1,198,223</u>

⁽¹⁾ For the years ended December 31, 2015 and 2014, no individual country represented more than 10% of consolidated revenues. For the year ended December 31, 2016, sales in Japan represented 10.6% of consolidated revenues.

The following table sets forth geographical information regarding property and equipment assets:

	December 31,	
	2016	2015
	(in thousands)	
Location		
United States	\$ 29,420	\$ 32,954
International	14,670	16,536
Total long-lived assets	<u>\$ 44,090</u>	<u>\$ 49,490</u>

Not more than 10% of long-lived assets resided in any individual foreign country in 2016 or 2015.

17. LEGAL PROCEEDINGS

The Company is currently undergoing an audit by U.S. Customs & Border Protection ("CBP") in respect of the period from 2006 to 2010. In October 2013, CBP issued the final audit report. In that report CBP projects that unpaid duties totaling approximately \$12.4 million are due for the period under review and recommends collection of the duties due. The Company responded that these projections are erroneous and provided arguments that demonstrate the amount due in connection with this matter is considerably less than the projection. Additionally, on December 12, 2014, The Company made an offer to settle CBP's potential claims and paid \$3.5 million. In 2016, after discussions with CBP's local counsel, the Company increased its settlement offer to \$7 million and paid an additional \$3.5 million during the quarterly period ending December 31, 2016. The revised offer is still subject to formal acceptance by CBP. It is not possible to determine whether the Company and CBP will reach a negotiated settlement or when such a settlement might occur. If a settlement cannot be reached, it is not possible to predict with any certainty whether CBP will seek to assert a claim for penalties in addition to any unpaid duties, but such an assertion is a possibility.

The Company is currently subject to an audit by the Brazilian Federal Tax Authorities related to imports of footwear from China between 2010 and 2014. On January 13, 2015, the Company was notified about the issuance of assessments totaling approximately \$4.5 million for the period January 2010 through May 2011. The Company has disputed these assessments and asserted defenses to the claims. On February 25, 2015, the Company received additional assessments totaling approximately \$10.2 million related to the remainder of the audit period. The Company has also disputed these assessments and asserted defenses and filed an appeal to these claims. On May 11, 2016, the Company was notified of a decision rejecting the defense filed against the first assessment covering the period of January 2010 through May 2011. The Company filed an appeal of that decision on June 8, 2016. It is anticipated that this matter will take up to two or more years to be resolved. It is not possible at this time to predict the outcome of this matter.

For all other claims and other disputes, where the Company is able to estimate possible losses or a range of possible losses, the Company estimates that as of December 31, 2016, it is reasonably possible that losses associated with these claims and other disputes could potentially exceed amounts accrued by the Company by up to \$0.4 million.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

15. LEGAL PROCEEDINGS (Continued)

In the aggregate, the Company has accrued \$7.4 million associated with our estimated obligations related to legal claims, which is reported in the consolidated balance sheet in 'Accrued expenses and other liabilities'.

The Company is subject to other litigation from time to time in the ordinary course of business, including employment, intellectual property and product liability claims. The Company is not party to any other pending legal proceedings that it believes would reasonably have a material adverse impact on its business, financial position, results of operations or cash flows.

18. EMPLOYEE BENEFIT PLAN

Defined Contribution Plan

The Company sponsors a qualified defined contribution benefit plan (the "Plan"), covering substantially all of its U.S. employees. The Plan includes a savings plan feature under Section 401(k) of the Internal Revenue Code. The Company makes matching contributions to the plans equal to 100% of the first 3%, and up to 50% of the next 2% of salary contributed by an eligible employee. Participants are vested 100% in the Company's matching contributions when made. Contributions made by the Company under the Plan were \$5.8 million, \$6.0 million and \$7.1 million for the years ended December 31, 2016, 2015, and 2014, respectively, and are recorded in 'Selling, general and administrative expenses' in the consolidated statements of operations.

19. UNAUDITED QUARTERLY CONSOLIDATED FINANCIAL INFORMATION

	For the Quarter Ended			
	March 31, 2016	June 30, 2016	September 30, 2016	December 31, 2016
	(in thousands, except per share data)			
Revenues	\$ 279,140	\$ 323,828	\$ 245,888	\$ 187,417
Gross profit	129,366	169,640	122,434	78,724
Asset impairment charges	193	572	930	1,449
Income (loss) from operations	14,243	20,605	(1,215)	(39,787)
Net income (loss)	10,146	15,537	(1,533)	(40,644)
Net income (loss) attributable to common shareholders	6,361	11,735	(5,352)	(44,482)
Basic income (loss) per common share	\$ 0.07	\$ 0.13	\$ (0.07)	\$ (0.60)
Diluted income (loss) per common share	\$ 0.07	\$ 0.13	\$ (0.07)	\$ (0.60)

	For the Quarter Ended			
	March 31, 2015	June 30, 2015	September 30, 2015	December 31, 2015
	(in thousands, except per share data)			
Revenues	\$ 262,193	\$ 345,671	\$ 274,088	\$ 208,678
Gross profit	127,370	189,870	120,821	72,744
Restructuring	3,663	2,810	981	1,274
Asset impairment charges	—	2,075	5,460	7,771
Income (loss) from operations	(2,362)	16,349	(20,730)	(65,581)
Net income (loss)	(2,425)	13,426	(24,024)	(70,173)
Net income (loss) attributable to common shareholders	(5,979)	9,690	(27,776)	(73,942)
Basic income (loss) per common share	\$ (0.08)	\$ 0.11	\$ (0.37)	\$ (1.01)
Diluted income (loss) per common share	\$ (0.08)	\$ 0.11	\$ (0.37)	\$ (1.01)

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

19. UNAUDITED QUARTERLY CONSOLIDATED FINANCIAL INFORMATION (Continued)

During the three months ended December 31, 2016 we identified the following factors affecting the comparability of information between periods:

- Due to the seasonal nature of our products, we experience decreased revenues in the fourth quarter of the year relative to the other quarters. For the quarter ended December 31, 2016 revenue decreased 10.2% as compared to the same quarter of the prior year which was primarily driven by a decrease in sales in the Wholesale and Retail segments.
- Gross margin as a percent of revenue remained relatively constant across periods. For the three months ended December 31, 2016 gross margins decreased by 7.8% as compared to the three months ended September 30, 2016 which is typical in the fourth quarter as a result of product mix coupled with traditionally higher year end promotion activities related to the liquidation of current year product lines remaining in inventory. Of the 7.8% decrease in gross margin, 2.3% of the shortfall was due to an increase in royalty expense related to clarification of new and existing agreements, which resulted in a change in estimates for royalties.
- Our Income from operations for the quarter ended June 30, 2016 was negatively impacted by an increase of \$18.3M in marketing expense related to the Spring/Summer line advertising campaigns. SG&A, otherwise, remained relatively constant across the quarters, with some fluctuation between periods in relation to contingent rent expense that is driven by sales.

During the three months ended December 31, 2015 we identified the following factors affecting the comparability of information between periods:

- Due to the seasonal nature of our products, we experience decreased revenues in the fourth quarter of the year relative to the other quarters. For the quarter ended December 31, 2015 revenue increased 1.0% as compared to the same quarter of the prior year.
- Revenue and gross profit are typically negatively impacted by an increase in sales returns and allowances in the quarter ended December 31, 2015 due to traditionally higher year end promotion activities related to the liquidation of current year product lines remaining in inventory. For the three months ended December 31, 2015 revenue and gross profit decreased by \$8.7 million, relative to the first three quarters of 2015, due to an increase in sales discounts.
- Revenue and gross profit for the three months ended December 31, 2015 decreased by an additional \$6.0 million due to higher sales returns and allowances, as a percent of gross revenue, as compared to the first three quarters of 2015. This increase in sales returns and allowances is consistent with the fourth quarter of prior years.
- Our Income from operations for the quarter ended December 31, 2015 was also negatively impacted by asset impairment charges of \$7.8 million, of which \$5.7 million related to the impairment of our South Africa asset group with the remaining impairment being related to certain underperforming retail locations. See Note 4 — Property and Equipment for additional information.
- Our net income for the quarter ended December 31, 2015 was negatively impacted by a tax expense of \$4.7 million primarily associated with an increase in valuation allowances on deferred tax assets which management determined were not likely to be realized in future periods. See Note 13 — Income taxes for additional information.

20. RESTRUCTURING ACTIVITIES

On July 21, 2014, Crocs announced strategic plans for long-term improvement and growth of the business. These plans comprise four key initiatives including: (1) streamlining the global product and marketing portfolio, (2) reducing direct investment in smaller geographic markets, (3) creating a more efficient organizational structure by reducing excess overhead and enhancing the decision making process, and (4) closing retail locations around the world. The initial effects of these plans were incurred in 2014 and were continued throughout 2015. During the years ended December 31, 2015 and 2014, the Company recorded restructuring charges of \$8.7 million and \$24.5 million, respectively. As of December 31, 2015, Crocs concluded its restructuring efforts.

CROCS, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (Continued)

20. RESTRUCTURING ACTIVITIES (Continued)

The following table summarizes restructuring activity during the years ended December 31, 2015 and 2014:

	Year Ended December 31,	
	2015	2014
	(in thousands)	
Severance costs	\$ 5,472	\$ 12,500
Lease / contract exit and related costs	2,623	4,251
Other ⁽¹⁾	633	7,766
Total restructuring charges	<u>\$ 8,728</u>	<u>\$ 24,517</u>

⁽¹⁾ The amounts in 'Other' consist of various asset and inventory impairment charges prompted by the aforementioned restructuring plan, legal fees and facility maintenance fees.

The following table summarizes the Company's total restructuring charges incurred during the years ended December 31, 2015 and 2014 by reportable segment:

	Year Ended December 31,	
	2015	2014
	(in thousands)	
Americas	\$ 890	\$ 4,259
Asia Pacific	3,542	7,422
Europe	2,824	3,934
Corporate	1,472	8,902
Total restructuring charges	<u>\$ 8,728</u>	<u>\$ 24,517</u>

The following table summarizes the Company's accrued restructuring balance and associated activity from December 31, 2014 through December 31, 2015:

	December 31, 2014	Additions	Cash Payments	Adjustments ⁽²⁾	December 31, 2015
	(in thousands)				
Severance costs	\$ 3,154	\$ 5,472	\$ (8,000)	\$ —	\$ 626
Lease/ contract exit and related costs	1,401	2,623	(3,807)	(217)	—
Other ⁽¹⁾	304	633	(595)	—	342
Total accrued restructuring	<u>\$ 4,859</u>	<u>\$ 8,728</u>	<u>\$ (12,402)</u>	<u>\$ (217)</u>	<u>\$ 968</u>

⁽¹⁾ Includes expenses related to exiting stores and legal fees.

⁽²⁾ Represents reversal of prior year accrual as a result of subleasing an exited facility at a better than anticipated rate.

As of December 31, 2014, Crocs had a liability of approximately \$4.9 million related to locations already closed and reductions in workforce in accrued restructuring on the consolidated balance sheet. As of December 31, 2015, the liability had reduced to \$1.0 million, which was subsequently paid in 2016.

TENTH AMENDMENT TO
AMENDED AND RESTATED CREDIT AGREEMENT

This Tenth Amendment to Amended and Restated Credit Agreement (the "Amendment"), is made this 24th day of December, 2015 among **CROCS, INC.**, a corporation organized under the laws of the State of Delaware ("Crocs"), **CROCS RETAIL, LLC**, a limited liability company organized under the laws of the State of Colorado ("Retail"), **OCEAN MINDED, INC.**, a corporation organized under the laws of the State of Colorado ("Ocean"), **JIBBITZ, LLC**, a limited liability company organized under the laws of the State of Colorado ("Jibbitz"), **BITE, INC.**, a corporation organized under the laws of the State of Colorado ("Bite"), together with Crocs, Retail, Ocean, Jibbitz and each other Person joined as a borrower from time to time to the Credit Agreement (as defined below), collectively "Borrowers" and each a "Borrower", the Lenders who have executed this Amendment and constitute Required Lenders (collectively, the "Consenting Lenders" and each individually a "Consenting Lender") and **PNC BANK, NATIONAL ASSOCIATION** ("PNC"), as agent for Lenders (PNC, in such capacity, the "Administrative Agent"). All capitalized terms used and not otherwise defined herein shall have the meaning ascribed thereto in the below-defined Credit Agreement, as amended hereby.

BACKGROUND

A. On December 16, 2011, Borrowers, Lenders and Administrative Agent entered into, inter alia, that certain Amended and Restated Credit Agreement (as same has been or may hereafter be amended, modified, renewed, extended, restated or supplemented from time to time, including without limitation as amended by that certain First Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of December 10, 2012, that certain Second Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of June 12, 2013, that certain Third Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of December 27, 2013, that certain Fourth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of March 27, 2014, that certain Fifth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of September 26, 2014, that certain Sixth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of April 2, 2015, that certain Seventh Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of April 21, 2015, that certain Eighth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of September 1, 2015, and that certain Ninth Amendment to Amended and Restated Credit Agreement by and among parties hereto dated as of November 3, 2015, the "Credit Agreement") to reflect certain financing arrangements among the parties thereto.

B. The parties now wish to further modify the terms and provisions of the Credit Agreement on the terms and subject to the conditions contained in this Amendment.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

Section 1. Amendments to Credit Agreement. Upon the Effective Date (as defined below), the definition of "Consolidated EBITDAR" in Section 1.1 of the Credit Agreement shall be amended and restated in its entirety as follows:

Consolidated EBITDAR shall mean for any period the sum of (i) net income (or loss) of Borrowers on a Consolidated Basis for such period (excluding, in each case to the extent incurred or charged during the applicable period: (v) non-cash charges in respect of bad debt write-downs with respect to receivables due from customers located in China incurred during the period beginning July 1, 2015 and ending September 30, 2015 in an aggregate amount not to exceed \$18,900,000, (w) one-time non-cash charges with the consent of Administrative Agent in the aggregate not to exceed \$25,000,000 for any trailing twelve month period ending after December 31, 2015, (x) any transaction costs associated with the Preferred Stock Issuance in an amount not to exceed \$30,000,000 in the aggregate to the extent paid within 180 days of the closing of the Preferred Stock Issuance, (y) cash and non-cash charges incurred during the period beginning January 1, 2013 and ending June 30, 2014 in connection with store closings or restructuring, charges for inventory obsolescence, other corporate restructuring activities or contingent liabilities, in an amount not to exceed \$25,000,000 in the aggregate or \$10,000,000 with respect to cash charges), and (z) cash and non-cash charges incurred during the period beginning July 1, 2014 and ending December 31, 2015 in connection with legal settlements, asset impairments, charges associated with ongoing U.S. customs audits, disbursements made to invalid vendors, bad debt write downs and corporate restructuring activities, including,

but not limited to, retail restructuring, costs associated with the transition from a direct to distribution model in foreign markets, inventory charges and write-offs, global staff reductions and personnel charges, new office locations, charges associated with the Borrowers' SAP software system, charges relating to the exit, sublease and other costs associated with the company plane and other corporate restructuring activities or contingent liabilities, in an amount not to exceed \$100,000,000 in the aggregate or \$65,000,000 with respect to cash charges, plus (ii) all interest expense of Borrowers on a Consolidated Basis for such period, plus (iii) all charges against income of Borrowers on a Consolidated Basis for such period for federal, state and local taxes, plus (iv) depreciation expenses for such period, plus (v) amortization expenses for such period, plus (vi) non-cash share based compensation expenses, plus (vii) Borrowers' aggregate Rental Expenses for such period.

Section 2. Acknowledgment of Guarantors. With respect to the amendments to the Credit Agreement effected by this Amendment, each Guarantor signatory hereto hereby acknowledges and agrees to this Amendment and confirms and agrees that its Guaranty Agreement (as modified and supplemented in connection with this Amendment) and any other Loan Document to which it is a party is and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects except that, upon the effectiveness of, and on and after the date of this Amendment, each reference in such Guaranty or Loan Document to the Credit Agreement, "thereunder", "thereof" or words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement as amended or modified by this Amendment. Although Administrative Agent and the Consenting Lenders have informed the Guarantors of the matters set forth above, and the Guarantors have acknowledged the same, each Guarantor understands and agrees that neither Administrative Agent nor any Lender has any duty under the Credit Agreement, the Guaranty Agreements or any other Loan Document to so notify any Guarantor or to seek such an acknowledgement, and nothing contained herein is intended to or shall create such a duty as to any transaction hereafter.

Section 3. Conditions Precedent. This Amendment shall be effective upon satisfaction of the following conditions (the date of such satisfaction, the "Effective Date"):

(a) Administrative Agent shall have received this Amendment fully executed by the Borrowers, the Guarantors, Administrative Agent and Consenting Lenders; and

(b) Administrative Agent shall have received an amendment fee of \$50,000, to be allocated pro-rata among Administrative Agent and Consenting Lenders, by wire transfer in immediately available funds.

Section 4. Representations and Warranties. Each Loan Party:

(a) reaffirms all representations and warranties made to Administrative Agent and Lenders under the Credit Agreement and all of the other Loan Documents and confirms that all are true and correct in all material respects as of the date hereof (except (i) to the extent any such representations and warranties specifically relate to a specific date, in which case such representations and warranties were true and correct in all material respects on and as of such other specific date, and (ii) to the extent any such representations and warranties are qualified by materiality, in which case such representations and warranties were true and correct in all respects);

(b) reaffirms all of the covenants contained in the Credit Agreement, covenants to abide thereby until satisfaction in full of the Obligations and termination of the Credit Agreement and the other Loan Documents;

(c) represents and warrants to the Administrative Agent and the Lenders that no Potential Default or Event of Default has occurred and is continuing under any of the Loan Documents or will result from this Amendment;

(d) represents and warrants to the Administrative Agent and the Lenders that it has the authority and legal right to execute, deliver and carry out the terms of this Amendment, that such actions were duly authorized by all necessary limited liability company or corporate action, as applicable, and that the officers executing this Amendment on its behalf were similarly authorized and empowered, and that this Amendment does not contravene any provisions of its certificate of incorporation or formation, operating agreement, bylaws, or other formation documents, as applicable, or of any contract or agreement to which it is a party or by which any of its properties are bound; and

(e) represents and warrants to the Administrative Agent and the Lenders that this Amendment and all assignments, instruments, documents, and agreements executed and delivered in connection herewith, are valid, binding and enforceable in accordance with their respective terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, moratorium or similar laws affecting creditors' rights generally.

Section 5. General Provisions.

(a) Payment of Expenses. Borrowers shall pay or reimburse Administrative Agent and Lenders for their reasonable attorneys' fees and expenses in connection with the preparation, negotiation and execution of this Amendment and the documents provided for herein or related hereto.

(b) Reaffirmation. Except as modified by the terms hereof, all of the terms and conditions of the Credit Agreement, as amended, and all of the other Loan Documents are hereby reaffirmed by each Loan Party and shall continue in full force and effect as therein written.

(c) Third Party Rights. No rights are intended to be created hereunder for the benefit of any third party donee, creditor, or incidental beneficiary.

(d) Headings. The headings of any paragraph of this Amendment are for convenience only and shall not be used to interpret any provision hereof.

(e) Modifications. No modification hereof or any agreement referred to herein shall be binding or enforceable unless in writing and signed on behalf of the party against whom enforcement is sought.

(f) Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of New York applied to contracts to be performed wholly within the State of New York.

(g) Counterparts. This Amendment may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any signature delivered by a party by facsimile transmission or PDF shall be deemed to be an original signature hereto.

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

BORROWERS:

CROCS, INC.

By: /s/ Gregg Ribatt
Name: Gregg Ribatt
Title: Chief Executive Officer

CROCS RETAIL, LLC

By: /s/ Gregg Ribatt
Name: Gregg Ribatt
Title: Manager

OCEAN MINDED, INC.

By: /s/ Gregg Ribatt
Name: Gregg Ribatt
Title: President

JIBBITZ, LLC

By: /s/ Gregg Ribatt
Name: Gregg Ribatt
Title: Manager

BITE, INC.

By: /s/ Gregg Ribatt
Name: Gregg Ribatt
Title: President

[Signature Page to Tenth Amendment (Crocs)]

GUARANTORS:

WESTERN BRANDS HOLDING COMPANY, LLC

By: /s/ Gregg Ribatt
Name: Gregg Ribatt
Title: Manager

[Signature Page to Tenth Amendment (Crocs)]

ELEVENTH AMENDMENT TO
AMENDED AND RESTATED CREDIT AGREEMENT

This Eleventh Amendment to Amended and Restated Credit Agreement (the "Amendment"), is made this 18th day of February 2016 among **CROCS, INC.**, a corporation organized under the laws of the State of Delaware ("Crocs"), **CROCS RETAIL, LLC**, a limited liability company organized under the laws of the State of Colorado ("Retail"), **OCEAN MINDED, INC.**, a corporation organized under the laws of the State of Colorado ("Ocean"), **JIBBITZ, LLC**, a limited liability company organized under the laws of the State of Colorado ("Jibbitz"), **BITE, INC.**, a corporation organized under the laws of the State of Colorado ("Bite"), together with Crocs, Retail, Ocean, Jibbitz and each other Person joined as a borrower from time to time to the Credit Agreement (as defined below), collectively "Borrowers" and each a "Borrower", the Lenders who have executed this Amendment (the "Consenting Lender") and **PNC BANK, NATIONAL ASSOCIATION** ("PNC"), as agent for Lenders (PNC, in such capacity, the "Administrative Agent"). All capitalized terms used and not otherwise defined herein shall have the meaning ascribed thereto in the below-defined Credit Agreement, as amended hereby.

BACKGROUND

A. On December 16, 2011, Borrowers, Lenders and Administrative Agent entered into, inter alia, that certain Amended and Restated Credit Agreement (as same has been or may hereafter be amended, modified, renewed, extended, restated or supplemented from time to time, including without limitation as amended by that certain First Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of December 10, 2012, that certain Second Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of June 12, 2013, that certain Third Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of December 27, 2013, that certain Fourth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of March 27, 2014, that certain Fifth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of September 26, 2014, that certain Sixth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of April 2, 2015, that certain Seventh Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of April 21, 2015, that certain Eighth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of November 3, 2015, and that certain Tenth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of December 24, 2015, the "Credit Agreement") to reflect certain financing arrangements among the parties thereto.

B. Borrowers have requested and Administrative Agent and Consenting Lender has agreed to modify certain terms and provisions of the Credit Agreement, in each case, on the terms and subject to the conditions contained in this Amendment.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

Section 1. **Amendments to Credit Agreement.** Upon the Effective Date (as defined below):

(a) The following definitions contained in Section 1.1 of the Credit Agreement shall be amended and restated in their entirety as follows:

Applicable Commitment Fee Rate shall mean (a) if the Revolving Facility Usage is greater than \$25,000,000, an amount equal to one quarter of one percent (0.25%) and (b) if the Revolving Credit Usage is less than \$25,000,000, an amount equal to three eighths of one percent (0.375%).

Applicable Letter of Credit Fee Rate shall mean a percentage equal to the Applicable Margin for Revolving Credit Loans accruing interest at the LIBOR Rate Option.

Applicable Margin shall mean (a) if the Revolver Availability is greater than thirty three percent (33%) of the aggregate Revolving Commitments, (i) an amount equal to one and one half percent (1.50%) for Revolving Credit Loans accruing interest at the LIBOR Rate, and (ii) an amount equal to one half of one percent (0.50%) for Revolving Credit Loans accruing interest at the Base Rate and Swing Loans, and (b) if the Revolver Availability is less than thirty three percent (33%) of the aggregate Revolving Commitments, (i) an amount equal to one and three quarters of one percent (1.75%)

for Revolving Credit Loans accruing interest at the LIBOR Rate, and (ii) an amount equal to three quarters of one percent (0.75%) for Revolving Credit Loans accruing interest at the Base Rate and Swing Loans.

Expiration Date shall mean, with respect to the Revolving Credit Commitments, February 18, 2021.

Fixed Charge Coverage Ratio shall mean, with respect to any fiscal period, the ratio of (a) Consolidated EBITDA, minus Unfunded Capital Expenditures made during such period, minus distributions (including tax distributions) and dividends made during such period (excluding any dividends or distributions paid in accordance with Section 8.2.5(iii) hereof), minus cash taxes paid during such period, in each case, of the Borrowers on a Consolidated Basis, to (b) all Fixed Charges made during such period.

Fixed Charges shall mean for any period, in each case, all cash actually expended by any Borrowers on a Consolidated Basis to make: (a) interest payments on any Loans hereunder, plus (b) payments for all fees, commissions and charges set forth herein, plus (c) payments on Capitalized Leases, plus (d) payments with respect to any other Indebtedness for borrowed money.

Leverage Ratio shall mean, as of any date of determination, the ratio of (A) consolidated Indebtedness of Borrowers and its Subsidiaries on such date, to (B) Consolidated EBITDA of the Borrowers and its Subsidiaries for the four (4) most recently ended fiscal quarters (or the four fiscal quarters ending on the date of determination if such date is the last day of a fiscal quarter).

Pro Forma Basis shall mean, with respect to any Specified Transaction, that Borrower is in compliance on a pro forma basis with the applicable covenant, ratio, calculation or requirement herein calculated as if such Specified Transaction and the related adjustments set forth below had occurred on the first day of the four fiscal quarter period most recently ended for which financial statements have been delivered pursuant to Section 8.3.1 [Quarterly Financial Statements]. The following related adjustments shall be calculated as follows, each as evidenced by a quality of earnings report reasonably satisfactory to Agent: (i) income statement items (whether positive or negative) attributable to the applicable property or Person the subject of an acquisition, sale, transfer or other disposition of all or substantially all of the capital stock in any Subsidiary or any division or product line of the Borrower or any Subsidiary, shall be included, (ii) any retirement, incurrence or assumption of any Indebtedness by Borrower or any Subsidiary in connection with a Specified Transaction shall be deemed to have borne interest (a) in the case of fixed rate Indebtedness, at the rate applicable thereto, or (b) in the case of floating rate Indebtedness, at the rates which were or would have been applicable thereto during the period when such Indebtedness was or was deemed to be outstanding; and provided that, Consolidated EBITDA may be further adjusted without duplication of any adjustments to Consolidated EBITDA by, without duplication, (x) any credit for acquisition-related costs and savings to the extent expressly required or permitted to be reflected in Borrower's financial statements pursuant to Article 11 of Regulation S-X under the Securities Act of 1933, as amended, and (y) actions taken by the Borrower or any of its Subsidiaries prior to or during such period for the purpose of realizing reasonably identifiable and factually supportable cost savings, in each case under this clause (y) calculated by the Borrower, as evidenced by a quality of earnings reports reasonably satisfactory to Agent.

Swing Loan Commitment shall mean PNC's commitment to make Swing Loans to the Borrower pursuant to Section 2.1.2 [Swing Loan Commitment] hereof in an aggregate principal amount up to \$7,500,000.

(b) The following definitions shall be added to Section 1.1 of the Credit Agreement in the appropriate alphabetical sequence:

Cash Dominion Period shall mean any period (a) commencing on the date that Revolver Availability is less than the greater of (i) \$7,500,000 and (ii) 10% of the aggregate Revolving Commitments, in each case for five consecutive days and (b) ending on the first date thereafter on which (i) Revolver Availability is greater than the greater of (X) \$7,500,000 and (Y) 10% of the aggregate Revolving Commitments, and (ii) average Revolver Availability (measured for the 30 consecutive days then ending) has been equal to or greater than (X) \$7,500,000 and (Y) 10% of the aggregate Revolving Commitments.

Consolidated EBITDA shall mean for any period the sum of (i) net income (or loss) of Borrowers on a Consolidated Basis for such period (excluding, in each case to the extent incurred or charged during the applicable period: (u) non-cash charges in respect of bad debt write-downs with respect to receivables due from customers located in China incurred during the period beginning July 1, 2015 and ending September 30, 2015 in an aggregate amount not to exceed \$18,900,000, (v) one-time non-cash charges with the consent of Administrative Agent in the aggregate not to exceed \$25,000,000 for any trailing twelve month period ending after December 31, 2015, (w) cash and non-cash charges incurred

during the period beginning July 1, 2014 and ending December 31, 2015 in connection with legal settlements, asset impairments, charges associated with ongoing U.S. customs audits, disbursements made to invalid vendors, bad debt write downs and corporate restructuring activities, including, but not limited to, retail restructuring, costs associated with the transition from a direct to distribution model in foreign markets, inventory charges and write-offs, global staff reductions and personnel charges, new office locations, charges associated with the Borrowers' SAP software system, charges relating to the exit, sublease and other costs associated with the company plane and other corporate restructuring activities or contingent liabilities, in an amount not to exceed \$100,000,000 in the aggregate or \$65,000,000 with respect to cash charges, and (x) non-cash charges incurred during the fiscal quarter ending December 31, 2015 in an amount not to exceed \$10,000,000; plus (ii) all interest expense (net of interest income) of Borrowers on a Consolidated Basis for such period, plus (iii) all charges against income of Borrowers on a Consolidated Basis for such period for federal, state and local taxes, plus (iv) depreciation expenses for such period, plus (v) amortization expenses for such period, plus (vi) non-cash share based compensation expenses, plus (vii) foreign currency transaction losses (net of any foreign currency transaction gains) for such period. Notwithstanding the foregoing, for the fiscal quarter ending June 30, 2015 Consolidated EBITDA shall be deemed to be \$34,386,000 and for the fiscal quarter ending September 30, 2015, Consolidated EBITDA shall be deemed to be \$30,612,000.

Covenant Triggering Event shall, with respect to any fiscal quarter, be deemed to have occurred (a) if, for the period commencing 15 days prior to the last day of such fiscal quarter through and including the 15th day of the following fiscal quarter, Borrowers' average Revolving Facility Usage is greater than 25% of the aggregate Revolving Commitments, or (b) upon the occurrence of the Revolving Facility Usage being greater than the Borrowing Base as more fully set forth in Section 8.3.4.7 below.

- (c) The definition of "Consolidated EBITDAR" contained in Section 1.1 of the Credit Agreement is hereby deleted in its entirety.
- (d) The following Section 1.4 shall be added to the Credit Agreement:

1.4 Uniform Commercial Code Terms. All terms used herein and defined in the Uniform Commercial Code as adopted in the State of New York from time to time (the "Uniform Commercial Code") shall have the meaning given therein unless otherwise defined herein. Without limiting the foregoing, the terms "accounts", "chattel paper" (and "electronic chattel paper" and "tangible chattel paper"), "commercial tort claims", "deposit accounts", "documents", "equipment", "financial asset", "fixtures", "general intangibles", "goods", "instruments", "inventory", "investment property", "letter-of-credit rights", "payment intangibles", "proceeds", "promissory note", "securities", "software" and "supporting obligations" as and when used herein shall have the meanings given to such terms in Articles 8 or 9 of the Uniform Commercial Code. To the extent the definition of any category or type of collateral is expanded by any amendment, modification or revision to the Uniform Commercial Code, such expanded definition will apply automatically as of the date of such amendment, modification or revision.

- (e) The following Section 8.1.10 shall be added to the Credit Agreement:

8.1.10 Deposit Accounts. Each applicable Borrower, Administrative Agent and each depository bank at which Borrowers maintain deposit accounts shall enter into a deposit account control agreement as required by the Security Agreement. Administrative Agent shall be permitted to, during a Cash Dominion Period, direct any depository bank party to a deposit account control agreement to transfer to Administrative Agent any funds so deposited on a daily basis or at other times acceptable to Administrative Agent for application to the Obligations in accordance with this Agreement.

- (f) Section 8.2.3 of the Credit Agreement shall be amended by deleting the "and" at the end of clause (v) and replacing it with ";"; deleting the "." at the end of clause (vi) and replaced it with the following:

; and (vii) guarantees by Borrowers of obligations of Foreign Subsidiaries under Other Hedging Transactions in an amount not to exceed \$15,000,000 in the aggregate at any time.

- (g) Section 8.2.5(iii) of the Credit Agreement shall be amended and restated in its entirety as follows:

(iii) purchases, redemptions or retirements of equity interests of any Borrower, in an amount not to exceed \$50,000,000 in any fiscal year so long as (a) no Potential Default or Event of Default has occurred and is continuing or would occur, and (b) Borrowers' Revolver Availability would be not less than (i) \$37,500,000 or (ii) 50% of the aggregate Revolving Commitments, in each case, after giving effect to such purchase, redemption or retirement; provided that the aggregate amount of all such purchases, redemptions or retirements does not exceed \$350,000,000 in the aggregate since January 1, 2014;

- (h) Section 8.2.13 of the Credit Agreement shall be amended and restated in its entirety as follows:

8.2.13 Capital Expenditures and Leases. Each of the Loan Parties shall not, and shall not permit any of their Subsidiaries to, contract for, purchase or make any expenditure or commitments for Capital Expenditures in an aggregate amount for all Loan Parties in excess of \$50,000,000 per fiscal year.

- (i) Section 8.2.14 of the Credit Agreement shall be amended and restated in its entirety as follows:

8.2.14 Minimum Fixed Charge Coverage Ratio. Cause to be maintained as of the last day of any fiscal quarter for which a Covenant Triggering Event has occurred, a Fixed Charge Coverage Ratio for the Loan Parties, measured on a trailing twelve month basis, of not less than the ratio set forth below opposite the applicable measurement date:

Measurement Date	Minimum Fixed Charge Coverage Ratio
March 31, 2016 and June 30, 2016	1.00 to 1.00
September 30, 2016 and the last day of each fiscal quarter thereafter	1.10 to 1.00

- (j) Section 8.2.15 of the Credit Agreement shall be amended and restated in its entirety as follows:

Maximum Leverage Ratio. Cause to be maintained as of the last day of any fiscal quarter for which a Covenant Triggering Event has occurred, a Leverage Ratio of the Loan Parties of not more than the ratio set forth below opposite the applicable measurement date:

Measurement Date	Maximum Leverage Ratio
March 31, 2016 and June 30, 2016	2.50 to 1.00
September 30, 2016 and the last day of each fiscal quarter thereafter	2.00 to 1.00

- (k) Section 8.2.16 of the Credit Agreement shall be amended and restated in its entirety as follows:

Reserved.

- (l) Section 8.3.1 of the Credit Agreement shall be amended and restated in its entirety as follows:

8.3.1 Quarterly Financial Statements. Within forty five (45) days after the end of each fiscal quarter (other than the fiscal quarter ending December 31 for which Borrower shall have ninety (90) days after such fiscal quarter end), an unaudited balance sheet of Borrowers on a consolidated and consolidating basis and unaudited statements of income and stockholders' equity and cash flow of Borrowers on a consolidated and consolidating basis reflecting results of operations from the beginning of the fiscal year to the end of such quarter and for such quarter, prepared on a basis consistent with prior practices and complete and correct in all material respects, subject to normal and recurring year end adjustments and the absence of footnotes that individually and in the aggregate are not material to Borrowers' business; provided however that if Crocs files its quarterly report on Form 10-Q for the applicable fiscal quarter and such quarterly report contains the financial statements and reports described above, in a format acceptable to Administrative Agent in its Permitted Discretion, then Borrowers may satisfy the requirements of this Section 8.3.1 by delivering a copy of such quarterly report to the Administrative Agent and each Lender. The reports shall be accompanied by a Compliance Certificate and a Net Mark to Market Exposure statement for each Lender (other than Administrative Agent).

- (m) The following Section 8.3.4.7 shall be added to the Credit Agreement:

8.3.4.7 Borrowing Base Certificate. To the extent a Covenant Triggering Event has not occurred with respect to any fiscal quarter and the amount of outstanding Revolving Credit Loans (excluding outstanding Letters of Credit) as of the last day of such fiscal quarter is greater than \$0, then contemporaneously with delivery of the financial statements referenced in Section 8.3.1 herein, Borrowers shall deliver to Administrative Agent a borrowing base certificate setting forth the sum of (a) 75% of the gross book value of Borrowers' accounts owing from account debtors located in the United States and Canada, plus (b) 50% of the gross book value of Borrowers' inventory located in the United States and Canada (such sum, the "Borrowing Base"). If the Revolving Facility Usage at the time of delivery of the borrowing base certificate is greater than the Borrowing Base, then a Covenant Triggering Event shall be deemed to have occurred with respect to the most recently ended fiscal quarter.

- (n) Schedule 1.1(A) to the Credit Agreement shall be deleted in its entirety.
- (o) Schedule 1.1(B) to the Credit Agreement shall be deleted in its entirety and replaced with Schedule 1.1(B) attached to this

Amendment

Section 2. Conformed Credit Agreement. Borrowers and Agent hereby acknowledge and agree that the Conformed Credit Agreement attached hereto as Exhibit A is a true, complete and correct version of the Credit Agreement as amended through the date immediately preceding the date hereof.

Section 3. Schedules. Administrative Agent and the Consenting Lender acknowledge and agree that they accept the versions and updates to the Schedules attached hereto as Exhibit B which have been delivered in accordance with Section 6.2 of the Credit Agreement.

Section 4. Acknowledgment of Guarantors. With respect to the amendments to the Credit Agreement effected by this Amendment, each Guarantor signatory hereto hereby acknowledges and agrees to this Amendment and confirms and agrees that its Guaranty Agreement (as modified and supplemented in connection with this Amendment) and any other Loan Document to which it is a party is and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects except that, upon the effectiveness of, and on and after the date of this Amendment, each reference in such Guaranty or Loan Document to the Credit Agreement, "thereunder", "thereof" or words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement as amended or modified by this Amendment. Although Administrative Agent and the Consenting Lenders have informed the Guarantors of the matters set forth above, and the Guarantors have acknowledged the same, each Guarantor understands and agrees that neither Administrative Agent nor any Lender has any duty under the Credit Agreement, the Guaranty Agreements or any other Loan Document to so notify any Guarantor or to seek such an acknowledgement, and nothing contained herein is intended to or shall create such a duty as to any transaction hereafter.

Section 5. Conditions Precedent. This Amendment shall be effective upon satisfaction of the following conditions (the date of such satisfaction, the "Effective Date"):

- (a) Administrative Agent shall have received this Amendment fully executed by the Borrowers, the Guarantors, Administrative Agent and Consenting Lenders; and
- (b) Administrative Agent shall have received a Fee Letter fully executed by the Borrowers, the Guarantors, Administrative Agent and Consenting Lenders.

Section 6. Representations and Warranties. Each Loan Party:

- (a) reaffirms all representations and warranties made to Administrative Agent and Lenders under the Credit Agreement and all of the other Loan Documents and confirms that all are true and correct in all material respects as of the date hereof (except (i) to the extent any such representations and warranties specifically relate to a specific date, in which case such representations and warranties were true and correct in all material respects on and as of such other specific date, and (ii) to the extent any such representations and warranties are qualified by materiality, in which case such representations and warranties were true and correct in all respects);
 - (b) reaffirms all of the covenants contained in the Credit Agreement, covenants to abide thereby until satisfaction in full of the Obligations and termination of the Credit Agreement and the other Loan Documents;
 - (c) represents and warrants to the Administrative Agent and the Lenders that no Potential Default or Event of Default has occurred and is continuing under any of the Loan Documents or will result from this Amendment;
 - (d) represents and warrants to the Administrative Agent and the Lenders that it has the authority and legal right to execute, deliver and carry out the terms of this Amendment, that such actions were duly authorized by all necessary limited liability company or corporate action, as applicable, and that the officers executing this Amendment on its behalf were similarly authorized and empowered, and that this Amendment does not contravene any provisions of its certificate of incorporation or formation, operating agreement, bylaws, or other formation documents, as applicable, or of any contract or agreement to which it is a party or by which any of its properties are bound; and
-

(e) represents and warrants to the Administrative Agent and the Lenders that this Amendment and all assignments, instruments, documents, and agreements executed and delivered in connection herewith, are valid, binding and enforceable in accordance with their respective terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, moratorium or similar laws affecting creditors' rights generally.

Section 7. General Provisions.

(a) **Payment of Expenses.** Borrowers shall pay or reimburse Administrative Agent and Lenders for their reasonable attorneys' fees and expenses in connection with the preparation, negotiation and execution of this Amendment and the documents provided for herein or related hereto.

(b) **Reaffirmation.** Except as modified by the terms hereof, all of the terms and conditions of the Credit Agreement, as amended, and all of the other Loan Documents are hereby reaffirmed by each Loan Party and shall continue in full force and effect as therein written.

(c) **Third Party Rights.** No rights are intended to be created hereunder for the benefit of any third party donee, creditor, or incidental beneficiary.

(d) **Headings.** The headings of any paragraph of this Amendment are for convenience only and shall not be used to interpret any provision hereof.

(e) **Modifications.** No modification hereof or any agreement referred to herein shall be binding or enforceable unless in writing and signed on behalf of the party against whom enforcement is sought.

(f) **Governing Law.** This Amendment shall be governed by and construed in accordance with the laws of the State of New York applied to contracts to be performed wholly within the State of New York.

(g) **Counterparts.** This Amendment may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any signature delivered by a party by facsimile transmission or PDF shall be deemed to be an original signature hereto.

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

BORROWERS:

CROCS, INC.

By: /s/ Carrie W. Teffner
Name: Carrie W. Teffner
Title: Chief Financial Officer

CROCS RETAIL, LLC

By: /s/ Carrie W. Teffner
Name: Carrie W. Teffner
Title: Manager

OCEAN MINDED, INC.

By: /s/ Carrie W. Teffner
Name: Carrie W. Teffner
Title: Chief Financial Officer

JIBBITZ, LLC

By: /s/ Carrie W. Teffner
Name: Carrie W. Teffner
Title: Manager

BITE, INC.

By: /s/ Carrie W. Teffner
Name: Carrie W. Teffner
Title: Chief Financial Officer

[Signature Page to Eleventh Amendment (Crocs)]

GUARANTORS:

WESTERN BRANDS HOLDING COMPANY, LLC

By: /s/ Carrie W. Teffner

Name: Carrie W. Teffner

Title: Manager

[Signature Page to Eleventh Amendment (Crocs)]

PNC BANK, NATIONAL ASSOCIATION,
as a Lender and as Administrative Agent

By: /s/ Steve C. Roberts

Name: Steve C. Roberts

Title: Vice President

[Signature Page to Eleventh Amendment (Crocs)]

SCHEDULE 1.1(B)

COMMITMENTS OF LENDERS AND ADDRESSES FOR NOTICES

Page 1 of 2

Part 1 - Commitments of Lenders and Addresses for Notices to Lenders

Lender	Amount of Commitment for Revolving Credit Loans	Commitment	Ratable Share
PNC Bank, National Association 2 North Lake Avenue, Suite 440 Pasadena, CA 91101 Attention: Steve Roberts Telephone: 626-432-6128 Telecopy: 626-432-4589	\$ 75,000,000	\$ 75,000,000	100%
Total	\$ 75,000,000	\$ 75,000,000	100%

SCHEDULE 1.1(B) - 1

SCHEDULE 1.1(B)

COMMITMENTS OF LENDERS AND ADDRESSES FOR NOTICES

Page 2 of 2

Part 2 - Addresses for Notices to Administrative Agent, Borrower and Guarantors:

ADMINISTRATIVE AGENT

PNC Bank, National Association
2 North Lake Avenue, Suite 440
Pasadena, CA 91101
Attention: Steve Roberts
Telephone: 626-432-6128
Telecopy: 626-432-4589

With a Copy To:

Agency Services, PNC Bank, National Association
Mail Stop: P7-PFSC-04-I
Address: 500 First Avenue
Pittsburgh, PA 15219
Attention: Agency Services
Telephone: 412-762-6442
Telecopy: 412-762-8672

BORROWER:

Crocs, Inc.
7477 East Dry Creek Parkway
Niwot, CO 80503
Attention: William Plon
Telephone: 303-848-7461
Email: WPlon@Crocs.com

With a copy to:

Perkins Coie LLP
1900 Sixteenth Street, Suite 1400
Denver, CO 80202
Attention: Jason Day
Telephone: (303) 291-2362
Facsimile: (303) 291-2400

EXHIBIT A
CONFORMED CREDIT AGREEMENT

\$100,000,000 REVOLVING CREDIT FACILITY

AMENDED AND RESTATED CREDIT AGREEMENT

by and among

CROCS, INC.
CROCS RETAIL, INC.
OCEAN MINDED, INC.
JIBBITZ LLC
BITE, INC.

and

THE LENDERS PARTY HERETO

and

PNC BANK, NATIONAL ASSOCIATION, as Administrative Agent

Dated as of December 16, 2011

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AMENDED AND RESTATED CREDIT AGREEMENT

THIS CREDIT AGREEMENT (as hereafter amended, the “**Agreement**”) is dated as of December 16, 2011 and is made by and among CROCS, INC., a Delaware corporation (“**Crocs**”), CROCS RETAIL, INC., a Colorado corporation (“**Crocs Retail**”), OCEAN MINDED, INC., a Colorado corporation (“**Ocean**”), JIBBITZ LLC, a Colorado limited liability company (“**Jibbitz**”), BITE, INC., a Colorado corporation (“**Bite**”), together with Crocs, Crocs Retail, Ocean, Jibbitz and each Person joined hereto as a borrower from time to time, collectively referred to herein as, the “**Borrowers**” or “**Borrower**”, the LENDERS (as hereinafter defined), PNC CAPITAL MARKETS LLC, in its capacity as sole book runner and sole lead arranger (“**Lead Arranger**”) and PNC BANK, NATIONAL ASSOCIATION, in its capacity as administrative agent for the Lenders under this Agreement (hereinafter referred to in such capacity as the “**Administrative Agent**”).

Borrower, Administrative Agent and Lenders have entered into that certain Revolving Credit and Security Agreement dated as of September 25, 2009 (the “**Existing Credit Agreement**”) pursuant to which Administrative Agent and Lenders made loans and other advances to Borrower. This Agreement amends and restates the Existing Credit Agreement but does not extinguish the obligations evidenced thereby.

The Borrower has requested the Lenders to provide a revolving credit facility to the Borrower in an aggregate principal amount not to exceed \$100,000,000. In consideration of their mutual covenants and agreements hereinafter set forth and intending to be legally bound hereby, the parties hereto covenant and agree as follows:

1. CERTAIN DEFINITIONS

1.1 Certain Definitions. In addition to words and terms defined elsewhere in this Agreement, the following words and terms shall have the following meanings, respectively, unless the context hereof clearly requires otherwise:(1)

Administrative Agent shall mean PNC Bank, National Association, and its successors and assigns.

Administrative Agent’s Fee shall have the meaning specified in Section 10.9 [Administrative Agent’s Fee].

Administrative Agent’s Letter shall have the meaning specified in Section 10.9 [Administrative Agent’s Fee].

Affiliate as to any Person shall mean any other Person (i) which directly or indirectly controls, is controlled by, or is under common control with such Person, (ii) which beneficially owns or holds 20% or more of any class of the voting or other equity interests of

(1) 6th Amendment - All references in the Credit Agreement to “Revolver Commitments” shall be deemed to refer to “Revolving Credit Commitments”. All references in the Credit Agreement to “Revolver Facility Usage” shall be deemed to refer to “Revolving Facility Usage”.

such Person, or (iii) 20% or more of any class of voting interests or other equity interests of which is beneficially owned or held, directly or indirectly, by such Person.

Anti-Terrorism Laws shall mean any Laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, and any regulation, order, or directive promulgated, issued or enforced pursuant to such Laws (including without limitation, any Laws enforced or administered by the United States Treasury Department’s Office of Foreign Asset Control or the United States State Department) all as amended, supplemented or replaced from time to time.(2)

Applicable Commitment Fee Rate shall mean the percentage rate per annum based on Borrowers’ Revolving Facility Usage as set forth on the grid on Schedule 1.1(A) below the heading “Commitment Fee.”

Applicable Letter of Credit Fee Rate shall mean the percentage rate per annum based on the Leverage Ratio then in effect according to the pricing grid on Schedule 1.1(A) below the heading “Letter of Credit Fee.”

Applicable Margin shall mean, as applicable:

(A) the percentage spread to be added to the Base Rate applicable to Revolving Credit Loans under the Base Rate Option based on the Leverage Ratio then in effect according to the pricing grid on Schedule 1.1(A) below the heading “Revolving Credit Base Rate Spread”, or

(B) the percentage spread to be added to the LIBOR Rate applicable to Revolving Credit Loans under the LIBOR Rate Option based on the Leverage Ratio then in effect according to the pricing grid on Schedule 1.1(A) below the heading “Revolving Credit LIBOR Rate Spread”.

Approved Fund shall mean any fund that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

Assignment and Assumption Agreement shall mean an assignment and assumption agreement entered into by a Lender and an assignee permitted under Section 11.9 [Successors and Assigns], in substantially the form of Exhibit 1.1(A).

Authorized Officer shall mean, with respect to any Loan Party, the Chief Executive Officer, President, Chief Financial Officer, Treasurer or Director of Treasury of such Loan Party or such other individuals, designated by written notice to the Administrative Agent from the Borrower, authorized to execute notices, reports and other documents on behalf of the Loan Parties required hereunder. The Borrower may amend such list of individuals from time to time by giving written notice of such amendment to the Administrative Agent.

(2) 5th Amendment

Availability shall mean the sum of (i) the difference between the Revolving Facility Usage and the aggregate Revolving Credit Commitments, plus (ii) Borrowers’ unrestricted cash maintained in deposit accounts in the United States (as evidenced by Borrower’s most recent account statements).

Base Rate shall mean, for any day, a fluctuating per annum rate of interest equal to the highest of (a) the Federal Funds Open Rate, plus 0.5%, (b) the Prime Rate, and (c) the Daily LIBOR Rate, plus 100 basis points (1.0%). Any change in the Base Rate (or any component thereof) shall take effect at the opening of business on the day such change occurs.

Base Rate Option shall mean the option of the Borrower to have Loans bear interest at the rate and under the terms set forth in Section 4.1.1(i) [Revolving Credit Interest Rate Options].

Borrower shall have the meaning set forth in the preamble hereto.

Borrowers on a Consolidated Basis shall mean the consolidation in accordance with GAAP of the accounts or other items of the Borrowers and their respective Subsidiaries.

Borrowing Date shall mean, with respect to any Loan, the date for the making thereof or the renewal or conversion thereof at or to the same or a different Interest Rate Option, which shall be a Business Day.

Borrowing Tranche shall mean specified portions of Loans outstanding as follows: (i) any Loans to which a LIBOR Rate Option applies which become subject to the same Interest Rate Option under the same Loan Request by the Borrower and which have the same Interest Period shall constitute one Borrowing Tranche, and (ii) all Loans to which a Base Rate Option applies shall constitute one Borrowing Tranche.

Business Day shall mean any day other than a Saturday or Sunday or a legal holiday on which commercial banks are authorized or required to be closed for business in Pittsburgh, Pennsylvania and if the applicable Business Day relates to any Loan to which the LIBOR Rate Option applies, such day must also be a day on which dealings are carried on in the London interbank market.

Capital Expenditures shall mean expenditures made or liabilities incurred for the acquisition of any fixed assets or improvements, replacements, substitutions or additions thereto which have a useful life of more than one year, including the total principal portion of Capitalized Leases, which, in accordance with GAAP, would be classified as capital expenditures; provided, however, that the term “Capital Expenditures” shall not include (a) expenditures made in connection with the replacement, substitution, restoration or repair of assets to the extent financed with (i) insurance proceeds paid on account of the loss of or damage to the assets being replaced, substituted, restored or repaired or (ii) awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced, (b) the amount of any credit granted

against the purchase price of equipment that is purchased simultaneously with the trade in of existing equipment granted by the seller of such equipment for the equipment being traded in at such time, (c) expenditures that are accounted for as capital expenditures by the Borrower or any of its Subsidiaries and that actually are paid for by a Person

other than the Borrower or any of its Subsidiaries and for which the Borrower has not or any of its Subsidiaries has not provided or is not required to provide or incur, directly or indirectly, any consideration or obligation to such Person or any other Person (whether before, during or after such period), (d) the book value of any asset owned by the Borrower or any of its Subsidiaries prior to or during such period to the extent that such book value is included as a capital expenditure during such period as a result of such Person reusing or beginning to reuse such asset during such period without a corresponding expenditure actually having been made in such period, (e) purchases of replacement property, plant or equipment to the extent financed by asset sales of similar assets permitted hereunder; and (f) any non-cash compensation or other non-cash costs reflected as additions to property, plant or equipment on the consolidated balance sheet of the Borrower and its Subsidiaries.

Capitalized Leases shall mean the obligations of any Person to pay rent or any other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital lease obligations on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP, provided that obligations for payment of rent under operating leases if and to the extent such leases are or would be classified as operating leases under Financial Accounting Standards Board Accounting Standards Codification 840 as in effect as of the date of this Agreement but are required to be reclassified as capital leases as a result of amendments to Financial Accounting Standards Board Accounting Standards Codification 840 made in accordance with those accounting standards proposed in the Proposed Accounting Standards Update exposure draft issued on August 17, 2010 shall not constitute Capitalized Leases hereunder.

Cash Management Agreements shall have the meaning specified in Section 2.5.6 [Swing Loans Under Cash Management Agreements].

Change of Control shall mean (a) 100% of the equity interests of any direct or indirect Subsidiary of Crocs is no longer owned directly or indirectly (on a fully diluted basis) by Crocs (except (i) directors' qualifying shares for any Foreign Subsidiary as required by law and (ii) pursuant to any transaction permitted hereunder); (b) (i) any person or group of persons (within the meaning of Section 13(d) or 14(a) of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**")) shall have acquired beneficial ownership of (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under the Exchange Act) 20% or more of the voting equity interests of Crocs; or (ii) from and after the date hereof, individuals who on the date hereof constitute the Board of Directors of Crocs (together with any new directors whose election by such Board of Directors or whose nomination for election by the shareholders of Crocs was approved by a vote of a majority of the directors then still in office who were either directors on the date hereof or whose election or nomination for election was previously approved) cease for any reason to constitute a majority of the board of directors of Crocs then in office; or (c) any merger, consolidation or sale of substantially all of the property or assets of any Borrower or any direct or indirect Subsidiary of any Borrower except as permitted by Section 8.2.6.

Change in Law shall mean the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any Law, (b) any change in any Law or in the administration, interpretation, implementation or application thereof by any Official Body or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of Law) by any Official Body; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether or not having the force of Law) and (y) all requests, rules, regulations, guidelines, interpretations or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities (whether or not having the force of Law), in each case pursuant to Basel III, shall in each case be deemed to be a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

Closing Date shall mean the Business Day on which the first Loan shall be made, which shall be December 16, 2011.

Code shall mean the Internal Revenue Code of 1986, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

Collateral shall mean the collateral under the (i) Security Agreement (ii) Pledge Agreement, (iii) Patent, Trademark and Copyright Security Agreement, and (iv) any other security agreements entered into among Borrowers and Lenders subsequent to the Closing Date.

Commitment shall mean as to any Lender the aggregate of its Revolving Credit Commitment and, in the case of PNC, its Swing Loan Commitment, and Commitments shall mean the aggregate of the Revolving Credit Commitments and Swing Loan Commitment of all of the Lenders.

Commitment Fee shall have the meaning specified in Section 2.3 [Commitment Fees].

Compliance Certificate shall have the meaning specified in Section 8.3.3 [Certificate of the Borrower].

Connection Income Taxes shall mean Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

Consolidated EBITDAR shall mean for any period the sum of (i) net income (or loss) of Borrowers on a Consolidated Basis for such period (excluding, in each case to the extent incurred or charged during the applicable period: (v) non-cash charges in respect of bad debt write-downs with respect to receivables due from customers located in China incurred during the period beginning July 1, 2015 and ending September 30, 2015 in an aggregate amount not to exceed \$18,900,000, (w) one-time non-cash charges with the consent of Administrative Agent in the aggregate not to exceed \$25,000,000 for any trailing twelve month period ending after December 31, 2015, (x) any transaction costs associated with the Preferred Stock Issuance in an amount not to exceed \$30,000,000 in the aggregate to the extent paid within 180 days of the closing of the Preferred Stock Issuance, (y) cash and non-cash charges incurred during the period beginning January 1, 2013 and ending June 30, 2014 in connection with store closings or restructuring, charges for inventory obsolescence, other corporate restructuring activities or contingent liabilities, in an amount not to exceed \$25,000,000 in the aggregate or \$10,000,000 with respect to cash charges), and (z) cash and non-cash charges incurred during the period beginning July 1, 2014 and ending December 31, 2015 in connection with legal settlements, asset impairments, charges associated with ongoing U.S. customs audits, disbursements made to invalid vendors, bad debt write downs and corporate restructuring activities, including, but not limited to, retail restructuring, costs associated with the transition from a direct to distribution model in foreign markets, inventory charges and write-offs, global staff reductions and personnel charges, new office locations, charges associated with the Borrowers' SAP software system, charges relating to the exit, sublease and other costs associated with the company plane and other corporate restructuring activities or contingent liabilities, in an amount not to exceed \$100,000,000 in the aggregate or \$65,000,000 with respect to cash charges, plus (ii) all interest expense of Borrowers on a Consolidated Basis for such period, plus (iii) all charges against income of Borrowers on a Consolidated Basis for such period for federal, state and local taxes, plus (iv) depreciation expenses for such period, plus (v) amortization expenses for such period, plus (vi) non-cash share based compensation expenses, plus (vii) Borrowers' aggregate Rental Expenses for such period.(3)

Covered Entity shall mean (a) each Borrower, each Subsidiary of each Borrower, all Guarantors and all pledgors of Collateral and (b) each Person that, directly or indirectly, is in control of a Person described in clause (a) above. For purposes of this definition, control of a Person shall mean the direct or indirect (x) ownership of, or power to vote, 25% or more of the issued and outstanding equity interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for such Person, or (y) power to direct or cause the direction of the management and policies of such Person whether by ownership of equity interests, contract or otherwise.(4)

Daily LIBOR Rate shall mean, for any day, the rate per annum determined by the Administrative Agent by dividing (x) the Published Rate by (y) a number equal to 1.00 *minus* the LIBOR Reserve Percentage on such day.

Defaulting Lender shall mean any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or Swing Loans or (iii) pay over to the Administrative Agent, the Issuing Lender, PNC (as the Swing Loan Lender) or any Lender any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender's good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or the Administrative Agent in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless

(3) 10th Amendment

(4) 5th Amendment

such writing or public statement indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within two Business Days

after request by the Administrative Agent, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Loans and participations in then outstanding Letters of Credit and Swing Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon the Administrative Agent's receipt of such certification in form and substance satisfactory to the Administrative Agent, (d) has become the subject of a Bankruptcy Event or (e) has failed at any time to comply with the provisions of Section 5.3 with respect to purchasing participations from the other Lenders, whereby such Lender's share of any payment received, whether by setoff or otherwise, is in excess of its Ratable Share of such payments due and payable to all of the Lenders.

As used in this definition and in Section 2.9 [Defaulting Lenders], the term "Bankruptcy Event" means, with respect to any Person, such Person or such Person's direct or indirect parent company becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person or such Person's direct or indirect parent company by a Official Body or instrumentality thereof if, and only if, such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Official Body or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

Dollar, Dollars, U.S. Dollars and the symbol \$ shall mean lawful money of the United States of America.

Drawing Date shall have the meaning specified in Section 2.8.3 [Disbursements, Reimbursement].

Environmental Laws shall mean all applicable federal, state, local, tribal, territorial and foreign Laws (including common law), constitutions, statutes, treaties, regulations, rules, ordinances and codes and any consent decrees, settlement agreements, judgments, orders, directives, policies or programs issued by or entered into with an Official Body pertaining or relating to: (i) pollution or pollution control; (ii) protection of human health from exposure to regulated substances; (iii) protection of the environment and/or natural resources; (iv) the presence, use, management, generation, manufacture, processing, extraction, treatment, recycling, refining, reclamation, labeling, packaging, sale, transport, storage, collection, distribution, disposal or release or threat of release of regulated substances; (v) the presence of contamination; (vi) the protection of endangered or threatened species; and (vii) the protection of environmentally sensitive areas.

ERISA shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

ERISA Affiliate shall mean any trade or business (whether or not incorporated) that, together with the Borrower are treated as a single employer under Section 414 of the Code.

ERISA Event shall mean (a) a reportable event (under Section 4043 of ERISA and regulations thereunder) with respect to a Pension Plan for which the 30-day notice requirement has not been waived; (b) a withdrawal by Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal, within the meaning of Section 4203 or 4205 of ERISA, by Borrower or any ERISA Affiliate from a Multiemployer Plan or receipt by the Borrower or any ERISA Affiliate of notice from a Multiemployer Plan that such Multiemployer Plan is in reorganization (within the meaning of Section 4241 of ERISA); (d) the providing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which could reasonably constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon Borrower or any ERISA Affiliate.

Event of Default shall mean any of the events described in Section 9.1 [Events of Default] and referred to therein as an "Event of Default."

Excluded Taxes shall mean any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (i) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (a) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (b) that are Other Connection Taxes, (ii) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (a) such Lender acquires such interest in such Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 5.6.2 [Replacement of a Lender]) or (b) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 5.9.7 [Status of Lenders], amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (iii) Taxes attributable to such Recipient's failure to comply with 5.9.7 [Status of Lenders], and (iv) any U.S. federal withholding Taxes imposed under FATCA. (except to the extent imposed due to the failure of the Borrower to provide documentation or information to the IRS).

Executive Order No. 13224 shall mean the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

Expiration Date shall mean, with respect to the Revolving Credit Commitments, December 16, 2017.(5)

FATCA shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof.

Federal Funds Effective Rate for any day shall mean the rate per annum (based on a year of 360 days and actual days elapsed and rounded upward to the nearest 1/100 of 1%) announced by the Federal Reserve Bank of New York (or any successor) on such day as being the weighted average of the rates on overnight federal funds transactions arranged by federal funds brokers on the previous trading day, as computed and announced by such Federal Reserve Bank (or any successor) in substantially the same manner as such Federal Reserve Bank computes and announces the weighted average it refers to as the "Federal Funds Effective Rate" as of the date of this Agreement; provided, if such Federal Reserve Bank (or its successor) does not announce such rate on any day, the "Federal Funds Effective Rate" for such day shall be the Federal Funds Effective Rate for the last day on which such rate was announced.

Federal Funds Open Rate for any day shall mean the rate per annum (based on a year of 360 days and actual days elapsed) which is the daily federal funds open rate as quoted by ICAP North America, Inc. (or any successor) as set forth on the Bloomberg Screen BTMM for that day opposite the caption "OPEN" (or on such other substitute Bloomberg Screen that displays such rate), or as set forth on such other recognized electronic source used for the purpose of displaying such rate as selected by the Administrative Agent in its reasonable discretion (for purposes of this definition, an "Alternate Source") (or if such rate for such day does not appear on the Bloomberg Screen BTMM (or any substitute screen) or on any Alternate Source, or if there shall at any time, for any reason, no longer exist a Bloomberg Screen BTMM (or any substitute screen) or any Alternate Source, a comparable replacement rate determined by the Administrative Agent at such time in its reasonable discretion (which determination shall be conclusive absent manifest error); provided however, that if such day is not a Business Day, the Federal Funds Open Rate for such day shall be the "open" rate on the immediately preceding Business Day. If and when the Federal Funds Open Rate changes, the rate of interest with respect to any advance to which the Federal Funds Open Rate applies will change automatically without notice to the Borrower, effective on the date of any such change.

Fixed Charge Coverage Ratio shall mean the ratio of Consolidated EBITDAR to Fixed Charges.

Fixed Charges shall mean for any period of determination the sum of cash interest expense, cash income taxes, scheduled principal installments on Indebtedness (as adjusted for

(5) 1st Amendment

prepayments), Unfunded Capital Expenditures and payments under Capitalized Leases, Rental Expenses and cash dividends and distributions (including tax distributions) when actually paid, in each case, of the Borrowers on a Consolidated Basis; provided however that to the extent paid in the applicable testing period, Fixed Charges shall not include any payments made in connection with a tax settlement with the Canadian tax authorities in an amount not to exceed \$10,000,000 in the aggregate.(6)

Foreign Lender shall mean (i) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (ii) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the Laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

Foreign Subsidiary of any Person, shall mean any Subsidiary of such Person that is not organized or incorporated in the United States or any State or territory thereof.

GAAP shall mean generally accepted accounting principles as are in effect from time to time, subject to the provisions of Section 1.3 [Accounting Principles], and applied on a consistent basis both as to classification of items and amounts.

Global Cash means unrestricted cash of the Borrowers on a Consolidated Basis maintained in deposit accounts, as evidenced by the Borrowers' most recent financial statements, and as confirmed on a Compliance Certificate; provided, however, that Global Cash shall not include cash of any Foreign Subsidiary that is subject to a Lien securing any Indebtedness of such Foreign Subsidiary.(7)

Guarantor shall mean Western Brands Holding Company, a Colorado corporation, Fury, Inc., a Colorado corporation(8), RA Footwear, LLC(9), a Colorado limited liability company and other Person who may hereafter guarantee payment or performance of Obligations.

Guaranty of any Person shall mean any obligation of such Person guaranteeing or in effect guaranteeing any liability or obligation of any other Person in any manner, whether directly or indirectly, including any agreement to indemnify or hold harmless any other Person, any performance bond or other suretyship arrangement and any other form of assurance against loss, except endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business.

Guaranty Agreement shall mean the Continuing Agreement of Guaranty and Suretyship, in form and substance satisfactory to Administrative Agent in its reasonable discretion, executed and delivered by each of the Guarantors.

(6) 4th Amendment

(7) 6th Amendment

(8) 5th Amendment — Fury, Inc. was dissolved.

(9) 5th Amendment — consent to dissolution of RA Footwear, LLC within 90 days of September 26, 2014

Hedging Obligations of any Person shall mean any and all obligations of such Person under (i) any and all Lender Provided Hedges, (ii) any and all other hedging transactions permitted by Administrative Agent hereunder ("**Other Hedging Transactions**"), (iii) any and all cancellations, buy backs, reversals, terminations or assignments of any Lender Provided Hedge or Other Hedging Transaction and (iv) any and all renewals, extensions and modifications of any Lender Provided Hedge or Other Hedging Transaction and any and all substitutions for any Lender Provided Hedge or Other Hedging Transaction.

Indebtedness shall mean, as to any Person at any time, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (i) borrowed money, (ii) amounts raised under or liabilities in respect of any note purchase or acceptance credit facility, (iii) reimbursement obligations (contingent or otherwise) under any letter of credit agreement, (iv) Hedging Obligations (provided that any such amounts are limited to the Net Marked to Market Exposure of such Hedging Obligations), (v) any other transaction (including forward sale or purchase agreements, Capitalized Leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements (but not including trade payables and accrued expenses incurred in the ordinary course of business which are not represented by a promissory note or other evidence of indebtedness and which are not more than sixty (60) days past their original due date), or (vi) any Guaranty of Indebtedness for borrowed money.

Indemnified Taxes shall mean (i) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document, and (ii) to the extent not otherwise described in the preceding clause (i), Other Taxes.

Indemnitee shall have the meaning specified in Section 11.4.2 [Indemnification by the Borrower].

Indemnity shall mean the Indemnity Agreement in form and substance satisfactory to Administrative Agent in its Permitted Discretion relating to possible environmental liabilities associated with any of the owned or leased real property of the Loan Parties or their Subsidiaries.

Information shall mean all information received from or on behalf of the Loan Parties or any of their Subsidiaries relating to the Loan Parties or any of such Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or the Issuing Lender on a non-confidential basis prior to disclosure by or on behalf of the Loan Parties or any of their Subsidiaries.

Insolvency Proceeding shall mean, with respect to any Person, (a) a case, action or proceeding with respect to such Person (i) before any court or any other Official Body under any bankruptcy, insolvency, reorganization or other similar Law now or hereafter in effect, or (ii) for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, conservator (or similar official) of any Loan Party or otherwise relating to the liquidation, dissolution, winding-up or relief of such Person, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of such Person's creditors generally or any substantial portion of its creditors; undertaken under any Law.

Intercompany Subordination Agreement shall mean an Intercompany Subordination Agreement among the Loan Parties in form and substance satisfactory to Administrative Agent in its reasonable discretion.

Interest Period shall mean the period of time selected by the Borrower in connection with (and to apply to) any election permitted hereunder by the Borrower to have Revolving Credit Loans bear interest under the LIBOR Rate Option. Subject to the last sentence of this definition, such period shall be one, two or three Months. Such Interest Period shall commence on the effective date of such Interest Rate Option, which shall be (i) the Borrowing Date if the Borrower is requesting new Loans, or (ii) the date of renewal of or conversion to the LIBOR Rate Option if the Borrower is renewing or converting to the LIBOR Rate Option applicable to outstanding Loans. Notwithstanding the second sentence hereof: (A) any Interest Period which would otherwise end on a date which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, and (B) the Borrower shall not select, convert to or renew an Interest Period for any portion of the Loans that would end after the Expiration Date.

Interest Rate Option shall mean any LIBOR Rate Option or Base Rate Option.

IP Transfer Agreement shall mean that certain IP Transfer Agreement attached as Exhibit A to the Seventh Amendment, as amended, amended and restated, supplemented or otherwise modified from time to time upon the consent of Administrative Agent.(10)

IRS shall mean the United States Internal Revenue Service.

Issuing Lender shall mean PNC and/or Wells Fargo Bank N.A., in their capacities as issuers of Letters of Credit hereunder, and any other Lender that Borrower, Administrative Agent and such other Lender may agree may from time to time issue Letters of Credit hereunder.

Joint Venture shall mean a corporation, partnership, limited liability company or other entity in which any Person other than the Loan Parties and their Subsidiaries holds, directly or indirectly, an equity interest.

Law shall mean any law (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, release, ruling, order, injunction, writ, decree, bond, judgment, authorization or approval of, lien or award by or settlement agreement with any Official Body.

Lender Provided Hedge of any Person shall mean any of the following, in each case provided by any Lender or its Affiliate: (i) any transaction (including an agreement with respect to any such transaction) now existing or hereafter entered into by such Person that is a

(10) 7th Amendment

rate swap transaction, swap option, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap or option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross currency rate swap transaction, currency option, spot transaction, credit protection

transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell back transaction, securities lending transaction or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether or not any such transaction is governed by or subject to any master agreement and (ii) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “**Master Agreement**”), including any such obligations or liabilities under any Master Agreement.

Lenders shall mean the financial institutions named on Schedule 1.1(B) and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a Lender. For the purpose of any Loan Document which provides for the granting of a security interest or other Lien to the Lenders or to the Administrative Agent for the benefit of the Lenders as security for the Obligations, “Lenders” shall include any Affiliate of a Lender to which such Obligation is owed.

Letter of Credit shall have the meaning specified in Section 2.8.1 [Issuance of Letters of Credit].

Letter of Credit Borrowing shall have the meaning specified in Section 2.8.3 [Disbursements, Reimbursement].

Letter of Credit Fee shall have the meaning specified in Section 2.8.2 [Letter of Credit Fees].

Letter of Credit Obligation shall mean, as of any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit on such date (if any Letter of Credit shall increase in amount automatically in the future, such aggregate amount available to be drawn shall currently give effect to any such future increase) plus the aggregate Reimbursement Obligations and Letter of Credit Borrowings on such date.

Letter of Credit Sublimit shall have the meaning specified in Section 2.8.1 [Issuance of Letters of Credit].

Leverage Ratio shall mean, as of any date of determination, the ratio of (A) consolidated Indebtedness of Borrowers and its Subsidiaries on such date plus the product of Borrowers’ Rental Expenses for the four (4) most recently ended fiscal quarters (or the four fiscal quarters ending on the date of determination if such date is the last day of a fiscal quarter) multiplied by six (6), to (B) Consolidated EBITDAR of the Borrowers and its Subsidiaries for the four (4) most recently ended fiscal quarters (or the four fiscal quarters ending on the date of determination if such date is the last day of a fiscal quarter). (11)

LIBOR Rate shall mean, with respect to the Loans comprising any Borrowing Tranche to which the LIBOR Rate Option applies for any Interest Period, the interest rate per annum determined by the Administrative Agent by dividing (the resulting quotient rounded upwards, if necessary, to the nearest 1/100th of 1% per annum) (i) the rate which appears on the Bloomberg Page BBAM1 (or on such other substitute Bloomberg page that displays rates at which US dollar deposits are offered by leading banks in the London interbank deposit market), or the rate which is quoted by another source selected by the Administrative Agent which has been approved by the ICE Benchmark Administration Limited(12) as an authorized information vendor for the purpose of displaying rates at which US dollar deposits are offered by leading banks in the London interbank deposit market (for purposes of this definition, an “**Alternate Source**”), at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period as the London interbank offered rate for U.S. Dollars for an amount comparable to such Borrowing Tranche and having a borrowing date and a maturity comparable to such Interest Period (or if there shall at any time, for any reason, no longer exist a Bloomberg Page BBAM1 (or any substitute page) or any Alternate Source, a comparable replacement rate determined by the Administrative Agent, in its reasonable discretion, at such time (which determination shall be conclusive absent manifest error)), by (ii) a number equal to 1.00 minus the LIBOR Reserve Percentage. LIBOR may also be expressed by the following formula:

$$\text{LIBOR Rate} = \frac{\text{London interbank offered rates quoted by Bloomberg or appropriate successor as shown on Bloomberg Page BBAM1}}{1.00 - \text{LIBOR Reserve Percentage}}$$

The LIBOR Rate shall be adjusted with respect to any Loan to which the LIBOR Rate Option applies that is outstanding on the effective date of any change in the LIBOR Reserve Percentage as of such effective date. The Administrative Agent shall give prompt notice to the Borrower of the LIBOR Rate as determined or adjusted in accordance herewith, which

determination shall be conclusive absent manifest error. Notwithstanding the foregoing, if the LIBOR Rate determined as provided above would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.(13)

LIBOR Rate Option shall mean the option of the Borrower to have Loans bear interest at the rate and under the terms set forth in Section 4.1.1(ii) [Revolving Credit LIBOR Rate Option].

LIBOR Reserve Percentage shall mean as of any day the maximum percentage in effect on such day, as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including supplemental, marginal and

(11) 3rd Amendment

(12) 5th Amendment

(13) 6th Amendment

emergency reserve requirements) with respect to eurocurrency funding (currently referred to as “**Eurocurrency Liabilities**”).

Lien shall mean any mortgage, deed of trust, pledge, lien, security interest, charge or other encumbrance or security arrangement of any nature whatsoever, whether voluntarily or involuntarily given, including any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security and any filed financing statement or other notice of any of the foregoing (whether or not a lien or other encumbrance is created or exists at the time of the filing).

Loan Documents shall mean this Agreement, the Administrative Agent’s Letter, the Guaranty Agreement, the Indemnity, the Intercompany Subordination Agreement, any Mortgage, the Notes, the Patent, Trademark and Copyright Security Agreement, the Pledge Agreement, the Security Agreement, any Lender Provided Hedge (including without limitation that certain Master Agreement dated on or around the date hereof by and among Crocs, Colorado Footwear CV (Netherlands), Crocs Europe BV (Netherlands), Crocs Canada, Crocs Asia PTE — Japan Branch, Crocs Japan GK, Crocs Singapore PTE, Crocs Australia and Administrative Agent) and any other instruments, certificates or documents delivered in connection herewith or therewith.

Loan Parties shall mean the Borrower and the Guarantors.

Loan Request shall have the meaning specified in Section 2.4 [Revolving Credit Loan Requests; Swing Loan Requests].

Loans shall mean collectively and Loan shall mean separately all Revolving Credit Loans and Swing Loans or any Revolving Credit Loan or Swing Loan.

Material Adverse Change shall mean a material adverse change in (a) the financial condition, results of operations, assets, business or properties of the Loan Parties taken as a whole, (b) any Borrower’s ability to duly and punctually pay or perform the Obligations in accordance with the terms thereof, (c) the value of the Collateral taken as a whole, or Administrative Agent’s Liens on a material portion of the Collateral or the priority of any such Lien or (d) the practical realization of the benefits of Administrative Agent’s and each Lender’s rights and remedies taken as a whole under this Agreement and the Loan Documents.

Month, with respect to an Interest Period under the LIBOR Rate Option, shall mean the interval between the days in consecutive calendar months numerically corresponding to the first day of such Interest Period. If any LIBOR Rate Interest Period begins on a day of a calendar month for which there is no numerically corresponding day in the month in which such Interest Period is to end, the final month of such Interest Period shall be deemed to end on the last Business Day of such final month.

Multiemployer Plan shall mean any employee benefit plan which is a “multiemployer plan” within the meaning of Section 401(a)(3) of ERISA and to which the Borrower or any ERISA Affiliate is making or has an obligation to make contributions or, within the preceding five (5) Plan years, has made or had an obligation to make such contributions.

“Net Mark to Market Exposure” of any Person shall mean, as of any date of determination with respect to any Hedging Obligation, the excess (if any) of all unrealized losses over all unrealized profits of such Person arising from such Hedging Obligation. “Unrealized losses” shall mean the fair market value of the cost to such Person of replacing the Lender Provided Hedge or Other Hedging Transaction giving rise to such Hedging Obligation as of the date of determination

(assuming the Lender Provided Hedge or Other Hedging Transaction were to be terminated as of that date), and “unrealized profits” means the fair market value of the gain to such Person of replacing such Lender Provided Hedge or Other Hedging Transaction as of the date of determination (assuming such Lender Provided Hedge or Other Hedging Transaction were to be terminated as of that date).

Non-Consenting Lender shall have the meaning specified in Section 11.2 [Modifications, Amendments or Waivers].

Notes shall mean, collectively, the promissory notes in the form of Exhibit 1.1(N)(1) evidencing the Revolving Credit Loans and in the form of Exhibit 1.1(N)(2) evidencing the Swing Loan.

Obligation shall mean any obligation or liability of any of the Loan Parties, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due, under or in connection with (i) this Agreement, the Notes, the Letters of Credit, the Administrative Agent’s Letter or any other Loan Document whether to the Administrative Agent, any of the Lenders or their Affiliates or other persons provided for under such Loan Documents, (ii) any Lender Provided Hedge and (iii) any Other Lender Provided Financial Service Product.

Official Body shall mean the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

Other Connection Taxes shall mean, with respect to any Recipient, Taxes imposed as a result of such Recipient conducting or having conducted a sufficient level of ongoing business or income-generating activity in the jurisdiction imposing such Tax to subject it to tax generally on the income or privilege of doing business or unretained earnings associated with such activity (but, without broadening the scope of the foregoing, not including any Tax imposed as a result of such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Documents, or sold or assigned an interest in any Loan or Loan Document).

Other Lender Provided Financial Service Product shall mean agreements or other arrangements under which any Lender or Affiliate of a Lender provides any of the following products or services to any of the Loan Parties: (a) credit cards, (b) credit card processing services, (c) debit cards, (d) purchase cards, (e) ACH transactions, (f) cash management, including controlled disbursement, accounts or services, or (g) foreign currency exchange.

Other Taxes shall mean all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 5.6.2 [Replacement of a Lender]).

Panama IP shall mean the intellectual property listed on Schedule A to the Seventh Amendment.(14)

Participant has the meaning specified in Section 11.9.4 [Participations].

Participant Register shall have the meaning specified in Section 11.9.4 [Participations].

Participation Advance shall have the meaning specified in Section 2.8.3 [Disbursements, Reimbursement].

Patent, Trademark and Copyright Security Agreement shall mean the Patent, Trademark and Copyright Security Agreement, in form and substance satisfactory to Administrative Agent in its reasonable discretion, executed and delivered by each of the Loan Parties to the Administrative Agent for the benefit of the Lenders.

Payment Date shall mean the first day of each calendar month after the date hereof and on the Expiration Date or upon acceleration of the Notes.

Payment In Full shall mean the payment in full in cash of the Loans and other Obligations hereunder, termination of the Commitments and expiration or termination of all Letters of Credit (other than in respect of (i) indemnity obligations which survive the termination of this Agreement and the other Loan Documents for which no claim or assertion has been made in writing by Administrative Agent or Lenders), and (ii) Letters of Credit, Lender Provided Hedges or Other Lender Provided Financial Services Products for which cash collateralization has been provided to Administrative Agent or Issuing Lender in an amount reasonably acceptable to Administrative Agent or such Issuing Lender.

PBGC shall mean the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA or any successor.

Pension Plan shall mean any "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of

(14) 7th Amendment

ERISA or is subject to the minimum funding standards under Section 412 of the Code and is sponsored or maintained by Borrower or any ERISA Affiliate or to which Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has been obligated to make contributions at any time during the immediately preceding five plan years.

Percent Rent shall mean such portion of rent paid by any Borrower for any leased real property that is determined by reference to, and is comprised of a portion of, the revenue for such leased property.(15)

Permitted Acquisitions shall mean acquisitions of the assets or equity of another Person so long as: (a) after giving effect to such Acquisition, Borrowers have Availability of not less than \$25,000,000(16); (b) the Total Costs (as defined below) of all such acquisitions do not exceed \$50,000,000 for any single acquisition or \$100,000,000 in any fiscal year. "Total Costs" shall mean cash or equity consideration plus the value of any other stock or assets transferred, plus assumed Indebtedness less cash acquired plus all earn out payments, all deferred payments and direct transaction related costs; (17) (c) with respect to the acquisition of equity, (i) such acquired company shall be added as a Borrower to this Agreement and be jointly and severally liable for all Obligations, and (ii) Administrative Agent shall be granted a first priority lien in all assets of such acquired company; (d) the acquired company or property is used or useful in the same or a similar line of business as the Borrowers were engaged in on the Closing Date (or any reasonable extensions or expansions thereof); (e) Administrative Agent shall have received a first-priority security interest in all acquired assets or equity, subject to documentation satisfactory to Administrative Agent; (f) the board of directors (or other comparable governing body) of such company shall have duly approved the transaction; (g) the Borrowers shall have delivered to Agent (i) a pro forma balance sheet and pro forma financial statements and a Compliance Certificate demonstrating that upon giving effect to such acquisition, Borrower is in compliance, on a Pro Forma Basis, with the financial covenants set forth in Section 8.2.14 [Minimum Fixed Charge Coverage Ratio] and 8.2.15 [Maximum Leverage Ratio] and 8.2.16 [Global Cash] as of the most recent fiscal quarter end and (ii) audited (to the extent audited exist) financial statements of the acquired entity for the two most recent fiscal years then ended, in form and substance reasonably acceptable to Administrative Agent, audited in accordance with GAAP(18); (h) if such acquisition includes general partnership interests or any other equity interests that do not have a corporate (or similar) limitation on liability of the owners thereof, then such acquisition shall be effected by having such equity interests acquired by a corporate or other limited liability entity holding company directly or indirectly wholly-owned by a Borrower and newly formed for the sole purpose of effecting such acquisition; and (i) no Potential Default or Event of Default shall have occurred or will occur after giving pro forma effect to such acquisition.

Permitted Discretion shall mean a determination made in good faith and in the exercise of commercially reasonable (from the perspective of a secured senior lender) business judgment.

(15) 2nd Amendment

(16) 2nd Amendment

(17) 1st Amendment

(18) 2nd Amendment

Permitted Foreign Investments shall mean

(i) obligations issued or guaranteed by the United States of America or any agency thereof or any foreign country in which a Foreign Subsidiary is conducting business;

(ii) commercial paper with maturities of not more than one hundred eighty (180) days and a published rating of not less than A-1 by Standard & Poor's, P-1 by Moody's Investors Service, Inc. (or the equivalent rating) or a combined rating of A-1/P-2 or A-2/P-1;

(iii) certificates of time deposit and bankers' acceptances having maturities of not more than one hundred eighty (180) days and repurchase agreements backed by United States government securities of a commercial bank in the United States of America or in any foreign country in which a Foreign Subsidiary is conducting business if (i) such bank has a combined capital and surplus of at least \$500,000,000, or (ii) its debt obligations, or those of a holding company of which it is a Subsidiary, are rated not less than A (or the equivalent rating) by a nationally recognized investment rating agency;

(iv) U.S. money market funds that invest solely in obligations issued or guaranteed by the United States of America or an agency thereof or any foreign country in which a Foreign Subsidiary is conducting business;

(v) investments made under the Cash Management Agreements;

(vi) investments (including debt obligations) received in connection with the bankruptcy or reorganization of suppliers, customers and other Persons and in settlement of delinquent obligations of, and other disputes with, customers, suppliers and other Persons arising in the ordinary course of business;

(vii) investments (including debt obligations) received in connection with dispositions permitted pursuant to this Agreement;

(viii) investments pursuant to Lender Provided Hedges;

(ix) deposits made in the ordinary course of business to secure the performance of leases or other contractual arrangements;

(x) to the extent constituting an investment, Capital Expenditures not prohibited by this Agreement;

(xi) investments in deposit and securities accounts opened in the ordinary course of business and in compliance with the terms of the Loan Documents;

(xii) unsecured repurchase agreements with a term of not more than thirty (30) days for securities described in clause (i) and (ii) above and entered into with a financial institution satisfying the criteria described in clause (iii) above; and

(xiv) advances in the form of prepayment of expenses to a vendor, supplier or trade creditor in the ordinary course of business.

Permitted Investments shall mean:

(i) obligations issued or guaranteed by the United States of America or any agency thereof;

(ii) commercial paper with maturities of not more than one hundred eighty (180) days and a published rating of not less than A-1 by Standard & Poor's, P-1 by Moody's Investors Service, Inc. (or the equivalent rating) or a combined rating of A-1/P-2 or A-2/P-1.

(iii) certificates of time deposit and bankers' acceptances having maturities of not more than one hundred eighty (180) days and repurchase agreements backed by United States government securities of a commercial bank if (i) such bank has a combined capital and surplus of at least \$500,000,000, or (ii) its debt obligations, or those of a holding company of which it is a Subsidiary, are rated not less than A (or the equivalent rating) by a nationally recognized investment rating agency;

(iv) U.S. money market funds that invest solely in obligations issued or guaranteed by the United States of America or an agency thereof;

(v) investments made under the Cash Management Agreements;

- (vi) investments (including debt obligations) received in connection with the bankruptcy or reorganization of suppliers, customers and other Persons and in settlement of delinquent obligations of, and other disputes with, customers, suppliers and other Persons arising in the ordinary course of business;
- (vii) investments (including debt obligations) received in connection with dispositions permitted pursuant to this Agreement;
- (viii) investments pursuant to Lender Provided Hedges;
- (ix) deposits made in the ordinary course of business to secure the performance of leases or other contractual arrangements;
- (x) to the extent constituting an investment, Capital Expenditures not prohibited by this Agreement;
- (xi) investments in deposit and securities accounts opened in the ordinary course of business and in compliance with the terms of the Loan Documents;
- (xii) unsecured repurchase agreements with a term of not more than thirty (30) days for securities described in clause (i) and (ii) above and entered into with a financial institution satisfying the criteria described in clause (iii) above; and
- (xiii) advances in the form of prepayment of expenses to a vendor, supplier or trade creditor in the ordinary course of business.

Permitted Liens shall mean:

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- (i) Liens in favor of Administrative Agent for the benefit of Administrative Agent or Lenders and Liens in favor of any Lender granted to secure reimbursement obligations owing to such Lender in connection with the issuance of a letter of credit by such Lender in accordance with this Agreement;(19)
 - (ii) Liens for taxes, assessments or other governmental charges not delinquent or being Properly Contested;
 - (iii) deposits or pledges to secure obligations under worker's compensation, social security or similar laws, or under unemployment insurance;
 - (iv) deposits or pledges to secure bids, tenders, contracts (other than contracts for the payment of money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of like nature arising in the ordinary course of business;
 - (v) judgment Liens in respect of judgments that do not constitute an Event of Default under Section 9.1.6 [Final Judgments or Orders];
 - (vi) carriers', warehousemen's, mechanics', workers', materialmen's or other like Liens arising in the ordinary course of business with respect to obligations which are not due or which are being Properly Contested;
 - (vii) Liens on property leased by any Loan Party or Subsidiary of a Loan Party under Capitalized Leases and operating leases permitted in Section 8.2.13 [Capital Expenditures and Leases] securing obligations of such Loan Party or Subsidiary to the lessor under such leases;
 - (viii) any Lien existing on the date of this Agreement and described on Schedule 1.1(P), provided that the principal amount secured thereby is not hereafter increased, and no additional assets become subject to such Lien;
 - (ix) Purchase Money Security Interests and Capitalized Leases; provided that the aggregate amount of loans and deferred payments secured by such Purchase Money Security Interests and Capitalized Leases shall not exceed
-

\$60,000,000 in the aggregate (excluding for the purpose of this computation any loans or deferred payments secured by Liens described on Schedule 1.1(P));

(x) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or materially interfere with the ordinary conduct of business;

(xi) any interest or title of lessor under any operating lease;

(19) 1st Amendment

(xii) normal and customary rights of setoff upon deposits of cash in favor of banks and other depository institutions and Liens of a collecting bank arising under the Uniform Commercial Code on checks in the course of collection;

(xiii) purported Liens evidenced by the filing of precautionary UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;

(xiv) Liens pursuant to leases and subleases of real property which do not interfere with the ordinary course of business, which are made on customary and usual terms applicable to similar properties and which are subordinated to Agent's Liens in a manner reasonably satisfactory to Agent;

(xv) any interest or title of a lessor or sublessor, licensor or sublicensor under any lease or license not prohibited by this Agreement;

(xvi) Liens with respect to the cash collateralization of Lender Provided Hedges or Other Lender Provided Financial Service Products;
and

(xvii) first-priority Liens on assets (other than intellectual property) of a Foreign Subsidiary that is not a Loan Party to the extent such Liens only secure Indebtedness of such Foreign Subsidiary that is permitted under Section 8.2.1(xvi).(20)

Permitted Refinancing shall mean, with respect to any Person, any Indebtedness issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund (collectively, to "Refinance"), the Indebtedness being Refinanced (or previous refinancings thereof constituting a Permitted Refinancing); provided, that (a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so Refinanced (plus unpaid accrued interest and premiums thereon and underwriting discounts, defeasance costs, fees, commissions and expenses), (b) the weighted average life to maturity of such Permitted Refinancing is greater than or equal to the weighted average life to maturity of the Indebtedness being Refinanced, (c) such Permitted Refinancing shall not require any scheduled principal payments due prior to the Expiration Date in excess of, or prior to, the scheduled principal payments due prior to Expiration Date for the Indebtedness being Refinanced, and (d) such Permitted Refinancing shall be otherwise on terms not materially less favorable to the Borrower than those contained in the documentation governing the Indebtedness being Refinanced, including, without limitation, with respect to financial and other covenants and events of default.

Person shall mean any individual, corporation, partnership, limited liability company, association, joint-stock company, trust, unincorporated organization, joint venture, government or political subdivision or agency thereof, or any other entity.

Plan shall mean an employee benefit plan, as defined in Section 3(3) of ERISA, (including a (i) a Pension Plan, (ii) a Multiemployer Plan, or (iii) a Welfare Plan, as defined in

(20) 6th Amendment

Section 3(1) of ERISA which provides self insured benefits) which is maintained by the Borrower or any ERISA Affiliate or has at any time within the preceding (5) years been maintained, or to which there has been an obligation to contribute, by any entity which was at the time an ERISA Affiliate.

Pledge Agreement shall mean the Pledge Agreement, in form and substance satisfactory to Administrative Agent in its reasonable discretion, executed and delivered by the applicable Loan Parties to the Administrative Agent for the benefit of the Lenders.

PNC shall mean PNC Bank, National Association, its successors and assigns.

Potential Default shall mean any event or condition which with notice or passage of time, or both, would constitute an Event of Default.

Preferred Stock Issuance shall mean the issuance by Crocs of preferred equity interests in an amount not to exceed \$200,000,000 during the fiscal quarter ending December 31, 2013 or ending March 31, 2014.(21)

Prime Rate shall mean the interest rate per annum announced from time to time by the Administrative Agent at its Principal Office as its then prime rate, which rate may not be the lowest or most favorable rate then being charged commercial borrowers or others by the Administrative Agent. Any change in the Prime Rate shall take effect at the opening of business on the day such change is announced.

Principal Office shall mean the main banking office of the Administrative Agent in Pittsburgh, Pennsylvania.

Prior Security Interest shall mean a valid and enforceable perfected first-priority security interest under the Uniform Commercial Code in the Collateral which is subject only to statutory Liens for taxes not yet due and payable or Purchase Money Security Interests.

Pro Forma Basis shall mean, with respect to any Specified Transaction, that Borrower is in compliance on a pro forma basis with the applicable covenant, ratio, calculation or requirement herein calculated as if such Specified Transaction and the related adjustments set forth below had occurred on the first day of the four fiscal quarter period most recently ended for which financial statements have been delivered pursuant to Section 8.3.1 [Quarterly Financial Statements]. The following related adjustments shall be calculated as follows, each as evidenced by a quality of earnings report reasonably satisfactory to Agent: (i) income statement items (whether positive or negative) attributable to the applicable property or Person the subject of an acquisition, sale, transfer or other disposition of all or substantially all of the capital stock in any Subsidiary or any division or product line of the Borrower or any Subsidiary, shall be included, (ii) any retirement, incurrence or assumption of any Indebtedness by Borrower or any Subsidiary in connection with a Specified Transaction shall be deemed to have borne interest (a) in the case of fixed rate Indebtedness, at the rate applicable thereto, or (b) in the case of floating rate Indebtedness, at the rates which were or would have been applicable thereto during the period when such Indebtedness was or was deemed to be outstanding; and provided that, Consolidated

(21) 3rd Amendment

EBTIDAR may be further adjusted without duplication of any adjustments to Consolidated EBITDAR by, without duplication, (x) any credit for acquisition-related costs and savings to the extent expressly required or permitted to be reflected in Borrower's financial statements pursuant to Article 11 of Regulation S-X under the Securities Act of 1933, as amended, and (y) actions taken by the Borrower or any of its Subsidiaries prior to or during such period for the purpose of realizing reasonably identifiable and factually supportable cost savings, in each case under this clause (y) calculated by the Borrower, as evidenced by a quality of earnings reports reasonably satisfactory to Agent.

Properly Contested shall mean, in the case of any Indebtedness or Lien, as applicable, of any Person (including any taxes) that is not paid as and when due or payable by reason of such Person's bona fide dispute concerning its liability to pay same or concerning the amount thereof, (i) such Indebtedness or Lien, as applicable, is being properly contested in good faith by appropriate proceedings promptly instituted and diligently conducted; (ii) such Person has established appropriate reserves as shall be required in conformity with GAAP; (iii) the non-payment of such Indebtedness will not result in a Material Adverse Change and will not result in the forfeiture of any assets of such Person; (iv) no Lien is imposed upon any of such Person's assets with respect to such Indebtedness unless such Lien is at all times junior and subordinate in priority to the Liens in favor of the Administrative Agent (except only with respect to property taxes that have priority as a matter of applicable state law) and enforcement of such Lien is stayed during the period prior to the final resolution or disposition of such dispute; (v) if such Indebtedness or Lien, as applicable, results from, or is determined by the entry, rendition or issuance against a Person or any of its assets of a judgment, writ, order or decree, enforcement of such judgment, writ, order or decree is stayed pending a timely appeal or other judicial review; and (vi) if such contest is abandoned, settled or determined adversely (in whole or in part) to such Person, such Person forthwith pays such Indebtedness and all penalties, interest and other amounts due in connection therewith.

Published Rate shall mean the rate of interest published each Business Day in *The Wall Street Journal* "Money Rates" listing under the caption "London Interbank Offered Rates" for a one month period (or, if no such rate is published therein for any reason, then the Published Rate shall be the rate at which U.S. dollar deposits are offered by leading banks in the London interbank deposit market for a one month period as published in another publication selected by the Administrative Agent in its reasonable discretion).

Purchase Money Security Interest shall mean Liens upon tangible personal property securing loans to any Loan Party or Subsidiary of a Loan Party or deferred payments by such Loan Party or Subsidiary for the purchase of such tangible personal property.

Ratable Share shall mean the proportion that a Lender's Commitment (excluding the Swing Loan Commitment) bears to the Commitments (excluding the Swing Loan Commitment) of all of the Lenders, provided that in the case of Section 2.9 [Defaulting Lenders] when a Defaulting Lender shall exist, "Ratable Share" shall mean the percentage of the aggregate Commitments (disregarding any Defaulting Lender's Commitment) represented by such Lender's Commitment. If the Commitments have terminated or expired, the Ratable Share shall be determined based upon the Commitments (excluding the Swing Loan Commitment) most recently in effect, giving effect to any assignments.

Recipient shall mean (i) the Administrative Agent, (ii) any Lender and (iii) the Issuing Lender, as applicable.

Reimbursement Obligation shall have the meaning specified in Section 2.8.3 [Disbursements, Reimbursement].

Related Parties shall mean, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

Relief Proceeding shall mean any proceeding seeking a decree or order for relief in respect of any Loan Party or Subsidiary of a Loan Party in a voluntary or involuntary case under any applicable bankruptcy, insolvency, reorganization or other similar law now or hereafter in effect, or for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator, conservator (or similar official) of any Loan Party or Subsidiary of a Loan Party for any substantial part of its property, or for the winding-up or liquidation of its affairs, or an assignment for the benefit of its creditors.

Rental Expenses shall mean rental expenses for all leased real property (excluding Percent Rent).(22)

Reportable Compliance Event shall mean that any Covered Entity becomes a Sanctioned Person, or is charged by indictment, criminal complaint or similar charging instrument, arraigned, or custodially detained in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or has knowledge of facts or circumstances to the effect that it is reasonably likely that any aspect of its operations is in actual or probable violation of any Anti-Terrorism Law.(23)

Required Lenders shall mean(24)

(A) If there exists fewer than three (3) Lenders, all Lenders (other than any Defaulting Lender), and

(B) If there exists three (3) or more Lenders, Lenders (other than any Defaulting Lender) having more than fifty percent (50%) of the aggregate amount of the Revolving Credit Commitments of the Lenders (excluding any Defaulting Lender) or, after the termination of the Revolving Credit Commitments, the outstanding Revolving Credit Loans and Ratable Share of Letter of Credit Obligations of the Lenders (excluding any Defaulting Lender); provided however that if there are three (3) or more Lenders, at least two (2) Lenders will be required to constitute Required Lenders.

(C) For purposes of determining Required Lenders hereunder, PNC and any Affiliate of PNC that holds a Revolving Credit Commitment shall be deemed to be one (1) Lender.

(22) 2nd Amendment

(23) 5th Amendment

(24) 9th Amendment

Required Share shall have the meaning assigned to such term in Section 5.11 [Settlement Date Procedures].

Revolver Availability shall mean, as of any date of determination, the difference between the Revolving Facility Usage as of such date of determination and the aggregate Revolving Credit Commitments as of such date of determination.(25)

Revolving Credit Commitment shall mean, as to any Lender at any time, the amount initially set forth opposite its name on Schedule 1.1(B) in the column labeled "Amount of Commitment for Revolving Credit Loans," as such Commitment is thereafter assigned or modified and Revolving Credit Commitments shall mean the aggregate Revolving Credit Commitments of all of the Lenders.

Revolving Credit Loans shall mean collectively and Revolving Credit Loan shall mean separately all Revolving Credit Loans or any Revolving Credit Loan made by the Lenders or one of the Lenders to the Borrower pursuant to Section 2.1 [Revolving Credit Commitments] or 2.8.3 [Disbursements, Reimbursement].

Revolving Facility Usage shall mean at any time the sum of the outstanding Revolving Credit Loans, the outstanding Swing Loans, and the Letter of Credit Obligations.

Sanctioned Country shall mean a country that is the subject of, or a target of, a sanctions program maintained under any Anti-Terrorism Law.(26)

Sanctioned Person shall mean any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person, group, regime, entity or thing, the subject of, or target of, any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any Anti-Terrorism Law.(27)

Security Agreement shall mean the Security Agreement, in form and substance satisfactory to Administrative Agent in its reasonable discretion, executed and delivered by each of the Loan Parties to the Administrative Agent for the benefit of the Lenders.

Settlement Date shall mean the Business Day on which the Administrative Agent elects to effect settlement pursuant Section 5.11 [Settlement Date Procedures].

Seventh Amendment shall mean that certain Seventh Amendment to Amended and Restated Credit Agreement dated as of April 21, 2015 by and among Borrowers, the Lenders party thereto, and Administrative Agent.(28)

Solvent shall mean, with respect to any Person on any date of determination, taking into account such right of reimbursement, contribution or similar right available to such

(25) 6th Amendment

(26) 5th Amendment

(27) 5th Amendment

(28) 7th Amendment

Person from other Persons, that on such date (i) the fair value of the property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person, (ii) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (iii) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (iv) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, and (v) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged.

In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

Specified Transaction shall mean, with respect to any period, any Permitted Acquisition, disposition of assets, or incurrence or repayment of Indebtedness, consummated by the Borrower or any of its Subsidiaries during such period (or the effects of which have occurred or are implemented during such period) or other event that by the terms of this Agreement

requires “pro forma compliance” with a test or covenant hereunder or requires such test or covenant to be calculated on a “Pro Forma Basis”.

Standard & Poor’s shall mean Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc.

Statements shall have the meaning specified in Section 6.1.6(i) [Historical Statements].

Subsidiary of any Person at any time shall mean any corporation, trust, partnership, any limited liability company or other business entity (i) of which more than 50% of the outstanding voting securities or other interests normally entitled to vote for the election of one or more directors or trustees (regardless of any contingency which does or may suspend or dilute the voting rights) is at such time owned directly or indirectly by such Person or one or more of such Person’s Subsidiaries, or (ii) which is controlled or capable of being controlled by such Person or one or more of such Person’s Subsidiaries.

Subsidiary Equity Interests shall have the meaning specified in Section 6.1.2 [Subsidiaries and Owners; Investment Companies].

Swing Loan Commitment shall mean PNC’s commitment to make Swing Loans to the Borrower pursuant to Section 2.1.2 [Swing Loan Commitment] hereof in an aggregate principal amount up to \$5,000,000.

Swing Loan Note shall mean the Swing Loan Note of the Borrower in the form of Exhibit 1.1(N)(2) evidencing the Swing Loans, together with all amendments, extensions, renewals, replacements, refinancings or refundings thereof in whole or in part.

Swing Loan Request shall mean a request for Swing Loans made in accordance with Section 2.4.2 [Swing Loan Requests] hereof.

Swing Loans shall mean collectively and Swing Loan shall mean separately all Swing Loans or any Swing Loan made by PNC to the Borrower pursuant to Section 2.1.2 [Swing Loan Commitment] hereof.

Taxes shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Official Body, including any interest, additions to tax or penalties applicable thereto.

Third Amendment Date shall mean December 27, 2013.(29)

Unfunded Capital Expenditures shall mean, as to any Borrower, without duplication, a Capital Expenditure funded (a) from such Borrower’s internally generated cash flow or (b) with the proceeds of a Revolving Credit Loan or a Swing Loan.(30)

USA Patriot Act shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

U.S. Person shall mean any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.

U.S. Tax Compliance Certificate shall have the meaning specified in Section 5.9.7 [Status of Lenders].

Withholding Agent shall mean any Loan Party and the Administrative Agent.

1.2 Construction. Unless the context of this Agreement otherwise clearly requires, the following rules of construction shall apply to this Agreement and each of the other Loan Documents: (i) references to the plural include the singular, the plural, the part and the whole and the words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation”; (ii) the words “hereof,” “herein,” “hereunder,” “hereto” and similar terms in this Agreement or any other Loan Document refer to this Agreement or such other Loan Document as a whole; (iii) article, section, subsection, clause, schedule and exhibit references are to this Agreement or other Loan Document, as the case may be, unless otherwise specified; (iv) reference to any Person includes such Person’s successors and assigns; (v) reference to any agreement, including this Agreement and any other Loan Document together with the schedules and exhibits hereto or thereto, document or

instrument means such agreement, document or instrument as amended, modified, replaced, substituted for, superseded or restated; (vi) relative to the determination of any period of time, “from” means “from and including,” “to” means “to but excluding,” and “through” means “through and including”; (vii) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract

(29) 3rd Amendment

(30) 4th Amendment

rights, (viii) section headings herein and in each other Loan Document are included for convenience and shall not affect the interpretation of this Agreement or such Loan Document, and (ix) unless otherwise specified, all references herein to times of day shall be references to Eastern Time.

1.3 Accounting Principles: Changes in GAAP. Except as otherwise provided in this Agreement, all computations and determinations as to accounting or financial matters and all financial statements to be delivered pursuant to this Agreement shall be made and prepared in accordance with GAAP (including principles of consolidation where appropriate), and all accounting or financial terms shall have the meanings ascribed to such terms by GAAP; provided, however, that all accounting terms used in Section 8.2 [Negative Covenants] (and all defined terms used in the definition of any accounting term used in Section 8.2 shall have the meaning given to such terms (and defined terms) under GAAP as in effect on the date hereof applied on a basis consistent with those used in preparing the Statements referred to in Section 6.1.6(i) [Historical Statements]). Notwithstanding the foregoing, if the Borrower notifies the Administrative Agent in writing that the Borrower wishes to amend any financial covenant in Section 8.2 of this Agreement, any related definition and/or the definition of the term Leverage Ratio for purposes of interest, Letter of Credit Fee and Commitment Fee determinations to eliminate the effect of any change in GAAP occurring after the Closing Date on the operation of such financial covenants and/or interest, Letter of Credit Fee or Commitment Fee determinations (or if the Administrative Agent notifies the Borrower in writing that the Required Lenders wish to amend any financial covenant in Section 8.2, any related definition and/or the definition of the term Leverage Ratio for purposes of interest, Letter of Credit Fee and Commitment Fee determinations to eliminate the effect of any such change in GAAP), then the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratios or requirements to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, the Loan Parties' compliance with such covenants and/or the definition of the term Leverage Ratio for purposes of interest, Letter of Credit Fee and Commitment Fee determinations shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP became effective, until either such notice is withdrawn or such covenants or definitions are amended in a manner satisfactory to the Borrower and the Required Lenders, and the Loan Parties shall provide to the Administrative Agent, when they delivers their financial statements pursuant to Section 8.3.1 [Quarterly Financial Statements] and 8.3.2 [Annual Financial Statements] of this Agreement, such reconciliation statements as shall be reasonably requested by the Administrative Agent; provided further that the Borrower shall not be obligated to pay an amendment fee (excluding costs and expenses and reasonable attorneys' fees) in connection with such amendment and the pricing of the Loans shall not be increased in connection with such amendment. No delay by the Borrower, the Administrative Agent or the Required Lenders in requiring such an amendment shall limit such Person's rights to require such an amendment at any time after such a change in accounting principles.

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2. REVOLVING CREDIT AND SWING LOAN FACILITIES

2.1 Revolving Credit Commitments.

2.1.1 Revolving Credit Loans. Subject to the terms and conditions hereof and relying upon the representations and warranties herein set forth, each Lender severally agrees to make Revolving Credit Loans to the Borrower at any time or from time to time on or after the date hereof to the Expiration Date; provided that after giving effect to each such Loan (i) the aggregate amount of Revolving Credit Loans from such Lender shall not exceed such Lender's Revolving Credit Commitment minus such Lender's Ratable Share of the Letter of Credit Obligations and (ii) the Revolving Facility Usage shall not exceed the Revolving Credit Commitments. Within such limits of time and amount and subject to the other provisions of this Agreement, the Borrower may borrow, repay and reborrow pursuant to this Section 2.1.

2.1.2 Swing Loan Commitment. Subject to the terms and conditions hereof and relying upon the representations and warranties herein set forth, and in order to facilitate loans and repayments between Settlement Dates, PNC

may, at its option, cancelable at any time for any reason whatsoever, make swing loans (the “**Swing Loans**”) to the Borrower at any time or from time to time after the date hereof to the Expiration Date, in an aggregate principal amount up to but not in excess of the Swing Loan Commitment, provided that after giving effect to such Loan, the Revolving Facility Usage shall not exceed the Revolving Credit Commitments. Within such limits of time and amount and subject to the other provisions of this Agreement, the Borrower may borrow, repay and reborrow pursuant to this Section 2.1.2.

2.2 Nature of Lenders’ Obligations with Respect to Revolving Credit Loans. Each Lender shall be obligated to participate in each request for Revolving Credit Loans pursuant to Section 2.4 [Revolving Credit Loan Requests; Swing Loan Requests] in accordance with its Ratable Share. The aggregate of each Lender’s Revolving Credit Loans outstanding hereunder to the Borrower at any time shall never exceed its Revolving Credit Commitment minus its Ratable Share of the outstanding Swing Loans and Letter of Credit Obligations. The obligations of each Lender hereunder are several. The failure of any Lender to perform its obligations hereunder shall not affect the Obligations of the Borrower to any other party nor shall any other party be liable for the failure of such Lender to perform its obligations hereunder. The Lenders shall have no obligation to make Revolving Credit Loans hereunder on or after the Expiration Date.

2.3 Commitment Fees. Accruing from the date hereof until the Expiration Date, the Borrower agrees to pay to the Administrative Agent for the account of each Lender according to its Ratable Share, a nonrefundable commitment fee (the “**Commitment Fee**”) equal to the Applicable Commitment Fee Rate (computed on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed) multiplied by the average daily difference between the amount of (i) the Revolving Credit Commitments (for purposes of this computation, PNC’s Swing Loans shall be deemed to be borrowed amounts under its Revolving Credit Commitment) and (ii) the Revolving Facility Usage; provided, however, that any Commitment Fee accrued with respect to the Revolving Credit Commitment of a Defaulting Lender during the period prior to the time such Lender became a Defaulting Lender and unpaid at such time shall not be payable by the Borrower so long as such Lender shall be a Defaulting Lender except to the extent that such Commitment Fee shall otherwise have been due and payable by the Borrower prior to such time; and provided further that no Commitment Fee shall accrue with respect to the Revolving Commitment of a Defaulting Lender so long as such Lender shall be a Defaulting Lender. Subject to the proviso in the directly preceding sentence, all Commitment Fees shall be payable in arrears on the first day of each calendar quarter with respect to the previous calendar quarter.

2.4 Revolving Credit Loan Requests; Swing Loan Requests.

2.4.1 Revolving Credit Loan Requests. Except as otherwise provided herein, the Borrower may from time to time prior to the Expiration Date request the Lenders to make Revolving Credit Loans, or renew or convert the Interest Rate Option applicable to existing Revolving Credit Loans pursuant to Section 4.2 [Interest Periods], by delivering to the Administrative Agent, not later than 1:00 p.m., (i) three (3) Business Days prior to the proposed Borrowing Date with respect to the making of Revolving Credit Loans to which the LIBOR Rate Option applies or the conversion to or the renewal of the LIBOR Rate Option for any Loans; and (ii) the same Business Day of the proposed Borrowing Date with respect to the making of a Revolving Credit Loan to which the Base Rate Option applies or the last day of the preceding Interest Period with respect to the conversion to the Base Rate Option for any Loan, of a duly completed request therefor substantially in the form of Exhibit 2.4.1 or a request by telephone promptly confirmed in writing by letter, facsimile or telex in such form (each, a “**Loan Request**”), it being understood that the Administrative Agent may rely on the authority of any individual making such a telephonic request without the necessity of receipt of such written confirmation. Each Loan Request shall be irrevocable and shall specify the aggregate amount of the proposed Loans comprising each Borrowing Tranche, and, if applicable, the Interest Period, which amounts shall be in (x) integral multiples of \$500,000 and not less than \$1,000,000 for each Borrowing Tranche under the LIBOR Rate Option, and (y) integral multiples of \$500,000 and not less than \$500,000 for each Borrowing Tranche under the Base Rate Option.

2.4.2 Swing Loan Requests. Except as otherwise provided herein, the Borrower may from time to time prior to the Expiration Date request PNC to make Swing Loans by delivery to PNC not later than 1:00 p.m. on the proposed Borrowing Date of a duly completed request therefor substantially in the form of Exhibit 2.4.2 hereto or a request by telephone promptly confirmed in writing by letter, facsimile or telex (each, a “**Swing Loan Request**”), it being understood that the Administrative Agent may rely on the authority of any individual making such a telephonic request without the necessity of receipt of such written confirmation. Each Swing Loan Request shall be irrevocable and shall specify the proposed Borrowing Date and the principal amount of such Swing Loan, which shall be not less than \$1,000,000.

2.5 Making Revolving Credit Loans and Swing Loans; Presumptions by the Administrative Agent; Repayment of Revolving Credit Loans; Borrowings to Repay Swing Loans.

2.5.1 Making Revolving Credit Loans. The Administrative Agent shall, promptly after receipt by it of a Loan Request pursuant to Section 2.4 [Revolving Credit Loan Requests; Swing Loan Requests], notify the Lenders of its receipt of such Loan Request specifying the information provided by the Borrower and the apportionment among the Lenders of the requested Revolving Credit Loans as determined by the Administrative Agent in accordance with Section 2.2 [Nature of Lenders' Obligations with Respect to Revolving Credit Loans]. Each Lender shall remit the principal amount of each Revolving Credit Loan to the Administrative Agent such that the Administrative Agent is able to, and the Administrative Agent shall, to the extent the Lenders have made funds available to it for such purpose and subject to Section 7.2 [Each Loan or Letter of Credit], fund such Revolving Credit Loans to the Borrower in U.S. Dollars and immediately available funds at the Principal Office prior to 2:00 p.m., on the applicable Borrowing Date; provided that if any Lender fails to remit such funds to the Administrative Agent in a timely manner, the Administrative Agent may elect in its sole discretion to fund with its own funds the Revolving Credit Loans of such Lender on such Borrowing Date, and such Lender shall be subject to the repayment obligation in Section 2.5.2 [Presumptions by the Administrative Agent].

2.5.2 Presumptions by the Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Loan that such Lender will not make available to the Administrative Agent such Lender's share of such Loan, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.5.1 [Making Revolving Credit Loans] and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Loan available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to Loans under the Base Rate Option; provided, however, that Agent shall first make demand for repayment upon such Lender prior to making demand on Borrowers. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

2.5.3 Making Swing Loans. So long as PNC elects to make Swing Loans, PNC shall, after receipt by it of a Swing Loan Request pursuant to Section 2.4.2, [Swing Loan Requests] fund such Swing Loan to the Borrower in U.S. Dollars and immediately available funds at the Principal Office prior to 4:00 p.m. on the Borrowing Date.

2.5.4 Repayment of Revolving Credit Loans. The Borrower shall repay the Revolving Credit Loans together with all outstanding interest thereon on the Expiration Date.

2.5.5 Borrowings to Repay Swing Loans. PNC may, at its option, exercisable at any time for any reason whatsoever, demand repayment of the Swing Loans, and each Lender shall make a Revolving Credit Loan in an amount equal to such Lender's Ratable Share of the aggregate principal amount of the outstanding Swing Loans, plus, if PNC so requests, accrued interest thereon, provided that no Lender shall be obligated in any event to make Revolving Credit Loans in excess of its Revolving Credit Commitment minus its Ratable Share of Letter of Credit Obligations. Revolving Credit Loans made pursuant to the preceding sentence shall bear interest at the Base Rate Option and shall be deemed to have been properly requested in accordance with Section 2.4.1 [Revolving Credit Loan Requests] without regard to any of the requirements of that provision. PNC shall provide notice to the Lenders (which may be telephonic or written notice by letter, facsimile or telex) that such Revolving Credit Loans are to be made under this Section 2.5.5 and of the apportionment among the Lenders, and the Lenders shall be unconditionally obligated to fund such Revolving Credit Loans (whether or not the conditions specified in Section 2.4.1 [Revolving Credit Loan Requests] are then satisfied) by the time PNC so requests, which shall not be earlier than 3:00 p.m. on the Business Day next after the date the Lenders receive such notice from PNC.

2.5.6 Swing Loans Under Cash Management Agreements. In addition to making Swing Loans pursuant to the foregoing provisions of Section 2.5.3 [Making Swing Loans], without the requirement for a specific request from the Borrower pursuant to Section 2.4.2 [Swing Loan Requests], PNC as the Swing Loan Lender may make Swing Loans to the Borrower in accordance with the provisions of the agreements between the Borrower and such Swing Loan Lender relating to the Borrower's deposit, sweep and other accounts at such Swing Loan Lender and related arrangements and agreements regarding the management and investment of the Borrower's cash assets as in effect from time to time (the "Cash Management Agreements") to the extent of the daily aggregate net negative balance in the Borrower's accounts which are subject to the provisions of the Cash Management Agreements. Swing Loans made pursuant to this Section 2.5.6 in accordance with the provisions of the Cash Management Agreements shall (i) be subject to the limitations as to aggregate amount set forth in Section 2.1.2 [Swing Loan Commitment], (ii) not be subject to the limitations as to individual amount set forth in Section 2.4.2

[Swing Loan Requests], (iii) be payable by the Borrower, both as to principal and interest, at the rates and times set forth in the Cash Management Agreements (but in no event later than the Expiration Date), (iv) not be made at any time after such Swing Loan Lender has received written notice of the occurrence of an Event of Default and so long as such shall continue to exist, or, unless consented to by the Required Lenders, a Potential Default and so long as such shall continue to exist, (v) if not repaid by the Borrower in accordance with the provisions of the Cash Management Agreements, be subject to each Lender's obligation pursuant to Section 2.5.5 [Borrowings to Repay Swing Loans], and (vi) except as provided in the foregoing subsections (i) through (v), be subject to all of the terms and conditions of this Section 2.

2.6 Notes. The Obligation of the Borrower to repay the aggregate unpaid principal amount of the Revolving Credit Loans and Swing Loans made to it by each Lender, together with interest thereon, shall be evidenced by a revolving credit Note and a swing Note dated the Closing Date payable to the order of such Lender in a face amount equal to the Revolving Credit Commitment or Swing Loan Commitment as applicable, of such Lender.

2.7 Use of Proceeds. The proceeds of the Loans shall be used (i) to pay fees and expenses relating to this transaction, (ii) for Borrowers' working capital needs and capital expenditures and for general corporate purposes, (iii) to finance Permitted Acquisitions (including fees and expenses related to Permitted Acquisitions), (iv) to reimburse drawings under Letters of Credit, and (v) for other permitted uses hereunder, including, but not limited to, permitted dividends, distributions, purchases, redemptions and retirements of equity interests.(31)

(31) 1st Amendment

2.8 Letter of Credit Subfacility.

2.8.1 Issuance of Letters of Credit. The Borrower may at any time prior to the Expiration Date request the issuance of a standby or trade letter of credit (each a "**Letter of Credit**") on behalf of itself or another Loan Party, or the amendment or extension of an existing Letter of Credit, by delivering or having such other Loan Party deliver to the Issuing Lender (with a copy to the Administrative Agent) a completed application and agreement for letters of credit, or request for such amendment or extension, as applicable, in such form as the Issuing Lender may specify from time to time by no later than 10:00 a.m. at least five (5) Business Days, or such shorter period as may be agreed to by the Issuing Lender, in advance of the proposed date of issuance. Promptly after receipt of any letter of credit application, the Issuing Lender shall confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit application and if not, such Issuing Lender will provide Administrative Agent with a copy thereof. Unless the Issuing Lender has received notice from any Lender, Administrative Agent or the Borrower, at least one day prior to the requested date of issuance, amendment or extension of the applicable Letter of Credit, that one or more applicable conditions in Section 7 [Conditions of Lending and Issuance of Letters of Credit] is not satisfied, then, subject to the terms and conditions hereof and in reliance on the agreements of the other Lenders set forth in this Section 2.8, the Issuing Lender or any of the Issuing Lender's Affiliates will issue a Letter of Credit or agree to such amendment or extension, provided that each Letter of Credit shall (A) have a maximum maturity of twelve (12) months from the date of issuance, and (B) in no event expire later than the Expiration Date and provided further that in no event shall (i) the Letter of Credit Obligations exceed, at any one time, \$20,000,000 (the "**Letter of Credit Sublimit**") or (ii) the Revolving Facility Usage exceed, at any one time, the Revolving Credit Commitments. Each request by the Borrower for the issuance, amendment or extension of a Letter of Credit shall be deemed to be a representation by the Borrower that it shall be in compliance with the preceding sentence and with Section 7 [Conditions of Lending and Issuance of Letters of Credit] after giving effect to the requested issuance, amendment or extension of such Letter of Credit. Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to the beneficiary thereof, the applicable Issuing Lender will also deliver to Borrower and Administrative Agent a true and complete copy of such Letter of Credit or amendment.

2.8.2 Letter of Credit Fees. The Borrower shall pay (i) to the Administrative Agent for the ratable account of the Lenders a fee (the "**Letter of Credit Fee**") equal to the Applicable Letter of Credit Fee Rate, and (ii) to the Issuing Lender for its own account a fronting fee equal to .125% per annum (in each case computed on the basis of a year of 360 days and actual days elapsed), which fees shall be computed on the daily average Letter of Credit Obligations and shall be payable quarterly in arrears on the first day of each calendar quarter. The Borrower shall also pay to the Issuing Lender for the Issuing Lender's sole account the Issuing Lender's then in effect customary fees and administrative expenses payable with respect to the Letters of Credit as the Issuing Lender may generally charge or incur from time to time in connection with the issuance, maintenance, amendment (if any), assignment or transfer (if any), negotiation, and administration of Letters of Credit.

2.8.3 Disbursements, Reimbursement. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally

agrees to, purchase from the Issuing Lender a participation in such Letter of Credit and each drawing thereunder in an amount equal to such Lender's Ratable Share of the maximum amount available to be drawn under such Letter of Credit and the amount of such drawing, respectively.

2.8.3.1 In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, the Issuing Lender will promptly notify the Borrower and the Administrative Agent thereof. Provided that it shall have received such notice, the Borrower shall reimburse (such obligation to reimburse the Issuing Lender shall sometimes be referred to as a "**Reimbursement Obligation**") the Issuing Lender prior to 12:00 noon on each date that an amount is paid by the Issuing Lender under any Letter of Credit (each such date, a "**Drawing Date**") by paying to the Administrative Agent for the account of the Issuing Lender an amount equal to the amount so paid by the Issuing Lender. In the event the Borrower fails to reimburse the Issuing Lender (through the Administrative Agent) for the full amount of any drawing under any Letter of Credit by 12:00 noon on the Drawing Date, the Administrative Agent will promptly notify each Lender thereof, and the Borrower shall be deemed to have requested that Revolving Credit Loans be made by the Lenders under the Base Rate Option to be disbursed on the Drawing Date under such Letter of Credit, subject to the amount of the unutilized portion of the Revolving Credit Commitment and subject to the conditions set forth in Section 7.2 [Each Loan or Letter of Credit] other than any notice requirements. Any notice given by the Administrative Agent or Issuing Lender pursuant to this Section 2.8.3.1 may be oral if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

2.8.3.2 Each Lender shall upon any notice pursuant to Section 2.8.3.1 make available to the Administrative Agent for the account of the Issuing Lender an amount in immediately available funds equal to its Ratable Share of the amount of the drawing, whereupon the participating Lenders shall (subject to Section 2.8.3 [Disbursement; Reimbursement]) each be deemed to have made a Revolving Credit Loan under the Base Rate Option to the Borrower in that amount. If any Lender so notified fails to make available to the Administrative Agent for the account of the Issuing Lender the amount of such Lender's Ratable Share of such amount by no later than 2:00 p.m. on the Drawing Date, then interest shall accrue on such Lender's obligation to make such payment, from the Drawing Date to the date on which such Lender makes such payment (i) at a rate per annum equal to the Federal Funds Effective Rate during the first three (3) days following the Drawing Date and (ii) at a rate per annum equal to the rate applicable to Loans under the Revolving Credit Base Rate Option on and after the fourth day following the Drawing Date. The Administrative Agent and the Issuing Lender will promptly give notice (as described in Section 2.8.3.1 above) of the occurrence of the Drawing Date, but failure of the Administrative Agent or the Issuing Lender to give any such notice on the Drawing Date or in sufficient time to enable any Lender to effect such payment on such date shall not relieve such Lender from its obligation under this Section 2.8.3.2.

2.8.3.3 With respect to any unreimbursed drawing that is not converted into Revolving Credit Loans under the Base Rate Option to the Borrower in whole or in part as contemplated by Section 2.8.3.1, because of the Borrower's failure to satisfy the conditions set forth in Section 7.2 [Each Loan or Letter of Credit] other than any notice requirements, or for any other reason, the Borrower shall be deemed to have incurred from the Issuing Lender a borrowing (each a "**Letter of Credit Borrowing**") in the amount of such drawing. Such Letter of Credit Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate per annum applicable to the Revolving Credit Loans under the Base Rate Option. Each Lender's payment to the Administrative Agent for the account of the Issuing Lender pursuant to Section 2.8.3 [Disbursements, Reimbursement] shall be deemed to be a payment in respect of its participation in such Letter of Credit Borrowing (each a "**Participation Advance**") from such Lender in satisfaction of its participation obligation under this Section 2.8.3.

2.8.4 Repayment of Participation Advances.

2.8.4.1 Upon (and only upon) receipt by the Administrative Agent for the account of the Issuing Lender of immediately available funds from the Borrower (i) in reimbursement of any payment made by the Issuing Lender under the Letter of Credit with respect to which any Lender has made a Participation Advance to the Administrative Agent, or (ii) in payment of interest on such a payment made by the Issuing Lender under such a Letter of Credit, the Administrative Agent on behalf of the Issuing Lender will pay to each Lender, in the same funds as those received by the Administrative Agent, the amount of such Lender's Ratable Share of such funds, except the Administrative Agent shall retain for the account of the Issuing Lender the amount of the Ratable Share of such funds of any Lender that did not make a Participation Advance in respect of such payment by the Issuing Lender.

2.8.4.2 If the Administrative Agent is required at any time to return to any Loan Party, or to a trustee, receiver, liquidator, custodian, or any official in any Insolvency Proceeding, any portion of any payment made by any Loan Party to the Administrative Agent for the account of the Issuing Lender pursuant to this Section in reimbursement of a payment made under the Letter of Credit or interest or fee thereon, each Lender shall, on demand of the Administrative Agent,

forthwith return to the Administrative Agent for the account of the Issuing Lender the amount of its Ratable Share of any amounts so returned by the Administrative Agent plus interest thereon from the date such demand is made to the date such amounts are returned by such Lender to the Administrative Agent, at a rate per annum equal to the Federal Funds Effective Rate in effect from time to time.

2.8.5 Documentation. Each Loan Party agrees to be bound by the terms of the Issuing Lender's application and agreement for letters of credit and the Issuing Lender's written regulations and customary practices relating to letters of credit, though such interpretation may be different from such Loan Party's own. In the event of a conflict between such application or agreement and this Agreement, this Agreement shall govern. It is understood and agreed that, except in the case of gross negligence or willful misconduct, the Issuing Lender shall not be liable for any error, negligence and/or mistakes, whether of omission or commission, in following any Loan Party's instructions or those contained in the Letters of Credit or any modifications, amendments or supplements thereto.

2.8.6 Determinations to Honor Drawing Requests. In determining whether to honor any request for drawing under any Letter of Credit by the beneficiary thereof, the Issuing Lender shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit.

2.8.7 Nature of Participation and Reimbursement Obligations. Each Lender's obligation in accordance with this Agreement to make the Revolving Credit Loans or Participation Advances, as contemplated by Section 2.8.3 [Disbursements, Reimbursement], as a result of a drawing under a Letter of Credit, and the Obligations of the Borrower to reimburse the Issuing Lender upon a draw under a Letter of Credit, shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Section 2.8 under all circumstances, including the following circumstances:

(i) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the Issuing Lender or any of its Affiliates, the Borrower or any other Person for any reason whatsoever, or which any Loan Party may have against the Issuing Lender or any of its Affiliates, any Lender or any other Person for any reason whatsoever;

(ii) the failure of any Loan Party or any other Person to comply, in connection with a Letter of Credit Borrowing, with the conditions set forth in Sections 2.1 [Revolving Credit Commitments], 2.4 [Revolving Credit Loan Requests; Swing Loan Requests], 2.5 [Making Revolving Credit Loans and Swing Loans; Etc.] or 7.2 [Each Loan or Letter of Credit] or as otherwise set forth in this Agreement for the making of a Revolving Credit Loan, it being acknowledged that such conditions are not required for the making of a Letter of Credit Borrowing and the obligation of the Lenders to make Participation Advances under Section 2.8.3 [Disbursements, Reimbursement];

(iii) any lack of validity or enforceability of any Letter of Credit;

(iv) any claim of breach of warranty that might be made by any Loan Party or any Lender against any beneficiary of a Letter of Credit, or the existence of any claim, set-off, recoupment, counterclaim, crossclaim, defense or other right which any Loan Party or any Lender may have at any time against a beneficiary, successor beneficiary any transferee or assignee of any Letter of Credit or the proceeds thereof (or any Persons for whom any such transferee may be acting), the Issuing Lender or its Affiliates or any Lender or any other Person, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between any Loan Party or Subsidiaries of a Loan Party and the beneficiary for which any Letter of Credit was procured);

(v) the lack of power or authority of any signer of (or any defect in or forgery of any signature or endorsement on) or the form of or lack of validity, sufficiency, accuracy, enforceability or genuineness of any draft, demand, instrument, certificate or other document presented under or in connection with any Letter of Credit, or any fraud or alleged fraud in connection with any Letter of Credit, or the transport of any property or provision of services relating to a Letter of Credit, in each case even if the Issuing Lender or any of its Affiliates has been notified thereof;

(vi) payment by the Issuing Lender or any of its Affiliates under any Letter of Credit against presentation of a demand, draft or certificate or other document which does not comply with the terms of such Letter of Credit;

(vii) the solvency of, or any acts or omissions by, any beneficiary of any Letter of Credit, or any other Person having a role in any transaction or obligation relating to a Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

(viii) any failure by the Issuing Lender or any of its Affiliates to issue any Letter of Credit in the form requested by any Loan Party, unless the Issuing Lender has received written notice from such Loan Party of such failure within

three Business Days after the Issuing Lender shall have furnished such Loan Party and the Administrative Agent a copy of such Letter of Credit and such error is material and no drawing has been made thereon prior to receipt of such notice;

(ix) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of any Loan Party or Subsidiaries of a Loan Party;

(x) any breach of this Agreement or any other Loan Document by any party thereto;

(xi) the occurrence or continuance of an Insolvency Proceeding with respect to any Loan Party;

(xii) the fact that an Event of Default or a Potential Default shall have occurred and be continuing;

(xiii) the fact that the Expiration Date shall have passed or this Agreement or the Commitments hereunder shall have been terminated;

and

(xiv) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

2.8.8 Indemnity. The Borrower hereby agrees to protect, indemnify, pay and save harmless the Issuing Lender and any of its Affiliates that has issued a Letter of Credit from and against any and all claims, demands, liabilities, damages, taxes, penalties, interest, judgments, losses, costs, charges and expenses (including reasonable fees, expenses and disbursements of counsel and allocated costs of internal counsel) which the Issuing Lender or any of its Affiliates may incur or be subject to as a consequence, direct or indirect, of the issuance of any Letter of Credit, other than as a result of (A) the gross negligence or willful misconduct of the Issuing Lender as determined by a final non-appealable judgment of a court of competent jurisdiction or (B) the wrongful dishonor by the Issuing Lender or any of Issuing Lender's Affiliates of a proper demand for payment made under any Letter of Credit, except if such dishonor resulted from any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Official Body.

2.8.9 Liability for Acts and Omissions. As between any Loan Party and the Issuing Lender, or the Issuing Lender's Affiliates, such Loan Party assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, the Issuing Lender shall not be responsible for any of the following, including any losses or damages to any Loan Party or other Person or property relating therefrom: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if the Issuing Lender or its Affiliates shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such Letter of Credit or any other claim of any Loan Party against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among any Loan Party and any beneficiary of any Letter of Credit or any such transferee; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of the Issuing Lender or its Affiliates, as applicable, including any act or omission of any Official Body, and none of the above shall affect or impair, or prevent the vesting of, any of the Issuing Lender's or its Affiliates rights or powers hereunder. Nothing in the preceding sentence shall relieve the Issuing Lender from liability for the Issuing Lender's gross negligence or willful misconduct in connection with actions or omissions described in such clauses (i) through (viii) of such sentence. In no event shall the Issuing Lender or its Affiliates be liable to any Loan Party for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including without limitation attorneys' fees), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

Without limiting the generality of the foregoing, the Issuing Lender and each of its Affiliates (i) may rely on any oral or other communication believed in good faith by the Issuing Lender or such Affiliate to have been authorized or given by or on behalf of the applicant for a Letter of Credit, (ii) may honor any presentation if the documents presented appear on their face substantially to comply with the terms and conditions of the relevant Letter of Credit; (iii) may honor a previously dishonored presentation under a Letter of Credit, whether such dishonor was pursuant to a court order, to settle or compromise any claim of wrongful dishonor, or otherwise, and shall be entitled to reimbursement to the same extent as if such presentation

had initially been honored, together with any interest paid by the Issuing Lender or its Affiliate; (iv) may honor any drawing that is payable upon presentation of a statement advising negotiation or payment, upon receipt of such statement (even if such statement indicates that a draft or other document is being delivered separately), and shall not be liable for any failure of any such draft or other document to arrive, or to conform in any way with the relevant Letter of Credit; (v) may pay any paying or negotiating bank claiming that it rightfully honored under the laws or practices of the place where such bank is located; and (vi) may settle or adjust any claim or demand made on the Issuing Lender or its Affiliate in any way related to any order issued at the applicant's request to an air carrier, a letter of guarantee or of indemnity issued to a carrier or any similar document (each an "Order") and honor any drawing in connection with any Letter of Credit that is the subject of such Order, notwithstanding that any drafts or other documents presented in connection with such Letter of Credit fail to conform in any way with such Letter of Credit.

In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by the Issuing Lender or its Affiliates under or in connection with the Letters of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith, shall not put the Issuing Lender or its Affiliates under any resulting liability to the Borrower or any Lender.

2.8.10 Issuing Lender Reporting Requirements. Each Issuing Lender shall, on the first Business Day of each month, provide to Administrative Agent and Borrower a schedule of the Letters of Credit issued by it, in form and substance satisfactory to Administrative Agent, showing the date of issuance of each Letter of Credit, the account party, the original face amount (if any), and the expiration date of any Letter of Credit outstanding at any time during the preceding month, and any other information relating to such Letter of Credit that the Administrative Agent may request.

2.9 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

- (i) fees shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender pursuant to Section 2.3 [Commitment Fees];
- (ii) the Commitment and outstanding Loans of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 11.2 [Modifications, Amendments or Waivers]); provided, that this clause (ii) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification that increases the Commitments of such Lender, provides for an extension of the Expiration Date for such Lender's Loans, or alters the definition of Required Lenders;
- (iii) if any Swing Loans are outstanding or any Letter of Credit Obligations exist at the time such Lender becomes a Defaulting Lender, then:
 - (a) all or any part of the outstanding Swing Loans and Letter of Credit Obligations of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Ratable Shares but only to the extent that (x) the Revolving Facility Usage does not exceed the total of all non-Defaulting Lenders' Revolving Credit Commitments, and (y) no Potential Default or Event of Default has occurred and is continuing at such time;
 - (b) if the reallocation described in clause (a) above cannot, or can only partially, be effected, the Borrower shall within one Business Day following notice by the Administrative Agent (x) first, prepay such outstanding Swing Loans, and (y) second, cash collateralize for the benefit of the Issuing Lender the Borrower's obligations corresponding to such Defaulting Lender's Letter of Credit Obligations (after giving effect to any partial reallocation pursuant to clause (a) above) in a deposit account held at the Administrative Agent for so long as such Letter of Credit Obligations are outstanding;
 - (c) if the Borrower cash collateralizes any portion of such Defaulting Lender's Letter of Credit Obligations pursuant to clause (b) above, the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.8.2 [Letter of Credit Fees] with respect to such Defaulting Lender's Letter of Credit Obligations during the period such Defaulting Lender's Letter of Credit Obligations are cash collateralized;
 - (d) if the Letter of Credit Obligations of the non-Defaulting Lenders are reallocated pursuant to clause (a) above, then the fees payable to the Lenders pursuant to Section 2.8.2 shall be adjusted in accordance with such non-Defaulting Lenders' Ratable Share; and

(e) if all or any portion of such Defaulting Lender's Letter of Credit Obligations are neither reallocated nor cash collateralized pursuant to clause (a) or (b) above, then, without prejudice to any rights or remedies of the Issuing Lender or any other Lender hereunder, all Letter of Credit Fees payable under Section 2.8.2 with respect to such Defaulting Lender's Letter of Credit Obligations shall be payable to the Issuing Lender (and not to such Defaulting Lender) until and to the extent that such Letter of Credit Obligations are reallocated and/or cash collateralized; and

(iv) so long as such Lender is a Defaulting Lender, PNC shall not be required to fund any Swing Loans and the Issuing Lender shall not be required to issue, amend or increase any Letter of Credit, unless such Issuing Lender is satisfied that the related exposure and the Defaulting Lender's then outstanding Letter of Credit Obligations will be 100% covered by the Revolving Credit Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrower in accordance with Section 2.9(iii), and participating interests in any newly made Swing Loan or any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.9(iii)(a) (and such Defaulting Lender shall not participate therein).

If (i) a Bankruptcy Event with respect to any Lender shall occur following the date hereof and for so long as such event shall continue, or (ii) PNC or the Issuing Lender has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, PNC shall not be required to fund any Swing Loan and the Issuing Lender shall not be required to issue, amend or increase any Letter of Credit, unless PNC or the Issuing Lender, as the case may be, shall have entered into arrangements with the Borrower or such Lender, satisfactory to PNC or the Issuing Lender, as the case may be, to defease any risk to it in respect of such Lender hereunder. The rights and remedies against a Defaulting Lender under this Section 2.9 are in addition to other rights and remedies which the Borrower may have against such Defaulting Lender and which the Administrative Agent or any Lender may have against such Defaulting Lender in each case under applicable Law.

In the event that the Administrative Agent, the Borrower, PNC and the Issuing Lender agree in writing that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Administrative Agent will so notify the parties hereto, and the Ratable Share of the Swing Loans and Letter of Credit Obligations of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment, and on such date such Lender shall purchase at par such of the Loans of the other Lenders (other than Swing Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Ratable Share.

2.10 Increase in Revolving Credit Commitments.

2.10.1 Increasing Lenders and New Lenders. The Borrower may, at any time and from time to time, request that (1) the current Lenders increase their Revolving Credit Commitments (any current Lender which elects to increase its Revolving Credit Commitment shall be referred to as an "Increasing Lender") or (2) one or more new lenders (each a "New Lender") join this Agreement and provide a Revolving Credit Commitment hereunder, subject to the following terms and conditions:

(i) No Obligation to Increase. No current Lender shall be obligated to increase its Revolving Credit Commitment and any increase in the Revolving Credit Commitment by any current Lender shall be in the sole discretion of such current Lender.

(ii) Defaults. There shall exist no Events of Default or Potential Default on the effective date of such increase after giving effect to such increase.

(iii) Aggregate Revolving Credit Commitments. After giving effect to such increase, the total Revolving Credit Commitments shall not exceed \$125,000,000.

(iv) Resolutions; Opinion. The Loan Parties shall deliver to the Administrative Agent on or before the effective date of such increase the following documents in a form reasonably acceptable to the Administrative Agent: (1) certifications of their corporate secretaries with attached resolutions certifying that the increase in the Revolving Credit Commitment has been approved by such Loan Parties, and (2) an opinion of counsel addressed to the Administrative Agent and the Lenders addressing the authorization and execution of the Loan Documents by, and enforceability of the Loan Documents against, the Loan Parties.

(v) Notes. The Borrowers shall execute and deliver (1) to each Increasing Lender a replacement revolving credit Note reflecting the new amount of such Increasing Lender's Revolving Credit Commitment after giving effect

to the increase (and the prior Note issued to such Increasing Lender shall be deemed to be terminated) and (2) to each New Lender a revolving credit Note reflecting the amount of such New Lender's Revolving Credit Commitment.

(vi) Approval of New Lenders. Any New Lender shall be subject to the approval of the Administrative Agent (provided that such approval shall not be unreasonably withheld, conditioned or delayed).

(vii) Increasing Lenders. Each Increasing Lender shall confirm its agreement to increase its Revolving Credit Commitment pursuant to an acknowledgement in a form acceptable to the Administrative Agent, signed by it and the Borrower and delivered to the Administrative Agent at least five (5) calendar days before the effective date of such increase.

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(viii) New Lenders—Joinder. Each New Lender shall execute a joinder agreement in form and substance satisfactory to Administrative Agent pursuant to which such New Lender shall join and become a party to this Agreement and the other Loan Documents with a Revolving Credit Commitment in the amount set forth in such lender joinder.

2.11 Reduction of Revolving Credit Commitment. The Borrowers shall have the right at any time after the Closing Date upon five (5) calendar days' prior written notice to the Administrative Agent (or such shorter period of time agreed to by the Administrative Agent) to permanently reduce (ratably among the Lenders in proportion to their Ratable Shares) the Revolving Credit Commitments, in a minimum amount of \$500,000 and whole multiples of \$500,000, or to terminate completely the Revolving Credit Commitments, without penalty or premium except as set forth herein, including without limitation, in Section 5.6.2 [Replacement of a Lender], Section 5.8 [Increased Costs] and Section 5.10 [Indemnity]; provided that any such reduction or termination shall be accompanied by prepayment of the Notes, together with outstanding Commitment Fees, and the full amount of interest accrued on the principal sum to be prepaid (and all amounts referred to in Section 5.10 [Indemnity] hereof) to the extent necessary to cause the aggregate Revolving Facility Usage after giving effect to such prepayments to be equal to or less than the Revolving Credit Commitments as so reduced or terminated. Any notice to reduce the Revolving Credit Commitments under this Section 2.11 shall be irrevocable; provided that a notice of termination of all Revolving Credit Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

3. RESERVED

4. INTEREST RATES

4.1 Interest Rate Options. The Borrower shall pay interest in respect of the outstanding unpaid principal amount of the Loans as selected by it from the Base Rate Option or LIBOR Rate Option set forth below applicable to the Loans, it being understood that, subject to the provisions of this Agreement, the Borrower may select different Interest Rate Options and different Interest Periods to apply simultaneously to the Loans comprising different Borrowing Tranches and may convert to or renew one or more Interest Rate Options with respect to all or any portion of the Loans comprising any Borrowing Tranche; provided that there shall not be at any one time outstanding more than five (5) Borrowing Tranches in the aggregate among all of the Loans and provided further that if an Event of Default or Potential Default exists and is continuing, the Borrower may not request, convert to, or renew the LIBOR Rate Option for any Loans and the Required Lenders may demand that all existing Borrowing Tranches bearing interest under the LIBOR Rate Option shall be converted immediately to the Base Rate Option, subject to the obligation of the Borrower to pay any indemnity under Section 5.10 [Indemnity] in connection with such conversion. If at any time the designated rate applicable to any Loan made by any Lender exceeds such Lender's highest lawful rate, the rate of interest on such Lender's Loan shall be limited to such Lender's highest lawful rate.

4.1.1 Revolving Credit Interest Rate Options: Swing Line Interest Rate. The Borrower shall have the right to select from the following Interest Rate Options applicable to the Revolving Credit Loans:

(i) Revolving Credit Base Rate Option: A fluctuating rate per annum (computed on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed) equal to the Base Rate plus the Applicable Margin, such interest rate to change automatically from time to time effective as of the effective date of each change in the Base Rate; or

(ii) Revolving Credit LIBOR Rate Option: A rate per annum (computed on the basis of a year of 360 days and actual days elapsed) equal to the LIBOR Rate plus the Applicable Margin.

Subject to Section 4.3 [Interest After Default], only the Base Rate Option applicable to Revolving Credit Loans shall apply to the Swing Loans.

4.1.2 [RESERVED]

4.1.3 Rate Quotations. The Borrower may call the Administrative Agent on or before the date on which a Loan Request is to be delivered to receive an indication of the rates then in effect, but it is acknowledged that such projection shall not be binding on the Administrative Agent or the Lenders nor affect the rate of interest which thereafter is actually in effect when the election is made.

4.2 Interest Periods. At any time when the Borrower shall select, convert to or renew a LIBOR Rate Option, the Borrower shall notify the Administrative Agent thereof at least three (3) Business Days prior to the effective date of such LIBOR Rate Option by delivering a Loan Request. The notice shall specify an Interest Period during which such Interest Rate Option shall apply. Notwithstanding the preceding sentence, the following provisions shall apply to any selection of, renewal of, or conversion to a LIBOR Rate Option:

4.2.1 Amount of Borrowing Tranche. Each Borrowing Tranche of Loans under the LIBOR Rate Option shall be in integral multiples of \$500,000 and not less than \$1,000,000 and

4.2.2 Renewals. In the case of the renewal of a LIBOR Rate Option at the end of an Interest Period, the first day of the new Interest Period shall be the last day of the preceding Interest Period, without duplication in payment of interest for such day.

4.3 Interest After Default. To the extent permitted by Law, upon the occurrence of an Event of Default and until such time such Event of Default shall have been cured or waived, and at the discretion of the Administrative Agent or upon written demand by the Required Lenders to the Administrative Agent:

4.3.1 Letter of Credit Fees, Interest Rate. The Letter of Credit Fees and the rate of interest for each Loan otherwise applicable pursuant to Section 2.8.2 [Letter of Credit Fees] or Section 4.1 [Interest Rate Options], respectively, shall be increased by 2.0% per annum;

4.3.2 Other Obligations. Each other Obligation hereunder if not paid when due shall bear interest at a rate per annum equal to the sum of the rate of interest applicable under the Revolving Credit Base Rate Option plus an additional 2.0% per annum from the time such Obligation becomes due and payable and until it is paid in full; and

4.3.3 Acknowledgment. The Borrower acknowledges that the increase in rates referred to in this Section 4.3 reflects, among other things, the fact that such Loans or other amounts have become a substantially greater risk given their default status and that the Lenders are entitled to additional compensation for such risk; and all such interest shall be payable by Borrower upon demand by Administrative Agent.

4.4 LIBOR Rate Unascertainable; Illegality; Increased Costs; Deposits Not Available.

4.4.1 Unascertainable. If on any date on which a LIBOR Rate would otherwise be determined, the Administrative Agent shall have determined that:

(i) adequate and reasonable means do not exist for ascertaining such LIBOR Rate, or

(ii) a contingency has occurred which materially and adversely affects the London interbank eurodollar market relating to the LIBOR Rate, the Administrative Agent shall have the rights specified in Section 4.4.3 [Administrative Agent's and Lender's Rights].

4.4.2 Illegality; Increased Costs; Deposits Not Available. If at any time any Lender shall have determined that:

(i) the making, maintenance or funding of any Loan to which a LIBOR Rate Option applies has been made impracticable or unlawful by compliance by such Lender in good faith with any Law or any interpretation or application thereof by any Official Body or with any request or directive of any such Official Body (whether or not having the force of Law), or

(ii) such LIBOR Rate Option will not adequately and fairly reflect the cost to such Lender of the establishment or maintenance of any such Loan, or

(iii) after making all reasonable efforts, deposits of the relevant amount in Dollars for the relevant Interest Period for a Loan, or to banks generally, to which a LIBOR Rate Option applies, respectively, are not available to such Lender with respect to such Loan, or to banks generally, in the interbank eurodollar market, then the Administrative Agent shall have the rights specified in Section 4.4.3 [Administrative Agent's and Lender's Rights].

4.4.3 Administrative Agent's and Lender's Rights. In the case of any event specified in Section 4.4.1 [Unascertainable] above, the Administrative Agent shall promptly so notify the Lenders and the Borrower thereof, and in the case of an event specified in Section 4.4.2 [Illegality; Increased Costs; Deposits Not Available] above, such Lender shall promptly so notify the Administrative Agent and endorse a certificate to such notice as to the specific circumstances of such notice, and the Administrative Agent shall promptly send copies of such notice and certificate to the other Lenders and the Borrower. Upon such date as shall be specified in such notice (which shall not be earlier than the date such notice is given), the obligation of (A) the Lenders, in the case of such notice given by the Administrative Agent, or (B) such Lender, in the case of such notice given by such Lender, to allow the Borrower to select, convert to or renew a LIBOR Rate Option shall be suspended until the Administrative Agent shall have later notified the Borrower, or such Lender shall have later notified the Administrative Agent, of the Administrative Agent's or such Lender's, as the case may be, determination that the circumstances giving rise to such previous determination no longer exist. If at any time the Administrative Agent makes a determination under Section 4.4.1 [Unascertainable] and the Borrower has previously notified the Administrative Agent of its selection of, conversion to or renewal of a LIBOR Rate Option and such Interest Rate Option has not yet gone into effect, such notification shall be deemed to provide for selection of, conversion to or renewal of the Base Rate Option otherwise available with respect to such Loans. If any Lender notifies the Administrative Agent of a determination under Section 4.4.2 [Illegality; Increased Costs; Deposits Not Available], the Borrower shall, subject to the Borrower's indemnification Obligations under Section 5.10 [Indemnity], as to any Loan of the Lender to which a LIBOR Rate Option applies, on the date specified in such notice either convert such Loan to the Base Rate Option otherwise available with respect to such Loan or prepay such Loan in accordance with Section 5.6 [Voluntary Prepayments]. Absent due notice from the Borrower of conversion or prepayment, such Loan shall automatically be converted to the Base Rate Option otherwise available with respect to such Loan upon such specified date.

4.5 Selection of Interest Rate Options. If the Borrower fails to select a new Interest Period to apply to any Borrowing Tranche of Loans under the LIBOR Rate Option at the expiration of an existing Interest Period applicable to such Borrowing Tranche in accordance with the provisions of Section 4.2 [Interest Periods], the Borrower shall be deemed to have converted such Borrowing Tranche to the Base Rate Option commencing upon the last day of the existing Interest Period.

5. PAYMENTS

5.1 Payments. All payments and prepayments to be made in respect of principal, interest, Commitment Fees, Letter of Credit Fees, Administrative Agent's Fee or other fees or amounts due from the Borrower hereunder shall be payable prior to 1:00 p.m. on the date when due without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived by the Borrower, and without set-off, counterclaim or other deduction of any nature, and an action therefor shall immediately accrue. Such payments shall be made to the Administrative Agent at the Principal Office for the account of PNC with respect to the Swing Loans and for the ratable accounts of the Lenders with respect to the Revolving Credit Loans in U.S. Dollars and in immediately available funds, and the Administrative Agent shall promptly distribute such amounts to the Lenders in immediately available funds; provided that in the event payments are received by 1:00 p.m. by the Administrative Agent with respect to the Loans and such payments are not distributed to the Lenders on the same day received by the Administrative Agent, the Administrative Agent shall pay the Lenders the Federal Funds Effective Rate with respect to the amount of such payments for each day held by the Administrative Agent and not distributed to the Lenders. The Administrative Agent's and each Lender's statement of account, ledger or other relevant record shall, in the absence of manifest error, be conclusive as the statement of the amount of principal of and interest on the Loans and other amounts owing under this Agreement and shall be deemed an "account stated."

5.2 Pro Rata Treatment of Lenders. Each borrowing of Revolving Credit Loans shall be allocated to each Lender according to its Ratable Share, and each selection of, conversion to or renewal of any Interest Rate Option and each payment or prepayment by the Borrower with respect to principal, interest, Commitment Fees and Letter of Credit Fees (but excluding the Administrative Agent's Fee and the Issuing Lender's fronting fee) shall (except as otherwise may be provided with respect to a Defaulting Lender and except as provided in Section 4.4.3 [Administrative Agent's and Lender's Rights] in the case of an event specified in Section 4.4 [LIBOR Rate Unascertainable; Etc.], 5.6.2 [Replacement of a Lender] or 5.8 [Increased Costs]) be payable ratably among the Lenders entitled to such payment in accordance with the amount of principal, interest, Commitment Fees, Facility Fees and Letter of Credit Fees, as set forth in this Agreement. Notwithstanding any of the foregoing, each

borrowing or payment or prepayment by the Borrower of principal, interest, fees or other amounts from the Borrower with respect to Swing Loans shall be made by or to PNC according to Section 2.5.5 [Borrowings to Repay Swing Loans].

5.3 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff, counterclaim or banker's lien, by receipt of voluntary payment, by realization upon security, or by any other non-pro rata source, obtain payment in respect of any principal of or interest on any of its Loans or other obligations hereunder resulting in such Lender's receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such obligations greater than the pro-rata share of the amount such Lender is entitled thereto, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, provided that:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, together with interest or other amounts, if any, required by Law (including court order) to be paid by the Lender or the holder making such purchase; and

(ii) the provisions of this Section 5.3 shall not be construed to apply to (x) any payment made by the Loan Parties pursuant to and in accordance with the express terms of the Loan Documents or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or Participation Advances to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this Section 5.3 shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against each Loan Party rights of setoff and counterclaim with respect to such participation but without duplication as fully as if such Lender were a direct creditor of each Loan Party in the amount of such participation.

5.4 Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Lender hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Lender, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Lender, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the Issuing Lender, with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

5.5 Interest Payment Dates. Interest on Loans to which the Base Rate Option applies shall be due and payable in arrears on each Payment Date. Interest on Loans to which the LIBOR Rate Option applies shall be due and payable on the last day of each Interest Period for those Loans. Interest on mandatory prepayments of principal under Section 5.7 [Mandatory Prepayments] shall be due on the date such mandatory prepayment is due. Interest on the principal amount of each Loan or other monetary Obligation shall be due and payable on demand after such principal amount or other monetary Obligation becomes due and payable (whether on the stated Expiration Date, upon acceleration or otherwise).

5.6 Voluntary Prepayments.

5.6.1 Right to Prepay. The Borrower shall have the right at its option from time to time to prepay the Loans in whole or part without premium or penalty (except as provided in Section 5.6.2 [Replacement of a Lender] below, in Section 5.8 [Increased Costs] and Section 5.10 [Indemnity]). Whenever the Borrower desires to prepay any part of the Loans, it shall provide a prepayment notice to the Administrative Agent by 1:00 p.m. at least one (1) Business Day prior to the date of prepayment of the Revolving Credit Loans or no later than 1:00 p.m. on the date of prepayment of Swing Loans, setting forth the following information:

- (w) the date, which shall be a Business Day, on which the proposed prepayment is to be made;
 - (x) a statement indicating the application of the prepayment between the Revolving Credit Loans and Swing Loans;
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(y) a statement indicating the application of the prepayment between Loans to which the Base Rate Option applies and Loans to which the LIBOR Rate Option applies; and

(z) the total principal amount of such prepayment, which shall not be less than the lesser of (i) the Revolving Facility Usage or (ii) \$500,000 for any Swing Loan or \$500,000 for any Revolving Credit Loan.

All prepayment notices shall be irrevocable; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of all Revolving Credit Commitments as contemplated by Section 2.11 [Reduction of Revolving Credit Commitment], then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.11 [Reduction of Revolving Credit Commitment]. The principal amount of the Loans for which a prepayment notice is given, together with interest on such principal amount except with respect to Loans to which the Base Rate Option applies, shall be due and payable on the date specified in such prepayment notice as the date on which the proposed prepayment is to be made. Except as provided in Section 4.4.3 [Administrative Agent's and Lender's Rights], if the Borrower prepays a Loan but fails to specify the applicable Borrowing Tranche which the Borrower is prepaying, the prepayment shall be applied first to Loans to which the Base Rate Option applies, then to Loans to which the LIBOR Rate Option applies. Any prepayment hereunder shall be subject to the Borrower's Obligation to indemnify the Lenders under Section 5.10 [Indemnity].

5.6.2 Replacement of a Lender. In the event any Lender (i) gives notice under Section 4.4 [LIBOR Rate Unascertainable, Etc.], (ii) requests compensation under Section 5.8 [Increased Costs], or requires the Borrower to pay any Indemnified Taxes or additional amount to any Lender or any Official Body for the account of any Lender pursuant to Section 5.9 [Taxes], (iii) is a Defaulting Lender, (iv) becomes subject to the control of an Official Body (other than normal and customary supervision), or (v) is a Non-Consenting Lender referred to in Section 11.2 [Modifications, Amendments or Waivers], then in any such event the Borrower may, at its sole expense, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.9 [Successors and Assigns]), all of its interests, rights (other than existing rights to payments pursuant to Sections 5.8 [Increased Costs] or 5.9 [Taxes]) and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

- (i) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 11.9 [Successors and Assigns];
- (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and Participation Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 5.10 [Indemnity]) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);
- (iii) in the case of any such assignment resulting from a claim for compensation under Section 5.8.1 [Increased Costs Generally] or payments required to be made pursuant to Section 5.9 [Taxes], such assignment will result in a reduction in such compensation or payments thereafter; and
- (iv) such assignment does not conflict with applicable Law.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

5.7 Mandatory Prepayments.

5.7.1 Sale of Assets. Within five (5) Business Days (or upon receipt if later, but in no event to exceed seventy five (75) after receipt) of any sale of assets authorized by Sections 8.2.7(iv), (v) and (vii) [Disposition of Assets or Subsidiaries], the Borrower shall make a mandatory prepayment of principal on the Revolving Loans equal to the sum of the after-tax proceeds (as estimated in good faith by the Borrower) less any reasonable commissions and other reasonable and customary transaction costs, fees and expenses properly attributable to such sales, subject to Borrowers' ability to reborrow Revolving Loans in accordance with the terms of the Agreement.

5.7.2 Application Among Interest Rate Options. All prepayments required pursuant to this Section 5.7 shall first be applied among the Interest Rate Options to the principal amount of the Loans subject to the Base Rate Option, then to Loans subject to a LIBOR Rate Option. In accordance with Section 5.10 [Indemnity], the Borrower shall indemnify the

Lenders for any loss or expense, including loss of margin, incurred with respect to any such prepayments applied against Loans subject to a LIBOR Rate Option on any day other than the last day of the applicable Interest Period.

5.8 Increased Costs.

5.8.1 Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the LIBOR Rate) or the Issuing Lender;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (ii) through (iv) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender, the Issuing Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, converting to, continuing or maintaining any Loan or of maintaining its obligation to make any such Loan, or to increase the cost to such Lender, the Issuing Lender or such other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, the Issuing Lender or other Recipient hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, the Issuing Lender or other Recipient, the Borrower will pay to such Lender, the Issuing Lender or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Lender, as the case may be, for such additional costs incurred or reduction suffered.

5.8.2 Capital Requirements. If any Lender or the Issuing Lender determines that any Change in Law affecting such Lender or the Issuing Lender or any lending office of such Lender or such Lender's or the Issuing Lender's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Lender's capital or on the capital of such Lender's or the Issuing Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by, or participations in Letters of Credit or Swing Loans held by, such Lender, or the Letters of Credit issued by the Issuing Lender, to a level below that which such Lender or the Issuing Lender or such Lender's or the Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Lender's policies and the policies of such Lender's or the Issuing Lender's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or the Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Lender or such Lender's or the Issuing Lender's holding company for any such reduction suffered.

5.8.3 Certificates for Reimbursement; Repayment of Outstanding Loans; Borrowing of New Loans. A certificate of a Lender or the Issuing Lender setting forth the amount or amounts necessary to compensate such Lender or the Issuing Lender or its holding company, as the case may be, as specified in Sections 5.8.1 [Increased Costs Generally] or 5.8.2 [Capital Requirements] and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or the Issuing Lender, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

5.8.4 Delay in Requests. Failure or delay on the part of any Lender or the Issuing Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Lender's right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or the Issuing Lender pursuant to this Section for any increased costs incurred or reductions suffered more than one hundred eighty (180) calendar days prior to the date that such Lender or the Issuing Lender, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the one hundred eighty (180) calendar day period referred to above shall be extended to include the period of retroactive effect thereof).

5.9 Taxes.

5.9.1 Issuing Lender. For purposes of this Section 5.9, the term "Lender" includes the Issuing Lender.

5.9.2 Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be without deduction or withholding for any Taxes, except as required by applicable Law. If any applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Official Body in accordance with applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 5.9 [Taxes]) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

5.9.3 Payment of Other Taxes by the Loan Parties. The Loan Parties shall timely pay to the relevant Official Body in accordance with applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

5.9.4 Indemnification by the Loan Parties. The Loan Parties shall jointly and severally indemnify each Recipient, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.9 [Taxes]) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable and documented expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Official Body. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

5.9.5 Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of any of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.9.4 [Participations] relating to the maintenance of a Participant Register, and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Official Body. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 5.9.5 [Indemnification by the Lenders].

5.9.6 Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to an Official Body pursuant to this Section 5.9 [Taxes], such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Official Body evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

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5.9.7 Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 5.9.7(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable

judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person.

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(ii) executed originals of IRS Form W-8ECI;

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit 5.9.7(A) to the effect that such Foreign Lender is not (A) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed originals of IRS Form W-8BEN; or

(iv) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, a U.S. Tax Compliance Certificate substantially in the form of Exhibit 5.9.7(B) or Exhibit 5.9.7(C), IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit 5.9.7(D) on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed originals of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Upon reasonable request of the Borrower or the Administrative Agent, any Lender shall update any form or certification previously delivered pursuant to this Section 5.9.7. Each Lender agrees that if any form or certification it

previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly (and in any event within twenty (20) calendar days after such expiration, obsolescence or inaccuracy) notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

5.9.8 Treatment of Certain Refunds. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 5.9 [Taxes] (including by the payment of additional amounts pursuant to this Section 5.9 [Taxes]), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.9 [Taxes] with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Official Body with respect to such refund). Such indemnifying party, upon the request of such indemnified party incurred in connection with obtaining such refund, shall repay to such indemnified party the amount paid over pursuant to this Section 5.9.8 [Treatment of Certain Refunds] (plus any penalties, interest or other charges imposed by the relevant Official Body) in the event that such indemnified party is required to repay such refund to such Official Body. Notwithstanding anything to the contrary in this Section 5.9.8 [Treatment of Certain Refunds], in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 5.9.8 [Treatment of Certain Refunds] the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

5.9.9 Survival. Each party's obligations under this Section 5.9 [Taxes] shall survive the resignation of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all Obligations.

5.10 Indemnity. In addition to the compensation or payments required by Section 5.8 [Increased Costs] or Section 5.9 [Taxes], the Borrower shall indemnify each Lender against all liabilities, losses or expenses (including loss of anticipated profits, any foreign exchange losses and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan, from fees payable to terminate the deposits from which such funds were obtained or from the performance of any foreign exchange contract) which such Lender sustains or incurs as a consequence of any:

- (i) payment, prepayment, conversion or renewal of any Loan to which a LIBOR Rate Option applies on a day other than the last day of the corresponding Interest Period (whether or not such payment or prepayment is mandatory, voluntary or automatic and whether or not such payment or prepayment is then due),
- (ii) attempt by the Borrower to revoke (expressly, by later inconsistent notices or otherwise) in whole or part any Loan Requests under Section 2.4 [Revolving Credit Loan Requests; Swing Loan Requests] or Section 4.2 [Interest Periods] or notice relating to prepayments under Section 5.6 [Voluntary Prepayments], or
- (iii) default by the Borrower in the performance or observance of any covenant or condition contained in this Agreement or any other Loan Document, including any failure of the Borrower to pay when due (by acceleration or otherwise) any principal, interest, Commitment Fee or any other amount due hereunder.

If any Lender sustains or incurs any such loss or expense, it shall promptly upon knowledge of such loss or expense notify the Borrower of the amount determined in good faith by such Lender (which determination may include such assumptions, allocations of costs and expenses and averaging or attribution methods as such Lender shall deem reasonable) to be necessary to indemnify such Lender for such loss or expense. Such notice shall set forth in reasonable detail the basis for such determination. Such amount shall be due and payable by the Borrower to such Lender ten (10) Business Days after such notice is given.

5.11 Settlement Date Procedures. In order to minimize the transfer of funds between the Lenders and the Administrative Agent, the Borrower may borrow, repay and reborrow Swing Loans and PNC may make Swing Loans as provided in Section 2.1.2 [Swing Loan Commitments] hereof during the period between Settlement Dates. The Administrative Agent shall notify each Lender of its Ratable Share of the total of the Revolving Credit Loans and the Swing Loans (each a "**Required Share**"). On such Settlement Date, each Lender shall pay to the Administrative Agent the amount equal to the difference between its Required Share and its Revolving Credit Loans, and the Administrative Agent shall pay to each Lender its Ratable Share of all payments made by the Borrower to the Administrative Agent with respect to the Revolving Credit Loans. The Administrative Agent shall also effect settlement in accordance with the foregoing sentence on the proposed Borrowing Dates for Revolving Credit Loans and on Mandatory Prepayment Dates and may at its option effect settlement on any other Business Day. These settlement procedures are established solely as a matter of administrative convenience, and

nothing contained in this Section 5.11 shall relieve the Lenders of their obligations to fund Revolving Credit Loans on dates other than a Settlement Date pursuant to Section 2.1.2 [Swing Loan Commitment]. The Administrative Agent may at any time at its option for any reason whatsoever require each Lender to pay immediately to the Administrative Agent such Lender's Ratable Share of the outstanding Revolving Credit Loans and each Lender may at any time require the Administrative Agent to pay immediately to such Lender its Ratable Share of all payments made by the Borrower to the Administrative Agent with respect to the Revolving Credit Loans.

5.12 Mitigation Obligations. If any Lender requests compensation under Section 5.8, or the Borrower is required to pay any additional amount to any Lender or any Official Body for the account of any Lender pursuant to Section 5.9, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or materially reduce amounts payable pursuant to Section 5.8 or 5.9, as the case may be, in the future, (ii) would not subject such Lender to any unreimbursed cost or expense, (iii) would not otherwise be disadvantageous to such Lender in any material respect and (iv) would not require such Lender to take any action inconsistent with its internal policies or legal or regulatory restrictions. The Borrower hereby agrees to pay all reasonable and documented costs and expenses incurred by any Lender in connection with any such designation or assignment.

6. REPRESENTATIONS AND WARRANTIES

6.1 Representations and Warranties. The Loan Parties, jointly and severally, represent and warrant to the Administrative Agent and each of the Lenders as follows:

6.1.1 Organization and Qualification; Power and Authority; Compliance With Laws; Title to Properties; Event of Default. Each Loan Party and each Subsidiary of each Loan Party (i) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, (ii) has the lawful power to own or lease its properties and to engage in the business it presently conducts or proposes to conduct, (iii) is duly licensed or qualified and in good standing in each jurisdiction listed on Schedule 6.1.1 and in all other jurisdictions where the property owned or leased by it or the nature of the business transacted by it or both makes such licensing or qualification necessary, except where the failure to be so licensed or qualified would not constitute a Material Adverse Change, (iv) has full power to enter into, execute, deliver and carry out this Agreement and the other Loan Documents to which it is a party, to incur the Indebtedness contemplated by the Loan Documents and to perform its Obligations under the Loan Documents to which it is a party, and all such actions have been duly authorized by all necessary proceedings on its part, (v) is in compliance in all material respects with all applicable Laws (other than Environmental Laws which are specifically addressed in Section 6.1.14 [Environmental Matters]) in all jurisdictions in which any Loan Party or Subsidiary of any Loan Party is presently or will be doing business except where the failure to do so would not constitute a Material Adverse Change, and (vi) has good and valid title to or valid leasehold interest in all properties, assets and other rights which it purports to own or lease or which are reflected as owned or leased on its books and records, free and clear of all Liens and encumbrances except Permitted Liens. No Event of Default or Potential Default exists or is continuing.

6.1.2 Subsidiaries and Owners; Investment Companies. Schedule 6.1.2 states (i) the name of each of the Borrower's Subsidiaries, its jurisdiction of organization and the amount, percentage and type of equity interests in such Subsidiary (the "**Subsidiary Equity Interests**"), (ii) the name of each holder of an equity interest in the Borrower (other than Crocs) and the amount, percentage and type of such equity interest (the "**Borrower Equity Interests**"), and (iii) any options, warrants or other rights outstanding to purchase any such equity interests referred to in clause (i) or (ii) (collectively the "**Equity Interests**"). The Borrower and each Subsidiary of the Borrower has good and valid title to all of the Subsidiary Equity Interests it purports to own, free and clear in each case of any Lien (other than restrictions on transfer arising under securities laws applicable to securities generally) and all such Subsidiary Equity Interests have been validly issued, fully paid and nonassessable. None of the Loan Parties or Subsidiaries of any Loan Party is an "investment company" registered or required to be registered under the Investment Company Act of 1940 or under the "control" of an "investment company" as such terms are defined in the Investment Company Act of 1940.

6.1.3 Validity and Binding Effect. This Agreement and each of the other Loan Documents (i) has been duly and validly executed and delivered by each Loan Party, and (ii) constitutes, or will constitute, legal, valid and binding obligations of each Loan Party which is or will be a party thereto, enforceable against such Loan Party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

6.1.4 No Conflict; Material Agreements; Consents. Neither the execution and delivery of this Agreement or the other Loan Documents by any Loan Party nor the consummation of the transactions herein or therein

contemplated or compliance with the terms and provisions hereof or thereof by any of them will conflict with, constitute a default under or result in any breach of (i) the terms and conditions of the certificate of incorporation, bylaws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement or other organizational documents of any Loan Party or (ii) any Law or any material agreement or instrument or order, writ, judgment, injunction or decree to which any Loan Party or any of its Subsidiaries is a party or by which it or any of its Subsidiaries is bound or to which it is subject, or result in the creation or enforcement of any Lien, charge or encumbrance whatsoever upon any property (now or hereafter acquired) of any Loan Party or any of its Subsidiaries (other than Liens granted under the Loan Documents). There is no default under such material agreement (referred to above) and none of the Loan Parties or their Subsidiaries is bound by any contractual obligation, or subject to any restriction in any organization document, or any requirement of Law, in each case, which would result in a Material Adverse Change. No consent, approval, exemption, order or authorization of, or a registration or filing with, any Official Body or any other Person is required by any Law or any agreement in connection with the execution, delivery and carrying out of this Agreement and the other Loan Documents, except filings required to perfect security interests granted in the Loan Documents.

6.1.5 Litigation. Except as set forth on Schedule 6.1.5, there are no actions, suits, proceedings or investigations pending or, to the knowledge of any Loan Party, threatened against such Loan Party or any Subsidiary of such Loan Party at law or in equity before any Official Body as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, could reasonably be expected to result in a Material Adverse Change. None of the Loan Parties or any Subsidiaries of any Loan Party is in violation of any order, writ, injunction or any decree of any Official Body which could reasonably be expected to result in any Material Adverse Change.

6.1.6 Financial Statements.

(i) Historical Statements. The Borrower has delivered to the Administrative Agent copies of its audited consolidated year-end financial statements for and as of the end of the fiscal years ended December 31, 2010. In addition, the Borrower has delivered to the Administrative Agent copies of its unaudited consolidated interim financial statements for the fiscal year to date and as of the end of the fiscal quarter ended September 30, 2011 (all such annual and interim statements being collectively referred to as the "Statements"). The Statements were compiled from the books and records maintained by the Borrower's management, are correct and complete and fairly represent the consolidated financial position of the Borrower and its Subsidiaries as of the respective dates thereof and the results of operations for the fiscal periods then ended and have been prepared in accordance with GAAP consistently applied, subject (in the case of the interim statements) to normal year-end audit adjustments and the absence of footnotes.

(ii) Accuracy of Financial Statements. Neither the Borrower nor any Subsidiary of the Borrower has any liabilities, contingent or otherwise, or forward or long-term commitments that are not disclosed in the Statements or in the notes thereto, and except as disclosed therein there are no unrealized or anticipated losses from any commitments of the Borrower or any Subsidiary of the Borrower which could reasonably be expected to cause a Material Adverse Change. Since December 31, 2010, no Material Adverse Change has occurred.

6.1.7 Margin Stock. None of the Loan Parties or any Subsidiaries of any Loan Party engages or intends to engage principally, or as one of its important activities, in the business of extending credit for the purpose, immediately, incidentally or ultimately, of purchasing or carrying margin stock (within the meaning of Regulation U, T or X as promulgated by the Board of Governors of the Federal Reserve System). No part of the proceeds of any Loan has been or will be used, immediately, incidentally or ultimately, to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock or which is inconsistent with the provisions of the regulations of the Board of Governors of the Federal Reserve System. None of the Loan Parties or any Subsidiary of any Loan Party holds or intends to hold margin stock in such amounts that more than 25% of the reasonable value of the assets of any Loan Party or Subsidiary of any Loan Party are or will be represented by margin stock.

6.1.8 Full Disclosure. Neither this Agreement nor any other Loan Document, nor any certificate, statement, agreement or other documents furnished to the Administrative Agent or any Lender in connection herewith or therewith, contains, when taken as a whole, any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which they were made, not misleading. There is no fact known to any Loan Party which materially adversely affects the business, property, assets, financial condition, or results of operations of any Loan Party or Subsidiary of any Loan Party which has not been set forth in this Agreement or in the certificates, statements, agreements or other documents furnished in writing to the Administrative Agent and the Lenders prior to or at the date hereof in connection with the transactions contemplated hereby.

6.1.9 Taxes. All federal, state, local and other tax returns required to have been filed with respect to each Loan Party and each Subsidiary of each Loan Party have been filed, and payment or adequate provision has been made for

the payment of all taxes, fees, assessments and other governmental charges which have or may become due pursuant to said returns or to assessments received, except to the extent that (i) such taxes, fees, assessments and other charges are being contested in good faith by appropriate proceedings diligently conducted and for which such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made and (ii) the failure to do so would not result in a Material Adverse Change.

6.1.10 Patents, Trademarks, Copyrights, Licenses, Etc. Each Loan Party and each Subsidiary of each Loan Party owns or possesses all the material patents, trademarks, service marks, trade names, copyrights, licenses, registrations, franchises, permits and rights necessary to own and operate its properties and to carry on its business as presently conducted and planned to be conducted by such Loan Party or Subsidiary, without known possible, alleged or actual conflict with the rights of others that would result in a Material Adverse Change.

6.1.11 Liens in the Collateral. The Liens in the Collateral granted to the Administrative Agent for the benefit of the Lenders pursuant to the Patent, Trademark and Copyright Security Agreement, the Pledge Agreement and the Security Agreement (collectively, the “**Collateral Documents**”) constitute and will continue to constitute Prior Security Interests in the Collateral (assuming the due filing of all financing statements and similar documents necessary to perfect such Liens). All filing fees and other expenses in connection with the perfection of such Liens have been or will be paid by the Borrower.

6.1.12 Insurance. The properties of each Loan Party and each of its Subsidiaries are insured pursuant to policies and other bonds which are valid and in full force and effect and which provide adequate coverage from reputable and financially sound insurers in amounts sufficient to insure the assets and risks of each such Loan Party and Subsidiary in accordance with prudent business practice in the industry of such Loan Parties and Subsidiaries, except where the failure to do so could not reasonably be expected to result in a Material Adverse Change.

6.1.13 ERISA Compliance. (i) Each Plan is set forth on Schedule 6.1.13 hereof, which schedule shall be delivered to Administrative Agent within thirty (30) days after the Closing Date. Except as would not result in a Material Adverse Change, (a) each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state Laws, (b) each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS, an application for such a letter is currently being processed by the IRS with respect thereto or is a prototype or volume submitter plan entitled to rely on the favorable opinion or advisory letter issued by the IRS to the sponsor of such prototype or volume submitter plan, and, to the knowledge of Borrower, nothing has occurred which would prevent, or cause the loss of, such qualification and (c) the Borrower and each ERISA Affiliate have made all required contributions to each Plan and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

(ii) Except as would not result in a Material Adverse Change, (a) no ERISA Event has occurred or is reasonably expected by the Borrower or any ERISA Affiliate to occur; (b) no Pension Plan has an unfunded pension liability (i.e. excess of benefit liabilities over the current value of that Pension Plan’s assets, determined in accordance with the assumptions used for funding the Pension Plan for the applicable plan year); (c) neither Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, a liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (d) to the knowledge of the Borrower or any ERISA Affiliate, neither the Borrower nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and, to the knowledge of the Borrower or any ERISA Affiliate, no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; (e) neither the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA; and (f) neither Borrower nor any ERISA Affiliate has breached any responsibilities, obligations or duties imposed upon it by ERISA with respect to any Plan.

6.1.14 Environmental Matters. Each Loan Party is and, to the knowledge of each respective Loan Party and each of its Subsidiaries is and has been in compliance with applicable Environmental Laws except as disclosed on Schedule 6.1.14; and except where the failure to comply would not reasonably be expected to result in a Material Adverse Change.

6.1.15 Solvency. Before and after giving effect to the initial Loans hereunder, each of the Loan Parties is Solvent.

6.1.16 Anti-Terrorism Laws. (i) no Covered Entity is a Sanctioned Person and (ii) no Covered Entity, either in its own right or through any third party, (A) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (B) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; or (C) engages in any dealings or transactions prohibited by any Anti-Terrorism Law.(32)

6.2 Updates to Schedules. Should any of the information or disclosures provided on any of the Schedules attached hereto become outdated or incorrect in any material respect, the Borrower shall promptly provide the Administrative Agent in writing with such revisions or updates to such Schedule as may be necessary or appropriate to update or correct same. No Schedule shall be deemed to have been amended, modified or superseded by any such correction or update, nor shall any breach of warranty or representation resulting from the inaccuracy or incompleteness of any such Schedule be deemed to have been cured thereby, unless and until the Required Lenders, in their sole and absolute discretion, shall have accepted in writing such revisions or updates to such Schedule; [provided however, that the Borrower may update (i) Schedules 6.1.1 and (ii) Schedule 6.1.2 in connection with any transaction permitted under Sections 8.2.6 [Liquidations, Mergers, Consolidations, Acquisitions], 8.2.7 [Dispositions of Assets or Subsidiaries] and 6.2.9 [Subsidiaries, Partnerships and Joint Ventures] without any Lender approval.

7. CONDITIONS OF LENDING AND ISSUANCE OF LETTERS OF CREDIT

The obligation of each Lender to make Loans and of the Issuing Lender to issue Letters of Credit hereunder is subject to the performance by each of the Loan Parties of its Obligations to be performed hereunder at or prior to the making of any such Loans or issuance of such Letters of Credit and to the satisfaction of the following further conditions (or waiver thereof in accordance with Section 11.1):

7.1 First Loans and Letters of Credit.

7.1.1 Deliveries. On the Closing Date, the Administrative Agent shall have received each of the following in form and substance satisfactory to the Administrative Agent:

(32) 5th Amendment

(i) A certificate of each of the Loan Parties signed by an Authorized Officer, dated the Closing Date stating that (w) all representations and warranties of the Loan Parties set forth in this Agreement are true and correct in all material respects, (x) the Loan Parties are in compliance with each of the covenants and conditions hereunder, (y) no Event of Default or Potential Default exists, and (z) no Material Adverse Change has occurred since the date of the last audited financial statements of the Borrower delivered to the Administrative Agent;

(ii) A certificate dated as of the Closing Date and signed by the Secretary or an Assistant Secretary of each of the Loan Parties, certifying as appropriate as to: (a) all action taken by each Loan Party in connection with this Agreement and the other Loan Documents; (b) the names of the Authorized Officers authorized to sign the Loan Documents and their true signatures; and (c) copies of its organizational documents as in effect on the Closing Date certified by the appropriate state official where such documents are filed in a state office together with certificates from the appropriate state officials as to the continued existence and good standing of each Loan Party in each state where organized or qualified to do business;

(iii) This Agreement and each of the other Loan Documents signed by an Authorized Officer and all appropriate financing statements and appropriate stock powers and certificates evidencing the pledged Collateral;

(iv) A written opinion of counsel for the Loan Parties acceptable to Administrative Agent in its reasonable discretion;

(v) Evidence that adequate insurance, including flood insurance, if applicable, required to be maintained under this Agreement is in full force and effect, with additional insured, mortgagee and lender loss payable special endorsements attached thereto in form and substance satisfactory to the Administrative Agent and its counsel naming the Administrative Agent as additional insured, mortgagee and lender loss payee;

(vi) A duly completed Compliance Certificate as of the last day of the fiscal quarter of Borrower most recently ended prior to the Closing Date, signed by an Authorized Officer of Borrower;

- (vii) All material consents required to effectuate the transactions contemplated hereby;
- (viii) A Lien search in acceptable scope and with acceptable results;
- (ix) An executed landlord's waiver or other lien waiver agreement from the lessor, warehouse operator or other applicable Person for each leased Collateral location as required under the Security Agreement; and
- (x) Such other documents in connection with such transactions as the Administrative Agent or said counsel may reasonably request.

7.1.2 Payment of Fees. The Borrower shall have paid all fees payable on or before the Closing Date as required by this Agreement, the Administrative Agent's Letter or any other Loan Document.

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7.2 Each Loan or Letter of Credit. At the time of making any Loans or issuing, extending or increasing any Letters of Credit and after giving effect to the proposed extensions of credit: (i) the representations and warranties of the Loan Parties shall then be true and correct in all material respects, except where such representation or warranty is made as of a specified date, in which case, as of such specified date, (ii) no Event of Default or Potential Default shall have occurred and be continuing, (iii) the making of the Loans or issuance, extension or increase of such Letter of Credit shall not contravene any Law applicable to any Loan Party or Subsidiary of any Loan Party or any of the Lenders, and (iv) the Borrower shall have delivered to the Administrative Agent a duly executed and completed Loan Request or to the Issuing Lender an application for a Letter of Credit, as the case may be.

8. COVENANTS

The Loan Parties, jointly and severally, covenant and agree that until Payment In Full, the Loan Parties shall comply at all times with the following covenants:

8.1 Affirmative Covenants.

8.1.1 Preservation of Existence, Etc. Each Loan Party shall, and shall cause each of its Subsidiaries to (i) maintain its legal existence as a corporation, limited partnership or limited liability company and its good standing in its jurisdiction of formation or incorporation, and (ii) maintain its license or qualification and good standing in each jurisdiction in which its ownership or lease of property or the nature of its business makes such license or qualification necessary, except where the failure to do so would not result in a Material Adverse Change and as otherwise expressly permitted in Section 8.2.6 [Liquidations, Mergers, Etc.].

8.1.2 Payment of Liabilities, Including Taxes, Etc. Each Loan Party shall, and shall cause each of its Subsidiaries to, duly pay and discharge all liabilities to which it is subject or which are asserted against it, promptly as and when the same shall become due and payable, including all taxes, assessments and governmental charges upon it or any of its properties, assets, income or profits, prior to the date on which penalties attach thereto, except to the extent that (i) such liabilities, including taxes, assessments or charges, are being contested in good faith and by appropriate and lawful proceedings diligently conducted and for which such reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made and (ii) the failure to do so would not result in a Material Adverse Change.

8.1.3 Maintenance of Insurance. Each Loan Party shall, and shall cause each of its Subsidiaries to, insure its properties and assets against loss or damage by fire and such other insurable hazards as such assets are commonly insured (including fire, extended coverage, property damage, workers' compensation, public liability and business interruption insurance) and against other risks (including errors and omissions) in such amounts as similar properties and assets are insured by prudent companies in similar circumstances carrying on similar businesses, and with reputable and financially sound insurers, including self-insurance to the extent customary, all as reasonably determined by the Administrative Agent. The Loan Parties shall comply with the covenants and provide the endorsement set forth on Schedule 8.1.3 relating to property and related insurance policies covering the Collateral.

8.1.4 Maintenance of Properties and Leases. Each Loan Party shall, and shall cause each of its Subsidiaries to, maintain in good repair, working order and condition (ordinary wear and tear excepted) in accordance with the

general practice of other businesses of similar character and size, all of those properties useful or necessary to its business, and from time to time, such Loan Party will make or cause to be made all appropriate repairs, renewals or replacements thereof.

8.1.5 Visitation Rights. Each Loan Party shall, and shall cause each of its Subsidiaries to, permit any of the officers or authorized employees or representatives of the Administrative Agent to visit and inspect any of its properties and to examine and make excerpts from its books and records and discuss its business affairs, finances and accounts with its officers, all in such detail and at such times and as often as any of the Lenders may reasonably request, as long as, absent the occurrence and during the continuance of an Event of Default, such inspections and examinations do not cause an undue disruption of the business of the Loan Parties and their Subsidiaries, provided that so long as no Default or Event of Default has occurred and is continuing, the Administrative Agent shall provide the Borrower and the Administrative Agent with reasonable notice prior to any visit or inspection.

8.1.6 Keeping of Records and Books of Account. The Borrower shall, and shall cause each Subsidiary of the Borrower to, maintain and keep proper books of record and account which enable the Borrower and its Subsidiaries to issue financial statements in accordance with GAAP and as otherwise required by applicable Laws of any Official Body having jurisdiction over the Borrower or any Subsidiary of the Borrower, and in which full, true and correct entries shall be made in all material respects of all its dealings and business and financial affairs.

8.1.7 Compliance with Laws; Use of Proceeds. Each Loan Party shall, and shall cause each of its Subsidiaries to, comply with all applicable Laws, including all Environmental Laws, except where failure to do so would not result in a Material Adverse Change. The Loan Parties will use the Letters of Credit and the proceeds of the Loans only in accordance with Section 2.7 [Use of Proceeds] and as permitted by applicable Law.

8.1.8 Further Assurances. Each Loan Party shall, from time to time, at its expense, faithfully preserve and protect the Administrative Agent's Lien on and Prior Security Interest in the Collateral and all other real and personal property of the Loan Parties whether now owned or hereafter acquired as a continuing first priority perfected Lien, subject only to Permitted Liens, and shall do such other acts and things as the Administrative Agent in its sole discretion may deem reasonably necessary or advisable from time to time in order to preserve, perfect and protect the Liens granted under the Loan Documents and to exercise and enforce its rights and remedies thereunder with respect to the Collateral.

8.1.9 Anti-Terrorism Laws. Each Loan Party covenants and agrees that (i) no Covered Entity will become a Sanctioned Person, (ii) no Covered Entity, either in its own right or through any third party, will (A) have any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (B) do business in or with, or derive any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; (C) engage in any dealings or transactions prohibited by any Anti-Terrorism Law or (D) use the Loans or any Letter of Credit to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law, (iii) the funds used to repay the Obligations will not be derived from any unlawful activity, (iv) each Covered Entity shall comply with all Anti-Terrorism Laws and (v) the Loan Parties shall promptly notify the Administrative Agent in writing upon the occurrence of a Reportable Compliance Event.(33)

8.2 Negative Covenants.

8.2.1 Indebtedness. Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, at any time create, incur, assume or suffer to exist any Indebtedness, except:

- (i) Indebtedness under the Loan Documents;
 - (ii) Indebtedness incurred with respect to Purchase Money Security Interests and Capitalized Leases as and to the extent permitted under Section 8.2.13 [Capital Expenditures and Leases];
 - (iii) Indebtedness of a Loan Party to another Loan Party which is subordinated pursuant to the Intercompany Subordination Agreement;
 - (iv) Indebtedness owing to Foreign Subsidiaries to the extent that such Indebtedness is subordinated to the Obligations pursuant to the Intercompany Subordination Agreement and such Indebtedness does not exceed \$50,000,000 outstanding in the aggregate at any time;(34)
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(v) Any (i) Lender Provided Hedge, (ii) Other Hedging Transaction approved by the Administrative Agent and (iii) Indebtedness under any Other Lender Provided Financial Services Product; provided however, the Loan Parties and their Subsidiaries shall enter into a Lender Provided Hedge or Other Hedging Transaction only for hedging (rather than speculative) purposes;

(vi) Guaranties of Indebtedness of Foreign Subsidiaries as permitted by Section 8.2.3(iii) and (iv) [Guaranties];(35)

(vii) Indebtedness existing on the date hereof and set forth on Schedule 8.2.1 and Permitted Refinancings thereof;

(viii) Indebtedness of any Loan Party or any of its Subsidiaries as an account party in respect of trade letters of credit;

(33) 5th Amendment

(34) 1st Amendment

(35) 2nd Amendment

(ix) Endorsements of items for deposit or collection of commercial paper received in the ordinary course of business;

(x) Indebtedness issued in the ordinary course of business solely to support any insurance or self-insurance obligations (including to secure workers' compensation and other similar insurance coverages);

(xi) Indebtedness in respect of netting services, cash management, overdraft protections and otherwise in connection with deposit accounts;

(xii) Unsecured Indebtedness to evidence the purchase price of capital stock, options or warrants of any Loan Party purchased from current or former officers, directors and employees of such Loan Party;

(xiii) Indebtedness consisting of reimbursement obligations under surety, indemnity, performance, release and appeal bonds and guarantees thereof and letters of credit required in the ordinary course of business or in connection with the enforcement of rights or claims of the Loan Parties and their Subsidiaries, in each case to the extent a Letter of Credit supports in whole or in part the obligations of the Loan Parties or any of their Subsidiaries with respect to such bonds, guarantees or letters of credit;

(xiv) Obligations for payment of rent under operating leases if and to the extent such leases are or would be classified as operating leases under Financial Accounting Standards Board Accounting Standards Codification 840 as in effect as of the date of this Agreement but are required to be reclassified as capital leases as a result of amendments to Financial Accounting Standards Board Account Standards Codification 840 made in accordance with those account standards proposed in the Proposed Accounting Standards Update exposure draft issued on August 17, 2010;

(xv) Unsecured Indebtedness in an amount not exceeding \$1,000,000 outstanding at any time in addition to any other amounts permitted under this Section 8.2.1;

(xvi) Indebtedness of Foreign Subsidiaries from third party lenders and guaranties thereof permitted under Section 8.2.3(iii) [Guaranties] in an aggregate amount not to exceed \$75,000,000 at any time;(36)

(xvii) Guarantees of third party loans to franchisees of retail stores not to exceed \$3,000,000 in the aggregate outstanding at any time;

(xviii) Indebtedness of Foreign Subsidiaries owing to another Foreign Subsidiary; and

(xix) Unsecured guaranties of Indebtedness of the Borrowers permitted by Section 8.2.3(i) [Guaranties].

(36) 6th Amendment

8.2.2 Liens; Lien Covenants. Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, at any time create, incur, assume or suffer to exist any Lien on any of its property or assets, tangible or intangible, now owned or hereafter acquired, or agree or become liable to do so, except Permitted Liens.

8.2.3 Guaranties. Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, at any time, directly or indirectly, become or be liable in respect of any Guaranty, or assume, guarantee, become surety for, endorse or otherwise agree, become or remain directly or contingently liable upon or with respect to any obligation or liability of any other Person, except for (i) unsecured guaranties of Indebtedness of the Borrowers permitted hereunder, (ii) the endorsement of checks in the ordinary course of business, (iii) guaranties by Crocs or any Foreign Subsidiary of Indebtedness not to exceed \$75,000,000 in the aggregate outstanding at any time (excluding guaranties of Lender Provided Hedges);(37) (iv) guaranties by Crocs of obligations of Foreign Subsidiaries under Lender Provided Hedges; (v) guaranties by Crocs of contractual obligations of Foreign Subsidiaries that do not constitute Indebtedness and (vi) guaranties of third-party loans to franchisees of retail stores and other non-Affiliate third parties, which together with any loans or advances permitted under Section 8.2.4(vi) [Loans and Investments] hereof, shall not exceed \$5,000,000 in the aggregate outstanding at any time.(38)

8.2.4 Loans and Investments. Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, at any time make or suffer to remain outstanding any loan or advance to, or purchase, acquire or own any stock, bonds, notes or securities of, or any partnership interest (whether general or limited) or limited liability company interest in, or any other investment or interest in, or make any capital contribution to, any other Person, or agree, become or remain liable to do any of the foregoing, except:

- (i) trade credit extended on usual and customary terms in the ordinary course of business;
- (ii) as disclosed on Schedule 8.2.4 hereof;
- (iii) advances to employees to meet expenses incurred by such employees in the ordinary course of business;
- (iv) investments in and loans and advances to Foreign Subsidiaries to the extent that (A) such intercompany loans do not exceed \$50,000,000 in the aggregate outstanding at any time, (b) no Potential Default or Event of Default has occurred or would occur after giving pro forma effect to such intercompany loans, and (c) Availability is greater than or equal to \$35,000,000 after giving pro forma effect to such intercompany loans;(39)
- (v) (a) Permitted Investments and (b) Permitted Foreign Investments by Foreign Subsidiaries;

(37) 6th Amendment

(38) 2nd Amendment

(39) 6th Amendment

(vi) loans, advances and other investments in franchisees of retail stores and other non-Affiliate third parties, which together with any guaranties permitted under Section 8.2.3(vi) [Guaranties] hereof, shall not exceed \$5,000,000 in the aggregate outstanding at any time;(40)

(vii) loans, advances and other investments in other Loan Parties; and

(viii) loans, advances and other investments between or among Foreign Subsidiaries.

8.2.5 Dividends and Related Distributions.8.2.6 Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, make or pay, or agree to become or remain liable to make or pay, any dividend or other distribution of any nature (whether in cash, property, securities or otherwise) on account of or in respect of its shares of capital stock, partnership interests or limited liability company interests on account of the purchase, redemption, retirement or acquisition of its shares of capital stock (or warrants, options or rights therefor), partnership interests or limited liability company interests, except:

(i) dividends or other distributions payable (A) from any Loan Party to another Loan Party, (B) from any Foreign Subsidiary to any Loan Party or any of its Subsidiaries and (C) from any Subsidiary of a Loan Party to any Loan Party;

(ii) any purchase, redemption or retirement in connection with a transaction permitted by Section 8.2.6 [Liquidations, Mergers, Consolidations, Acquisitions];

(iii) purchases, redemptions or retirements of equity interests of any Borrower (A) during the period from January 1, 2014 through December 31, 2014 in the amount not exceeding \$146,000,000; (B) during the period from July 1, 2015 through September 30, 2015, in the amount not exceeding \$40,000,000 and (C) during the period from October 1, 2015 through December 31, 2015, in an amount not to exceed \$15,000,000 so long as (I) no Potential Default or Event of Default has occurred and is continuing or would occur, and (II) such purchases, redemptions or retirements are made solely with Borrowers' unrestricted cash on hand and not with proceeds of Revolving Credit Loans; and (D) at all times thereafter, so long as (1) the aggregate amount of all such purchases, redemptions or retirements does not exceed (x) \$350,000,000 in the aggregate since January 1, 2014 and (y) \$200,000,000 in the aggregate in any fiscal year, (2) at the time of and after giving pro forma effect to such purchases, redemptions or retirements, (I) no Potential Default or Event of Default has occurred and is continuing or would occur, and (II) Revolver Availability is not less than \$25,000,000, and (3) Administrative Agent and Lenders shall have received the quarterly financial statements required under Section 8.3.1 hereof for the fiscal quarter ending December 31, 2015 together with a Compliance Certificate evidencing that the Fixed Charge Coverage Ratio for such fiscal quarter is not less than 1.00 to 1.00 (notwithstanding the minimum required Fixed Charge Coverage Ratio set forth in Section 8.2.14 for such fiscal quarter); provided, that, if Borrowers do not have a Fixed Charge Coverage Ratio of at least 1.00 to 1.00 for the fiscal quarter ending December 31, 2015, Borrowers shall be permitted to make such purchases, redemptions or retirements of equity

(40) 2nd Amendment

interests of any Borrower upon (X) satisfaction of the conditions set forth in clauses (I) and (II) of this Section (D), and (Y) delivery to Administrative Agent and Lenders of the quarterly financial statements required under Section 8.3.1 hereof for any subsequent fiscal quarter together with a Compliance Certificate evidencing that the Fixed Charge Coverage Ratio for such fiscal quarter is not less than the ratio then required under Section 8.2.14 for such fiscal quarter;

(41)

(iv) [reserved]; and(42)

(v) (i) regularly scheduled quarterly dividends to the holders of the preferred stock issued pursuant to the Preferred Stock Issuance in substantially the form of the Certificate of Designations of Series A Convertible Preferred Stock delivered to Agent on the Third Amendment Date, in an amount not to exceed 6% per annum, and (ii) in the event Borrowers fail to pay the regularly scheduled quarterly dividends referenced in clause (v)(i) above, regularly scheduled quarterly dividends to the holders of the preferred stock issued pursuant to the Preferred Stock Issuance in substantially the form of the Certificate of Designations of Series A Convertible Preferred Stock delivered to Agent on the Third Amendment Date, at a default or penalty rate in an amount not to exceed 8% per annum, so long as, in each case, at the time of and after giving Pro Forma effect to the making of such dividend no Potential Default or Event of Default has occurred and is continuing or would occur.(43)

8.2.6 Liquidations, Mergers, Consolidations, Acquisitions. Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, dissolve, liquidate or wind-up its affairs, or become a party to any merger or consolidation, or acquire by purchase, lease or otherwise all or substantially all of the assets or capital stock of any other Person except (i) any Borrower may merge or consolidate with or into another Borrower, (ii) any Borrower may acquire all of the assets or equity interests of another Borrower, (iii) Permitted Acquisitions, and (iv) repurchases of franchisee-owned retail stores for cash consideration not to exceed, together with outstanding loans, advances and other investments in such franchisees permitted under Section 8.2.4(vi) [Loans and Investments] and guarantees permitted under Section 8.2.3(vi) [Guaranties], \$5,000,000 in the aggregate.(44)

8.2.7 Dispositions of Assets or Subsidiaries. Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, sell, convey, assign, lease, abandon or otherwise transfer or dispose of, voluntarily or involuntarily, any of its properties or assets, tangible or intangible (including sale, assignment, discount or other disposition of accounts, contract rights, chattel paper, equipment or general intangibles with or without recourse or of capital stock, shares of beneficial interest, partnership interests or limited liability company interests of a Subsidiary of such Loan Party), except:

(i) transactions involving the sale of inventory in the ordinary course of business;

(41) 9th Amendment

(42) 6th Amendment

(43) 3rd Amendment

(44) 2nd Amendment

- (ii) the licensing of the Borrower's intellectual property in the ordinary course of business;
- (iii) the donation of inventory to charity during any fiscal year in an aggregate not to exceed \$3,000,000 in any fiscal year;(45)
- (iv) the disposition or transfer of obsolete and worn-out equipment in the ordinary course of business during any fiscal year having an aggregate fair market value of not more than \$1,000,000 and only to the extent that (i) the proceeds of any such disposition are used to acquire replacement equipment which is subject to Administrative Agent's Prior Security Interest or (ii) the proceeds of which are applied as a mandatory prepayment of the Loans in accordance with the provisions of Section 5.7.1 [Sale of Assets] above;
- (v) sales or dispositions of assets or Subsidiaries not to exceed \$10,000,000 in any fiscal year and only so long as the net proceeds of such sales or disposition are applied as a mandatory prepayment of the Loans in accordance with the provisions of Section 5.7.1 [Sale of Assets] above;
- (vi) any sale, transfer or lease of assets by any Loan Party or any of its Subsidiaries to another Loan Party;
- (vii) any sale, transfer or lease of assets, other than those specifically excepted pursuant to clauses (i) through (v) above, which is approved by the Required Lenders so long as the after-tax proceeds (as reasonably estimated by the Borrower) are applied as a mandatory prepayment of the Loans in accordance with the provisions of Section 5.7.1 [Sale of Assets] above; or
- (viii) a transfer of the Panama IP by Crocs to Colorado Footwear C.V., a company organized under the laws of The Netherlands; located at Cumberland House, 1 Victoria Street, 9FL, Hamilton HM 11, Bermuda, so long as Administrative Agent receives, concurrent with such transfer, a fully executed copy of the IP Transfer Agreement.(46)

8.2.8 Affiliate Transactions. Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, purchase, acquire or lease any property from, or sell, transfer or lease any property to, or otherwise enter into any transaction or deal with, any Affiliate, except (w) as permitted by Sections 8.2.1 [Indebtedness], 8.2.4 [Loans and Investments], 8.2.5 [Dividends and Related Distributions], 8.2.6 [Liquidations, Mergers, Consolidations, Acquisitions] and 8.2.7 [Dispositions of Assets and Subsidiaries], (x) transactions between or among a Loan Party or any of its Subsidiaries and another Loan Party or any of its Subsidiaries, (y) employment, equity compensation and related agreements among Loan Parties and any officers, directors and employees of Loan Parties and payment of fees to and reimbursement of expenses of members of the Board of Directors in the ordinary course of business of the Loan Parties, and (z) transactions disclosed to the Administrative Agent, which are in the ordinary course of business, on an arm's-length basis on terms and conditions no less

(45) 1st Amendment

(46) 7th Amendment

favorable than terms and conditions which would have been obtainable from a Person other than an Affiliate.

8.2.9 Subsidiaries, Partnerships and Joint Ventures. Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to own or create directly or indirectly any Subsidiaries other than (i) any Subsidiary existing as of the Closing Date, and (ii) any Subsidiary formed after the Closing Date (A) the outstanding equity interests (except with respect to a Foreign Subsidiary, no more than 65% of its outstanding equity interests shall be required to be pledged as collateral) of which are pledged as collateral under the Security Agreement to secure the Obligations, and (B) which becomes a Guarantor by delivering to the Administrative Agent (I) a signed Guaranty and Suretyship Agreement in form and substance satisfactory to Administrative Agent in its Permitted Discretion; (II) documents in the forms described in Section 7.1 [First Loans and Letters of Credit] modified as appropriate; and (III) documents necessary to grant and perfect Prior Security Interests to the Administrative Agent for the benefit of the Lenders in the equity interests of, and Collateral held by, such Subsidiary; provided, however, that Foreign Subsidiaries shall not be required to become Guarantors. No Loan Party shall become or agree to become a party to a Joint Venture.

8.2.10 Continuation of or Change in Business. Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, engage in any business other than other than designing, manufacturing, distributing and marketing

footwear for men, women and children, apparel, accessories, bags and backpacks, and other products utilizing Croslite, and activities necessary to conduct the foregoing, substantially as conducted and operated by such Loan Party or Subsidiary during the present fiscal year, and such Loan Party or Subsidiary shall not permit any material change in such business.

8.2.11 Fiscal Year. The Borrower shall not, and shall not permit any Subsidiary of the Borrower to, change its fiscal year from the twelve-month period beginning January 1 and ending December 31.

8.2.12 Changes in Organizational Documents. Each of the Loan Parties shall not, and shall not permit any of its Subsidiaries to, amend in any respect its certificate of incorporation (including any provisions or resolutions relating to capital stock), by-laws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement or other organizational documents without providing at least twenty (20) calendar days' prior written notice to the Administrative Agent and the Lenders and, in the event such change would be adverse to the Lenders as determined by the Administrative Agent in its sole discretion, obtaining the prior written consent of the Required Lenders.

8.2.13 Capital Expenditures and Leases. Each of the Loan Parties shall not, and shall not permit any of their Subsidiaries to, contract for, purchase or make any expenditure or commitments for Capital Expenditures in an aggregate amount for all Loan Parties in excess of \$75,000,000 per fiscal year (excluding Capital Expenditures made in connection with the implementation of a new enterprise resource planning and accounting system in an amount up to \$60,000,000).(47)

8.2.14 Minimum Fixed Charge Coverage Ratio. When measured for the four fiscal quarter period ending on each measurement date set forth below, the Loan Parties shall maintain a Fixed Charge Coverage Ratio of not less than the ratio set forth below opposite thereto:(48)

<u>Measurement Date</u>	<u>Minimum Fixed Charge Coverage Ratio</u>
March 31, 2015	1.00 to 1.00
June 30, 2015	1.00 to 1.00
September 30, 2015	0.95 to 1.00
December 31, 2015	1.00 to 1.00
March 31, 2016	1.15 to 1.00
June 30, 2016 and the last day of each fiscal quarter thereafter	1.25 to 1.00

Notwithstanding anything to the contrary, for purposes of calculating the Fixed Charge Coverage Ratio for any applicable testing period, any costs incurred in fiscal year 2014 by the Loan Parties in connection with the implementation of a SAP software system, in an aggregate amount not to exceed \$30,000,000 shall not be deemed to be Unfunded Capital Expenditures or included in Fixed Charges.

8.2.15 Maximum Leverage Ratio. When measured for the four fiscal quarter period ending on each measurement date set forth below, the Loan Parties shall maintain a Leverage Ratio of not more than the ratio set forth below opposite thereto:(49)

<u>Measurement Date</u>	<u>Maximum Leverage Ratio</u>
March 31, 2015	4.00 to 1.00
June 30, 2015	4.00 to 1.00
September 30, 2015	4.00 to 1.00
December 31, 2015	4.00 to 1.00
March 31, 2016	4.00 to 1.00
June 30, 2016 and the last day of each fiscal quarter thereafter	3.75 to 1.00

8.2.16 Global Cash. The Loan Parties shall at all times maintain Global Cash of not less than \$50,000,000, measured as of the last day of each fiscal quarter.(50)

- (47) 1st Amendment
- (48) 8th Amendment
- (49) 6th Amendment
- (50) 6th Amendment

8.3 Reporting Requirements. The Loan Parties will furnish or cause to be furnished to the Administrative Agent and each of the Lenders:

8.3.1 Quarterly Financial Statements. Within forty five (45) days after the end of each fiscal quarter (other than the fiscal quarter ending December 31 for which Borrower shall have sixty (60) days after such fiscal quarter end), an unaudited balance sheet of Borrowers on a consolidated and consolidating basis and unaudited statements of income and stockholders' equity and cash flow of Borrowers on a consolidated and consolidating basis reflecting results of operations from the beginning of the fiscal year to the end of such quarter and for such quarter, prepared on a basis consistent with prior practices and complete and correct in all material respects, subject to normal and recurring year end adjustments and the absence of footnotes that individually and in the aggregate are not material to Borrowers' business; provided however that if Crocs files its quarterly report on Form 10-Q for the applicable fiscal quarter and such quarterly report contains the financial statements and reports described above, in a format acceptable to Administrative Agent in its Permitted Discretion, then Borrowers may satisfy the requirements of this Section 8.3.1 by delivering a copy of such quarterly report to the Administrative Agent and each Lender. The reports shall be accompanied by a Compliance Certificate and a Net Mark to Market Exposure statement for each Lender (other than Administrative Agent).

8.3.2 Annual Financial Statements. Within ninety (90) days after the end of each fiscal year of Borrowers, financial statements of Borrowers on a consolidating and consolidated basis including, but not limited to, statements of income and stockholders' equity and cash flow from the beginning of the current fiscal year to the end of such fiscal year and the balance sheet as at the end of such fiscal year, all prepared in accordance with GAAP applied on a basis consistent with prior practices, and in reasonable detail and reported upon without qualification by an independent certified public accounting firm selected by Borrowers and satisfactory to Administrative Agent (the "Accountants"); provided however that if Crocs files its annual report on Form 10-K for the applicable fiscal year and such annual report contains the financial statements and reports described above, in a format acceptable to Administrative Agent in its Permitted Discretion, then Borrowers may satisfy the requirements of this Section 8.3.2 by delivering a copy of such annual report to the Administrative Agent and each Lender. The report of the Accountants shall be accompanied by a statement of the Accountants certifying that (i) they have caused this Agreement to be reviewed, (ii) in making the examination upon which such report was based either no information came to their attention which to their knowledge constituted an Event of Default or a Potential Default under this Agreement or any related agreement or, if such information came to their attention, specifying any such Potential Default or Event of Default, its nature, when it occurred and whether it is continuing, and such report shall contain or have appended thereto calculations which set forth Borrowers' compliance with the requirements or restrictions imposed by Sections 8.2.1 [Indebtedness], 8.2.4 [Loans and Investments], 8.2.5 [Dividends and Related Distributions], 8.2.14 [Capital Expenditures and Leases], 8.2.15 [Minimum Fixed Charge Coverage Ratio] and 8.2.16 [Maximum Leverage Ratio] hereof. In addition, the reports shall be accompanied by a Compliance Certificate.

8.3.3 Certificate of the Borrower. Concurrently with the financial statements of the Borrower furnished to the Administrative Agent and to the Lenders pursuant to Sections 8.3.1 [Quarterly Financial Statements] and 8.3.2 [Annual Financial Statements], a certificate (each a "Compliance Certificate") of the Borrower signed by the Chief Executive Officer, President or Chief Financial Officer of the Borrower, in the form of Exhibit 8.3.3.

8.3.4 Notices. The Borrower shall furnish or cause to be furnished written notice to the Administrative Agent and each of the Lenders:

8.3.4.1 Default. Promptly after any officer of any Loan Party has learned of the occurrence of an Event of Default or Potential Default, a certificate signed by an Authorized Officer setting forth the details of such Event of Default or Potential Default and the action which such Loan Party proposes to take with respect thereto.

8.3.4.2 Litigation. Promptly after the commencement thereof, notice of all actions, suits, proceedings or investigations before or by any Official Body or any other Person against any Loan Party or Subsidiary of any Loan Party which if adversely determined would constitute a Material Adverse Change.

8.3.4.3 Organizational Documents. Within the time limits set forth in Section 8.2.12 [Changes in Organizational Documents], any amendment to the organizational documents of any Loan Party.

8.3.4.4 Erroneous Financial Information. Promptly in the event that the Borrower or the Accountants conclude or advise that any previously issued financial statement, audit report or interim review should no longer be relied upon or that disclosure should be made or action should be taken to prevent future reliance.

8.3.4.5 ERISA Event. Promptly after (i) Borrower or any ERISA Affiliate knows or has reason to know of the occurrence of any ERISA Event together with a written statement describing such ERISA Event and the action, if any, which Borrower or any ERISA Affiliate has taken, is taking, or proposes to take with respect thereto and, when known, any action taken or threatened by the IRS, Department of Labor or PBGC with respect thereto, (ii) Borrower or any ERISA Affiliate knows or has reason to know that a non-exempt prohibited transaction (as defined in Section 406 of ERISA or 4975 of the Code) has occurred with respect to any Pension Plan, (iii) a funding waiver request has been filed with respect to any Pension Plan together with all communications received by Borrower or any ERISA Affiliate with respect to such request, (iv) any material increase in the benefits of any existing Pension Plan or the establishment of any new Pension Plan or the commencement of contributions to any Plan to which Borrower or any ERISA Affiliate was not previously contributing shall occur, (v) Borrower or any ERISA Affiliate shall receive any unfavorable determination letter from the Internal Revenue Service regarding the qualification of a Pension Plan under Section 401(a) of the Code, together with copies of each such letter, (vi) Borrower or any ERISA Affiliate shall fail to make a required installment or any other required payment under the Code or ERISA with respect to a Pension Plan or Multiemployer Plan on or before the due date for such installment or payment, or (vii) Borrower or any ERISA Affiliate knows that a Multiemployer Plan is subject to Section 432 of the Code or Section 305 of ERISA; if individually or together with other events described above would result in a Material Adverse Change.

8.3.4.6 Other Reports. Promptly upon their becoming available to the Borrower:

(i) Annual Budget. The annual budget and any forecasts or projections of the Borrower, to be supplied not later than thirty (30) days after the commencement of the fiscal year to which any of the foregoing may be applicable,

(ii) Management Letters. Any reports including management letters submitted to the Borrower by independent accountants in connection with any annual, interim or special audit,

(iii) SEC Reports; Shareholder Communications. Reports, including Forms 10-K, 10-Q and 8-K, registration statements and prospectuses and other shareholder communications, filed by the Borrower with the Securities and Exchange Commission; provided that the documents required to be delivered pursuant to this Section 8.3.4.6(iii) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which such documents are filed for public availability on the Securities and Exchange Commission's Electronic Data Gathering and Retrieval System.

(iv) Other Information. Such other reports and information as any of the Lenders may from time to time reasonably request.

9. DEFAULT

9.1 Events of Default. An Event of Default shall mean the occurrence or existence of any one or more of the following events or conditions (whichever the reason therefor and whether voluntary, involuntary or effected by operation of Law):

9.1.1 Payments Under Loan Documents. The Borrower shall fail to pay when due any principal of any Loan (including scheduled installments, mandatory prepayments or the payment due at maturity), Reimbursement Obligation or Letter of Credit or Obligation or any interest on any Loan, Reimbursement Obligation or Letter of Credit Obligation or any other amount owing hereunder or under the other Loan Documents on the date on which such principal, interest or other amount becomes due in accordance with the terms hereof or thereof;

9.1.2 Breach of Warranty. Any representation or warranty made at any time by any of the Loan Parties herein or by any of the Loan Parties in any other Loan Document, or in any certificate, other instrument or statement furnished pursuant to the provisions hereof or thereof, shall prove to have been false or misleading in any material respect as of the time it was made or furnished;

9.1.3 Breach of Negative Covenants or Visitation Rights. Any of the Loan Parties shall default in the observance or performance of any covenant contained in Section 8.1.5 [Visitation Rights] or Section 8.2 [Negative Covenants];

9.1.4 Breach of Other Covenants. Any of the Loan Parties shall default in the observance or performance of any other covenant, condition or provision hereof or of any other Loan Document and such default shall continue unremedied for a period of the earlier of ten (10) Business Days from notice from Agent or knowledge of Borrower;

9.1.5 Defaults in Other Agreements. A default in respect to any other obligation of the Borrower under any other agreement to which it is a party (other than the Loan Documents) which causes a Material Adverse Change and which such default is not cured within any applicable grace period;

9.1.6 Final Judgments or Orders. Any judgment or judgments are rendered against any Borrower in an aggregate amount in excess of \$1,000,000 or against all Borrowers in an aggregate amount in excess of \$2,000,000 and (i) enforcement proceedings shall have been commenced by a creditor upon such judgment, (ii) there shall be any period of thirty (30) consecutive days during which the same shall remain undischarged and a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, shall not be in effect, or (iii) any such judgment results in the creation of a Lien upon any of the Collateral (other than a Permitted Encumbrance);

9.1.7 Loan Document Unenforceable. Any of the Loan Documents shall cease to be legal, valid and binding agreements enforceable against the party executing the same or such party's successors and assigns (as permitted under the Loan Documents) in accordance with the respective terms thereof or shall in any way be terminated (except in accordance with its terms) or become or be declared ineffective or inoperative or shall in any way be challenged or contested or cease to give or provide the respective Liens, security interests, rights, titles, interests, remedies, powers or privileges intended to be created thereby;

9.1.8 Uninsured Losses; Proceedings Against Assets. There shall occur any material uninsured damage to or loss, theft or destruction of any of the Collateral in excess of \$1,000,000 or the Collateral or any other of the Loan Parties' or any of their Subsidiaries' assets are attached, seized, levied upon or subjected to a writ or distress warrant; or such come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors and the same is not cured within thirty (30) days thereafter;

9.1.9 Events Relating to Plans. An event or condition specified in Section 8.3.4.5 shall occur with respect to any Plan and, as a result of such event or condition, together with all other such events or conditions, Borrower or any ERISA Affiliate shall incur a liability to a Plan or the PBGC (or both) which would result in a Material Adverse Change;

9.1.10 Change of Control. Any Change of Control shall occur;

9.1.11 Relief Proceedings. (i) A Relief Proceeding shall have been instituted against any Loan Party or Subsidiary of a Loan Party and such Relief Proceeding shall remain undismissed or unstayed and in effect for a period of thirty (30) consecutive days or such court shall enter a decree or order granting any of the relief sought in such Relief Proceeding, (ii) any Loan Party or Subsidiary of a Loan Party institutes, or takes any action in furtherance of, a Relief Proceeding, or (iii) any Loan Party or any Subsidiary of a Loan Party ceases to be Solvent or admits in writing its inability to pay its debts as they mature; or

9.1.12 IP Transfer Agreement. Any breach of the IP Transfer Agreement, or if any Person attempts to terminate, or challenges the validity of or its liability under, the IP Transfer Agreement.(51)

9.2 Consequences of Event of Default.

9.2.1 Events of Default Other Than Bankruptcy, Insolvency or Reorganization Proceedings. If an Event of Default specified under Sections 9.1.1 through 9.1.10 shall occur and be continuing, the Lenders and the Administrative Agent shall be under no further obligation to make Loans and the Issuing Lender shall be under no obligation to issue Letters of Credit and the Administrative Agent may, and upon the request of the Required Lenders, shall (i) by written notice to the Borrower, declare the unpaid principal amount of the Notes then outstanding and all interest accrued thereon, any unpaid fees and all other Indebtedness of the Borrower to the Lenders hereunder and thereunder to be forthwith due and payable, and the same shall thereupon become and be immediately due and payable to the Administrative Agent for the benefit of each Lender without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived, and (ii) require the Borrower to, and the Borrower shall thereupon, deposit in a non-interest-bearing account with the Administrative Agent, as cash collateral for its Obligations under the Loan Documents, an amount equal to the maximum amount currently or at any time thereafter available to be drawn on all outstanding Letters of Credit, and the Borrower hereby pledges to the Administrative

Agent and the Lenders, and grants to the Administrative Agent and the Lenders a security interest in, all such cash as security for such Obligations; and

9.2.2 Bankruptcy, Insolvency or Reorganization Proceedings. If an Event of Default specified under Section 9.1.11 [Relief Proceedings] shall occur, the Lenders shall be under no further obligations to make Loans hereunder and the Issuing Lender shall be under no obligation to issue Letters of Credit and the unpaid principal amount of the Loans then outstanding and all interest accrued thereon, any unpaid fees and all other Indebtedness of the Borrower to the Lenders hereunder and thereunder shall be immediately due and payable, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived; and

9.2.3 Set-off. If an Event of Default shall have occurred and be continuing, each Lender, the Issuing Lender, and each of their respective Affiliates and any participant of such Lender or Affiliate which has agreed in writing to be bound by the provisions of Section 5.3 [Sharing of Payments by Lenders] is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, the Issuing Lender or any such Affiliate or participant to or for the credit or the account of any Loan Party against any and all of the Obligations of such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender, the Issuing Lender, Affiliate or participant, irrespective of whether or not such Lender, Issuing Lender, Affiliate or participant shall have made any demand under this Agreement or any other Loan Document and although such Obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office

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of such Lender or the Issuing Lender different from the branch or office holding such deposit or obligated on such Indebtedness. The rights of each Lender, the Issuing Lender and their respective Affiliates and participants under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the Issuing Lender or their respective Affiliates and participants may have. Each Lender and the Issuing Lender agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application; and

9.2.4 Application of Proceeds. From and after the date on which the Administrative Agent has taken any action pursuant to this Section 9.2 and until all Obligations of the Loan Parties have been paid in full, any and all proceeds received by the Administrative Agent from any sale or other disposition of the Collateral, or any part thereof, or the exercise of any other remedy by the Administrative Agent, shall be applied as follows:

- (i) first, to reimburse the Administrative Agent and the Lenders for out-of-pocket costs, expenses and disbursements, including reasonable attorneys' and paralegals' fees and legal expenses, incurred by the Administrative Agent or the Lenders in connection with realizing on the Collateral or collection of any Obligations of any of the Loan Parties under any of the Loan Documents, including advances made by the Lenders or any one of them or the Administrative Agent for the reasonable maintenance, preservation, protection or enforcement of, or realization upon, the Collateral, including advances for taxes, insurance, repairs and the like and reasonable expenses incurred to sell or otherwise realize on, or prepare for sale or other realization on, any of the Collateral;
- (ii) second, to the repayment of all Obligations then due and unpaid of the Loan Parties to the Lenders or their Affiliates incurred under this Agreement or the Loan Documents (other than under any Lender Provided Hedge or Other Lender Provided Financial Services Product), whether of principal, interest, fees, expenses or otherwise and to cash collateralize the Letter of Credit Obligations;
- (iii) third, to the repayment of all Obligations then due and unpaid of the Loan Parties to the Lenders or their Affiliates incurred under any Lender Provided Hedge or Other Lender Provided Financial Services Product; and
- (iv) fourth, the balance, if any, as required by Law.

10. THE ADMINISTRATIVE AGENT

10.1 Appointment and Authority. Each of the Lenders and the Issuing Lender hereby irrevocably appoints PNC to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Section 10

are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Lender, and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions.

10.2 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

10.3 Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, the Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Potential Default or Event of Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 11.2 [Modifications, Amendments or Waivers] and 9.2 [Consequences of Event of Default]) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Potential Default or Event of Default unless and until notice describing such Potential Default or Event of Default is given to the Administrative Agent by the Borrower, a Lender or the Issuing Lender.

The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Potential Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Section 7 [Conditions of Lending and Issuance of Letters of Credit] or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

10.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the Issuing Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender or the Issuing Lender unless the Administrative Agent shall have received notice to the contrary from such Lender or the Issuing Lender prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

10.5 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Section 10 shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

10.6 Resignation of Administrative Agent. Subject to the appointment and acceptance of a successor Administrative Agent as provided in this Section 10.6, the Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Lender and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with approval from the Borrower (so long as no Event of Default has occurred and is continuing), to appoint a successor, such approval not to be unreasonably withheld or delayed. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders and the Issuing Lender, appoint a successor Administrative Agent; provided that if the Administrative Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the Issuing Lender under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (ii) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and the Issuing Lender directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section 10.6. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Section 10 and Section 11.4 [Expenses; Indemnity; Damage Waiver] shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

If PNC resigns as Administrative Agent under this Section 10.6, PNC shall also resign as an Issuing Lender. Upon the appointment of a successor Administrative Agent hereunder, such successor shall (i) succeed to all of the rights, powers, privileges and duties of PNC as the retiring Issuing Lender and Administrative Agent and PNC shall be discharged from all of its respective duties and obligations as Issuing Lender and Administrative Agent under the Loan Documents, and (ii) issue letters of credit in substitution for the Letters of Credit issued by PNC, if any, outstanding at the time of such succession or make other arrangement satisfactory to PNC to effectively assume the obligations of PNC with respect to such Letters of Credit.

10.7 Non-Reliance on Administrative Agent and Other Lenders. Each Lender and the Issuing Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the Issuing Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

10.8 No Other Duties, etc. Anything herein to the contrary notwithstanding, none of the Lenders listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or the Issuing Lender hereunder.

10.9 Administrative Agent's Fee. The Borrower shall pay to the Administrative Agent a nonrefundable fee (the "**Administrative Agent's Fee**") under the terms of a letter (the "**Administrative Agent's Letter**") between the Borrower and Administrative Agent, as amended from time to time.

10.10 Authorization to Release Collateral and Guarantors. The Lenders and Issuing Lenders authorize the Administrative Agent to release (i) any Collateral consisting of assets or equity interests sold or otherwise disposed of in a sale or other disposition or transfer permitted under Section 8.2.7 [Disposition of Assets or Subsidiaries] or 8.2.6 [Liquidations, Mergers, Consolidations, Acquisitions], and (ii) any Guarantor from its obligations under the Guaranty Agreement if the ownership interests in such Guarantor are sold or otherwise disposed of or transferred to persons other than Loan Parties or Subsidiaries of the Loan Parties in a transaction permitted under Section 8.2.7 [Disposition of Assets or Subsidiaries] or 8.2.6 [Liquidations, Mergers, Consolidations, Acquisitions]. Upon the occurrence of the events set forth in clauses (i) and (ii) above, and upon request by the Borrower to the Administrative Agent, the Administrative Agent shall (and is hereby irrevocably authorized by the Lenders to) execute such documents as may be necessary to evidence the release of the Collateral and the Liens on such Collateral granted to the Administrative Agent for the benefit of the Lenders.

10.11 No Reliance on Administrative Agent's Customer Identification Program. Each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on the Administrative Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to the USA Patriot Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "**CIP Regulations**"), or any other Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with any of the Loan Parties, their Affiliates or their agents, the Loan Documents or the transactions hereunder or contemplated hereby: (i) any identity verification procedures, (ii) any recordkeeping, (iii) comparisons with government lists, (iv) customer notices or (v) other procedures required under the CIP Regulations or such other Laws.

11. MISCELLANEOUS

11.1 Joint and Several Obligations.

11.1.1 The handling of this credit facility as a co-borrowing facility in the manner set forth in this Agreement is solely as an accommodation to Borrowers and at their request. Neither Administrative Agent nor any Lender shall incur liability to Borrowers as a result thereof. To induce Administrative Agent and Lenders to do so and in consideration thereof, each Borrower hereby indemnifies Administrative Agent and each Lender and holds Administrative Agent and each Lender harmless from and against any and all liabilities, expenses, losses, damages and claims of damage or injury asserted against Administrative Agent or any Lender by any Person arising from or incurred by reason of the handling of the financing arrangements of Borrowers as provided herein, reliance by Administrative Agent or any Lender on any request or instruction from any Borrower or any other action taken by Administrative Agent or any Lender with respect to this Section 11.1 except due to willful misconduct or gross (not mere) negligence by the indemnified party (as determined by a court of competent jurisdiction in a final and non-appealable judgment).

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11.1.2 All Obligations shall be joint and several, and each Borrower shall make payment upon the maturity of the Obligations by acceleration or otherwise, and such obligation and liability on the part of each Borrower shall in no way be affected by any extensions, renewals and forbearance granted by Administrative Agent or any Lender to any Borrower, failure of Administrative Agent or any Lender to give any Borrower notice of borrowing or any other notice, any failure of Administrative Agent or any Lender to pursue or preserve its rights against any Borrower, the release by Administrative Agent or any Lender of any Collateral now or thereafter acquired from any Borrower, and such agreement by each Borrower to pay upon any notice issued pursuant thereto is unconditional and unaffected by prior recourse by Administrative Agent or any Lender to the other Borrowers or any Collateral for such Borrower's Obligations or the lack thereof. Each Borrower waives all suretyship defenses.

11.1.3 Each Borrower expressly waives any and all rights of subrogation, reimbursement, indemnity, exoneration, contribution of any other claim which such Borrower may now or hereafter have against the other Borrowers or other Person directly or contingently liable for the Obligations hereunder, or against or with respect to the other Borrowers' property (including, without limitation, any property which is Collateral for the Obligations), arising from the existence or performance of this Agreement, until termination of this Agreement and Payment in Full of the Obligations.

11.2 Modifications, Amendments or Waivers. With the written consent of the Required Lenders, the Administrative Agent, acting on behalf of all the Lenders, and the Borrower, on behalf of the Loan Parties, may from time to time enter into written agreements amending or changing any provision of this Agreement or any other Loan Document or the rights of the Lenders or the Loan Parties hereunder or thereunder, or may grant written waivers or consents hereunder or

thereunder. Any such agreement, waiver or consent made with such written consent shall be effective to bind all the Lenders and the Loan Parties; provided, that no such agreement, waiver or consent may be made which will:

11.2.1 Increase of Commitment. Increase the amount of the Revolving Credit Commitment of any Lender hereunder without the consent of such Lender;

11.2.2 Extension of Payment; Reduction of Principal Interest or Fees; Modification of Terms of Payment. Whether or not any Loans are outstanding, extend the Expiration Date or the time for payment of principal or interest of any Loan (excluding the due date of any mandatory prepayment of a Loan), the Commitment Fee or any other fee payable to any Lender, or reduce the principal amount of or the rate of interest borne by any Loan or reduce the Commitment Fee or any other fee payable to any Lender, without the consent of each Lender directly affected thereby;

11.2.3 Release of Collateral or Guarantor. Except for (i) the release of Collateral and Guarantors as provided in Section 10.10 [Authorization to Release Collateral and Guarantors], (ii) sales of assets permitted by Section 8.2.7 [Disposition of Assets or Subsidiaries] or 8.2.6 [Liquidations, Mergers, Consolidations, Acquisitions] and (iii) the release of any Guarantor from its obligations under the Guaranty Agreement if the ownership interests in such Guarantor are sold or otherwise disposed of or transferred to persons other than Loan Parties or Subsidiaries of the Loan Parties in a transaction permitted under Section 8.2.7 [Disposition of Assets or Subsidiaries] or 8.2.6 [Liquidations, Mergers, Consolidations, Acquisitions], release all or substantially all of the Collateral or any Guarantor from its Obligations under the Guaranty Agreement without the consent of all Lenders (other than Defaulting Lenders); or

11.2.4 Miscellaneous. Amend Section 5.2 [Pro Rata Treatment of Lenders], 10.3 [Exculpatory Provisions] or 5.3 [Sharing of Payments by Lenders] or this Section 11.2, alter any provision regarding the pro rata treatment of the Lenders or requiring all Lenders to authorize the taking of any action or reduce any percentage specified in the definition of Required Lenders, in each case without the consent of all of the Lenders (other than Defaulting Lenders);

provided that no agreement, waiver or consent which would modify the interests, rights or obligations of the Administrative Agent or the Issuing Lender may be made without the written consent of such Administrative Agent or Issuing Lender, as applicable, and provided, further that, if in connection with any proposed waiver, amendment or modification referred to in Sections 11.2.1 through 11.2.4 above, the consent of the Required Lenders is obtained but the consent of one or more of such other Lenders whose consent is required is not obtained (each a “**Non-Consenting Lender**”), then the Borrower shall have the right to replace any such Non-Consenting Lender with one or more replacement Lenders pursuant to Section 5.6.2 [Replacement of a Lender]; or

11.2.5 Foreign Borrower. Join as a Borrower any Person that is organized or incorporated in any jurisdiction other than the United States or any State or territory thereof without the consent of all Lenders.

11.3 No Implied Waivers; Cumulative Remedies. No course of dealing and no delay or failure of the Administrative Agent or any Lender in exercising any right, power, remedy or privilege under this Agreement or any other Loan Document shall affect any other or future exercise thereof or operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any further exercise thereof or of any other right, power, remedy or privilege. The rights and remedies of the Administrative Agent and the Lenders under this Agreement and any other Loan Documents are cumulative and not exclusive of any rights or remedies which they would otherwise have.

11.4 Expenses; Indemnity; Damage Waiver.

11.4.1 Costs and Expenses. The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable and documented fees, charges and disbursements of counsel for the Administrative Agent), and shall pay all reasonable and documented fees and time charges and disbursements for attorneys who may be employees of the Administrative Agent, in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out-of-pocket expenses incurred by the Issuing Lender in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, (iii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, any Lender or the Issuing Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or the Issuing Lender), and shall pay all fees and time charges for attorneys who may be employees of the Administrative Agent, any

Lender or the Issuing Lender, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or similar negotiations in respect of such Loans or Letters of Credit, and (iv) all reasonable and documented out-of-pocket expenses of the Administrative Agent's regular employees and agents engaged periodically to perform audits of the Loan Parties' books, records and business properties; provided however that, absent the occurrence and during the continuance of an Event of Default, the Borrower shall not be obligated to pay the costs, expenses or fees of more than two (2) such audits per fiscal year.

11.4.2 Indemnification by the Borrower. The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and the Issuing Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), and shall indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance or nonperformance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the Issuing Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) breach of representations, warranties or covenants of the Borrower under the Loan Documents, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, including any such items or losses relating to or arising under Environmental Laws or pertaining to environmental matters, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Loan Document, if the Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This Section 11.4.2 [Indemnification by the Borrower] shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

11.4.3 Reimbursement by Lenders. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under Sections 11.4.1 [Costs and Expenses] or 11.4.2 [Indemnification by the Borrower] to be paid by it to the Administrative Agent (or any sub-agent thereof), the Issuing Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the Issuing Lender or such Related Party, as the case may be, such Lender's Ratable Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or the Issuing Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or Issuing Lender in connection with such capacity.

11.4.4 Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable Law, the Borrower shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in Section 11.4.2 [Indemnification by Borrower] shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

11.4.5 Payments. All amounts due under this Section shall be payable not later than ten (10) days after demand therefor.

11.5 Holidays. Whenever payment of a Loan to be made or taken hereunder shall be due on a day which is not a Business Day such payment shall be due on the next Business Day (except as provided in Section 4.2 [Interest Periods]) and such extension of time shall be included in computing interest and fees, except that the Loans shall be due on the Business Day preceding the Expiration Date if the Expiration Date is not a Business Day. Whenever any payment or action to be made or

taken hereunder (other than payment of the Loans) shall be stated to be due on a day which is not a Business Day, such payment or action shall be made or taken on the next following Business Day, and such extension of time shall not be included in computing interest or fees, if any, in connection with such payment or action.

11.6 Notices; Effectiveness; Electronic Communication.

11.6.1 Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 11.6.2 [Electronic Communications]), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier (i) if to a Lender, to it at its address set forth in its administrative questionnaire, or (ii) if to any other Person, to it at its address set forth on Schedule 1.1(B).

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in Section 11.6.2 [Electronic Communications], shall be effective as provided in such Section.

11.6.2 Electronic Communications. Notices and other communications to the Lenders and the Issuing Lender hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices to any Lender or the Issuing Lender if such Lender or the Issuing Lender, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

11.6.3 Change of Address, Etc. Any party hereto may change its address, e-mail address or telecopier number for notices and other communications hereunder by notice to the other parties hereto.

11.7 Severability. The provisions of this Agreement are intended to be severable. If any provision of this Agreement shall be held invalid or unenforceable in whole or in part in any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without in any manner affecting the validity or enforceability thereof in any other jurisdiction or the remaining provisions hereof in any jurisdiction.

11.8 Duration; Survival. All representations and warranties of the Loan Parties contained herein or made in connection herewith shall survive the execution and delivery of this Agreement. All covenants and agreements of the Borrower contained herein relating to the payment of principal, interest, premiums, additional compensation or expenses and indemnification, including those set forth in the Notes, Section 5 [Payments] and Section 11.4 [Expenses; Indemnity; Damage Waiver], shall survive Payment In Full. All other covenants and agreements of the Loan Parties shall continue in full force and effect from and after the date hereof and until Payment In Full.

11.9 Successors and Assigns.

11.9.1 Successors and Assigns Generally. The provisions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns permitted hereby, except that neither the Borrower nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of Section 11.9.2 [Assignments by Lenders], (ii) by way of participation in accordance with the provisions of Section 11.9.4 [Participations], or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 11.8.6 [Certain Pledges; Successors and Assigns Generally] (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 11.9.4 [Participations] and, to the extent

expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

11.9.2 Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in clause (i)(A) of this Section 11.9.2, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption Agreement with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption Agreement, as of the Trade Date) shall not be less than \$5,000,000, in the case of any assignment in respect of the Revolving Credit Commitment unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned.

(iii) Required Consents. No consent shall be required for any assignment except for the consent of the Administrative Agent (which shall not be unreasonably withheld or delayed) and:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default has occurred and is continuing at the time of such assignment or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received notice thereof; and

(B) the consent of the Issuing Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding).

(iv) Assignment and Assumption Agreement. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption Agreement, together with a processing and recordation fee of \$3,500, and the assignee, if it is not a Lender, shall deliver to the Administrative Agent an administrative questionnaire provided by the Administrative Agent.

(v) No Assignment to Borrower. No such assignment shall be made to the Borrower or any of the Borrower's Affiliates or Subsidiaries.

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 11.9.3 [Register], from and after the effective date specified in each Assignment and Assumption Agreement, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption Agreement, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption Agreement, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption Agreement covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 4.4 [LIBOR Rate Unascertainable; Etc.], 5.8 [Increased Costs], and 11.4 [Expenses, Indemnity; Damage Waiver] with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 11.9.2 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 11.9.4 [Participations].

11.9.3 Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain a record of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans owing to, each Lender pursuant to the terms hereof from time to time. Such register shall be conclusive, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is in such register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. Such register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

11.9.4 Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or the Borrower or any of the Borrower's Affiliates or Subsidiaries) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent, the Lenders, and the Issuing Lender shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree (other than as is already provided for herein) to any amendment, modification or waiver with respect to Sections 11.1.1 [Increase of Commitment], 11.2.2 [Extension of Payment, Etc.], or 11.2.3 [Release of Collateral or Guarantor] that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 4.4 [Libor Rate Unascertainable, Etc.], 5.8 [Increased Costs], 5.10 [Indemnity] and 5.9 [Taxes] (subject to the requirements and limitations therein, including the requirements under Section 5.9.7 [Status of Lenders] (it being understood that the documentation required under Section 5.9.7 [Status of Lenders] shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 11.8.2 [Assignments by Lenders]; provided that such Participant (A) agrees to be subject to the provisions of Section 5.6.2 [Replacement of a Lender] as if it were an assignee under Section 11.8.2 [Assignments by Lenders]; and (B) shall not be entitled to receive any greater payment under Sections 5.8 [Increased Costs] or 5.9 [Taxes], with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 5.6.2 [Replacement of a Lender] with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.2.3 [Set-off] as though it were a Lender; provided that such Participant agrees to be subject to Section 5.3 [Sharing of Payments by Lenders] as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

11.9.5 Certain Pledges; Successors and Assigns Generally. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

11.10 Confidentiality.

11.10.1 General. Each of the Administrative Agent, the Lenders and the Issuing Lender agrees to maintain the confidentiality of the Information, except that Information may be disclosed (i) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, advisors and other representatives (it being understood that the

Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (ii) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (iii) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process, (iv) to any other party hereto, (v) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (vi) subject to an agreement containing provisions substantially the same as those of this Section, to (A) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (B) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (vii) with the consent of the Borrower or (viii) to the extent such Information (Y) becomes publicly available other than as a result of a breach of this Section or (Z) becomes available to the Administrative Agent, any Lender, the Issuing Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower or the other Loan Parties. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

11.10.2 Sharing Information With Affiliates of the Lenders. Each Loan Party acknowledges that from time to time financial advisory, investment banking and other services may be offered or provided to the Borrower or one or more of its Affiliates (in connection with this Agreement or otherwise) by any Lender or by one or more Subsidiaries or Affiliates of such Lender and each of the Loan Parties hereby authorizes each Lender to share any information delivered to such Lender by such Loan Party and its Subsidiaries pursuant to this Agreement to any such Subsidiary or Affiliate subject to the provisions of Section 11.10.1 [General].

11.11 Counterparts; Integration; Effectiveness.

11.11.1 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof including any prior confidentiality agreements and commitments. Except as provided in Section 7 [Conditions Of Lending And Issuance Of Letters Of Credit], this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or e-mail shall be effective as delivery of a manually executed counterpart of this Agreement.

11.12 CHOICE OF LAW; SUBMISSION TO JURISDICTION; WAIVER OF VENUE; SERVICE OF PROCESS; WAIVER OF JURY TRIAL.

11.12.1 Governing Law. This Agreement shall be deemed to be a contract under the Laws of the State of New York without regard to its conflict of laws principles. Each standby Letter of Credit issued under this Agreement shall be subject either to the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce (the "ICC") at the time of issuance ("UCP") or the rules of the International Standby Practices (ICC Publication Number 590) ("ISP98"), as determined by the Issuing Lender, and each trade Letter of Credit shall be subject to UCP, and in each case to the extent not inconsistent therewith, the Laws of the State of New York without regard to its conflict of laws principles.

11.12.2 SUBMISSION TO JURISDICTION. THE BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN

DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, ANY LENDER OR THE ISSUING LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE BORROWER OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

11.12.3 WAIVER OF VENUE. THE BORROWER AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN THIS SECTION 11.12. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT AND AGREES NOT ASSERT ANY SUCH DEFENSE.

11.12.4 SERVICE OF PROCESS. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.6 [NOTICES; EFFECTIVENESS; ELECTRONIC COMMUNICATION]. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

11.12.5 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, ADMINISTRATIVE AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

11.13 USA Patriot Act Notice. Each Lender that is subject to the USA Patriot Act and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies Loan Parties that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the name and address of Loan Parties and other information that will allow such Lender or Administrative Agent, as applicable, to identify the Loan Parties in accordance with the USA Patriot Act.

IN WITNESS WHEREOF, the parties hereto, by their officers thereunto duly authorized, have executed this Agreement as of the day and year first above written.

ATTEST:

CROCS, INC.

By: _____
Name: _____
Title: _____

CROCS RETAIL, INC.

By: _____
Name: _____
Title: _____

OCEAN MINDED, INC.

By: _____
Name: _____
Title: _____

JIBBITZ LLC

By: _____
Name: _____
Title: _____

[SIGNATURE PAGE TO AMENDED AND RESTATED CREDIT AGREEMENT]

BITE, INC.

By: _____
Name: _____
Title: _____

[SIGNATURE PAGE TO AMENDED AND RESTATED CREDIT AGREEMENT]

PNC BANK, NATIONAL ASSOCIATION, as a Lender and as Administrative Agent

By: _____

Name: _____

Title: _____

JPMORGAN CHASE BANK, as Lender

By: _____

Name: _____

Title: _____

HSBC BANK USA, N.A., as Lender(52)

By: _____

Name: _____

Title: _____

(52) 5th Amendment

[SIGNATURE PAGE TO AMENDED AND RESTATED CREDIT AGREEMENT]

SCHEDULE 1.1(A)(53)

**PRICING GRID—
VARIABLE PRICING AND FEES BASED ON LEVERAGE RATIO**

Level	[Leverage Ratio]	Letter of Credit Fee	Revolving Credit Base Rate Spread	Revolving Credit LIBOR Rate Spread
I	Less than 1.0 to 1.0	1.25%	0.25%	1.25%
II	Greater than or equal to 1.0 to 1.0 but less than 1.50 to 1.0	1.50%	0.50%	1.50%
III	Greater than or equal to 1.50 to 1.0 but less than 2.00 to 1.0	1.75%	0.75%	1.75%
IV	Greater than or equal to 2.0 to 1.0	2.00%	1.00%	2.00%

For purposes of determining the Applicable Margin and the Applicable Letter of Credit Fee Rate:

(a) The Applicable Margin and the Applicable Letter of Credit Fee Rate shall be recomputed as of the end of each fiscal quarter based on the Leverage Ratio as of such quarter end. Any increase or decrease in the Applicable Margin or the Applicable Letter of Credit Fee Rate computed as of a quarter end shall be effective on the date on which the Compliance Certificate evidencing such computation is due to be delivered under Section 8.3.3 [Certificate of Borrower]. If a Compliance Certificate is not delivered when due in accordance with such Section 8.3.3, then the rates in Level IV shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and shall remain in effect until the date on which such Compliance Certificate is delivered.

(b) If, as a result of any restatement of or other adjustment to the financial statements of the Borrower or for any other reason, the Borrower or the Lenders determine that (i) the Leverage Ratio as calculated by the Borrower as of any applicable date was inaccurate and (ii) a proper calculation of the Leverage Ratio would have resulted in higher pricing for such period, the Borrower shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or

(53) 1st Amendment

SCHEDULE 1.1(A) - 1

deemed entry of an order for relief with respect to the Borrower under the Bankruptcy Code of the United States, automatically and without further action by the Administrative Agent, any Lender or the Issuing Lender), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of the Administrative Agent, any Lender or the Issuing Lender, as the case may be, under Section 2.8 [Letter of Credit Subfacility] or 4.3 [Interest After Default] or 9 [Default]. The Borrower's obligations under this paragraph shall survive the termination of the Commitments and the repayment of all other Obligations hereunder.

APPLICABLE COMMITMENT FEE BASED ON REVOLVING FACILITY USAGE

Applicable Commitment Fee Rate	Revolving Facility Usage > 50% of aggregate Revolving Credit Commitments	Revolving Facility Usage < 50% of aggregate Revolving Credit Commitments
	0.25%	0.375%

For purposes of determining the Applicable Commitment Fee Rate:

The Applicable Commitment Fee Rate shall be computed as of the end of each fiscal quarter based on the average Revolving Facility Usage for such fiscal quarter. Any increase or decrease in the Applicable Commitment Fee Rate computed as of a quarter end shall be effective on such date.

SCHEDULE 1.1(A) - 2

SCHEDULE 1.1(B)

COMMITMENTS OF LENDERS AND ADDRESSES FOR NOTICES(54)

Page 1 of 2

Part 1 - Commitments of Lenders and Addresses for Notices to Lenders

Lender	Amount of Commitment for Revolving Credit Loans	Commitment	Ratable Share
PNC Bank, National Association 2 North Lake Avenue, Suite 440 Pasadena, CA 91101 Attention: Steve Roberts Telephone: 626-432-6128 Telecopy: 626-432-4589	\$ 50,000,000	\$ 50,000,000	50%
HSBC Bank USA, N.A. 660 S. Figueroa Street., Suite 800 Los Angeles, CA 90017 Attn: Hans Lin Fax 213-553-8056(55)	\$ 25,000,000	\$ 25,000,000	25%
JPMorgan Chase Bank 1125 17th Street, 3rd Floor Denver, CO 80202 Attention: Monica Popowczak Telephone: 303-244-3238 Telecopy: 303-244-3105	\$ 25,000,000	\$ 25,000,000	25%
Total	\$ 100,000,000	\$ 100,000,000	100%

(54) 1st Amendment

(55) 5th Amendment

SCHEDULE 1.1(B)

COMMITMENTS OF LENDERS AND ADDRESSES FOR NOTICES

Page 2 of 2

Part 2 - Addresses for Notices to Administrative Agent, Borrower and Guarantors:

ADMINISTRATIVE AGENT

PNC Bank, National Association

2 North Lake Avenue, Suite 440

Pasadena, CA 91101

Attention: Steve Roberts

Telephone: 626-432-6128

Telecopy: 626-432-4589

With a Copy To:

Agency Services, PNC Bank, National Association

Mail Stop: P7-PFSC-04-I

Address: 500 First Avenue

Pittsburgh, PA 15219

Attention: Agency Services

Telephone: 412-762-6442

Telecopy: 412-762-8672

BORROWER:

Crocs, Inc.

7477 East Dry Creek Parkway

Niwot, CO 80503

Attention: Mario Pasquale

Telephone: 303-848-7576

Telecopy: 303-848-7010

With a copy to:

Perkins Coie LLP

1900 Sixteenth Street, Suite 1400

Denver, CO 80202

Attention: Jason Day

Telephone: (303) 291-2362

Facsimile: (303) 291-2400

SCHEDULE 1.1(B) - 2

SCHEDULE 6.1.5

LITIGATION

The Borrowers are subject to litigation from time to time in the ordinary course of business, including employment, intellectual property and product liability claims. The Borrowers are not currently party to pending legal proceedings that the Company believes, if adversely determine, could result in a material Adverse Change, with the following possible exceptions.

1. The Company is currently subject to an audit by U.S. Customs & Border Protection (“CBP”) in respect of the period from 2006 to 2010. In October 2013, CBP issued the final audit report. In that report CBP projects that unpaid duties totaling approximately \$12.4 million are due for the period under review and recommends collection of the duties due. The Company responded that these projections are erroneous and provided arguments that demonstrate the amount due in connection with this matter is considerably less than the projection. Additionally, on December 12, 2014, the Company made an offer to settle CBP’s potential claims and tendered \$3.5 million. At this time, it is not possible to determine how long it will take CBP to evaluate the Company’s offer or to predict whether our offer will be accepted. Likewise, if a settlement cannot be reached, it is not possible to predict with any certainty whether CBP will seek to assert a claim for penalties in addition to any unpaid duties, but such an assertion is a possibility.

2. The Company is currently subject to an audit by the Brazilian Federal Tax Authorities related to imports of footwear from China between 2010-2014. On January 13, 2015, the Company was notified about the issuance of assessments totaling roughly \$5.25 million for the period January 2010 through May 2011. The Company has disputed these assessments and asserted defenses to the claims. On February 25, 2015, the Company received additional assessments totaling roughly \$11.54 million related to the remainder of the audit period. The Company has filed defenses and an appeal to these claims as well. It is not possible at this time to predict the outcome of this matter.

SCHEDULE 8.1.3

INSURANCE REQUIREMENTS RELATING TO THE COLLATERAL

COVENANTS:

At the request of the Administrative Agent, the Loan Parties shall deliver to the Administrative Agent and each of the Lenders (x) on the Closing Date and annually thereafter an original certificate of insurance signed by the Loan Parties' independent insurance broker describing and certifying as to the existence of the insurance on the Collateral required to be maintained by this Agreement and the other Loan Documents, together with a copy of the endorsement described in the next sentence attached to such certificate, and (y) from time to time a summary schedule indicating all insurance then in force with respect to each of the Loan Parties. Such policies of insurance shall contain special endorsements which include the provisions set forth below or are otherwise in form acceptable to the Administrative Agent in its reasonable discretion. The applicable Loan Parties shall notify the Administrative Agent promptly of any occurrence causing a material loss or decline in value of the Collateral and the estimated (or actual, if available) amount of such loss or decline. Any monies received by the Administrative Agent constituting insurance proceeds may, at the option of the Administrative Agent, (i) in the case of property insurance proceeds received during the existence of an Event of Default, be applied by the Administrative Agent to the payment of the Obligations in accordance with the terms of the Credit Agreement, (ii) for losses of less than \$5,000,000 received at such time as no Event of Default or Potential Default exists, be disbursed by the Administrative Agent to the applicable Loan Parties, and (iii) for losses equal to or greater than \$5,000,000 received at such time as no Event of Default or Potential Default exists, be disbursed by the Administrative Agent to the applicable Loan Parties on such terms as are deemed appropriate by the Administrative Agent for the repair, restoration and/or replacement of Collateral and other property in respect of which such proceeds were received.

ENDORSEMENT:

(i) specify the Administrative Agent as an additional insured, mortgagee and lender loss payee as its interests may appear,

(ii) with respect to all property insurance policies, provide that the interest of the Lenders shall be insured regardless of any breach or violation by the applicable Loan Parties of any warranties, declarations or conditions contained in such policies or any action or inaction of the applicable Loan Parties or others insured under such policies, except that the insurer shall not be obligated to maintain the insurance if the breach consists of non-payment of premiums which continues for 30 days after written notice to Administrative Agent,

(iii) provide a waiver of any right of the insurers to set off or counterclaim or any other deduction, whether by attachment or otherwise,

(iv) provide that any and all rights of subrogation which the insurers may have or acquire against the Loan Parties shall be, at all times and in all respects, junior and subordinate to the prior

Payment In Full of the Indebtedness hereunder and that no insurer shall exercise or assert any right of subrogation until such time as the Indebtedness hereunder has been paid in full and the Commitments have terminated,

(v) provide that no cancellation of such policies for any reason (including non-payment of premium) nor any change therein shall be effective until at least thirty (30) days after receipt by the Administrative Agent of written notice of such cancellation or change,

(vi) be primary without right of contribution of any other insurance carried by or on behalf of any additional insureds with respect to their respective interests in the Collateral, and

(vii) provide that inasmuch as the policy covers more than one insured, all terms, conditions, insuring agreements and endorsements (except limits of liability) shall operate as if there were a separate policy covering each insured.

EXHIBIT 5.9.7(A)

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of [] (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among [], and each lender from time to time party thereto.

Pursuant to the provisions of Section 5.9 [*Taxes*] of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with a certificate of its non-U.S. Person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name:
Title:

Date: , 20[]

EXHIBIT 5.9.7(B)

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of [] (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among [], and each lender from time to time party thereto.

Pursuant to the provisions of Section 5.9 [*Taxes*] of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name:

Title:

Date: , 20[]

EXHIBIT 5.9.7(C)

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of [] (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among [], and each lender from time to time party thereto.

Pursuant to the provisions of Section 5.9 [*Taxes*] of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____

Name:

Title:

Date: , 20[]

EXHIBIT 5.9.7(D)

[FORM OF]

U.S. TAX COMPLIANCE CERTIFICATE
(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to the Credit Agreement dated as of [] (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among [], and each lender from time to time party thereto.

Pursuant to the provisions of Section 5.9 [*Taxes*] of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By:

Name:
Title:

Date: , 20[]

**EXHIBIT 8.3.3
COMPLIANCE CERTIFICATE(56)**

PNC Bank, National Association
2 North Lake Avenue, Suite 440
Pasadena, CA 91101
Attention: Steve Roberts

The undersigned, the [Chief Executive Officer / President / Chief Financial Officer / Treasurer / Director of Treasury] of **CROCS, INC.**, a Delaware corporation ("Crocs"), delivers this certificate to **PNC BANK, NATIONAL ASSOCIATION** ("Administrative Agent"), in accordance with the requirements of Section 8.3.3 of that certain Amended and Restated Credit Agreement dated December 16, 2011 (as may be supplemented, restated, superseded, amended or replaced from time to time, the "Credit Agreement") among Crocs, **CROCS RETAIL, INC.**, a corporation organized under the laws of the State of Colorado ("Retail"), **OCEAN MINDED, INC.**, a corporation organized under the laws of the State of Colorado ("Ocean"), **JIBBITZ, LLC**, a limited liability company organized under the laws of the State of Colorado ("Jibbitz"), and **BITE, INC.**, a corporation organized under the laws of the State of Colorado ("Bite"), together with Crocs, Retail, Ocean, Jibbitz and each other Person joined as a borrower from time to time to the Credit Agreement, collectively the "Borrowers" and each a "Borrower"), Administrative Agent and certain financial institutions party thereto as lenders from time to time (the "Lenders"). Capitalized terms used in this Compliance Certificate, unless otherwise defined herein, shall have the meanings ascribed to them in the Credit Agreement.

1. Based upon my review of the consolidated balance sheets and statements of income of Borrowers for the fiscal period ending _____, 201____, copies of which are attached hereto, I hereby certify, in my capacity as an officer of Crocs and not in my individual capacity, that:

- (a) the Fixed Charge Coverage Ratio was _____ to 1.0 (minimum required _____ to 1.0);
- (b) Borrowers Leverage Ratio was _____ to 1.0 (maximum permitted _____ to 1.0);
- (c) Borrowers had Global Cash of \$ _____ (minimum required \$50,000,000); and
- (d) Borrowers were in compliance with the requirements of Sections 8.2.1, 8.2.3, 8.2.4 and 8.2.5 of the Credit Agreement.

Attached as Schedule "A" are the details underlying such financial covenant calculations.

(56) 6th Amendment

2. No Potential Default exists on the date hereof, other than: _____ [if none, so state, if a Potential Default exists, state steps being taken with respect to such Potential Default]; and

3. No Event of Default exists on the date hereof, other than: _____ [if none, so state, if an Event of Default exists, state steps being taken with respect to such Event of Default].

Very truly yours,

By: _____
_____, as
of Crocs

EXHIBIT B
SCHEDULES

SCHEDULE 6.1.5

LITIGATION

The Borrowers are subject to litigation from time to time in the ordinary course of business, including employment, intellectual property and product liability claims. The Borrowers are not currently party to pending legal proceedings that the Company believes, if adversely determined, could result in a material Adverse Change, with the following possible exceptions.

1. The Company is currently subject to an audit by U.S. Customs & Border Protection (“CBP”) in respect of the period from 2006 to 2010. In October 2013, CBP issued the final audit report. In that report CBP projects that unpaid duties totaling approximately \$12.4 million are due for the period under review and recommends collection of the duties due. The Company responded that these projections are erroneous and provided arguments that demonstrate the amount due in connection with this matter is considerably less than the projection. Additionally, on December 12, 2014, the Company made an offer to settle CBP’s potential claims and tendered \$3.5 million. At this time, it is not possible to determine how long it will take CBP to evaluate the Company’s offer or to predict whether our offer will be accepted. Likewise, if a settlement cannot be reached, it is not possible to predict with any certainty whether CBP will seek to assert a claim for penalties in addition to any unpaid duties, but such an assertion is a possibility.

2. The Company is currently subject to an audit by the Brazilian Federal Tax Authorities related to imports of footwear from China between 2010-2014. On January 13, 2015, the Company was notified about the issuance of assessments totaling roughly \$5.25 million for the period January 2010 through May 2011. The Company has disputed these assessments and asserted defenses to the claims. On February 25, 2015, the Company received additional assessments totaling roughly \$11.54 million related to the remainder of the audit period. The Company has filed defenses and an appeal to these claims as well. It is not possible at this time to predict the outcome of this matter.

ASSIGNMENT AND ASSUMPTION AGREEMENT

ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of February 18, 2016, by HSBC BANK USA, N.A. (the "Transferor Lender"), PNC BANK, NATIONAL ASSOCIATION, (the "Purchasing Lender"), and PNC BANK, NATIONAL ASSOCIATION, as administrative agent for the Lenders under the Amended and Restated Credit Agreement described below (in such capacity, the "Administrative Agent").

WITNESSETH

WHEREAS, this Assignment and Assumption Agreement is being executed and delivered in accordance with Section 11.9.2 of that certain Amended and Restated Credit Agreement dated as of December 16, 2011 (as may be amended, supplemented or otherwise modified from time to time in accordance with the terms thereof, the "Credit Agreement") by and among **CROCS, INC., CROCS RETAIL, LLC, OCEAN MINDED, INC., JIBBITZ, LLC, BITE, INC.** (collectively with any other Person joined as a borrower thereto from time to time, the "Borrowers" and each a "Borrower"), the financial institutions which are now or which hereafter become a party thereto (collectively, the "Lenders") and the Administrative Agent.

WHEREAS, Purchasing Lender wishes to purchase Transferor Lender's rights, obligations and commitments under the Credit Agreement; and

WHEREAS, the Transferor Lender is selling and assigning to Purchasing Lender rights, obligations and commitments under the Credit Agreement;

NOW, THEREFORE, the parties hereto hereby agree as follows:

All capitalized terms used herein which are not defined shall have the meanings given to them in the Credit Agreement.

1. Upon receipt by the Administrative Agent of four (4) counterparts of this Assignment and Assumption Agreement, to each of which is attached a fully completed Schedule I, and each of which has been executed by the Transferor Lender, the Purchasing Lender and Administrative Agent, Administrative Agent will transmit to Transferor Lender and Purchasing Lender a Transfer Effective Notice, substantially in the form of Schedule II to this Assignment and Assumption Agreement (a "Transfer Effective Notice"). Such Transfer Effective Notice shall set forth, *inter alia*, the date on which the transfer effected by this Assignment and Assumption Agreement shall become effective (the "Transfer Effective Date"), which date unless otherwise noted therein, shall not be earlier than the first Business Day following the date such Transfer Effective Notice is received. From and after the Transfer Effective Date, Purchasing Lender shall be a Lender party to the Credit Agreement for all purposes thereof.

2. At or before 12:00 Noon (New York time) on the Transfer Effective Date, Purchasing Lender shall pay to Transferor Lender, in immediately available funds, an amount equal to the purchase price, as agreed between Transferor Lender and such Purchasing Lender (the "Purchase Price"), of the portion of the Loans being purchased by such Purchasing Lender (such Purchasing Lender's "Purchased Percentage") of the outstanding Loans and other amounts (including any amounts related to letters of credit, guarantees or swingline loans) owing to the Transferor Lender under the Credit Agreement and the Note(s) of Transferor Lender, as set forth in Schedule I hereto. Effective upon receipt by Transferor Lender of the Purchase Price from a Purchasing Lender, Transferor Lender hereby irrevocably sells, assigns and transfers to such Purchasing Lender, without recourse, representation or warranty, and Purchasing Lender hereby irrevocably purchases, takes and assumes from Transferor Lender, such Purchasing Lender's Purchased Percentage of the Loans and other amounts (including any amounts related to letters of credit, guarantees or swingline loans) owing to the Transferor Lender under the Credit Agreement and such Note(s) together with all instruments, documents and collateral security pertaining thereto.

3. Transferor Lender has made arrangements with Purchasing Lender with respect to (i) the portion, if any, to be paid, and the date or dates for payment, by Transferor Lender to such Purchasing Lender of any fees heretofore received by Transferor Lender pursuant to the Credit Agreement prior to the Transfer Effective Date and (ii) the portion, if any, to be paid, and the date or dates of payment, by such Purchasing Lender to Transferor Lender of fees or interest received by such Purchasing Lender pursuant to the Credit Agreement from and after the Transfer Effective Date.

4. All principal payments that would otherwise be payable from and after the Transfer Effective Date to or for the account of Transferor Lender pursuant to the Credit Agreement and the Note(s) of Transferor Lender shall, instead, be

payable to or for the account of Transferor Lender and Purchasing Lender, as the case may be, in accordance with their respective interests as reflected in Schedule I of this Assignment and Assumption Agreement.

5. All interest, fees and other amounts that would otherwise accrue for the account of Transferor Lender from and after the Transfer Effective Date pursuant to the Credit Agreement and the Note(s) of Transferor Lender shall, instead, accrue for the account of, and be payable to, Transferor Lender and Purchasing Lender, as the case may be, in accordance with their respective interests as reflected in Schedule I of this Assignment and Assumption Agreement. In the event that any amount of interest, fees or other amounts accruing prior to the Transfer Effective Date was included in the Purchase Price paid by any Purchasing Lender and is received by Transferor Lender, Transferor Lender and Purchasing Lender will make appropriate arrangements for payment by Transferor Lender to such Purchasing Lender of such amount upon receipt thereof by Transferor Lender from the Borrowers.

6. [Intentionally omitted.]

7. Each of the parties to this Assignment and Assumption Agreement agrees that at any time and from time to time upon the written request of any other party, it will execute and deliver such further documents and do such further acts and things as such other party may reasonably request in order to effect the purposes of this Assignment and Assumption Agreement.

8. By executing and delivering this Assignment and Assumption Agreement, Transferor Lender and Purchasing Lender confirm to and agree with each other and Administrative Agent and Lenders as follows: (i) other than the representation and warranty that it is the legal and beneficial owner of the interest being assigned hereby free and clear of any adverse claim, Transferor Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement, the Note(s) of Transferor Lender or any other instrument or document furnished pursuant thereto; (ii) Transferor Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of Borrowers or the performance or observance by Borrowers of any of the Obligations under the Credit Agreement, the Note(s) or any other instrument or document furnished pursuant hereto; (iii) Purchasing Lender confirms that it has received a copy of the Credit Agreement, together with copies of such financial statements and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption Agreement; (iv) Purchasing Lender will, independently and without reliance upon Administrative Agent, Transferor Lender or any other Lenders and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement; (v) Purchasing Lender appoints and authorizes Administrative Agent on its behalf to take such action as agent and to exercise such powers under the Credit Agreement and Loan Documents as are delegated to the Administrative Agent by the terms thereof; (vi) Purchasing Lender agrees that it will perform all of its respective obligations as set forth in the Credit Agreement and Loan Documents to be performed by each as a Lender; and (vii) Purchasing Lender represents and warrants to Transferor Lender, Lenders, Administrative Agent and the Borrowers that it is either (x) entitled to the benefits of an income tax treaty with the United States of America that provides for an exemption from the United States withholding tax on interest and other payments made by the Borrowers under the Credit Agreement and Loan Documents or (y) is engaged in trade or business within the United States of America.

9. Schedule I hereto sets forth the revised Commitments of Transferor Lender and the Commitments of Purchasing Lender as well as administrative information with respect to Purchasing Lender.

10. This Assignment and Assumption Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Assumption Agreement to be executed by their respective duly authorized officers on the date set forth above.

HSBC BANK USA, N.A.
as Transferor Lender

By: _____
Name:
Title:

PNC BANK, NATIONAL ASSOCIATION
as Purchasing Lender

By: _____
Name: Steve C. Roberts
Title: Vice President

PNC BANK, NATIONAL ASSOCIATION
as Administrative Agent

By: _____
Name: Steve C. Roberts
Title: Vice President

[Signature Page To Assignment and Assumption Agreement (Cros)]

Acknowledged and agreed:

CROCS, INC.
OCEAN MINDED, INC.
BITE, INC.

By: _____
Name: Carrie W. Teffner
Title: Chief Financial Officer

CROCS RETAIL, LLC
JIBBITZ, LLC

By: _____
Name: Carrie W. Teffner
Title: Manager

[Signature Page To Assignment and Assumption Agreement (Cros)]

SCHEDULE I TO ASSIGNMENT AND ASSUMPTION AGREEMENT
LIST OF OFFICES, ADDRESSES FOR NOTICES AND COMMITMENT AMOUNTS

HSBC BANK USA, N.A. ("Transferor Lender")		
Pre-Transfer Effective Date Revolving Credit Commitment of Transferor Lender	\$	25,000,000
Pre-Transfer Effective Date Revolving Credit Commitment of Transferor Lender as a percentage of all Revolving Credit Commitments		25
Pre-Transfer Effective Date Outstanding Revolving Credit Loans and Participation Advances of Transferor Lender	\$	—
Post-Transfer Effective Date Revolving Credit Commitment of Transferor Lender	\$	—
Post-Transfer Effective Date Revolving Commitment Percentage of Transferor Lender		—
Post-Transfer Effective Date Outstanding Revolving Credit Loans and Participation Advances of Transferor Lender	\$	—
PNC BANK, NATIONAL ASSOCIATION ("Purchasing Lender")		
Pre-Transfer Effective Date Revolving Credit Commitment of Purchasing Lender	\$	75,000,000
Pre-Transfer Effective Date Revolving Credit Commitment of Purchasing Lender as a percentage of all Revolving Credit Commitments		75
Pre-Transfer Effective Date Outstanding Revolving Credit Loans and Participation Advances of Purchasing Lender	\$	—
Post-Transfer Effective Date Revolving Credit Commitment of Purchasing Lender	\$	100,000,000
Post-Transfer Effective Date Revolving Commitment Percentage of Transferor Lender		100
Post-Transfer Effective Date Outstanding Revolving Credit Loans and Participation Advances of Transferor Lender	\$	—

[Assignment and Assumption Agreement (Cross)]

SCHEDULE II TO ASSIGNMENT AND ASSUMPTION AGREEMENT

To: HSBC BANK USA, N.A., as Transferor Lender and PNC BANK, NATIONAL ASSOCIATION, as Purchasing Lender:

The undersigned, as Administrative Agent under the Amended and Restated Credit Agreement dated as of December 16, 2011, as has been amended, supplemented or otherwise modified from time to time in accordance with the terms thereof, among CROCS, INC., CROCS RETAIL, LLC, OCEAN MINDED, INC., JIBBITZ, LLC, BITE, INC., PNC BANK, NATIONAL ASSOCIATION (“PNC”), each of the financial institutions party thereto from time to time as lenders (PNC and such other financial institutions, the “Lenders”), and PNC as administrative agent for the Lenders, acknowledges receipt of four (4) executed counterparts of a completed Assignment and Assumption Agreement in the form attached hereto. Terms defined in such Assignment and Assumption Agreement are used herein as therein defined.

Pursuant to such Assignment and Assumption Agreement, you are advised that the Transfer Effective Date will be February 18, 2016.

PNC BANK, NATIONAL ASSOCIATION,
as Administrative Agent

By: _____
Name: Steve C. Roberts
Title: Vice President

ACCEPTED FOR RECORDATION
IN REGISTER:

[Assignment and Assumption Agreement (Cros)]

THIRTEENTH AMENDMENT TO
AMENDED AND RESTATED CREDIT AGREEMENT

This Thirteenth Amendment to Amended and Restated Credit Agreement (the "Amendment"), is made this 22nd day of November, 2016 among **CROCS, INC.**, a corporation organized under the laws of the State of Delaware ("Crocs"), **CROCS RETAIL, LLC**, a limited liability company organized under the laws of the State of Colorado ("Retail"), **OCEAN MINDED, INC.**, a corporation organized under the laws of the State of Colorado ("Ocean"), **JIBBITZ, LLC**, a limited liability company organized under the laws of the State of Colorado ("Jibbitz"), **BITE, INC.**, a corporation organized under the laws of the State of Colorado ("Bite"), together with Crocs, Retail, Ocean, Jibbitz and each other Person joined as a borrower from time to time to the Credit Agreement (as defined below), collectively "Borrowers" and each a "Borrower", the Lenders who have executed this Amendment (the "Consenting Lenders") and **PNC BANK, NATIONAL ASSOCIATION** ("PNC"), as agent for Lenders (PNC, in such capacity, the "Administrative Agent"). All capitalized terms used and not otherwise defined herein shall have the meaning ascribed thereto in the below-defined Credit Agreement, as amended hereby.

BACKGROUND

A. On December 16, 2011, Borrowers, Lenders and Administrative Agent entered into, inter alia, that certain Amended and Restated Credit Agreement (as same has been or may hereafter be amended, modified, renewed, extended, restated or supplemented from time to time, including without limitation as amended by that certain First Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of December 10, 2012, that certain Second Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of June 12, 2013, that certain Third Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of December 27, 2013, that certain Fourth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of March 27, 2014, that certain Fifth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of September 26, 2014, that certain Sixth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of April 2, 2015, that certain Seventh Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of April 21, 2015, that certain Eighth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of September 1, 2015, that certain Ninth Amendment to Amended and Restated Credit Agreement by and among parties hereto dated as of November 3, 2015, that certain Tenth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of December 24, 2015, that certain Eleventh Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of February 18, 2016, and that certain Twelfth Amendment to Amended and Restated Credit Agreement by and among the parties hereto dated as of June 13, 2016, the "Credit Agreement") to reflect certain financing arrangements among the parties thereto.

B. Borrowers have requested and Administrative Agent and Consenting Lenders have agreed to modify certain terms and provisions of the Credit Agreement, in each case, on the terms and subject to the conditions contained in this Amendment.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

Section 1. Amendments to Credit Agreement. Upon the Effective Date (as defined below):

(a) Indebtedness. Clause (v) of the definition of “Consolidated EBITDA” in Section 1.1 of the Credit Agreement shall be deleted in its entirety and replaced as follows:

(v) one-time charges including impairments with the consent of Administrative Agent in the aggregate not to exceed \$25,000,000 for any trailing twelve month period ending after December 31, 2015 of which up to \$7,500,000 may be cash-charges; provided, that such cash-charges shall not exceed an aggregate amount of \$20,000,000 for the period beginning on January 1, 2016 and ending on the Expiration Date;

Section 2. Acknowledgment of Guarantors. With respect to the amendments to the Credit Agreement effected by this Amendment, each Guarantor signatory hereto hereby acknowledges and agrees to this Amendment and confirms and agrees that its Guaranty Agreement (as modified and supplemented in connection with this Amendment) and any other Loan Document to which it is a party is and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects except that, upon the effectiveness of, and on and after the date of this Amendment, each reference in such Guaranty or Loan Document to the Credit Agreement, “thereunder”, “thereof” or words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement as amended or modified by this Amendment. Although Administrative Agent and the Consenting Lenders have informed the Guarantors of the matters set forth above, and the Guarantors have acknowledged the same, each Guarantor understands and agrees that neither Administrative Agent nor any Lender has any duty under the Credit Agreement, the Guaranty Agreements or any other Loan Document to so notify any Guarantor or to seek such an acknowledgement, and nothing contained herein is intended to or shall create such a duty as to any transaction hereafter.

Section 3. Conditions Precedent. This Amendment shall be effective upon satisfaction of the following conditions (the date of such satisfaction, the “Effective Date”):

(a) Administrative Agent shall have received this Amendment fully executed by the Borrowers, the Guarantors, Administrative Agent and Consenting Lenders; and

(b) Administrative Agent shall have received an amendment fee of \$15,000, to be allocated pro-rata among Agent and Consenting Lenders based on the amount of their respective Revolving Credit Commitments, by wire transfer in immediately available Funds.

Section 4. Representations and Warranties. Each Loan Party:

(a) reaffirms all representations and warranties made to Administrative Agent and Lenders under the Credit Agreement and all of the other Loan Documents and confirms that all are true and correct in all material respects as of the date hereof (except (i) to the extent any such representations and warranties specifically relate to a specific date, in which case such representations and warranties were true and correct in all material respects on and as of such other specific date, and (ii) to the extent any such representations and warranties are qualified by materiality, in which case such representations and warranties were true and correct in all respects);

(b) reaffirms all of the covenants contained in the Credit Agreement, covenants to abide thereby until satisfaction in full of the Obligations and termination of the Credit Agreement and the other Loan Documents;

(c) represents and warrants to the Administrative Agent and the Lenders that no Potential Default or Event of Default has occurred and is continuing under any of the Loan Documents or will result from this Amendment;

(d) represents and warrants to the Administrative Agent and the Lenders that it has the authority and legal right to execute, deliver and carry out the terms of this Amendment, that such actions were duly authorized by all necessary limited liability company or corporate action, as applicable, and that the officers executing this Amendment on its behalf were similarly authorized and empowered, and that this Amendment does not contravene any provisions of its certificate of incorporation or formation, operating agreement, bylaws, or other formation documents, as applicable, or of any contract or agreement to which it is a party or by which any of its properties are bound; and

(e) represents and warrants to the Administrative Agent and the Lenders that this Amendment and all assignments, instruments, documents, and agreements executed and delivered in connection herewith, are valid, binding and enforceable in accordance with their respective terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, moratorium or similar laws affecting creditors' rights generally.

Section 5. General Provisions.

(a) Payment of Expenses. Borrowers shall pay or reimburse Administrative Agent and Lenders for their reasonable attorneys' fees and expenses in connection with the preparation, negotiation and execution of this Amendment and the documents provided for herein or related hereto.

(b) Reaffirmation. Except as modified by the terms hereof, all of the terms and conditions of the Credit Agreement, as amended, and all of the other Loan Documents are hereby reaffirmed by each Loan Party and shall continue in full force and effect as therein written.

(c) Third Party Rights. No rights are intended to be created hereunder for the benefit of any third party donee, creditor, or incidental beneficiary.

(d) Headings. The headings of any paragraph of this Amendment are for convenience only and shall not be used to interpret any provision hereof.

(e) Modifications. No modification hereof or any agreement referred to herein shall be binding or enforceable unless in writing and signed on behalf of the party against whom enforcement is sought.

(f) Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of New York applied to contracts to be performed wholly within the State of New York.

(g) Counterparts. This Amendment may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any signature delivered by a party by facsimile transmission or PDF shall be deemed to be an original signature hereto.

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

BORROWERS:

CROCS, INC.

By: /s/ Carrie W.
Teffner
Name: Carrie W. Teffner
Title: Chief Financial Officer

CROCS RETAIL, LLC

By: /s/ Carrie W.
Teffner
Name: Carrie W. Teffner
Title: Manager

OCEAN MINDED, INC.

By: /s/ Carrie W.
Teffner
Name: Carrie W. Teffner
Title: Chief Financial Officer

JIBBITZ, LLC

By: /s/ Carrie W.
Teffner
Name: Carrie W. Teffner
Title: Manager

BITE, INC.

By: /s/ Carrie W.
Teffner

Name: Carrie W. Teffner
Title: Chief Financial Officer

GUARANTORS:

[Signature Page to Thirteenth Amendment (Cross)]

**WESTERN BRANDS HOLDING
COMPANY, LLC**

By: /s/ Carrie W.

Teffner

Name: Carrie W. Teffner

Title: Manager

[Signature Page to Thirteenth Amendment (Cros)]

PNC BANK, NATIONAL ASSOCIATION,
as a Lender and as Administrative Agent

By: /s/ Steve C. Roberts
Name: Steve C. Roberts
Title: Vice President

HSBC BANK USA, N.A.,
as a Lender

By: /s/ Jean Frammolino
Name: Jean Frammolino
Title: SVP

[Signature Page to Thirteenth Amendment (Crocs)]

List of Subsidiaries

Subsidiary	Jurisdiction
Western Brands Holding Company, LLC	Colorado
Crocs Retail, LLC	Colorado
Western Brands Netherlands Holding C.V.	Netherlands
Crocs Puerto Rico, Inc.	Puerto Rico
4246519 Canada Inc.	Canada
Ocean Minded, Inc.	Colorado
Jibbitz LLC	Colorado
Bite, Inc.	Colorado
Crocs General Partner LLC	Delaware
Colorado Footwear C.V.	Netherlands
Crocs Canada Inc.	Canada
Exo Italia S.R.L.	Italy
Crocs Europe B.V.	Netherlands
Crocs Brazil Comercio de Calçados Ltda	Brazil
Crocs US Latin American Holdings, LLC	Delaware
Crocs Italy S.r.l.	Italy
Crocs Europe Stores S.L.	Spain
Crocs Stores Ireland Limited	Ireland
Crocs Belgium NV	Belgium
Crocs Portugal, Lda.	Portugal
Crocs Stores B.V.	Netherlands
Crocs Germany GmbH	Germany
Crocs UK Limited	United Kingdom
Crocs France S.A.R.L.	France
Crocs Nordic OY	Finland
Crocs BH LLC	Bosnia-Herzgovina
Crocs Distribution FZE	Dubai
LLC Crocs CIS	Russia
Panama Footwear Distribution S. De R.L.	Panama
Crocs Stores OY	Finland
Crocs Stores AB	Sweden
Crocs Mexico Trading	Mexico
Crocs Mexico SRL de CV	Mexico
Crocs Servicios SRL de CV	Mexico
Crocs S.R.L.	Argentina
Crocs Chile Ltda.	Chile
Crocs Asia Pte Ltd.	Singapore
Crocs Asia Pte Ltd.	Japan
Crocs Korea Pte Ltd.	South Korea
Crocs Hong Kong Ltd.	Hong Kong
Crocs Malaysia Sdn Bhd	Malaysia
Crocs Japan GK	Japan

Crocs Footwear and Accessories (FICE2)	China
Crocs Trading (Shanghai) Co. Ltd.	China
Crocs Japan GK	Taiwan
Crocs Industrial (Hong Kong) Co. Ltd.	Hong Kong
Crocs Singapore Pte Ltd.	Singapore
Crocs India Private Limited	India
Crocs NZ Limited	New Zealand
Crocs Australia Pty Ltd.	Australia
Crocs Industrial (Shenzhen) Co. Ltd.	China
Crocs Middle East	UAE
Crocs Gulf JV	UAE
Crocs Vietnam, Ltd.	Vietnam
Crocs Accessories LP	Delaware
Crocs Austria GmbH	Austria

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement Nos. 333-132312, 333-144705, 333-176696, and 333-204841 on Form S-8 of our reports dated March 1, 2017, relating to the consolidated financial statements of Crocs, Inc. and subsidiaries (which report expresses an unqualified opinion and includes an explanatory paragraph relating to a change in the method of accounting for shared-based payments due to the adoption of Accounting Standards Update (ASU) 2016-09, *Improvements to Employee Share-Based Payment Accounting*) and the effectiveness of Crocs, Inc. and subsidiaries' internal control over financial reporting, appearing in the Annual Report on Form 10-K of Crocs, Inc. for the year ended December 31, 2016.

/s/ DELOITTE & TOUCHE LLP

Denver, Colorado
March 1, 2017

SECTION 302 CERTIFICATION

I, Gregg S. Ribatt, certify that:

1. I have reviewed this annual report on Form 10-K of Crocs, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 1, 2017

/s/ Gregg S. Ribatt

Gregg S. Ribatt

Chief Executive Officer

SECTION 302 CERTIFICATION

I, Carrie W. Teffner, certify that:

1. I have reviewed this annual report on Form 10-K of Crocs, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 1, 2017

/s/ Carrie W. Teffner

Carrie W. Teffner

Executive Vice President and Chief Financial Officer

**CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002**

The undersigned, Chief Executive Officer and Chief Financial Officer of Crocs, Inc. (the "Company"), hereby certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that to the best of their knowledge:

- (1) The Annual Report on Form 10-K of the Company for the year ended December 31, 2016 ("Form 10-K") fully complies with the requirements of Section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)), and
- (2) The information contained in the Form 10-K fairly presents, in all material respects, the financial condition and results of operations of the Company for the period covered by this Form 10-K.

Date: March 1, 2017

/s/Gregg S. Ribatt

Gregg S. Ribatt

Chief Executive Officer

/s/ Carrie W. Teffner

Carrie W. Teffner

Executive Vice President and Chief Financial Officer

A signed original of this written statement required by Section 906 has been provided to Crocs, Inc. and will be retained by Crocs, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

