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

FORM 10-K

(Mark One)

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

For the fiscal year ended January 30, 2021

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

Commission File Number: 001-36212

VINCE HOLDING CORP.

(Exact name of registrant as specified in its charter)

Delaware	**75-3264870**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

500 5th Avenue—20th Floor
New York, New York 10110
(Address of principal executive offices) (Zip code)
(212) 944-2600
(Registrant's telephone number, including area code)

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

Title of Each Class	Trading Symbol(s)	Name of Each Exchange on Which Registered
Common Stock, $0.01 par value per share	VNCE	**New York Stock Exchange**

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

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

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

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

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

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

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☒
		Emerging growth company	☐

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

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

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

The aggregate market value of the registrant's Common Stock held by non-affiliates as of August 1, 2020, the last day of the registrant's most recently completed second quarter, was approximately $14.3 million based on a closing price per share of $4.57 as reported on the New York Stock Exchange on July 31, 2020. As of March 31, 2021, there were 11,812,800 shares of the registrant's Common Stock outstanding.

Portions of the registrant's definitive proxy statement to be filed with the Securities and Exchange Commission in connection with the registrant's 2021 annual meeting of stockholders are incorporated by reference into Part III of this Annual Report on Form 10-K.

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INTRODUCTORY NOTE

On November 27, 2013, Vince Holding Corp. ("VHC" or the "Company"), previously known as Apparel Holding Corp., closed an initial public offering ("IPO") of its common stock and completed a series of restructuring transactions (the "Restructuring Transactions") through which Kellwood Holding, LLC acquired the non-Vince businesses, which included Kellwood Company, LLC ("Kellwood Company" or "Kellwood"), from the Company. The Company continues to own and operate the Vince business, which includes Vince, LLC.

On November 18, 2016, Kellwood Intermediate Holding, LLC and Kellwood Company, LLC entered into a Unit Purchase Agreement with Sino Acquisition, LLC (the "Kellwood Purchaser") whereby the Kellwood Purchaser agreed to purchase all of the outstanding equity interests of Kellwood Company, LLC. Prior to the closing, Kellwood Intermediate Holding, LLC and Kellwood Company, LLC conducted a pre-closing reorganization pursuant to which certain assets of Kellwood Company, LLC were distributed to a newly formed subsidiary of Kellwood Intermediate Holding, LLC, St. Louis Transition, LLC ("St. Louis, LLC"). The transaction closed on December 21, 2016 (the "Kellwood Sale").

On November 3, 2019, Vince, LLC, an indirectly wholly owned subsidiary of VHC, completed its acquisition (the "Acquisition") of 100% of the equity interests of Rebecca Taylor, Inc. and Parker Holding, LLC (collectively, the "Acquired Businesses") from Contemporary Lifestyle Group, LLC ("CLG"). Because the Acquisition was a transaction between commonly controlled entities, U.S. Generally Accepted Accounting Principles ("GAAP") required the retrospective combination of the entities for all periods presented as if the combination had been in effect since the inception of common control. See Note 2 "Business Combinations" to the Consolidated Financial Statements in this Annual Report for further information.

DISCLOSURES REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report, and any statements incorporated by reference herein, contain forward-looking statements under the Private Securities Litigation Reform Act of 1995. Forward-looking statements are indicated by words or phrases such as "may," "will," "should," "believe," "expect," "seek," "anticipate," "intend," "estimate," "plan," "target," "project," "forecast," "envision" and other similar phrases. Although we believe the assumptions and expectations reflected in these forward-looking statements are reasonable, these assumptions and expectations may not prove to be correct and we may not achieve the results or benefits anticipated. These forward-looking statements are not guarantees of actual results, and our actual results may differ materially from those suggested in the forward-looking statements. These forward-looking statements involve a number of risks and uncertainties, some of which are beyond our control, including, without limitation: the impact of the novel coronavirus (COVID-19) pandemic on our business, results of operations and liquidity; our ability to continue having the liquidity necessary to service our debt, meet contractual payment obligations, and fund our operations; further impairment of our goodwill and indefinite-lived intangible assets; general economic conditions; our ability to realize the benefits of our strategic initiatives; our ability to maintain our larger wholesale partners; the loss of certain of our wholesale partners; our ability to make lease payments when due; the execution and management of our retail store growth plans; the expected effects of the acquisition of the Acquired Businesses on the Company; our ability to successfully manage the transition of the new Chief Executive Officer; our ability to expand our product offerings into new product categories, including the ability to find suitable licensing partners; our ability to remediate the identified material weakness in our internal control over financial reporting; our ability to optimize our systems, processes and functions; our ability to mitigate system security risk issues, such as cyber or malware attacks, as well as other major system failures; our ability to comply with privacy-related obligations; our ability to comply with domestic and international laws, regulations and orders; our ability to anticipate and/or react to changes in customer demand and attract new customers, including in connection with making inventory commitments; our ability to remain competitive in the areas of merchandise quality, price, breadth of selection and customer service; our ability to keep a strong brand image; our ability to attract and retain key personnel; our ability to protect our trademarks in the U.S. and internationally; the execution and management of our international expansion, including our ability to promote our brand and merchandise outside the U.S. and find suitable partners in certain geographies; our current and future licensing arrangements; seasonal and quarterly variations in our revenue and income; our ability to ensure the proper operation of the distribution facilities by third-party logistics providers; the extent of our foreign sourcing; fluctuations in the price, availability and quality of raw materials; commodity, raw material and other cost increases; our reliance on independent manufacturers; ; other tax matters; and other factors as set forth from time to time in our Securities and Exchange Commission filings, including those described in this Annual Report under the heading "Item 1A—Risk Factors." We intend these forward-looking statements to speak only as of the date of this Annual Report and do not undertake to update or revise them as more information becomes available, except as required by law.

PART I

ITEM 1. BUSINESS.

For purposes of this Annual Report on Form 10-K, the "Company," "we," "us," and "our," refer to Vince Holding Corp. ("VHC") and its wholly owned subsidiaries, including Vince Intermediate Holding, LLC and Vince, LLC. References to "Kellwood" refer, as applicable, to Kellwood Holding, LLC and its consolidated subsidiaries (including Kellwood Company, LLC) or the operations of the non-Vince businesses after giving effect to the Restructuring Transactions and prior to the Kellwood Sale. References to "Vince," "Rebecca Taylor" or "Parker" refer only to the referenced brand.

Overview

We are a global contemporary group, consisting of three brands: Vince, Rebecca Taylor, and Parker. As mentioned above, on November 3, 2019, we completed the acquisition of 100% of the equity interests of Rebecca Taylor, Inc. and Parker Holding, LLC from CLG. We serve our customers through wholesale and direct-to-consumer channels that reinforce our brand images.

We have a select number of wholesale partners who account for a significant portion of our net sales. In fiscal 2020 and fiscal 2019, sales to one wholesale partner, Nordstrom Inc., accounted for more than ten percent of the Company's net sales. These sales represented 21% of fiscal 2020 and 22% of fiscal 2019 net sales, respectively.

We design our products in the U.S. and source the vast majority of our products from contract manufacturers outside the U.S., primarily in Asia.

The Company operates on a fiscal calendar widely used by the retail industry that results in a given fiscal year consisting of a 52 or 53-week period ending on the Saturday closest to January 31.

- References to "fiscal year 2020" or "fiscal 2020" refer to the fiscal year ended January 30, 2021; and
- References to "fiscal year 2019" or "fiscal 2019" refer to the fiscal year ended February 1, 2020.

Each of fiscal years 2020 and 2019 consisted of a 52-week period.

Our principal executive office is located at 500 5th Avenue, 20th Floor, New York, New York 10110, and our telephone number is (212) 944-2600. Our corporate website address is *www.vince.com*.

Recent Developments

The spread of COVID-19, which was declared a pandemic by the World Health Organization in March 2020, caused state and municipal public officials to mandate jurisdiction-wide curfews, including "shelter-in-place" and closures of most non-essential businesses as well as other measures to mitigate the spread of the virus.

The following summarizes the various measures we have implemented to effectively manage our business as well as the impacts from the COVID-19 pandemic during the year ended January 30, 2021.

- While we continued to serve our customers through our online e-commerce websites during the periods in which we were forced to shut down all of our domestic and international retail locations alongside other retailers, including our wholesale partners, the store closures resulted in a sharp decline in our revenue and ability to generate cash flows from operations. We began reopening stores during May 2020 and nearly all of the Company's stores have since reopened in a limited capacity in accordance with state and local regulations related to the COVID-19 pandemic. Other than Hawaii and the UK which re-closed for a short period and subsequently re-opened based on the local stay-at-home order, we have not been impacted by any re-closure orders or regulations.

  As a result of store closures and the decline in projected cash flows, the Company recognized a non-cash impairment charge related to property and equipment and operating lease right-of-use ("ROU") assets to adjust the carrying amounts of certain store locations to their estimated fair value. During the year ended January 30, 2021, the Company recorded an impairment of property and equipment and operating lease ROU assets of $4,470 and $8,556, respectively. The impairment charges are recorded within Impairment of long-lived assets on the Consolidated Statement of Operations and Comprehensive Income (Loss) in this Annual Report. See Note 1 "Description of Business and Summary of Significant Accounting Policies – (K) Impairment of Long-lived Assets" to the Consolidated Financial Statements in this Annual Report for additional information.

  The Company incurred a non-cash impairment charge of $13,848 on goodwill and intangible assets during the year ended January 30, 2021 as a result of the decline in long-term projections due to COVID-19. See Note 3 "Goodwill and Intangible Assets" to the Consolidated Financial Statements in this Annual Report for additional information;

- We entered into a loan agreement with Sun Capital Partners, Inc. who own approximately 72% of the outstanding shares of the Company's common stock (see Note 14 "Related Party Transactions" to the Consolidated Financial Statements in this Annual Report for further discussion regarding our relationship with Sun Capital), as well as amendments to our 2018 Term Loan Facility and our 2018 Revolving Credit Facility to provide additional liquidity and amend certain financial covenants to allow increased operational flexibility. See Note 5 "Long-Term Debt and Financing Arrangements" to the Consolidated Financial Statements in this Annual Report for additional information;
- Furloughed all of our retail store associates as well as a significant portion of our corporate associates during the period of store closures and reinstated a limited number of associates commensurate to the store re-openings as well as other business needs;
- Temporarily reduced retained employee salaries and suspended board retainer fees;
- Engaged in active discussions with landlords to address the current operating environment, including amending existing lease terms. See Note 12 "Leases" to the Consolidated Financial Statements in this Annual Report for additional information;
- Executed other operational initiatives to carefully manage our investments across all key areas, including aligning inventory levels with anticipated demand and reevaluating non-critical capital build-out and other investments and activities; and
- Streamlined our expense structure in all areas such as marketing, distribution, and product development to align with the business environment and sales opportunities.

The COVID-19 pandemic remains highly volatile and continues to evolve on a daily basis. See Item 1A. Risk Factors — "*Risks Related to Our Business and Industry — The COVID-19 pandemic has adversely affected, and is expected to continue to adversely affect, our business, financial condition, cash flow, liquidity and results of operations*" for additional discussion regarding risks to our business associated with the COVID-19 pandemic.

Our Brands

Vince

Vince, established in 2002, is a leading global luxury apparel and accessories brand best known for creating elevated yet understated pieces for every day effortless style. Known for its range of luxury products, Vince offers women's and men's ready-to-wear, footwear and accessories through 47 full-price retail stores, 15 outlet stores, its e-commerce site, *www.vince.com* and through its subscription service Vince Unfold, *www.vinceunfold.com*, as well as through premium wholesale channels globally.

Our wholesale business is comprised of sales to major department stores and specialty stores in the U.S. and in select international markets. We have distribution arrangements with a small number of wholesale partners for non-licensed product which has improved profitability in the wholesale business and enables us to focus on other areas of growth for the brand, particularly in the direct-to-consumer business. We continue to collaborate with our wholesale partners in various areas including merchandising and logistics to build a more profitable and focused wholesale business.

Our wholesale business also includes our licensing business related to our licensing arrangement for our women's and men's footwear. The licensed products are sold in our own stores and by our licensee to select wholesale partners. We earn a royalty based on net sales to the wholesale partners.

Our direct-to-consumer business includes our company-operated retail and outlet stores and our e-commerce business. As of January 30, 2021, we operated 62 Vince stores, consisting of 47 company-operated full-price retail stores and 15 company-operated outlet locations. The direct-to-consumer business also includes our e-commerce website, *www.vince.com,* and our subscription business, Vince Unfold, *www.vinceunfold.com*.

The following table details the number of Vince retail stores we operated for the past two fiscal years:

	Fiscal Year	
	2020	2019
Beginning of fiscal year	62	59
Net opened	—	3
End of fiscal year	62	62

Rebecca Taylor

Rebecca Taylor, founded in 1996 in New York City, is a contemporary womenswear line lauded for its signature prints, romantic detailing and vintage inspired aesthetic, reimagined for a modern era. The Rebecca Taylor collection is available at six full-

price retail stores, three outlet stores, through our e-commerce site at *www.rebeccataylor.com* and through our subscription service Rebecca Taylor RNTD, *www.rebeccataylorrntd.com*, as well as through major department and specialty stores worldwide.

Our wholesale business is comprised of sales to major department stores and specialty stores in the U.S. and in select international markets.

Our direct-to-consumer business includes our company-operated retail stores and our e-commerce business. During fiscal 2020, we opened three net retail stores. As of January 30, 2021, we operated nine Rebecca Taylor stores, consisting of six company-operated full-price retail stores and three company-operated outlet locations. The direct-to-consumer business also includes our e-commerce website, *www.rebeccataylor.com,* and our subscription business, Rebecca Taylor RNTD, *www.rebeccataylorrntd.com*.

The following table details the number of Rebecca Taylor retail stores we operated for the past two fiscal years:

	Fiscal Year	
	2020	2019
Beginning of fiscal year	6	7
Net opened (closed)	3	(1)
End of fiscal year	9	6

Parker

Parker, founded in 2008 in New York City, is a contemporary women's fashion brand that is trend focused. While we continue to believe that the Parker brand complements our portfolio, during the first half of fiscal 2020 the Company decided to pause the creation of new products to focus resources on the operations of the Vince and Rebecca Taylor brands and to preserve liquidity.

The Parker collection was previously available through major department stores and specialty stores in the U.S. and select international markets as well as through its e-commerce website.

Business Segments

We serve our customers through a variety of channels that reinforce our brand images. Our diversified channel strategy allows us to introduce our products to customers through multiple distribution points that are presented in three reportable segments: Vince Wholesale, Vince Direct-to-consumer, and Rebecca Taylor and Parker.

	Fiscal Year			
(in thousands, except percentages)	2020	% of Total Net sales	2019	% of Total Net sales
Vince Wholesale	$ 105,737	48.1%	$ 166,805	44.4%
Vince Direct-to-consumer	86,326	39.3%	133,412	35.6%
Rebecca Taylor and Parker	27,807	12.6%	74,970	20.0%
Total net sales	$ 219,870	100.0%	$ 375,187	100.0%

Our Vince Wholesale segment is comprised of sales to major department stores and specialty stores in the U.S. and in select international markets. Our Vince Wholesale segment also includes our licensing business related to our licensing arrangement for our women's and men's footwear line.

Our Vince Direct-to-consumer segment includes our Vince company-operated retail and outlet stores, our Vince e-commerce business and our subscription business, Vince Unfold.

Our Rebecca Taylor and Parker segment consists of our operations to distribute Rebecca Taylor and Parker brand products to major department and specialty stores in the U.S. and select international markets and directly to the consumer through their own branded e-commerce platforms, our Rebecca Taylor retail and outlet stores and through our subscription business, Rebecca Taylor RNTD.

Unallocated corporate expenses are related to the Vince brand and are comprised of selling, general and administrative expenses attributable to corporate and administrative activities (such as marketing, design, finance, information technology, legal and human resource departments), and other charges that are not directly attributable to the Company's Vince Wholesale and Vince Direct-to-consumer reportable segments.

Products

We believe that our differentiated design aesthetic and strong attention to detail and fit allow us to maintain premium pricing, and that the combination of quality and value positions us as everyday luxury brands that encourage repeat purchases among our

customers. We also believe that we can expand our product assortments and distribute these expanded product assortments through our branded retail locations and our branded e-commerce platforms, as well as through our premier wholesale partners in the U.S. and select international markets.

The Vince women's collection includes seasonal collections of luxurious cashmere sweaters and silk blouses, leather and suede leggings and jackets, dresses, skirts, denim, pants, t-shirts, footwear, outerwear, and accessories. The Vince men's collection includes t-shirts, knit and woven tops, sweaters, denim, pants, blazers, footwear, and outerwear.

The Rebecca Taylor collection includes seasonal collections of occasion-forward dresses, suiting, silk blouses, leather and tweed jackets, outerwear, jumpsuits, cotton dresses and blouses, denim, sweaters, pants, skirts and knit and woven tops. The Rebecca Taylor collections are grounded in artful prints, dimensional textures, and feminine silhouettes.

The Parker collection, prior to the pause in the creation of new products as discussed above, previously included seasonal collections of occasion-forward dresses, cotton dresses, jumpsuits, silk blouses, knit and woven tops, leather jackets, sweaters, pants, and skirts.

We continue to evaluate other brand extension opportunities through both in-house development activities as well as through potential partnerships or licensing arrangements with third parties.

Design and Merchandising

Our creative teams are focused on developing and implementing the design direction for the Vince and Rebecca Taylor brands. We have dedicated design and merchandising teams for our brands which ensures that we focus on the unique positioning of each brand. Our design efforts are supported by well-established product development and production teams. We believe continued collaboration between design and merchandising will ensure we respond to consumer preferences and market trends with new innovative product offerings while maintaining our core fashion foundation.

While we continue to believe that the Parker brand complements our portfolio, during the first half of fiscal 2020 the Company decided to pause the creation of new products to focus resources on the operations of the Vince and Rebecca Taylor brands and to preserve liquidity.

Marketing, Advertising and Public Relations

We use marketing, advertising and public relations as critical tools to deliver a consistent and compelling brand message to consumers. The message and marketing strategies of our brands are cultivated by dedicated creative, design, marketing, visual merchandising, and public relations teams. These teams work closely together to develop and execute campaigns that appeal to both our core and aspirational customers.

To execute our marketing strategies, we engage in a wide range of campaign tactics that include traditional media (such as direct mail, print advertising, cooperative advertising with wholesale partners and outdoor advertising), digital media (such as email, search social, and display) and experiential campaigns (such as events) to drive traffic, brand awareness, conversion and ultimately sales across all channels. In addition, we use social platforms such as Instagram and Facebook to engage customers and create excitement about our brands. The visits to *www.vince.com* and *www.rebeccataylor.com* also provide an opportunity to grow our customer base and communicate directly with our customers.

Our public relations team conducts a wide variety of press activities to reinforce our brand images and create excitement around the brands. Our apparel has appeared in the pages of major fashion magazines such as *Vogue, Harper's Bazaar*, *Elle, InStyle, GQ*, *Esquire* and *WSJ*. Well-known trend setters in entertainment and fashion are also regularly seen wearing our brands.

Sourcing and Manufacturing

We do not own or operate any manufacturing facilities. We contract for the purchase of finished goods with manufacturers who are responsible for the entire manufacturing process, including the purchase of piece goods and trim. Although we do not have long-term written contracts with manufacturers, we have long-standing relationships with a diverse base of vendors which we believe to be mutually satisfactory. We work with more than 50 manufacturers across nine countries, with 88% of our products produced in China in fiscal 2020. For cost and control purposes, we contract with select third-party vendors in the U.S. to produce a small portion of our merchandise.

All of our garments are produced according to our specifications, and we require that all of our manufacturers adhere to strict regulatory compliance and standards of conduct. Our vendors' factories are monitored by our production team to ensure quality control, and they are monitored by independent third-party inspectors we employ for compliance with local manufacturing standards and regulations on an annual basis. We also monitor our vendors' manufacturing facilities regularly, providing technical assistance and performing in-line and final audits to ensure the highest possible quality.

Distribution Facilities

As of January 30, 2021, we operated out of seven distribution centers, two located in the U.S., two in Hong Kong, one in Canada, one in the United Kingdom and one in Belgium.

Our two warehouses in the U.S., located in California, are operated by third-party logistics providers and include dedicated space to fulfilling orders to support our wholesale partners, retail locations and e-commerce business and utilize warehouse management systems that are fully customer and vendor compliant.

Our two warehouses in Hong Kong are operated by third-party logistics providers and support our wholesale orders for international customers located primarily in Asia.

Our warehouse in the United Kingdom is operated by a third-party logistics provider and supports our Rebecca Taylor wholesale orders for international customers located primarily in Europe.

Our warehouse in Belgium is operated by a third-party logistics provider and supports our Vince wholesale orders for international customers located primarily in Europe and our Vince UK store.

Our warehouse in Canada is operated by a third-party logistics provider and supports our wholesale orders for this region.

We believe we have sufficient capacity in our domestic and international distribution facilities to support our current and projected business.

Information Systems

During fiscal 2020 we completed the migration of Rebecca Taylor and Parker brands to Vince's enterprise resources planning ("ERP") system. Our strategy includes consolidating further systems across our brands including point of sale ("POS") and other systems over time to create operational efficiencies, as well as to achieve a common platform across the Company.

See Item 1A. Risk Factors — "*Risks Related to Our Information Technology and Security — We are continuing to optimize and improve our information technology systems, processes and functions. If these systems, processes, and functions do not operate successfully, our business, financial condition, results of operations and cash flows could be materially harmed*" and Part II, Item 9A. "Controls and Procedures."

Seasonality

The apparel and fashion industry in which we operate is cyclical and, consequently, our revenues are affected by general economic conditions and the seasonal trends characteristic to the apparel and fashion industry. Purchases of apparel are sensitive to a number of factors that influence the level of consumer spending, including economic conditions and the level of disposable consumer income, consumer debt, interest rates and consumer confidence as well as the impact of adverse weather conditions. In addition, fluctuations in the amount of sales in any fiscal quarter are affected by the timing of seasonal wholesale shipments and other events affecting direct-to-consumer sales. As such, the financial results for any particular quarter may not be indicative of results for the fiscal year. We expect such seasonality to continue.

Competition

We face strong competition in each of the product categories and markets in which we compete on the basis of style, quality, price, and brand recognition. Some of our competitors have achieved significant recognition for their brand names or have substantially greater financial, marketing, distribution and other resources compared to us. However, we believe that we have established a sustainable and distinct position in the current marketplace, driven by a product assortment that combines classic and fashion-forward styling, and a pricing strategy that offers customers accessible luxury.

Human Capital

As of January 30, 2021, we had 497 employees, of which 230 were employed in our company-operated retail stores. Except for nine employees in France, who are covered by collective bargaining agreements pursuant to French law, none of our employees are currently covered by a collective bargaining agreement and we believe our employee relations are good.

Our key human capital measures include associate turnover, pay equity, professional development as well as safety, particularly in light of the COVID-19 pandemic. We have programs in place to provide associates with feedback on performance and professional development, including our formal annual performance review process. We frequently benchmark our compensation and benefits practices against comparable peers and assess them, so we continue to attract and retain talent throughout our organization.

We strive to maintain an inclusive environment free from discrimination of any kind. Associates have multiple ways to report inappropriate behavior, including through a confidential hotline. All reports of inappropriate behavior are promptly investigated with appropriate action taken to stop such behavior.

Trademarks and Licensing

We own the *Vince, Rebecca Taylor* and *Parker* trademarks for the production, marketing, and distribution of our products in the U.S. and internationally. We have registered the trademark domestically and have registrations on file or pending in a number of foreign jurisdictions. We intend to continue to strategically register, both domestically and internationally, trademarks that we use today and those we develop in the future. We license the domain name for our website, *www.vince.com*, pursuant to a license agreement. Under this license agreement, we have an exclusive, irrevocable license to use the *www.vince.com* domain name without restriction at a nominal annual cost. While we may terminate such license agreement at our discretion, the agreement does not provide for termination by the licensor. We also own unregistered copyright rights in our design marks.

Available Information

We make available free of charge on our website, *www.vince.com*, copies of our Annual Reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, proxy and information statements and all amendments to these reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as soon as reasonably practicable after filing such material electronically with, or otherwise furnishing it to, the SEC. The SEC maintains a website at *www.sec.gov* that contains reports, proxy and information statements and other information regarding the Company and other companies that electronically file materials with the SEC. The reference to our website address does not constitute incorporation by reference of the information contained on the website, and the information contained on the website is not part of this Annual Report.

ITEM 1A. RISK FACTORS.

The following risk factors should be carefully considered when evaluating our business and the forward-looking statements in this Annual Report. See "Disclosures Regarding Forward-Looking Statements." All amounts disclosed are in thousands except shares, per share amounts, percentages, stores, and number of leases.

Risks Related to Our Business and Industry

The COVID-19 pandemic has adversely affected, and is expected to continue to adversely affect, our business, financial condition, cash flow, liquidity, and results of operations.

The spread of the novel coronavirus ("COVID-19"), which was declared a pandemic by the World Health Organization in March 2020, has caused state and municipal public officials to mandate jurisdiction-wide curfews, including "shelter-in-place" and closures of most non-essential businesses as well as other measures to mitigate the spread of the virus. While we continued to serve our customers through our online e-commerce websites during the period in which we were forced to shut down all of our domestic and international retail locations alongside other retailers, including our wholesale partners, the store closures resulted in a sharp decline in our revenue and ability to generate cash flows from operations. Since May 2020, substantially all of the Company's stores have reopened without reclosing and are operating in a reduced capacity in accordance with state and local regulations. In many of our locations, we are experiencing significantly reduced customer traffic and sales relative to the same period last year. The negative impact of COVID-19 on our operations is ongoing and the extent of which remains uncertain and wide-spread, including:

- our ability to successfully execute our long-term growth strategy during these uncertain times;
- temporary closures and/or re-closures of our stores (including regulatory and/or voluntary re-closures based on the ongoing threat of the COVID-19 pandemic due to further resurgences in COVID-19 cases from variants or otherwise), distribution centers, and corporate facilities for unknown periods of time, as well as those of our wholesale partners;
- declines in the level of consumer purchases of discretionary items and luxury retail products, including our products, caused by lower disposable income levels, travel restrictions, or other factors beyond our control;
- the build-up of excess inventory as a result of store closures and/or lower consumer demand, including those resulting from potential changes in consumer traffic and shopping preferences, such as consumer willingness to shop at our or our wholesale partners' retail locations;
- supply chain disruptions resulting from closed factories, reduced workforces, scarcity of raw materials, scrutiny or embargoing of goods produced in infected areas, disruptions in the global transportation network and higher freight

costs, including the significant processing delays ongoing at the California ports, which together handle significant portions of our shipments, resulting in significantly increased freight costs;

- our ability to access capital sources and maintain compliance with our credit facilities, as well as the ability of our key customers, suppliers, and vendors to do the same in regard to their own obligations;
- our ability to collect outstanding receivables from our customers;
- a large portion of our employee population continuing to work remotely, which could increase vulnerability to cyberattacks and other cyber incidents;
- the burden of compliance with strict COVID-19 related rules and guidelines relating to health and safety as well as labor, that are frequently amended and updated; and
- diversion of management and employee attention and resources from key business activities and risk management outside of COVID-19 response efforts, including cybersecurity and maintenance of internal controls.

To date, we have taken various measures in response to COVID-19, as further described in Item 7. Management's Discussion and Analysis of Financial Conditions and Results of Operations — COVID-19. However, the COVID-19 pandemic remains highly volatile and continues to evolve on a daily basis, for example, the occurrence of additional waves of infections in the United States and globally and uncertainty related to the effectiveness and speed of vaccination distribution. Therefore, there can be no assurance that measures we have taken to respond to the COVID-19 pandemic will prove successful. These and other impacts of COVID-19 are expected to continue to adversely affect the Company's business, financial condition, cash flow, liquidity and results of operations.

Our ability to continue to have the liquidity necessary to service our debt, meet contractual payment obligations and fund our operations depends on many factors, including our ability to generate sufficient cash flow from operations, maintain adequate availability under our 2018 Revolving Credit Facility or obtain other financing.

Our ability to timely service our indebtedness, meet contractual payment obligations and to fund our operations will depend on our ability to generate sufficient cash, either through cash flows from operations or borrowing availability under the 2018 Revolving Credit Facility (as defined below), and our ability to access the capital markets if other sources of financing are unavailable on acceptable terms. Our primary cash needs are funding working capital requirements, meeting debt service requirements and capital expenditures for new stores and related leasehold improvements.

The COVID-19 pandemic has negatively impacted, and is expected to continue to negatively impact, our liquidity. See "— The COVID-19 pandemic has adversely affected, and is expected to continue to adversely affect, our business, financial condition, cash flow, liquidity and results of operations." While we believe we will have sufficient liquidity for the next twelve months, there can be no assurances in the future that we will be able to generate sufficient cash flow from operations to meet our liquidity needs, that we will have the necessary availability under the 2018 Revolving Credit Facility, or be able to obtain other financing when liquidity needs arise. In particular, our ability to continue to meet our obligations is dependent on our ability to generate positive cash flow from a combination of initiatives and failure to successfully implement these initiatives would require us to implement alternative plans to satisfy our liquidity needs. In the event that we are unable to timely service our debt, meet other contractual payment obligations or fund our other liquidity needs, we may need to refinance all or a portion of our indebtedness before maturity, seek waivers of or amendments to our contractual obligations for payment, reduce or delay scheduled expansions and capital expenditures, sell material assets or operations or seek other financing opportunities. There can be no assurance that these options would be readily available to us and our inability to address our liquidity needs could materially and adversely affect our operations and jeopardize our business, financial condition and results of operations, including causing defaults under the 2018 Term Loan Facility (as defined below), the 2018 Revolving Credit Facility or the Third Lien Credit Facility (as defined below) which could result in all amounts outstanding under those credit facilities becoming immediately due and payable.

Our operations are restricted by our credit facilities.

In August 2018, we entered into an $80,000 senior secured revolving credit facility (the "2018 Revolving Credit Facility") and a $27,500 senior secured term loan facility (the "2018 Term Loan Facility"). In November 2019, in connection with the Acquisition, we increased the aggregate commitments under the 2018 Revolving Credit Facility to $100,000 by exercising the accordion feature thereunder. The Acquired Businesses became guarantors under the 2018 Revolving Credit Facility and the 2018 Term Loan Facility and jointly and severally liable for the obligations thereunder. In addition, in December 2020, we entered into a $20,000 subordinated credit facility (the "Third Lien Credit Facility").

Our credit facilities contain significant restrictive covenants. These covenants may impair our financing and operational flexibility and make it difficult for us to react to market conditions and satisfy our ongoing capital needs and unanticipated cash requirements. Specifically, such covenants restrict our ability and, if applicable, the ability of our subsidiaries to, among other things: incur additional debt; make certain investments and acquisitions; enter into certain types of transactions with affiliates; use assets as

security in other transactions; pay dividends; sell certain assets or merge with or into other companies; guarantee the debt of others; enter into new lines of businesses; make capital expenditures; prepay, redeem, or exchange our debt; and form any joint ventures or subsidiary investments.

Furthermore, the 2018 Revolving Credit Facility and the 2018 Term Loan Facility contain certain financial covenants, including a covenant under the 2018 Term Loan Facility requiring us to maintain a specified Consolidated Fixed Charge Coverage Ratio. Pursuant to the Third Amendment and the Fifth Amendment to the 2018 Term Loan Facility entered into in June 2020 and December 2020, respectively, such requirement was suspended through the delivery of a compliance certificate relating to the fiscal quarter ending January 29, 2022, and replaced it with a springing covenant, under which the obligation to maintain a specified Consolidated Fixed Charge Coverage Ratio of 1.0 to 1.0 is triggered only when the Excess Availability under the 2018 Revolving Credit Facility falls below $7,500, or for the period between August 1, 2020 and January 29, 2022, $10,000.

Our ability to comply with the covenants, including the springing covenant described above, and other terms of our debt obligations, particularly in light of the COVID-19 pandemic, will depend on our future operating performance. If we fail to comply with such covenants and terms, and are unable to cure such failure under the terms of our credit facilities, if applicable, we would be required to obtain additional waivers from our lenders to maintain compliance with our debt obligations. If we are unable to obtain any necessary waivers and the debt is accelerated, a material adverse effect on our financial condition and future operating performance would likely result.

The terms of our debt obligations and the amount of borrowing availability under our credit facilities may also restrict or delay our ability to fulfill our obligations under the Tax Receivable Agreement. See “Tax Receivable Agreement” under Note 14 “Related Party Transactions” to the Consolidated Financial Statements in this Annual Report for further information.

Our goodwill and indefinite-lived intangible assets could become further impaired, which may require us to take significant non-cash charges against earnings.

In accordance with Financial Accounting Standards Board ASC Topic 350 Intangibles-Goodwill and Other (“ASC 350”), goodwill and other indefinite-lived intangible assets are tested for impairment at least annually during the fourth fiscal quarter and in an interim period if a triggering event occurs. Determining the fair value of goodwill and indefinite-lived intangible assets is judgmental in nature and requires the use of significant estimates and assumptions, including projected revenues, EBITDA margins, long-term growth rates, working capital, discount rates and future market conditions, among others. We base our estimates on assumptions we believe to be reasonable, but which are unpredictable and inherently uncertain. Actual future results may differ from those estimates. During the first quarter of fiscal 2020, the Company recorded $13,848 of impairment charges relating to goodwill and the tradename intangible assets due to the impact of the COVID-19 pandemic. During the second quarter of fiscal 2019, the Company recorded impairment charges of $13,376 relating to goodwill and the tradename intangible assets of the Acquired Businesses. It is possible that our current estimates of future operating results could change adversely and impact the evaluation of the recoverability of the remaining carrying value of goodwill and intangible assets and that the effect of such changes could be material. There can be no assurances that we will not be required to record further charges in our financial statements which would negatively impact our results of operations during the period in which any impairment of our goodwill or intangible assets is determined.

General economic conditions in the U.S. and other parts of the world, including a weakening of the economy and restricted credit markets, can affect consumer confidence and consumer spending patterns.

The success of our operations depends on consumer spending. Consumer spending is impacted by a number of factors, including actual and perceived economic conditions affecting disposable consumer income, customer traffic within shopping and selling environments, business conditions, interest rates and availability of credit and tax rates in the general economy and in the international, regional and local markets in which our products are sold, including those resulting from the COVID-19 pandemic. A worsening of the economy may negatively affect consumer and wholesale purchases of our products and could have a material adverse effect on our business, results of operations and financial conditions.

We may not be able to realize the benefits of our strategic initiatives.

Our business growth depends on the successful execution of our strategic initiatives for the brands. The success of our strategic initiatives depends on a number of factors including our ability to position our retail and e-commerce businesses for further strategic growth particularly through omni-channel initiatives, the effectiveness of our wholesale expansion efforts, our ability to apply certain growth strategies modeled on the Vince brand to the Acquired Businesses, our ability to properly identify appropriate future growth opportunities, and other macroeconomic impact on our business, including the impact of the COVID-19 pandemic. Moreover, as we continue to navigate through the COVID-19 pandemic, some or all of the strategic initiatives currently contemplated may become infeasible or impractical in the post-pandemic operating environment. There can be no assurance that the strategic initiatives would produce intended positive results and if we are unable to realize the benefits of the strategic initiatives, our financial conditions, results of operations and cash flows could be materially and adversely affected.

We may be unable to successfully implement and optimize our omni-channel strategy.

One of our strategic priorities is to expand our omni-channel capabilities to promote direct-to-consumer growth and enhance customer engagement and shopping experience. Our omni-channel efforts include the integration and implementation of new technology, software, and processes, involving significant investments, operational changes and employee resources. These efforts involve risks such as implementation delays, unexpected costs, technology interruptions, supply and distribution difficulties, and other issues that can affect the successful implementation and operation of our omni-channel initiatives. As we are in the initial stages of adopting and implementing these initiatives, it is unclear whether we will be able to realize the expected return on our investment in these initiatives. If our omni-channel initiatives are not successful, our financial condition, results of operations and ability for future growth could be materially and adversely affected.

One of our strategic initiatives is to focus on our direct-to-consumer business, which includes opening retail stores in select locations under more favorable and shorter lease terms and operating and maintaining our new and existing retail stores successfully. If we are unable to execute this strategy in a timely manner, or at all, our financial condition and results of operations could be materially and adversely affected.

As part of our strategy to increase focus on our direct-to-consumer business, we continue to seek retail opportunities in targeted streets or malls with desirable size and adjacencies, typically near luxury retailers that we believe are consistent with our key customers' demographics and shopping preferences, and seek to negotiate more favorable leases including shorter terms. The success of this strategy depends on a number of factors, including the identification of suitable markets and sites, negotiation of acceptable lease terms while securing those favorable locations, including desired term, rent and tenant improvement allowances, and if entering a new market, the timely achievement of brand awareness and proper evaluation of the market particularly for locations with shorter term, affinity and purchase intent in that market, as well as our business condition in funding the opening and operations of stores. Furthermore, we may not be able to maintain the successful operation of our retail stores if the areas around our existing retail locations undergo changes that result in reductions in customer foot traffic or otherwise render the locations unsuitable, such as economic downturns in the area, changes in demographics and customer preferences, and the closing or decline in popularity of adjacent stores.

As of January 30, 2021, we operated 71 stores, including 46 company-operated Vince full-price stores, 6 company-operated Rebecca Taylor full-price stores, 15 company-operated Vince outlet stores and 3 company-operated Rebecca Taylor outlet stores throughout the United States and one company-operated Vince full price store in the United Kingdom. During fiscal 2020, our retail stores were temporarily closed due to the COVID-19 pandemic and related restrictions and we engaged in discussions with landlords to address the impact of the pandemic. There is no assurance that such closures and the need to engage in additional discussions with landlords will not recur in the future. In addition, following the reopening of our stores, we experienced reduced customer foot-traffic at our stores which negatively affected our business and financial results. Although we plan to continue evaluating our store base consistent with the current operating environment, there can be no assurance that our strategies will effectively address the various prolonged impact of the pandemic, resulting in a material adverse effect on our business and financial results.

During fiscal 2020 and fiscal 2019, we recorded non-cash asset impairment charges of $13,026 and $818, respectively, within Impairment of long-lived assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) related to the impairment of property and equipment and operating lease right-of-use assets of certain retail stores with carrying values that were determined not to be recoverable and exceeded their fair value. We may in the future record further impairments of these assets.

We are subject to risks associated with leasing retail and office space, are historically subject to long-term non-cancelable leases and are required to make substantial lease payments under our operating leases, and any failure to make these lease payments when due would likely harm our business, profitability and results of operations.

We do not own any of our stores or our offices, including our New York, Los Angeles or Paris offices and showroom spaces, but instead lease all of such space under operating leases. Although our more recent leases are subject to shorter terms as a result of the implementation of our strategy to pursue shorter lease terms, many of our leases have initial terms of 10 years, and generally can be extended only for one additional 5-year term. Substantially all of our leases require a fixed annual rent, and most require the payment of additional rent if store sales exceed a negotiated amount. Most of our leases are "net" leases, which require us to pay the cost of insurance, taxes, maintenance, and utilities, and we generally cannot cancel these leases at our option. Additionally, certain of our leases allow the lessor to terminate the lease if we do not achieve a specified gross sales threshold. We cannot assure you that we will be able to achieve these required thresholds and in the event we are not able to do so, we may be forced to find an alternative store location and may not be successful in doing so. Any loss of our store locations due to underperformance may harm our results of operations, stock price and reputation.

Payments under these leases account for a significant portion of our selling, general and administrative expenses. For example, as of January 30, 2021, we were a party to 77 operating leases associated with our retail stores and our office and showroom spaces requiring future minimum lease payments of $28,590 in the aggregate through fiscal 2021 and $113,113 thereafter. Any new retail stores leased by us under operating leases will further increase our operating lease expenses and some of those stores may require

significant capital expenditures. We depend on cash flow from operations to pay our lease expenses and to fulfill our other cash needs. If our business does not generate sufficient cash flow from operating activities, and sufficient funds are not otherwise available to us from borrowings under our credit facilities or from other sources, we may not be able to service our operating lease expenses, grow our business, respond to competitive challenges or fund our other liquidity and capital needs, which would harm our business. In addition, we may remain obligated under the applicable lease for, among other things, payment of the base rent for the remaining lease term, even after the space is exited or otherwise closed (such as our temporary store closures resulting from the COVID-19 pandemic). Such costs and obligations related to the early or temporary closure of our stores or termination of our leases could have a material adverse effect on our business, results of operations, and financial condition.

If an existing or future store is not profitable, and we decide to close it, we may nonetheless be committed to perform our obligations under the applicable lease including, among others, paying the base rent for the balance of the lease term if we cannot negotiate a mutually acceptable termination payment. In addition, as our leases expire, we may fail to negotiate renewals, either on commercially acceptable terms or at all, or to find a suitable alternative location, which could cause us to close stores in desirable locations or in the case of office leases, incur costs in relocating our office space. In fiscal 2021, three of our existing store leases will expire.

A substantial portion of our revenue is derived from a small number of large wholesale partners, and the loss of any of these wholesale partners could substantially reduce our total revenue.

We historically had a small number of wholesale partners who account for a significant portion of our net sales. Our consolidated net sales to the full-price, off-price and e-commerce operations of our largest wholesale partner comprised 21% of our total revenue for fiscal 2020. We do not have formal written agreements with any of our wholesale partners and purchases generally occur on an order-by-order basis. A decision by any of our major wholesale partners, whether motivated by marketing strategy, competitive conditions, financial difficulties or otherwise, to significantly decrease the amount of merchandise purchased from us or our licensing partners, to change their manner of doing business with us or our licensing partners, could substantially reduce our revenue and have a material adverse effect on our profitability. Furthermore, due to the concentration of and/or ownership changes in our wholesale partner base, our results of operations could be adversely affected if any of these wholesale partners fails to satisfy its payment obligations to us when due or no longer takes part in the distribution arrangements. These changes could also decrease our opportunities in the market and decrease our negotiating strength with our wholesale partners. Furthermore, our wholesale partners have been significantly impacted by the COVID-19 pandemic, along with the other wholesalers, and may become unable to continue business with us as they had pre-pandemic. These factors could have a material adverse effect on our business, financial condition, and operating results.

The acquisition of the Rebecca Taylor and Parker brands, and any other future acquisitions, may not achieve its intended benefits.

We face risks associated with our strategy to grow our business through acquisitions of other brands and geographic licensees, such as our acquisition of the Rebecca Taylor and Parker brands in November 2019. For example, on June 16, 2020, we announced that in light of the COVID-19 pandemic, we temporarily suspended further creation of new product for the Parker brand. In addition, during the first quarter of fiscal 2020 and the second quarter of fiscal 2019, the Acquired Businesses recorded impairment charges $386 and $19,491, respectively, relating to goodwill, tradename, and customer relationship intangible assets. The additional difficulties that we may face that could cause the results of the Acquisition, including any anticipated operational synergies, to not be in line with our expectations include, among others:

- the prolonged impact of the COVID-19 pandemic;
- failure to implement our business plan for the combined business or to achieve anticipated revenue or profitability targets;
- higher than expected costs, lower than expected cost savings and/or a need to allocate resources to manage unexpected operating difficulties;
- unanticipated issues resulting from the integration of logistics, information and other systems;
- unanticipated changes in applicable laws and regulations;
- retaining key customers, suppliers, and employees across brands;
- operating risks inherent in the Acquired Businesses and our business;
- diversion of the attention and resources of management and resource constraints;
- assumption of liabilities not identified in due diligence or other unanticipated issues, expenses, and liabilities; and

- regulatory and compliance risks, including, the impact on our internal controls and compliance with the requirements under the Sarbanes-Oxley Act of 2002, as amended ("SOX"), particularly upon the acquisition of historically privately held businesses, which have not previously been subject to regulations applicable to the Company.

Our post-closing recourse with respect to the Acquisition is limited under the related purchase agreement. We obtained and paid for a representation and warranty insurance containing customary terms and conditions, which policy is our sole recourse for any losses we may suffer due to breaches of the representations and warranties of CLG and the Acquired Businesses in the purchase agreement other than fraud.

We may continue to pursue future acquisitions as part of our growth strategy. Any such acquisition may subject us to further risks as those described above and could have a material adverse effect on the combined businesses and impact the intended results of such acquisitions.

We may not successfully manage the transition associated with the appointment of a new Chief Executive Officer, which could have an adverse impact on us.

On August 28, 2020, Brendan Hoffman resigned from his positions as Chief Executive Officer of the Company and member of the Board to pursue another opportunity. In connection with Mr. Hoffman's resignation, the Board appointed David Stefko, our Executive Vice President, Chief Financial Officer, to serve as our Interim Chief Executive Officer in addition to his role of Chief Financial Officer. On March 8, 2021, we announced that we had appointed Jack Schwefel as our Chief Executive Officer, effective as of March 29, 2021. David Stefko resigned from the position of Interim Chief Executive Officer effective March 29, 2021, and remains Executive Vice President, Chief Financial Officer, his previously held position.

The effectiveness of our new Chief Executive Officer, and our senior leadership team generally, following these transitions and any further transition as a result of these changes, could have a significant impact on our results of operations. The failure to ensure a smooth and effective transfer of knowledge could negatively affect our results of operations and financial condition as well as our ability to execute our business strategies.

Our plans to improve and expand our product offerings may not be successful, and the implementation of these plans may divert our operational, managerial, and administrative resources, which could harm our competitive position and reduce our net sales and profitability.

We continue to grow our core product offerings and categories. For example, in fiscal 2020, we launched a limited layette capsule and an inclusive sizing collection. The principal risks to our ability to successfully carry out our plans to improve and expand our product offerings include our failure to maintain our brand identity and image, lack of expertise in the expanded categories and inherent limitations in the utilization of external partners in those categories, increased product liability exposure and general economic conditions, particularly in light of the COVID-19 pandemic. As a result, our expansion into new product categories could be abandoned, cost more than anticipated or divert resources from other areas of our business, any of which could negatively impact our competitive position and reduce our net revenue and profitability.

We have identified a material weakness in our internal control over financial reporting that could, if not remediated, result in material misstatements in our financial statements.

In fiscal 2020 there continues to exist a material weakness relating to our internal control over financial reporting which was previously identified in fiscal 2016. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of an entity's financial statements will not be prevented or detected on a timely basis. As further described in Part II, Item 9A in this Annual Report, although during fiscal 2020 we made significant progress on our comprehensive remediation plan related to the previously identified material weakness, the material weakness will not be remediated until all necessary internal controls have been implemented, tested and determined to be operating effectively. In addition, we may need to take additional measures to address such material weakness or modify the planned remediation steps, and we cannot be certain that the measures we have taken, and expect to take, to improve our internal controls will be sufficient to address the issues identified, to ensure that our internal controls are effective or to ensure that the identified material weakness will not result in a material misstatement of our consolidated financial statements. Moreover, although no additional material weakness was identified in fiscal 2020, other material weaknesses or deficiencies may develop or be identified in the future. If we are unable to correct material weaknesses or deficiencies in internal controls in a timely manner, our ability to record, process, summarize and report financial information accurately and within the time periods specified in the rules and forms of the SEC, will be adversely affected. This failure could negatively affect the market price and trading liquidity of our common stock, cause investors to lose confidence in our reported financial information, subject us to civil and criminal investigations and penalties, and otherwise materially and adversely impact our business and financial condition.

For so long as we remain a "non-accelerated filer" under the rules of the SEC, our independent registered public accounting firm is not required to deliver an annual attestation report on the effectiveness of our internal control over financial reporting. We will cease

to be a non-accelerated filer if the aggregate market value of our outstanding common stock held by non-affiliates as of the last business day of our most recently completed second fiscal quarter is $75 million or more, in which case we would become subject to the requirement for an annual attestation report by our independent registered public accounting firm on the effectiveness of our internal control over financial reporting.

Failure to comply with laws and regulations could adversely impact our business.

We are subject to numerous domestic and international laws, regulations and advisories, including labor and employment, wage and hour, customs, truth-in-advertising, consumer protection, data and privacy protection, and zoning and occupancy laws and ordinances that regulate retailers generally or govern the importation, promotion and sale of merchandise and the operation of stores and warehouse facilities. If these regulations were violated by our management, employees, vendors, independent manufacturers or partners, the costs of certain goods could increase, or we could experience delays in shipments of our products, be subject to fines or penalties, or suffer reputational harm, which could reduce demand for our merchandise and hurt our business and results of operations. Moreover, changes in product safety or other consumer protection laws could lead to increased costs to us for certain merchandise, or additional labor costs associated with readying merchandise for sale. It is often difficult for us to plan and prepare for potential changes to applicable laws and future actions or payments related to such changes could be material to us.

If we are unable to accurately forecast customer demand for our products, our results of operations could be materially impacted.

We stock our stores, and provide inventory to our wholesale partners, based on our or their estimates of future demand for particular products. Our inventory management and planning team determines the number of pieces of each product that we will order from our manufacturers based upon past sales of similar products, sales trend information and anticipated demand at our suggested retail prices. Our ability to accurately forecast demand for our products could be affected by many factors, including an increase or decrease in demand for our products or for products of our competitors, product introductions by competitors, unanticipated changes in general market conditions such as those caused by the COVID-19 pandemic, and weakening of economic conditions or consumer confidence in future economic conditions. We cannot guarantee that we will be able to match supply with demand in all cases in the future, whether as a result of the COVID-19 pandemic, our inability to produce sufficient levels of desirable product or our failure to forecast demand accurately. If we fail to accurately forecast customer demand, we may experience excess inventory levels or a shortage of products. In fiscal 2020, we recorded a charge of $6,095 associated with inventory write-downs of excess and aged product inventory. There can be no assurance that we will be able to successfully manage our inventory at a level appropriate for future customer demand.

Intense competition in the apparel and fashion industry could reduce our sales and profitability.

As a fashion company, we face intense competition from other domestic and foreign apparel, footwear and accessories manufacturers and retailers. Competition has and may continue to result in pricing pressures, reduced profit margins, lost market share or failure to grow our market share, any of which could substantially harm our business and results of operations. Some of our competitors have more established relationships with a broader set of suppliers, greater brand recognition and greater financial, research and development, marketing, distribution and other resources than we do. These capabilities of our competitors may allow them to better withstand downturns in the economy or apparel and fashion industry. Any increased competition, or our failure to adequately address any of these competitive factors which we have seen from time to time, could result in reduced sales, which could adversely affect our business, financial condition, and operating results.

Competition, along with such other factors as consolidation within the retail industry and changes in consumer spending patterns, could also result in significant pricing pressure and cause the sales environment to be more promotional, as it has been in recent years, impacting our financial results. For instance, we operated through a highly promotional sales environment during fiscal 2020 which had a negative impact on our operating results. If promotional pressure remains intense, either through actions of our competitors or through customer expectations, this may cause a further reduction in our sales and gross margins and could have a material adverse effect on our business, financial condition and operating results.

Our business depends on a strong brand image, and if we are not able to maintain or enhance our brands, particularly in new markets where we have limited brand recognition, we may be unable to sell sufficient quantities of our merchandise, which would harm our business and cause our results of operations to suffer.

We believe that maintaining and enhancing our brands is critical to maintaining and expanding our customer base. Maintaining and enhancing our brands may require us to make substantial investments in areas such as visual merchandising, marketing, and advertising, employee training and store operations. Certain of our competitors in the fashion industry have faced adverse publicity surrounding the quality, attributes and performance of their products or company culture. Any or all our brands may similarly be adversely affected if our public image or reputation is tarnished by failing to maintain high standards for merchandise quality and corporate integrity. Any negative publicity about these types of concerns may reduce demand for our merchandise. Maintaining and

enhancing our brands will depend largely on our ability to be a leading global contemporary group of apparel and accessories brands and to continue to provide high quality products. Moreover, we anticipate that, as our business expands into new markets and further penetrates existing markets, and as the markets in which we operate become increasingly competitive, maintaining, and enhancing our brands may become increasingly difficult and expensive. If we are unable to maintain or enhance our brand images, our results of operations may suffer and our business may be harmed.

If we lose any key personnel, are unable to attract key personnel, or assimilate and retain our key personnel, we may not be able to successfully operate or grow our business.

Our continued success is dependent on our ability to attract, assimilate, retain, and motivate qualified management, designers, administrative talent, and sales associates to support existing operations and future growth. Competition for qualified talent in the apparel and fashion industry is intense, and we compete for these individuals with other companies that in many cases have greater financial and other resources. The loss of the services of any members of senior management or the inability to attract and retain qualified executives could have a material adverse effect on our business, results of operations and financial condition. In addition, we will need to continue to attract, assimilate, retain, and motivate highly talented employees with a range of other skills and experience. Competition for employees in our industry, especially at the store management levels, is intense and we may from time to time experience difficulty in retaining our associates or attracting the additional talent necessary to support the growth of our business. We will also need to attract, assimilate, and retain other professionals across a range of disciplines, including design, production, sourcing, and international business, as we develop new product categories and continue to expand our international presence. See also "—We may not successfully manage the transition associated with the appointment of a new Chief Executive Officer, which could have an adverse impact on us."

Our competitive position could suffer if our intellectual property rights are not protected.

We believe that our trademarks and designs are of great value. From time to time, third parties have challenged, and may in the future try to challenge, our ownership of our intellectual property. The actions we have taken to establish and protect our trademarks and other intellectual property rights may not be adequate to prevent imitation of our products by others or to prevent others from seeking to invalidate our trademarks or block sales of our products as a violation of the trademarks and intellectual property rights of others. We may need to resort to litigation to enforce our intellectual property rights, which could result in substantial costs and diversion of resources. On the other hand, successful infringement claims against us could result in significant monetary liability, prevent us from selling some of our products or force us to redesign our products. In addition, we rely on cooperation from third parties with similar trademarks to be able to register our trademarks in jurisdictions in which such third parties have already registered their trademarks. Any of these events could harm our business and cause our results of operations, liquidity, and financial condition to suffer.

Our limited operating experience and brand recognition in international markets may delay our expansion strategy and cause our business and growth to suffer.

We face risks with respect to our strategy to expand internationally, including our efforts to further expand our business in Canada, select European countries, Asia, including China, and the Middle East through company-operated locations, wholesale arrangements as well as with international partners. Our current operations are based largely in the U.S., with international wholesale sales representing 10% of net sales for fiscal 2020. Therefore, we have a limited number of customers and experience in operating outside of the U.S. We also do not have extensive experience with regulatory environments and market practices outside of the U.S. and cannot guarantee, notwithstanding our international partners' familiarity with such environments and market practices, including consumer demand and behavior, that we will be able to penetrate or successfully operate in any market outside of the U.S. Many of these markets have different operational characteristics, including employment and labor regulations, transportation, logistics, real estate (including lease terms) and local reporting or legal requirements, particularly in light of the COVID-19 pandemic, and the impact on the international markets remains unclear.

Our current and future licensing arrangements may not be successful and may make us susceptible to the actions of third parties over whom we have limited control.

We currently have product licensing agreements for Vince women's footwear and men's footwear and on a limited basis, Vince fragrance. In the future, we may enter into select additional licensing arrangements for product offerings which require specialized expertise. In addition, we have entered into select licensing agreements pursuant to which we have granted certain third parties the right to distribute and sell our products in certain geographic areas, and may continue to do so in the future. Although we have taken and will continue to take steps to select potential licensing partners carefully and monitor the activities of our existing licensing partners (through, among other things, approval rights over product design, production quality, packaging, merchandising, marketing, distribution and advertising), such arrangements may not be successful, particularly in light of the COVID-19 pandemic. Any failure of our licensing arrangement may result in loss of revenue and competitive harm to our operations in regions or product categories

where we have entered into such licensing arrangements. In addition, we license our Vince website domain name from a third-party, renewing on an annual basis. Although the licensor has no termination rights under the domain license agreement, any failure by the licensor to perform its obligations thereunder could materially and adversely impact our operations of our website and our e-commerce business.

Our operating results may be subject to seasonal and quarterly variations in our net revenue and income from operations.

The apparel and fashion industry in which we operate is cyclical and, consequently, our revenues are affected by general economic conditions and the seasonal trends characteristic to the apparel and fashion industry. Purchases of apparel are sensitive to a number of factors that influence the level of consumer spending, including economic conditions and the level of disposable consumer income, consumer debt, interest rates, consumer confidence as well as the impact from adverse weather conditions. In addition, fluctuations in the amount of sales in any fiscal quarter are affected by the timing of seasonal wholesale shipments and other events affecting direct-to-consumer sales; as such, the financial results for any particular quarter may not be indicative of results for the fiscal year. Any future seasonal or quarterly fluctuations in our results of operations may not match the expectations of market analysts and investors to assess the longer-term profitability and strength of our business at any particular point, which could lead to increased volatility in our stock price.

Risks Related to Our Information Technology and Security

System or data security issues, such as cyber or malware attacks, as well as other major system failures could disrupt our internal operations or information technology services, and any such disruption could negatively impact our net sales, increase our expenses and harm our reputation.

From time to time, we are subject to system or data security problems, including viruses and bugs as well as security issues created by third-party software and applications, employee errors and malfeasance and other various causes. None of these incidents has resulted in any data or information breaches or any other material impact to our financial results. There is no assurance, however, that we would not be subject to material security problems in the future, including cyber or malware attacks, and we could incur significant expenses or disruptions of our operations in connection with resulting system failures or data and information breaches. The increased use of smartphones, tablets, and other wireless devices, as well as the continued need for a substantial portion of our corporate employees to work remotely during the COVID-19 pandemic, may also heighten these and other operational risks. The costs to us to eliminate or alleviate security problems, viruses and bugs could be significant, and the efforts to address these problems could result in interruptions, delays or cessation of service that may impede our sales, distribution or other critical functions. Furthermore, if any of these security issues involve the compromise of personal information of our customers or employees could subject us to litigation and/or penalties and harm our reputation, materially and adversely affecting our business and growth. In addition to taking the necessary precautions ourselves, we require that third-party service providers implement reasonable security measures to protect our customers' or employees' identity and privacy, including any personally identifiable information and credit card information. We do not, however, control these third-party service providers and cannot guarantee that no electronic or physical computer break-ins and security breaches will occur in the future. Lastly, in the case of a disaster affecting our information technology systems, we may experience delays in recovery of data, inability to perform vital corporate functions, tardiness in required reporting and compliance, failures to adequately support our operations and other breakdowns in normal communication and operating procedures that could materially and adversely affect our financial condition and results of operations.

We are continuing to optimize and improve our information technology systems, processes, and functions. If these systems, processes, and functions do not operate successfully, our business, financial condition, results of operations and cash flows could be materially harmed.

We continue to optimize and improve our information technology environment. For example, in fiscal 2020, we completed the optimization of our warehouse systems as the initial step to implementing our omni-channel strategy as well as the migration of Rebecca Taylor and Parker brands to Vince's enterprise resource planning system as part of the integration efforts. We plan to progress these strategies, including further adoption of omni-channel systems and processes as well as the consolidation of systems across Vince and Rebecca Taylor, including point of sale systems. If we fail in our efforts to continue optimizing and improving these systems, processes and functions as currently planned, we could incur further disruptions to our business operations, including deficiencies or weaknesses in our internal controls, as well as additional costs to replace those systems and functions.

Failure to comply with privacy-related obligations, including privacy laws and regulations in the U.S. and internationally as well as other legal obligations, could materially adversely affect our business.

A variety of laws and regulations, in the U.S. and internationally, govern the collection, use, retention, sharing, transfer and security of personally identifiable information and data, including the European Union's General Data Protection Regulation ("GDPR"), which became effective during fiscal 2018, and the California Consumer Privacy Act of 2018 ("CCPA"), which became effective on January 1, 2020. Since the enactment of the CCPA, data security laws have been proposed in more than half of the U.S.

states and in the U.S. Congress, reflecting a trend toward more stringent privacy legislation in the U.S. Additionally, the Federal Trade Commission and many state attorneys general are interpreting federal and state consumer protection laws as imposing standards for the online collection, use, dissemination, and security of data. We strive to comply with all applicable laws, regulations, self-regulatory requirements, policies and legal obligations relating to privacy, data usage, and data protection. It is possible, however, that these laws, rules and regulations, which evolve frequently and may be inconsistent from one jurisdiction to another, could be interpreted to conflict with our practices. In addition to the costs of compliance with and other burdens imposed by privacy and data security laws and regulations, any failure or perceived failure by us or any third parties with whom we do business to comply with these laws, rules and regulations, or with other obligations to which we may be or become subject, may result in actions against us by governmental entities, private claims and litigation, fines, penalties or other liabilities. Any such action would be expensive to defend, could damage our reputation and could adversely affect our business and operating results.

Risks Related to Our Supply Chain

Problems with our distribution process could materially harm our ability to meet customer expectations, manage inventory, complete sale transactions, and achieve targeted operating efficiencies.

In the U.S., we rely on distribution facilities operated by third-party logistics providers in California. Our ability to meet the needs of our wholesale partners and our own direct-to-consumer business depends on the proper operation of these distribution facilities. Because substantially all of our products are distributed from one state, our operations could be interrupted by labor difficulties, or by floods, fires, earthquakes or other natural disasters and health crises, such as the COVID-19 pandemic, at or near such facility. For example, a majority of our ocean shipments go through the ports in California, which had previously been subject to significant processing delays due to COVID-19 as well as the blockage in the Suez Canal, resulting not only in shipment disruptions but also in significantly increased freight costs. We also have warehouses overseas, including in Hong Kong, Belgium, the United Kingdom and Canada, operated by third-party logistics providers, supporting our wholesale orders for customers located primarily in the nearby regions. Disruptions at any of these facilities located outside the U.S. could also materially and negatively impact the business.

We maintain business interruption insurance. These policies, however, may not adequately protect us from the adverse effects that could result from significant disruptions to our distribution system. If we encounter problems with any of our distribution processes, our ability to meet customer expectations, manage inventory, complete sales, and achieve targeted operating efficiencies could be harmed. Any of the foregoing factors could have a material adverse effect on our business, financial condition, and operating results.

We may in the future integrate the warehouse operations of the Acquired Businesses to those of Vince. If such integration efforts do not progress as planned, or at all, our business operations may be significantly disrupted, materially and adversely impacting our business results.

The extent of our foreign sourcing may adversely affect our business.

We work with more than 50 manufacturers across nine countries, with 88% of our products produced in China in fiscal 2020. A manufacturing contractor's failure to ship products to us in a timely manner or to meet the required quality standards could cause us to miss the delivery date requirements of our customers for those items. The failure to make timely deliveries may cause customers to cancel orders, refuse to accept deliveries or demand reduced prices, any of which could have a material adverse effect on us. As a result of the magnitude of our foreign sourcing, our business is subject to the following risks:

- political and economic instability in countries or regions, especially Asia, including heightened terrorism and other security concerns, which could subject imported or exported goods to additional or more frequent inspections, leading to delays in deliveries or impoundment of goods;
- imposition of regulations, quotas and other trade restrictions relating to imports, including the additional tariffs imposed to all imports from China in the recent years as well as the sanctions imposed by the U.S. Treasury Department on China's Xinjiang Production and Construction Corporation ("XPCC") and restrictions on business dealings with XPCC as well as in the Xinjiang region, as well as other quotas imposed by bilateral textile agreements between the U.S. and foreign countries from time to time;
- currency exchange rates;
- imposition of increased duties, taxes, tariffs (including, but not limited to, ongoing uncertainty related to the future of U.S. tariffs on products manufactured in China and China's retaliatory tariffs on certain products sourced from the U.S. as described below) and other charges on imports;
- labor union strikes at ports through which our products enter the U.S.;
- labor shortages in countries where contractors and suppliers are located;
- restrictions on the transfer of funds to or from foreign countries;

- disease epidemics and health-related concerns, including the COVID-19 pandemic, which could result in travel restrictions, closed factories, reduced workforces, scarcity of raw materials and scrutiny or embargoing of goods produced in infected areas;
- the migration and development of manufacturing contractors, which could affect where our products are or are planned to be produced;
- increases in the costs of fuel, travel and transportation, both related and unrelated to the COVID-19 pandemic, and demand for freight services at a time of reduced ocean freight capacity;
- reduced manufacturing flexibility because of geographic distance between our foreign manufacturers and us, increasing the risk that we may have to mark down unsold inventory as a result of misjudging the market for a foreign-made product; and
- violations by foreign contractors of labor and wage standards and resulting adverse publicity.

If these risks limit or prevent us from manufacturing products in any significant international market, prevent us from acquiring products from foreign suppliers, or significantly increase the cost of our products, our operations could be seriously disrupted until alternative suppliers are found or alternative markets are developed, which could negatively and significantly impact our business. While we may be able to shift our sourcing options to avoid any negative macroenvironmental impact of a particular region such as China, executing such a shift would be time consuming and would be difficult or impracticable for many products and may result in an increase in our manufacturing costs and/or may negatively impact the quality of our products. Any increase in the prices of our products and/or decline in the quality of our products could in turn negatively impact the demand for our products.

Fluctuations in the price, availability and quality of raw materials could cause delays and increase costs and cause our operating results and financial condition to suffer.

Fluctuations in the price, availability and quality of the fabrics or other raw materials, particularly cotton, silk, leather and synthetics used in our manufactured apparel, could have a material adverse effect on cost of sales or our ability to meet customer demands. The prices of fabrics depend largely on the market prices of the raw materials used to produce them. The price and availability of the raw materials and, in turn, the fabrics used in our apparel may fluctuate significantly, depending on many factors, including crop yields, weather patterns, labor costs and changes in oil prices as well as other economic factors, such as those related to the COVID-19 pandemic. We may not be able to create suitable design solutions that utilize raw materials with attractive prices or, alternatively, to pass higher raw materials prices and related transportation costs on to our customers. We are not always successful in our efforts to protect our business from the volatility of the market price of raw materials, and our business can be materially affected by dramatic movements in prices of raw materials. The ultimate effect of this change on our earnings cannot be quantified, as the effect of movements in raw materials prices on industry selling prices are uncertain, but any significant increase in these prices could have a material adverse effect on our business, financial condition and operating results.

Our reliance on independent manufacturers could cause delays or quality issues which could damage customer relationships.

We use independent manufacturers to assemble or produce all of our products, whether inside or outside the U.S. We are dependent on the ability of these independent manufacturers to adequately finance the production of goods ordered and maintain sufficient manufacturing capacity. Because we do not control these independent manufacturers, they may not continue to provide products that are consistent with our standards. We receive from time to time shipments of product that fail to conform to our quality control standards or products that are damaged during shipment as they were not properly packed. Failures such as these in our quality control program may result in diminished product quality, which in turn may result in increased order cancellations and returns, decreased consumer demand for our products, or product recalls, any of which may have a material adverse effect on our results of operations and financial condition. In addition, products that fail to meet our standards, or other unauthorized products, could end up in the marketplace without our knowledge. This could materially harm our brand and our reputation in the marketplace.

We generally do not have long-term written agreements with any independent manufacturers. As a result, any single manufacturing contractor could unilaterally terminate its relationship with us at any time. Our top five manufacturers accounted for the production of approximately 59% of our finished products during fiscal 2020. Supply disruptions from these manufacturers (or any of our other manufacturers) could have a material adverse effect on our ability to meet customer demands, if we are unable to source suitable replacement materials at acceptable prices or at all. Moreover, alternative manufacturers, if available, may not be able to provide us with products or services of a comparable quality, at an acceptable price or on a timely basis. We may also, from time to time, make a decision to enter into a relationship with a new manufacturer. Identifying a suitable supplier is an involved process that requires us to become satisfied with their quality control, responsiveness and service, financial stability and labor and other ethical practices. There can be no assurance that there will not be a disruption in the supply of our products from independent manufacturers or that any new manufacturer will be successful in producing our products in a manner we expected, especially in light of the COVID-19 pandemic, which initially significantly impacted the regions many of these manufacturers are located. Moreover, during fiscal 2017, certain manufacturers demanded accelerated payment terms or prepayments as a condition to delivering finished goods to us, which required us to take various steps to address those requests to avoid disruptions in product deliveries and to return to normal terms. There can be no assurance that such demands would not recur in the future, particularly in light of economic challenges posed by the COVID-19 pandemic. In the event of any disruption with a manufacturer, we may not be able to substitute suitable alternative

manufacturers in a timely and cost-efficient manner. The failure of any independent manufacturer to perform or the loss of any independent manufacturer could have a material adverse effect on our business, results of operations and financial condition.

If our independent manufacturers fail to use ethical business practices and comply with applicable laws and regulations, our brand images could be harmed due to negative publicity.

We have established and currently maintain operating guidelines which promote ethical business practices such as fair wage practices, compliance with child labor laws and other local laws. While we monitor compliance with those guidelines, we do not control our independent manufacturers or their business practices. Accordingly, we cannot guarantee their compliance with our guidelines. From time to time, our audit results have revealed a lack of compliance in certain respects, including with respect to local labor, safety, and environmental laws. Other fashion companies have faced criticism after highly publicized incidents or compliance issues have occurred or been exposed at factories producing their products. To the extent our manufacturers do not bring their operations into compliance with such laws or resolve material issues identified in any of our audit results, we may face similar criticism and negative publicity. In addition, other fashion companies have encountered organized boycotts of their products in such situations. If we, or other companies in our industry, encounter similar problems in the future, it could harm our brand images, stock price and results of operations. In addition, a lack of demonstrated compliance by our suppliers could lead us to seek alternative suppliers, which could increase our costs and result in delayed delivery of our products, product shortages or other disruptions of our operations. Furthermore, expectations of ethical business practices continually evolve, may be substantially more demanding than applicable legal requirements and are driven in part by legal developments and by diverse groups active in publicizing and organizing public responses to perceived ethical shortcomings. Accordingly, we cannot predict how expectations of ethical business practices might develop in the future and cannot be certain that our guidelines would satisfy all parties who are active in monitoring and publicizing perceived shortcomings in labor and other business practices worldwide.

Risks Related to Our Structure and Ownership

We are required to pay to the Pre-IPO Stockholders 85% of certain tax benefits and could be required to make substantial cash payments in which our stockholders will not participate.

We entered into a Tax Receivable Agreement with the Pre-IPO Stockholders (as defined therein) in connection with the IPO and Restructuring Transactions which closed on November 27, 2013. Under the Tax Receivable Agreement, we will be obligated to pay to the Pre-IPO Stockholders an amount equal to 85% of the cash savings in federal, state and local income tax realized by us by virtue of our future use of the federal, state and local net operating losses ("NOLs") held by us as of November 27, 2013, together with section 197 intangible deductions (collectively, the "Pre-IPO Tax Benefits"). "Section 197 intangible deductions" means amortization deductions with respect to certain amortizable intangible assets which are held by us and our subsidiaries immediately after November 27, 2013. Cash tax savings generally will be computed by comparing our actual federal, state and local income tax liability to the amount of such taxes that we would have been required to pay had such Pre-IPO Tax Benefits not been available to us. Assuming the federal, state and local corporate income tax rates presently in effect which includes the impact of the TCJA, no material change in applicable tax law and no limitation on our ability to use the Pre-IPO Tax Benefits under Section 382 of the U.S. Internal Revenue Code, as amended (the "Code"), the estimated cash benefit of the full use of these Pre-IPO Tax Benefits as of January 30, 2021 would be approximately $38,327, of which 85%, or approximately $32,578 plus accrued interest, is potentially payable to the Pre-IPO Stockholders under the terms of the Tax Receivable Agreement. As of January 30, 2021, $0, plus accrued interest, is currently outstanding. Accordingly, the Tax Receivable Agreement could require us to make substantial cash payments. Payments made under the Tax Receivable Agreement will depend upon a number of factors, including the amount and timing of taxable income we generate in the future and any future limitations that may be imposed on our ability to use the Pre-IPO Tax Benefits, and estimating future taxable income is inherently uncertain and requires judgment. If we determine in the future that the estimate should be revised, we would be required to either recognize additional liability related to tax benefits expected to be utilized or derecognize liability relating to tax benefits no longer expected to be utilized, which could result in material modifications to our financial statements.

Although we are not aware of any issue that would cause the U.S. Internal Revenue Service (the "IRS") to challenge any tax benefits arising under the Tax Receivable Agreement, the affiliates of Sun Capital will not reimburse us for any payments previously made if such benefits subsequently were disallowed, although the amount of any tax savings subsequently disallowed will reduce any future payment otherwise owed to the Pre-IPO Stockholders. For example, if our determinations regarding the applicability (or lack thereof) and amount of any limitations on the NOLs under Section 382 of the Code were to be successfully challenged by the IRS after payments relating to such NOLs had been made to the Pre-IPO Stockholders, we would not be reimbursed by the Pre-IPO Stockholders and our recovery would be limited to the extent of future payments (if any) otherwise remaining under the Tax Receivable Agreement. As a result, in such circumstances we could make payments to the Pre-IPO Stockholders under the Tax Receivable Agreement in excess of our actual cash tax savings.

Because Vince Holding Corp. is a holding company with no operations of its own, its ability to make payments under the Tax Receivable Agreement is dependent on the ability of Vince, LLC and its subsidiaries to make distributions to it. To the extent that we

need funds, for such payment or otherwise, and Vince, LLC is restricted from making such distributions under applicable law or regulation or is otherwise unable to provide such funds, it could materially and adversely affect our liquidity and financial condition. To the extent that Vince Holding Corp. is unable to make payments under the Tax Receivable Agreement for any reason, such payments will be deferred and will accrue interest until paid, which could adversely affect our results of operations and could also affect our liquidity in periods in which such payments are made.

In certain cases, payments under the Tax Receivable Agreement to the Pre-IPO Stockholders may be accelerated and/or significantly exceed the actual benefits we realize in respect of the Pre-IPO Tax Benefits.

Upon the election of an affiliate of Sun Capital to terminate the Tax Receivable Agreement pursuant to a change in control (as defined in the Tax Receivable Agreement) or upon our election to terminate the Tax Receivable Agreement early, all of our payment and other obligations under the Tax Receivable Agreement will be accelerated and will become due and payable. Additionally, the Tax Receivable Agreement provides that in the event that we breach any of our material obligations under the Tax Receivable Agreement by operation of law as a result of the rejection of the Tax Receivable Agreement in a case commenced under Title 11 of the United States Code (the "Bankruptcy Code") then all of our payment and other obligations under the Tax Receivable Agreement will be accelerated and will become due and payable. In the case of any such acceleration, we would be required to make an immediate payment equal to 85% of the present value of the tax savings represented by any portion of the Pre-IPO Tax Benefits for which payment under the Tax Receivable Agreement has not already been made.

Although as of January 30, 2021, we estimate that we would not be required to make any payment under the Tax Receivable Agreement, in the future, such payments could be substantial and could exceed our actual cash tax savings from the Pre-IPO Tax Benefits. In these situations, our obligations under the Tax Receivable Agreement could have a substantial negative impact on our liquidity and could have the effect of delaying, deferring or preventing certain mergers, asset sales, other forms of business combinations or other changes of control. There can be no assurance that we will have sufficient cash available or that we will be able to finance our obligations under the Tax Receivable Agreement.

We are a "controlled company," controlled by investment funds advised by affiliates of Sun Capital, whose interests in our business may be different from yours.

Affiliates of Sun Capital Partners, Inc. ("Sun Capital") owned approximately 72% of our outstanding common stock as of March 31, 2021. As such, affiliates of Sun Capital will, for the foreseeable future, have significant influence over our reporting and corporate management and affairs, and will be able to control virtually all matters requiring stockholder approval. For so long as affiliates of Sun Capital own 30% or more of our outstanding shares of common stock, Sun Cardinal, LLC, an affiliate of Sun Capital, will have the right to designate a majority of our board of directors.

Affiliates of Sun Capital control actions to be taken by us, our board of directors and our stockholders, including amendments to our amended and restated certificate of incorporation and amended and restated bylaws and approval of significant corporate transactions, including mergers and sales of substantially all of our assets. The directors designated by affiliates of Sun Capital have the authority, subject to the terms of our indebtedness and the rules and regulations of the NYSE, to issue additional stock, implement stock repurchase programs, declare dividends and make other decisions. Our amended and restated certificate of incorporation provides that the doctrine of "corporate opportunity" does not apply against Sun Capital or its affiliates, or any of our directors who are associates of, or affiliated with, Sun Capital, in a manner that would prohibit them from investing in competing businesses or doing business with our partners or customers. It is possible that the interests of Sun Capital and its affiliates may in some circumstances conflict with our interests and the interests of our other stockholders, including you. For example, Sun Capital may have different tax positions from other stockholders which could influence their decisions regarding whether and when we should dispose of assets, whether and when we should incur new or refinance existing indebtedness, especially in light of the existence of the Tax Receivable Agreement, and whether and when we should terminate the Tax Receivable Agreement and accelerate our obligations thereunder.

Any disputes that arise between us and St. Louis, LLC, or between us and Kellwood, which is now an unaffiliated entity, with respect to our past relationships, could materially harm our business operations.

Disputes may arise between St. Louis, LLC and us and/or between us and Kellwood with respect to any past transitional services provided under the Shared Services Agreement in a number of areas relating to our operations or indemnification obligations. Any such dispute, if not resolved, could materially harm our business operations particularly as we may not obtain adequate recovery of damages from St. Louis, LLC, which has now been dissolved, and Kellwood, which is now an unaffiliated entity.

We are a "smaller reporting company" and intend to avail ourselves of reduced disclosure requirements applicable to smaller reporting companies, which could make our common stock less attractive to investors.

We are a "smaller reporting company," as defined in the Exchange Act, and we intend to take advantage of certain exemptions from various reporting requirements that are applicable to other public companies that are not "smaller reporting companies," including reduced disclosure obligations regarding executive compensation in our periodic reports and proxy statements. We cannot predict if investors will find our common stock less attractive because we may rely on these exemptions. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile. We intend to take advantage of these reporting exemptions until we are no longer a "smaller reporting company." We will remain a "smaller reporting company" until the aggregate market value of our outstanding common stock held by non-affiliates as of the last business day of our most recently completed second fiscal quarter is $250,000 or more and annual revenue as of our most recently completed fiscal year is $100,000 or more, or the aggregate market value of our outstanding common stock held by non-affiliates as of the last business day of our most recently completed second fiscal quarter is $700,000 or more, regardless of annual revenue.

ITEM 1B. UNRESOLVED STAFF COMMENTS.

None.

ITEM 2. PROPERTIES.

The following table sets forth the location, use and size of our significant corporate facilities and showrooms as of January 30, 2021, all of which are leased under various agreements expiring at various time through fiscal 2025, subject to renewal options.

Location	Use	Approximate Square Footage
New York, NY	Vince Corporate Office	33,009
New York, NY	Rebecca Taylor Corporate Office	31,653
Los Angeles, CA	Vince Design Studio	28,541
New York, NY	Parker Corporate Office & Showroom	9,276
New York, NY	Rebecca Taylor Showroom	5,900
Paris, France	Vince Showroom	4,209

As of January 30, 2021, we leased 174,439 gross square feet related to our 71 company-operated retail stores. Although our more recent leases are subject to shorter terms as a result of the implementation of our strategy to pursue shorter lease terms, many of our leases have initial terms of 10 years, and in many instances, can be extended for an additional term. Substantially all of our leases require a fixed annual rent, and most require the payment of additional rent if store sales exceed a negotiated amount. Most of our leases are "net" leases, which require us to pay all of the cost of insurance, taxes, maintenance, and utilities. Although we generally cannot cancel these leases at our option, certain of our leases allow us, and in some cases, the lessor, to terminate the lease if we do not achieve a specified gross sales threshold.

The following store list shows the location, opening date, type, and size of our company-operated retail locations as of January 30, 2021:

Vince Locations	State	Opening Date	Type	Gross Square Feet	Selling Square Feet
Washington St.	NY	February 3, 2009	Street	1,850	1,150
Prince St. (Nolita)	NY	July 25, 2009	Street	2,002	1,356
San Francisco	CA	October 15, 2009	Street	1,895	1,408
Chicago	IL	October 1, 2010	Street	2,590	1,371
Madison Ave.	NY	August 3, 2012	Street	3,503	1,928
Westport	CT	March 28, 2013	Street	1,801	1,344
Greenwich	CT	July 19, 2013	Street	2,463	1,724
Mercer St. (Soho)	NY	August 22, 2013	Street	4,500	3,080
Columbus Ave. (Upper West Side)	NY	December 18, 2013	Street	4,465	3,126
Newbury St. (Boston)	MA	May 24, 2014	Street	4,124	3,100
Pasadena	CA	August 7, 2014	Street	3,475	2,200
Walnut St. (Philadelphia)	PA	August 4, 2014	Street	3,250	2,000
Abbot Kinney (Los Angeles)	CA	September 26, 2015	Street	1,990	1,815
Melrose (Los Angeles)	CA	October 15, 2017	Street	1,932	1,554
Draycott (London, UK)		September 18, 2019	Street	1,582	1,087
Fifth Ave.	NY	September 20, 2019	Street	2,820	1,948

Vince Locations	State	Opening Date	Type	Gross Square Feet	Selling Square Feet
Total Street (16):				**44,242**	**30,191**
Malibu	CA	August 9, 2009	Lifestyle Center	1,298	1,070
Dallas	TX	August 28, 2009	Lifestyle Center	1,368	1,182
Boca Raton	FL	October 13, 2009	Mall	1,498	1,150
White Plains	NY	November 6, 2009	Mall	2,486	1,775
Atlanta	GA	April 16, 2010	Mall	1,643	1,356
Palo Alto	CA	September 17, 2010	Lifestyle Center	2,028	1,391
Bellevue Square	WA	November 5, 2010	Mall	1,460	1,113
Newport Beach	CA	May 20, 2011	Lifestyle Center	1,656	1,242
Chestnut Hill	MA	July 25, 2014	Lifestyle Center	2,357	1,886
Brookfield (Downtown)	NY	March 26, 2015	Lifestyle Center	2,966	2,373
Merrick Park (Coral Gables)	FL	April 30, 2015	Lifestyle Center	2,512	1,871
Washington D.C. City Center	DC	April 30, 2015	Lifestyle Center	3,202	2,562
Scottsdale Quarter	AZ	May 15, 2015	Lifestyle Center	2,753	2,200
Houston	TX	October 1, 2015	Lifestyle Center	2,998	2,398
Las Vegas	NV	April 1, 2016	Mall	3,220	2,576
Tyson's Galleria (McLean)	VA	April 29, 2016	Mall	2,668	2,134
The Grove	CA	May 23, 2016	Lifestyle Center	2,717	2,174
Troy	MI	May 27, 2016	Mall	2,700	2,160
King of Prussia	PA	August 18, 2016	Mall	2,600	2,080
San Diego (Fashion Valley)	CA	August 25, 2016	Lifestyle Center	2,817	2,254
Honolulu	HI	May 25, 2017	Mall	1,828	1,371
Short Hills	NJ	March 29, 2018	Mall	1,450	1,290
El Paseo Village	CA	April 26, 2018	Lifestyle Center	2,394	1,882
Waterside Shops	FL	May 24, 2018	Mall	1,723	1,315
The Domain	TX	June 28, 2018	Mall	1,719	1,375
Pacific Palisades	CA	October 4, 2018	Lifestyle Center	2,953	2,525
Palm Beach Gardens	FL	October 19, 2018	Mall	2,360	2,025
Aventura	FL	April 5, 2019	Mall	1,873	1,280
Santana Row	CA	August 8, 2019	Lifestyle Center	2,295	1,517
Mall at Millenia	FL	November 21, 2019	Mall	1,768	1,275
Hackensack	NJ	February 27, 2020	Mall	2,816	2,253
Total Mall and Lifestyle Centers (31)				**70,126**	**55,055**
Total Full-Price (47)				**114,368**	**85,246**
Cabazon	CA	November 11, 2011	Outlet	3,250	2,000
Riverhead	NY	November 30, 2012	Outlet	2,100	1,490
Chicago	IL	August 1, 2013	Outlet	3,485	2,599
Seattle	WA	August 30, 2013	Outlet	2,214	1,550
Las Vegas	NV	October 3, 2013	Outlet	2,028	1,420
San Marcos	TX	October 10, 2014	Outlet	2,433	1,703
Carlsbad	CA	October 24, 2014	Outlet	2,453	1,717
Wrentham	MA	September 29, 2014	Outlet	2,000	1,400
Camarillo	CA	February 1, 2015	Outlet	3,001	2,101
Livermore	CA	August 13, 2015	Outlet	2,500	1,767
Chicago Premium	IL	August 27, 2015	Outlet	2,300	1,840
Woodbury Commons	NY	November 6, 2015	Outlet	2,289	1,831
Sawgrass	FL	December 4, 2015	Outlet	2,539	1,771
National Harbor	MD	June 27, 2019	Outlet	2,400	1,865
Orlando	FL	November 24, 2020	Outlet	2,914	2,302
Total Outlets (15)				**37,906**	**27,356**
Total Vince Stores (62)				**152,274**	**112,602**

Rebecca Taylor Locations	State	Opening Date	Type	Gross Square Feet	Selling Square Feet
Fashion Island	CA	December 9, 2011	Lifestyle	2,196	1,500
Westchester	NY	June 22, 2012	Mall	1,400	1,110
Madison	NY	August 3, 2012	Street	4,338	1,901
Northpark	TX	April 20, 2017	Mall	1,800	1,450
Washington St.	NY	August 13, 2020	Street	1,827	1,027
Hackensack	NJ	December 3, 2020	Mall	2,816	2,253
Total Full-Price (6)				**14,377**	**9,241**
Cabazon	CA	October 9, 2020	Outlet	3,628	3,071
Sawgrass	FL	October 30, 2020	Outlet	2,770	2,150
Woodbury Commons	NY	November 6, 2020	Outlet	1,390	1,039
Total Outlets (3)				**7,788**	**6,260**
Total Rebecca Taylor Stores (9)				**22,165**	**15,501**

ITEM 3. LEGAL PROCEEDINGS.

On September 7, 2018, a complaint was filed in the United States District Court for the Eastern District of New York by certain stockholders (collectively, the "Plaintiff"), naming us as well as David Stefko, our Chief Financial Officer, one of our directors, certain of our former officers and directors, and Sun Capital and certain of its affiliates, as defendants. The complaint generally alleges that we and the named parties made false and/or misleading statements and/or failed to disclose matters relating to the transition of our ERP systems from Kellwood. The complaint brings causes of action for violations of Section 10(b) of the Exchange Act, as amended and Rule 10b-5 promulgated under the Exchange Act against us and the named parties and for violations of Section 20(a) of the Exchange Act against the individual parties, Sun Capital Partners, Inc. and its affiliates. The complaint sought unspecified monetary damages and unspecified costs and fees. On January 28, 2019, in response to our motion to dismiss the original complaint, the Plaintiff filed an amended complaint, naming the same defendants as parties and asserting the same causes of action as those stated in the original complaint. On October 4, 2019, an individual stockholder filed a complaint marked as a related suit to the amended complaint, containing substantially identical allegations and claims against the same defendant parties. On September 9, 2020, the two complaints were dismissed in their entirety and the Plaintiff's request for leave to replead was denied. On October 6, 2020, the Plaintiff filed notices of appeal. The appeals are pending.

On September 6, 2019, Vince, LLC received a favorable judgment from the second instance court in the People's Republic of China in connection with a trademark infringement case. The judgment awarded Vince, LLC approximately $700 in damages and fees, net of applicable taxes, which was included in selling, general and administrative expenses in the accompanying Consolidated Statements of Operations and Comprehensive Income (Loss). This amount was subsequently paid in full to Vince, LLC by the defendants in the case in the fourth quarter of fiscal 2019.

Additionally, we are a party to legal proceedings, compliance matters, environmental, as well as wage and hour and other labor claims that arise in the ordinary course of our business. Although the outcome of such items cannot be determined with certainty, we believe that the ultimate outcome of these items, individually and in the aggregate will not have a material adverse impact on our financial position, results of operations or cash flows.

All dollar amounts disclosed are in thousands.

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 trades on the New York Stock Exchange under the symbol "VNCE".

Record Holders

As of March 31, 2021, there were 3 holders of record of our common stock.

Dividends

We have never paid cash dividends on our common stock. We currently intend to retain all available funds and any future earnings to fund the development and growth of our business, and we do not anticipate paying any cash dividends in the foreseeable future. In addition, because we are a holding company, our ability to pay dividends depends on our receipt of cash distributions from our subsidiaries. The terms of our indebtedness substantially restrict the ability to pay dividends. See "Item 7—Management's Discussion and Analysis of Financial Condition and Results of Operations—Financing Activities" of this Annual Report for a description of the related restrictions.

Any future determination to pay dividends will be at the discretion of our board of directors and will depend on our financial condition, results of operations, capital requirements, restrictions contained in current and future financing instruments and other factors that our board of directors deems relevant.

Purchases of Equity Securities by the Issuer and Affiliated Purchasers

We did not repurchase any shares of common stock during the three months ended January 30, 2021.

Unregistered Sales of Equity Securities

None.

ITEM 6. SELECTED FINANCIAL DATA.

As a "smaller reporting company" as defined by Rule 12b-2 of the Security Act of 1934, as amended (the "Exchange Act"), we are not required to provide the information in this item.

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

Our fiscal year ends on the Saturday closest to January 31. Fiscal years 2020 and 2019 ended on January 30, 2021 ("fiscal 2020") and February 1, 2020 ("fiscal 2019"), respectively. Fiscal years 2020 and 2019 each consisted of 52 weeks. The following discussion and analysis should be read in conjunction with our consolidated financial statements and related notes included elsewhere in this Annual Report. All amounts disclosed are in thousands except store counts, share and per share data and percentages.

For purposes of this Annual Report, the "Company," "we," and "our," refer to Vince Holding Corp. ("VHC") and our wholly owned subsidiaries, including Vince Intermediate Holding, LLC ("Vince Intermediate") and Vince, LLC. References to "Kellwood" refer, as applicable, to Kellwood Holding, LLC and its consolidated subsidiaries (including Kellwood Company, LLC) or the operations of the non-Vince businesses after giving effect to the Restructuring Transactions and prior to the Kellwood Sale. References to "Vince," "Rebecca Taylor" or "Parker" refer only to the referenced brands.

On November 3, 2019, Vince, LLC, an indirectly wholly owned subsidiary of VHC, completed its acquisition (the "Acquisition") of 100% of the equity interests of Rebecca Taylor, Inc. and Parker Holding, LLC (collectively, the "Acquired Businesses") from Contemporary Lifestyle Group, LLC ("CLG"). See Note 2 "Business Combinations" to the Consolidated Financial Statements in this Annual Report for further information.

This discussion contains forward-looking statements involving risks, uncertainties and assumptions that could cause our results to differ materially from expectations. For a discussion of the risks facing our business, see "Item 1A—Risk Factors" included in this Annual Report.

COVID-19

The spread of COVID-19, which was declared a pandemic by the World Health Organization in March 2020, caused state and municipal public officials to mandate jurisdiction-wide curfews, including "shelter-in-place" and closures of most non-essential businesses as well as other measures to mitigate the spread of the virus.

The following summarizes the various measures we have implemented to effectively manage the business as well as the impacts from the COVID-19 pandemic during the year ended January 30, 2021.

- While we continued to serve our customers through our online e-commerce websites during the periods in which we were forced to shut down all of our domestic and international retail locations alongside other retailers, including our wholesale partners, the store closures resulted in a sharp decline in our revenue and ability to generate cash flows from operations. We began reopening stores during May 2020 and nearly all of the Company's stores have since reopened in a limited

capacity in accordance with state and local regulations related to the COVID-19 pandemic. Other than Hawaii and the UK which re-closed for a short period and subsequently re-opened based on the local stay-at-home order, we have not been impacted by any re-closure orders or regulations.

As a result of store closures and the decline in projected cash flows, the Company recognized a non-cash impairment charge related to property and equipment and operating lease right-of-use ("ROU") assets to adjust the carrying amounts of certain store locations to their estimated fair value. During the year ended January 30, 2021, the Company recorded an impairment of property and equipment and operating lease ROU assets of $4,470 and $8,556, respectively. The impairment charges are recorded within Impairment of long-lived assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) in this Annual Report. See Note 1 "Description of Business and Summary of Significant Accounting Policies – (K) Impairment of Long-lived Assets" to the Consolidated Financial Statements in this Annual Report for additional information.

The Company incurred a non-cash impairment charge of $13,848 on goodwill and intangible assets during the year ended January 30, 2021 as a result of the decline in long-term projections due to COVID-19. See Note 3 "Goodwill and Intangible Assets" to the Consolidated Financial Statements in this Annual Report for additional information;

- We entered into a loan agreement with Sun Capital Partners, Inc. who own approximately 72% of the outstanding shares of the Company's common stock (see Note 14 "Related Party Transactions" to the Consolidated Financial Statements in this Annual Report for further discussion regarding our relationship with Sun Capital), as well as amendments to our 2018 Term Loan Facility and our 2018 Revolving Credit Facility to provide additional liquidity and amend certain financial covenants to allow increased operational flexibility. See Note 5 "Long-Term Debt and Financing Arrangements" to the Consolidated Financial Statements in this Annual Report for additional information;
- Furloughed all of our retail store associates as well as a significant portion of our corporate associates during the period of store closures and reinstated a limited number of associates commensurate to the store re-openings as well as other business needs;
- Temporarily reduced retained employee salaries and suspended board retainer fees;
- Engaged in active discussions with landlords to address the current operating environment, including amending existing lease terms. See Note 12 "Leases" to the Consolidated Financial Statements in this Annual Report for additional information;
- Executed other operational initiatives to carefully manage our investments across all key areas, including aligning inventory levels with anticipated demand and reevaluating non-critical capital build-out and other investments and activities; and
- Streamlined our expense structure in all areas such as marketing, distribution, and product development to align with the business environment and sales opportunities.

The COVID-19 pandemic remains highly volatile and continues to evolve on a daily basis. See Item 1A. Risk Factors — "*Risks Related to Our Business and Industry — The COVID-19 pandemic has adversely affected, and is expected to continue to adversely affect, our business, financial condition, cash flow, liquidity and results of operations*" for additional discussion regarding risks to our business associated with the COVID-19 pandemic.

Executive Overview

We are a global contemporary group, consisting of three brands: Vince, Rebecca Taylor and Parker. On November 3, 2019, we completed the acquisition of 100% of the equity interests of Rebecca Taylor, Inc. and Parker Holding, LLC from CLG. See Note 2 "Business Combinations" to the Consolidated Financial Statements in this Annual Report for additional information.

Vince, established in 2002, is a leading global luxury apparel and accessories brand best known for creating elevated yet understated pieces for every day effortless style. Known for its range of luxury products, Vince offers women's and men's ready-to-wear, footwear and accessories through 47 full-price retail stores, 15 outlet stores, its e-commerce site, *vince.com* and through its subscription service Vince Unfold, *vinceunfold.com*, as well as through premium wholesale channels globally.

Rebecca Taylor, founded in 1996 in New York City, is a contemporary womenswear line lauded for its signature prints, romantic detailing and vintage inspired aesthetic, reimagined for a modern era. The Rebecca Taylor collection is available at six full-price retail stores, three outlet stores, through its e-commerce site at *rebeccataylor.com* and through its subscription service Rebecca Taylor RNTD at *rebeccataylorrntd.com*, as well as through major department and specialty stores worldwide.

Parker, founded in 2008 in New York City, is a contemporary women's fashion brand that is trend focused. While we continue to believe that the Parker brand complements our portfolio, during the first half of fiscal 2020 the Company decided to pause the

creation of new products to focus resources on the operations of the Vince and Rebecca Taylor brands and to preserve liquidity. The Parker collection was previously available through major department stores and specialty stores worldwide as well as through its e-commerce website.

We serve our customers through a variety of channels that reinforce our brand images. Our diversified channel strategy allows us to introduce our products to customers through multiple distribution points that are presented in three reportable segments: Vince Wholesale, Vince Direct-to-consumer and Rebecca Taylor and Parker.

Results of Operations

Comparable Sales

Comparable sales include our e-commerce sales in order to align with how we manage our brick-and-mortar retail stores and e-commerce online stores as a combined single direct-to-consumer channel of distribution. As a result of our omni-channel sales and inventory strategy, as well as cross-channel customer shopping patterns, there is less distinction between our brick-and-mortar retail stores and our e-commerce online stores and we believe the inclusion of e-commerce sales in our comparable sales metric is a more meaningful representation of these results and provides a more comprehensive view of our year over year comparable sales metric.

A store is included in the comparable sales calculation after it has completed 13 full fiscal months of operations and includes stores, if any, that have been remodeled or relocated within the same geographic market the Company served prior to the relocation. Non-comparable sales include new stores which have not completed 13 full fiscal months of operations, sales from closed stores, and relocated stores serving a new geographic market. For 53-week fiscal years, we continue to adjust comparable sales to exclude the additional week. There may be variations in the way in which some of our competitors and other retailers calculate comparable sales.

As a result of the extensive temporary store closures due to the COVID-19 pandemic, comparable sales are not a meaningful metric for the year ended January 30, 2021 and we have not included a discussion within our Results of Operations.

Fiscal 2020 Compared to Fiscal 2019

The following table presents, for the periods indicated, our operating results as a percentage of net sales as well as earnings (loss) per share data:

	Fiscal Year					
	2020		2019		Variances	
(in thousands, except per share data and percentages)	Amount	% of Net Sales	Amount	% of Net Sales	Amount	Percent
Statements of Operations:						
Net sales	$ 219,870	100.0%	$ 375,187	100.0%	$ (155,317)	(41.4)%
Cost of products sold	131,273	59.7%	196,757	52.4%	(65,484)	(33.3)%
Gross profit	88,597	40.3%	178,430	47.6%	(89,833)	(50.3)%
Impairment of goodwill and intangible assets	13,848	6.3%	19,491	5.2%	(5,643)	(29.0)%
Impairment of long-lived assets	13,026	5.9%	818	0.2%	12,208	*
Selling, general and administrative expenses	122,803	55.9%	178,511	47.6%	(55,708)	(31.2)%
Loss from operations	(61,080)	(27.8)%	(20,390)	(5.4)%	(40,690)	199.6%
Interest expense, net	5,007	2.3%	4,958	1.3%	49	1.0%
Other income, net	(2,304)	(1.1)%	(55,842)	(14.8)%	53,538	*
(Loss) income before income taxes	(63,783)	(29.0)%	30,494	8.1%	(94,277)	*
Provision for income taxes	1,866	0.9%	98	0.0%	1,768	1,804.1%
Net (loss) income	$ (65,649)	(29.9)%	$ 30,396	8.1%	$ (96,045)	*
Earnings (loss) per share:						
Basic (loss) earnings per share	$ (5.58)		$ 2.60			
Diluted (loss) earnings per share	$ (5.58)		$ 2.55			

(*) Not meaningful

Net sales for fiscal 2020 were $219,870, decreasing $155,317, or 41.4%, versus $375,187 for fiscal 2019.

Gross profit decreased $89,833, or 50.3%, to $88,597 in fiscal 2020 from $178,430 in fiscal 2019. As a percentage of sales, gross margin was 40.3%, compared with 47.6% in the prior year. The total gross margin rate decrease was primarily driven by the following factors:

- The unfavorable impact of increased promotional activity contributed negatively by approximately 550 basis points;
- The unfavorable impact of year-over-year adjustments to inventory reserves contributed negatively by approximately 160 basis points; and
- The unfavorable impact of deleveraging of supply chain costs contributed negatively by approximately 150 basis points; which was offset by
- The favorable impact from a decrease in sales allowances contributed positively by approximately 200 basis points.

Impairment of goodwill and intangible assets for the year ended January 30, 2021 was $13,848 which includes the impairment of $9,462 related to goodwill and $4,386 related to indefinite-lived tradenames. Impairment of goodwill and intangible assets for the year ended February 1, 2020 was $19,491 which includes the impairment of $2,129 related to goodwill, $11,247 related to indefinite-lived tradenames, and $6,115 related to definite-lived customer lists, all related to the Rebecca Taylor and Parker segment.

Impairment of long-lived assets for the year ended January 30, 2021 was $13,026 which includes the impairment of $4,470 related to property and equipment and $8,556 related to operating lease ROU assets. Impairment of long-lived assets for the year ended February 1, 2020 was $818 which includes the impairment of $641 related to property and equipment and $177 related to operating lease ROU assets.

Selling, general and administrative ("SG&A") expenses for fiscal 2020 were $122,803, decreasing $55,708, or 31.2%, versus $178,511 for fiscal 2019. SG&A expenses as a percentage of sales were 55.9% and 47.6% for fiscal 2020 and fiscal 2019, respectively. The change in SG&A expenses compared to the prior year period was primarily due to:

- $28,176 of decreased compensation and benefits, primarily due to the actions taken in response to COVID-19 including the impact of furloughing our retail store associates as well as a significant portion of our corporate associates, temporarily reducing retained employee salaries, lower bonus expense, reduced share-based compensation expense and reduced headcount;
- $6,761 of decreased travel and entertainment, consulting and other third-party costs as a result of our streamlined expense structure in response to COVID-19;
- $5,959 of decreased marketing and advertising costs as a result of streamlining our expense structure in response to COVID-19;
- $5,613 of decreased rent and occupancy expense as a result of rent abatements, rent deferrals, rent reductions and other concessions, resulting from negotiations with landlords;
- $3,571 of decreased transaction related expenses as a result of the acquisitions of Rebecca Taylor, Inc. and Parker Holding, LLC in the prior year; and
- $2,652 of decreased product development costs.

The above decreases were partially offset by:

- $2,222 of increased bad debt expense related to the risk associated with our ability to collect outstanding receivables from our customers as a result of COVID-19.

Interest expense, net increased $49, or 1.0%, to $5,007 in fiscal 2020 from $4,958 in fiscal 2019 primarily due to the composition of debt.

Other (income) expense, net was $(2,304) in fiscal 2020 and $(55,842) in fiscal 2019. The change was primarily attributable to a benefit from re-measurement of the liability related to the Tax Receivable Agreement ("TRA"). See "Critical Accounting Policies – Tax Receivable Agreement" below and Note 14 "Related Party Transactions" to the Consolidated Financial Statements in this Annual Report for further information.

Provision for income taxes for fiscal 2020 was $1,866 as compared to $98 for fiscal 2019. Our effective tax rate for fiscal 2020 and fiscal 2019 was (2.9)% and 0.3%, respectively. The effective tax rate for fiscal 2020 differed from the U.S. statutory rate of 21% primarily due to the impact of the valuation allowance established against our deferred tax assets partly offset by state taxes. The effective tax rate for fiscal 2019 differed from the U.S. statutory rate of 21% primarily due to the impact of pre-tax items with no corresponding tax impact, primarily the revaluation of the TRA liability as well as the impairment of goodwill and intangible assets, partially offset by the impact of state taxes, and the impact of the valuation allowance established against our deferred tax asset.

Performance by Segment

The Company has identified three reportable segments as further described below:

- Vince Wholesale segment—consists of the Company's operations to distribute Vince brand products to major department stores and specialty stores in the United States and select international markets;

- Vince Direct-to-consumer segment—consists of the Company's operations to distribute Vince brand products directly to the consumer through its Vince branded full-price specialty retail stores, outlet stores, and e-commerce platform, and its subscription business Vince Unfold; and
- Rebecca Taylor and Parker segment—consists of the Company's operations to distribute Rebecca Taylor and Parker brand products to major department stores and specialty stores in the U.S. and select international markets, directly to the consumer through their own branded e-commerce platforms and Rebecca Taylor retail and outlet stores, and through its subscription business Rebecca Taylor RNTD.

Unallocated corporate expenses are related to the Vince brand and are comprised of SG&A expenses attributable to corporate and administrative activities (such as marketing, design, finance, information technology, legal and human resources departments), and other charges that are not directly attributable to the Company's Vince Wholesale and Vince Direct-to-consumer reportable segments.

	Fiscal Year	
(in thousands)	**2020**	**2019**
Net Sales:		
Vince Wholesale	$ 105,737	$ 166,805
Vince Direct-to-consumer	86,326	133,412
Rebecca Taylor and Parker	27,807	74,970
Total net sales	$ 219,870	$ 375,187
Income (loss) from operations:		
Vince Wholesale	$ 30,059	$ 55,440
Vince Direct-to-consumer	(20,734)	10,127
Rebecca Taylor and Parker	(16,112)	(28,562)
Subtotal	(6,787)	37,005
Unallocated corporate	(54,293)	(57,395)
Total loss from operations	$ (61,080)	$ (20,390)

Vince Wholesale

	Fiscal Year		
(in thousands)	**2020**	**2019**	**$ Change**
Net sales	$ 105,737	$ 166,805	$ (61,068)
Income from operations	30,059	55,440	(25,381)

Net sales from our Vince Wholesale segment decreased $61,068, or 36.6%, to $105,737 in fiscal 2020 from $166,805 in fiscal 2019, primarily due to the delay and cancellation of order receipts as a result of the temporary closure of our wholesale partner's doors due to COVID-19 as well as lower off-price shipments.

Income from operations from our Vince Wholesale segment decreased $25,381, or 45.8%, to $30,059 in fiscal 2020 from $55,440 in fiscal 2019 primarily due to the aforementioned decrease in sales and the unfavorable impact of year-over-year adjustments to inventory and accounts receivable reserves, partly offset by reduced spending.

Vince Direct-to-consumer

	Fiscal Year		
(in thousands)	**2020**	**2019**	**$ Change**
Net sales	$ 86,326	$ 133,412	$ (47,086)
(Loss) income from operations	(20,734)	10,127	(30,861)

Net sales from our Vince Direct-to-consumer segment decreased $47,086, or 35.3%, to $86,326 in fiscal 2020 from $133,412 in fiscal 2019. The decrease in sales was primarily due to the temporary store closures of our domestic and international retail locations due to COVID-19 and reduced traffic partly offset by growth of over 25% in e-commerce, which includes Vince Unfold. Since the end of fiscal 2019, our total retail store count remains unchanged, bringing our total retail store count to 62 consisting of 47 full price stores and 15 outlet stores as of January 30, 2021, compared to 62 (consisting of 48 full price stores and 14 outlet stores) as of February 1, 2020.

Our Vince Direct-to-consumer segment had a loss from operations of $20,734 in fiscal 2020 compared to income from operations of $10,127 in fiscal 2019. The decrease was primarily due to the aforementioned decrease in sales, as well as the

impairment of property and equipment and operating lease ROU assets, partly offset by reduced spending and lower rent and occupancy expense.

Rebecca Taylor and Parker

	Fiscal Year		
(in thousands)	**2020**	**2019**	**$ Change**
Net sales	$ 27,807	$ 74,970	$ (47,163)
Loss from operations	(16,112)	(28,562)	12,450

Net sales from our Rebecca Taylor and Parker segment decreased $47,163, or 62.9%, to $27,807 in fiscal 2020 from $74,970 in fiscal 2019 primarily due to a $38,506 decrease in wholesale sales and a $8,657 decrease in the direct-to-consumer channels primarily due to temporary store closures of our domestic retail locations alongside other retailers, including our wholesale partners, as well as due to our strategic initiatives to refresh the Rebecca Taylor brand and our pause in the development of new product for the Parker brand.

Loss from operations from our Rebecca Taylor and Parker segment decreased $12,450, or 43.6%, to $16,112 in fiscal 2020 from $28,562, in fiscal 2019. The decrease was primarily driven by the impairment of goodwill, intangible assets, and long-lived assets recognized during fiscal 2019.

Liquidity and Capital Resources

Our sources of liquidity are cash and cash equivalents, cash flows from operations, if any, borrowings available under the 2018 Revolving Credit Facility and our ability to access capital markets. Our primary cash needs are funding working capital requirements, meeting our debt service requirements and capital expenditures for new stores and related leasehold improvements. The most significant components of our working capital are cash and cash equivalents, accounts receivable, inventories, accounts payable and other current liabilities. In light of the COVID-19 pandemic, we have taken various measures to improve our liquidity as described above (see "COVID-19"). Based on these measures and our current expectations, we believe that our sources of liquidity will generate sufficient cash flows to meet our obligations during the next twelve months from the date these financial statements are issued.

Amendments to Existing Credit Facilities

On June 8, 2020, Vince, LLC entered into the Third Amendment (the "Third Revolver Amendment") to the 2018 Revolving Credit Facility (as defined below) and the Third Amendment (the "Third Term Loan Amendment") to the 2018 Term Loan Credit Facility (as defined below). The Third Revolver Amendment, among others, temporarily increased availability under the facility's borrowing base by increasing the aggregate commitments to $110,000 from $100,000 through November 30, 2020 and revises certain eligibility criteria of trade receivables to be included in the borrowing base during that period, as well as waived certain events of default. The Third Term Loan Amendment, among others, temporarily suspended the requirement to maintain a specified Consolidated Fixed Charge Coverage Ratio through the delivery of a compliance certificate relating to the fiscal quarter ending July 31, 2021, and replaced it with a springing covenant, under which the obligation to maintain a specified Consolidated Fixed Charge Coverage Ratio of 1.0 to 1.0 is triggered only when the excess availability under the 2018 Revolving Credit Facility falls below $15,000, or for the period between September 6, 2020 and January 9, 2021, $10,000, and for the period between January 10, 2021 and January 31, 2021, $12,500. The Third Term Loan Amendment also revised the Consolidated Fixed Charge Coverage Ratio required to be maintained following the period of the covenant suspension such that the required ratio is now 1.50 to 1.0 for the fiscal quarter ending July 31, 2021 and 1.75 to 1.0 for each fiscal quarter thereafter, as well as waived certain events of default.

On December 11, 2020, Vince, LLC entered into the Fifth Amendment (the "Fifth Revolver Amendment") to the 2018 Revolving Credit Facility and the Fifth Amendment (the "Fifth Term Loan Amendment") to the 2018 Term Loan Facility. The amendments, among others, extended the period during which the testing under a financial covenant is suspended, lowered the fixed charge coverage ratio to be maintained thereafter, extended the applicability of certain revised eligibility criteria for trade receivables and waived certain term loan amortization payments.

On April 26, 2021, Vince, LLC entered into the Sixth Amendment (the "Sixth Term Loan Amendment") to the 2018 Term Loan Facility. This amendment extends the waiver of the fixed charge coverage ratio measurement until January 28, 2023 in order to create more flexibility as the Company recovers from the pandemic. Until January 28, 2023, Vince will continue to be subject to the springing covenant whereby Vince is required to maintain a fixed charge coverage ratio of 1.0 to 1.0 in the event the excess availability under its existing revolver facility is less than $7,500 until July 31, 2021 and $10,000 after August 1, 2021. Concurrently with the Sixth Term Loan Amendment, the Company entered into the Sixth Amendment (the "Sixth Revolver Amendment") to the 2018 Revolving Credit Facility which consents to the Sixth Term Loan Amendment and amends certain definitions to reflect the Sixth Term Loan Amendment.

See "Financing Activities" below, Note 5 "Long-Term Debt and Financing Arrangements" and Note 15 "Subsequent Events" to the Consolidated Financial Statements in this Annual Report for more details on these amendments.

Third Lien Credit Agreement

On December 11, 2020, Vince, LLC entered into a $20,000 subordinated term loan credit facility (the "Third Lien Credit Facility") pursuant to a credit agreement (the "Third Lien Credit Agreement"), dated December 11, 2020, by and among Vince, LLC, as the borrower, SK Financial Services, LLC ("SK Financial"), as agent and lender, and other lenders from time to time party thereto. SK Financial is an affiliate of Sun Capital, whose affiliates own approximately 72% of the Company's common stock. The Third Lien Credit Facility was reviewed and approved by the Special Committee of the Company's Board of Directors, consisting solely of directors not affiliated with Sun Capital, which committee was represented by independent legal advisors. Interest and closing fees on loans under the Third Lien Credit Facility are payable in kind. The proceeds were received on December 11, 2020 and were used to repay a portion of the borrowings outstanding under the 2018 Revolving Credit Facility. See "Financing Activities" below and Note 5 "Long-Term Debt and Financing Arrangements" to the Consolidated Financial Statements in this Annual Report for more details.

Operating Activities

	Fiscal Year	
(in thousands)	**2020**	**2019**
Operating activities		
Net (loss) income	$ (65,649)	$ 30,396
Add (deduct) items not affecting operating cash flows:		
Adjustment to Tax Receivable Agreement Liability	(2,320)	(55,953)
Impairment of goodwill and intangible assets	13,848	19,491
Impairment of long-lived assets	13,026	818
Depreciation and amortization	6,898	9,602
Provision for bad debt	2,194	(51)
Loss on disposal of property and equipment	—	128
Amortization of deferred financing costs	674	554
Deferred income taxes	1,687	101
Share-based compensation expense	1,275	2,033
Capitalized PIK Interest	348	—
Other, net	—	(304)
Changes in assets and liabilities:		
Receivables, net	6,594	(2,577)
Inventories	(1,823)	5,252
Prepaid expenses and other current assets	533	2,942
Accounts payable and accrued expenses	(6,563)	7,606
Other assets and liabilities	4,207	(3,219)
Net cash (used in) provided by operating activities	$ (25,071)	$ 16,819

Net cash used in operating activities during fiscal 2020 was $25,071 which consisted of a net loss of $65,649, impacted by non-cash items of $37,630 and cash provided by working capital of $2,948. Net cash provided by working capital resulted from a cash inflow in receivables, net of $6,594 driven largely by the timing of collections offset by a cash outflow in accounts payable and accrued expenses of $6,563 primarily due to the timing of payments to vendors and a cash outflow in inventories of $1,823 as higher aged inventory (which was driven by the impact of COVID-19) was mostly offset by reduced inventory purchases and the timing of inventory receipts.

Net cash provided by operating activities during fiscal 2019 was $16,819 which consisted of a net income of $30,396, impacted by non-cash items of $(23,581) and cash provided by working capital of $10,004. Net cash provided by working capital resulted from a cash inflow in accounts payable and accrued expenses of $7,606 primarily due to the timing of payments to vendors and a cash inflow in inventories of $5,252 due to lower in-transit inventories, partly offset by a cash outflow in receivables, net of $2,577 driven largely by the timing of collections.

Investing Activities

(in thousands)	Fiscal Year 2020	2019
Investing activities		
Payments for capital expenditures	$ (3,497)	$ (4,523)
Net cash used in investing activities	$ (3,497)	$ (4,523)

Net cash used in investing activities of $3,497 during fiscal 2020 represents capital expenditures related to retail store build-outs, including leasehold improvements and store fixtures.

Net cash used in investing activities of $4,523 during fiscal 2019 represents capital expenditures related to retail store build-outs, including leasehold improvements and store fixtures.

Financing Activities

(in thousands)	Fiscal Year 2020	2019
Financing activities		
Proceeds from borrowings under the Revolving Credit Facilities	$ 250,398	$ 310,434
Repayment of borrowings under the Revolving Credit Facilities	(237,722)	(301,727)
Proceeds from borrowings under the Revolving Credit Facilities - Acquired Businesses	—	11,761
Repayment of borrowings under the Revolving Credit Facilities - Acquired Businesses	—	(29,410)
Repayment of borrowings under the Term Loan Facilities	—	(2,750)
Proceeds from borrowings under the Third Lien Credit Facility	20,000	—
Tax withholdings related to restricted stock vesting	(222)	(321)
Proceeds from stock option exercises, restricted stock vesting, and issuance of common stock under employee stock purchase plan	48	35
Financing fees	(715)	(13)
Net cash provided by (used in) financing activities	$ 31,787	$ (11,991)

Net cash provided by financing activities was $31,787 during fiscal 2020, primarily consisting of $20,000 of net proceeds from borrowings under the Third Lien Credit Facility and $12,676 of net proceeds from borrowings under the 2018 Revolving Credit Facility.

Net cash used in financing activities was $11,991 during fiscal 2019, primarily consisting of $17,649 of net repayments of borrowings under the Acquired Businesses revolving credit facilities and $2,750 of repayments under the 2018 Term Loan Facility partly offset by $8,707 of net proceeds received under the 2018 Revolving Credit Facility. The acquisition of the Acquired Businesses was funded with borrowings under the 2018 Revolving Credit Facility of which $19,099, plus accrued interest, was used to repay the outstanding debt obligations under the Acquired Businesses Revolving Credit Facilities.

2018 Term Loan Facility

On August 21, 2018, Vince, LLC entered into a $27,500 senior secured term loan facility (the "2018 Term Loan Facility") pursuant to a credit agreement by and among Vince, LLC, as the borrower, VHC and Vince Intermediate Holdings, LLC, a direct subsidiary of VHC and the direct parent company of Vince, LLC ("Vince Intermediate"), as guarantors, Crystal Financial, LLC, as administrative agent and collateral agent, and the other lenders from time to time party thereto. The 2018 Term Loan Facility is subject to quarterly amortization of principal equal to 2.5% of the original aggregate principal amount of the 2018 Term Loan Facility, with the balance payable at final maturity. Interest is payable on loans under the 2018 Term Loan Facility at a rate equal to the 90-day LIBOR rate (subject to a 0% floor) plus applicable margins subject to a pricing grid based on a minimum Consolidated EBITDA (as defined in the credit agreement for the 2018 Term Loan Facility) calculation. During the continuance of certain specified events of default, interest will accrue on the outstanding amount of any loan at a rate of 2.0% in excess of the rate otherwise applicable to such amount. The 2018 Term Loan Facility matures on the earlier of August 21, 2023 and the maturity date of the 2018 Revolving Credit Facility (as defined below).

The 2018 Term Loan Facility contains a requirement that Vince, LLC maintain a Consolidated Fixed Charge Coverage Ratio (as defined in the credit agreement for the 2018 Term Loan Facility) as of the last day of any period of four fiscal quarters not to exceed 0.85:1.00 for the fiscal quarter ended November 3, 2018, 1.00:1.00 for the fiscal quarter ended February 2, 2019, 1.20:1.00 for the fiscal quarter ended May 4, 2019, 1.35:1.00 for the fiscal quarter ending August 3, 2019, 1.50:1.00 for the fiscal quarters ending November 2, 2019 and February 1, 2020 and 1.75:1.00 for the fiscal quarter ending May 2, 2020 and each fiscal quarter thereafter. In addition, the 2018 Term Loan Facility contains customary representations and warranties, other covenants, and events of default, including but not limited to, covenants with respect to limitations on the incurrence of additional indebtedness, liens, burdensome agreements, guarantees, investments, loans, asset sales, mergers, acquisitions, prepayment of other debt, the repurchase of capital stock, transactions with affiliates, and the ability to change the nature of the Company's business or its fiscal year, and distributions and dividends. The 2018 Term Loan Facility generally permits dividends to the extent that no default or event of default is continuing or would result from a contemplated dividend, so long as (i) after giving pro forma effect to the contemplated dividend and for the following six months Excess Availability will be at least the greater of 20.0% of the Loan Cap (as defined in the credit agreement for the 2018 Term Loan Facility) and $10,000, (ii) after giving pro forma effect to the contemplated dividend, the Consolidated Fixed Charge Coverage Ratio for the 12 months preceding such dividend will be greater than or equal to 1.0 to 1.0 (provided that the Consolidated Fixed Charge Coverage Ratio may be less than 1.0 to 1.0 if, after giving pro forma effect to the contemplated dividend, Excess Availability for the six fiscal months following the dividend is at least the greater of 25.0% of the Loan Cap and $12,500), and (iii) the pro forma Fixed Charge Coverage Ratio after giving effect to such contemplated dividend is no less than the minimum Consolidated Fixed Charge Coverage Ratio for such quarter. In addition, the 2018 Term Loan Facility is subject to a Borrowing Base (as defined in the credit agreement of the 2018 Term Loan Facility) which can, under certain conditions, result in the imposition of a reserve under the 2018 Revolving Credit Facility. As of January 30, 2021, the Company was in compliance with applicable covenants.

The 2018 Term Loan Facility also contains an Excess Cash Flow (as defined in the credit agreement for the 2018 Term Loan Facility) sweep requirement in which Vince, LLC remits 50% of Excess Cash Flow reduced on a dollar-for-dollar basis by any voluntary prepayments of the 2018 Term Loan Facility or the 2018 Revolving Credit Facility (to the extent accompanied by a permanent reduction in commitments) during such fiscal year or after the fiscal year but prior to the date of the excess cash flow payment, to be applied to the outstanding principal balance commencing 10 business days after the filing of the Company's Annual Report on Form 10-K starting from fiscal year ended February 1, 2020. There was no such payment due for fiscal years ended January 30, 2021 and February 1, 2020.

On March 30, 2020, Vince, LLC entered into the Limited Waiver and Amendment (the "Second Term Loan Amendment") to the 2018 Term Loan Facility. The Second Term Loan Amendment postponed the amortization payment due on April 1, 2020, with 50% of such payment to be paid on July 1, 2020 and the remainder to be paid on October 1, 2020 and modifies certain reporting obligations.

On June 8, 2020, Vince, LLC entered into the Third Amendment (the "Third Term Loan Amendment") to the 2018 Term Loan Facility. The Third Term Loan Amendment, among others, (i) temporarily suspends the Consolidated Fixed Charge Coverage Ratio covenant through the delivery of a compliance certificate relating to the fiscal quarter ended July 31, 2021 (such period, the "Third Amendment Extended Accommodation Period"); (ii) requires Vince, LLC to maintain Fixed Charge Coverage Ratio of 1.0 to 1.0 in the event the excess availability under the 2018 Revolving Credit Facility is less than (x) $10,000 between September 6, 2020 and January 9, 2021 and (y) $12,500 between January 10, 2021 and January 31, 2021 and (z) $15,000 during all other times during the Third Amendment Extended Accommodation Period; (iii) revises the Fixed Charge Coverage Ratio required to be maintained following the Third Amendment Extended Accommodation Period (commencing with the fiscal month ending July 31, 2021) to be 1.50 to 1.0 for the fiscal quarter ending July 31, 2021 and 1.75 to 1.0 for each fiscal quarter thereafter; (iv) waives the amortization payments due on July 1, 2020 and October 1, 2020 (including the amortization payment due on April 1, 2020 that was previously deferred under the Second Term Loan Amendment); (v) for any fiscal four quarter period ending prior to or on October 30, 2020, increasing the cap on certain items eligible to be added back to Consolidated EBITDA to 27.5% from 22.5%; and (vi) during the Third Amendment Extended Accommodation Period, allows Vince, LLC to cure any default under the applicable Fixed Charge Coverage Ratio covenant by including any amount provided by equity or subordinated debt (which amount shall be at least $1,000) in the

calculation of excess availability under the 2018 Revolving Credit Facility so that the excess availability is above the applicable threshold described above.

The Third Term Loan Amendment also (a) waives certain events of default; (b) temporarily revises the applicable margin to be 9.0% for one year after the Third Term Loan Amendment effective date (2.0% of which is to be accrued but not payable in cash until the first anniversary of the Third Term Loan Amendment effective date) and after such time and through the Third Amendment Extended Accommodation Period, 9.0% or 7.0% depending on the amount of Consolidated EBITDA; (c) increases the LIBOR floor from 0% to 1.0%; (d) eliminates the Borrower's and any loan party's ability to designate subsidiaries as unrestricted and to make certain payments, restricted payments and investments during the Third Amendment Extended Accommodation Period; (e) resets the prepayment premium to 3.0% of the prepaid amount if prepaid prior to the first anniversary of the Third Term Loan Amendment Effective Date, 1.5% of the prepaid amount if prepaid prior to the second anniversary of the Third Term Loan Amendment Effective Date and 0% thereafter; (f) imposes a requirement to pay down the 2018 Revolving Credit Facility to the extent cash on hand exceeds $5,000 on the last day of each week; (g) permits Vince, LLC to incur up to $8,000 of additional secured debt (in addition to any interest accrued or paid in kind), to the extent subordinated to the 2018 Term Loan Facility on terms reasonably acceptable to Crystal; (h) extends the delivery periods for (x) annual financial statements for the fiscal year ended February 1, 2020 to June 15, 2020 and (y) quarterly financial statements for the fiscal quarters ended May 2, 2020 and ending August 1, 2020 to July 31, 2020 and October 29, 2020, respectively, and (i) grants ongoing relief through September 30, 2020 with respect to certain covenants regarding the payment of lease obligations.

As a result of the Third Term Loan Amendment, the Company incurred $383 of additional financing costs. In accordance with ASC Topic 470, *"Debt"*, the Company accounted for this amendment as a debt modification and has recorded $233 of the financing costs paid to third parties within selling, general and administrative expenses on the Consolidated Statements of Operations and Comprehensive Income (Loss) in this Annual Report for fiscal 2020. The remaining $150 of financing costs are recorded as deferred debt issuance costs which will be amortized over the remaining term of the 2018 Term Loan Facility.

On December 11, 2020, Vince, LLC entered into the Fifth Term Loan Amendment to the 2018 Term Loan Facility. The Fifth Term Loan Amendment, among other things, (i) extends the suspension of the FCCR covenant through the Extended Accommodation Period; (ii) extends the period through which the applicable margin is increased to 9.0% or 7.0%, subject to a pricing grid based on Consolidated EBITDA through the Extended Accommodation Period; (iii) extends the period from October 30, 2021 to January 29, 2022, during which the cap on which certain items eligible to be added back to "Consolidated EBITDA" (as defined in the 2018 Term Loan Facility) is increased to 27.5% from 22.5%; (iv) requires Vince, LLC to maintain an FCCR of 1.0 to 1.0 in the event the excess availability under the 2018 Revolving Credit Facility is less than (x) $7,500 through the end of the Accommodation Period; and (y) $10,000 from August 1, 2020 through the end of the Extended Accommodation Period; (v) revises the FCCR required to be maintained commencing with the fiscal quarter ending January 29, 2022 and for each fiscal quarter thereafter to be 1.25 to 1.0; (vi) waives the amortization payments due on January 1, 2021, April 1, 2021, July 1, 2021, October 1, 2021 and January 1, 2022; (vii) permits Vince, LLC to incur the debt under the Third Lien Credit Facility (as described below); (viii) resets the prepayment premium to 3.0% of the prepaid amount if prepaid prior to the first anniversary of the Fifth Term Loan Amendment effective date, 1.5% of the prepaid amount if prepaid prior to the second anniversary of the Fifth Term Loan Amendment effective date and 0% thereafter; (ix) requires an engagement by the Company of a financial advisor from February 1, 2021 until March 31, 2021 (or until the excess availability is greater than 25% of the loan cap for a period of at least thirty days, whichever is later) to assist in the preparation of certain financial reports, including the review of the weekly cashflow reports and other items; and (x) revises the advance rate on the intellectual property to 60% of its appraised value. As of April 2021, the requirement to engage a financial advisor has been satisfied.

As a result of the Fifth Term Loan Amendment, the Company incurred $150 of additional financing costs. In accordance with ASC Topic 470, *"Debt"*, the Company accounted for this amendment as a debt modification and has recorded the additional deferred financing costs as deferred debt issuance costs which will be amortized over the remaining term of the 2018 Term Loan Facility and are included in accrued liabilities on the Consolidated Balance Sheet as of January 30, 2021.

On April 26, 2021, Vince, LLC entered into the Sixth Term Loan Amendment to the 2018 Term Loan Facility. See Note 15 "Subsequent Events" to the Consolidated Financial Statements in this Annual Report for further information.

Through January 30, 2021, on an inception to date basis, the Company had made repayments totaling $2,750 in the aggregate on the 2018 Term Loan Facility. As of January 30, 2021, the Company had $24,750 of debt outstanding under the 2018 Term Loan Facility.

2018 Revolving Credit Facility

On August 21, 2018, Vince, LLC entered into an $80,000 senior secured revolving credit facility (the "2018 Revolving Credit Facility") pursuant to a credit agreement by and among Vince, LLC, as the borrower, VHC and Vince Intermediate, as guarantors, Citizens Bank, N.A. ("Citizens"), as administrative agent and collateral agent, and the other lenders from time to time party thereto. The 2018 Revolving Credit Facility provides for a revolving line of credit of up to $80,000, subject to a Loan Cap, which is the lesser of (i) the Borrowing Base as defined in the credit agreement for the 2018 Revolving Credit Facility and (ii) the aggregate commitments, as well as a letter of credit sublimit of $25,000. It also provides for an increase in aggregate commitments of up to

$20,000. The 2018 Revolving Credit Facility matures on the earlier of August 21, 2023 and the maturity date of the 2018 Term Loan Facility. On August 21, 2018, Vince, LLC incurred $39,555 of borrowings, prior to which $66,271 was available, given the Loan Cap as of such date.

Interest is payable on the loans under the 2018 Revolving Credit Facility at either the LIBOR or the Base Rate, in each case, with applicable margins subject to a pricing grid based on an average daily excess availability calculation. The "Base Rate" means, for any day, a fluctuating rate per annum equal to the highest of (i) the rate of interest in effect for such day as publicly announced from time to time by Citizens as its prime rate; (ii) the Federal Funds Rate for such day, plus 0.5%; and (iii) the LIBOR Rate for a one month interest period as determined on such day, plus 1.00%. During the continuance of certain specified events of default, at the election of Citizens, interest will accrue at a rate of 2.0% in excess of the applicable non-default rate.

The 2018 Revolving Credit Facility contains a requirement that, at any point when Excess Availability (as defined in the credit agreement for the 2018 Revolving Credit Facility) is less than 10.0% of the loan cap and continuing until Excess Availability exceeds the greater of such amounts for 30 consecutive days, Vince must maintain during that time a Consolidated Fixed Charge Coverage Ratio (as defined in the credit agreement for the 2018 Revolving Credit Facility) equal to or greater than 1.0 to 1.0 measured as of the last day of each fiscal month during such period.

The 2018 Revolving Credit Facility contains representations and warranties, other covenants and events of default that are customary for this type of financing, including covenants with respect to limitations on the incurrence of additional indebtedness, liens, burdensome agreements, guarantees, investments, loans, asset sales, mergers, acquisitions, prepayment of other debt, the repurchase of capital stock, transactions with affiliates, and the ability to change the nature of the Company's business or its fiscal year. The 2018 Revolving Credit Facility generally permits dividends in the absence of any event of default (including any event of default arising from a contemplated dividend), so long as (i) after giving pro forma effect to the contemplated dividend and for the following six months Excess Availability will be at least the greater of 20.0% of the Loan Cap and $10,000 and (ii) after giving pro forma effect to the contemplated dividend, the Consolidated Fixed Charge Coverage Ratio for the 12 months preceding such dividend will be greater than or equal to 1.0 to 1.0 (provided that the Consolidated Fixed Charge Coverage Ratio may be less than 1.0 to 1.0 if, after giving pro forma effect to the contemplated dividend, Excess Availability for the six fiscal months following the dividend is at least the greater of 25.0% of the Loan Cap and $12,500). As of January 30, 2021, the Company was in compliance with applicable covenants.

On November 1, 2019, Vince, LLC entered into the First Amendment (the "First Revolver Amendment") to the 2018 Revolving Credit Facility, which provides the borrower the ability to elect the Daily LIBOR Rate in lieu of the Base Rate to be applied to the borrowings upon applicable notice. The "Daily LIBOR Rate" means a rate equal to the Adjusted LIBOR Rate in effect on such day for deposits for a one day period, provided that, upon notice and not more than once every 90 days, such rate may be substituted for a one week or one month period for the Adjusted LIBOR Rate for a one day period.

On November 4, 2019, Vince, LLC entered into the Second Amendment (the "Second Revolver Amendment") to the credit agreement of the 2018 Revolving Credit Facility. The Second Revolver Amendment increased the aggregate commitments under the 2018 Revolving Credit Facility by $20,000 to $100,000. Pursuant to the terms of the Second Revolver Amendment, the Acquired Businesses became guarantors under the 2018 Revolving Credit Facility and jointly and severally liable for the obligations thereunder. Simultaneously, Vince, LLC entered into a Joinder Amendment to the credit agreement of the 2018 Term Loan Facility whereby the Acquired Businesses became guarantors under the 2018 Term Loan Facility and jointly and severally liable for the obligations thereunder.

On June 8, 2020, Vince, LLC entered into the Third Amendment (the "Third Revolver Amendment") to the 2018 Revolving Credit Facility. The Third Revolver Amendment, among others, increases availability under the facility's borrowing base by (i) temporarily increasing the aggregate commitments under the 2018 Revolving Credit Facility to $110,000 through November 30, 2020 (such period, the "Third Amendment Accommodation Period") (ii) temporarily revising the eligibility of certain account debtors during the Third Amendment Accommodation Period by extending by 30 days the period during which those accounts may remain outstanding past due as well as increasing the concentration limits of certain account debtors and (iii) for any fiscal four quarter period ending prior to or on October 30, 2021, increasing the cap on certain items eligible to be added back to Consolidated EBITDA to 27.5% from 22.5%.

The Third Revolver Amendment also (a) waives events of default; (b) temporarily increases the applicable margin on all borrowings of revolving loans by 0.75% per annum during the Third Amendment Accommodation Period and increases the LIBOR floor from 0% to 1.0%; (c) eliminates Vince LLC's and any loan party's ability to designate subsidiaries as unrestricted and to make certain payments, restricted payments and investments during the Third Amendment Extended Accommodation Period; (d) temporarily suspends the Fixed Charge Coverage Ratio covenant through the Third Amendment Extended Accommodation Period; (e) requires Vince, LLC to maintain a Fixed Charge Coverage Ratio of 1.0 to 1.0 in the event the excess availability under the 2018 Revolving Credit Facility is less than (x) $10,000 between September 6, 2020 and January 9, 2021, (y) $12,500 between January 10, 2021 and January 31, 2021 and (z) $15,000 at all other times during the Third Amendment Extended Accommodation Period; (f) imposes a requirement (y) to pay down the 2018 Revolving Credit Facility to the extent cash on hand exceeds $5,000 on the last day of each week and (z) that, after giving effect to any borrowing thereunder, Vince, LLC may have no more than $5,000 of cash on

hand; (g) permits Vince, LLC to incur up to $8,000 of additional secured debt (in addition to any interest accrued or paid in kind), to the extent subordinated to the 2018 Revolving Credit Facility on terms reasonably acceptable to Citizens; (h) establishes a method for imposing a successor reference rate if LIBOR should become unavailable, (i) extends the delivery periods for (x) annual financial statements for the fiscal year ended February 1, 2020 to June 15, 2020 and (y) quarterly financial statements for the fiscal quarters ended May 2, 2020 and ending August 1, 2020 to July 31, 2020 and October 29, 2020, respectively, and (j) grants ongoing relief through September 30, 2020 with respect to certain covenants regarding the payment of lease obligations.

As a result of the Third Revolver Amendment, the Company incurred $376 of additional deferred financing costs. In accordance with ASC Topic 470, "*Debt*", the Company accounted for this amendment as a debt modification and has recorded the additional deferred financing costs as deferred debt issuance costs which will be amortized over the remaining term of the 2018 Revolving Credit Facility.

On December 11, 2020, Vince, LLC entered into the Fifth Revolver Amendment to the 2018 Revolving Credit Facility. The Fifth Revolver Amendment, among other things, (i) extends the period from November 30, 2020 to July 31, 2021 (such period, "Accommodation Period"), during which the eligibility of certain account debtors is revised by extending by 30 days the time those accounts may remain outstanding past due as well as increasing the concentration limits of certain account debtors; (ii) extends the period through which the applicable margin on all borrowings of revolving loans by 0.75% per annum during such Accommodation Period; (iii) extends the period from October 30, 2021 to January 29, 2022, during which the cap on which certain items eligible to be added back to "Consolidated EBITDA" (as defined in the 2018 Revolving Credit Facility) is increased to 27.5% from 22.5%; (iv) extends the temporary suspension of the Consolidated Fixed Charge Coverage Ratio ("FCCR") covenant through the delivery of a compliance certificate relating to the fiscal quarter ended January 29, 2022 (such period, the "Extended Accommodation Period"), other than the fiscal quarter ending January 29, 2022; (v) requires Vince, LLC to maintain an FCCR of 1.0 to 1.0 in the event the excess availability under the 2018 Revolving Credit Facility is less than (x) $7,500 through the end of the Accommodation Period; and (y) $10,000 from August 1, 2020 through the end of the Extended Accommodation Period; (vi) permits Vince, LLC to incur the debt under the Third Lien Credit Facility (as described below); (vii) revises the definition of "Cash Dominion Trigger Amount" to mean $15,000 through the end of the Extended Accommodation Period and at all other times thereafter, 12.5% of the loan cap and $5,000, whichever is greater; (viii) deems the Cash Dominion Event (as defined in the 2018 Revolving Credit Facility) as triggered during the Accommodation Period; and (ix) requires an engagement by the Company of a financial advisor from February 1, 2021 until March 31, 2021 (or until the excess availability is greater than 25% of the loan cap for a period of at least thirty days, whichever is later) to assist in the preparation of certain financial reports, including the review of the weekly cashflow reports and other items. As of April 2021, the requirement to engage a financial advisor has been satisfied.

As a result of the Fifth Revolver Amendment, the Company incurred $204 of additional deferred financing costs. In accordance with ASC Topic 470, *"Debt"*, the Company accounted for this amendment as a debt modification and has recorded the additional deferred financing costs as deferred debt issuance costs which will be amortized over the remaining term of the 2018 Revolving Credit Facility. $100 of financing costs are included in accrued liabilities on the Consolidated Balance Sheet as of January 30, 2021.

Concurrently with the Sixth Term Loan Amendment, the Company entered into the Sixth Revolver Amendment to the 2018 Revolving Credit Facility. See Note 15 "Subsequent Events" to the Consolidated Financial Statements in this Annual Report for further information.

As of January 30, 2021, $30,176 was available under the 2018 Revolving Credit Facility, net of the loan cap, and there were $40,399 of borrowings outstanding and $5,195 of letters of credit outstanding under the 2018 Revolving Credit Facility. The weighted average interest rate for borrowings outstanding under the 2018 Revolving Credit Facility as of January 30, 2021 was 3.8%.

As of February 1, 2020, $59,916 was available under the 2018 Revolving Credit Facility, net of the loan cap, and there were $27,723 of borrowings outstanding and $6,505 of letters of credit outstanding under the 2018 Revolving Credit Facility. The weighted average interest rate for borrowings outstanding under the 2018 Revolving Credit Facility as of February 1, 2020 was 3.3%.

Third Lien Credit Agreement

On December 11, 2020, Vince, LLC entered into the $20,000 Third Lien Credit Facility pursuant to the Third Lien Credit Agreement. The Third Lien Credit Facility matures on the earlier of (a) February 21, 2024, (b) the date that is 360 days after the "Maturity Date" under the 2018 Revolving Credit Facility so long as the loans under the 2018 Term Loan Facility remain outstanding and (c) 180 days after the "Maturity Date" under the 2018 Term Loan Facility and the 2018 Revolving Credit Facility.

SK Financial is an affiliate of Sun Capital, whose affiliates own approximately 72% of the Company's common stock. The Third Lien Credit Facility was reviewed and approved by the Special Committee of the Company's Board of Directors, consisting solely of directors not affiliated with Sun Capital, which committee was represented by independent legal advisors.

Interest on loans under the Third Lien Credit Facility is payable in kind at a rate equal to the LIBOR rate (subject to a floor of 1.0%) plus applicable margins subject to a pricing grid based on minimum Consolidated EBITDA (as defined in the Third Lien Credit Agreement). During the continuance of certain specified events of default, interest may accrue on the loans under the Third Lien Credit Facility at a rate of 2.0% in excess of the rate otherwise applicable to such amount. The Third Lien Credit Facility contains representations, covenants and conditions that are substantially similar to those under the 2018 Term Loan Facility, except the Third Lien Credit Facility does not contain any financial covenant.

The Company has incurred $485 in deferred financing costs associated with the Third Lien Credit Facility of which a $400 closing fee is payable in kind and is added to the principal balance. These deferred financing costs are recorded as deferred debt issuance costs which will be amortized over the remaining term of the Third Lien Credit.

All obligations under the Third Lien Credit Facility are guaranteed by the Company, Vince Intermediate Holding, LLC and the Company's existing material domestic restricted subsidiaries as well as any future material domestic restricted subsidiaries and are secured on a junior basis relative to the 2018 Revolving Credit Facility and the 2018 Term Loan Facility by a lien on substantially all of the assets of the Company, Vince Intermediate Holding, LLC, Vince, LLC and the Company's existing material domestic restricted subsidiaries as well as any future material domestic restricted subsidiaries.

The proceeds were received on December 11, 2020 and were used to repay a portion of the borrowings outstanding under the 2018 Revolving Credit Facility.

Acquired Businesses Short-Term Borrowings

On July 23, 2014, Parker Lifestyle, LLC, as borrower, and Sun Capital Partners V, L.P., as guarantor, entered into a Loan Authorization Agreement with BMO Harris Bank N.A., as lender, for a revolving credit facility. On December 21, 2016, that facility was amended to include Rebecca Taylor, Inc. The maximum credit line was $25,000 (the "BMO Obligations") subject to a maximum credit limit, which required that the sum of (i) the aggregate principal amounts of loans outstanding, (ii) the aggregate undrawn stated amount of letters of credit issued under the credit facility, and (iii) the aggregate amount of any unreimbursed draws under any letters of credit issued, shall not exceed the credit limit. Any letters of credit issued under the BMO Obligations credit facility were subject to the same maximum credit line. On November 3, 2019, in conjunction with the acquisition of the Acquired Businesses, $19,099 plus accrued interest of the cash consideration was used to pay-off the outstanding debt obligation under this facility. On November 3, 2019, at the request of the Company and upon the satisfaction of certain release conditions, the BMO Obligations were released.

Off-Balance Sheet Arrangements

We did not have any relationships with unconsolidated organizations or financial partnerships, such as structured finance or special purpose entities, that would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes during the periods presented herein.

Contractual Obligations

The following table summarizes our contractual obligations as of January 30, 2021:

	Future payments due by period				
(in thousands)	**2021**	**2022-2023**	**2024-2025**	**Thereafter**	**Total**
Unrecorded contractual obligations					
Other contractual obligations (1)	$ 42,065	$ 2,188	$ —	$ —	$ 44,253
Recorded contractual obligations					
Operating lease obligations	28,590	52,960	38,130	22,023	141,703
Long-term debt obligations	—	24,750	20,748	—	45,498
Tax Receivable Agreement (2)					—
Total	$ 70,655	$ 79,898	$ 58,878	$ 22,023	$ 231,454

(1) Consists primarily of inventory purchase obligations and service contracts.

(2) VHC entered into the Tax Receivable Agreement with the Pre-IPO Stockholders (as described in Note 14 "Related Party Transactions" to the Consolidated Financial Statements in this Annual Report).

The summary above does not include the following items:

- As of January 30, 2021, we have recorded $2,304 of unrecognized tax benefits, excluding interest and penalties. We are unable to make reliable estimates of cash flows by period due to the inherent uncertainty surrounding the effective settlement of these positions.

- Interest payable under the 2018 Term Loan Facility, which is calculated at a rate equal to the 90-day LIBOR rate (subject to a 1.0% floor) plus applicable margins subject to a pricing grid based on a minimum Consolidated EBITDA (as defined in the credit agreement for the 2018 Term Loan Facility) calculation. The Third Term Loan Amendment and the Fifth Term Loan Amendment, among other things, temporarily revised the applicable margin to be 9.0% for one year after the Third Term Loan Amendment effective date (2.0% of which is to be accrued but not payable in cash until the first anniversary of the Third Term Loan Amendment effective date) and after such time and through the Extended Accommodation Period, 9.0% or 7.0% depending on the amount of Consolidated EBITDA. See Note 5 "Long-Term Debt and Financing Arrangements" to the Consolidated Financial Statements in this Annual Report for additional information.
- Interest payable under the 2018 Revolving Credit facility, which is calculated at either the LIBOR rate (subject to a 1.0% floor) or the Base Rate, in each case, with applicable margins subject to a pricing grid based on an average daily excess availability calculation. The "Base Rate" means, for any day, a fluctuating rate per annum equal to the highest of (i) the rate of interest in effect for such day as publicly announced from time to time by Citizens as its prime rate; (ii) the Federal Funds Rate for such day, plus 0.5%; and (iii) the LIBOR Rate for a one month interest period as determined on such day, plus 1.00%. The Third Revolver Amendment and the Fifth Revolver Amendment, among other things, temporarily increased the applicable margin on all borrowings of revolving loans by 0.75% per annum through the adjustment date following the Accommodation Period. See Note 5 "Long-Term Debt and Financing Arrangements" to the Consolidated Financial Statements in this Annual Report for additional information.
- Interest payable under the Third Lien Credit Facility is payable in kind at a rate equal to the LIBOR rate (subject to a floor of 1.0%) plus applicable margins subject to a pricing grid based on a minimum Consolidated EBITDA (as defined in the Third Lien Credit Agreement).

Seasonality

The apparel and fashion industry in which we operate is cyclical and, consequently, our revenues are affected by general economic conditions and the seasonal trends characteristic to the apparel and fashion industry. Purchases of apparel are sensitive to a number of factors that influence the level of consumer spending, including economic conditions and the level of disposable consumer income, consumer debt, interest rates and consumer confidence as well as the impact of adverse weather conditions. In addition, fluctuations in the amount of sales in any fiscal quarter are affected by the timing of seasonal wholesale shipments and other events affecting direct-to-consumer sales; as such, the financial results for any particular quarter may not be indicative of results for the fiscal year. We expect such seasonality to continue.

Inflation

While inflation may impact our sales, cost of goods sold and expenses, we believe the effects of inflation on our results of operations and financial condition are not significant. While it is difficult to accurately measure the impact of inflation, management believes it has not been significant and cannot provide any assurances that our results of operations and financial condition will not be materially impacted by inflation in the future.

Critical Accounting Policies

Management's discussion and analysis of financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). The preparation of these financial statements requires estimates and judgments that affect the reported amounts of our assets, liabilities, revenues and expenses. Management bases estimates on historical experience and other assumptions it believes to be reasonable under the circumstances and evaluates these estimates on an on-going basis. Actual results may differ from these estimates under different assumptions or conditions.

The following critical accounting policies reflect the significant estimates and judgments used in the preparation of our consolidated financial statements. With respect to critical accounting policies, even a relatively minor variance between actual and expected experience can potentially have a materially favorable or unfavorable impact on subsequent consolidated results of operations. For more information on our accounting policies, please refer to the Notes to Consolidated Financial Statements in this Annual Report.

Revenue Recognition and Reserves for Allowances

The Company recognizes revenue when performance obligations identified under the terms of contracts with its customers are satisfied, which generally occurs upon the transfer of control in accordance with the contractual terms and conditions of the sale. Sales are recognized when the control of the goods are transferred to the customer for the Company's wholesale businesses, upon receipt by the customer for the Company's e-commerce businesses, and at the time of sale to the consumer for the Company's retail businesses. Sales are measured as the amount of consideration the Company expects to receive in exchange for transferring goods, which includes

estimates for variable consideration. Variable consideration mainly includes discounts, chargebacks, markdown allowances, cooperative advertising programs, and sales returns. Estimated amounts of discounts, chargebacks, markdown allowances, cooperative advertising programs, and sales returns are accounted for as reductions of sales when the associated sale occurs. These estimated amounts are adjusted periodically based on changes in facts and circumstances when the changes become known. On the Company's consolidated balance sheet, reserves for sales returns are included within other accrued liabilities, and the value of inventory associated with reserves for sales returns are included in prepaid expenses and other current assets. The Company continues to estimate the amount of sales returns based on known trends and historical return rates.

Accounts receivable are recorded net of allowances for expected future chargebacks and margin support from wholesale partners. It is the nature of the apparel and fashion industry that suppliers like us face significant pressure from wholesale partners in the retail industry to provide allowances to compensate for their margin shortfalls. This pressure often takes the form of customers requiring us to provide price concessions on prior shipments as a prerequisite for obtaining future orders. Pressure for these concessions is largely determined by overall retail sales performance and, more specifically, the performance of our products at retail. To the extent our wholesale partners have more of our goods on hand at the end of the season, there will be greater pressure for us to grant markdown concessions on prior shipments. Our accounts receivable balances are reported net of expected allowances for these matters based on the historical level of concessions required and our estimates of the level of markdowns and allowances that will be required in the coming season. We evaluate the allowance balances on a continual basis and adjust them as necessary to reflect changes in anticipated allowance activity. We also provide an allowance for sales returns based on known trends and historical return rates.

At January 30, 2021, a hypothetical 1% change in the reserves for allowances would have resulted in a change of $76 in accounts receivable and net sales.

Inventory Valuation

Inventory values are reduced to net realizable value when there are factors indicating that certain inventories will not be sold on terms sufficient to recover their cost. Out-of-season inventories may be sold to off-price retailers and other customers who serve a customer base that will purchase prior year fashions and may be liquidated through our outlets and our e-commerce websites. The amount, if any, that these customers will pay for prior year fashions is determined by the desirability of the inventory itself as well as the general level of prior year goods available to these customers. The assessment of inventory value, as a result, is highly subjective and requires an assessment of the seasonality of the inventory, its future desirability, and future price levels in the off-price sector.

In our wholesale businesses, some of our products are purchased for and sold to specific customers' orders. For the remainder of our business, products are purchased in anticipation of selling them to a specific customer based on historical trends. The loss of a major customer, whether due to the customer's financial difficulty or other reasons, could have a significant negative impact on the value of the inventory expected to be sold to that customer. This negative impact can also extend to purchase obligations for goods that have not yet been received. These obligations involve product to be received into inventory over the next one to six months.

At January 30, 2021, a hypothetical 1% change in the inventory obsolescence reserve would have resulted in a change of $82 in inventory, net of cost of products sold.

Fair Value Assessments of Goodwill and Other Indefinite-Lived Intangible Assets

Goodwill and other indefinite-lived intangible assets are tested for impairment at least annually and in an interim period if a triggering event occurs. As discussed in further detail below, we determined that a triggering event occurred during the first quarter of fiscal 2020 and during the second quarter of fiscal 2019.

An entity may elect to perform a qualitative impairment assessment for goodwill and indefinite-lived intangible assets. If adverse qualitative trends are identified during the qualitative assessment that indicate that it is more likely than not that the fair value of a reporting unit or indefinite-lived intangible asset is less than its carrying amount, a quantitative impairment test is required. "Step one" of the quantitative impairment test for goodwill requires an entity to determine the fair value of each reporting unit and compare such fair value to the respective carrying amount. If the estimated fair value of the reporting unit exceeds the carrying value of the net assets assigned to that reporting unit, goodwill is not impaired, and we are not required to perform further testing. If the carrying amount of the reporting unit exceeds its estimated fair value, an impairment loss is recorded for the amount by which a reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of goodwill. The goodwill impairment test is dependent on a number of factors, including estimates of projected revenues, EBITDA margins, long-term growth rates, working capital, discount rates and other variables. We base our estimates on assumptions we believe to be reasonable, but which are unpredictable and inherently uncertain. Actual future results may differ from those estimates.

We estimate the fair value of our tradename intangible assets using a discounted cash flow valuation analysis, which is based on the "relief from royalty" methodology. This methodology assumes that in lieu of ownership, a third party would be willing to pay a royalty in order to exploit the related benefits of these types of assets. The relief from royalty approach is dependent on a number of factors, including estimates of projected revenues, royalty rates in the category of intellectual property, discount rates and other variables. We base our fair value estimates on assumptions we believe to be reasonable, but which are unpredictable and inherently

uncertain. Actual future results may differ from those estimates. We recognize an impairment loss when the estimated fair value of the tradename intangible asset is less than the carrying value.

An entity may pass on performing the qualitative assessment for a reporting unit or indefinite-lived intangible asset and directly perform the quantitative assessment. This determination can be made on an asset by asset basis, and an entity may resume performing a qualitative assessment in subsequent periods.

During the first quarter of fiscal 2020, the Company determined that a triggering event had occurred as a result of changes to the Company's long-term projections driven by the impacts of COVID-19. The change in performance was primarily driven by the shutdown of the wholesale partners' retail locations domestically and internationally, resulting in reduced orders, decreased revenue and lower current and expected future cash flow. The Company performed an interim quantitative impairment assessment of goodwill and intangible assets.

A quantitative impairment test on the goodwill allocated to the Vince Wholesale reporting unit determined that the fair value was below the carrying value. The Company estimated the fair value using a combination of discounted cash flows and market comparisons. "Step one" of the assessment determined that the fair value was below the carrying amount by $9,462, and as a result the Company recorded a goodwill impairment charge of $9,462 within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) in fiscal 2020.

The Company estimated the fair value of the Vince and Rebecca Taylor tradename indefinite-lived intangible assets using a discounted cash flow valuation analysis, which is based on the relief from royalty method and determined that the fair value of the Vince and Rebecca Taylor tradenames were below their carrying amounts. Accordingly, the Company recorded an impairment charge for the Vince and Rebecca Taylor tradename indefinite-lived intangible assets of $4,386 which was recorded within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) in fiscal 2020.

During the second quarter of fiscal 2019, the Company identified facts and circumstances that indicated that the fair value of goodwill associated with Rebecca Taylor and Parker, the Rebecca Taylor tradename and the Parker tradename may not be recoverable, resulting in the determination that a triggering event had occurred. Because of decreases in projected revenues and declines in margins due to increases of aged inventory related to the Rebecca Taylor and Parker brands that were considered other than temporary, the Company performed a quantitative assessment on goodwill and these indefinite-lived intangible assets.

The Company estimated the fair value of the Rebecca Taylor and Parker tradename intangible assets using the relief from royalty methodology and determined that the fair value of the Rebecca Taylor and Parker tradenames were below their carrying amounts. Accordingly, the Company recorded an impairment charge for the Rebecca Taylor and Parker tradename intangible assets of $11,247, which was recorded within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) in fiscal 2019. Significant assumptions utilized in these analyses included projected revenue growth rates, royalty rates and discount rates. A quantitative impairment test on the goodwill allocated to the Rebecca Taylor and Parker reporting unit determined that the fair value was below the carrying value. The Company estimated the fair value using the income valuation approach. "Step one" of the assessment determined that the fair value was below the carrying amount by $2,129, and as a result the Company recorded a goodwill impairment charge of $2,129 within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) in fiscal 2019.

In accordance with Accounting Standards Codification 350, indefinite-lived intangibles should be reassessed each reporting period to determine whether events or circumstances continue to support an indefinite life. Based on the factors that led to the recognition of the Parker tradename impairment charge, the Company determined that the indefinite life classification was no longer appropriate for the Parker tradename. Accordingly, the Company determined a 10-year useful life was more appropriate and began amortizing the Parker tradename as of the beginning of the third quarter of fiscal 2019.

In both fiscal 2020 and fiscal 2019, the Company performed its annual impairment test during the fourth quarter. In fiscal 2020, the Company elected to perform a quantitative impairment test on goodwill allocated to the Company's Vince Wholesale reporting unit. The results of the quantitative test did not result in any impairment because the fair value of the Company's Vince Wholesale reporting unit exceeded its carrying value by less than 1%. The more significant assumptions used in projecting the discounted cash flows included: a discount rate of 19%, which was determined from relevant market comparisons and adjusted for company specific risks and projected EBITDA margins of low double-digits based upon our current and past performance as well as industry data. Changes in these assumptions could have a significant impact on the valuation model. As an example, the impact of a hypothetical change in each of the significant assumptions is described below. In quantifying the impact, we changed only the specific assumption and held all other assumptions constant. A hypothetical 1% change in the discount rate would increase/decrease the fair value by approximately 5%. Finally, a hypothetical 1% change in the EBITDA margin rate for each year utilized in the analysis would increase/decrease the fair value by approximately 7%. Any changes in fair value resulting from changes in the assumptions discussed above could potentially result in the carrying amount of the Company's Vince Wholesale reporting unit exceeding its estimated fair value, and therefore could require an impairment loss.

In fiscal 2019, the Company elected to perform a qualitative impairment test on goodwill allocated to the Company's Vince Wholesale reporting unit and concluded that it was more likely than not that the fair value of the Company's Vince Wholesale reporting unit exceeded its carrying value and was not impaired.

Goodwill was $31,973 and $41,435 as of January 30, 2021 and February 1, 2020, respectively.

The Company also elected to perform a quantitative impairment test on its Vince tradename and the Rebecca Taylor tradename indefinite-lived intangible assets in fiscal 2020. The results of the quantitative test did not result in any impairment because the fair value of the Company's Vince tradename and Rebecca Taylor tradename intangible assets exceeded their carrying values by 2% and 9%, respectively. The more significant assumptions used in projecting the discounted cash flows included: a discount rate of 19% and 20% for the Vince and Rebecca Taylor tradenames, respectively, which was determined from relevant market comparisons and adjusted for company specific risks; low single-digit royalty rates and projected revenues based upon our current and past performance as well as industry data. Changes in these assumptions could have a significant impact on the valuation model. As an example, the impact of a hypothetical change in each of the significant assumptions is described below. In quantifying the impact, we changed only the specific assumption and held all other assumptions constant. A hypothetical 1% change in discount rate would increase/decrease the fair value by approximately 6% for both the Vince and Rebecca Taylor tradenames. A hypothetical 1% change in the royalty rates would increase/decrease the fair value by approximately 24% and 55% for the Vince and Rebecca Taylor tradenames, respectively. Finally, a hypothetical 1% change in projected revenues for each year utilized in the analysis would increase/decrease the fair value by approximately 1% for both the Vince and Rebecca Taylor tradenames, respectively. Any changes in fair value resulting from changes in the assumptions discussed above could potentially result in the carrying amount of the Company's Vince tradename or Rebecca Taylor tradename exceeding its estimated fair value, and therefore could require an impairment loss.

In fiscal 2019, the Company elected to perform a qualitative impairment test on its Vince tradename intangible asset and concluded it is more likely than not that the fair value of the Company's Vince tradename intangible asset exceeded its carrying value and the Vince tradename intangible asset was not impaired. There was no additional impairment as part of the annual impairment test in the fourth quarter of fiscal 2019 for the Rebecca Taylor tradename.

Indefinite-lived tradename intangible assets were $71,800 and $76,186 as of January 30, 2021 and February 1, 2020, respectively, which is included within Intangible assets, net in our Consolidated Balance Sheets.

Property and Equipment, Operating Lease Assets and Other Finite-Lived Intangible Assets

The Company reviews its property and equipment, operating lease assets and finite-lived intangible assets for impairment when the existence of facts and circumstances indicate that the useful life is shorter than previously estimated or that the carrying amount of the asset groups to which these assets relate may not be recoverable. The asset group is defined as the lowest level for which identifiable cash flows are available and largely independent of the cash flows of other groups of assets, which for our retail stores is at the store level. Recoverability of these assets is evaluated by comparing the carrying value of the asset group with its estimated future undiscounted cash flows. The recoverability assessment is dependent on a number of factors, including estimates of future growth and profitability as well as other variables. If the comparisons indicate that the value of the asset is not recoverable, an impairment loss is calculated as the difference between the carrying value and the fair value of the assets within the asset group and the loss is recognized during that period.

During the first quarter of fiscal 2020, as a result of temporary store closures and the decline in projected cash flows driven by the impacts of COVID-19, the Company determined the need to assess recoverability for a significant portion of its asset groups. Specific to its retail operations, the Company first assessed all of its retail store asset groups, which included a significant portion of the Company's total operating lease right-of-use assets, to determine if the carrying value was recoverable. This was determined by comparing the net carrying value of the retail store asset group to the undiscounted net cash flows to be generated from the use and eventual disposition of that asset group. For the retail store asset groups that failed the recoverability test, an impairment loss was measured, in part, as the amount by which the carrying value of the operating lease right-of-use assets exceeded its fair value. The results of this assessment indicated that the estimated fair value of a portion of the Company's operating lease right-of-use assets did not exceed the carrying value and an impairment charge was recorded in the amount of $8,556 to the operating lease right-of-use assets balance. The fair value of the operating lease right-of-use assets was determined from the perspective of a market participant considering various factors. The judgments and assumptions used in determining the fair value of the operating lease right-of-use assets were the current comparable market rents for similar properties and a store discount rate. Additionally, as it relates to the retail store asset groups that did not pass the recoverability assessment, the Company recorded non-cash asset impairment charges of $4,470 related to property and equipment. The fair value of the property and equipment was based on its estimated liquidation value.

During fiscal 2019, we recorded non-cash asset impairment charges of $818, within Impairment of long-lived assets on the Consolidated Statements of Operations and Comprehensive Income (Loss), related to the impairment of certain retail stores as the carrying values were determined not to be recoverable. The impairment charge consisted of $641 related to property and equipment and $177 related to operating lease right-of-use assets. The carrying amounts of these assets were adjusted to their estimated fair values.

During the second quarter of fiscal 2019, the Company identified facts and circumstances that indicated that the net book value of finite-lived intangible assets associated with Rebecca Taylor and Parker may not be recoverable, resulting in the determination that a triggering event had occurred. We recorded a non-cash asset impairment charge of $6,115 related to the Rebecca Taylor and Parker customer relationships, within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss), as we had determined that the fair value of these customer relationships was $0. Significant assumptions utilized in these analyses included projected revenue growth rates and discount rates.

The finite-lived intangible assets are comprised of Vince customer relationships which are being amortized on a straight-line basis over their useful lives of 20 years. After the impairment of the Parker tradename as discussed in "Fair Value Assessments of Goodwill and Other Indefinite-Lived Intangible Assets" above, the Parker tradename intangible asset is now being amortized on a straight-line basis over its useful life of 10 years.

Tax Receivable Agreement

In connection with the consummation of the IPO, we entered into a Tax Receivable Agreement with the Pre-IPO Stockholders. The Tax Receivable Agreement provides for payments to the Pre-IPO Stockholders in an amount equal to 85% of the aggregate reduction in taxes payable realized by the Company and its subsidiaries from the utilization of the Pre-IPO Tax Benefits. Amounts payable under the Tax Receivable Agreement are contingent upon, among other things, (i) generation of future taxable income over the term of the Tax Receivable Agreement and (ii) changes in tax laws. If we do not generate sufficient taxable income in the aggregate over the term of the Tax Receivable Agreement to utilize the tax benefits, then we would not be required to make the related payment obligations under the Tax Receivable Agreement. Therefore, we would only recognize a liability for the Tax Receivable Agreement obligation if we determine if it is probable that we will generate sufficient future taxable income over the term of the Tax Receivable Agreement to utilize the related tax benefits. Estimating future taxable income is inherently uncertain and requires judgment. In projecting future taxable income, we consider our historical results and incorporate certain assumptions, including revenue growth, operating margins, and projected retail location openings, among others. If we determine in the future that we will not be able to fully utilize all or part of the related tax benefits, we would derecognize the portion of the liability related to benefits not expected to be utilized. Alternatively, if we generate additional future taxable income beyond our current estimate, we would recognize additional liability related to benefits expected to be utilized.

During the first quarter of fiscal 2020, the obligation under the Tax Receivable Agreement was adjusted as a result of changes in the levels of projected pre-tax income, primarily as a result of COVID-19. The adjustment resulted in a net decrease of $2,320 to the liability under the Tax Receivable Agreement with the corresponding adjustment accounted for within Other income, net on the Consolidated Statement of Operations and Comprehensive Income (Loss). As of January 30, 2021, the Company's total obligation under the Tax Receivable Agreement was estimated to be $0 based on projected future pre-tax income.

Income taxes and Valuation Allowances

We account for income taxes using the asset and liability method. Under this method, deferred tax assets and liabilities are recognized for the future tax consequences of temporary differences between the carrying amounts and tax bases of assets and liabilities at enacted rates. We assess the likelihood of the realization of deferred tax assets and adjust the carrying amount of these deferred tax assets by a valuation allowance to the extent we believe it more likely than not that all or a portion of the deferred tax assets will not be realized. We consider many factors when assessing the likelihood of future realization of deferred tax assets, including recent earnings results within taxing jurisdictions, expectations of future taxable income, the carryforward periods available and other relevant factors. Changes in the required valuation allowance are recorded in income in the period such determination is made. Significant judgment is required in determining the provision for income taxes. Changes in estimates may create volatility in our effective tax rate in future periods for various reasons, including changes in tax laws or rates, changes in forecasted amounts of pretax income (loss), settlements with various tax authorities, either favorable or unfavorable, the expiration of the statute of limitations on some tax positions and obtaining new information about particular tax positions that may cause management to change its estimates. The ultimate tax outcome is uncertain for certain transactions. We recognize tax positions in our Consolidated Balance Sheets as the largest amount of tax benefit that is greater than 50% likely of being realized upon ultimate settlement with tax authorities assuming full knowledge of the position and all relevant facts.

Due to the uncertain nature of the realization of our deferred income tax assets, during the fourth quarter of fiscal 2016, we recorded valuation allowances within Provision for income taxes on the Consolidated Statements of Operations and Comprehensive Income (Loss). During fiscal 2020, the Company recorded additional valuation allowances in the amount of $18,579 and maintained a full valuation allowance on all deferred tax assets that have a definite life as we do not believe it is more likely than not that such deferred tax assets will be recognized. Indefinite-lived net operating losses have been recognized to the extent we believe they can be utilized against indefinite-lived deferred tax liabilities. This valuation allowance is subject to periodic review, and if the allowance is reduced, the tax benefit will be recorded in the future operations as a reduction of our income tax expense.

Recent Accounting Pronouncements

For information on certain recently issued or proposed accounting standards which may impact the Company, please refer to the notes to Consolidated Financial Statements in this Annual Report.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.

As a "smaller reporting company" as defined by Rule 12b-2 of the Security Act of 1934, as amended (the "Exchange Act"), we are not required to provide the information in this item.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.

See "Index to the Audited Consolidated Financial Statements," which is located on page F-1 appearing at the end of this Annual Report.

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

None.

ITEM 9A. CONTROLS AND PROCEDURES.

Attached as exhibits to this Annual Report are certifications of our Chief Executive Officer and Chief Financial Officer. Rule 13a-14 of the Exchange Act requires that we include these certifications with this report. This Controls and Procedures section includes information concerning the disclosure controls and procedures referred to in the certifications. You should read this section in conjunction with the certifications.

Disclosure Controls and Procedures

Under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, management has evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) as of January 30, 2021.

Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were not effective due to the material weakness in our internal control over financial reporting as described below.

As a result of the material weaknesses identified, we performed additional analysis, substantive testing and other post-closing procedures intended to ensure that our consolidated financial statements were prepared in accordance with U.S. GAAP. Accordingly, management believes that the consolidated financial statements and related notes thereto included in this Annual Report on Form 10-K fairly present, in all material respects, the Company's financial condition, results of operations and cash flows for the periods presented.

Changes in Internal Control Over Financial Reporting

Although we have experienced varying degrees of business disruptions related to the COVID-19 pandemic, there were no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act), that occurred during the fiscal quarter ended January 30, 2021 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting. As the COVID-19 pandemic evolves, we will continue to monitor and assess any potential impacts COVID-19 may have on the design and operating effectiveness of our internal control over financial reporting.

Management's Annual Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act). 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 generally accepted accounting principles. Our 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 our assets; (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 our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on our financial statements.

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

Management assessed the effectiveness of our internal control over financial reporting as of January 30, 2021. In making this assessment, management used the criteria established by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in *Internal Control-Integrated Framework* (2013). Based on this assessment, management has concluded that, as of January 30, 2021, our internal control over financial reporting was not effective, as management identified a deficiency in internal control over financial reporting that was determined to rise to the level of a material weakness. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the Company's annual or interim financial statements will not be prevented or detected on a timely basis.

We previously disclosed in our Annual Report on Form 10-K for the period ended February 1, 2020, as well as in our Quarterly Reports on Form 10-Q for each interim period in fiscal 2020, a material weakness in our internal control over financial reporting relating to the following:

IT general controls

We did not maintain adequate user access controls to ensure appropriate segregation of duties and to adequately restrict access to financial applications and data.

This material weakness did not result in a material misstatement to the annual or interim consolidated financial statements. However, this material weakness could impact the effectiveness of IT-dependent controls (such as automated controls that address the risk of material misstatement to one or more assertions, along with the IT controls and underlying data that support the effectiveness of system-generated data and reports) that could result in a misstatement impacting account balances or disclosures that would result in a material misstatement to the annual or interim consolidated financial statements that would not be prevented or detected.

This annual report does not include an attestation report of the company's registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the company's registered public accounting firm pursuant to rules of the Securities and Exchange Commission that permit the company to provide only management's report in this annual report.

Remediation Efforts to Address the Material Weakness

To date, we made continued progress on our comprehensive remediation plan related to this material weakness by implementing the following controls and procedures:

- The Company modified its system access rights to limit the use of generic ID's, particularly in instances where those ID's possessed privileged access rights; and
- The Company effectively designed and implemented a full recertification of AX user access rights.

To fully address the remediation of deficiencies related to segregation of duties, we will need to fully remediate the deficiencies regarding systems access discussed below.

Management continues to follow a comprehensive remediation plan to fully address this material weakness. The remediation plan includes implementing and effectively operating controls related to the routine reviews of user system access and user re-certifications, inclusive of those related to users with privileged access, as well as, to ensure user's access rights to systems are removed timely upon termination.

While we have reported a material weakness that is not yet remediated, we believe we made continued progress in addressing financial, compliance, and operational risks and improving controls across the Company. Until the material weakness is remediated, we will continue to perform additional analysis, substantive testing, and other post-closing procedures to ensure that our consolidated financial statements are prepared in accordance with U.S. GAAP.

Limitations on the Effectiveness of Disclosure Controls and Procedures

A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Accordingly, our disclosure controls and procedures are designed to provide reasonable, not absolute, assurance that the objectives of our disclosure system are met. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

ITEM 9B. OTHER INFORMATION.

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE.

The information required by this Item is incorporated herein by reference from the Company's definitive proxy statement to be filed with the Securities and Exchange Commission in connection with our 2021 annual meeting of stockholders. Our definitive proxy statement will be filed on or before 120 days after the end of fiscal 2020.

ITEM 11. EXECUTIVE COMPENSATION.

The information required by this Item is incorporated herein by reference from the Company's definitive proxy statement to be filed with the Securities and Exchange Commission in connection with our 2021 annual meeting of stockholders.

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 from the Company's definitive proxy statement to be filed with the Securities and Exchange Commission in connection with our 2021 annual meeting of stockholders.

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

The information required by this Item is incorporated herein by reference from the Company's definitive proxy statement to be filed with the Securities and Exchange Commission in connection with our 2021 annual meeting of stockholders.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES.

The information required by this Item is incorporated herein by reference from the Company's definitive proxy statement to be filed with the Securities and Exchange Commission in connection with our 2021 annual meeting of stockholders.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES.

(a) Financial Statements and Financial Statement Schedules. See "Index to the Audited Consolidated Financial Statements" which is located on F-1 of this Annual Report on Form 10-K.

(b) Exhibits. See the exhibit index which is included herein.

Exhibit Listing:

Exhibit Number	Exhibit Description
3.1	Amended & Restated Certificate of Incorporation of Vince Holding Corp. (*incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
3.2	Amended & Restated Bylaws of Vince Holding Corp. (*incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
3.3	Certificate of Amendment of Amended and Restated Certificate of Incorporation (*incorporated by reference to Exhibit 3.01 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on September 8, 2017*).
4.1	Form of Stock certificate (*incorporated by reference to Exhibit 4.1 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 25, 2018).*

Exhibit Number	Exhibit Description
4.2	Registration Agreement, dated as of February 20, 2008, among Apparel Holding Corp., Sun Cardinal, LLC, SCSF Cardinal, LLC and the Other Investors party thereto (*incorporated by reference to Exhibit 4.2 to the Company's Registration Statement on Form S-1 (File No. 333-191336) filed with the Securities and Exchange Commission on September 24, 2013*).
4.3	Description of Vince Holding Corp.'s Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934 *(incorporated by reference to Exhibit 4.3 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on June 11, 2020)*.
10.1	Shared Services Agreement, dated as of November 27, 2013, between Vince, LLC and Kellwood Company, LLC *(incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
10.2	Tax Receivable Agreement, dated as of November 27, 2013, between Vince Intermediate Holding, LLC, the Stockholders, and Sun Cardinal, LLC as Stockholder Representative (*incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
10.3	Consulting Agreement, dated as of November 27, 2013, between Vince Holding Corp. and Sun Capital Partners Management V, LLC (*incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
10.4	Credit Agreement, dated as of November 27, 2013, by and among Vince, LLC, Vince Intermediate Holding, LLC, Bank of America, N.A., as Administrative Agent, J.P. Morgan Securities LLC, as Syndication Agent, Bank of America, N.A., Merrill Lynch, Pierce, Fenner & Smith Incorporated and J.P. Morgan Securities LLC, as Joint Lead Arrangers and Joint Bookrunners, and Cantor Fitzgerald Securities, as Documentation Agent (*incorporated by reference to Exhibit 10.5 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
10.5	Credit Agreement, dated as of November 27, 2013, by and among Vince, LLC, the guarantors party thereto, Bank of America, N.A., as Agent, the other lenders party thereto and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Sole Lead Arranger and Sole Book Runner (*incorporated by reference to Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
10.6†	Form of Indemnification Agreement (for directors and officers affiliated with Sun Capital Partners) (*incorporated by reference to Exhibit 10.6 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
10.7†	Form of Indemnification Agreement (for directors and officers not affiliated with Sun Capital Partners) (*incorporated by reference to Exhibit 10.7 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
10.8†	Vince Holding Corp. Amended and Restated 2013 Omnibus Incentive Plan (*incorporated by reference to Annex A to the Company's Information Statement on Schedule 14C filed with the Securities and Exchange Commission on April 26, 2018).*
10.9†	Form of Non-Qualified Stock Option Agreement (*incorporated by reference to Exhibit 10.15 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
10.10†	Form of Director Restricted Stock Unit Agreement (*incorporated by reference to Exhibit 10.16 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2013*).
10.11†	Vince Holding Corp. Amended and Restated 2013 Employee Stock Purchase Plan (*incorporated by reference to Annex A to the Company's Information Statement on Schedule 14C filed with the Securities and Exchange Commission on September 3, 2015*).

Exhibit Number	Exhibit Description
10.12	First Amendment to Credit Agreement, dated as of June 3, 2015, by and among Vince, LLC, the guarantors party thereto, Bank of America, N.A., as Agent, the other lenders party thereto and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Sole Lead Arranger and Sole Book Runner (*incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on September 8, 2015*).
10.13	First Amendment to the Tax Receivable Agreement, dated as of September 1, 2015, between Vince Holding Corp., the Stockholders, and the Stockholder Representative (*incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on December 10, 2015*).
10.14†	Employment Offer Letter, dated as of January 12, 2016, by and between Vince, LLC and David Stefko *(incorporated by reference to Exhibit 10.44 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 14, 2016)*.
10.15	Side Letter to Credit Agreement, dated as of March 6, 2017, by and among Vince, LLC, Vince Intermediate Holding, LLC, Vince Holding Corp. and Bank of America, N.A. (*incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on June 8, 2017*).
10.16	Side Letter to Credit Agreement, dated as of April 14, 2017, by and among Vince, LLC, Vince Intermediate Holding, LLC, Vince Holding Corp. and Bank of America, N.A. (*incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on June 8, 2017*).
10.17	First Amendment to the Credit Agreement, dated as of June 30, 2017, by and among Vince, LLC, Vince Intermediate Holding, LLC, Vince Holding Corp. and Bank of America, N.A. (*incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 5, 2017*).
10.18	Side Letter to the Credit Agreement, dated as of June 30, 2017, by and among Vince, LLC, Vince Intermediate Holding, LLC, Vince Holding Corp. and Bank of America N.A. (*incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 5, 2017*).
10.19	Second Amendment to the Credit Agreement, dated as of June 22, 2017, by and among Vince, LLC, the guarantors party thereto, Bank of America, N.A., as Agent, the other lenders party thereto and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Sole Lead Arranger and Sole Book Runner by and among the Company, the guarantors parties thereto, BofA, as administrative agent, and each lender party thereto (*incorporated by reference to Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 5, 2017*).
10.20	Third Amendment to the Credit Agreement, dated as of March 28, 2018, by and among Vince, LLC, the guarantors party thereto, Bank of America, N.A., as Agent, the other lenders party thereto and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Sole Lead Arranger and Sole Book Runner by and among the Company, the guarantors parties thereto, BofA, as administrative agent, and each lender party thereto (*incorporated by reference to Exhibit 99.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on March 29, 2018*).
10.21	Letter Agreement, dated June 22, 2017, with Bank of America, N.A. (*incorporated by reference to Exhibit 10.6 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 5, 2017*).
10.22	Agreement, dated as of July 13, 2017, by and between Vince, LLC and Rebecca Taylor, Inc. (*incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 14, 2017*).
10.23†	Employment Offer Letter, dated as of January 10, 2017, by and between Vince, LLC and Marie Fogel (*incorporated by reference to Exhibit 10.28 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 12, 2019).*
10.24†	Amendment No. 1 to Employment Offer Letter, dated as of July 11, 2017, by and between Vince, LLC and Marie Fogel (*incorporated by reference to Exhibit 10.29 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 12, 2019*).

Exhibit Number	Exhibit Description
10.25†	Amendment No. 2 to Employment Offer Letter, dated as of June 29, 2018, by and between Vince, LLC and Marie Fogel (*incorporated by reference to Exhibit 10.30 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 12, 2019*).
10.26†	Amendment No. 3 to Employment Offer Letter, dated March 1, 2021, by and between Vince, LLC and Marie Fogel.
10.27	Credit Agreement ("2018 Revolving Credit Facility Credit Agreement"), dated as of August 21, 2018, by and among Vince, LLC as the borrower, the guarantors named therein, Citizens Bank, N.A., as administrative agent and collateral agent, and the other lenders from time to time party thereto (*incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 22, 2018*).
10.28	First Amendment to 2018 Revolving Credit Facility Credit Agreement, dated November 1, 2019 (*incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on December 12, 2019).*
10.29	Joinder, Confirmation, Ratification, Commitment Increase and Second Amendment to Credit Agreement and Ancillary Documents, dated as of November 4, 2019, by and among Vince, LLC, as borrower, the guarantors named therein, Rebecca Taylor, Inc., Parker Holding, LLC, Parker Lifestyle, LLC, Rebecca Taylor Retail Store, LLC, Citizens Bank, N.A., as the administrative agent under 2018 Revolving Credit Facility Credit Agreement, and other lenders from time to time party thereto *(incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Securities Exchange Commission on November 5, 2019).*
10.30	Third Amendment to 2018 Revolving Credit Facility Credit Agreement, dated June 8, 2020 *(incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on September 15, 2020)*.
10.31	Amendment and Consent, dated June 23, 2020, to 2018 Term Loan Facility Credit Agreement and 2018 Revolving Credit Facility Credit Agreement *(incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on September 15, 2020).*
10.32	Fifth Amendment to 2018 Revolving Credit Facility Credit Agreement, dated December 11, 2020.
10.33	Credit Agreement ("2018 Term Loan Facility Credit Agreement"), dated as of August 21, 2018, by and among Vince, LLC as the borrower, the guarantors named therein, Crystal Financial, LLC, as administrative agent and collateral agent, and the other lenders from time to time party thereto (*incorporated by reference to Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 21, 2018*).
10.34	Joinder, Confirmation, Ratification, Commitment Increase and Amendment to Credit Agreement and Related Documents, dated as of November 4, 2019, by and among Vince, LLC, as the borrower, the guarantors named therein, Rebecca Taylor, Inc., Rebecca Taylor Retail Store, LLC, Parker Lifestyle, LLC, Parker Holding, LLC and Crystal Financial LLC, as administrative agent and collateral agent under 2018 Term Loan Facility Credit Agreement *(incorporated by reference to Exhibit 10.33 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on June 11, 2020).*
10.35	Limited Waiver and Amendment to 2018 Term Loan Facility Credit Agreement, dated March 30, 2020 *(incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on July 31, 2020).*
10.36	Third Amendment to 2018 Term Loan Facility Credit Agreement, dated June 8, 2020 *(incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on September 15, 2020).*
10.37	Fifth Amendment to 2018 Term Loan Facility Credit Agreement, dated December 11, 2020.
10.38†	Form of Restricted Stock Unit Agreement with respect to RSUs granted to David Stefko on May 25, 2018 *(incorporated by reference to Exhibit 10.34 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 12, 2019).*

Exhibit Number	Exhibit Description
10.39†	Form of Restricted Stock Unit Agreement with respect to RSUs granted pursuant to the Company's annual long-term incentive program *(incorporated by reference to Exhibit 10.34 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 12, 2019).*
10.40†	Form of Restricted Stock Unit Agreement with respect to RSUs granted pursuant to the Company's 2018 Option Exchange *(incorporated by reference to Exhibit (d)(9) to the Company's Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission on April 26, 2018).*
10.41	Equity Purchase Agreement, dated November 4, 2019 and effective November 3, 2019, by and between Vince, LLC and Contemporary Lifestyle Group, LLC (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K filed with the Securities Exchange Commission on November 5, 2019).
10.42†	Employment Offer Letter, dated May 23, 2019, by and between Vince, LLC and Lee Meiner *(incorporated by reference to Exhibit 10.38 to the Company's Annual Report on Form 10-K filed with the Securities and Exchange Commission on June 11, 2020).*
10.43†	Amendment No.1 to Employment Offer Letter, dated March 1, 2021, by and between Vince, LLC and Lee Meiner.
10.44	Credit Agreement, dated as of December 11, 2020, by and among Vince, LLC as the borrower and the guarantors named therein, SK Financial Services, LLC as administrative agent and collateral agent, and the other lenders from time to time party thereto.
10.45†	Employment Agreement, dated March 8, 2021 by and between Vince, LLC and Jonathan "Jack" Schwefel.
10.46†	Employment Offer Letter, dated April 5, 2021, by and between Vince, LLC and Akiko Okuma.
10.47	Sixth Amendment to 2018 Revolving Credit Facility Credit Agreement, dated April 26, 2021.
10.48	Sixth Amendment to 2018 Term Loan Facility Credit Agreement, dated April 26, 2021.
21.1	List of subsidiaries of Vince Holding Corp.
23.1	Consent of PricewaterhouseCoopers LLP
31.1	CEO Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	CFO Certification pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	CEO Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	CFO Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101	Financial Statements in XBRL Format

† Indicates exhibits that constitute management contracts or compensatory plans or arrangements

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, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

VINCE HOLDING CORP.

By: /s/ Jonathan Schwefel
Name: Jonathan Schwefel
Title: Chief Executive Officer

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

Signature	Title	Date
/s/ Jonathan Schwefel Jonathan Schwefel	Chief Executive Officer (Principal Executive Officer) (Director)	April 30, 2021
/s/ David Stefko David Stefko	Executive Vice President, Chief Financial Officer (Principal Financial and Accounting Officer)	April 30, 2021
/s/ Matthew Garff Matthew Garff	Director	April 30, 2021
/s/ Jerome Griffith Jerome Griffith	Director	April 30, 2021
/s/ Robin Kramer Robin Kramer	Director	April 30, 2021
/s/ Marc J. Leder Marc J. Leder	Director	April 30, 2021
/s/ Michael Mardy Michael Mardy	Director	April 30, 2021
/s/ Eugenia Ulasewicz Eugenia Ulasewicz	Director	April 30, 2021

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Consolidated Financial Statements

Financial Statement Schedule

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of Vince Holding Corp.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Vince Holding Corp. and its subsidiaries (the "Company") as of January 30, 2021 and February 1, 2020, and the related consolidated statements of operations and comprehensive income (loss), of stockholders' equity and of cash flows for the years then ended, including the related notes and financial statement schedule listed in the index appearing on page F-1 for the years ended January 30, 2021 and February 1, 2020 (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of January 30, 2021 and February 1, 2020, and the results of its operations and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

Change in Accounting Principle

As discussed in Note 12 to the consolidated financial statements, the Company changed the manner in which it accounts for leases as of February 3, 2019.

Basis for Opinion

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

We conducted our audits of these consolidated financial statements in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matters

The critical audit matters communicated below are matters arising from the current period audit of the consolidated financial statements that were communicated or required to be communicated to the audit committee and that (i) relate to accounts or disclosures that are material to the consolidated financial statements and (ii) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

Indefinite-Lived Intangible Asset Impairment Assessments - Vince Tradename

As described in Notes 1 and 3 to the consolidated financial statements, the Company's consolidated indefinite-lived intangible asset tradename, net balance was $71.8 million as of January 30, 2021, which includes both the Vince and Rebecca Taylor tradenames. Intangible assets are tested for impairment at least annually and in an interim period if a triggering event occurs. During the first quarter of fiscal 2020, management determined that a triggering event had occurred for all of its tradenames as a result of the changes to the Company's long-term projections driven by the impacts

of COVID-19. Accordingly, management performed an interim quantitative impairment assessment of intangible assets and concluded the fair value of the indefinite-lived tradenames were below the carrying amount and recorded an impairment charge of $4.4 million, which included an impairment of the Vince tradename. Fair value is estimated by management using a discounted cash flow valuation analysis, which is based on the "relief from royalty" methodology. Determining the fair value is judgmental in nature and involves the use of significant estimates and assumptions by management. The relief from royalty approach is dependent on a number of factors, including estimates of projected revenue, royalty rates in the category of intellectual property, discount rates and other variables.

The principal considerations for our determination that performing procedures relating to the indefinite-lived intangible asset impairment assessments for the Vince tradename is a critical audit matter are (i) the significant judgment by management when developing the fair value of the tradename; (ii) a high degree of auditor judgment, subjectivity, and effort in performing procedures and evaluating management's significant assumptions related to estimates of projected revenue and the discount rate; and (iii) the audit effort involved the use of professionals with specialized skill and knowledge.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included, among others (i) testing management's process for developing the fair value of the Vince tradename; (ii) evaluating the appropriateness of the relief from royalty methodology; (iii) testing the completeness and accuracy of underlying data used in the fair value estimate; and (iv) evaluating the significant assumptions related to estimates of projected revenue and the discount rate. Evaluating management's assumptions related to estimates of projected revenue involved evaluating whether the assumptions used were reasonable considering (i) the current and past performance of the Vince business; (ii) the consistency with industry data; and (iii) whether these assumptions were consistent with evidence obtained in other areas of the audit. Professionals with specialized skill and knowledge were used to assist in the evaluation of the Company's relief from royalty methodology and the discount rate assumption.

Goodwill Impairment Assessments - Vince Wholesale Reporting Unit

As described in Notes 1 and 3 to the consolidated financial statements, the Company's consolidated goodwill balance was $32.0 million as of January 30, 2021. Goodwill is tested for impairment at least annually and in an interim period if a triggering event occurs. Management compares the fair value of each reporting unit to the respective carrying amount. If the carrying value of the reporting unit exceeds its estimated fair value, an impairment loss is recorded for the amount by which a reporting unit's carrying value exceeds the fair value, not to exceed the carrying amount of goodwill. During the first quarter of fiscal 2020, management determined that a triggering event had occurred with regard to the Vince Wholesale reporting unit as a result of the changes to the Company's long-term projections driven by the impacts of COVID-19. Accordingly, management performed an interim quantitative impairment assessment of goodwill and concluded the fair value was below the carrying amount and recorded an impairment charge of $9.5 million for the impairment of goodwill related to the Vince Wholesale reporting unit. Fair value is estimated by management using a combination of discounted cash flows and market comparisons. Determining the fair value is subjective in nature and involves the use of significant estimates and assumptions by management. The development of discounted cash flows is dependent on a number of factors, including estimates of projected revenues, EBITDA margins, long term growth rates, working capital, discount rates and other variables.

The principal considerations for our determination that performing procedures relating to the goodwill impairment assessments of the Vince Wholesale reporting unit is a critical audit matter are (i) the significant judgment by management when determining the fair value of the reporting unit; (ii) a high degree of auditor judgment, subjectivity, and effort in performing procedures and evaluating management's significant assumptions related to estimates of projected revenue, EBITDA margins, and the discount rate; and (iii) the audit effort involved the use of professionals with specialized skill and knowledge.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included, among others (i) testing management's process for determining the fair value of the reporting unit; (ii) evaluating the appropriateness of the discounted cash flow approach; (iii) testing the completeness and accuracy of underlying data used in the discounted cash flow approach; and (iv) evaluating the significant assumptions related to estimates of projected revenue, EBITDA margins, and the discount rate. Evaluating management's assumptions related to estimates of projected revenue and EBITDA margins involved evaluating whether the assumptions used were reasonable considering (i) the current and past performance of the Vince Wholesale reporting unit; (ii) the consistency with industry data; and (iii) whether these assumptions were consistent with evidence obtained in other areas of the audit. Professionals with specialized skill and knowledge were used to assist in the evaluation of the Company's discounted cash flow approach and the discount rate assumption.

Right-of-Use Assets Impairment Assessment for the Retail Store Asset Groups

As described in Notes 1 and 4 to the consolidated financial statements, the carrying value of the right-of-use assets ("ROUA") related to the Company's retail store asset groups was $76.1 million, which is included within the Company's consolidated ROUA balance of $92.6 million as of January 30, 2021. As disclosed by management, the Company first assessed all of its retail store asset groups to determine if the carrying value was recoverable, which is determined by comparing the net carrying value of the retail store asset group to the undiscounted net cash flows to be generated from the use and eventual disposition of that asset group. For the retail store asset groups that failed the recoverability test, an impairment loss was measured, in part, as the amount by which the carrying value of the ROUA exceeded its fair value. The results of this assessment indicated that the estimated fair value of a portion of the Company's ROUA did not exceed its carrying value and an impairment charge was recorded in the amount of $8.6 million to the ROUA balance. The fair value of the ROUA was determined from the perspective of a market participant considering various factors. The judgments and assumptions used in determining the fair value of the ROUA were the current comparable market rents for similar properties and the discount rate.

The principal considerations for our determination that performing procedures relating to the ROUA impairment assessment for the retail store asset groups that failed the recoverability test is a critical audit matter are (i) the significant judgment by management when developing the fair value of the ROUA; (ii) a high degree of auditor judgment, subjectivity, and effort in performing procedures and evaluating management's methods and calculations and significant judgments and assumptions related to current comparable market rent data; and (iii) the audit effort involved the use of professionals with specialized skill and knowledge.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included, among others (i) testing management's process for determining the fair value of the ROUA; (ii) evaluating the appropriateness of the methodology and approach used; (iii) testing the completeness and accuracy of underlying data used in the estimates; and (iv) evaluating management's significant assumptions related to current comparable market rent data. Professionals with specialized skill and knowledge were used to assist in the evaluation of the Company's methodology and approach and the reasonableness of the current comparable market rent data.

/s/PricewaterhouseCoopers LLP
New York, New York
April 30, 2021

We have served as the Company's auditor since 2012.

VINCE HOLDING CORP. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(In thousands, except share amounts)

	January 30, 2021	February 1, 2020
Assets		
Current assets:		
Cash and cash equivalents	$ 3,777	$ 466
Trade receivables, net	31,878	40,660
Inventories, net	68,226	66,393
Prepaid expenses and other current assets	6,703	6,725
Total current assets	110,584	114,244
Property and equipment, net	17,741	25,274
Operating lease right-of-use assets, net	91,982	94,632
Intangible assets, net	76,491	81,533
Goodwill	31,973	41,435
Deferred income tax asset	—	102
Other assets	4,173	5,082
Total assets	$ 332,944	$ 362,302
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable	$ 40,216	$ 43,075
Accrued salaries and employee benefits	4,231	9,620
Other accrued expenses	15,688	14,194
Short-term lease liabilities	22,085	20,638
Current portion of long-term debt	—	2,750
Total current liabilities	82,220	90,277
Long-term debt	84,485	48,680
Long-term lease liabilities	97,144	90,211
Deferred income tax liability	1,688	—
Other liabilities	1,200	2,354
Commitments and contingencies (Note 6)		
Stockholders' equity:		
Common stock at $0.01 par value (100,000,000 shares authorized, 11,809,023 and 11,680,593 shares issued and outstanding at January 30, 2021 and February 1, 2020, respectively)	118	117
Additional paid-in capital	1,138,247	1,137,147
Accumulated deficit	(1,072,030)	(1,006,381)
Accumulated other comprehensive loss	(128)	(103)
Total stockholders' equity	66,207	130,780
Total liabilities and stockholders' equity	$ 332,944	$ 362,302

See accompanying notes to Consolidated Financial Statements.

VINCE HOLDING CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE INCOME (LOSS)
(In thousands, except per share data and share amounts)

	Fiscal Year	
	2020	**2019**
Net sales	$ 219,870	$ 375,187
Cost of products sold	131,273	196,757
Gross profit	88,597	178,430
Impairment of goodwill and intangible assets	13,848	19,491
Impairment of long-lived assets	13,026	818
Selling, general and administrative expenses	122,803	178,511
Loss from operations	(61,080)	(20,390)
Interest expense, net	5,007	4,958
Other income, net	(2,304)	(55,842)
(Loss) income before income taxes	(63,783)	30,494
Provision for income taxes	1,866	98
Net (loss) income	$ (65,649)	$ 30,396
Other comprehensive (loss) income:		
Foreign currency translation adjustments	(25)	(20)
Comprehensive (loss) income	$ (65,674)	$ 30,376
Earnings (loss) per share:		
Basic (loss) earnings per share	$ (5.58)	$ 2.60
Diluted (loss) earnings per share	$ (5.58)	$ 2.55
Weighted average shares outstanding:		
Basic	11,769,689	11,665,541
Diluted	11,769,689	11,929,299

See accompanying notes to Consolidated Financial Statements.

VINCE HOLDING CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
(In thousands, except share amounts)

	Common Stock					
	Number of Shares Outstanding	Par Value	Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Stockholders' Equity
Balance as of February 2, 2019	11,622,994	$ 116	$ 1,135,401	$ (1,036,188)	$ (83)	$ 99,246
Comprehensive income:						
Net income	—	—	—	30,396	—	30,396
Foreign currency translation adjustment	—	—	—	—	(20)	(20)
Cumulative effect of accounting change from adoption of ASU 2016-02	—	—	—	(589)	—	(589)
Share-based compensation expense	—	—	2,033	—	—	2,033
Restricted stock unit vestings	79,918	1	—	—	—	1
Tax withholdings related to restricted stock vesting	(24,509)	—	(321)	—	—	(321)
Issuance of common stock related to Employee Stock Purchase Plan ("ESPP")	2,190	—	34	—	—	34
Balance as of February 1, 2020	11,680,593	117	1,137,147	(1,006,381)	(103)	130,780
Comprehensive income:						
Net loss	—	—	—	(65,649)	—	(65,649)
Foreign currency translation adjustment	—	—	—	—	(25)	(25)
Share-based compensation expense	—	—	1,275	—	—	1,275
Restricted stock unit vestings	161,065	1	(1)	—	—	—
Tax withholdings related to restricted stock vesting	(41,659)	—	(222)	—	—	(222)
Issuance of common stock related to ESPP	9,024	—	48	—	—	48
Balance as of January 30, 2021	11,809,023	$ 118	$ 1,138,247	$ (1,072,030)	$ (128)	$ 66,207

See accompanying notes to Consolidated Financial Statements.

VINCE HOLDING CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)

	Fiscal Year	
	2020	**2019**
Operating activities		
Net (loss) income	$ (65,649)	$ 30,396
Add (deduct) items not affecting operating cash flows:		
Adjustment to Tax Receivable Agreement Liability	(2,320)	(55,953)
Impairment of goodwill and intangible assets	13,848	19,491
Impairment of long-lived assets	13,026	818
Depreciation and amortization	6,898	9,602
Provision for bad debt	2,194	(51)
Loss on disposal of property and equipment	—	128
Amortization of deferred financing costs	674	554
Deferred income taxes	1,687	101
Share-based compensation expense	1,275	2,033
Capitalized PIK Interest	348	—
Other, net	—	(304)
Changes in assets and liabilities:		
Receivables, net	6,594	(2,577)
Inventories	(1,823)	5,252
Prepaid expenses and other current assets	533	2,942
Accounts payable and accrued expenses	(6,563)	7,606
Other assets and liabilities	4,207	(3,219)
Net cash (used in) provided by operating activities	(25,071)	16,819
Investing activities		
Payments for capital expenditures	(3,497)	(4,523)
Net cash used in investing activities	(3,497)	(4,523)
Financing activities		
Proceeds from borrowings under the Revolving Credit Facilities	250,398	310,434
Repayment of borrowings under the Revolving Credit Facilities	(237,722)	(301,727)
Proceeds from borrowings under the Revolving Credit Facilities - Acquired Businesses	—	11,761
Repayment of borrowings under the Revolving Credit Facilities - Acquired Businesses	—	(29,410)
Repayment of borrowings under the Term Loan Facilities	—	(2,750)
Proceeds from borrowings under the Third Lien Credit Facility	20,000	—
Tax withholdings related to restricted stock vesting	(222)	(321)
Proceeds from stock option exercises, restricted stock vesting, and issuance of common stock under employee stock purchase plan	48	35
Financing fees	(715)	(13)
Net cash provided by (used in) financing activities	31,787	(11,991)
Increase in cash, cash equivalents, and restricted cash	3,219	305
Effect of exchange rate changes on cash, cash equivalents, and restricted cash	(7)	(20)
Cash, cash equivalents, and restricted cash, beginning of period	646	361
Cash and cash equivalents, end of period	3,858	646
Less: restricted cash at end of period	81	180
Cash and cash equivalents per balance sheet at end of period	$ 3,777	$ 466
Supplemental Disclosures of Cash Flow Information		
Cash payments for interest	$ 3,136	$ 4,195
Cash payments for income taxes, net of refunds	(113)	(13)
Supplemental Disclosures of Non-Cash Investing and Financing Activities		
Capital expenditures in accounts payable and accrued liabilities	92	494
Deferred financing fees in accrued liabilities and debt	650	—

See accompanying notes to Consolidated Financial Statements.

Note 1. Description of Business and Summary of Significant Accounting Policies

On November 27, 2013, Vince Holding Corp. ("VHC" or the "Company"), previously known as Apparel Holding Corp., closed an initial public offering ("IPO") of its common stock and completed a series of restructuring transactions (the "Restructuring Transactions") through which Kellwood Holding, LLC acquired the non-Vince businesses, which included Kellwood Company, LLC ("Kellwood Company" or Kellwood"), from the Company. The Company continues to own and operate the Vince business, which includes Vince, LLC. References to "Vince", "Rebecca Taylor" or "Parker" refer only to the referenced brand.

Prior to the IPO and the Restructuring Transactions, VHC was a diversified apparel company operating a broad portfolio of fashion brands, which included the Vince business. As a result of the IPO and Restructuring Transactions, the non-Vince businesses were separated from the Vince business, and the stockholders immediately prior to the consummation of the Restructuring Transactions (the "Pre-IPO Stockholders") (through their ownership of Kellwood Holding, LLC) retained the full ownership and control of the non-Vince businesses. The Vince business is now the sole operating business of VHC.

On November 18, 2016, Kellwood Intermediate Holding, LLC and Kellwood Company, LLC entered into a Unit Purchase Agreement with Sino Acquisition, LLC (the "Kellwood Purchaser") whereby the Kellwood Purchaser agreed to purchase all of the outstanding equity interests of Kellwood Company, LLC. Prior to the closing, Kellwood Intermediate Holding, LLC and Kellwood Company, LLC conducted a pre-closing reorganization pursuant to which certain assets of Kellwood Company, LLC were distributed to a newly formed subsidiary of Kellwood Intermediate Holding, LLC, St. Louis Transition, LLC ("St. Louis, LLC"). The transaction closed on December 21, 2016 (the "Kellwood Sale").

On November 3, 2019, Vince, LLC, an indirectly wholly owned subsidiary of VHC, completed its acquisition (the "Acquisition") of 100% of the equity interests of Rebecca Taylor, Inc. and Parker Holding, LLC (collectively, the "Acquired Businesses") from Contemporary Lifestyle Group, LLC ("CLG"). The Acquired Businesses represented all of the operations of CLG. Because the Acquisition was a transaction between commonly controlled entities, generally accepted accounting principles ("GAAP") required the retrospective combination of the entities for all periods presented as if the combination had been in effect since the inception of common control. See Note 2 "Business Combinations" for further information.

(A) **Description of Business**: The Company is a global contemporary group, consisting of three brands: Vince, Rebecca Taylor, and Parker. Vince, established in 2002, is a leading global luxury apparel and accessories brand best known for creating elevated yet understated pieces for every day effortless style. Rebecca Taylor, founded in 1996 in New York City, is a contemporary womenswear line lauded for its signature prints, romantic detailing and vintage inspired aesthetic, reimagined for a modern era. Parker, founded in 2008 in New York City, is a contemporary women's fashion brand that is trend focused. While we continue to believe that the Parker brand complements our portfolio, during the first half of fiscal 2020 the Company decided to pause the creation of new products to focus resources on the operations of the Vince and Rebecca Taylor brands and to preserve liquidity.

The Company reaches its customers through a variety of channels, specifically through major wholesale department stores and specialty stores in the United States ("U.S.") and select international markets, as well as through the Company's branded retail locations and the Company's websites. The Company designs products in the U.S. and sources the vast majority of products from contract manufacturers outside the U.S., primarily in Asia. Products are manufactured to meet the Company's product specifications and labor standards.

(B) **Basis of Presentation**: The accompanying consolidated financial statements have been prepared in conformity with U.S. Generally Accepted Accounting Principles ("GAAP") and the rules and regulations of the U.S. Securities and Exchange Commission ("SEC").

The consolidated financial statements include the Company's accounts and the accounts of the Company's wholly-owned subsidiaries as of January 30, 2021. All intercompany accounts and transactions have been eliminated in consolidation. In the opinion of management, the financial statements contain all adjustments (consisting solely of normal recurring adjustments) and disclosures necessary for a fair statement.

(C) **Fiscal Year**: The Company operates on a fiscal calendar widely used by the retail industry that results in a given fiscal year consisting of a 52 or 53-week period ending on the Saturday closest to January 31.

- References to "fiscal year 2020" or "fiscal 2020" refer to the fiscal year ended January 30, 2021; and
- References to "fiscal year 2019" or "fiscal 2019" refer to the fiscal year ended February 1, 2020.

Fiscal years 2020 and 2019 consisted of a 52-week period.

(D) **Sources and Uses of Liquidity**: The Company's sources of liquidity are cash and cash equivalents, cash flows from operations, if any, borrowings available under the 2018 Revolving Credit Facility (as defined below) and the Company's ability to access capital markets. The Company's primary cash needs are funding working capital requirements, meeting debt service requirements and capital expenditures for new stores and related leasehold improvements.

(E) **COVID-19**: The spread of COVID-19, which was declared a pandemic by the World Health Organization in March 2020, caused state and municipal public officials to mandate jurisdiction-wide curfews, including "shelter-in-place" and closures of most non-essential businesses as well as other measures to mitigate the spread of the virus.

In light of the COVID-19 pandemic, we have taken various measures to improve our liquidity as described below. Based on these measures and our current expectations, we believe that our sources of liquidity will generate sufficient cash flows to meet our obligations during the next twelve months from the date these financial statements are issued.

The following summarizes the various measures we have implemented to effectively manage the business as well as the impacts from the COVID-19 pandemic during fiscal 2020.

- While we continued to serve our customers through our online e-commerce websites during the periods in which we were forced to shut down all of our domestic and international retail locations alongside other retailers, including our wholesale partners, the store closures resulted in a sharp decline in our revenue and ability to generate cash flows from operations. We began reopening stores during May 2020 and nearly all of the Company's stores have since reopened in a limited capacity in accordance with state and local regulations related to the COVID-19 pandemic. Other than Hawaii and the UK which re-closed for a short period and subsequently re-opened based on the local stay-at-home order, we have not been impacted by any re-closure orders or regulations.

  As a result of store closures and the decline in projected cash flows, the Company recognized a non-cash impairment charge related to property and equipment and operating lease right-of-use ("ROU") assets to adjust the carrying amounts of certain store locations to their estimated fair value. During fiscal 2020, the Company recorded an impairment of property and equipment and operating lease ROU assets of $4,470 and $8,556, respectively. The impairment charges are recorded within impairment of long-lived assets on the Consolidated Statements of Operations and Comprehensive Income (Loss). See "(K) Impairment of Long-lived Assets" below for additional information

  The Company incurred a non-cash impairment charge of $13,848 on goodwill and intangible assets during the year ended January 30, 2021 as a result of the decline in long-term projections due to COVID-19. See Note 3 "Goodwill and Intangible Assets" for additional information;
- We entered into a loan agreement with Sun Capital Partners, Inc. ("Sun Capital"), who own approximately 72% of the outstanding shares of the Company's common stock (see Note 14 "Related Party Transactions" for further discussion regarding our relationship with Sun Capital), as well as amendments to our 2018 Term Loan Facility and our 2018 Revolving Credit Facility to provide additional liquidity and amend certain financial covenants to allow increased operational flexibility. See Note 5 "Long-Term Debt and Financing Arrangements," for additional information;
- Furloughed all of our retail store associates as well as a significant portion of our corporate associates during the period of store closures and reinstated a limited number of associates commensurate to the store re-openings as well as other business needs;
- Temporarily reduced retained employee salaries and suspended board retainer fees;
- Engaged in active discussions with landlords to address the current operating environment, including amending existing lease terms. See Note 12 "Leases" for additional information;
- Executed other operational initiatives to carefully manage our investments across all key areas, including aligning inventory levels with anticipated demand and reevaluating non-critical capital build-out and other investments and activities; and

- Streamlined our expense structure in all areas such as marketing, distribution, and product development to align with the business environment and sales opportunities.

The COVID-19 pandemic remains highly volatile and continues to evolve on a daily basis, which could negatively affect the outcome of the measures intended to address its impact and/or our current expectations of the Company's future business performance. Factors such as continued temporary closures and/or reclosures of our stores, distribution centers and corporate facilities as well as those of our wholesale partners; declines and changes in consumer behavior including traffic, spending and demand and resulting build-up of excess inventory; supply chain disruptions; and our business partners' ability to access capital sources and maintain compliance with credit facilities; as well as our ability to collect receivables and diversion of corporate resources from key business activities and compliance efforts could continue to adversely affect the Company's business, financial condition, cash flow, liquidity and results of operations.

(F) **Use of Estimates**: The preparation of consolidated financial statements in conformity with GAAP requires that management make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements which affect revenues and expenses during the period reported. Estimates are adjusted when necessary to reflect actual experience. Significant estimates and assumptions may affect many items in the financial statements. Actual results could differ from estimates and assumptions in amounts that may be material to the consolidated financial statements.

The Company considered the COVID-19 related impacts to its estimates including the impairment of property and equipment and operating lease ROU assets, the impairment of goodwill and intangible assets, accounts receivable and inventory valuation, the liability associated with our tax receivable agreement, and the assessment of our liquidity. These estimates may change as the current situation evolves or new events occur.

(G) **Cash and cash equivalents**: All demand deposits and highly liquid short-term deposits with original maturities of three months or less are considered cash equivalents.

(H) **Accounts Receivable and Concentration of Credit Risk**: The Company maintains an allowance for accounts receivable estimated to be uncollectible. The provision for bad debts is included in Selling, general and administrative ("SG&A") expense. Substantially all of the Company's trade receivables are derived from sales to retailers and are recorded at the invoiced amount and do not bear interest. The Company performs ongoing credit evaluations of its wholesale partners' financial condition and requires collateral as deemed necessary. The past due status of a receivable is based on its contractual terms. Account balances are charged off against the allowance when it is probable the receivable will not be collected.

Accounts receivable are recorded net of allowances including expected future chargebacks from wholesale partners and estimated margin support. It is the nature of the apparel and fashion industry that suppliers similar to the Company face significant pressure from customers in the retail industry to provide allowances to compensate for wholesale partner margin shortfalls. This pressure often takes the form of customers requiring the Company to provide price concessions on prior shipments as a prerequisite for obtaining future orders. Pressure for these concessions is largely determined by overall retail sales performance and, more specifically, the performance of the Company's products at retail. To the extent the Company's wholesale partners have more of the Company's goods on hand at the end of the season, there will be greater pressure for the Company to grant markdown concessions on prior shipments. Accounts receivable balances are reported net of expected allowances for these matters based on the historical level of concessions required and estimates of the level of markdowns and allowances that will be required in the coming season. The Company evaluates the allowance balances on a continual basis and adjusts them as necessary to reflect changes in anticipated allowance activity. The Company also provides an allowance for sales returns based on known trends and historical return rates.

In fiscal 2020, sales to one wholesale partner accounted for more than ten percent of the Company's net sales. These sales represented 21% of fiscal 2020 net sales. In fiscal 2019, sales to one wholesale partner accounted for more than ten percent of the Company's net sales. These sales represented 22% of fiscal 2019 net sales.

Three wholesale partners each represented greater than ten percent of the Company's gross accounts receivable balance as of January 30, 2021, with a corresponding aggregate total of 67% of such balance. Three wholesale partners each represented greater than ten percent of the Company's gross accounts receivable balance as of February 1, 2020, with a corresponding aggregate total of 60% of such balance.

(I) **Inventories**: Inventories are stated at the lower of cost or net realizable value. Cost is determined on the first-in, first-out basis. The cost of inventory includes purchase cost as well as sourcing, transportation, duty, and other processing costs associated with acquiring, importing, and preparing inventory for sale. Inventory costs are included in cost of products sold at the time of their sale. Product development costs are expensed in SG&A expense when incurred. Inventory values are reduced to net realizable value when there are factors indicating that certain inventories will not be sold on terms sufficient to recover their cost. Inventories consisted of finished goods. As of January 30, 2021 and February 1, 2020 finished goods, net of reserves were $68,226 and $66,393, respectively.

The Company has two major suppliers that accounted for approximately 43% of inventory purchases for fiscal 2020. Amounts due to these suppliers was $2,096 included in Accounts payable in the Consolidated Balance Sheet as of January 30, 2021. The Company had two major suppliers that accounted for approximately 34% of inventory purchases for fiscal 2019. Amounts due to these suppliers was $3,173 included in Accounts payable in the Consolidated Balance Sheet as of February 1, 2020.

(J) **Property and Equipment**: Property and equipment are stated at cost. Depreciation is computed on the straight-line method over estimated useful lives of three to ten years for furniture, fixtures, and equipment. Leasehold improvements are depreciated on the straight-line basis over the shorter of their estimated useful lives or the lease term, excluding renewal terms. Capitalized software is depreciated on the straight-line basis over the estimated economic useful life of the software, generally three to seven years. Maintenance and repair costs are charged to earnings while expenditures for major renewals and improvements are capitalized. Upon the disposition of property and equipment, the accumulated depreciation is deducted from the original cost and any gain or loss is reflected in current earnings. Property and equipment consisted of the following:

(in thousands)	January 30, 2021	February 1, 2020
Leasehold improvements	$ 41,155	$ 43,075
Furniture, fixtures and equipment	14,596	14,565
Capitalized software	12,516	12,516
Construction in process	1,240	905
Total property and equipment	69,507	71,061
Less: accumulated depreciation	(51,766)	(45,787)
Property and equipment, net	$ 17,741	$ 25,274

Depreciation expense was $5,979 and $7,886 for fiscal 2020 and fiscal 2019, respectively.

(K) **Impairment of Long-lived Assets**: The Company reviews long-lived assets which consist of property and equipment, operating lease assets and intangible assets with a finite life for impairment when the existence of facts and circumstances indicate that the useful life is shorter than previously estimated or that the carrying amount of the asset groups to which these assets relate may not be recoverable. The asset group is defined as the lowest level for which identifiable cash flows are available and largely independent of the cash flows of other groups of assets, which for our retail stores is at the store level. Recoverability of these assets is evaluated by comparing the carrying value of the asset group with its estimated future undiscounted cash flows. The recoverability assessment is dependent on a number of factors, including estimates of future growth and profitability, as well as other variables. If the comparisons indicate that the value of the asset is not recoverable, an impairment loss is calculated as the difference between the carrying value and the fair value of the assets within the asset group and the loss is recognized during that period. The fair value of the operating lease right-of-use assets is determined from the perspective of a market participant considering various factors. The judgments and assumptions used in determining the fair value of the operating lease right-of-use assets were the current comparable market rents for similar properties and a store discount rate. The fair value of the property and equipment was based on its estimated liquidation value. The estimates regarding recoverability and fair value can be affected by factors such as future store results, real estate demand, store closure plans, and economic conditions that can be difficult to predict.

During fiscal 2020, the Company recorded non-cash asset impairment charges of $13,026, within Impairment of long-lived assets on the Consolidated Statements of Operations and Comprehensive Income (Loss), related to the impairment of certain retail stores as the carrying values were determined not to be recoverable. The impairment charges consisted of $4,470 related to property and equipment and $8,556 related to operating lease right-of-use assets. The carrying amounts of these assets were adjusted to their estimated fair values.

During fiscal 2019, the Company recorded non-cash asset impairment charges of $818 within Impairment of long-lived assets on the Consolidated Statements of Operations and Comprehensive Income (Loss), related to the impairment of certain retail stores as the carrying values were determined not to be recoverable. The impairment charge consisted of $641 related to property and equipment and $177 related to operating lease right-of-use assets. The carrying amounts of these assets were adjusted to their estimated fair values. Additionally, during the second quarter of fiscal 2019, the Company identified facts and circumstances that indicated that the net book value of finite-lived intangible assets associated with Rebecca Taylor and Parker may not be recoverable, resulting in the determination that a triggering event had occurred. The Company recorded a non-cash asset impairment charge of $6,115 related to the Rebecca Taylor and Parker customer relationships within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss), as the Company had determined that the fair value of these customer relationships was $0. Significant assumptions utilized in these analyses included projected revenue growth rates and discount rates.

(L) **Goodwill and Other Intangible Assets**: Goodwill and other indefinite-lived intangible assets are tested for impairment at least annually and in an interim period if a triggering event occurs. As discussed in further detail below, we determined that a triggering event occurred during the first quarter of fiscal 2020 and during the second quarter of fiscal 2019.

Goodwill is not allocated to the Company's operating segments in the measure of segment assets regularly reported to and used by management, however goodwill is allocated to operating segments (goodwill reporting units) for the purpose of the annual impairment test for goodwill.

Goodwill represents the excess of the cost of acquired businesses over the fair market value of the identifiable net assets. The indefinite-lived intangible assets are the Vince tradename and the Rebecca Taylor tradename.

An entity may elect to perform a qualitative impairment assessment for goodwill and indefinite-lived intangible assets. If adverse qualitative trends are identified during the qualitative assessment that indicate that it is more likely than not that the fair value of a reporting unit or indefinite-lived intangible asset is less than its carrying amount, a quantitative impairment test is required. "Step one" of the quantitative impairment test for goodwill requires an entity to determine the fair value of each reporting unit and compare such fair value to the respective carrying amount. If the estimated fair value of the reporting unit exceeds the carrying value of the net assets assigned to that reporting unit, goodwill is not impaired, and the Company is not required to perform further testing. If the carrying amount of the reporting unit exceeds its estimated fair value, an impairment loss is recorded for the amount by which a reporting unit's carrying value exceeds its fair value, not to exceed the carrying amount of goodwill. The goodwill impairment test is dependent on a number of factors, including estimates of projected revenues, EBITDA margins, long-term growth rates, working capital, discount rates and other variables. The Company bases its estimates on assumptions it believes to be reasonable, but which are unpredictable and inherently uncertain. Actual future results may differ from those estimates.

The Company estimates the fair value of the tradename intangible assets using a discounted cash flow valuation analysis, which is based on the "relief from royalty" methodology. This methodology assumes that in lieu of ownership, a third party would be willing to pay a royalty in order to exploit the related benefits of these types of assets. The relief from royalty approach is dependent on a number of factors, including estimates of projected revenues, royalty rates in the category of intellectual property, discount rates and other variables. The Company bases its fair value estimates on assumptions it believes to be reasonable, but which are unpredictable and inherently uncertain. Actual future results may differ from those estimates. The Company recognizes an impairment loss when the estimated fair value of the tradename intangible asset is less than the carrying value.

An entity may pass on performing the qualitative assessment for a reporting unit or indefinite-lived intangible asset and directly perform the quantitative assessment. This determination can be made on an asset by asset basis, and an entity may resume performing a qualitative assessment in subsequent periods.

During the first quarter of fiscal 2020, the Company determined that a triggering event had occurred as a result of changes to the Company's long-term projections driven by the impacts of COVID-19. The change in performance was primarily driven by the shutdown of the wholesale partners' retail locations domestically and internationally, resulting in reduced orders, decreased revenue and lower current and expected future cash flow. The Company performed an interim quantitative impairment assessment of goodwill and intangible assets.

A quantitative impairment test on the goodwill allocated to the Vince Wholesale reporting unit determined that the fair value was below the carrying value. The Company estimated the fair value using a combination of discounted cash flows and market comparisons. "Step one" of the assessment determined that the fair value was below the carrying amount by $9,462, and as a result the Company recorded a goodwill impairment charge of $9,462 within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) in fiscal 2020.

The Company estimated the fair value of the Vince and Rebecca Taylor tradename indefinite-lived intangible assets using a discounted cash flow valuation analysis which is based on the relief from royalty method and determined that the fair value of the Vince and Rebecca Taylor tradenames were below their carrying amounts. Accordingly, the Company recorded an impairment charge for the Vince and Rebecca Taylor tradename indefinite-lived intangible assets of $4,386, which was recorded within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) for fiscal 2020.

During the second quarter of fiscal 2019, the Company identified facts and circumstances that indicated that the fair value of goodwill associated with Rebecca Taylor and Parker, the Rebecca Taylor tradename and the Parker tradename may not be recoverable, resulting in the determination that a triggering event had occurred. Because of decreases in projected revenues and declines in margins due to increases of aged inventory related to the Rebecca Taylor and Parker brands that were considered other than temporary, the Company performed a quantitative assessment on goodwill and these indefinite-lived intangible assets.

The Company estimated the fair value of the Rebecca Taylor and Parker tradename intangible assets using the relief from royalty methodology and determined that the fair value of the Rebecca Taylor and Parker tradenames were below their carrying amounts. Accordingly, the Company recorded an impairment charge for the Rebecca Taylor and Parker tradename intangible assets of $11,247, which was recorded within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) in fiscal 2019. A quantitative impairment test on the goodwill allocated to the Rebecca Taylor and Parker reporting unit determined that the fair value was below the carrying value. The Company estimated the fair value using the

income valuation approach. “Step one” of the assessment determined that the fair value was below the carrying amount by $2,129, and as a result the Company recorded a goodwill impairment charge of $2,129 within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) in fiscal 2019.

Determining the fair value of goodwill and other intangible assets is judgmental in nature and requires the use of significant estimates and assumptions, including projected revenues, EBITDA margins, long-term growth rates, working capital, royalty rates in the category of intellectual property, discount rates and future market conditions, among others. It is possible that estimates of future operating results could change adversely and impact the evaluation of the recoverability of the carrying value of goodwill and intangible assets and that the effect of such changes could be material.

In accordance with Accounting Standards Codification Topic 350, *Intangibles – Goodwill and Other* (“ASC 350”), indefinite-lived intangibles should be reassessed each reporting period to determine whether events or circumstances continue to support an indefinite life. Based on the factors that led to the recognition of the Parker tradename impairment charge, the Company determined that the indefinite life classification was no longer appropriate for the Parker tradename. Accordingly, the Company determined a 10-year useful life was more appropriate and began amortizing the Parker tradename as of the beginning of the third quarter of fiscal 2019. The remaining definite-lived intangible assets are comprised of Vince customer relationships and are being amortized on a straight-line basis over their useful lives of 20 years.

In both fiscal 2020 and fiscal 2019, the Company performed its annual impairment test during the fourth quarter. In fiscal 2020, the Company elected to perform a quantitative impairment test on goodwill allocated to the Company’s Vince Wholesale reporting unit. The results of the quantitative test did not result in any impairment because the fair value of the Company’s Vince Wholesale reporting unit exceeded its carrying value. In fiscal 2019, the Company elected to perform a qualitative impairment test on goodwill allocated to the Company’s Vince Wholesale reporting unit and concluded that it was more likely than not that the fair value of the Company’s Vince Wholesale reporting unit exceeded its carrying value and was not impaired. Goodwill was $31,973 and $41,435 as of January 30, 2021 and February 1, 2020, respectively.

In the fourth quarter of fiscal 2020, the Company also elected to perform a quantitative impairment test on its Vince and Rebecca Taylor tradename intangible assets. The results of the quantitative test did not result in any impairment because the fair value of the Company’s Vince tradename and Rebecca Taylor tradename intangible assets exceeded their carrying values. In the fourth quarter of fiscal 2019, the Company elected to perform a qualitative impairment test on its Vince tradename intangible asset and concluded that it is more likely than not that the fair value of the Company’s Vince tradename intangible assets exceeds its carrying value and the Vince tradename intangible asset was not impaired. There was no additional impairment as part of the annual impairment test in the fourth quarter of fiscal 2019 for the Rebecca Taylor tradename. Indefinite-lived tradename intangible assets were $71,800 and $76,186 as of January 30, 2021 and February 1, 2020 respectively, which is included within Intangible assets, net in our Consolidated Balance Sheets.

See Note 3 “Goodwill and Intangible Assets” for more information on the details surrounding goodwill and intangible assets.

(M) **Deferred Financing Costs**: Deferred financing costs, such as underwriting, financial advisory, professional fees, and other similar fees are capitalized and recognized in interest expense over the contractual life of the related debt instrument using the straight-line method, as this method results in recognition of interest expense that is materially consistent with that of the effective interest method.

(N) **Leases**: The Company determines if a contract contains a lease at inception. The Company leases various office spaces, showrooms and retail stores. Although the Company’s more recent leases are subject to shorter terms as a result of the implementation of the strategy to pursue shorter lease terms, many of the Company’s leases have initial terms of 10 years, and in many instances can be extended for an additional term. The Company will not include renewal options in the underlying lease term unless the Company is reasonably certain to exercise the renewal option. Substantially all of the Company’s leases require a fixed annual rent, and most require the payment of additional rent if store sales exceed a negotiated amount. These percentage rent expenses are considered as variable lease costs and are recognized in the consolidated financial statements when incurred. In addition, the Company’s real estate leases may also require additional payments for real estate taxes and other occupancy-related costs which it considers as non-lease components.

Operating lease ROU assets and operating lease liabilities are recognized based upon the present value of the future lease payments over the lease term. As the Company’s leases do not provide an implicit borrowing rate, the Company uses an estimated incremental borrowing rate based upon a combination of market-based factors, such as market quoted forward yield curves and company specific factors, such as the Company’s credit rating, lease size and duration to calculate the present value.

(O) **Revenue Recognition**: The Company recognizes revenue when performance obligations identified under the terms of contracts with its customers are satisfied, which generally occurs upon the transfer of control in accordance with the contractual terms and conditions of the sale. Sales are recognized when the control of the goods are transferred to the customer for the Company’s wholesale business, upon receipt by the customer for the Company’s e-commerce business, and at the time of sale to the consumer for the Company’s retail business. See Note 13 “Segment Information” for disaggregated revenue amounts by segment.

Revenue associated with gift cards is recognized upon redemption and unredeemed balances are considered a contract liability and recorded within other accrued expenses, which are subject to escheatment within the jurisdictions in which it operates. As of January 30, 2021 and February 1, 2020, the contract liability was $1,618 and $1,585, respectively. In fiscal 2020, the Company recognized $232 of revenue that was previously included in the contract liability as of February 1, 2020.

Amounts billed to customers for shipping and handling costs are not material. Such shipping and handling costs are accounted for as a fulfillment cost and are included in cost of products sold. Sales taxes that are collected by the Company from a customer are excluded from revenue.

Sales are measured as the amount of consideration the Company expects to receive in exchange for transferring goods, which includes estimates for variable consideration. Variable consideration mainly includes discounts, chargebacks, markdown allowances, cooperative advertising programs, and sales returns. Estimated amounts of discounts, chargebacks, markdown allowances, cooperative advertising programs, and sales returns are accounted for as reductions of sales when the associated sale occurs. These estimated amounts are adjusted periodically based on changes in facts and circumstances when the changes become known. On the Company's consolidated balance sheet, reserves for sales returns are included within other accrued liabilities, and the value of inventory associated with reserves for sales returns are included in prepaid expenses and other current assets. The Company continues to estimate the amount of sales returns based on known trends and historical return rates.

(P) **Cost of Products Sold**: The Company's cost of products sold and gross margins may not necessarily be comparable to that of other entities as a result of different practices in categorizing costs. The primary components of the Company's cost of products sold are as follows:

- the cost of purchased merchandise, including raw materials;
- the cost of inbound transportation, including freight;
- the cost of the Company's production and sourcing departments;
- other processing costs associated with acquiring and preparing the inventory for sale; and
- shrink and valuation reserves.

(Q) **Marketing and Advertising**: The Company provides cooperative advertising allowances to certain of its customers. These allowances are accounted for as reductions in sales as discussed in "Revenue Recognition" above. Production expense related to company-directed advertising is deferred until the first time at which the advertisement runs. All other expenses related to company-directed advertising are expensed as incurred. Marketing and advertising expense recorded in SG&A expenses was $11,851 and $17,581 in fiscal 2020 and fiscal 2019, respectively. At January 30, 2021 and February 1, 2020, deferred production expenses associated with company-directed advertising were $447 and $749, respectively.

(R) **Share-Based Compensation:** New, modified and unvested share-based payment transactions with employees, such as stock options and restricted stock units, are measured at fair value and recognized as compensation expense over the requisite service period and is included as a component of SG&A expenses in the Consolidated Statements of Operations and Comprehensive Income (Loss). Additionally, share-based awards granted to non-employees are expensed over the period in which the related services are rendered at their fair value, using the Black Scholes Pricing Model to determine fair value. Forfeitures are accounted for as they occur.

(S) **Income Taxes**: The Company accounts for income taxes using the asset and liability method. Under this method, deferred tax assets and liabilities are recognized for the future tax consequences of temporary differences between the carrying amounts and tax bases of assets and liabilities at enacted rates. The Company assesses the likelihood of the realization of deferred tax assets and adjusts the carrying amount of these deferred tax assets by a valuation allowance to the extent the Company believes it more likely than not that all or a portion of the deferred tax assets will not be realized. Many factors are considered when assessing the likelihood of future realization of deferred tax assets, including recent earnings results within taxing jurisdictions, expectations of future taxable income, the carryforward periods available and other relevant factors. Changes in the required valuation allowance are recorded in income in the period such determination is made. The Company recognizes tax positions in the Consolidated Balance Sheets as the largest amount of tax benefit that is greater than 50% likely of being realized upon ultimate settlement with tax authorities assuming full knowledge of the position and all relevant facts. Accrued interest and penalties related to unrecognized tax benefits are included in income taxes in the Consolidated Statements of Operations and Comprehensive Income (Loss).

(T) **Earnings Per Share**: Basic earnings (loss) per share is calculated by dividing net income (loss) by the weighted average number of shares of common stock outstanding during the period. Except when the effect would be anti-dilutive, diluted earnings per share is calculated based on the weighted average number of shares of common stock outstanding plus the dilutive effect of share-based awards calculated under the treasury stock method.

(U) **Recent Accounting Pronouncements:** Except as noted below, the Company has considered all recent accounting pronouncements and has concluded that there are no recent accounting pronouncements that may have a material impact on its Consolidated Financial Statements, based on current information.

Recently Adopted Accounting Pronouncements

In August 2018, the Financial Accounting Standards Board's ("FASB") issued ASU 2018-15: "*Customer's Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*". The ASU is intended to align the requirements for capitalization of implementation costs incurred in a cloud computing arrangement that is a service contract with the existing guidance for internal-use software. This guidance is effective for fiscal years and interim periods within those years beginning after December 15, 2019. The guidance provides flexibility in adoption, allowing for either retrospective adjustment or prospective adjustment for all implementation costs incurred after the date of adoption. The Company adopted the guidance on February 2, 2020, the first day of fiscal 2020, which did not have a material effect on the Company's consolidated financial statements.

Recently Issued Accounting Pronouncements

In June 2016, the FASB issued ASU 2016-13: "*Financial Instruments-Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments"*. The ASU requires an impairment model (known as the current expected credit loss ("CECL") model) that is based on expected losses rather than incurred losses. Under the new guidance, each reporting entity should estimate an allowance for expected credit losses, which is intended to result in more timely recognition of losses. The new standard applies to trade receivables arising from revenue transactions. Under ASC 606, revenue is recognized when, among other criteria, it is probable that an entity will collect the consideration it is entitled to when goods or services are transferred to a customer. When trade receivables are recorded, they become subject to the CECL model and estimates of expected credit losses on trade receivables over their contractual life will be required to be recorded at inception based on historical information, current conditions, and reasonable and supportable forecasts. This guidance is effective for smaller reporting companies for annual periods beginning after December 15, 2022, including the interim periods in the year. Early adoption is permitted. Management is currently evaluating the impact of this ASU on the consolidated financial statements.

In December 2019, the FASB issued ASU 2019-12: "*Income Taxes* (ASC 740): *Simplifying the Accounting for Income Taxes*." The guidance simplifies the approach for intraperiod tax allocations, the methodology for calculating income taxes in an interim period, and the recognition of deferred tax liabilities for outside basis differences. The guidance also clarifies and simplifies other areas of ASC 740. This ASU is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2020. Early adoption is permitted. Management is currently evaluating the impact of this ASU on the consolidated financial statements, however the Company does not expect that the adoption of this ASU will have a material impact on the Consolidated financial statements.

(V) Revision: The Company identified an error in the consolidated statement of cash flows for the year ended February 1, 2020 related to the presentation of proceeds and repayments of borrowings under revolving credit facilities within financing activities. The Company has historically presented proceeds and repayments from borrowings under revolving credit facilities as net in the financing section of the statement of cash flows because of the continuous activity of proceeds and repayments of borrowings. Given the contractual maturity of the revolver is greater than three months, the Company concluded that gross presentation was appropriate and has revised the historical financial statements. These adjustments were not considered to be material individually or in the aggregate to the previously issued financial statements. However, because of the significance of these adjustments, the Company has revised its consolidated statement of cash flows for the year ended February 1, 2020. This revision had no impact on the consolidated balance sheets, consolidated statements of operations or consolidated statements of comprehensive income (loss) for the periods nor did it have an impact on total cash flows from operating, investing or financing activities.

(in thousands)	Year Ended February 1, 2020		
	As Previously Reported	Adjustment	As Revised
Financing activities			
Proceeds from borrowings under the Revolving Credit Facilities	$ —	$ 310,434	$ 310,434
Repayment of borrowings under the Revolving Credit Facilities	—	(301,727)	(301,727)
Net proceeds from borrowings under the Revolving Credit Facilities	8,707	(8,707)	—
Proceeds from borrowings under the Revolving Credit Facilities - Acquired Businesses	—	11,761	11,761
Repayment of borrowings under the Revolving Credit Facilities- Acquired Businesses	—	(29,410)	(29,410)
Net proceeds (repayment) from borrowings under the Revolving Credit Facilities - Acquired Businesses	(17,649)	17,649	—
Net cash (used in)/provided by financing activities	**$ (11,991)**	**$ —**	**$ (11,991)**

Note 2. Business Combinations

On November 4, 2019, Vince, LLC entered into an Equity Purchase Agreement (the "Purchase Agreement") with CLG, providing for the Acquisition by Vince, LLC of 100% of the equity interests of the Acquired Businesses from CLG. The Acquisition was consummated effective on November 3, 2019.

The aggregate purchase price for the Acquisition was $19,730, which amount was used to satisfy all outstanding obligations under the credit facility of the Acquired Businesses and for the payment of certain compensation expenses. The purchase price was paid in cash and funded under the 2018 Revolving Credit Facility which was upsized simultaneously with the Acquisition, as described in Note 5 "Long-Term Debt and Financing Arrangements".

CLG is owned by affiliates of Sun Capital Partners, Inc. (collectively, "Sun Capital"). Sun Capital beneficially owns approximately 72% of the Company's common stock. The Acquisition was reviewed and approved by the Special Committee of the Company's Board of Directors, consisting solely of directors not affiliated with Sun Capital, who was represented by independent financial and legal advisors.

The Acquisition was treated for accounting purposes as a transaction by entities under common control within the scope of ASC Topic 805, *"Business Combinations"*. This guidance required the retrospective combination of the entities for all periods presented as if the combination had been in effect since inception of common control. Additionally, the combination of the entities reflected the historical balance sheet data for the Acquired Businesses.

During fiscal 2019, the Company incurred $3,571 of transaction and other related costs related to the Acquisition, which have been expensed and are included in SG&A expense in the accompanying Consolidated Statements of Operations and Comprehensive Income (Loss).

Note 3. Goodwill and Intangible Assets

Net goodwill balances and changes therein by segment were as follows:

(in thousands)	Vince Wholesale	Vince Direct-to-consumer	Rebecca Taylor and Parker	Total Net Goodwill
Balance as of February 1, 2020	$ 41,435	$ —	$ —	$ 41,435
Impairment charges	(9,462)	—	—	(9,462)
Balance as of January 30, 2021	$ 31,973	$ —	$ —	$ 31,973

The total carrying amount of goodwill was net of accumulated impairments of $101,845 and $92,383 as of January 30, 2021 and February 1, 2020, respectively.

During the first quarter of fiscal 2020, the Company determined that a triggering event had occurred as a result of changes to the Company's long-term projections driven by the impacts of COVID-19. The Company performed an interim quantitative impairment assessment of goodwill and intangible assets.

The Company determined the fair value of the Vince wholesale reportable segment using a combination of discounted cash flows and market comparisons. "Step one" of the assessment determined that the fair value was below the carrying amount by $9,462,

and as a result the Company recorded a goodwill impairment charge of $9,462 within Impairment of goodwill and intangible assets on the Consolidated Statement of Operations and Comprehensive Income (Loss) for fiscal 2020.

During the second quarter of fiscal 2019, the Company identified facts and circumstances that indicated that the fair value of goodwill associated with Rebecca Taylor and Parker may not be recoverable, resulting in the determination that a triggering event had occurred. As a result, the Company recorded a $2,129 goodwill impairment charge in the Rebecca Taylor and Parker reporting unit.

There were no impairments recorded as a result of the Company's annual goodwill impairment test performed during fiscal 2020 and fiscal 2019.

The following tables present a summary of identifiable intangible assets:

(in thousands)	Gross Amount	Accumulated Amortization	Accumulated Impairments	Net Book Value
Balance as of January 30, 2021				
Amortizable intangible assets:				
Customer relationships	$ 31,355	$ (21,036)	$ (6,115)	$ 4,204
Tradenames	13,100	(86)	(12,527)	487
Indefinite-lived intangible assets:				
Tradenames	110,986	—	(39,186)	71,800
Total intangible assets	$ 155,441	$ (21,122)	$ (57,828)	$ 76,491

(in thousands)	Gross Amount	Accumulated Amortization	Accumulated Impairments	Net Book Value
Balance as of February 1, 2020				
Amortizable intangible assets:				
Customer relationships	$ 31,355	$ (20,437)	$ (6,115)	$ 4,803
Tradenames	13,100	(29)	(12,527)	544
Indefinite-lived intangible assets:				
Tradenames	110,986	—	(34,800)	76,186
Total intangible assets	$ 155,441	$ (20,466)	$ (53,442)	$ 81,533

During the first quarter of fiscal 2020, the Company estimated the fair value of the Vince and Rebecca Taylor tradename indefinite-lived intangible assets using a discounted cash flow valuation analysis, which is based on the relief from royalty method and determined that the fair value of the Vince and Rebecca Taylor tradenames were below their carrying amounts. Accordingly, the Company recorded an impairment charge for the Vince and Rebecca Taylor tradename indefinite-lived intangible assets of $4,386, which was recorded within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) for fiscal 2020.

During the second quarter of fiscal 2019, the Company identified facts and circumstances that indicated that the fair value of the Rebecca Taylor tradename, the Parker tradename and Rebecca Taylor and Parker customer relationships may not be recoverable, resulting in the determination that a triggering event had occurred. As a result of comparing the fair value of these assets to their respective carrying values, the Company recorded an $11,247 impairment charge associated with the Rebecca Taylor and Parker tradename intangible assets and $6,115 of impairment charges for the Rebecca Taylor and Parker customer relationships within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss) for fiscal 2019.

No impairments of the Company's indefinite lived tradenames were recorded as a result of the Company's annual asset impairment tests performed during fiscal 2020 and fiscal 2019.

In accordance with ASC 350, indefinite-lived intangibles should be reassessed each reporting period to determine whether events or circumstances continue to support an indefinite life. Based on the impairment charge calculated, the Company determined that the indefinite life classification was no longer appropriate for the Parker tradename. Accordingly, the Company determined a 10-year useful life was more appropriate and began amortizing the Parker tradename beginning in the third quarter of fiscal 2019.

Amortization of identifiable intangible assets was $656 and $1,596 for fiscal 2020 and fiscal 2019, respectively, which is included in SG&A expenses on the Consolidated Statements of Operations and Comprehensive Income (Loss). Amortization expense for each of the fiscal years 2021 to 2025 is expected to be as follows:

(in thousands)	Future Amortization
2021	$ 655
2022	655
2023	655
2024	655
2025	655
Total next 5 fiscal years	$ 3,275

Note 4. Fair Value Measurements

We define the fair value of a financial instrument as the amount that would be received from the sale of an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. We are responsible for the determination of the value of the investments carried at fair value and the supporting methodologies and assumptions. The Company's financial assets and liabilities are to be measured using inputs from three levels of the fair value hierarchy as follows:

Level 1—	quoted market prices in active markets for identical assets or liabilities
Level 2—	observable market-based inputs (quoted prices for similar assets and liabilities in active markets and quoted prices for identical or similar assets or liabilities in markets that are not active) or inputs that are corroborated by observable market data
Level 3—	significant unobservable inputs that reflect the Company's assumptions and are not substantially supported by market data

The Company did not have any non-financial assets or non-financial liabilities recognized at fair value on a recurring basis at January 30, 2021 or February 1, 2020. At January 30, 2021 and February 1, 2020, the Company believes that the carrying values of cash and cash equivalents, receivables, and accounts payable approximate fair value, due to the short-term maturity of these instruments. The Company's debt obligations with a carrying value of $85,897 as of January 30, 2021 are at variable interest rates. Borrowings under the Company's 2018 Revolving Credit Facility are recorded at carrying value, which approximates fair value due to the frequency nature of such borrowings and repayments. The Company considers this as a Level 2 input. The fair value of the Company's 2018 Term Loan Facility and the Third Lien Credit Facility was approximately $25,000 and $21,000, respectively, as of January 30, 2021, based upon estimated market value calculations that factor principal, time to maturity, interest rate, and current cost of debt. The Company considers this a Level 3 input.

The Company's non-financial assets, which primarily consist of goodwill, intangible assets, ROU lease assets, and property and equipment, are not required to be measured at fair value on a recurring basis and are reported at their carrying values. However, on a periodic basis 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 assets are assessed for impairment, and if applicable, written down to (and recorded at) fair value.

Determining the fair value of goodwill and other intangible assets is judgmental in nature and requires the use of significant estimates and assumptions, including projected revenues, EBITDA margins growth rates and operating margins, long-term growth rates, working capital, royalty rates in the category of intellectual property, discount rates and future market conditions, among others, as applicable. The inputs used in determining the fair value of the ROU lease assets were the current comparable market rents for similar properties and a store discount rate. The fair value of the property and equipment was based on its estimated liquidation value. The measurement of fair value of these assets are considered Level 3 valuations as certain of these inputs are unobservable and are estimated to be those that would be used by market participants in valuing these or similar assets.

The following tables present the non-financial assets the Company measured at fair value on a non-recurring basis in fiscal 2020 and fiscal 2019, based on such fair value hierarchy:

(in thousands)	Net Carrying Value as of January 30, 2021	Fair Value Measured and Recorded at Reporting Date Using: Level 1	Level 2	Level 3	Total Losses - Year Ended January 30, 2021	
Property and equipment	$ 8,922	$ —	$ —	$ 8,922	$ 4,470	(1)
Goodwill	31,973	—	—	31,973	9,462	(2)
Tradenames - Indefinite-lived	71,800	—	—	71,800	4,386	(2)
ROU Assets	76,101	—	—	76,101	8,556	(1)

(in thousands)	Net Carrying Value as of February 1, 2020	Fair Value Measured and Recorded at Reporting Date Using: Level 1	Level 2	Level 3	Total Losses - Year Ended February 1, 2020	
Property and equipment	$ —	$ —	$ —	$ —	$ 641	(1)
Goodwill	—	—	—	—	2,129	(2)
Tradenames - Indefinite-lived	5,086	—	—	5,086	3,550	(2)
Tradenames - Definite-lived	544	—	—	544	7,697	(2)
Customer Lists	—	—	—	—	6,115	(2)
ROU Assets	788	—	—	788	177	(1)

(1) Recorded within Impairment of long-lived assets on the Consolidated Statements of Operations and Comprehensive Income (Loss). See Note 1 "Description of Business and Summary of Significant Accounting Policies – (K) Impairment of Long-lived Assets" for additional information.

(2) Recorded within Impairment of goodwill and intangible assets on the Consolidated Statements of Operations and Comprehensive Income (Loss). See Note 1 "Description of Business and Summary of Significant Accounting Policies – (K) Impairment of Long-lived Assets and (L) Goodwill and Other Intangible Assets" for additional information.

Note 5. Long-Term Debt and Financing Arrangements

Debt obligations consisted of the following:

(in thousands)	January 30, 2021	February 1, 2020
Long-term debt:		
Term Loan Facilities	$ 24,750	$ 24,750
Revolving Credit Facilities	40,399	27,723
Third Lien Credit Facility	20,748	—
Total debt principal	85,897	52,473
Less: current portion of long-term debt	—	2,750
Less: deferred financing costs	1,412	1,043
Total long-term debt	$ 84,485	$ 48,680

2018 Term Loan Facility

On August 21, 2018, Vince, LLC entered into a $27,500 senior secured term loan facility (the "2018 Term Loan Facility") pursuant to a credit agreement by and among Vince, LLC, as the borrower, VHC and Vince Intermediate Holdings, LLC, a direct subsidiary of VHC and the direct parent company of Vince, LLC ("Vince Intermediate"), as guarantors, Crystal Financial, LLC, as administrative agent and collateral agent, and the other lenders from time to time party thereto. The 2018 Term Loan Facility is subject to quarterly amortization of principal equal to 2.5% of the original aggregate principal amount of the 2018 Term Loan Facility, with the balance payable at final maturity. Interest is payable on loans under the 2018 Term Loan Facility at a rate equal to the 90-day LIBOR rate (subject to a 0% floor) plus applicable margins subject to a pricing grid based on a minimum Consolidated EBITDA (as defined in the credit agreement for the 2018 Term Loan Facility) calculation. During the continuance of certain specified events of default, interest will accrue on the outstanding amount of any loan at a rate of 2.0% in excess of the rate otherwise applicable to such amount. The 2018 Term Loan Facility matures on the earlier of August 21, 2023 and the maturity date of the 2018 Revolving Credit Facility (as defined below).

The 2018 Term Loan Facility contains a requirement that Vince, LLC maintain a Consolidated Fixed Charge Coverage Ratio (as defined in the credit agreement for the 2018 Term Loan Facility) as of the last day of any period of four fiscal quarters not to exceed

0.85:1.00 for the fiscal quarter ended November 3, 2018, 1.00:1.00 for the fiscal quarter ended February 2, 2019, 1.20:1.00 for the fiscal quarter ended May 4, 2019, 1.35:1.00 for the fiscal quarter ending August 3, 2019, 1.50:1.00 for the fiscal quarters ending November 2, 2019 and February 1, 2020 and 1.75:1.00 for the fiscal quarter ending May 2, 2020 and each fiscal quarter thereafter. In addition, the 2018 Term Loan Facility contains customary representations and warranties, other covenants, and events of default, including but not limited to, covenants with respect to limitations on the incurrence of additional indebtedness, liens, burdensome agreements, guarantees, investments, loans, asset sales, mergers, acquisitions, prepayment of other debt, the repurchase of capital stock, transactions with affiliates, and the ability to change the nature of the Company's business or its fiscal year, and distributions and dividends. The 2018 Term Loan Facility generally permits dividends to the extent that no default or event of default is continuing or would result from a contemplated dividend, so long as (i) after giving pro forma effect to the contemplated dividend and for the following six months Excess Availability will be at least the greater of 20.0% of the Loan Cap (as defined in the credit agreement for the 2018 Term Loan Facility) and $10,000, (ii) after giving pro forma effect to the contemplated dividend, the Consolidated Fixed Charge Coverage Ratio for the 12 months preceding such dividend will be greater than or equal to 1.0 to 1.0 (provided that the Consolidated Fixed Charge Coverage Ratio may be less than 1.0 to 1.0 if, after giving pro forma effect to the contemplated dividend, Excess Availability for the six fiscal months following the dividend is at least the greater of 25.0% of the Loan Cap and $12,500), and (iii) the pro forma Fixed Charge Coverage Ratio after giving effect to such contemplated dividend is no less than the minimum Consolidated Fixed Charge Coverage Ratio for such quarter. In addition, the 2018 Term Loan Facility is subject to a Borrowing Base (as defined in the credit agreement of the 2018 Term Loan Facility) which can, under certain conditions, result in the imposition of a reserve under the 2018 Revolving Credit Facility. As of January 30, 2021, the Company was in compliance with applicable covenants.

The 2018 Term Loan Facility also contains an Excess Cash Flow (as defined in the credit agreement for the 2018 Term Loan Facility) sweep requirement in which Vince, LLC remits 50% of Excess Cash Flow reduced on a dollar-for-dollar basis by any voluntary prepayments of the 2018 Term Loan Facility or the 2018 Revolving Credit Facility (to the extent accompanied by a permanent reduction in commitments) during such fiscal year or after the fiscal year but prior to the date of the excess cash flow payment, to be applied to the outstanding principal balance commencing 10 business days after the filing of the Company's Annual Report on Form 10-K starting from fiscal year ended February 1, 2020. There was no such payment due for fiscal years ended January 30, 2021 and February 1, 2020.

On March 30, 2020, Vince, LLC entered into the Limited Waiver and Amendment (the "Second Term Loan Amendment") to the 2018 Term Loan Facility. The Second Term Loan Amendment postponed the amortization payment due on April 1, 2020, with 50% of such payment to be paid on July 1, 2020 and the remainder to be paid on October 1, 2020 and modifies certain reporting obligations.

On June 8, 2020, Vince, LLC entered into the Third Amendment (the "Third Term Loan Amendment") to the 2018 Term Loan Facility. The Third Term Loan Amendment, among others, (i) temporarily suspends the Consolidated Fixed Charge Coverage Ratio covenant through the delivery of a compliance certificate relating to the fiscal quarter ended July 31, 2021 (such period, the "Third Amendment Extended Accommodation Period"); (ii) requires Vince, LLC to maintain Fixed Charge Coverage Ratio of 1.0 to 1.0 in the event the excess availability under the 2018 Revolving Credit Facility is less than (x) $10,000 between September 6, 2020 and January 9, 2021 and (y) $12,500 between January 10, 2021 and January 31, 2021 and (z) $15,000 during all other times during the Third Amendment Extended Accommodation Period; (iii) revises the Fixed Charge Coverage Ratio required to be maintained following the Third Amendment Extended Accommodation Period (commencing with the fiscal month ending July 31, 2021) to be 1.50 to 1.0 for the fiscal quarter ending July 31, 2021 and 1.75 to 1.0 for each fiscal quarter thereafter; (iv) waives the amortization payments due on July 1, 2020 and October 1, 2020 (including the amortization payment due on April 1, 2020 that was previously deferred under the Second Term Loan Amendment); (v) for any fiscal four quarter period ending prior to or on October 30, 2020, increasing the cap on certain items eligible to be added back to Consolidated EBITDA to 27.5% from 22.5%; and (vi) during the Third Amendment Extended Accommodation Period, allows Vince, LLC to cure any default under the applicable Fixed Charge Coverage Ratio covenant by including any amount provided by equity or subordinated debt (which amount shall be at least $1,000) in the calculation of excess availability under the 2018 Revolving Credit Facility so that the excess availability is above the applicable threshold described above.

The Third Term Loan Amendment also (a) waives certain events of default; (b) temporarily revises the applicable margin to be 9.0% for one year after the Third Term Loan Amendment effective date (2.0% of which is to be accrued but not payable in cash until the first anniversary of the Third Term Loan Amendment effective date) and after such time and through the Third Amendment Extended Accommodation Period, 9.0% or 7.0% depending on the amount of Consolidated EBITDA; (c) increases the LIBOR floor from 0% to 1.0%; (d) eliminates the Borrower's and any loan party's ability to designate subsidiaries as unrestricted and to make certain payments, restricted payments and investments during the Third Amendment Extended Accommodation Period; (e) resets the prepayment premium to 3.0% of the prepaid amount if prepaid prior to the first anniversary of the Third Term Loan Amendment Effective Date, 1.5% of the prepaid amount if prepaid prior to the second anniversary of the Third Term Loan Amendment Effective Date and 0% thereafter; (f) imposes a requirement to pay down the 2018 Revolving Credit Facility to the extent cash on hand exceeds $5,000 on the last day of each week; (g) permits Vince, LLC to incur up to $8,000 of additional secured debt (in addition to any interest accrued or paid in kind), to the extent subordinated to the 2018 Term Loan Facility on terms reasonably acceptable to Crystal; (h) extends the delivery periods for (x) annual financial statements for the fiscal year ended February 1, 2020 to June 15, 2020 and (y) quarterly financial statements for the fiscal quarters ended May 2, 2020 and ending August 1, 2020 to July 31, 2020 and October 29,

2020, respectively, and (i) grants ongoing relief through September 30, 2020 with respect to certain covenants regarding the payment of lease obligations.

As a result of the Third Term Loan Amendment, the Company incurred $383 of additional financing costs. In accordance with ASC Topic 470, *"Debt"*, the Company accounted for this amendment as a debt modification and has recorded $233 of the financing costs paid to third parties within selling, general and administrative expenses on the Consolidated Statements of Operations and Comprehensive Income (Loss) in fiscal 2020. The remaining $150 of financing costs are recorded as deferred debt issuance costs which will be amortized over the remaining term of the 2018 Term Loan Facility.

On December 11, 2020, Vince, LLC entered into the Fifth Amendment (the "Fifth Term Loan Amendment") to the 2018 Term Loan Facility. The Fifth Term Loan Amendment, among other things, (i) extends the suspension of the FCCR covenant through the Extended Accommodation Period; (ii) extends the period through which the applicable margin is increased to 9.0% or 7.0%, subject to a pricing grid based on Consolidated EBITDA through the Extended Accommodation Period; (iii) extends the period from October 30, 2021 to January 29, 2022, during which the cap on which certain items eligible to be added back to "Consolidated EBITDA" (as defined in the 2018 Term Loan Facility) is increased to 27.5% from 22.5%; (iv) requires Vince, LLC to maintain an FCCR of 1.0 to 1.0 in the event the excess availability under the 2018 Revolving Credit Facility is less than (x) $7,500 through the end of the Accommodation Period; and (y) $10,000 from August 1, 2020 through the end of the Extended Accommodation Period; (v) revises the FCCR required to be maintained commencing with the fiscal quarter ending January 29, 2022 and for each fiscal quarter thereafter to be 1.25 to 1.0; (vi) waives the amortization payments due on January 1, 2021, April 1, 2021, July 1, 2021, October 1, 2021 and January 1, 2022; (vii) permits Vince, LLC to incur the debt under the Third Lien Credit Facility (as described below); (viii) resets the prepayment premium to 3.0% of the prepaid amount if prepaid prior to the first anniversary of the Fifth Term Loan Amendment effective date, 1.5% of the prepaid amount if prepaid prior to the second anniversary of the Fifth Term Loan Amendment effective date and 0% thereafter; (ix) requires an engagement by the Company of a financial advisor from February 1, 2021 until March 31, 2021 (or until the excess availability is greater than 25% of the loan cap for a period of at least thirty days, whichever is later) to assist in the preparation of certain financial reports, including the review of the weekly cashflow reports and other items; and (x) revises the advance rate on the intellectual property to 60% of its appraised value. As of April 2021, the requirement to engage a financial advisor has been satisfied.

As a result of the Fifth Term Loan Amendment, the Company incurred $150 of additional financing costs. In accordance with ASC Topic 470, *"Debt"*, the Company accounted for this amendment as a debt modification and has recorded the additional deferred financing costs as deferred debt issuance costs which will be amortized over the remaining term of the 2018 Term Loan Facility and are included in accrued liabilities on the Consolidated Balance Sheet as of January 30, 2021.

On April 26, 2021, Vince, LLC entered into the Sixth Amendment (the "Sixth Term Loan Amendment") to the 2018 Term Loan Facility. See Note 15 "Subsequent Events" for further information.

Through January 30, 2021, on an inception to date basis, the Company had made repayments totaling $2,750 in the aggregate on the 2018 Term Loan Facility. As of January 30, 2021, the Company had $24,750 of debt outstanding under the 2018 Term Loan Facility.

Scheduled maturities of the 2018 Term Loan Facility are as follows:

(in thousands)	2018 Term Loan Maturities
Fiscal 2021	$ —
Fiscal 2022	2,750
Fiscal 2023	22,000
Total	$ 24,750

2018 Revolving Credit Facility

On August 21, 2018, Vince, LLC entered into an $80,000 senior secured revolving credit facility (the "2018 Revolving Credit Facility") pursuant to a credit agreement by and among Vince, LLC, as the borrower, VHC and Vince Intermediate, as guarantors, Citizens Bank, N.A. ("Citizens"), as administrative agent and collateral agent, and the other lenders from time to time party thereto. The 2018 Revolving Credit Facility provides for a revolving line of credit of up to $80,000, subject to a Loan Cap, which is the lesser of (i) the Borrowing Base as defined in the credit agreement for the 2018 Revolving Credit Facility and (ii) the aggregate commitments, as well as a letter of credit sublimit of $25,000. It also provides for an increase in aggregate commitments of up to $20,000. The 2018 Revolving Credit Facility matures on the earlier of August 21, 2023 and the maturity date of the 2018 Term Loan Facility. On August 21, 2018, Vince, LLC incurred $39,555 of borrowings, prior to which $66,271 was available, given the Loan Cap as of such date.

Interest is payable on the loans under the 2018 Revolving Credit Facility at either the LIBOR or the Base Rate, in each case, with applicable margins subject to a pricing grid based on an average daily excess availability calculation. The "Base Rate" means, for any day, a fluctuating rate per annum equal to the highest of (i) the rate of interest in effect for such day as publicly announced from time to time by Citizens as its prime rate; (ii) the Federal Funds Rate for such day, plus 0.5%; and (iii) the LIBOR Rate for a one month interest period as determined on such day, plus 1.00%. During the continuance of certain specified events of default, at the election of Citizens, interest will accrue at a rate of 2.0% in excess of the applicable non-default rate.

The 2018 Revolving Credit Facility contains a requirement that, at any point when Excess Availability (as defined in the credit agreement for the 2018 Revolving Credit Facility) is less than 10.0% of the loan cap and continuing until Excess Availability exceeds the greater of such amounts for 30 consecutive days, Vince must maintain during that time a Consolidated Fixed Charge Coverage Ratio (as defined in the credit agreement for the 2018 Revolving Credit Facility) equal to or greater than 1.0 to 1.0 measured as of the last day of each fiscal month during such period.

The 2018 Revolving Credit Facility contains representations and warranties, other covenants and events of default that are customary for this type of financing, including covenants with respect to limitations on the incurrence of additional indebtedness, liens, burdensome agreements, guarantees, investments, loans, asset sales, mergers, acquisitions, prepayment of other debt, the repurchase of capital stock, transactions with affiliates, and the ability to change the nature of the Company's business or its fiscal year. The 2018 Revolving Credit Facility generally permits dividends in the absence of any event of default (including any event of default arising from a contemplated dividend), so long as (i) after giving pro forma effect to the contemplated dividend and for the following six months Excess Availability will be at least the greater of 20.0% of the Loan Cap and $10,000 and (ii) after giving pro forma effect to the contemplated dividend, the Consolidated Fixed Charge Coverage Ratio for the 12 months preceding such dividend will be greater than or equal to 1.0 to 1.0 (provided that the Consolidated Fixed Charge Coverage Ratio may be less than 1.0 to 1.0 if, after giving pro forma effect to the contemplated dividend, Excess Availability for the six fiscal months following the dividend is at least the greater of 25.0% of the Loan Cap and $12,500). As of January 30, 2021, the Company was in compliance with applicable covenants.

On November 1, 2019, Vince, LLC entered into the First Amendment (the "First Revolver Amendment") to the 2018 Revolving Credit Facility, which provides the borrower the ability to elect the Daily LIBOR Rate in lieu of the Base Rate to be applied to the borrowings upon applicable notice. The "Daily LIBOR Rate" means a rate equal to the Adjusted LIBOR Rate in effect on such day for deposits for a one day period, provided that, upon notice and not more than once every 90 days, such rate may be substituted for a one week or one month period for the Adjusted LIBOR Rate for a one day period.

On November 4, 2019, Vince, LLC entered into the Second Amendment (the "Second Revolver Amendment") to the credit agreement of the 2018 Revolving Credit Facility. The Second Revolver Amendment increased the aggregate commitments under the 2018 Revolving Credit Facility by $20,000 to $100,000. Pursuant to the terms of the Second Revolver Amendment, the Acquired Businesses became guarantors under the 2018 Revolving Credit Facility and jointly and severally liable for the obligations thereunder. Simultaneously, Vince, LLC entered into a Joinder Amendment to the credit agreement of the 2018 Term Loan Facility whereby the Acquired Businesses became guarantors under the 2018 Term Loan Facility and jointly and severally liable for the obligations thereunder.

On June 8, 2020, Vince, LLC entered into the Third Amendment (the "Third Revolver Amendment") to the 2018 Revolving Credit Facility. The Third Revolver Amendment, among others, increases availability under the facility's borrowing base by (i) temporarily increasing the aggregate commitments under the 2018 Revolving Credit Facility to $110,000 through November 30, 2020 (such period, the "Third Amendment Accommodation Period") (ii) temporarily revising the eligibility of certain account debtors during the Third Amendment Accommodation Period by extending by 30 days the period during which those accounts may remain outstanding past due as well as increasing the concentration limits of certain account debtors and (iii) for any fiscal four quarter period ending prior to or on October 30, 2021, increasing the cap on certain items eligible to be added back to Consolidated EBITDA to 27.5% from 22.5%.

The Third Revolver Amendment also (a) waives events of default; (b) temporarily increases the applicable margin on all borrowings of revolving loans by 0.75% per annum during the Third Amendment Accommodation Period and increases the LIBOR floor from 0% to 1.0%; (c) eliminates Vince LLC's and any loan party's ability to designate subsidiaries as unrestricted and to make certain payments, restricted payments and investments during the Third Amendment Extended Accommodation Period; (d) temporarily suspends the Fixed Charge Coverage Ratio covenant through the Third Amendment Extended Accommodation Period; (e) requires Vince, LLC to maintain a Fixed Charge Coverage Ratio of 1.0 to 1.0 in the event the excess availability under the 2018 Revolving Credit Facility is less than (x) $10,000 between September 6, 2020 and January 9, 2021, (y) $12,500 between January 10, 2021 and January 31, 2021 and (z) $15,000 at all other times during the Third Amendment Extended Accommodation Period; (f) imposes a requirement (y) to pay down the 2018 Revolving Credit Facility to the extent cash on hand exceeds $5,000 on the last day of each week and (z) that, after giving effect to any borrowing thereunder, Vince, LLC may have no more than $5,000 of cash on hand; (g) permits Vince, LLC to incur up to $8,000 of additional secured debt (in addition to any interest accrued or paid in kind), to the extent subordinated to the 2018 Revolving Credit Facility on terms reasonably acceptable to Citizens; (h) establishes a method for imposing a successor reference rate if LIBOR should become unavailable, (i) extends the delivery periods for (x) annual financial statements for the fiscal year ended February 1, 2020 to June 15, 2020 and (y) quarterly financial statements for the fiscal quarters

ended May 2, 2020 and ending August 1, 2020 to July 31, 2020 and October 29, 2020, respectively, and (j) grants ongoing relief through September 30, 2020 with respect to certain covenants regarding the payment of lease obligations.

As a result of the Third Revolver Amendment, the Company incurred $376 of additional deferred financing costs. In accordance with ASC Topic 470, *"Debt"*, the Company accounted for this amendment as a debt modification and has recorded the additional deferred financing costs as deferred debt issuance costs which will be amortized over the remaining term of the 2018 Revolving Credit Facility.

On December 11, 2020, Vince, LLC entered into the Fifth Revolver Amendment to the 2018 Revolving Credit Facility. The Fifth Revolver Amendment, among other things, (i) extends the period from November 30, 2020 to July 31, 2021 (such period, "Accommodation Period"), during which the eligibility of certain account debtors is revised by extending by 30 days the time those accounts may remain outstanding past due as well as increasing the concentration limits of certain account debtors; (ii) extends the period through which the applicable margin on all borrowings of revolving loans by 0.75% per annum during such Accommodation Period; (iii) extends the period from October 30, 2021 to January 29, 2022, during which the cap on which certain items eligible to be added back to "Consolidated EBITDA" (as defined in the 2018 Revolving Credit Facility) is increased to 27.5% from 22.5%; (iv) extends the temporary suspension of the Consolidated Fixed Charge Coverage Ratio ("FCCR") covenant through the delivery of a compliance certificate relating to the fiscal quarter ended January 29, 2022 (such period, the "Extended Accommodation Period"), other than the fiscal quarter ending January 29, 2022; (v) requires Vince, LLC to maintain an FCCR of 1.0 to 1.0 in the event the excess availability under the 2018 Revolving Credit Facility is less than (x) $7,500 through the end of the Accommodation Period; and (y) $10,000 from August 1, 2020 through the end of the Extended Accommodation Period; (vi) permits Vince, LLC to incur the debt under the Third Lien Credit Facility (as described below); (vii) revises the definition of "Cash Dominion Trigger Amount" to mean $15,000 through the end of the Extended Accommodation Period and at all other times thereafter, 12.5% of the loan cap and $5,000, whichever is greater; (viii) deems the Cash Dominion Event (as defined in the 2018 Revolving Credit Facility) as triggered during the Accommodation Period; and (ix) requires an engagement by the Company of a financial advisor from February 1, 2021 until March 31, 2021 (or until the excess availability is greater than 25% of the loan cap for a period of at least thirty days, whichever is later) to assist in the preparation of certain financial reports, including the review of the weekly cashflow reports and other items. As of April 2021, the requirement to engage a financial advisor has been satisfied.

As a result of the Fifth Revolver Amendment, the Company incurred $204 of additional deferred financing costs. In accordance with ASC Topic 470, *"Debt"*, the Company accounted for this amendment as a debt modification and has recorded the additional deferred financing costs as deferred debt issuance costs which will be amortized over the remaining term of the 2018 Revolving Credit Facility. $100 of financing costs are included in accrued liabilities on the Consolidated Balance Sheet as of January 30, 2021.

On April 26, 2021, concurrently with the Sixth Term Loan Amendment, the Company entered into the Sixth Amendment (the "Sixth Revolver Amendment") to the 2018 Revolving Credit Facility. See Note 15 "Subsequent Events" for further information.

As of January 30, 2021, $30,176 was available under the 2018 Revolving Credit Facility, net of the loan cap, and there were $40,399 of borrowings outstanding and $5,195 of letters of credit outstanding under the 2018 Revolving Credit Facility. The weighted average interest rate for borrowings outstanding under the 2018 Revolving Credit Facility as of January 30, 2021, was 3.8%.

As of February 1, 2020, $59,916 was available under the 2018 Revolving Credit Facility, net of the loan cap, and there were $27,723 of borrowings outstanding and $6,505 of letters of credit outstanding under the 2018 Revolving Credit Facility. The weighted average interest rate for borrowings outstanding under the 2018 Revolving Credit Facility as of February 1, 2020, was 3.3%.

Third Lien Credit Agreement

On December 11, 2020, Vince, LLC entered into a $20,000 subordinated term loan credit facility (the "Third Lien Credit Facility") pursuant to a credit agreement (the "Third Lien Credit Agreement"), dated December 11, 2020, by and among Vince, LLC, as the borrower, SK Financial Services, LLC ("SK Financial"), as agent and lender, and other lenders from time to time party thereto. The Third Lien Credit Facility matures on the earlier of (a) February 21, 2024, (b) the date that is 360 days after the "Maturity Date" under the 2018 Revolving Credit Facility so long as the loans under the 2018 Term Loan Facility remain outstanding and (c) 180 days after the "Maturity Date" under the 2018 Term Loan Facility and the 2018 Revolving Credit Facility.

SK Financial is an affiliate of Sun Capital, whose affiliates own approximately 72% of the Company's common stock. The Third Lien Credit Facility was reviewed and approved by the Special Committee of the Company's Board of Directors, consisting solely of directors not affiliated with Sun Capital, which committee was represented by independent legal advisors.

Interest on loans under the Third Lien Credit Facility is payable in kind at a rate equal to the LIBOR rate (subject to a floor of 1.0%) plus applicable margins subject to a pricing grid based on minimum Consolidated EBITDA (as defined in the Third Lien Credit Agreement). During the continuance of certain specified events of default, interest may accrue on the loans under the Third Lien Credit Facility at a rate of 2.0% in excess of the rate otherwise applicable to such amount. The Third Lien Credit Facility contains representations, covenants and conditions that are substantially similar to those under the 2018 Term Loan Facility, except the Third Lien Credit Facility does not contain any financial covenant.

The Company has incurred $485 in deferred financing costs associated with the Third Lien Credit Facility of which a $400 closing fee is payable in kind and is added to the principal balance. These deferred financing costs are recorded as deferred debt issuance costs which will be amortized over the remaining term of the Third Lien Credit Facility.

All obligations under the Third Lien Credit Facility are guaranteed by the Company, Vince Intermediate Holding, LLC and the Company's existing material domestic restricted subsidiaries as well as any future material domestic restricted subsidiaries and are secured on a junior basis relative to the 2018 Revolving Credit Facility and the 2018 Term Loan Facility by a lien on substantially all of the assets of the Company, Vince Intermediate Holding, LLC, Vince, LLC and the Company's existing material domestic restricted subsidiaries as well as any future material domestic restricted subsidiaries.

The proceeds were received on December 11, 2020 and were used to repay a portion of the borrowings outstanding under the 2018 Revolving Credit Facility.

Acquired Businesses Short-Term Borrowings

On July 23, 2014, Parker Lifestyle, LLC, as borrower, and Sun Capital Partners V, L.P., as guarantor, entered into a Loan Authorization Agreement with BMO Harris Bank N.A., as lender, for a revolving credit facility. On December 21, 2016, that facility was amended to include Rebecca Taylor, Inc. The maximum credit line was $25,000 (the "BMO Obligations") subject to a maximum credit limit, which required that the sum of (i) the aggregate principal amounts of loans outstanding, (ii) the aggregate undrawn stated amount of letters of credit issued under the credit facility, and (iii) the aggregate amount of any unreimbursed draws under any letters of credit issued, shall not exceed the credit limit. Any letters of credit issued under the BMO Obligations credit facility were subject to the same maximum credit line. On November 3, 2019, in conjunction with the acquisition of the Acquired Businesses, $19,099, plus accrued interest, of the cash consideration was used to pay-off the outstanding debt obligation under this facility. On November 3, 2019, at the request of the Company and upon the satisfaction of certain release conditions, the BMO Obligations were released.

Note 6. Commitments and Contingencies

Leases

The Company leases its office spaces, showrooms and retail stores under operating leases which have remaining terms up to ten years, excluding renewal terms. Most of the Company's real estate leases contain covenants that require the Company to pay real estate taxes, insurance, and other executory costs. Certain of these leases require contingent rent payments or contain kick-out clauses and/or opt-out clauses, based on the operating results of the retail operations utilizing the leased premises. Rent under leases with scheduled rent changes or lease concessions are recorded on a straight-line basis over the lease term. Rent expense under all operating leases was $23,723 and $29,230 for fiscal 2020 and fiscal 2019, respectively, which is recorded within SG&A expenses.

The future minimum lease payments under operating leases at January 30, 2021 were as follows:

(in thousands)	Minimum Lease Payments
Fiscal 2021	$ 28,590
Fiscal 2022	27,592
Fiscal 2023	25,368
Fiscal 2024	23,615
Fiscal 2025	14,515
Thereafter	22,023
Total minimum lease payments	$ 141,703

Other Contractual Cash Obligations

At January 30, 2021, the Company's other contractual cash obligations of $44,253 consisted primarily of inventory purchase obligations and service contracts.

Litigation

On September 7, 2018, a complaint was filed in the United States District Court for the Eastern District of New York by certain stockholders (collectively, the "Plaintiff"), naming the Company as well as David Stefko, the Company's Chief Financial Officer, one of the Company's directors, certain of the Company's former officers and directors, and Sun Capital and certain of its affiliates, as defendants. The complaint generally alleges that the Company and the named parties made false and/or misleading statements and/or failed to disclose matters relating to the transition of the Company's ERP systems from Kellwood. The complaint brings causes of

action for violations of Section 10(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and Rule 10b-5 promulgated under the Exchange Act against the Company and the named parties and for violations of Section 20(a) of the Exchange Act against the individual parties, Sun Capital and its affiliates. The complaint sought unspecified monetary damages and unspecified costs and fees. On January 28, 2019, in response to our motion to dismiss the original complaint, the Plaintiff filed an amended complaint, naming the same defendants as parties and asserting the same causes of action as those stated in the original complaint. On October 4, 2019, an individual stockholder filed a complaint marked as a related suit to the amended complaint, containing substantially identical allegations and claims against the same defendant parties. On September 9, 2020, the two complaints were dismissed in their entirety and the Plaintiff's request for leave to replead was denied. On October 6, 2020, the Plaintiff filed notices of appeal. The appeals are pending.

On September 6, 2019, Vince, LLC received a favorable judgment from the second instance court in the People's Republic of China in connection with a trademark infringement case. The judgment awarded Vince, LLC approximately $700 in damages and fees, net of applicable taxes, which was included in selling, general and administrative expense in the accompanying consolidated statement of operations and comprehensive earnings (loss). This amount was subsequently paid in full to Vince, LLC by the defendants in the case in the fourth quarter of fiscal 2019.

Additionally, the Company is a party to other legal proceedings, compliance matters, environmental, as well as wage and hour and other labor claims that arise in the ordinary course of business. Although the outcome of such items cannot be determined with certainty, management believes that the ultimate outcome of these items, individually and in the aggregate, will not have a material adverse impact on the Company's financial position, results of operations or cash flows.

Note 7. Share-Based Compensation

Employee Stock Plans

Vince 2013 Incentive Plan

In connection with the IPO, the Company adopted the Vince 2013 Incentive Plan, which provides for grants of stock options, stock appreciation rights, restricted stock, and other stock-based awards. In May 2018, the Company filed a Registration Statement on Form S-8 to register an additional 660,000 shares of common stock available for issuance under the Vince 2013 Incentive Plan. Additionally, in September 2020, the Company filed a Registration Statement on Form S-8 to register an additional 1,000,000 shares of common stock available for issuance under the Vince 2013 Incentive Plan. The aggregate number of shares of common stock which may be issued or used for reference purposes under the Vince 2013 Incentive Plan or with respect to which awards may be granted may not exceed 1,000,000 shares. The shares available for issuance under the Vince 2013 Incentive Plan may be, in whole or in part, either authorized and unissued shares of the Company's common stock or shares of common stock held in or acquired for the Company's treasury. In general, if awards under the Vince 2013 Incentive Plan are cancelled for any reason, or expire or terminate unexercised, the shares covered by such award may again be available for the grant of awards under the Vince 2013 Incentive Plan. As of January 30, 2021, there were 1,444,338 shares under the Vince 2013 Incentive Plan available for future grants. Options granted pursuant to the Vince 2013 Incentive Plan typically vest in equal installments over four years, subject to the employees' continued employment and expire on the earlier of the tenth anniversary of the grant date or upon termination as outlined in the Vince 2013 Incentive Plan. Restricted stock units ("RSUs") granted vest in equal installments over a three-year period or vest in equal installments over four years, subject to the employees' continued employment, except for RSUs issued under the exchange offer described below.

On April 26, 2018, the Company commenced a tender offer to exchange certain options to purchase shares of its common stock, whether vested or unvested, from eligible employees and executive officers for replacement restricted stock units ("Replacement RSUs") granted under the Vince 2013 Incentive Plan (the "Option Exchange"). Employees and executive officers of the Company on the date of offer commencement and those who remained an employee or executive officer of the Company through the expiration date of the offer and held at least one option as of the commencement of the offer that was granted under the Vince 2013 Incentive Plan were eligible to participate. The exchange ratio of this offer was a 1-to-1.7857 basis (one stock option exchanged for every 1.7857 Replacement RSUs). This tender offer expired on 11:59 p.m. Eastern Time on May 24, 2018 (the "Offer Expiration Date"). The Replacement RSUs were granted on the business day immediately following the Offer Expiration Date. As a result of the Option Exchange, 149,819 stock options were cancelled and 267,538 Replacement RSUs were granted with a grant date fair value of $9.15 per unit. All Replacement RSUs vest pursuant to the following schedule: 10% on April 19, 2019; 20% on April 17, 2020; 25% on April 16, 2021; and 45% on April 15, 2022, subject to the holder's remaining continuously employed with the Company through each such applicable vesting date. Replacement RSUs have the new vesting schedule regardless of whether the surrendered eligible options were partially vested at the time it was exchanged. The purpose of this exchange was to foster retention, motivate our key contributors, and better align the interests of our employees and stockholders to maximize stockholder value.

Employee Stock Purchase Plan

The Company maintains an employee stock purchase plan ("ESPP") for its employees. Under the ESPP, all eligible employees may contribute up to 10% of their base compensation, up to a maximum contribution of $10 per year. The purchase price of the stock is 90% of the fair market value, with purchases executed on a quarterly basis. The plan is defined as compensatory, and accordingly, a charge for compensation expense is recorded to SG&A expense for the difference between the fair market value and the discounted purchase price of the Company's Stock. During fiscal 2020 and fiscal 2019, 9,024 and 2,190 shares of common stock, respectively, were issued under the ESPP. As of January 30, 2021, there were 82,111 shares available for future issuance under the ESPP.

Stock Options

A summary of stock option activity for both employees and non-employees for fiscal 2020 is as follows:

	Stock Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (years)	Aggregate Intrinsic Value (in thousands)
Outstanding at February 1, 2020	175	$ 38.87	5.7	$ —
Granted	—	$ —		
Exercised	—	$ —		
Forfeited or expired	(117)	$ 38.92		
Outstanding at January 30, 2021	58	$ 38.77	4.7	$ —
Vested and exercisable at January 30, 2021	58	$ 38.77	4.7	$ —

Restricted Stock Units

A summary of restricted stock unit activity for fiscal 2020 is as follows:

	Restricted Stock Units	Weighted Average Grant Date Fair Value
Non-vested restricted stock units at February 1, 2020	679,926	$ 11.12
Granted	89,507	$ 6.48
Vested	(162,052)	$ 10.32
Forfeited	(237,760)	$ 12.31
Non-vested restricted stock units at January 30, 2021	369,621	$ 9.59

The total fair value of restricted stock units vested during fiscal 2020 and fiscal 2019 was $1,672 and $814, respectively.

At January 30, 2021, there was $2,348 of unrecognized compensation costs related to restricted stock units that will be recognized over a remaining weighted average period of 1.4 years.

Share-Based Compensation Expense

During fiscal 2020, the Company recognized share-based compensation expense of $1,275, including expense of $252 related to non-employees, and related tax benefit of $0. The Company recognized share-based compensation expense of $2,033, including expense of $182 related to non-employees, and related tax benefit of $0, during fiscal 2019 .

Note 8. Defined Contribution Plan

The Company maintains defined contribution plans for employees who meet certain eligibility requirements. Features of these plans allow participants to contribute to a plan a percentage of their annual compensation, subject to IRS limitations. Certain plans also provide for discretionary matching contributions by the Company. The annual expense incurred by the Company for defined contribution plans was $366 and $464 in fiscal 2020 and fiscal 2019, respectively.

Note 9. Stockholders' Equity

Common Stock

The Company currently has authorized for issuance 100,000,000 shares of its voting common stock, par value of $0.01 per share.

As of January 30, 2021 and February 1, 2020, the Company had 11,809,023 and 11,680,593 shares issued and outstanding, respectively.

Dividends

The Company has not paid dividends, and the Company's current ability to pay such dividends is restricted by the terms of its debt agreements. The Company's future dividend policy will be determined on a yearly basis and will depend on earnings, financial condition, capital requirements, and certain other factors. The Company does not expect to declare dividends with respect to its common stock in the foreseeable future.

Note 10. Earnings Per Share

Basic earnings (loss) per share is calculated by dividing net income (loss) by the weighted average number of shares of common stock outstanding during the period. Except when the effect would be anti-dilutive, diluted earnings (loss) per share is calculated based on the weighted average number of shares of common stock outstanding plus the dilutive effect of share-based awards calculated under the treasury stock method.

The following is a reconciliation of weighted average basic shares to weighted average diluted shares outstanding:

	Fiscal Year	
	2020	2019
Weighted-average shares—basic	11,769,689	11,665,541
Effect of dilutive equity securities	—	263,758
Weighted-average shares—diluted	11,769,689	11,929,299

Because the Company incurred a net loss for the fiscal year ended January 30, 2021, weighted-average basic shares and weighted-average diluted shares outstanding are equal for the period.

For the fiscal years ended January 30, 2021 and February 1, 2020, 314,938 and 16,408 weighted average shares of share-based compensation, respectively, were excluded from the computation of weighted average shares for diluted earnings per share, as their effect would have been anti-dilutive.

Note 11. Income Taxes

The provision for income taxes consisted of the following:

	Fiscal Year	
(in thousands)	2020	2019
Current:		
Domestic:		
Federal	$ —	$ (130)
State	152	188
Foreign	27	40
Total current	179	98
Deferred:		
Domestic:		
Federal	1,365	—
State	322	—
Foreign	—	—
Total deferred	1,687	—
Total provision for income taxes	$ 1,866	$ 98

The sources of income (loss) before provision for income taxes are from the United States, the Company's subsidiaries in the United Kingdom and the Company's French branch. The Company files U.S. federal income tax returns and income tax returns in various state and local jurisdictions.

Current income taxes are the amounts payable under the respective tax laws and regulations on each year's earnings. Deferred income tax assets and liabilities represent the tax effects of revenues, costs and expenses, which are recognized for tax purposes in different periods from those used for financial statement purposes.

A reconciliation of the federal statutory income tax rate to the effective tax rate is as follows:

	Fiscal Year	
	2020	2019
Statutory federal rate	21.0%	21.0%
State taxes, net of federal benefit	3.6%	5.8%
Non-deductible Tax Receivable Agreement adjustment (1)	0.0%	(38.3)%
Valuation allowance	(29.1)%	4.6%
Return to provision adjustment	1.1%	0.2%
Non-deductible Officers Compensation	0.0%	2.1%
Rate Differential on Foreign Income	(0.1)%	0.1%
Other	0.6%	4.8%
Total	(2.9)%	0.3%

(1) Non-deductible Tax Receivable Agreement liability revaluation in fiscal 2019 is a result of changes in levels of projected pre-tax income, as well as the acquisition of NOLs from the Acquired Businesses. See "Tax Receivable Agreement" under Note 14 "Related Party Transactions" for additional information.

Deferred income tax assets and liabilities consisted of the following:

(in thousands)	January 30, 2021	February 1, 2020
Deferred tax assets:		
Depreciation and amortization	$ 7,700	$ 2,063
Employee related costs	1,114	2,857
Allowance for asset valuations	2,604	1,664
Accrued expenses	358	361
Lease liability	29,900	27,712
Net operating losses	108,994	91,345
Tax credits	92	193
Other	290	679
Total deferred tax assets	151,052	126,874
Less: valuation allowances	(119,425)	(100,846)
Net deferred tax assets	31,627	26,028
Deferred tax liabilities:		
Indefinite lived intangibles	(8,213)	—
ROU lease asset	(23,102)	(23,630)
Other	(2,000)	(2,296)
Total deferred tax liabilities	(33,315)	(25,926)
Net deferred tax (liability) asset	$ (1,688)	$ 102
Included in:		
Deferred income tax asset	$ —	$ 102
Deferred income tax liability	(1,688)	—
Net deferred tax (liability) asset	$ (1,688)	$ 102

As of January 30, 2021, the Company had a gross federal net operating loss of $405,774 (federal tax effected amount of $85,213) for federal income tax purposes that may be used to reduce future federal taxable income. The net operating losses for federal income tax purposes will expire between 2030 and 2038 for losses incurred in tax years beginning before January 1, 2018. Net operating losses incurred in tax years beginning after January 1, 2018 will have an indefinite carryforward period.

As of January 30, 2021, the Company had gross state net operating loss carryforward of $550,947 (tax effected net of federal benefit of $23,561) that may be used to reduce future state taxable income. The net operating loss carryforwards for state income tax purposes expire between 2029 and 2040.

As of January 30, 2021, the Company had total deferred tax assets including net operating loss carryforwards, reduced for uncertain tax positions, of $117,738, of which $91,657 and $25,884 were attributable to federal and domestic state and local jurisdictions, respectively.

The valuation allowance for deferred tax assets was $119,425 at January 30, 2021, increasing $18,579 from the valuation allowance for deferred tax assets of $100,846 at February 1, 2020. During fiscal 2020, the Company maintained a full valuation allowance on all deferred tax assets that have a definite life as the Company does not believe it is more likely than not that such deferred tax assets will be recognized. Indefinite-lived net operating losses have been recognized to the extent the Company believes they can be utilized against indefinite-lived deferred tax liabilities. Adjustments to the valuation allowance are made when there is a change in management's assessment of the amount of deferred tax assets that are realizable.

A reconciliation of the beginning and ending amount of gross unrecognized tax benefits, excluding interest and penalties, is as follows:

	Fiscal Year	
(in thousands)	**2020**	**2019**
Beginning balance	$ 2,304	$ 2,304
Increases for tax positions in current year	—	—
Increases for tax positions in prior years	—	—
Decreases for tax positions in prior years	—	—
Ending balance	$ 2,304	$ 2,304

As of January 30, 2021 and February 1, 2020, unrecognized tax benefits in the amount of $2,304 and $2,304, respectively, would impact the Company's effective tax rate if recognized. The statute of limitations does not begin until the net operating losses are utilized. Therefore, the unrecognized tax benefit balance will remain the same until three years after the net operating losses are used to offset taxable income.

The Company includes accrued interest and penalties on underpayments of income taxes in its income tax provision. As of January 30, 2021 and February 1, 2020, the Company did not have any interest and penalties accrued on its Consolidated Balance Sheets and no related provision or benefit was recognized in each of the Company's Consolidated Statements of Operations and Comprehensive Income (Loss) for the years ended January 30, 2021 and February 1, 2020. Interest is computed on the difference between the tax position recognized net of any unrecognized tax benefits and the amount previously taken or expected to be taken in the Company's tax returns.

With limited exceptions, the Company is no longer subject to examination for U.S. federal and state income tax for 2007 and prior.

Note 12. Leases

During the first quarter of fiscal 2019, the Company adopted ASU No. 2016-02: "*Leases (Topic 842)*" which requires lessees to recognize ROU lease assets and lease liabilities on the balance sheet for those leases that were previously classified as operating leases. The Company adopted the standard on February 3, 2019, the first day of fiscal 2019 instead of the earliest period presented in the financial statements per ASU No. 2018-11: "*Leases (Topic 842): Targeted improvements.*" The Company recognized a $589 cumulative effect adjustment in retained earnings at the beginning of the period of adoption which resulted from the impairment of select operating lease ROU assets of $416 related to stores whose fixed assets had been previously impaired and for which the initial carrying value of the ROU assets were determined to be above fair market value and $173 of cumulative correction of an immaterial error in prior period rent expense.

The Company elected the package of three practical expedients. As such, the Company did not reassess whether expired or existing contracts are or contain a lease and did not need to reassess the lease classifications or reassess the initial direct costs associated with expired or existing leases. The Company did not elect the hindsight practical expedient in determining the lease term and assessing the impairment of the entity's right-of-use assets. The land easement practical expedient is not applicable to the Company.

The Company determines if an arrangement is a lease at inception. The Company has operating leases for real estate (primarily retail stores, storage, and office spaces) many of which have initial terms of 10 years, and in many instances can be extended for an additional term, while the Company's more recent leases are subject to shorter terms as a result of the implementation of the strategy to pursue shorter lease terms. The Company will not include renewal options in the underlying lease term unless the Company is reasonably certain to exercise the renewal option. Substantially all of our leases require a fixed annual rent, and most require the

payment of additional rent if store sales exceed a negotiated amount. These percentage rent expenses are considered as variable lease costs and recognized in the consolidated financial statements when incurred. In addition, the Company's real estate leases may also require additional payments for real estate taxes and other occupancy-related costs which it considers as non-lease components. The Company did not elect the practical expedient to group lease and non-lease components as a single lease component for the operating leases. Operating lease ROU assets and operating lease liabilities are recognized based upon the present value of the future lease payments over the lease term. As the Company's leases do not provide an implicit borrowing rate, the Company uses an estimated incremental borrowing rate based upon combination of market-based factors, such as market quoted forward yield curves and company specific factors, such as the Company's credit rating, lease size and duration to calculate the present value. The Company does not have any finance leases. The Company's lease agreements do not contain any material residual value guarantees or material restrictive covenants. The weighted-average remaining lease term and weighted-average discount rate for our operating leases are 5.6 years and 6.3% as of January 30, 2021.

As a result of COVID-19, the Company did not initially make certain rent payments in the first, second, third and fourth quarters of fiscal 2020. The Company has recognized any rent payments not made within accounts payable in the accompanying consolidated balance sheet and has continued to recognize rent expense in the consolidated statement of operations and comprehensive earnings (loss). As a result of discussions with landlords and amendments to existing lease terms, the Company has since made rent payments for certain leases. The Company considered the FASB's recent guidance regarding lease modifications as a result of the effects of COVID-19 and elected to apply the temporary practical expedient to account for lease changes as variable rent unless an amendment results in a substantial change in the Company's lease obligations, which in those circumstances the Company accounted for such lease change as a lease modification. The impact of rent concessions recorded as either reduction in variable rent or lease modifications was $4,200 for the twelve months ended January 30, 2021 to the consolidated statement of operations. In addition to the benefits received from the rent concessions as a result of negotiations with landlords, the Company also recorded $1,119 for the twelve months ended January 30, 2021, related to concessions for other occupancy costs such as common area maintenance, real estate taxes, and lease advertising charges.

Total lease cost is included in cost of sales and SG&A in the accompanying Consolidated Statement of Operations and Comprehensive Income (Loss) and is recorded net of immaterial sublease income. Some leases have a non-cancelable lease term of less than one year and therefore, the Company has elected to exclude these short-term leases from our ROU asset and lease liabilities. Short term lease costs were immaterial for fiscal year ended January 30, 2021. The Company's lease cost is comprised of the following:

	Fiscal Year	
(in thousands)	**2020**	**2019**
Operating lease cost	$ 23,537	$ 25,168
Variable operating lease cost	(2,928)	450
Total lease cost	$ 20,609	$ 25,618

Supplemental cash flow and non-cash information related to leases is as follows:

	Fiscal Year	
(in thousands)	**2020**	**2019**
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from operating leases	$ 22,154	$ 26,416
Right-of-use assets obtained in exchange for operating lease liabilities	22,449	20,932

Subsequent to the date of adoption, during fiscal 2019, the Company had lease modifications which changed the lease payment from fixed to variable or reduced the monthly lease payment which reduced the ROU assets and lease liabilities by $5,510 and $5,526, respectively. During fiscal 2020 and fiscal 2019, the Company recorded right-of-use assets impairment of approximately $8,556 and $177, respectively.

As of January 30, 2021, the future maturity of lease liabilities are as follows:

(in thousands)	January 30, 2021
Fiscal 2021	$ 28,590
Fiscal 2022	27,592
Fiscal 2023	25,368
Fiscal 2024	23,615
Fiscal 2025	14,515
Thereafter	22,023
Total lease payments	141,703
Less: Imputed interest	(22,474)
Total operating lease liabilities	$ 119,229

The operating lease payments do not include any renewal options as such leases are not reasonably certain of being renewed as of January 30, 2021 and does not include $4,205 legally binding minimum lease payments of leases signed but not yet commenced.

Note 13. Segment and Geographical Financial Information

The Company has identified three reportable segments, as further described below. Management considered both similar and dissimilar economic characteristics, internal reporting and management structures, as well as products, customers, and supply chain logistics to identify the following reportable segments:

- Vince Wholesale segment—consists of the Company's operations to distribute Vince brand products to major department stores and specialty stores in the United States and select international markets;
- Vince Direct-to-consumer segment—consists of the Company's operations to distribute Vince brand products directly to the consumer through its Vince branded full-price specialty retail stores, outlet stores, and e-commerce platform, and its subscription business Vince Unfold; and
- Rebecca Taylor and Parker segment—consists of the Company's operations to distribute Rebecca Taylor and Parker brand products to high-end department and specialty stores in the U.S. and select international markets, directly to the consumer through their own branded e-commerce platforms and Rebecca Taylor retail and outlet stores, and through its subscription business Rebecca Taylor RNTD.

The accounting policies of the Company's reportable segments are consistent with those described in Note 1 "Description of Business and Summary of Significant Accounting Policies." Unallocated corporate expenses are related to the Vince brand and are comprised of SG&A expenses attributable to corporate and administrative activities (such as marketing, design, finance, information technology, legal and human resource departments), and other charges that are not directly attributable to the Company's Vince Wholesale and Vince Direct-to-consumer reportable segments. Unallocated corporate assets are related to the Vince brand and are comprised of the carrying values of the Company's goodwill and tradename, deferred tax assets, and other assets that will be utilized to generate revenue for the Company's Vince Wholesale and Vince Direct-to-consumer reportable segments.

Summary information for the Company's reportable segments is presented below.

(in thousands)	Vince Wholesale	Vince Direct-to-consumer	Rebecca Taylor and Parker	Unallocated Corporate	Total
Fiscal Year 2020					
Net Sales (1)	$ 105,737	$ 86,326	$ 27,807	$ —	$ 219,870
Income (loss) before income taxes (2) (3) (4)	30,059	(20,734)	(16,128)	(56,980)	(63,783)
Depreciation & Amortization	958	2,993	785	2,162	6,898
Capital Expenditures	177	2,451	532	337	3,497
Total Assets	66,816	104,784	39,514	121,830	332,944
Fiscal Year 2019					
Net Sales (5)	$ 166,805	$ 133,412	$ 74,970	$ —	$ 375,187
Income (loss) before income taxes (6) (7) (8)	55,440	10,127	(29,410)	(5,663)	30,494
Depreciation & Amortization	838	3,809	2,196	2,759	9,602
Capital Expenditures	395	3,423	657	48	4,523
Total Assets	71,028	112,408	43,258	135,608	362,302

(1) Net sales for Rebecca Taylor and Parker for fiscal 2020 consisted of $17,228 through wholesale distribution channels and $10,579 through direct-to-consumer distribution channels.

(2) Vince Direct-to-consumer for fiscal 2020 includes a non-cash impairment charge of $11,725 related to property and equipment and ROU assets. See Note 1 "Description of Business and Summary of Significant Accounting Policies – (K) Impairment of Long-lived Assets" for additional information.

(3) Rebecca Taylor and Parker for fiscal 2020 includes non-cash impairment charges of $1,687, of which $386 is related to the Rebecca Taylor tradename and $1,301 is related to property and equipment and ROU assets. See Note 1 "Description of Business and Summary of Significant Accounting Policies – (K) Impairment of Long-lived Assets and (L) Goodwill and Other Intangible Assets" for further details.

(4) Unallocated Corporate for fiscal 2020 includes the $2,320 pre-tax benefit from re-measurement of the liability related to the Tax Receivable Agreement and non-cash impairment charges of $13,462, of which $9,462 is related to goodwill and $4,000 is related to the Vince tradename. See Note 1 "Description of Business and Summary of Significant Accounting Policies – (L) Goodwill and Other Intangible Assets" and Note 14 "Related Party Transactions" for additional information.

(5) Net sales for Rebecca Taylor and Parker for fiscal 2019 consisted of $55,734 through wholesale distribution channels and $19,236 through direct-to-consumer distribution channels.

(6) Vince Direct-to-consumer for fiscal 2019 includes a non-cash impairment charge of $65 related to ROU assets. See Note 1 "Description of Business and Summary of Significant Accounting Policies – (K) Impairment of Long-lived Assets" for additional information.

(7) Rebecca Taylor and Parker for fiscal 2019 includes non-cash impairment charges of $20,244, of which $2,129 is related to goodwill, $11,247 is related to the Rebecca Taylor and Parker tradenames, $6,115 is related to the Rebecca Taylor and Parker customer relationships and $753 is related to property and equipment and ROU assets. See Note 1 "Description of Business and Summary of Significant Accounting Policies – (K) Impairment of Long-lived Assets and (L) Goodwill and Other Intangible Assets" for further details.

(8) Unallocated Corporate for fiscal 2019 includes the $55,953 pre-tax benefit from re-measurement of the liability related to the Tax Receivable Agreement. See Note 14 "Related Party Transactions" for additional information.

The Company is domiciled in the U.S. and as of January 30, 2021, had no significant international subsidiaries and therefore substantially all of the Company's sales originate in the U.S. As a result, net sales by destination are not provided. Additionally, substantially all long-lived assets, including property and equipment, are located in the U.S.

Note 14. Related Party Transactions

Third Lien Credit Agreement

On December 11, 2020, Vince, LLC entered into the $20,000 Third Lien Credit Facility pursuant to the Third Lien Credit Agreement, by and among Vince, LLC, as the borrower, SK Financial, as agent and lender, and other lenders from time-to-time party thereto. SK Financial is an affiliate of Sun Capital, whose affiliates own approximately 72% of the Company's common stock. The Third Lien Credit Facility was reviewed and approved by the Special Committee of the Company's Board of Directors, consisting solely of directors not affiliated with Sun Capital, which committee was represented by independent legal advisors.

See Note 5 "Long-Term Debt and Financing Arrangements" or additional information.

Purchase Agreement

On November 4, 2019, Vince, LLC entered into the Purchase Agreement with CLG, providing for the Acquisition by Vince, LLC of 100% of the equity interests of the Acquired Businesses from CLG. The Acquisition was consummated effective on November 3, 2019.

CLG is owned by affiliates of Sun Capital. Sun Capital beneficially owns approximately 72% of the Company's common stock. The Acquisition was reviewed and approved by the Special Committee of the Company's Board of Directors, consisting solely of directors not affiliated with Sun Capital, who was represented by independent financial and legal advisors.

See Note 2 "Business Combinations" for additional information.

Tax Receivable Agreement

VHC entered into a Tax Receivable Agreement with the Pre-IPO Stockholders on November 27, 2013. The Company and its former subsidiaries generated certain tax benefits (including NOLs and tax credits) prior to the Restructuring Transactions consummated in connection with the Company's IPO and will generate certain section 197 intangible deductions (the "Pre-IPO Tax Benefits"), which would reduce the actual liability for taxes that the Company might otherwise be required to pay. The Tax Receivable Agreement provides for payments to the Pre-IPO Stockholders in an amount equal to 85% of the aggregate reduction in taxes payable realized by the Company and its subsidiaries from the utilization of the Pre-IPO Tax Benefits (the "Net Tax Benefit").

For purposes of the Tax Receivable Agreement, the Net Tax Benefit equals (i) with respect to a taxable year, the excess, if any, of (A) the Company's liability for taxes using the same methods, elections, conventions and similar practices used on the relevant company return assuming there were no Pre-IPO Tax Benefits over (B) the Company's actual liability for taxes for such taxable year (the "Realized Tax Benefit"), plus (ii) for each prior taxable year, the excess, if any, of the Realized Tax Benefit reflected on an amended schedule applicable to such prior taxable year over the Realized Tax Benefit reflected on the original tax benefit schedule for such prior taxable year, minus (iii) for each prior taxable year, the excess, if any, of the Realized Tax Benefit reflected on the original tax benefit schedule for such prior taxable year over the Realized Tax Benefit reflected on the amended schedule for such prior taxable year; provided, however, that to the extent any of the adjustments described in clauses (ii) and (iii) were reflected in the calculation of the tax benefit payment for any subsequent taxable year, such adjustments shall not be taken into account in determining the Net Tax Benefit for any subsequent taxable year. To the extent that the Company is unable to make the payment under the Tax Receivable Agreement when due under the terms of the Tax Receivable Agreement for any reason, such payment would be deferred and would accrue interest at a default rate of LIBOR plus 500 basis points until paid, instead of the agreed rate of LIBOR plus 200 basis points per annum in accordance with the terms of the Tax Receivable Agreement.

While the Tax Receivable Agreement is designed with the objective of causing the Company's annual cash costs attributable to federal, state and local income taxes (without regard to the Company's continuing 15% interest in the Pre-IPO Tax Benefits) to be the same as that which the Company would have paid had the Company not had the Pre-IPO Tax Benefits available to offset its federal, state and local taxable income, there are circumstances in which this may not be the case. In particular, the Tax Receivable Agreement provides that any payments by the Company thereunder shall not be refundable. In that regard, the payment obligations under the Tax Receivable Agreement differ from a payment of a federal income tax liability in that a tax refund would not be available to the Company under the Tax Receivable Agreement even if the Company were to incur a net operating loss for federal income tax purposes in a future tax year. Similarly, the Pre-IPO Stockholders will not reimburse the Company for any payments previously made if any tax benefits relating to such payments are subsequently disallowed, although the amount of any such tax benefits subsequently disallowed will reduce future payments (if any) otherwise owed to such Pre-IPO Stockholders. In addition, depending on the amount and timing of the Company's future earnings (if any) and on other factors including the effect of any limitations imposed on the

Company's ability to use the Pre-IPO Tax Benefits, it is possible that all payments required under the Tax Receivable Agreement could become due within a relatively short period of time following consummation of the Company's IPO.

If the Company had not entered into the Tax Receivable Agreement, the Company would be entitled to realize the full economic benefit of the Pre-IPO Tax Benefits to the extent allowed by federal, state, and local law. The Tax Receivable Agreement is designed with the objective of causing the Company's annual cash costs attributable to federal, state and local income taxes (without regard to the Company's continuing 15% interest in the Pre-IPO Tax Benefits) to be the same as the Company would have paid had the Company not had the Pre-IPO Tax Benefits available to offset its federal, state and local taxable income. As a result, stockholders who purchased shares in the IPO are not entitled to the economic benefit of the Pre-IPO Tax Benefits that would have been available if the Tax Receivable Agreement were not in effect, except to the extent of the Company's continuing 15% interest in the Pre-IPO Benefits.

Additionally, the payments the Company makes to the Pre-IPO Stockholders under the Tax Receivable Agreement are not expected to give rise to any incidental tax benefits to the Company, such as deductions or an adjustment to the basis of the Company's assets.

An affiliate of Sun Capital may elect to terminate the Tax Receivable Agreement upon the occurrence of a Change of Control (as defined below). In connection with any such termination, the Company is obligated to pay the present value (calculated at a rate per annum equal to LIBOR plus 200 basis points as of such date) of all remaining Net Tax Benefit payments that would be required to be paid to the Pre-IPO Stockholders from such termination date, applying the valuation assumptions set forth in the Tax Receivable Agreement (the "Early Termination Period"). "Change of control," as defined in the Tax Receivable Agreement shall mean an event or series of events by which (i) VHC shall cease directly or indirectly to own 100% of the capital stock of Vince, LLC; (ii) any "person" or "group" (as such terms are used in Section 13(d) and 14(d) of the Exchange Act), other than one or more permitted investors, shall be the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act) of capital stock having more, directly or indirectly, than 35% of the total voting power of all outstanding capital stock of Vince Holding Corp. in the election of directors, unless at such time the permitted investors are direct or indirect "beneficial owners" (as so defined) of capital stock of Vince Holding Corp. having a greater percentage of the total voting power of all outstanding capital stock of VHC in the election of directors than that owned by each other "person" or "group" described above; (iii) for any reason whatsoever, a majority of the board of directors of VHC shall not be continuing directors; or (iv) a "Change of Control" (or comparable term) shall occur under (x) any term loan or revolving credit facility of VHC or its subsidiaries or (y) any unsecured, senior, senior subordinated or subordinated indebtedness of VHC or its subsidiaries, if, in each case, the outstanding principal amount thereof is in excess of $15,000. The Company may also terminate the Tax Receivable Agreement by paying the Early Termination Payment (as defined therein) to the Pre-IPO Stockholders. Additionally, the Tax Receivable Agreement provides that in the event that the Company breaches any material obligations under the Tax Receivable Agreement by operation of law as a result of the rejection of the Tax Receivable Agreement in a case commenced under the Bankruptcy Code, then the Early Termination Payment plus other outstanding amounts under the Tax Receivable Agreement shall become due and payable.

The Tax Receivable Agreement will terminate upon the earlier of (i) the date all such tax benefits have been utilized or expired, (ii) the last day of the tax year including the tenth anniversary of the IPO Restructuring Transactions and (iii) the mutual agreement of the parties thereto, unless earlier terminated in accordance with the terms thereof.

As of January 30, 2021, the Company's total obligation under the Tax Receivable Agreement was estimated to be $0 based on projected future pre-tax income. The obligation was originally recorded in connection with the IPO as an adjustment to additional paid-in capital on the Company's Consolidated Balance Sheet.

During the first quarter of fiscal 2020, the obligation under the Tax Receivable Agreement was adjusted as a result of changes in the levels of projected pre-tax income, primarily as a result of COVID-19. The adjustment resulted in a net decrease of $2,320 to the liability under the Tax Receivable Agreement with the corresponding adjustment accounted for within Other (income) expense, net on the consolidated statement of operations and comprehensive earnings (loss).

During fiscal 2019, the obligation under the Tax Receivable Agreement was adjusted primarily as a result of changes in the levels of projected pre-tax income, primarily as a result of the impact of the Acquired Businesses, as well as due to the impact of the NOLs from the Acquired Businesses. The adjustment resulted in a net decrease of $55,953 to the liability under the Tax Receivable Agreement with the corresponding adjustment accounted for within Other (income) expense, net on the Consolidated Statements of Operations and Comprehensive Income (Loss).

Sun Capital Consulting Agreements

On November 27, 2013, the Company entered into an agreement with Sun Capital Management to (i) reimburse Sun Capital Management Corp. ("Sun Capital Management") or any of its affiliates providing consulting services under the agreement for out-of-pocket expenses incurred in providing consulting services to the Company and (ii) provide Sun Capital Management with customary indemnification for any such services.

The agreement is scheduled to terminate on November 27, 2023, the tenth anniversary of the Company's IPO. Under the consulting agreement, the Company has no obligation to pay Sun Capital Management or any of its affiliates any consulting fees other

than those which are approved by a majority of the Company's directors that are not affiliated with Sun Capital. To the extent such fees are approved in the future, the Company will be obligated to pay such fees in addition to reimbursing Sun Capital Management or any of its affiliates that provide the Company services under the consulting agreement for all reasonable out-of-pocket fees and expenses incurred by such party in connection with the provision of consulting services under the consulting agreement and any related matters. Reimbursement of such expenses shall not be conditioned upon the approval of a majority of the Company's directors that are not affiliated with Sun Capital Management and shall be payable in addition to any fees that such directors may approve.

Neither Sun Capital Management nor any of its affiliates are liable to the Company or the Company's affiliates, security holders or creditors for (1) any liabilities arising out of, related to, caused by, based upon or in connection with the performance of services under the consulting agreement, unless such liability is proven to have resulted directly and primarily from the willful misconduct or gross negligence of such person or (2) pursuing any outside activities or opportunities that may conflict with the Company's best interests, which outside activities the Company consents to and approves under the consulting agreement, and which opportunities neither Sun Capital Management nor any of its affiliates will have any duty to inform the Company of. In no event will the aggregate of any liabilities of Sun Capital Management or any of its affiliates exceed the aggregate of any fees paid under the consulting agreement.

In addition, the Company is required to indemnify Sun Capital Management, its affiliates and any successor by operation of law against any and all liabilities, whether or not arising out of or related to such party's performance of services under the consulting agreement, except to the extent proven to result directly and primarily from such person's willful misconduct or gross negligence. The Company is also required to defend such parties in any lawsuits which may be brought against such parties and advance expenses in connection therewith. In the case of affiliates of Sun Capital Management that have rights to indemnification and advancement from affiliates of Sun Capital, the Company agrees to be the indemnitor of first resort, to be liable for the full amounts of payments of indemnification required by any organizational document of such entity or any agreement to which such entity is a party, and that the Company will not make any claims against any affiliates of Sun Capital Partners for contribution, subrogation, exoneration or reimbursement for which they are liable under any organizational documents or agreement. Sun Capital Management may, in its sole discretion, elect to terminate the consulting agreement at any time. The Company may elect to terminate the consulting agreement if SCSF Cardinal, Sun Cardinal, or any of their respective affiliates' aggregate ownership of the Company's equity securities falls below 30%.

As of December 21, 2016, CLG entered into an Amended and Restated Consulting Agreement with Sun Capital Management for a period of 10 years with automatic one-year extensions thereafter. This agreement maintained the provision of substantially all consulting and advisory services by Sun Capital Management and restated the annual management fee payable by CLG between $550 and $650 per year in quarterly installments. This fee was computed on a sliding scale based on annual EBITDA performance. Additionally, upon the consummation of certain corporate events involving the Company, CLG was required to pay Sun Capital Partners Management V, LLC, a transaction fee in an amount equal to 1% of the aggregate consideration paid to or by CLG, subject to certain caps as specified in the agreement. Simultaneous with the Purchase Agreement, CLG's Amended and Restated Consulting Agreement with Sun Capital Management was terminated.

During fiscal 2020 and fiscal 2019, the Company incurred expenses of $17 and $367, respectively, under the Sun Capital Consulting Agreements.

Security Service Agreement

The Company has been a party to a master services agreement, and various statements of work issued pursuant thereto (collectively, the "Security Service Agreement"), with SOS Security, LLC ("SOS"), relating to permanent and temporary security services and loss prevention solutions for the Company's retail operations, since 2016. On April 30, 2019, all outstanding interests of SOS were acquired by the affiliates of Sun Capital Partners, Inc. (collectively, "Sun Capital"). Sun Capital subsequently signed a definitive agreement to sell SOS in November 2019. The sale was completed on December 31, 2019.

During fiscal 2019, the Company incurred expenses of $170 under the Security Service Agreement.

Indemnification Agreements

The Company has entered into indemnification agreements with each of its executive officers and directors. The indemnification agreements provide the executive officers and directors with contractual rights to indemnification, expense advancement and reimbursement, to the fullest extent permitted under the Delaware General Corporation Law.

Amended and Restated Certificate of Incorporation

The Company's amended and restated certificate of incorporation provides that for so long as affiliates of Sun Capital own 30% or more of the Company's outstanding shares of common stock, Sun Cardinal, a Sun Capital affiliate, has the right to designate a majority of the Company's board of directors. For so long as Sun Cardinal has the right to designate a majority of the Company's board of directors, the directors designated by Sun Cardinal may constitute a majority of each committee of the Company's board of

directors (other than the Audit Committee), and the chairman of each of the committees (other than the Audit Committee) may be a director serving on the committee who is selected by affiliates of Sun Capital, provided that, at such time as the Company is not a "controlled company" under the NYSE corporate governance standards, the Company's committee membership will comply with all applicable requirements of those standards and a majority of the Company's board of directors will be "independent directors," as defined under the rules of the NYSE, subject to any applicable phase in requirements.

Note 15. Subsequent Events

Amendments to Existing Credit Facilities

On April 26, 2021, Vince, LLC, an indirectly wholly owned subsidiary of the Company entered into the Sixth Term Loan Amendment to the 2018 Term Loan Facility, dated August 21, 2018, by and among Vince, as the borrower, the guarantors named therein, Crystal Financial LLC, as administrative agent and collateral agent, and the other lenders from time to time party thereto.

The Sixth Term Loan Amendment, among other things, (i) extends the period during which the FCCR covenant is temporarily suspended, resuming for the fiscal quarter ending January 28, 2023 (previously, through January 29, 2022) (such period, until the delivery of the compliance certificate with respect to the fiscal quarter ending January 28, 2023, the "Sixth Amendment Extended Accommodation Period"); (ii) extends the period through which the applicable margin is increased to 9.0% or 7.0%, subject to a pricing grid based on Consolidated EBITDA through the Sixth Amendment Extended Accommodation Period, and the period for which 2% of interest is deferred through the first anniversary of the Sixth Term Loan Amendment; (iii) requires Vince to maintain an FCCR of 1.0 to 1.0 in the event the excess availability under the 2018 Revolving Credit Facility is less than $7,500 until July 31, 2021 and $10,000 after August 1, 2021 through the end of the Sixth Amendment Extended Accommodation Period; (iv) resets the prepayment premium to 3.0% of the prepaid amount if prepaid prior to the first anniversary of the Sixth Term Loan Amendment effective date, 1.5% of the prepaid amount if prepaid prior to the second anniversary of the Sixth Term Loan Amendment and none thereafter; and (v) decreases the advance rate on the eligible intellectual property to 55% from 60% as of August 1, 2021.

Concurrently with the Sixth Term Loan Amendment, the Company entered into the Sixth Revolver Amendment to the 2018 Revolving Credit Facility, dated August 21, 2018, by and among Vince, LLC as the borrower, the guarantors named therein, Citizens Bank, N.A., as administrative agent and collateral agent, and the other lenders from time to time party thereto. The Sixth Revolver Amendment, among other things, consents to the Sixth Term Loan Amendment and amends certain definitions to reflect the Sixth Term Loan Amendment.

SCHEDULE II
VALUATION AND QUALIFYING ACCOUNTS
(In thousands)

	Beginning of Period	Expense Charges, net of Reversals	Deductions and Write-offs, net of Recoveries	End of Period
Sales Allowances				
Fiscal 2020	$ (13,734)	(35,641)	41,775	(7,600)
Fiscal 2019	(13,756)	(74,103)	74,125	(13,734)
Allowance for Doubtful Accounts				
Fiscal 2020	(384)	(2,194)	1,917	(661)
Fiscal 2019	(509)	51	74	(384)
Valuation Allowances on Deferred Income Taxes				
Fiscal 2020	(100,846)	(18,579)	—	(119,425)
Fiscal 2019	(99,444)	(1,402)	—	(100,846)

VINCE.

EXHIBIT 10.26

March 1, 2021

Marie Fogel

Dear Marie:

We are pleased to confirm the following updates to the terms of your employment with Vince, LLC ("Vince" or the "Company"), effective immediately:

Position Title

Effective September 28, 2020, your position title shall be: SVP, Chief Merchandising and Manufacturing Officer.

All other terms of your employment shall remain the same pursuant to the employment letter, dated January 10, 2017 and accepted by you on February 11, 2017, as amended on July 11, 2017 and June 29, 2018 (collectively, the "Employment Agreement"), including the at-will nature of your employment. In the event of inconsistency between the terms of this letter and the Employment Agreement, the terms of this letter shall govern.

I look forward to your continued success!

[Signature page to follow.]

VINCE.

Sincerely,

/s/ Lee Meiner March 1, 2021
Lee Meiner Date
SVP, Chief Human Resources Officer

Agreed & Acknowledged

/s/ Marie Fogel March 18, 2021
Marie Fogel Date

FIFTH AMENDMENT TO CREDIT AGREEMENT

This **FIFTH AMENDMENT TO CREDIT AGREEMENT** (this "Amendment") is entered into as of December 11, 2020, by and among **VINCE, LLC**, a Delaware limited liability company (the "Borrower"), the Guarantors signatory hereto, **CITIZENS BANK, N.A.** (in its individual capacity, "Citizens"), as administrative agent and collateral agent under the Loan Documents (in such capacities, the "Agent"), Citizens, as an L/C Issuer, and each of the Lenders party hereto.

W I T N E S S E T H:

WHEREAS, the Borrower, the Guarantors from time to time party thereto, the Agent, the L/C Issuers from time to time party thereto, and the Lenders from time to time party thereto are parties to a Credit Agreement, dated as of August 21, 2018 (as amended by that certain First Amendment to Credit Agreement, dated as of November 1, 2019, that certain Joinder, Confirmation, Ratification, Commitment Increase and Second Amendment to Credit Agreement and Related Documents, dated as of November 4, 2019, that certain Third Amendment to Credit Agreement, dated as of June 8, 2020, and that certain Amendment and Consent, dated as of June 23, 2020, and as further restated, amended and restated, supplemented, modified, or otherwise in effect from time to time prior to the date hereof, the "Credit Agreement"; the Credit Agreement as amended hereby, the "Amended Credit Agreement"); and

WHEREAS, the Borrower, the Guarantors, the Agent, the L/C Issuer and the Lenders wish to further amend the Credit Agreement;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

SECTION 1. Definitions.

Unless otherwise indicated, all capitalized terms used herein (including the preamble and the recitals) and not otherwise defined shall have the respective meanings provided to such terms in the Amended Credit Agreement.

SECTION 2. Amendments to Credit Agreement.

(a) Subject to the satisfaction (or waiver) of the conditions set forth in Section 3 of this Amendment, the Credit Agreement (excluding the schedules and exhibits thereto, which shall remain in full force and effect, unless expressly amended pursuant to this Amendment) is hereby amended as set forth in Annex A attached hereto such that all of the newly inserted double underlined text (indicated textually in the same manner as the following example: **double-underlined text**) and any formatting changes attached hereto shall be deemed to be inserted and

all stricken text (indicated textually in the same manner as the following example: ~~**stricken text**~~) shall be deemed to be deleted therefrom.

(b) Schedule 2.01 to the Credit Agreement is amended and restated as set forth in Annex B.

SECTION 3. Conditions of Effectiveness of this Amendment. This Amendment shall become effective on the date when the following conditions shall have been satisfied (or waived) (the "Amendment Effective Date"):

(a) execution and delivery of this Amendment by the Borrower, each Guarantor, the Agent and the Lenders;

(b) all action on the part of the Loan Parties necessary for the valid execution, delivery and performance by the other Loan Parties of this Amendment and all other documentation, instruments, and agreements to be executed in connection herewith shall have been duly and effectively taken and evidence thereof reasonably satisfactory to the Agent shall have been provided to the Agent, including an officer's certificate, dated as of the date hereof, certifying as to and (as applicable) attaching the Loan Parties' organization documents (which to the extent filed with a Governmental Authority, shall be certified as of a recent date by such Governmental Authority) or certifying as to no changes thereto since such documents were last delivered, the resolutions of the governing body of each Loan Party, the good standing, existence or its equivalent of each Loan Party, and of the incumbency (including specimen signatures) of the Responsible Officers of each Loan Party;

(c) [reserved];

(d) the Borrower shall have (x) entered into the Third Lien Subordination Agreement and the Third Lien Loan Documents for Subordinated Indebtedness in an aggregate principal amount not to exceed $20,000,000, (y) received net proceeds of not less than $20,000,000 and applied such proceeds to the Loans, and (z) provided to the Agent an executed copy of the Third Lien Subordination Agreement, the Third Lien Loan Documents and any other material documents related thereto, all in form and substance satisfactory to the Agent;

(e) the Agent shall have received an executed fee letter with respect to this Amendment;

(f) the Agent shall have received UCC, tax lien, litigation, bankruptcy and intellectual property searches from all offices that Agent deems appropriate in its sole discretion;

(g) the Agent shall have received the Second Amendment to Intercreditor Agreement executed by the Agent, the Term Agent, the Borrower, and the Guarantors, and the Fifth Amendment to Credit Agreement (the "Fifth Term Loan Amendment") executed by the Term Agent, the Required Lenders (as defined in the Term Loan Agreement) and the Borrowers and Guarantors, each in form and substance reasonably satisfactory to the Agent;

(h) the Agent shall have received the unaudited financial statements required pursuant to Section 6.01(c) of the Credit Agreement for the Fiscal Month ended October 3, 2020 and an accompanying calculation of the Consolidated Fixed Charge Coverage Ratio for the 12 month period then ended;

(i) the Agent shall have received a Borrowing Base Certificate dated as of the date hereof showing the Borrowing Base for the week ended December 5, 2020 and calculated after giving effect to the Amended Credit Agreement; and

(j) The Borrower shall have Excess Availability of at least $27,500,000.

SECTION 4. [Reserved]

SECTION 5. Representations and Warranties. To induce the Agent and the Lenders to enter into this Amendment, the Borrower and each other Loan Party represents and warrants to the Agent, the L/C Issuer and the Lenders on and as of the Amendment Effective Date that, in each case:

(a) all of the representations and warranties contained in the Credit Agreement or the other Loan Documents are true and correct in all material respects on the Amendment Effective Date both immediately before and after giving effect to this Amendment, with the same effect as though such representations and warranties had been made on and as of the Amendment Effective Date (it being understood that (x) any representation or warranty that is qualified by materiality or Material Adverse Effect shall be required to be true and correct in all respects after taking into account such qualification and (y) any representation or warranty made as of a specific date shall be true and correct in all material respects (or all respects after taking into account such qualification, as the case may be) as of such date); and

(b) no Default or Event of Default exists as of the Amendment Effective Date, after giving effect to this Amendment and the waivers contained herein.

SECTION 6. Reference to and Effect on the Credit Agreement and the Loan Documents; Ratification.

(a) On and after the Amendment Effective Date, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof" or words of like import referring to the Credit Agreement shall mean and be a reference to the Credit Agreement, as amended by this Amendment.

(b) The Credit Agreement and each of the other Loan Documents, as specifically amended by this Amendment, are and shall continue to be in full force and effect and are hereby in all respects ratified and confirmed. Without limiting the generality of the foregoing, the Security Documents and all of the Collateral described therein do and shall continue to secure the payment of all Obligations of the Loan Parties under the Loan Documents, in each case, as amended by this Amendment.

(c) The Borrower expressly acknowledges and agrees that (i) there has not been, and this Amendment does not constitute or establish, a novation with respect to the Credit Agreement

or any of the other Loan Documents, or a mutual departure from the strict terms, provisions, and conditions thereof, other than as set forth herein, and (ii) nothing in this Amendment shall affect or limit Agent's or the Lenders' right to demand payment of liabilities owing from Borrower to Agent or the Lenders under, or to demand strict performance of the terms, provisions and conditions of, the Credit Agreement and the other Loan Documents, to exercise any and all rights, powers, and remedies under the Credit Agreement or the other Loan Documents or at law or in equity, or to do any and all of the foregoing, immediately at any time after the occurrence of a Default or an Event of Default under the Credit Agreement or the other Loan Documents.

(d) Each Loan Party hereby restates, ratifies, and reaffirms each and every term, covenant, and condition set forth in the Credit Agreement and the other Loan Documents to which it is a party effective as of the date hereof.

(e) The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Lender, the Agent or any Issuer under any of the Loan Documents, nor constitute a waiver of any provision of any of the Loan Documents.

SECTION 7. Governing Law. THIS AMENDMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 8. Counterparts. This Amendment 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. Delivery of an executed counterpart of a signature page of this Amendment by telecopy, pdf or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Amendment.

SECTION 9. Electronic Execution. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed signature page counterpart hereof by telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart hereof. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Amendment and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic association of signatures and records on electronic platforms, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, any other similar state laws based on the Uniform Electronic Transactions Act, the Uniform Commercial Code, each as amended, and the parties hereto hereby waive any objection to the contrary, provided that (x) nothing herein shall require

Agent to accept electronic signature counterparts in any form or format and (y) Agent reserves the right to require, at any time and at its sole discretion, the delivery of manually executed counterpart signature pages to this Agreement and the parties hereto agree to promptly deliver such manually executed counterpart signature pages.

SECTION 10. Release. BY EXECUTION OF THIS AMENDMENT, EACH LOAN PARTY ACKNOWLEDGES AND CONFIRMS THAT SUCH LOAN PARTY DOES NOT HAVE ANY OFFSETS, DEFENSES (OTHER THAN FOR PAYMENT ACTUALLY MADE), CLAIMS OR COUNTERCLAIMS AGAINST AGENT, ANY LENDER, OR ANY OF THEIR SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS, PREDECESSORS, SUCCESSORS OR ASSIGNS WHETHER ASSERTED OR UNASSERTED. EACH LOAN PARTY AND ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, AFFILIATES, PREDECESSORS, EMPLOYEES, AGENTS, HEIRS AND EXECUTORS, AS APPLICABLE (COLLECTIVELY, "RELEASING PARTIES"), JOINTLY AND SEVERALLY, RELEASE AND FOREVER DISCHARGE AGENT, EACH LENDER LLC AND THEIR RESPECTIVE SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS, SUCCESSORS AND ASSIGNS, FROM ANY AND ALL MANNER OF ACTION AND ACTIONS, CAUSE AND CAUSES OF ACTION, SUITS, DEBTS, CONTROVERSIES, DAMAGES, JUDGMENTS, EXECUTIONS, CLAIMS, COUNTERCLAIMS AND DEMANDS ("CLAIMS") WHATSOEVER, ASSERTED OR UNASSERTED, IN LAW OR IN EQUITY WHICH THE RELEASING PARTIES EVER HAD OR NOW HAVE UPON OR BY REASON OF ANY MANNER, CAUSE, CAUSES OR THING WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY PRESENTLY EXISTING CLAIMS WHETHER OR NOT PRESENTLY SUSPECTED, CONTEMPLATED OR ANTICIPATED, IN EACH CASE RELATED TO THE LOAN DOCUMENTS AND BASED ON FACTS THAT ARE EXISTING ON OR BEFORE THE FIFTH AMENDMENT EFFECTIVE DATE; PROVIDED, THAT, WITH RESPECT TO ANY RELEASING PARTIES, THE FOREGOING RELEASE SHALL NOT APPLY TO (W) ANY CLAIMS ARISING AS A RESULT OF NONCOMPLIANCE WITH, OR OTHER MATERIAL BREACH BY, SUCH RELEASEE OF THIS AMENDMENT, (X) ANY CLAIMS RESULTING FROM SUCH RELEASEE'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR BAD FAITH, (Y) ANY CLAIMS REGARDING OBLIGATIONS OF SUCH RELEASEE UNDER THIS AMENDMENT OR (Z) ANY CLAIMS ARISING FROM DISPUTES ARISING SOLELY AMONG THE RELEASEES THAT DO NOT INVOLVE ANY ACT OR OMMISSION BY ANY RELEASING PARTY OR ITS AFFILIATES. THE PROVISIONS OF THIS SECTION 10 SHALL SURVIVE THE TERMINATION OF THIS AMENDMENT, THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THE PAYMENT IN FULL OF THE OBLIGATIONS.

SECTION 11. Miscellaneous. Sections 10.04, 10.10, 10.12, 10.14, 10.15 and 10.16 of the Credit Agreement are incorporated herein *mutatis mutandis*. This Amendment shall constitute a Loan Document.

SECTION 12. Amendment to Intercreditor Agreement. Each of the Lenders party hereto consents to the Second Amendment to Intercreditor Agreement, dated as of the date hereof, by and among the Agent, the Term Agent, the Borrower, and the Guarantors.

[The remainder of the page is intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Amendment as of the date first above written.

VINCE, LLC, as Borrower

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

VINCE INTERMEDIATE HOLDINGS, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

VINCE HOLDING CORP., as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

REBECCA TAYLOR, INC., as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

PARKER HOLDING, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

REBECCA TAYLOR RETAIL STORE, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

PARKER LIFESTYLE, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

CITIZENS BANK, N.A., as Agent, a Lender, Swing Line Lender and L/C Issuer

By: /s/ Richard Norberg
Name: Richard Norberg
Title: Vice President

PNC BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Michele Ranieri
Name: Michele Ranieri
Title:

Annex A

Credit Agreement

[Please see attached]

Annex B

Schedule 2.01

Lenders	**Revolving Credit Commitments**	**Applicable Percentage**
Citizens Bank, N.A.	$65,000,000.00	65.000000000%
PNC Bank, National Association	$35,000,00.00	35.000000000%
Total	$100,000,000.00	100.000000000%

2548/21798-049 CURRENT/120670196v8
FIFTH AMENDMENT TO CREDIT AGREEMENT

This **FIFTH AMENDMENT TO CREDIT AGREEMENT** (this "Amendment") is entered into as of December 11, 2020, by and among **VINCE, LLC**, a Delaware limited liability company (the "Borrower"), the Guarantors signatory hereto, **CRYSTAL FINANCIAL LLC** (in its individual capacity, "Crystal"), as administrative agent and collateral agent under the Loan Documents (in such capacities, the "Agent") and each of the Lenders party hereto.

W I T N E S S E T H:

WHEREAS, the Borrower, the Guarantors from time to time party thereto, the Agent and the Lenders from time to time party thereto are parties to a Credit Agreement, dated as of August 21, 2018 (as amended, restated, amended and restated, supplemented, modified, or otherwise in effect from time to time prior to the date hereof, the "Credit Agreement"; the Credit Agreement as amended hereby, the "Amended Credit Agreement"); and

WHEREAS, the Borrower, the Guarantors, the Agent and the Lenders wish to further amend the Credit Agreement;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

SECTION 1. Definitions.

Unless otherwise indicated, all capitalized terms used herein (including the preamble and the recitals) and not otherwise defined shall have the respective meanings provided to such terms in the Amended Credit Agreement.

SECTION 2. Amendments to Credit Agreement. Subject to the satisfaction (or waiver) of the conditions set forth in Section 3 of this Amendment, the Credit Agreement (excluding the schedules and exhibits thereto, which shall remain in full force and effect, unless expressly amended pursuant to this Amendment) is hereby amended as set forth in Annex A attached hereto such that all of the newly inserted double underlined text (indicated textually in the same manner as the following example: **double-underlined text**) and any formatting changes attached hereto shall be deemed to be inserted and all stricken text (indicated textually in the same manner as the following example: ~~**stricken text**~~) shall be deemed to be deleted therefrom:

SECTION 3. Conditions of Effectiveness of this Amendment. This Amendment shall become effective on the date when the following conditions shall have been satisfied (or waived) (the "Fifth Amendment Effective Date"):

(a) execution and delivery of this Amendment by the Borrower, each Guarantor, the Agent and the Lenders;

(b) all action on the part of the Loan Parties necessary for the valid execution, delivery and performance by the other Loan Parties of this Amendment and all other documentation, instruments, and agreements to be executed in connection herewith shall have been duly and effectively taken and evidence thereof reasonably satisfactory to the Agent shall have been provided to the Agent, including an officer's certificate, dated as of the date hereof, certifying as to and (as applicable) attaching the Loan Parties' organization documents (which to the extent filed with a Governmental Authority, shall be certified as of a recent date by such Governmental Authority) or certifying as to no changes thereto since such documents were last delivered, the resolutions of the governing body of each Loan Party, the good standing, existence or its equivalent of each Loan Party, and of the incumbency (including specimen signatures) of the Responsible Officers of each Loan Party;

(c) [reserved]

(d) the Borrower shall have (x) entered into the Third Lien Subordination Agreement and the Third Lien Loan Documents for Subordinated Indebtedness in an aggregate principal amount not to exceed $20,000,000, (y) received net proceeds of not less than $20,000,000 and applied such proceeds to the ABL Loans, and (z) provided to the Agent an executed copy of the Third Lien Subordination Agreement, the Third Lien Loan Documents and any other material documents related thereto, all in form and substance satisfactory to the Agent;

(e) the Agent shall have received an executed counterpart to the Fifth Amendment Fee Letter from the Borrower;

(f) the Agent shall have received UCC, tax lien, litigation, bankruptcy and intellectual property searches from all offices that Agent deems appropriate in its sole discretion;

(g) the Agent shall have received the Second Amendment to Intercreditor Agreement and Consent executed by the Required Lenders, ABL Agent, Required Lenders (as defined in the ABL Credit Agreement) and the Borrower and the Fifth Amendment to Credit Agreement (the "Fifth ABL Amendment"), executed by the ABL Agent and the Borrowers and Guarantors, each in form and substance reasonably satisfactory to the Agent;

(h) the Agent shall have received the unaudited financial statements required pursuant to Section 6.01(c) for the Fiscal Month ended October 3, 2020 and an accompanying calculation of the Consolidated Fixed Charge Coverage Ratio for the 12 month period then ended;

(i) the Agent shall have received an ABL Borrowing Base Certificate dated as of the date hereof showing the ABL Borrowing Base for the week ended December 5, 2020 and calculated after giving effect to the Fifth ABL Amendment; and

(j) the Borrower shall have ABL Excess Availability of at least $27,500,000.

SECTION 4. Representations and Warranties. To induce the Agent and the Lenders to enter into this Amendment, the Borrower and each other Loan Party represents and warrants to the Agent and the Lenders on and as of the Fifth Amendment Effective Date that, in each case:

(a) all of the representations and warranties contained in the Credit Agreement or the other Loan Documents are true and correct in all material respects on the Fifth Amendment Effective Date both immediately before and after giving effect to this Amendment, with the same

effect as though such representations and warranties had been made on and as of the Fifth Amendment Effective Date (it being understood that (x) any representation or warranty that is qualified by materiality or Material Adverse Effect shall be required to be true and correct in all respects after taking into account such qualification and (y) any representation or warranty made as of a specific date shall be true and correct in all material respects (or all respects after taking into account such qualification, as the case may be) as of such date); and

(b) no Default or Event of Default exists as of the Fifth Amendment Effective Date, after giving effect to this Amendment and the waivers contained herein.

SECTION 5. [Reserved].

SECTION 6. Reference to and Effect on the Credit Agreement and the Loan Documents; Ratification.

(a) On and after the Fifth Amendment Effective Date, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof" or words of like import referring to the Credit Agreement shall mean and be a reference to the Credit Agreement, as amended by this Amendment.

(b) The Credit Agreement and each of the other Loan Documents, as specifically amended by this Amendment, are and shall continue to be in full force and effect and are hereby in all respects ratified and confirmed. Without limiting the generality of the foregoing, the Security Documents and all of the Collateral described therein do and shall continue to secure the payment of all Obligations of the Loan Parties under the Loan Documents, in each case, as amended by this Amendment.

(c) The Borrower expressly acknowledges and agrees that (i) there has not been, and this Amendment does not constitute or establish, a novation with respect to the Credit Agreement or any of the other Loan Documents, or a mutual departure from the strict terms, provisions, and conditions thereof, other than as set forth herein, and (ii) nothing in this Amendment shall affect or limit Agent's or the Lenders' right to demand payment of liabilities owing from Borrower to Agent or the Lenders under, or to demand strict performance of the terms, provisions and conditions of, the Credit Agreement and the other Loan Documents, to exercise any and all rights, powers, and remedies under the Credit Agreement or the other Loan Documents or at law or in equity, or to do any and all of the foregoing, immediately at any time after the occurrence of a Default or an Event of Default under the Credit Agreement or the other Loan Documents.

(d) Each Loan Party hereby restates, ratifies, and reaffirms each and every term, covenant, and condition set forth in the Credit Agreement and the other Loan Documents to which it is a party effective as of the date hereof.

(e) The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Lender, the Agent or any Issuer under any of the Loan Documents, nor constitute a waiver of any provision of any of the Loan Documents.

SECTION 7. Governing Law. THIS AMENDMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AMENDMENT

AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 8. Counterparts. This Amendment 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. Delivery of an executed counterpart of a signature page of this Amendment by telecopy, pdf or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Amendment.

SECTION 9. Electronic Execution. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed signature page counterpart hereof by telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart hereof. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Amendment and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic association of signatures and records on electronic platforms, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, any other similar state laws based on the Uniform Electronic Transactions Act, the Uniform Commercial Code, each as amended, and the parties hereto hereby waive any objection to the contrary, provided that (x) nothing herein shall require Agent to accept electronic signature counterparts in any form or format and (y) Agent reserves the right to require, at any time and at its sole discretion, the delivery of manually executed counterpart signature pages to this Agreement and the parties hereto agree to promptly deliver such manually executed counterpart signature pages.

SECTION 10. Release. BY EXECUTION OF THIS AMENDMENT, EACH LOAN PARTY ACKNOWLEDGES AND CONFIRMS THAT SUCH LOAN PARTY DOES NOT HAVE ANY OFFSETS, DEFENSES (OTHER THAN FOR PAYMENT ACTUALLY MADE), CLAIMS OR COUNTERCLAIMS AGAINST AGENT, ANY LENDER, OR CRYSTAL FINANCIAL LLC, OR ANY OF THEIR SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS, PREDECESSORS, SUCCESSORS OR ASSIGNS WHETHER ASSERTED OR UNASSERTED. EACH LOAN PARTY AND ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, AFFILIATES, PREDECESSORS, EMPLOYEES, AGENTS, HEIRS AND EXECUTORS, AS APPLICABLE (COLLECTIVELY, "RELEASING PARTIES"), JOINTLY AND SEVERALLY, RELEASE AND FOREVER DISCHARGE AGENT, EACH LENDER, CRYSTAL FINANCIAL LLC AND THEIR RESPECTIVE SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS, SUCCESSORS AND ASSIGNS, FROM ANY AND ALL MANNER OF ACTION AND ACTIONS, CAUSE AND CAUSES OF ACTION, SUITS, DEBTS, CONTROVERSIES, DAMAGES, JUDGMENTS, EXECUTIONS, CLAIMS,

COUNTERCLAIMS AND DEMANDS ("CLAIMS") WHATSOEVER, ASSERTED OR UNASSERTED, IN LAW OR IN EQUITY WHICH THE RELEASING PARTIES EVER HAD OR NOW HAVE UPON OR BY REASON OF ANY MANNER, CAUSE, CAUSES OR THING WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY PRESENTLY EXISTING CLAIMS WHETHER OR NOT PRESENTLY SUSPECTED, CONTEMPLATED OR ANTICIPATED, IN EACH CASE RELATED TO THE LOAN DOCUMENTS AND BASED ON FACTS THAT ARE EXISTING ON OR BEFORE THE FIFTH AMENDMENT EFFECTIVE DATE; PROVIDED, THAT, WITH RESPECT TO ANY RELEASING PARTIES, THE FOREGOING RELEASE SHALL NOT APPLY TO (W) ANY CLAIMS ARISING AS A RESULT OF NONCOMPLIANCE WITH, OR OTHER MATERIAL BREACH BY, SUCH RELEASEE OF THIS AMENDMENT, (X) ANY CLAIMS RESULTING FROM SUCH RELEASEE'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR BAD FAITH, (Y) ANY CLAIMS REGARDING OBLIGATIONS OF SUCH RELEASEE UNDER THIS AMENDMENT OR (Z) ANY CLAIMS ARISING FROM DISPUTES ARISING SOLELY AMONG THE RELEASEES THAT DO NOT INVOLVE ANY ACT OR OMMISSION BY ANY RELEASING PARTY OR ITS AFFILIATES. THE PROVISIONS OF THIS SECTION 10 SHALL SURVIVE THE TERMINATION OF THIS AMENDMENT, THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THE PAYMENT IN FULL OF THE OBLIGATIONS.

SECTION 11. Miscellaneous. Sections 10.04, 10.10, 10.12, 10.14, 10.15 and 10.16 of the Credit Agreement are incorporated herein *mutatis mutandis*. This Amendment shall constitute a Loan Document.

[The remainder of the page is intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Amendment as of the date first above written.

VINCE, LLC, as Borrower

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

VINCE INTERMEDIATE HOLDINGS, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

VINCE HOLDING CORP., as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

REBECCA TAYLOR, INC., as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

PARKER HOLDING, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

REBECCA TAYLOR RETAIL STORE, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

PARKER LIFESTYLE, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

CRYSTAL FINANCIAL LLC, as Agent and a Lender

By: /s/ Mirko Andric
Name: Mirko Andric
Title: Senior Managing Director

CRYSTAL FINANCIAL SPV LLC, as a Lender

By: /s/ Mirko Andric
Name: Mirko Andric
Title: Senior Managing Director

Annex A

Amended Credit Agreement

[Please see attached]

VINCE.

EXHIBIT 10.43

March 1, 2021

Lee Meiner

Dear Lee:

We are pleased to confirm the following updates to the terms of your employment with Vince, LLC ("Vince" or the "Company"), effective immediately:

Base Compensation

Effective September 28, 2020, your annual base salary shall be $400,000.

All other terms of your employment shall remain the same pursuant to the employment letter (the "Employment Agreement"), dated May 23, 2019 and accepted by you on May 27, 2019, including the at-will nature of your employment. In the event of inconsistency between the terms of this letter and the Employment Agreement, the terms of this letter shall govern.

I look forward to your continued success!

[Signature page to follow.]

VINCE.

Sincerely,

/s/ David Stefko March 18, 2021
David Stefko Date
Interim Chief Executive Officer and Chief Financial Officer

Agreed & Acknowledged

/s/ Lee Meiner March 1, 2021
Lee Meiner Date

Execution Version

EXHIBIT 10.44

CREDIT AGREEMENT

Dated as of December 11, 2020

among

VINCE, LLC,
as the Borrower,

The Guarantors Named Herein,

SK FINANCIAL SERVICES, LLC,
as Agent

and

The Other Lenders Party Hereto

TABLE OF CONTENTS

SCHEDULES

EXHIBITS

	Form of
A	Committed Loan Notice
B	Note
C	Compliance Certificate
D	Assignment and Assumption
E-1	Foreign Lender Exemption Certificate
E-2	Foreign Lender U.S. Tax Compliance Certificate
E-3	Alternative Form Foreign Lender U.S. Tax Compliance Certificate
E-4	Foreign Partnership U.S. Tax Compliance Certificate
F	Closing and Solvency Certificate
G	Representations and Warranties Certificate
H	Subordination Agreement

CREDIT AGREEMENT

This **CREDIT AGREEMENT** ("Agreement") is entered into as of December 11, 2020, among **VINCE, LLC**, a Delaware limited liability company (the "Borrower"), the Guarantors named on Schedule 1.01(a) hereto, each Lender from time to time party hereto, and **SK FINANCIAL SERVICES, LLC**, a Delaware limited liability company, as administrative agent and collateral agent.

The Borrower has requested that the Lenders provide a term loan credit facility, and the Lenders have indicated their willingness to lend term loans to the Borrower on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND ACCOUNTING TERMS

1.01 Defined Terms.

As used in this Agreement, the following terms shall have the meanings set forth below:

"ABL Agent" means Citizens Bank.

"ABL Credit Agreement" means the Credit Agreement, dated as of August 21, 2018, by and among the Borrower, the Guarantors named therein, Citizens Bank, as administrative agent and collateral agent and the other lenders from time to time party thereto, as the same may be amended from time to time hereafter to the extent permitted hereunder and in accordance with the Intercreditor Agreement.

"ABL Debt" means all "Obligations" (as defined in the ABL Credit Agreement) owing to the ABL Secured Parties under the ABL Loan Documents.

"ABL Loan Documents" means all "Loan Documents" as defined in the ABL Credit Agreement.

"ABL Loans" means "Loans" as defined in the ABL Credit Agreement.

"ABL Payment Conditions" means "Payment Conditions" as defined in the ABL Credit Agreement as in effect on the date hereof, without giving effect to any amendments or modifications of such definition or any component definitions (or any sub-component definitions) thereof.

"ABL Secured Parties" means the "Secured Parties" as defined in the ABL Credit Agreement.

"Account" means "accounts" as defined in the UCC and also means a right to payment of a monetary obligation, whether or not earned by performance, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (b) for services rendered or to be rendered, or (c) arising out of the use of a credit or charge card or information contained on or for use with the card. The term "Account" does not include (a) rights to payment evidenced by chattel paper or an instrument, (b) commercial tort claims, (c) deposit accounts, (d) investment property, or (e) letter of credit rights or letters of credit.

"Accommodation Period" has the meaning set forth in the ABL Credit Agreement (as in effect on the Closing Date).

"Acquisition" means, with respect to any Person (a) an Investment in or a purchase of a fifty percent (50%) or greater interest in, the Equity Interests of any other Person, (b) a purchase or other acquisition of

all or substantially all of the assets or properties of, another Person, (c) a purchase or acquisition of a Real Estate portfolio or stores from any other Person or assets constituting a business unit, line of business or division of any other Person, (d) any merger or consolidation of such Person with any other Person or other transaction or series of transactions resulting in the acquisition of all or substantially all of the assets, or greater than fifty percent (50%) of the Equity Interests, of any Person, in each case, in any transaction or group of transactions which are part of a common plan.

"Adjustment Date" means the first day of each Fiscal Quarter, commencing February 1, 2020.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Agent.

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly to direct or cause the direction of the management and policies of such Person, in either case whether by contract or otherwise.

"Agent" means SK Financial Services, LLC in its capacity as administrative agent and collateral agent under any of the Loan Documents, or any successor thereto.

"Agent's Office" means the Agent's address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Agent may from time to time notify the Borrower and the Lenders.

"Agreement" means this Credit Agreement.

"Amended or Refinanced" means, in respect of any obligation, or the agreement or contract pursuant to which such obligation is incurred, (a) such obligation (or any portion thereof) or related agreement or contract as extended, renewed, defeased, amended, amended and restated, supplemented, modified, restructured, consolidated, refinanced, replaced, refunded or repaid from time to time and (b) any other obligation issued in exchange or replacement for or to refinance such obligation, in whole or in part, whether with same or different lenders, arrangers and/or agents and whether with a larger or smaller aggregate principal amount and/or a shorter or longer maturity, in each case to the extent not prohibited under the terms of the Loan Documents then in effect. "Amend or Refinance" and "Amendment or Refinancing" shall have correlative meanings.

"Anti-Money Laundering Laws" means any and all laws, judgments, orders, executive orders, decrees, ordinances, rules, regulations, statutes, case law or treaties applicable to a Loan Party, its Subsidiaries or Affiliates, related to terrorism financing or money laundering including any applicable provision of Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001 (Title III of Pub. L. 107-56) and The Currency and Foreign Transactions Reporting Act (also known as the "Bank Secrecy Act", 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

"Applicable Lenders" means the Required Lenders, all affected Lenders, or all Lenders, as the context may require.

"Applicable Margin" the Applicable Margin shall be until the first anniversary of the Third Amendment Effective Date (as defined in the Senior Term Loan Credit Agreement), 11.00% and thereafter, upon each Adjustment Date, the Applicable Margin shall be determined from the following pricing grid based upon Consolidated EBITDA for the Measurement Period ended immediately preceding such Adjustment Date for which financial statements have been delivered pursuant to Section 6.01; provided, however, that upon the occurrence of an Event of Default, the Agent may immediately increase the Applicable Margin to that

set forth in "Level I" (even if the Consolidated EBITDA requirements for a different Level have been met); provided further if the information set forth in any Compliance Certificate proves to be false or incorrect due to intentional misrepresentation by the Borrower such that the Applicable Margin would have been higher than was otherwise in effect during any period, without constituting a waiver of any Default or Event of Default arising as a result thereof, interest due under this Agreement shall be immediately recalculated at such higher rate for any applicable periods and shall be due and payable on demand;

Level	Consolidated EBITDA	LIBOR Margin
I	Less than $20,000,000	11.00%
II	Greater than or equal to $20,000,000	9.00%

"Applicable Percentage" means with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of such Lender's Commitment or the Total Outstandings at such time, subject to adjustment as provided in Section 10.06. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or other instrument pursuant to which such Lender becomes a party hereto, as applicable.

"Approved Fund" means, with respect to any Lender, any Fund that is administered or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers or manages such Lender.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06), and accepted by the Agent, in substantially the form of Exhibit D or any other form approved by the Agent.

"Audited Financial Statement" means the audited consolidated balance sheet of Parent and its Subsidiaries for the Fiscal Year ended February 2, 2019, the related audited consolidated statements of income, cash flows and shareholders' equity, and the footnotes thereto.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Blocked Account" means any deposit account in which any funds of any of the Loan Parties from one or more DDAs (other than any Excluded DDA) are concentrated and with respect to which a Blocked Account Agreement has been, or is required to be, executed in accordance with the terms hereof.

"Blocked Account Agreement" means with respect to a deposit account or Securities Account established by a Loan Party, an agreement, in form and substance reasonably satisfactory to the Agent, establishing

control (within the meaning of Section 9-104 or Section 8-106 of the UCC, as applicable) of such deposit account or Securities Account by the Agent and whereby the bank or intermediary maintaining such deposit account or Securities Account agrees, upon the occurrence and during the continuance of Cash Dominion Events, (as defined under the ABL Credit Agreement), to comply only with the instructions originated by the Agent without the further consent of any Loan Party.

"Blocked Account Bank" has the meaning provided in Section 6.12.

"Board of Directors" means, as to any Person, the board of directors (or comparable managers) of such Person, or any committee thereof duly authorized to act on behalf of such board of directors (or comparable managers).

"Borrower Intellectual Property" has the meaning specified in Section 5.09.

"Borrower" has the meaning set forth in the preamble.

"Borrowing" means the borrowing of Term Loans made by each of the Lenders pursuant to Section 2.01 to the Borrower on the Closing Date.

"Business Day" means (a) any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Requirements of Law of, or are in fact closed in, the state where the Agent's Office in the applicable jurisdiction is located and (b) if such day relates to any interest rate settings as to a LIBOR Rate denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such LIBOR Rate Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such LIBOR Rate Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market.

"Capital Expenditures" means, for any period, with respect to any Person, the aggregate of all cash expenditures by such Person for the acquisition or leasing (pursuant to Capital Lease Obligations but excluding any amount representing capitalized interest) of fixed or capital assets or additions to equipment (including replacements, capitalized repairs and improvements during such period) which are required to be capitalized under GAAP on a balance sheet of such Person; provided that in any event the term "Capital Expenditures" shall exclude: (i) any Permitted Acquisition and any other Investment permitted hereunder; (ii) expenditures to the extent financed with the proceeds from any casualty insurance or condemnation or eminent domain, to the extent that the proceeds therefrom are utilized (or are contractually committed to be utilized) for capital expenditures within twelve (12) months of the receipt of such proceeds; (iii) expenditures for leasehold improvements for which such Person has been reimbursed or received a credit; and (iv) expenditures to the extent they are made with the proceeds of equity contributions (other than in respect of Disqualified Stock) made to the Borrower after the Closing Date, (v) the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment solely to the extent that the gross amount of such purchase price is reduced by the credit granted by the seller of such equipment for the equipment being traded in at such time; (vi) without duplication of the provisions of clause (iii), above, expenditures that are accounted for as capital expenditures by the Parent, Holdings, the Borrower or any Restricted Subsidiary and that actually are paid for by a Person other than the Parent, Holdings, the Borrower or any Restricted Subsidiary and for which neither the Parent, Holdings, the Borrower nor any Restricted Subsidiary has provided or is 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); (vii) expenditures that constitute operating lease expenses in accordance with GAAP; (viii) any capitalized interest expense reflected as additions to property, plant or equipment in the consolidated balance sheet of the Parent, Holdings, the Borrower and the Restricted Subsidiaries; and (ix) any non-cash compensation or

other non-cash costs reflected as additions to property, plant or equipment in the consolidated balance sheet of the Parent, Holdings, the Borrower and the Restricted Subsidiaries.

"Capital Lease Obligations" means, with respect to any Person for any period, the obligations of such Person to pay rent or 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 leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

"Cash Equivalents" means (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of one year or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than $500,000,000; (c) commercial paper of an issuer rated at least A-2 by S&P or P-2 by Moody's, or carrying an equivalent rating by a nationally recognized rating agency if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within one year from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's; (f) securities with maturities of one year or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; and (g) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of any of clauses (a) through (f) of this definition; or (h) money market funds that (i) purport to comply generally with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated AAA by S&P or Aaa by Moody's or carrying an equivalent rating by a nationally recognized rating agency, and (iii) have portfolio assets of at least $5,000,000,000; or (i) in the case of Foreign Subsidiaries, (i) such local currencies in those countries in which such Foreign Subsidiary transacts business from time to time in the ordinary course of business and (ii) investments of comparable tenor and credit quality to those described above customarily utilized in the countries in which such Foreign Subsidiaries operate for short-term cash management purposes.

"CFC" means any Subsidiary that is a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"CFC Holdco" means any Domestic Subsidiary that has no material assets other than the Equity Interests of and, if applicable, Indebtedness of one or more Foreign Subsidiaries that are CFCs.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests,

rules, guidelines 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, 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 or issued.

"Change of Control" means an event or series of events by which:

(a) the Parent shall cease directly or indirectly to own 100% of the Equity Interests of Holdings and the Borrower (except to the extent Holdings is permitted to merge with the Parent pursuant to Section 7.04); or

(b) any "person" or "group" (as such terms are used in Section 13(d) and 14(d) of the Securities Exchange Act), other than one or more Permitted Investors shall be the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act) of Equity Interests having more, directly or indirectly, than 35% of the total voting power of all outstanding capital stock of the Parent in the election of directors, unless at such time the Permitted Investors are direct or indirect "beneficial owners" (as so defined) of Equity Interests of the Parent having a greater percentage of the total voting power of all outstanding Equity Interests of the Parent in the election of directors than that owned by each other "person" or "group" described above; or

(c) for any reason whatsoever, a majority of the Board of Directors of the Parent shall not be Continuing Directors; or

(d) a "Change of Control" (or comparable term) shall occur under the any Senior Credit Agreement, any Junior Indebtedness or the documentation for any Amendment or Refinancing of the foregoing, in each case (other than any Senior Credit Agreement), if the outstanding principal amount thereof is in excess of $18,000,000.

"Citizens Bank" means Citizens Bank, National Association.

"Closing Date" means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01, which date is December 11, 2020.

"Code" means the Internal Revenue Code of 1986, and the regulations promulgated thereunder, as amended and in effect.

"Collateral" means any and all "Collateral", "Security Assets" or "Mortgaged Property" as defined in any applicable Security Document and all other property that is subject to Liens in favor of the Agent under the terms of the Security Documents.

"Collateral Access Agreement" means an agreement reasonably satisfactory in form and substance to the Agent executed by (a) a bailee or other Person in possession of Collateral, or (b) any landlord of Real Estate leased by any Loan Party, pursuant to which such Person (i) acknowledges the Agent's Lien on the Collateral, (ii) releases or subordinates such Person's Liens in the Collateral held by such Person or located on such Real Estate, (iii) provides the Agent with access to the Collateral held by such bailee or other Person or located in or on such Real Estate, and (iv) makes such other agreements with the Agent as the Agent may reasonably require.

"Commitments" means, as to each Lender, its obligation to make its pro rata portion of the Term Loan to the Borrower pursuant to Section 2.01 on the Closing Date, in an aggregate principal amount not to exceed

the amount set forth opposite such Lender's name on Schedule 2.01. As of the Closing Date, the total Commitments of all Lenders is $20,000,000.

"Committed Loan Notice" means the notice of Borrowing, which shall be substantially in the form of Exhibit A (Committed Loan Notice).

"Commonly Controlled Entity" means an entity, whether or not incorporated, that is under common control with the Parent within the meaning of Section 4001 of ERISA.

"Commonly Controlled Plan" has the meaning set forth in Section 5.12(b).

"Compliance Certificate" means a certificate substantially in the form of Exhibit C.

"Consent" means actual consent given by a Lender from whom such consent is sought; or the passage of seven (7) Business Days from receipt of written notice to a Lender from the Agent of a proposed course of action to be followed by the Agent without such Lender's giving the Agent written notice of that Lender's objection to such course of action.

"Consolidated" means, when used to modify a financial term, test, statement, or report of a Person, the application or preparation of such term, test, statement or report (as applicable) based upon the consolidation, in accordance with GAAP, of the financial condition or operating results of such Person and its Subsidiaries.

"Consolidated Current Assets": at any date, all amounts (other than cash and Cash Equivalents) that would, in conformity with GAAP, be set forth opposite the caption "total current assets" (or any like caption) on a consolidated balance sheet of the Parent, Holdings, the Borrowers and their Restricted Subsidiaries at such date.

"Consolidated Current Liabilities": at any date, all amounts that would, in conformity with GAAP, be set forth opposite the caption "total current liabilities" (or any like caption) on a consolidated balance sheet of the Parent, Holdings, the Borrowers and their Restricted Subsidiaries at such date, but excluding (a) the current portion of any Indebtedness of the Parent, Holdings, the Borrowers and their Restricted Subsidiaries and (b) without duplication, all Indebtedness consisting of ABL Debt, to the extent otherwise included therein.

"Consolidated EBITDA" means, of any Person for any period, Consolidated Net Income of such Person and its Restricted Subsidiaries for such period plus, without duplication and to the extent reflected as a charge in the statement of such Consolidated Net Income, the sum of (a) income tax (or any alternative tax in lieu thereof) expense (including state franchise and similar taxes), (b) Consolidated Net Interest Expense of such Person and its Restricted Subsidiaries, amortization or writeoff of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including commitment and administrative fees and charges with respect to this Agreement, any Senior Credit Agreement, any Junior Indebtedness and any Permitted Amendment or Refinancing of any of the foregoing), (c) depreciation and amortization expense, (d) amortization or impairment of intangibles (including, but not limited to, goodwill) and organization costs, (e) any extraordinary, unusual or non-recurring expenses or losses (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, losses on sales of assets outside of the ordinary course of business) (subject, including with respect to any expenses or losses incurred in response to the COVID-19 pandemic or related disruptions ("COVID Adjustments"), to the cap in clause (A) of the proviso hereto), (f) stock-option based and other equity-based compensation expenses, (g) transaction costs, fees and expenses (including those relating to the transactions contemplated hereby and by any Senior Credit Agreement (including any Amendment or Refinancing or waivers of the Loan Documents and/or the ABL

Loan Documents), and those payable in connection with the sale of Equity Interests (including any secondary or follow-on offerings), the incurrence, repayment, redemption, repurchase or defeasance of Indebtedness permitted under Section 7.03, any disposition of Property permitted under Section 7.05 or any recapitalization or any Permitted Acquisition or other Investment permitted under Section 7.02 or any other Specified Transaction (in each case whether or not successful)), (h) expenses or losses with respect to liability or casualty events and proceeds from any business interruption insurance, in each case, to the extent covered by insurance and actually reimbursed or otherwise paid, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed or otherwise paid by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed or otherwise paid within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed or otherwise paid within such 365 days) (in the case of this clause (h) to the extent not reflected as revenue or income in such statement of such Consolidated Net Income and without duplication of any amounts included in Consolidated Net Income), (i) to the extent actually reimbursed, expenses incurred to the extent covered by indemnification provisions in any agreement in connection with any Investment, Permitted Acquisition or any sale, conveyance, transfer or other Disposition of assets permitted under this Agreement, (j) any call premium, tender premium, original issue discount or expenses associated with the repurchase, redemption, defeasance, or repayment of Indebtedness, (k) the amount of any restructuring charges or reserves (which, for the avoidance of doubt, shall include retention, severance, systems establishment cost, excess pension charges, contract termination costs, future lease commitments, costs to consolidate facilities and relocate employees, costs related to the winddown of leases and costs related to store closures) deducted in such period in computing such Consolidated Net Income (subject, including any COVID Adjustments, to the cap in clause (A) of the proviso hereto), (l) any non-cash charges, expenses or losses (including any impairment charges and the impact of purchase accounting, including, but not limited to, the amortization of inventory step-up) reducing such Consolidated Net Income for such period (excluding any such charge that represents an accrual or reserve for a cash expenditure for a future period, other than straight-line rent expense determined in accordance with GAAP), and (m) through the Fiscal Year ending on or around February 2, 2019, one-time costs and expenses related to the replacement of services provided to the Borrower on the Closing Date under the terms of the Shared Services Agreement minus, to the extent included in the statement of such Consolidated Net Income for such period, the sum of (a) any extraordinary, unusual or non-recurring income or gains (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, gains on the sales of assets outside of the ordinary course of business) and (b) any non-cash items increasing Consolidated Net Income for such Person for such period (excluding any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges made in any prior period or which will result in the receipt of cash in a future period or the amortization of lease incentives), all as determined on a Consolidated basis; provided that for purposes of calculating Consolidated EBITDA of the Parent, Holdings, the Borrower and its Restricted Subsidiaries for any period, (A) the Consolidated EBITDA of any Person acquired by the Parent, Holdings, the Borrower or its Restricted Subsidiaries during such period shall be included on a pro forma basis for such period to give effect to the transactions on the Closing Date and any Specified Transactions (but assuming the consummation of such Specified Transaction and the incurrence or assumption of any Indebtedness in connection therewith occurred on the first day of such period, and assuming any synergies and cost savings to the extent certified by the Borrower as having been determined in good faith to be reasonably anticipated to be realizable within 12 months following such Specified Transaction and provided that the aggregate amount of synergies and costs savings included in Consolidated EBITDA for any period of four consecutive fiscal quarters, together with any amounts added back to Consolidated EBITDA pursuant to clauses (e) and (k) hereof (inclusive of any COVID Adjustments), shall not exceed, for any four fiscal quarter period ending prior to or on January 29, 2022, 27.5%, and thereafter, 22.5%, in each case, of Consolidated EBITDA for such four fiscal quarter period (calculated before giving effect to such adjustment) (provided that to the extent that Consolidated EBITDA for such four fiscal quarter period shall be less than zero prior to giving effect to such adjustment, Consolidated EBITDA shall be

deemed to be zero solely for purposes of calculating the cap applicable to such adjustment)), (B) the Consolidated EBITDA of any Person Disposed of by the Parent, Holdings, the Borrower or its Restricted Subsidiaries during such period shall be excluded for such period (assuming the consummation of such Disposition and the repayment of any Indebtedness in connection therewith occurred on the first day of such period), (C) to the extent included in such Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period any income (loss) for such period attributable to the early extinguishment of (i) Indebtedness, (ii) obligations under any Hedge Agreements or (iii) other derivative instruments, (D) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period any net after-tax gain or loss resulting from Hedge Agreement or other derivative instruments and the application of Statement of Financial Accounting Standards No. 133 and International Accounting Standard No. 39 and their respective related pronouncements and interpretations, and (E) any gains or losses attributable to foreign currency translations not entered into for speculative purposes, including those relating to mark-to-market of Indebtedness denominated in foreign currencies resulting from the application of GAAP, including FAS No. 52.

"Consolidated Fixed Charge Coverage Ratio" means, at any date of determination, with respect to the Parent, Holdings, the Borrower and its Restricted Subsidiaries, the ratio of (a) (i) Consolidated EBITDA for such period, minus (ii) Capital Expenditures (other than Financed Capital Expenditures) made in cash during such period, minus (iii) the aggregate amount of federal, state, provincial, territorial, municipal, local and foreign income Taxes paid in cash during such period (but not less than zero) and all amounts actually paid by the Loan Parties under the Tax Receivable Agreement to (b) the sum of (i) Consolidated Net Interest Expense for such period, plus (ii) scheduled payments of principal on Indebtedness during such period (after giving effect to any reduction thereof due to mandatory or permitted prepayments on such Indebtedness), plus (iii) the aggregate amount of Restricted Payments made pursuant to Section 7.06(f) and (g) hereof during such period (but excluding Restricted Payments to the extent funded by an issuance by the Borrower of Indebtedness permitted under Section 7.03 hereof (other than the Obligations), an Equity Issuance permitted hereunder or a capital contribution to the Borrower).

"Consolidated Net Income" means, of any Person for any period, the consolidated net income (or loss) of such Person and its Restricted Subsidiaries for such period, determined on a Consolidated basis in accordance with GAAP; provided that in calculating Consolidated Net Income of the Parent, Holdings, the Borrower and its Restricted Subsidiaries for any period, there shall be excluded (a) the income (or deficit) of any Person accrued prior to the date it becomes a Restricted Subsidiary or is merged into or consolidated with the Borrower or any of its Restricted Subsidiaries and (b) the income (or deficit) of any Person (other than a Restricted Subsidiary) in which the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Parent, Holdings, the Borrower or such Restricted Subsidiary in the form of dividends or similar distributions (which dividends and distributions shall be included in the calculation of Consolidated Net Income). Notwithstanding the foregoing, the effect of any non-cash items resulting from any amortization, write-up, write-down or write-off of assets or liabilities (including intangible assets, goodwill, deferred financing costs and the effect of straight-lining of rents as a result of purchase accounting adjustments) in connection with any future Permitted Acquisition, Investment permitted under Section 7.02, Disposition, merger, consolidation or similar transaction or any other non-cash impairment charges incurred subsequent to the Closing Date resulting from the application at SFAS Nos. 141, 142 or 144 (excluding any non-cash item to the extent that it represents an accrual of or reserve for cash expenditures in any future period except to the extent such item is subsequently reversed) shall be excluded from Consolidated Net Income.

"Consolidated Net Interest Expense" means, of any Person for any period, (a) total cash interest expense (including that attributable to Capital Lease Obligations) of such Person and its Restricted Subsidiaries for such period with respect to all outstanding Indebtedness of such Person and its Restricted Subsidiaries, minus (b) the sum of (i) total cash interest income of such Person and its Restricted Subsidiaries for such

period, in each case determined in accordance with GAAP plus (ii) one-time financing fees (to the extent included in such Person's consolidated interest expense for such period), including, those paid in connection with the transactions occurring on the Closing Date or in connection with any Amendment or Refinancing hereof. For purposes of the foregoing, interest expense of any Person shall be determined after giving effect to any net payments made or received by such Person with respect to interest rate Hedge Agreements (other than early termination payments) permitted hereunder.

"Consolidated Working Capital" means at any date, the difference of (a) Consolidated Current Assets on such date less (b) Consolidated Current Liabilities on such date.

"Continuing Directors" means the directors of the Parent on the Closing Date, and each other director if, in each case, such other director's nomination for election to the Board of Directors of the Parent is recommended by at least a majority of the then Continuing Directors or such other director receives the affirmative vote or consent of, or is appointed or otherwise approved by, the Sponsor, or those Permitted Investors which then hold a majority of the voting Equity Interests in the Parent then held by all Permitted Investors, in his or her election by the shareholders of the Parent.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Controlled Affiliate" means as to any Person, any other Person that (a) directly or indirectly, is in control of, is controlled by, or is under common control with, such Person and (b) is organized by such Person (or any other Person referred to in clause (a) of this definition) primarily for the purpose of making equity or debt investments in one or more companies. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Credit Party" or "Credit Parties" means (a) individually, (i) each Lender and its Affiliates, (ii) the Agent and its Affiliates and (iii) each successor and permitted assign of each of the foregoing, and (b) collectively, all of the foregoing, in each case, to the extent relating to the services provided to, and obligations owing by or guaranteed by, the Loan Parties.

"Crystal" means Crystal Financial LLC and/or any of its Affiliates from time to time party hereto as a Lender.

"Cure Date" has the meaning provided in Section 8.04.

"Currency Due" has the meaning provided in Section 10.24.

"DDA" means any checking, savings or other demand deposit account maintained by any of the Loan Parties. All funds in each DDA shall be conclusively presumed to be Collateral and proceeds of Collateral and the Agent and the Lenders shall have no duty to inquire as to the source of the amounts on deposit in any DDA.

"Debtor Relief Laws" means each of (i) the Bankruptcy Code of the United States and (ii) all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium,

rearrangement, receivership, insolvency, reorganization, or similar debtor relief Requirement of Laws of the United States from time to time in effect and affecting the rights of creditors generally.

"Declined Proceeds" has the meaning set forth in Section 2.06.

"Default" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means an interest rate equal to two percent (2%) per annum in excess of the rate then applicable to such Obligation.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory is the target of any comprehensive Sanction

"Disposition" or "Dispose" means with respect to any Property, any sale, sale and leaseback, assignment, conveyance, transfer or other effectively complete disposition thereof. The terms "Dispose" and "Disposed of" shall have correlative meanings. For the avoidance of doubt, it is understood and agreed that Holdings, the Borrower and any Restricted Subsidiary may, in the ordinary course of business, grant non-exclusive licenses (or exclusive licenses within a specific or defined field of use) to Intellectual Property owned or developed by, or licensed to, such entity and that, for purposes of this Agreement and the other Loan Documents, such licenses shall not constitute a "Disposition" of such Intellectual Property; provided, that other than with respect to any such exclusivity within a specific or defined field of use, the terms of such licenses shall not restrict the right of the Agent to use and/or dispose of such Intellectual Property owned by such entity in connection with the conduct of a Liquidation or other exercise of creditor remedies.

"Disqualified Institution" means (a) those banks, financial institutions and other entities designated in writing by the Borrower to the Agent prior to the Closing Date, in each case, together with their respective Affiliates, and (b) any corporate competitors of the Borrower and its Restricted Subsidiaries and the Affiliates of such corporate competitors (other than bona fide debt funds or investors) designated in writing by the Borrower to the Agent prior to the Closing Date. The Agent will make the list of Disqualified Institutions available to any Lender upon request.

"Disqualified Stock" means any Equity Interest that (a) requires the payment of any dividends (other than dividends payable solely in shares of Qualified Stock), (b) matures or is mandatorily redeemable or subject to mandatory repurchase or redemption or repurchase at the option of the holders thereof, in each case in whole or in part and whether upon the occurrence of any event, pursuant to a sinking fund obligation on a fixed date or otherwise (including as the result of a failure to maintain or achieve any financial performance standards), prior to the date that is 91 days after the final scheduled maturity date of the Obligations (other than (i) upon Payment in Full of the Obligations or (ii) if the issuer has the option to settle for Qualified Stock (and cash in lieu of fractional shares thereof in de minimis amounts) or (c) are convertible or exchangeable, automatically or at the option of any holder thereof, into any Indebtedness, Equity Interest or other assets other than Qualified Stock; provided that if such Equity Interests are issued pursuant to a plan for the benefit of Holdings, the Parent, Holdings, the Borrower, or any Restricted Subsidiary or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Borrower or its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability.

"Division" means the division of the assets, liabilities and/or obligations of a Person (the "Dividing Person") among two or more Persons, whether pursuant to a "plan of division" or similar arrangement pursuant to Section 18-217 of the Delaware Limited Liability Company Act or any similar provision under

the laws of any other applicable jurisdiction and pursuant to which the Dividing Person may or may not survive.

"Dollars" and "$" mean lawful money of the United States.

"Domestic Subsidiary" means any direct or indirect Restricted Subsidiary organized under the laws of United States, any state thereof or the District of Columbia (excluding, for the avoidance of doubt, any Subsidiary organized under the laws of Puerto Rico or any other territory) other than (i) a Domestic Subsidiary of a Foreign Subsidiary that is a CFC or (ii) any CFC Holdco.

"Economic Sanctions Laws" means any and all laws, judgments, orders, executive orders, decrees, ordinances, rules, regulations, statutes, case law or treaties applicable to a Loan Party, its Subsidiaries or Affiliates relating to economic sanctions and terrorism financing, including any applicable provisions of the Trading with the Enemy Act (50 U.S.C. App. §§ 5(b) and 16, as amended), the International Emergency Economic Powers Act, (50 U.S.C. §§ 1701-1706, as amended) and Executive Order 13224 (effective September 24, 2001), as amended.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Eligible Assignee" means (a) a Credit Party or any of its Affiliates under common control with such Credit Party; (b) a bank, insurance company, or company engaged in the business of making commercial loans, which Person, together with its Affiliates, has a combined capital and surplus in excess of $250,000,000; (c) an Approved Fund; and (d) any other Person (other than a natural Person) satisfying the requirements of Section 10.06(b) hereof; provided that notwithstanding the foregoing, "Eligible Assignee" shall not include a Disqualified Institution (with respect to clause (a) of the definition thereof, unless an Event of Default pursuant to Section 8.01(a) or (f) has occurred and is continuing), a Permitted Investor, a Loan Party or any of their respective Affiliates or Subsidiaries.

"Embargoed Person" means any party that (i) is listed in any Sanctions related list of designated Persons maintained by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), including the list of "Specially Designated Nationals and Blocked Persons", or the United States Department of State, the United Nations Security Council, the European Union, or any EU member state, (ii) resides, is organized or chartered, or has a place of business in a country or territory that is the subject of OFAC comprehensive sanctions programs, (iii) is subject to any Requirement of Law that would prohibit all or substantially all financial or other transactions with that Person or would require that assets of that Person that come into the possession of a third-party be blocked, (iv) any agency, political subdivision or instrumentality of the government of a country or territory that is the subject of OFAC comprehensive sanctions programs, (v) any natural person ordinarily resident in a country or territory that is the subject of OFAC comprehensive

sanctions programs, or (vi) any Person fifty percent (50%) or more owned directly, or indirectly, individually or in the aggregate, by any of the above.

"Environmental Laws" means any and all applicable laws, rules, orders, regulations, statutes, ordinances, codes or decrees (including, without limitation, common law) of any international authority, foreign government, the United States, or any state, provincial, local, municipal or other governmental authority, regulating, relating to or imposing liability or standards of conduct concerning protection of the environment, as has been, is now, or at any time hereafter is, in effect.

"Environmental Liability" means any liability, claim, action, suit, judgment or order under or relating to any Environmental Law for any damages, injunctive relief, losses, fines, penalties, fees, expenses (including reasonable fees and expenses of attorneys and consultants) or costs, whether contingent or otherwise, including those arising from or relating to: (a) compliance or non-compliance with any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Materials of Environmental Concern, (c) exposure to any Materials of Environmental Concern, (d) the Release of any Materials of Environmental Concern or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equity Interests" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation).

"Equity Issuance" means any issuance by the Parent of its Qualified Stock in a public or private offering.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Loan Parties within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time

"Event of Default" has the meaning specified in Section 8.01.

"Excluded DDA" means (i) any deposit account exclusively used for payroll or employee benefits, and (ii) any deposit account which is a trust or fiduciary account.

"Excluded Subsidiary" means (a) any Subsidiary that is not directly or indirectly a wholly owned Subsidiary of the Parent, (b) any Immaterial Subsidiary, (c) any Subsidiary that is prohibited by applicable Requirements of Law or, to the extent mutually agreed the same would prevent the granting thereof, Contractual Obligations that are in existence on the Closing Date or at the time of acquisition of such Subsidiary and not entered into in contemplation thereof from providing a Facility Guaranty or if providing a Facility Guaranty by such Subsidiary would require governmental (including regulatory) consent, approval, license or authorization (unless such consent, approval license or authorization has been obtained), (d) any Foreign Subsidiary, (e) any Unrestricted Subsidiary, (f) any Subsidiary that is a captive insurance company and (g) any other Subsidiary with respect to which, in the reasonable judgment of the Agent and the Borrower, the burden or cost or other consequences of providing a Facility Guaranty shall be excessive in view of the benefits to be obtained by the Credit Parties therefrom. For the avoidance of doubt, each Excluded Subsidiary is a Non-Guarantor Subsidiary hereunder.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net or gross income (however denominated), Taxes imposed on or measured by net or gross profits, franchise or capital Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient's being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Term Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender (or its assignor, if any) acquires such interest in the Term Loan or Commitment (or designates a new lending office) (other than pursuant to an assignment request by the Borrower under Section 10.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a) or (c), 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, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Extended Accommodation Period" means the period from the date hereof through the delivery of the Compliance Certificate pursuant to Section 6.02(b) in connection with the Fiscal Month ended January 29, 2022.

"Extended Accommodation Period Compliance Event" means, solely during the Extended Accommodation Period, that ABL Excess Availability is less than (x) at any time during the period beginning on the Closing Date through July 31, 2021, $7,500,000 and (y) at any time during the period beginning on August 1,2021 through the end of the Extended Accommodation Period, $10,000,000. For purposes hereof, the occurrence of an Extended Accommodation Period Compliance Event shall be deemed continuing until ABL Excess Availability has exceeded the amount set forth above for thirty (30) consecutive days, in which case an Extended Accommodation Period Compliance Event shall no longer be deemed to be continuing for purposes of this Agreement. The termination of an Extended Accommodation Period Compliance Event as provided herein shall in no way limit, waive or delay the occurrence of a subsequent Extended Accommodation Period Compliance Event in the event that the conditions set forth in this definition again arise.

"Facility Guaranty" means a guarantee of the Obligations made by any Person in favor of the Agent and the other Credit Parties pursuant to the Security Agreement or in such other form reasonably satisfactory to the Agent.

"FATCA" means 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 and any agreement entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities in connection with the implementation of such Sections of the Code.

"Financed Capital Expenditures" shall mean Capital Expenditures made through purchase money financing (other than from the Term Loans hereunder or any Senior Debt) or Capital Lease transactions permitted hereunder.

"Fiscal Month" means one of the three fiscal periods in a Fiscal Quarter each of which is approximately one month in duration. There are 12 Fiscal Months in each Fiscal Year.

"Fiscal Quarter" means one of the four 13-week, or, if applicable, 14-week quarters in a Fiscal Year, with the first of such quarters beginning on the first day of a Fiscal Year and ending on a Saturday of the thirteenth (or fourteenth, if applicable) week in such quarter.

"Fiscal Year" means the fiscal year ending on the Saturday closest to January 31 in any calendar year.

"Flood Insurance Laws" means collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statue thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto and (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto.

"Foreign Lender" means any Recipient that is not a U.S. Person.

"Foreign Subsidiary" means any Subsidiary that is not a Domestic Subsidiary.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

"Governmental Authority" means any nation or government, any state, province or other political subdivision thereof and any governmental entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and, as to any Lender, any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Guarantee Obligation" means, as to any Person (the "guaranteeing person"), any obligation of (a) the guaranteeing person or (b) another Person (including, without limitation, any bank under any letter of credit) to induce the creation of which the guaranteeing person has issued a guarantee, reimbursement, counterindemnity or similar obligation, in either case guaranteeing or by which such Person becomes contingently liable for any Indebtedness, net worth, working capital earnings, leases, dividends or other distributions upon the stock or equity interests (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase Property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business, guarantees of operating leases in the ordinary course of business, and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets or any Investment permitted under

this Agreement. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Guarantor" means (i) the Parent, (ii) Holdings and (iii) each Subsidiary of the Parent that executes and delivers a Facility Guaranty pursuant hereto; provided that no Excluded Subsidiary shall be required to be a Guarantor hereunder.

"Hedge Agreements" means all interest rate swaps, caps or collar agreements or similar arrangements entered into by the Borrower or its Subsidiaries providing for protection against fluctuations in interest rates or currency exchange rates or the exchange of nominal interest obligations or the price of commodities, raw materials, utilities and energy, either generally or under specific contingencies.

"Holdings" means Vince Intermediate Holding, LLC, a Delaware limited liability company.

"Immaterial Subsidiary" means, on any date, any Subsidiary of the Parent that (i) had less than 3% of consolidated assets and 3% of annual consolidated revenues of the Parent, Holdings, the Borrower and its Restricted Subsidiaries as reflected on the most recent financial statements delivered pursuant to Section 6.01 prior to such date and (ii) (A) that is listed on the attached Schedule 1.01(b) or (B) has been designated as such by the Borrower in a written notice delivered to the Agent (other than, in either case, any such Subsidiary as to which the Borrower has revoked such designation by written notice to the Agent so long as such Subsidiary either provides a Facility Guaranty upon such designation and complies with Section 6.11 or otherwise qualifies as an Excluded Subsidiary hereunder); provided that at no time shall all Immaterial Subsidiaries so designated by the Borrower have in the aggregate consolidated assets or annual consolidated revenues (as reflected on the most recent financial statements delivered pursuant to Section 6.01 prior to such time) in excess of 3% of consolidated assets or annual consolidated revenues, respectively, of the Parent, Holdings, the Borrower and its Restricted Subsidiaries.

"Indebtedness" means, of any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of Property or services (other than (i) trade payables, current accounts and similar obligations incurred in the ordinary course of such Person's business and not more than 90 days past due (unless being contested in good faith by appropriate proceedings) and (ii) earn-outs and other contingent payments in respect of acquisitions except to the extent that the liability on account of any such earn-out or contingent payment becomes fixed), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to Property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such Property, in which case only the lesser of the amount of such obligation and the fair market value of such Property shall constitute Indebtedness), (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under acceptance, letter of credit or similar facilities, (g) all obligations of such Person in respect of Disqualified Stock, except for agreements with directors, officers and employees to acquire such Equity Interest upon the death or termination of employment of such director, officer or employee, (h) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (f) above, other than guarantees of operating leases in the ordinary course of business, and (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on Property (including, without limitation, accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation (and in the event such Person has not assumed or become liable for payment of such obligation, only the lesser of the amount of such obligation and the fair market value of such Property shall

constitute Indebtedness. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such person is liable therefore as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnitees" has the meaning specified in Section 10.04(b).

"Information" has the meaning specified in Section 10.07.

"Insolvency" means, with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insolvency Proceeding" means any proceeding commenced by or against any Person under any Debtor Relief Laws or under any other provincial, state or federal bankruptcy or insolvency law, each as now and hereafter in effect, any successors to such statutes, and any similar laws in any jurisdiction including, without limitation, any laws relating to assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief and any law permitting a debtor to obtain a stay or a compromise of the claims of its creditors.

"Insolvent" means pertaining to a condition of Insolvency.

"Intellectual Property" means the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including, without limitation, copyrights, domain names, patents, trademarks, trade names, technology, know-how and processes, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Interest Payment Date" means each January 1, April 1, July 1, and October 1 of each year (or, if such day is not a Business Day, the immediately following Business Day), and the Maturity Date.

"Interest Period" means the period commencing on the date such LIBOR Rate Loan is disbursed and ending on the date three months thereafter; provided that:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(iii) no Interest Period shall extend beyond the Maturity Date.

For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made.

"Internally Generated Cash" means cash generated from the operations of the business of the Borrower and its Subsidiaries; provided that, notwithstanding the foregoing, "Internally Generated Cash" shall not include (i) the proceeds of any Indebtedness (excluding any Senior Debt), (ii) the proceeds of the issuance of any

Equity Interests or (iii) the proceeds of any insurance (other than business interruption insurance), indemnification or other payments from non-Loan Party Affiliates.

"Inventory" has the meaning given that term in the UCC or other applicable Requirement of Law, and shall also include, without limitation, all: (a) goods which (i) are leased by a Person as lessor, (ii) are held by a Person for sale or lease or to be furnished under a contract of service, (iii) are furnished by a Person under a contract of service, or (iv) consist of raw materials, work in process, or materials used or consumed in a business; (b) goods of said description in transit; (c) goods of said description which are returned, repossessed or rejected; and (d) packaging, advertising, and shipping materials related to any of the foregoing.

"Investment" has the meaning given to such term in Section 7.02 hereof.

"IRS" means the United States Internal Revenue Service.

"Judgment Currency" has the meaning given to such term in Section 10.24.

"Junior Indebtedness" has the meaning given to such term in Section 7.03(m).

"Lease" means any agreement pursuant to which a Loan Party is entitled to the use or occupancy of any real property for any period of time.

"Lenders" means the Lenders having Commitments or Term Loans from time to time or at any time. Any Lender may, in its reasonable discretion, arrange for one or more Term Loans to be made by Affiliates or branches of such Lender, in which case the term "Lender" shall include any such Affiliate or branch with respect to Term Loans made by such Affiliate or branch.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Agent.

"LIBOR Rate" means:

(a) for any Interest Period, the rate of interest per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations, including the "Money Rates" section of the Wall Street Journal, or as may be designated by the Agent from time to time) at or about 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period; or, (ii) if such rate is not available at such time for any reason, the rate per annum determined by the Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the LIBOR Rate Loan being made, continued or converted and with a term equivalent to such Interest Period would be offered by major money market banks to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two London Banking Days prior to the commencement of such Interest Period, which rate is approved by the Agent; and

(b) If the LIBOR Rate shall be less than 1.00%, such rate shall be deemed 1.00% per annum for the purposes of this Agreement.

"LIBOR Rate Loan" means a Term Loan that bears interest at a rate based on the LIBOR Rate.

"Lien" means any mortgage, pledge, hypothecation, collateral assignment, encumbrance, lien (statutory or other), charge or other security interest or any other security agreement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing). For the avoidance of doubt, it is understood and agreed that Holdings, the Borrower and any of its Restricted Subsidiaries may, as part of their business, grant non-exclusive licenses (or exclusive licenses within a specific or defined field of use) to Intellectual Property owned or developed by, or licensed to, such entity. For purposes of this Agreement and the other Loan Documents, such licensing activity shall not constitute a "Lien" on such Intellectual Property; provided, other than with respect to any such exclusivity within a specific or defined field of use, that the terms of such licenses shall not restrict the right of the Agent to use and/or dispose of such Intellectual Property owned by such entity in connection with the conduct of a Liquidation or other exercise of creditor remedies.

"Limited Condition Acquisition": any acquisition or other Investment (including acquisitions subject to a letter of intent or purchase agreement), the consummation of which is not conditioned on the availability of, or on obtaining, third party financing and which is not a "sign and close" transaction; provided that in the event the consummation of any such acquisition or Investment shall not have occurred on or prior to the date that is 120 days following the signing of the applicable Limited Condition Acquisition agreement, such acquisition or Investment shall no longer constitute a Limited Condition Acquisition for any purpose.

"Liquidation" means the exercise by the Agent of those rights and remedies accorded to the Agent under the Loan Documents and applicable Requirements of Laws as a creditor of the Loan Parties with respect to the realization on the Collateral, including (after the occurrence and during the continuation of an Event of Default) the conduct by the Loan Parties acting with the consent of the Agent, of any public, private or "going-out-of-business", "store closing" or other similar sale or any other disposition of the Collateral for the purpose of liquidating the Collateral. Derivations of the word "Liquidation" (such as "Liquidate") are used with like meaning in this Agreement.

"Loan Account" has the meaning assigned to such term in Section 2.11.

"Loan Documents" means this Agreement, each Note, the Committed Loan Notices, all Compliance Certificates, the Security Documents, any Facility Guaranty, and the Subordination Agreement, each as amended and in effect from time to time, and any and all other agreements, certificates, notices, instruments and documents now or hereafter executed by any Loan Party or Subsidiary of a Loan Party and delivered to the Agent or any Lender in respect of the transactions contemplated by this Agreement.

"Loan Parties" means, collectively, the Borrower and the Guarantors. "Loan Party" means any one of such Persons.

"London Banking Day" means any day on which dealings in dollar deposits are conducted by and between banks in the London interbank eurodollar market.

"Management Investors" means the directors, officers and other employees of the Parent and its Subsidiaries.

"Material Adverse Effect" means a material adverse effect on (i) the operations, business, properties, or financial condition of the Parent and its Subsidiaries, taken as a whole; (ii) the validity or enforceability of the Loan Documents or the material rights and remedies of the Agent and the Lenders thereunder, in each case, taken as a whole; or (iii) the ability of the Loan Parties (taken as a whole) to perform any of its obligations under the Loan Documents in a manner that materially and adversely affects the Lenders.

"Material Contract" means, with respect to any Loan Party, any document or agreement relating to or evidencing each contract to which such Person is a party the termination of which would reasonably be expected to have a Material Adverse Effect; provided that the term "Material Contract" does not include any document or agreement relating to or evidencing Material Indebtedness.

"Material Indebtedness" means Indebtedness under any Senior Credit Agreement and other Indebtedness (other than the Obligations) of the Loan Parties in an aggregate principal amount exceeding $18,000,000.

"Material Subsidiary" means any Subsidiary that is not an Immaterial Subsidiary.

"Materials of Environmental Concern" means any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products, polychlorinated biphenyls, urea-formaldehyde insulation, asbestos, pollutants, contaminants, radioactivity and any other substances that are defined as hazardous or toxic under any Environmental Law, that are regulated pursuant to any Environmental Law.

"Maturity Date" means the earlier of (a) February 21, 2024, (b) the date that is 360 days after the "Maturity Date" under the ABL Credit Agreement so long as the Senior Term Loans remain outstanding and (c) 180 days after the Maturity Date under the Senior Term Loan Credit Agreement and the ABL Credit Agreement.

"Maximum Rate" has the meaning provided therefor in Section 10.09.

"Measurement Period" means, at any date of determination, the most recently completed twelve Fiscal Months of the Borrower.

"Moody's" means Moody's Investors Service, Inc., or any successor thereto.

"Mortgages" means any mortgage, deed of trust, hypothec or other similar document made by any Loan Party in favor of, or for the benefit of, the Agent for the benefit of the Secured Parties, in form and substance reasonably satisfactory to the Agent and the Borrower (taking into account the law of the jurisdiction in which such mortgage, deed of trust, hypothec or similar document is to be recorded), as the same may be amended, supplemented or otherwise modified from time to time.

"Most Recently Ended" means, with respect to any period, the most recently ended period for which the financial statements required by Section 6.01(a), Section 6.01(b) or Section 6.01(c), as applicable, have been delivered or required to have been delivered.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Multiple Employer Plan" means a Plan which has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"Net Cash Proceeds" means:

(a) with respect to any Disposition of Property or Recovery Event, proceeds (including, when received, any deferred or escrowed payments) received by any Loan Party in cash pursuant to such Disposition or Recovery Event, net of (i) reasonable and customary costs and expenses actually incurred in connection therewith, including legal fees and sales commissions; (ii) amounts required to be applied to the repayment of any Indebtedness secured by a Lien on the asset subject to such Disposition or

Recovery Event; (iii) transfer or similar taxes; and (iv) reserves for indemnities, until such reserves are no longer needed (at which point, such amounts shall become Net Cash Proceeds); and

(b) with respect to any issuance of Indebtedness, the aggregate cash proceeds received by any Loan Party pursuant to such issuance, net of the direct costs and expenses relating to such issuance (including up-front, underwriters' and placement fees).

"Non-Consenting Lender" has the meaning provided therefor in Section 10.01(c).

"Non-Excluded Taxes" means all 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 other than Excluded Taxes and Other Taxes.

"Non-Guarantor Subsidiary" means any Subsidiary of the Borrower which is not a Subsidiary Guarantor.

"Non-Recourse Debt" means Indebtedness (a) no default with respect to which would permit (upon notice, lapse of time or both) any holder of any other Indebtedness of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity, and (b) as to which the lenders or holders thereof have been notified in writing that they will not have any recourse to the capital stock or assets of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than the Equity Interests of an Unrestricted Subsidiary which is the issuer or a guarantor or the direct or indirect parent of the issuer or guarantor of such indebtedness).

"Non-U.S. Plan" means any plan, fund (including, without limitation, any superannuation fund) or other similar program established or maintained outside of the United States of America by the Borrower or any one or more of its Subsidiaries primarily for the benefit of employees of the Borrower or such Subsidiaries residing outside of the United States of America, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code.

"Note" means the promissory note of the Borrower substantially in the form of Exhibit B, payable to the order of each Lender, evidencing the Term Loan made by such Lender from time to time.

"Obligations" means all advances to, and debts (including principal, interest, fees, and reasonable costs and expenses), liabilities, obligations, covenants, indemnities, and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Term Loan, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees, and reasonable costs and expenses and indemnities that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees costs, expenses and indemnities are allowed claims in such proceeding.

"OFAC" has the meaning set forth in the definition of "Embargoed Person".

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, or engaged in any other transaction pursuant to or enforced any Loan Document).

"Other Taxes" means 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 imposed with respect to an assignment (other than an assignment made pursuant to Section 10.13).

"PA Specified Event of Default" means the occurrence of any Event of Default described in any of Sections 8.01(a) (Non-Payment), 8.01(b) (but only insofar as such an Event of Default arises from a breach of the provisions of Section 6.01(a) (Annual Financial Statements), Section 6.01(b) (Quarterly Financial Statements), Section 6.02(b) (Compliance Certificates) or Section 6.12 (Cash Management)) or 8.01(f) (Insolvency Proceedings, Etc.).

"Parent" means Vince Holding Corp., a Delaware corporation.

"Participant" has the meaning specified in Section 10.06(d).

"Participant Register" has the meaning provided therefor in Section 10.06(d)(ii).

"Payment in Full" means the payment in Dollars in full in cash or immediately available funds of all outstanding Obligations (excluding contingent indemnification obligations for which a claim has not then been asserted). "Paid in Full" shall have the correlative meaning.

"PBGC" means the Pension Benefit Guaranty Corporation.

"PCAOB" means the Public Company Accounting Oversight Board.

"Pension Plan" means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to (or to which there is an obligation to contribute) by the Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code, and each such plan for the five-year period immediately following the latest date on which the Borrower or an ERISA Affiliate maintained, contributed to or had an obligation to contribute to such plan.

"Permitted Acquisition" means (i) any acquisition (including, if applicable, in the case of any Intellectual Property, by way of license) approved by the Required Lenders or (ii) an Acquisition in which all of the following conditions are satisfied:

(a) Such Acquisition shall have been approved by the Board of Directors of the Person (or similar governing body if such Person is not a corporation) which is the subject of such Acquisition and such Person shall not have announced that it will oppose such Acquisition or shall not have commenced any action which alleges that such Acquisition shall violate applicable law;

(b) in the event the purchase price for the Acquisition exceeds $18,000,000, (i) not less than five Business Days prior to the consummation of any such Acquisition (or such shorter period of time the Agent may approve) the Agent shall have received the then current drafts of the documentation to be executed in connection with such Acquisition (with final copies of such documentation to be delivered to the Agent promptly upon becoming available), including all schedules and exhibits thereto, a quality of earnings report and pro forma financial statements, and (ii) the Agent shall have received notice of the closing date for such Acquisition; provided that such notice shall be given unless doing so would materially interfere with, or would cause materially adverse economic consequences with respect to, the consummation of such Acquisition;

(c) any Person or assets or division acquired is, at the time of such Acquisition, and shall be in the same business or lines of business, or business reasonably related, ancillary or complementary thereto, in which the Borrower and/or its Subsidiaries are engaged as of the Closing Date;

(d) [Reserved];

(e) such Person shall have become a Restricted Subsidiary and, if such Person shall be a wholly-owned Domestic Subsidiary (and not an Excluded Subsidiary), a Guarantor and the provisions of Section 6.11 shall have been complied with to the reasonable satisfaction of the Agent; provided that, notwithstanding the foregoing, the aggregate consideration expended in respect of Persons that shall not become Guarantors or wholly owned Subsidiaries may not exceed $18,000,000; and

(f) The Loan Parties shall have satisfied the ABL Payment Conditions (provided that, solely in connection with Limited Condition Acquisitions such condition shall be tested as of the date the definitive agreements for such Limited Condition Acquisition are entered into, and no PA Specified Event of Default shall have occurred and be continuing at the time such Limited Condition Acquisition is consummated).

"Permitted Amendment or Refinancing" shall mean, with respect to any Person, any Amendment or Refinancing of any Indebtedness of such Person; provided that (a) other than with respect to a Permitted Amendment or Refinancing in respect of Indebtedness of the Loan Parties under any Senior Credit Agreement, the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so Amended or Refinanced except (i) by an amount equal to unpaid accrued interest and premium (including tender premiums and make whole amounts), thereon plus other reasonable and customary fees and expenses (including upfront fees, original issue discount and defeasance costs) incurred in connection with such Amendment or Refinancing and (ii) by an amount equal to any existing commitments unutilized thereunder, (b) other than with respect to a Permitted Amendment or Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(c), the Indebtedness resulting from such Amendment or Refinancing has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being Amended or Refinanced, (c) other than with respect to a Permitted Amendment or Refinancing in respect of Indebtedness permitted pursuant to Sections 7.03(c), at the time thereof, no Event of Default shall have occurred and be continuing, (d) if such Indebtedness being Amended or Refinanced is Indebtedness permitted pursuant to Section 7.03(d), 7.03(i), 7.03(m), 7.03(n), or 7.03(o), (i) to the extent such Indebtedness being Amended or Refinanced is subordinated in right of payment or in lien priority to the Obligations, the Indebtedness resulting from such Amendment or Refinancing is subordinated in right of payment or in lien priority, as applicable, to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being Amended or Refinanced, (ii) the terms and conditions of any such Amended or Refinanced Indebtedness under Section 7.03(m), or 7.03(o) shall be usual and customary for high yield securities of the type issued, (iii) the other terms and conditions (including, if applicable, as to collateral but excluding as to subordination, pricing, premiums and optional prepayment or optional redemption provisions) of any such Amended or Refinanced Indebtedness, taken as a whole, are not materially less favorable to the Loan Parties or the Lenders than the terms and conditions of the Indebtedness being Amended or Refinanced, taken as a whole (provided that a certificate of a Responsible Officer delivered to the Agent at least five Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the requirements of clause (ii) and this clause (iii) unless the Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description

of the basis upon which it disagrees)) and (iv) the obligors (including any guarantors) in respect of the Indebtedness resulting from such modification, refinancing, refunding, renewal, replacement or extension shall be the same as the obligors (including any guarantors) of the Indebtedness being Amended or Refinanced and (e) in the case of any Permitted Amendment or Refinancing in respect of any Senior Credit Agreement, (x) such Permitted Amendment or Refinancing is secured only by all or any portion of the collateral securing the Indebtedness being Amended or Refinanced and (y) and such Permitted Amendment or Refinancing is subject to the Intercreditor Agreement and (f) in the case of any Permitted Amendment or Refinancing that is guaranteed (including in respect of any Senior Credit Agreement) or secured by all or any portion of the collateral securing the Indebtedness being Amended or Refinanced, such Permitted Amendment or Refinancing is guaranteed only by the Guarantors guaranteeing and secured only by all or any portion of the collateral securing the Indebtedness being Amended or Refinanced. When used with respect to any specified Indebtedness, "Permitted Amendment or Refinancing" shall mean the Indebtedness incurred to effectuate a Permitted Amendment or Refinancing of such specified Indebtedness.

"Permitted Discretion" means a determination made by the Agent, in the exercise of its reasonable credit judgment from the viewpoint of an asset based lender, exercised in good faith in accordance with customary business practices for comparable asset based lending transactions.

"Permitted Encumbrances" has the meaning set forth in Section 7.01.

"Permitted Investors" means the collective reference to (i) the Sponsor and Sponsor Affiliates, (ii) the Management Investors, (iii) any Permitted Transferees of any of the foregoing Persons, and (iv) any ''group'' (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Securities Exchange Act or any successor provision) of which any of the foregoing are members; provided that in the case of such ''group'' and without giving effect to the existence of such ''group'' or any other ''group,'' such Persons specified in clauses (i), (ii) or (iii) above, collectively, have beneficial ownership, directly or indirectly, of more than 50% of the total voting power of the voting stock of Holdings held by such ''group," and provided further, that, in no event shall the Sponsor own a lesser percentage of voting stock than any other Person or group referred to in clauses (ii), (iii) and (iv).

"Permitted Seller Note" means a promissory note containing subordination and other related provisions reasonably acceptable to the Agent, representing Indebtedness of the Borrower or any of its Subsidiaries incurred in connection with any acquisition permitted under Section 7.02(f) and payable to the seller in connection therewith.

"Permitted Store Closings" means (a) store closures and related dispositions which do not exceed (i) in any Fiscal Year of the Borrower and its Subsidiaries, the greater of five (5) stores and 10% of the total number of stores in existence on the first day of such Fiscal Year (net of new store openings), and (b) the related Inventory is disposed of at such stores in accordance with liquidation agreements and with professional liquidators acceptable to the Agent.

"Permitted Transferee" means (a) in the case of the Sponsor, (i) any Sponsor Affiliate, (ii) any managing director, general partner, limited partner, director, officer or employee of the Sponsor or any Sponsor Affiliate (collectively, the "Sponsor Associates"), (iii) the heirs, executors, administrators, testamentary trustees, legatees or beneficiaries of any Sponsor Associate and (iv) any trust, the beneficiaries of which, or a corporation or partnership, the stockholders or partners of which, include only a Sponsor Associate, his or her spouse, parents, siblings, members of his or her immediate family (including adopted children and step children) and/or direct lineal descendants; and (b) in the case of any Management Investor, (i) his or her executor, administrator, testamentary trustee, legatee or beneficiaries, (ii) his or her spouse, parents, siblings, members of his or her immediate family (including adopted children and step children) and/or direct lineal descendants or (iii) a trust, the beneficiaries of which, or a corporation or partnership, the

stockholders or partners of which, include only a Management Investor and his or her spouse, parents, siblings, members of his or her immediate family (including adopted children) and/or direct lineal descendants.

"Person" means any natural person, corporation, limited liability company, unlimited liability company, trust, joint venture, association, company, partnership, limited partnership, Governmental Authority or other entity.

"Plan" means at a relevant time, any employee benefit plan within the meaning of Section 3(3) of ERISA and in respect of which Holdings, the Borrower or any of its Restricted Subsidiaries is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Pledged Securities" has the meaning set forth in the Security Agreement.

"Property" means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including, without limitation, Equity Interests.

"Qualified Stock" means any Equity Interests that are not Disqualified Stock.

"Real Estate" means all Leases and all land, together with the buildings, structures, parking areas, and other improvements thereon, now or hereafter owned by any Loan Party, including all easements, rights-of-way, and similar rights relating thereto and all leases, tenancies, and occupancies thereof.

"Recipient" means the Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

"Recovery Event" means any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of the Borrowers or any Subsidiary Guarantor.

"Register" has the meaning specified in Section 10.06(c).

"Registered Public Accounting Firm" has the meaning specified by the Securities Laws and shall be independent of the Borrower and its Subsidiaries as prescribed by the Securities Laws.

"Rejection Notice" has the meaning set forth in Section 2.06.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates.

"Release" means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment or within or upon any building, structure or facility.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

"Reports" has the meaning provided in Section 9.16(c).

"Representations and Warranties Certificate" means a certificate in the form of Exhibit G.

"Required Lenders" means, as of any date of determination, at least two (2) Lenders (or one (1) Lender to the extent that there is only one (1) Lender) holding in the aggregate more than 50% of the Total Outstandings.

"Requirement of Law" means as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Responsible Officer" means the chief executive officer, president, chief financial officer (or similar title), chief operating officer, controller or treasurer (or similar title) of the Parent, Holdings or the Borrower, as applicable, or (with respect to Section 6.03) any Restricted Subsidiary and, with respect to financial matters, the chief financial officer (or similar title) or treasurer (or similar title) of the Parent, Holdings or the Borrower, as applicable.

"Restricted Payment" has the meaning given to such term in Section 7.06 hereof.

"Restricted Subsidiary" means any Subsidiary of the Borrower which is not an Unrestricted Subsidiary.

"Retail DDA" means a DDA of any Loan Party used solely in the operation of a store location.

"S&P" means Standard & Poor's Ratings Services, a subsidiary of The McGraw-Hill Companies, Inc. and any successor to the rating agency business thereof.

"Sanction(s)" means any economic sanctions administered or enforced by any Governmental Authority of the United States, Canada or the European Union (including, without limitation, OFAC, the United States Department of State, Foreign Affairs and International Trade Canada or the Department of Public Safety Canada or Her Majesty's Treasury).

"Sarbanes-Oxley" means the Sarbanes-Oxley Act of 2002.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Secured Parties" has the meaning set forth in the Security Agreement.

"Securities Account" has the meaning provided in Section 8-501 of the UCC.

"Securities Laws" means the Securities Act of 1933, the Securities Exchange Act of 1934, Sarbanes-Oxley, and the applicable accounting and auditing principles, rules, standards and practices promulgated, approved or incorporated by the SEC or the PCAOB.

"Security Agreement" means the Guarantee and Collateral Agreement dated as of the Closing Date among the Loan Parties and the Agent.

"Security Documents" means the Security Agreement, the Blocked Account Agreements, the Mortgages and each other security agreement or other instrument or document executed and delivered to the Agent pursuant to this Agreement or any other Loan Document granting a Lien to secure any of the Obligations.

"Senior Agent" means each of the ABL Agent and the Senior Term Loan Agent.

"Senior Credit Agreements" means each of the ABL Credit Agreement and the Senior Term Loan Credit Agreement.

"Senior Debt" means, collectively, the ABL Debt and the Senior Term Loans.

"Senior Intercreditor Agreement" means (i) the Intercreditor Agreement, dated as of the August 21, 2018, by and among each Senior Agent, (as amended, amended and restated, supplemented or otherwise modified prior to the date hereof and as it may be amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof) or (ii) any other intercreditor agreement among the Agent and any agent or trustee with respect to any Senior Credit Agreement or any Permitted Amendment or Refinancing thereof, as it may be amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof.

'"Senior Loan Documents" means all ABL Loan Documents and all Senior Term Loan Documents.

"Senior Term Loans" means "Term Loans" as defined in the Senior Term Loan Credit Agreement.

"Senior Term Loan Credit Agreement" means the Credit Agreement, dated as of August 21, 2018, by and among the Borrower, the Guarantors named therein, Crystal, as administrative agent and collateral agent and the other lenders from time to time party thereto (as amended, amended and restated, supplemented or otherwise modified prior to the date hereof and as it may be amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof)

"Senior Term Loan Documents" means all "Loan Documents" as defined in the Senior Term Loan Credit Agreement.

"Senior Term Loan Agent" means Crystal.

"Settlement Date" has the meaning provided in Section 2.14(a).

"Shared Services Agreement" means the Shared Services Agreement, dated as of November 27, 2013, between the Borrower and Kellwood, LLC.

"Single Employer Plan" means any Pension Plan, but excluding any Multiemployer Plan.

"Solvent" means with respect to any Person, as of any date of determination, (a) on a going concern basis the amount of the "fair value" of the assets of such Person will, as of such date, exceed the amount of all "liabilities of such Person, contingent or otherwise", as of such date, as such quoted terms are determined in accordance with applicable federal, state, provincial, territorial, municipal, local and foreign laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person will, as of such date, be greater than the amount that will be required to pay the liability of such Person on its debts as such debts become absolute and matured, (c) such Person will not have, as of such date, an insufficient amount of capital with which to conduct its business, (d) such Person will be able to pay its debts as they mature, and (e) such Person is not "insolvent" within the meaning of Section 101(32) of the Bankruptcy Code. For purposes of this definition, (i) "debt" means liability on a "claim", (ii) "claim" means any (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured and (iii) except as otherwise provided by applicable law, the amount of "contingent liabilities" at any time shall be the amount thereof which, in light of all the

facts and circumstances existing at such time, can reasonably be expected to become actual or matured liabilities.

"Specified Contribution" has the meaning set forth in Section 8.04.

"Specified Event of Default" means the occurrence of any Event of Default described in any of Sections 8.01(a) (Non-Payment), 8.01(b) (but only insofar as such an Event of Default arises from a breach of the provisions of Section 6.01(a) (Annual Financial Statements), Section 6.01(b) (Quarterly Financial Statements) or Section 6.02(b) (Compliance Certificates)) or 8.01(f) (Insolvency Proceedings, Etc.).

"Specified Transaction" means (a) any Investment that results in a Person becoming a Restricted Subsidiary or an Unrestricted Subsidiary, any Permitted Acquisition or any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or any Disposition of a business unit, line of business or division of the Borrower or a Restricted Subsidiary, any designation of a Subsidiary as a Restricted Subsidiary or Unrestricted Subsidiary, in each case whether by merger, consolidation, amalgamation or otherwise or (b) any incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility or line of credit) and any Restricted Payment that by the terms of this Agreement requires such test to be calculated on a "pro forma basis" or after giving "pro forma effect."

"Sponsor" means Sun Capital Partners V, L.P. and any Controlled Affiliates thereof (but excluding any portfolio companies of the foregoing).

"Sponsor Affiliate" means the collective reference to any entities (other than a portfolio company) controlled directly or indirectly by the Sponsor.

"Spot Rate" for a currency means the rate determined by the Agent to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Agent may obtain such spot rate from another financial institution designated by the Agent if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

"Subordinated Indebtedness" means Indebtedness which is expressly subordinated in right of payment to the prior Payment in Full of the Obligations and which is in form and on terms reasonably satisfactory to the Agent.

"Subordination Agreement" means the Subordination Agreement, dated as of the date hereof, by and among Citizens Bank, in its capacity as agent for the ABL Secured Parties (as defined therein), Crystal, in its capacity as agent for the Term Secured Parties (as defined therein), Sun Finco, in its capacity as holder of the Subordinated Debt (as defined therein), the Borrower and the Guarantors party thereto.

"Subordination Provisions" has the meaning set forth in Section 8.01(l).

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company, unlimited liability company or other business entity of which a majority of the shares of Equity Interests having ordinary voting power for the election of directors or other governing body are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one

or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Loan Parties.

"Subsidiary Guarantors" means each Subsidiary of the Borrower that is a Guarantor hereunder.

"Sun Finco" means SK Financial Services, LLC, a Delaware limited liability company.

"Tax Receivable Agreement" means that certain Tax Receivable Agreement dated as of November 27, 2013 by and among the Parent, the stockholders of the Parent party thereto and Sun Cardinal LLC, as stockholder representative, as amended, modified or supplemented from time to time not in violation of this Agreement.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other similar fees or charges in the nature of a tax, levy, et cetera, imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Loan" has the meaning set forth in Section 2.01.

"Termination Date" means the earliest to occur of (i) the Maturity Date or (ii) the date on which the maturity of the Obligations is accelerated (or deemed accelerated) in accordance with Article VIII.

"Total Outstandings" means, without duplication, the aggregate principal balance of the Term Loan owing to all Lenders.

"Trading with the Enemy Act" has the meaning set forth in Section 10.19.

"UCC" or "Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in the New York; provided, however, that if a term is defined in Article 9 of the Uniform Commercial Code differently than in another Article thereof, the term shall have the meaning set forth in Article 9; provided further that, if by reason of mandatory provisions of law, perfection, or the effect of perfection or non-perfection, of a security interest in any Collateral or the availability of any remedy hereunder is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, "Uniform Commercial Code" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection or availability of such remedy, as the case may be.

"United States" and "U.S." mean the United States of America.

"Unrestricted Subsidiary" means (i) any Subsidiary of the Borrower designated as such and listed on Schedule 4.01 on the Closing Date and (ii) any Subsidiary of the Borrower that is designated by a resolution of the Board of Directors of the Borrower as an Unrestricted Subsidiary, but only to the extent that, in the case of each of clauses (i) and (ii), such Subsidiary: (a) has no Indebtedness other than Non-Recourse Debt; (b) is not party to any agreement, contract, arrangement or understanding with the Borrower or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Borrower; (c) is a Person with respect to which neither the Borrower nor any of the Restricted Subsidiaries has any direct or indirect obligation (x) to subscribe for additional Equity Interest or warrants, options or other rights to acquire Equity Interests or (y) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; (d) has not guaranteed or otherwise provided credit support at the time of such designation

for any Indebtedness of the Borrower or any of its Restricted Subsidiaries; (e) [reserved]; and (f) to the extent requested by the Agent, such Subsidiary shall have entered into an agreement with the Agent, in form and substance reasonably satisfactory to the Agent, allowing the use of the assets and other property of such Subsidiary as may be necessary or desirable for the Liquidation of the Collateral or such other assets. If, at any time, any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes hereof. Subject to the foregoing, the Board of Directors of the Borrower may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary or any Restricted Subsidiary to be an Unrestricted Subsidiary; provided that (i) such designation shall only be permitted if no Default or Event of Default would be in existence following such designation, (ii) any designation of an Unrestricted Subsidiary as a Restricted Subsidiary shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of any outstanding Indebtedness of such Unrestricted Subsidiary and (iii) any designation of a Restricted Subsidiary as an Unrestricted Subsidiary shall be deemed to be an Investment in an Unrestricted Subsidiary and shall reduce amounts available for Investments in Unrestricted Subsidiaries permitted by Section 7.02 in an amount equal to the fair market value of the Subsidiary so designated; provided that the Borrower may subsequently redesignate any such Unrestricted Subsidiary as a Restricted Subsidiary so long as the Borrower does not subsequently re-designate such Restricted Subsidiary as an Unrestricted Subsidiary for a period of the succeeding four Fiscal Quarters. Notwithstanding anything contained herein to the contrary, no Subsidiary of the Borrower shall be designated as an Unrestricted Subsidiary during the Extended Accommodation Period.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Tax Compliance Certificate" has the meaning specified in Section 3.01(e)(ii)(B)(III).

"Weighted Average Life to Maturity" shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (ii) the then outstanding principal amount of such Indebtedness; provided, that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being Amended or Refinanced (the "Applicable Indebtedness"), the effects of any amortization of or prepayments made on such Applicable Indebtedness prior to the date of the applicable Amendment or Refinancing shall be disregarded.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Notwithstanding anything to the contrary herein or in any other Loan Document, any reference to a defined term as defined in any Senior Credit Agreement or any other Senior Loan Document shall refer to the definition of such term as in effect on the date hereof, except with respect to any amendment or modification thereto permitted under the Subordination Agreement or otherwise consented to by the Agent and the Lenders party hereto.

1.02 Other Interpretive Provisions.

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (iii) the words "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) 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 rights.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

1.03 Accounting Terms.

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statement, except as otherwise specifically prescribed herein.

(b) Changes in GAAP. (i) If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement 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, (x) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (y) upon request, the Borrower shall provide to the Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

(i) Notwithstanding any other provision contained herein, the effects of FASB 842 shall be disregarded for all purposes under this Agreement.

(ii) Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used here shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to Statement of Financial Accounting Standards 141R or ASC 805 (or any other financial accounting standard having a similar result or effect).

1.04 LIBOR Notification.

The interest rate on LIBOR Rate Loans is determined by reference to the LIBOR Rate, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the "IBA") for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that, in the future, the London interbank offered rate may become unavailable or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on LIBOR Rate Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate is no longer available or in certain other circumstances as set forth in Section 3.03, an alternative rate of interest may be selected and implemented in accordance with the mechanism contained in such Section. The Agent will notify the Borrower, pursuant to Section 3.03 in advance of any change to the reference rate upon which the interest rate on LIBOR Rate Loans is based. However, the Agent does not warrant or accept responsibility for, nor shall the Agent have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of "LIBOR Rate" or with respect to any comparable or successor rate thereto or replacement rate thereof, including, without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 3.03, will be similar to, or produce the same value or economic equivalence of, the LIBOR Rate or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability.

1.05 Rounding.

Any financial ratios required to be maintained by the Loan Parties pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to two places more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

1.06 Times of Day.

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

1.07 [Reserved].

1.08 Currency Equivalents Generally.

(a) For purposes of determining compliance with Sections 7.02 and 7.03 with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred,

made or acquired, was permitted hereunder); provided that, for the avoidance of doubt, the below provisions of Section 1.09 shall otherwise apply to such Sections, including with respect to determining whether any Investment or Indebtedness may be incurred or made at any time under such Sections.

(b) For purposes of determining the Consolidated Fixed Charge Coverage Ratio, amounts denominated in a currency other than Dollars will be converted to Dollars at the currency exchange rates used in preparing the Borrower's financial statements corresponding to the test period with respect to the applicable date of determination and will, in the case of Indebtedness, reflect the currency translation effects, determined in accordance with GAAP, of Hedge Agreements permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness; provided that, notwithstanding anything to the contrary herein, Term Loans denominated in a currency other than Dollars will be converted to Dollars at the Spot Rate.

1.09 Pro Forma Basis.

(a) Notwithstanding anything to the contrary herein, the Consolidated Fixed Charge Coverage Ratio shall be calculated in the manner prescribed by this Section 1.09.

(b) For purposes of calculating the Consolidated Fixed Charge Coverage Ratio, Specified Transactions (and the incurrence or repayment of any Indebtedness in connection therewith) that have been made (i) during the applicable period and (ii) subsequent to such period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a pro forma basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated EBITDA and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable period. If since the beginning of any applicable period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into Holdings, the Borrower or any of its Restricted Subsidiaries since the beginning of such period shall have made any Specified Transaction that would have required adjustment pursuant to this Section 1.09, then the Consolidated Fixed Charge Coverage Ratio shall be calculated to give pro forma effect thereto in accordance with this Section 1.09.

(c) Whenever pro forma effect is to be given to a Specified Transaction, the pro forma calculations shall be made in good faith by a Responsible Officer of the Borrower and include, for the avoidance of doubt, the amount of cost savings and synergies projected by the Borrower in good faith to be reasonably anticipated to be realizable within 12 months after the closing date of such Specified Transaction (provided that to the extent any such operational changes are not associated with a transaction, such changes shall be limited to those for which all steps have been taken for realizing such savings and are factually supportable, reasonably identifiable and supported by an officer's certificate delivered to the Agent) (calculated on a pro forma basis as though such cost savings and synergies had been realized on the first day of such period as if such cost savings and synergies were realized during the entirety of such period) relating to such Specified Transaction, net of the amount of actual benefits realized during such period from such actions; provided that any increase in Consolidated EBITDA as a result of cost savings and synergies shall be subject to the limitations set forth in the definition of Consolidated EBITDA.

(d) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Consolidated Fixed Charge Coverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable period and (ii) subsequent to the end of the applicable period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Consolidated Fixed Charge Coverage Ratio shall be

calculated giving pro forma effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable period.

1.10 Divisions.

For all purposes under the Loan Documents, in connection with a Division: (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II
THE COMMITMENTS AND BORROWINGS

2.01 Term Loans.

Subject to the terms and conditions set forth herein, on the Closing Date, each Lender shall make to the Borrower a term loan in the principal amount equal to its pro rata share of Twenty Million Dollars ($20,000,000) (together with any amounts constituting interest or fees paid in kind and added to the principal amount thereof, the "Term Loans"), provided that, in no event shall the Term Loan (excluding any amounts paid in kind) made by any Lender exceed such Lender's Commitment. The Term Loan is not a revolving credit facility and may not be repaid and redrawn and any repayments or prepayments of principal (including, without limitation, amounts constituting interest paid in kind and added to the principal amount of the Term Loans) on a Term Loan shall permanently reduce such Term Loan. The Borrower irrevocably authorizes the Agent and the Lenders to disburse the proceeds of the Term Loans on the Closing Date in accordance with the terms of this Agreement. Upon the making of the Term Loans on the Closing Date, the Commitments shall be irrevocably terminated.

2.02 Borrowings of Term Loans.

(a) The Term Loans shall be LIBOR Rate Loans at all times, subject to Section 3.03.

(b) To the extent not paid by the Borrower when due (after taking into consideration any grace period), the Agent, without the request of the Borrower, may advance any interest, fee, service charge (including direct wire fees), expenses, or other payment to which any Credit Party is entitled from the Loan Parties pursuant hereto or any other Loan Document and may charge the same to the Loan Account. The Agent shall advise the Borrower of any such advance or charge promptly after the making thereof. Such action on the part of the Agent shall not constitute a waiver of the Agent's rights and the Borrower's obligations under Section 2.05(c). Any amount which is added to the principal balance of the Loan Account as, or amounts constituting interest paid in kind, provided in this Section 2.02(d) shall constitute a Term Loan and shall bear interest at the interest rate then and thereafter applicable to the Term Loans.

(c) The Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period upon determination of such interest rate.

2.03 [Reserved].

2.04 [Reserved].

2.05 Voluntary Prepayments.

(i) Subject to the terms of the Subordination Agreement, the Borrower may, upon irrevocable notice from the Borrower to the Agent, at any time or from time to time voluntarily prepay Term Loans in whole or in part without premium or penalty; provided that, (A) such notice must be received by the Agent not later than 11:00 a.m. on the day prior to any date of prepayment of such Term Loans; (B) any prepayment of Term Loans shall be in a principal amount of $1,000,000 or a whole multiple of $100,000 in excess thereof. Each such notice shall specify the date and amount of such prepayment and the Interest Period of such Term Loans. The Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a LIBOR Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05.

(b) [Reserved]

2.06 Mandatory Prepayments.

Unless any amount below is required to reduce the Senior Debt in accordance with the terms of the Senior Intercreditor Agreement and is actually applied to reduce the Senior Debt in accordance with the terms of the Senior Intercreditor Agreement and subject to any limitations contained in the Subordination Agreement:

(a) If during any Fiscal Year of the Borrower, any Loan Party has received cumulative Net Cash Proceeds during such Fiscal Year from one or more Dispositions of any Property of any Loan Party or Subsidiary thereof (excluding any Disposition permitted by clause (a), (b), (c) (except as it relates to Section 7.04(d)), (e), (f), (g), (h), (i), (j), (k), (l), (n), (o), (p), (q) and (r) of Section 7.05) of at least $600,000, within five Business Days after the receipt by any Loan Party of such Net Cash Proceeds, the Borrower shall make a prepayment of the Term Loans in an amount equal to 100% of such excess Net Cash Proceeds. Notwithstanding the foregoing, the Borrower may, at its option by notice in writing to the Agent given no later than thirty (30) days following the Disposition resulting in such Net Cash Proceeds, provided that no Event of Default has occurred and is continuing, reinvest the Net Cash Proceeds of such Disposition in the business of the Borrower and its Subsidiaries within one hundred eighty (180) days following the receipt of such Net Cash Proceeds, or enter into a binding commitment thereof within said one hundred eighty (180) day period and subsequently makes such reinvestment within an additional ninety (90) days thereafter, with the amount of Net Cash Proceeds unused after such period to be applied to prepay the Term Loans.

(b) [reserved]

(c) the occurrence of a Change of Control, the Borrower shall make a prepayment of the Term Loans in an amount equal to 100% of the outstanding Obligations at such time.

(d) Concurrently with the receipt by any Loan Party of the proceeds of any Specified Contribution pursuant to Section 8.04, the Borrower shall make a prepayment of the Term Loans in an amount equal to 100% of such Specified Contribution.

(e) If during any Fiscal Year of the Borrower, any Loan Party has received cumulative Net Cash Proceeds during such Fiscal Year from one or more Recovery Events in respect of any Property, of at least $600,000, not later than five (5) Business Days following the date of receipt of any Net Cash Proceeds in excess of such amount, the Borrower shall make a prepayment of the Term Loans in an amount equal to 100% of the Net Cash Proceeds then received in excess of such amount from any Recovery Event. Notwithstanding the foregoing, in the event any property of any Loan Party suffers an event of loss resulting in a Recovery Event, the Borrower may, at its option by notice in writing to the Agent given no later than thirty (30) days following the occurrence of the Recovery Event resulting in such Net Cash Proceeds, apply such Net Cash Proceeds to the rebuilding or replacement of such damaged, destroyed or condemned assets or property so long as such Net Cash Proceeds are in fact used to rebuild or replace the damaged, destroyed or condemned assets or property within one hundred eighty (180) days following the receipt of such Net Cash Proceeds, with the amount of Net Cash Proceeds unused after such period to be applied to prepay the Term Loans.

(f) No later than three (3) Business Days in advance of the making of any mandatory prepayment pursuant to this Section 2.06, Borrower shall deliver, or cause to be delivered, to Agent for distribution to the Lenders written notice of the amount and date of such mandatory prepayment. Notwithstanding the foregoing, each Lender may reject all or a portion of its pro rata share of any mandatory prepayment (such declined amounts, the "Declined Proceeds") of any Term Loans required to be made pursuant to clauses (a), (b), (d) and (e) of this Section 2.06 by providing written notice (each, a "Rejection Notice") to Agent and Borrower no later than 5:00 P.M. (New York City time) one (1) Business Day prior to the scheduled date of such prepayment. Each Rejection Notice from a Lender shall specify the principal amount of the mandatory prepayment to be rejected by such Lender. If a Lender fails to deliver a Rejection Notice to Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the prepayment to be rejected, any such failure will be deemed to be an acceptance of the total amount of such mandatory prepayment of such Term Loans. Any Declined Proceeds may be retained by Borrower.

Notwithstanding anything in this Section 2.06 to the contrary, until the Full Payment (as defined in the Subordination Agreement) of the "Obligations" as defined in the ABL Credit Agreement and the Term Loan Credit Agreement, or except as otherwise permitted in accordance with the terms of the Subordination Agreement, no prepayments of outstanding Term Loans that would otherwise be required to be made under this Section 2.06 shall be required to be made.

2.07 Repayment of Obligations; Amortization.

(a) The Borrower shall repay to the Agent, for the account of the Lenders on the Termination Date the aggregate amount of Obligations (including the Term Loans, but excluding contingent indemnification obligations for which a claim has not then been asserted) outstanding on such date.

(b) [reserved].

2.08 Interest.

(a) Subject to the provisions of Section 2.08(b) below, each Term Loan shall bear interest on the outstanding principal amount thereof (including, without limitation, amounts constituting interest paid in kind and added to the principal amount of the Term Loans) for each Interest Period at a rate

per annum equal to the LIBOR Rate for such Interest Period plus the Applicable Margin (but in no event less than 10.0%).

(b) (i) Upon and after the occurrence of Specified Event of Default, and during the continuation thereof, the Term Loans shall, at the Agent's option, bear interest at a fluctuating interest rate per annum equal to the Default Rate to the fullest extent permitted by Requirement of Law.

(i) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be paid in kind and added to the principal amount outstanding hereunder on each Interest Payment Date.

(c) Except as provided in Section 2.08(b)(ii), interest on each Term Loan shall be due and payable in arrears on each Interest Payment Date and shall be paid in kind in arrears and added to the principal amount outstanding hereunder on each Interest Payment Date.

2.09 [Reserved].

2.10 Computation of Interest and Fees.

(a) All computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Term Loan for the day on which the Term Loan is made, and shall not accrue on a Term Loan, or any portion thereof, for the day on which the Term Loan or such portion is paid, provided that any Term Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) All calculations of interest payable by the Loan Parties under this Agreement or any other Loan Document are to be made on the basis of the nominal interest rate described herein and therein and not on the basis of effective yearly rates or on any other basis which gives effect to the principle of deemed reinvestment of interest which principle does not apply to any interest calculated under this Agreement or any Loan Document. The parties hereto acknowledge that there is a material difference between the stated nominal interest rates and the effective yearly rates of interest and that they are capable of making the calculations required to determine such effective yearly rates of interest.

2.11 Evidence of Debt.

The Term Loans made by each Lender shall be evidenced by one or more accounts or records maintained by the Agent (the "Loan Account") in the ordinary course of business. In addition, each Lender may record in such Lender's internal records, an appropriate notation evidencing the date and amount of each Term Loan from such Lender, each payment and prepayment of principal of any such Term Loan, and each payment of interest, fees and other amounts due in connection with the Obligations due to such Lender. The accounts or records maintained by the Agent and each Lender acting solely as a non-fiduciary agent for the Borrower, shall be prima facie evidence of the amount of the Term Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Agent in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Agent, the Borrower shall execute and deliver to such Lender (through the Agent) a Note, which shall evidence such Lender's Term Loans in addition to such accounts or records. Each Lender may attach

schedules to its Note and endorse thereon the date, amount and maturity of its Term Loans and payments with respect thereto. Upon receipt of an affidavit of a Lender as to the loss, theft, destruction or mutilation of such Lender's Note and upon cancellation of such Note, the Borrower will issue, in lieu thereof, a replacement Note in favor of such Lender, in the same principal amount thereof and otherwise of like tenor.

2.12 Payments Generally; Agent's Clawback.

(a) General. All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made, as applicable, to the Agent, for the account of the respective Lenders to which such payment is owed, at the Agent's Office in Dollars in immediately available funds not later than 2:00 p.m. on the date specified herein. All payments received by the Agent after 2:00 p.m. at the option of the Agent be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment (other than with respect to payment of a LIBOR Rate Loan) to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(b) [Reserved].

(c) [Reserved].

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make the Term Loans to the Borrower are several and not joint. The failure of any Lender to make any Term Loan, to fund any participation or to make any payment hereunder on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Term Loan, to purchase its participation or to make its payment hereunder.

(e) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Term Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Term Loan in any particular place or manner.

2.13 Sharing of Payments by Lenders.

If, other than as expressly provided elsewhere herein, any Credit Party shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of, interest on, or other amounts with respect to the Obligations resulting in such Credit Party's receiving payment of a proportion of the aggregate amount of such Obligations, greater than its pro rata share thereof as provided herein (including as in contravention of the priorities of payment set forth in Section 8.03), then the Credit Party receiving such greater proportion shall (a) notify the Agent of such fact, and (b) purchase (for cash at face value) participations in the Obligations of the other Credit Parties, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Credit Parties ratably and in the priorities set forth in Section 8.03, 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, without interest; and

(ii) the provisions of this Section 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 this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Term Loans to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Requirement of Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

2.14 Settlement Amongst Lenders.

(a) The amount of each Lender's Applicable Percentage of outstanding Term Loans shall be computed weekly (or more frequently in the Agent's discretion) and shall be adjusted upward or downward based on all Term Loans and repayments of Term Loans received by the Agent as of 3:00 p.m. on the first Business Day (such date, the "Settlement Date") following the end of the period specified by the Agent.

(b) The Agent shall deliver to each of the Lenders promptly after a Settlement Date a summary statement of the amount of outstanding Term Loans for the period and the amount of repayments received for the period. As reflected on the summary statement, (i) the Agent shall transfer to each applicable Lender its Applicable Percentage of repayments, and (ii) each Lender shall transfer to the Agent, or the Agent shall transfer to each Lender, such amounts as are necessary to insure that, after giving effect to all such transfers, the amount of Term Loans made by each Lender to the Borrower shall be equal to such Lender's Applicable Percentage of all Term Loans outstanding to the Borrower as of such Settlement Date. If the summary statement requires transfers to be made to the Agent by the Lenders and is received prior to 1:00 p.m. on a Business Day, such transfers shall be made in immediately available funds no later than 3:00 p.m. that day; and, if received after 1:00 p.m., then no later than 3:00 p.m. on the next Business Day. The obligation of each Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by the Agent. If and to the extent any Lender shall not have so made its transfer to the Agent, such Lender agrees to pay to the Agent forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Agent equal to a rate determined by the Agent in accordance with banking industry rules on interbank compensation plus any administrative, processing, or similar fees customarily charged by the Agent in connection with the foregoing.

ARTICLE III
TAXES, YIELD PROTECTION AND ILLEGALITY

3.01 Taxes.

(a) All payments made by or on account of the Borrower under any Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes unless required by applicable Requirement of Law. If any Taxes are required to be withheld by any applicable withholding agent from any amounts payable hereunder or under any other Loan Document, (i) the applicable withholding agent shall make such deductions, (ii) the applicable withholding agent shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Requirement of Law, and (iii) to the extent the deduction is on account of Non-Excluded Taxes or Other Taxes, the amounts so payable to the Agent or such Lender shall be increased to the extent necessary to yield to the Agent or such Lender (after deduction or withholding of all Non-Excluded Taxes and Other Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement.

(b) Without limiting the provisions of paragraph (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Requirement of Law.

(c) Whenever any Non-Excluded Taxes or Other Taxes are payable by the Borrower, as promptly as possible thereafter the Borrower shall send to the Agent for the account of the Agent or Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing payment thereof if such receipt is obtainable, or, if not, other reasonable evidence of payment. The Borrower shall indemnify the Agent and the Lenders for any Non-Excluded Taxes payable in connection with any payments made by the Borrower under any Loan Document and any Other Taxes (including Non-Excluded Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided, however, that if an indemnitee does not notify the Borrower of any indemnification claim under this Section 3.01(c) within 180 days after such indemnitee has received written notice of the claim of a taxing authority giving rise to such indemnification claim, the Borrower shall not be required to indemnify such indemnitee for any incremental interest or penalties resulting from the such indemnitee's failure to notify the Borrower within such 180 day period. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Agent), or by the Agent on its own behalf, shall be conclusive absent manifest error.

(d) If the Agent or any Lender determines, in good faith, that it has received a refund of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by any Borrower or with respect to which any Borrower has paid additional amounts pursuant to Section 3.01 or Section 3.02, it shall promptly pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Non-Excluded Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower, upon the request of the Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent or such Lender in the event the Agent or such Lender is required to repay such refund to such Governmental Authority; provided, further, that no Borrower shall be required to repay to the Agent or such Lender an amount in excess of the amount paid over by such party to the Borrower pursuant to this Section. This paragraph shall not be construed to require the Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to any Borrower or any other Person. The agreements in this Section shall survive the termination of this Agreement and the payment of the Obligations.

(e) Status of Lenders; Tax Documentation.

(i) Any Recipient 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 Agent, at the time or times reasonably requested by the Borrower or the Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Recipient, if reasonably requested by the Borrower or the Agent, shall deliver such other documentation prescribed by applicable Requirement of Law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Recipient 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 3.01(e)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Recipient's reasonable judgment such completion, execution or submission would subject such Recipient to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Recipient.

(ii) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

(A) any Recipient that is a U.S. Person shall deliver to the Borrower and the Agent on or prior to the date on which such Recipient becomes a Recipient under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Agent), executed copies of IRS Form W-9 certifying that such Recipient 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 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 Recipient under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the 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 copies of IRS Form W-8BEN or W-8BENE, as applicable, 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 or W-8BENE, as applicable, 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 copies 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 E-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or W-8BENE, as applicable; or

(IV) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BENE, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-2 or Exhibit E-3, 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 E-4 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 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 Recipient under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Agent), executed copies of any other form prescribed by applicable Requirement of 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 Requirement of Law to permit the Borrower or the Agent to determine the withholding or deduction required to be made;

(D) on or before the date the Agent becomes a party to this Agreement, the Agent shall provide to the Borrower two accurate and complete original, signed copies of IRS Form W-9 or the applicable IRS Form W-8, as the case may be; and

(E) if a payment made to a Recipient under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Recipient 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 Recipient shall deliver to the Borrower and the Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Agent such documentation prescribed by applicable Requirement of 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 Agent as may be necessary for the Borrower and the Agent to comply with their obligations under FATCA and to determine that such Recipient has complied with such Recipient'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.

(iii) Each Recipient agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Agent in writing of its legal inability to do so.

(f) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Agent or any assignment of rights by, or the replacement of, a Lender and the repayment, satisfaction or discharge of all other Obligations.

(g) Evidence of Payments. Upon request by the Borrower or the Agent, as the case may be, after any payment of Taxes by the Borrower or by the Agent to a Governmental Authority as provided in this Section 3.01, the Borrower shall deliver to the Agent or the Agent shall deliver to the Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by applicable law to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Agent, as the case may be.

3.02 [Reserved].

3.03 Inability to Determine Rates; Illegality; Replacement of LIBOR Rate.

If the Agent determines (which determination shall be conclusive absent manifest error) that for any reason that (a) Dollar deposits are not being offered to banks in the London interbank market for the applicable

amount and Interest Period of such LIBOR Rate Loan, (b) adequate and reasonable means do not exist for determining the LIBOR Rate for any Interest Period with respect to a LIBOR Rate Loan (including, without limitation, because the LIBOR screen page is not available or published on a current basis or the administrator of the LIBOR screen page or a Governmental Authority has made a public statement identifying a specific date after which LIBOR shall no longer be made available, or used for determining the interest rate of loans), (c) the LIBOR Rate for any Interest Period with respect to a LIBOR Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Term Loan, (d) any Requirement of Law or Change in Law has made it, or that any Governmental Authority has asserted that it is, unlawful for any Lender to make, maintain or fund LIBOR Rate Loans or to determine or charge interest rates based upon the LIBOR Rate or (e) a specific date after which the LIBOR Rate shall no longer be used for determining interest rates for loans, then the Agent and the Borrower shall endeavor to establish an alternate rate of interest to the LIBOR Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for loans similar to the Term Loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable. Notwithstanding anything to the contrary in Section 10.01, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Agent shall not have received, within five Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders object to such amendment.

3.04 Increased Costs; Reserves on LIBOR Rate Loans.

(a) 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 requirements reflected in the LIBOR Rate);

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) 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 or the London interbank market any other condition, cost or expense affecting this Agreement or LIBOR Rate Loans made by such Lender, in each case that is not otherwise accounted for in the definition of LIBOR Rate or this clause (a);

and the result of any of the foregoing shall be to increase the cost to such Lender of maintaining any LIBOR Rate Loan, or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or any other amount) then, within fifteen (15) days after demand therefor by such Lender setting forth in reasonable detail such increased costs, the Loan Parties will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender reasonably determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital or liquidity of such Lender's holding company, if any, as a consequence of this Agreement, to a level below that which such Lender or such Lender's holding company could have

achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time upon demand of such Lender setting forth in reasonable detail the charge and calculation of such reduced rate of return the Loan Parties will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Loan Parties shall pay such Lender, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's right to demand such compensation, provided that the Loan Parties shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than 180 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such 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 180 day period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on LIBOR Rate Loans. Without duplication of any reserves specified in the definition of "LIBOR Rate", the Borrower shall pay to each Lender, as long as such Lender shall be required to maintain LIBOR liabilities, additional interest on the unpaid principal amount of each LIBOR Rate Loan equal to the actual costs of such reserves allocated to such Term Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), which shall be due and payable on each date on which interest is payable on such Term Loan, provided the Borrower shall have received at least 15 days' prior notice (with a copy to the Agent) of such additional interest from such Lender. If a Lender fails to give notice 15 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 15 days from receipt of such notice.

3.05 Compensation for Losses.

Upon written demand of any Lender (with a copy to the Agent) from time to time, which such demand shall set forth in reasonable detail the basis for requesting such amount, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any payment or prepayment of any Term Loan on a day other than the last day of the Interest Period for such Term Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Term Loan) to prepay, borrow or continue any Term Loan on the date or in the amount notified by the Borrower;

(c) any assignment of a Term Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Term Loan or from fees payable to terminate the

deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each LIBOR Rate Loan made by it at the LIBOR Rate for such Term Loan by a matching deposit or other borrowing in the London interbank market for a comparable amount and for a comparable period, whether or not such LIBOR Rate Loan was in fact so funded.

3.06 Mitigation Obligations.

If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Term Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

3.07 Survival.

All of the Borrower's obligations under this Article III shall survive repayment of all Obligations hereunder and resignation of the Agent.

ARTICLE IV
CONDITIONS PRECEDENT TO BORROWING

4.01 Conditions to Borrowing.

The agreement of each Lender to make the Term Loans on the Closing Date is subject to the satisfaction (or waiver), prior to or concurrently with the making of such Term Loans, of the following conditions precedent:

(a) Credit Agreement; Security Documents. The Agent shall have received (i) this Agreement, executed and delivered by the Agent, each Loan Party and each Lender whose name appears on the signature pages hereof, (ii) the Security Documents required to be delivered on the Closing Date (except to the extent set forth in Sections 6.12(a) and 6.16 hereof), executed and delivered by the Loan Parties and the Agent, (iii) [reserved], (iv) a Note executed by the Borrower in favor of each Lender requesting a Note, and (v) a Representations and Warranties Certificate executed by each Loan Party, and (vi) all other Loan Documents required to be delivered on the Closing Date (except to the extent set forth in Section 6.16 hereof), each duly executed by the applicable Loan Parties and all other Persons party thereto.

(b) Closing Fee. The Borrower shall have paid to the Agent a closing fee of $400,000 which will be paid in kind and added to the principal balance of the Terms Loans on the Closing Date.

(c) [reserved]

(d) [reserved]

(e) Closing and Solvency Certificate. The Agent shall have received a certification (after giving effect to the transactions contemplated hereby) of the Loan Parties and their Restricted Subsidiaries signed by a Responsible Officer of the Borrower that such Loan Parties and their Restricted Subsidiaries are Solvent, substantially in the form of Exhibit F hereto.

(f) [reserved]

(g) [reserved]

(h) [reserved]

(i) Filings, Registrations and Recordings. Each document (including, without limitation, any Uniform Commercial Code financing statement) required by the Security Documents to be filed, registered or recorded in order to create in favor of the Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein with the priority provided for in the Security Documents, shall have been delivered to the Agent in proper form for filing, registration or recordation and the Agent shall have received evidence reasonably satisfactory to it that such filings have been made or have been provided for.

(j) [reserved]

(k) [reserved]

(l) [reserved]

(m) [reserved]

(n) [reserved]

(o) No Material Adverse Effect. There shall have been no Material Adverse Effect since February 2, 2019.

(p) No Litigation. There shall exist no action, suit, investigation or proceeding pending or, to the knowledge of the Loan Parties, threatened in writing in any court or before any arbitrator or governmental authority in which there is a reasonable possibility of a decision which would reasonably be expected to have a Material Adverse Effect.

(q) Consents. Any consents or approvals required in connection with the effectiveness of this Agreement and the other Loan Documents shall have been obtained and shall be in full force and effect.

(r) Officer's Certificate. The Agent shall have received an officer's certificate, dated as of the Closing Date, certifying as to and (as applicable) attaching the organization documents of each Loan Party (which, to the extent filed with a Governmental Authority, shall be certified as of a recent date by such Governmental Authority), the resolutions of the governing body of each Loan Party, the good standing, existence or its equivalent of each Loan Party and of the incumbency (including specimen signatures) of the Responsible Officers of each Loan Party.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

To induce the Credit Parties to enter into this Agreement and to make the Term Loans hereunder, each Loan Party represents and warrants to the Agent and the other Credit Parties that:

5.01 Financial Condition.

(a) The (i) audited income statement of Parent for the fiscal years ending as at January 28, 2017, February 3, 2018 and February 2, 2019, reported on by and accompanied by an unqualified report from PricewaterhouseCoopers LLP present fairly in all material respects the financial condition of Parent as at such dates, and the results of its operations and its cash flows (as applicable) for the respective periods then ended. All such financial statements, including the related schedules and notes thereto and normal year-end adjustments, have been prepared in accordance with GAAP applied consistently throughout the periods involved (Except as approved by the aforementioned firm of accountants and disclosed therein and, in the case of such unaudited financial statements, subject to normal year-end adjustments and the absence of footnotes. Except as set forth on Schedule 5.01(a), as of the Closing Date, none of Parent or its Subsidiaries (i) has any material Guarantee Obligations, contingent liabilities or material liabilities for taxes, or any long-term leases or unusual forward or long-term commitments, including, without limitation, any interest rate or foreign currency swap or exchange transaction or other obligation in respect of derivatives, which are not reflected in the most recent financial statements referred to in this paragraph but which would in accordance with GAAP be so reflected in a consolidated balance sheet of the Parent its Subsidiaries as of the Closing Date and (ii) is party to any arrangement to pay principal or interest with respect to any Indebtedness of any Person which is not reflected in the most recent financial statements referred to in this paragraph, (x) which was incurred by the Parent or any of its Subsidiaries or guaranteed by the Parent or any of its Subsidiaries at any time or the proceeds of which are or were transferred to or used by the Parent or any of its Subsidiaries and (y) the payments in respect of which are intended to be made with the proceeds of payments to such Person by the Parent or any of its consolidated Subsidiaries or with any Indebtedness or Equity Interests issued by the Parent or any such Subsidiary.

5.02 No Change.

There has been no event, circumstance, development, change or effect since the date of the Audited Financial Statement that has had a Material Adverse Effect.

5.03 Existence, Compliance with Requirements of Law.

Each of the Parent, Holdings, the Borrower and its Restricted Subsidiaries (a) (i) is duly organized (or incorporated), validly existing and in good standing (or, only where if applicable, the equivalent status in any foreign jurisdiction) under the laws of the jurisdiction of its organization or incorporation, (ii) has the corporate or organizational power and authority, and the legal right, to own and operate its Property, to lease the Property it operates as lessee and to conduct the business in which it is currently engaged except, in each case, to the extent that any such failure to have such power, authority or right would not reasonably be expected to have a Material Adverse Effect and (iii) is duly qualified as a foreign corporation or limited liability company and in good standing (where such concept is relevant) under the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification except, in each case, to the extent that the failure to be so qualified or in good standing (where such concept is relevant) would not reasonably be expected to have a Material Adverse Effect and (b) is in compliance with all applicable Requirements of Law except to the extent that any such failure to comply therewith would not reasonably be expected to have a Material Adverse Effect.

5.04 Corporate Power; Authorization; Enforceable Obligations.

Each Loan Party has the corporate power and authority to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to borrow hereunder. Each Loan Party has taken all necessary corporate or other action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. Except as would not reasonably be expected to have a Material Adverse Effect, no consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority is required in connection with the extensions of credit hereunder or the execution, delivery, performance, validity or enforceability of this Agreement or any of the other Loan Documents, except (i) consents, authorizations, filings and notices, which consents, authorizations, filings and notices have been obtained or, within any period set forth in the relevant Security Document, will be obtained or made and are or will be in full force and effect or the failure to obtain which would not reasonably be expected to have a Material Adverse Effect, (ii) filings to perfect the Liens created by the Security Documents, (iii) filings pursuant to the Assignment of Claims Act of 1940, as amended (31 U.S.C. § 3727 et seq.), in respect of Accounts of the Parent and its Subsidiaries the obligor in respect of which is the United States of America or any department, agency or instrumentality thereof, and (iv) the filings referred to in Section 5.17. Each Loan Document has been duly executed and delivered on behalf of each Loan Party that is a party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party that is a party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law) and the implied covenants of good faith and fair dealing.

5.05 No Legal Bar.

The execution, delivery and performance of this Agreement and the other Loan Documents, the borrowings hereunder and the use of the proceeds thereof will not (a) violate the organizational or governing documents of any of the Loan Parties, (b) violate, in any material respect, any applicable Requirement of Law or any material Contractual Obligation of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, or (c) result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any applicable Requirement of Law or any such Contractual Obligation (other than Liens required to be granted in favor of the Agent and the ABL Agent pursuant to the Loan Documents).

5.06 No Material Litigation.

No litigation, proceeding or, to the knowledge of the Parent and the Borrower, investigation of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Parent and the Borrower, likely to be commenced within a reasonable time period against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries or against any of their Properties or revenues which, taken as a whole, (a) are material and adverse with respect to any of the Loan Documents or (b) would reasonably be expected to have a Material Adverse Effect.

5.07 No Default.

No Default or Event of Default has occurred and is continuing.

5.08 Ownership of Property; Liens.

Except as set forth in Schedule 5.08(a), each of the Parent, Holdings, the Borrower and their respective Restricted Subsidiaries has good and marketable title in fee simple to, or a valid leasehold interest in or in the case of real property subject to a license, a right to use, all its real property, and good title to, or a valid leasehold interest in or right to use, all its other Property (other than Intellectual Property), in each case, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and none of such Property is subject to any Lien other than Liens permitted by Section 7.01. Schedule 5.08(b) lists all real property which is owned, leased or licensed to use by any Loan Party as of the Closing Date.

5.09 Intellectual Property.

Each of the Parent, Holdings, the Borrower and its respective Restricted Subsidiaries owns, or has a valid license to use, all Intellectual Property necessary for the conduct of its business as currently conducted free and clear of all Liens, except for Liens permitted by Section 7.01 and except where the failure to so own or have a license to use would not reasonably be expected to have a Material Adverse Effect. To the Parent's, Holdings', and the Borrower's knowledge, no holding, injunction, decision or judgment has been rendered by any Governmental Authority and none of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries has entered into any settlement stipulation or other agreement (except license agreements in the ordinary course of business) which would cancel the validity of the Parent's, Holdings', the Borrower's or any Restricted Subsidiary's rights in any Intellectual Property owned by the Parent, Holdings, the Borrower or any Restricted Subsidiary (the "Borrower Intellectual Property") in any respect that would reasonably be expected to have a Material Adverse Effect. To the Parent's, Holdings' and the Borrower's knowledge, no pending claim has been asserted or threatened in writing by any Person challenging the use by the Parent, Holdings, the Borrower or any Restricted Subsidiaries of any Borrower Intellectual Property or the validity of any Borrower Intellectual Property, except in each case as would not reasonably be expected to have a Material Adverse Effect. To the Parent's, Holdings' and the Borrower's knowledge, the use of any Borrower Intellectual Property by the Parent, Holdings, the Borrower or its Restricted Subsidiaries does not infringe on the rights of any other Person in a manner that would reasonably be expected to have a Material Adverse Effect. The Parent, Holdings, the Borrower and its Restricted Subsidiaries have taken all commercially reasonable actions that in the exercise of their reasonable business judgment should be taken to protect the Borrower Intellectual Property, including Borrower Intellectual Property that is confidential in nature, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

5.10 Taxes.

Each of the Parent, Holdings, the Borrower and each of its Restricted Subsidiaries (i) has timely filed or caused to be filed all federal, state, provincial, territorial and other Tax returns that are required to be filed by it, and (ii) has duly and timely paid all Taxes due and payable and all other Taxes, fees or other charges imposed on it or any of its Property, assets, income, businesses and franchises by any Governmental Authority responsible for administering Taxes (other than any the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which any reserves required in conformity with GAAP have been provided on the books of the Parent, Holdings, the Borrower or such Restricted Subsidiary, as the case may be), except in each case where the failure to do so would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. There are no current, proposed or, to the knowledge of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, pending Tax assessments, deficiencies or audits against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, as the case may be, except those that are currently being contested in good faith by appropriate proceedings and with respect to which any reserves required in conformity with GAAP have been provided on the books of the Parent, Holdings, the Borrower or such Restricted

Subsidiary, as the case may be, or that would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

5.11 Federal Regulations.

No part of the proceeds of any Term Loans, and no other extensions of credit hereunder, will be used for "buying" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect or for any purpose that violates the provisions of the regulations of the Federal Reserve Board. If requested by any Lender (through the Agent) or the Agent, the Borrower will furnish to the Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1 referred to in Regulation U.

5.12 ERISA.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) no Reportable Event has occurred with respect to any Single Employer Plan; (ii) no Single Employer Plan has failed to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA), nor applied for or received a waiver of the minimum funding standard or an extension of an amortization period within the meaning of Section 412 of the Code or Section 303 or 304 of ERISA during the five-year period prior to the date on which this representation is made; (iii) each Plan has complied with its terms and with all applicable laws, including without limitation the applicable provisions of ERISA and the Code; (iv) all contributions required to be made with respect to a Single Employer Plan have been made; (v) no termination of a Single Employer Plan has occurred, and no Lien in favor of the PBGC or a Single Employer Plan has arisen, during such five-year period; (vi) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Single Employer Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Single Employer Plan allocable to such accrued benefits; (vi) none of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries has incurred any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan; and (viii) none of the Parent, Holdings, the Borrower nor any of its Restricted Subsidiaries has had (or reasonably expects to have) a complete or partial withdrawal from any Multiemployer Plan that has resulted or would reasonably be expected to result in a liability under ERISA and, to the knowledge of the Parent and the Borrower, no Multiemployer Plan is Insolvent.

(b) the Parent, Holdings, the Borrower and its Restricted Subsidiaries have not incurred, and do not reasonably expect to incur, any liability under ERISA or the Code with respect to any plan within the meaning of Section 3(3) of ERISA which is subject to Title IV of ERISA that is maintained by a Commonly Controlled Entity (other than the Parent, Holdings, the Borrower and its Restricted Subsidiaries) (a "Commonly Controlled Plan") merely by virtue of being treated as a single employer under Title IV of ERISA with the sponsor of such plan that would reasonably be likely to have a Material Adverse Effect and result in a direct obligation of the Parent, Holdings, the Borrower and its Restricted Subsidiaries to pay money.

(c) With respect to any Non-U.S. Plan, none of the following events or conditions exists and is continuing that, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect: (a) substantial non-compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders; (b) failure to be maintained, where required, in good standing with applicable regulatory authorities; (c) any obligation of the Parent or its Subsidiaries in connection with the termination or partial termination of, or withdrawal from, any such Non-U.S. Plan; (d) any Lien on the property of the Parent or its Subsidiaries in favor of a Governmental Authority as a

result of any action or inaction regarding such a Non-U.S. Plan; (e) for each such Non-U.S. Plan which is a funded or insured plan, failure to be funded or insured on an ongoing basis to the extent required by applicable non-U.S. law (using actuarial methods and assumptions which are consistent with the valuations last filed with the applicable Governmental Authorities); (f) any facts that, to the best knowledge of the Parent or any of its Subsidiaries, exist that would reasonably be expected to give rise to a dispute and any pending or threatened disputes that, to the best knowledge of the Parent or any of its Subsidiaries, would reasonably be expected to result in a material liability to the Parent or any of its Subsidiaries concerning the assets of any such Non-U.S. Plan (other than individual claims for the payment of benefits); and (g) failure to make all contributions in a timely manner to the extent required by applicable non-U.S. law.

5.13 Investment Company Act.

No Loan Party or any Subsidiary thereof is an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

5.14 Subsidiaries.

(a) The Subsidiaries listed on Schedule 5.14 constitute all the Subsidiaries of the Parent or Holdings at the Closing Date. Schedule 5.14 sets forth as of the Closing Date the name and jurisdiction of incorporation of each Subsidiary and, as to each Subsidiary, the percentage of each class of Equity Interests owned by any Loan Party and the designation of such Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary. There are no Excluded Subsidiaries as of the Closing Date.

(b) As of the Closing Date, except as set forth on Schedule 5.14, there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments of any nature relating to any Equity Interests of the Borrower or any of its Restricted Subsidiaries.

5.15 Environmental Compliance.

Other than exceptions to any of the following that would not reasonably be expected to have a Material Adverse Effect: none of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law for the operation of the business or (ii) has become subject to any Environmental Liability.

5.16 Accuracy of Information, etc.

No statement or information (excluding the projections and pro forma financial information referred to below and information of a general economic or general industry nature) contained in this Agreement, any other Loan Document or any report or certificate furnished to the Agent or the Lenders or any of them, by or on behalf of any Loan Party for use in connection with the transactions contemplated by this Agreement or the other Loan Documents when taken as a whole, contained as of the date such statement, information, or certificate was so furnished, any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements contained herein or therein not materially misleading in light of the circumstances under which such statements contained therein. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future event is not to be viewed as fact, that such financial information is subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties, that no assurance can be given that the projected results will be realized, and that actual results during the period or periods covered by such projections and financial

information may differ significantly from the projected results set forth therein by a material amount. There is no fact known to any Loan Party that could reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein, in the other Loan Documents or in any other documents, certificates and statements furnished to the Agent and the Lenders for use in connection with the transactions contemplated hereby and by the other Loan Documents.

5.17 Security Documents.

(a) The Security Documents are effective to create in favor of the Agent for the benefit of the Secured Parties referred to therein, a legal, valid and enforceable security interest (except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law) and the implied covenants of good faith and fair dealing) in the Collateral described therein (including any proceeds of any item of Collateral) to the extent required by the Security Documents. In the case of (i) the Pledged Securities described in the Security Agreement, when any stock certificates or notes, as applicable, representing such Pledged Securities are delivered to the Agent (or held in trust therefore by any gratuitous bailee pursuant to the terms of the Subordination Agreement) and (ii) the other Collateral described in the Security Documents, when financing statements in appropriate form are filed, within the time periods (if any) required by applicable law, in the offices specified on Schedule 5.17 (which financing statements have been duly completed and executed (as applicable) and delivered to the Agent) and such other filings as are specified on Schedule 5.17 are made, the Agent shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral (including any proceeds of any item of Collateral) (to the extent a security interest in such Collateral can be perfected through the filing of financing statements in the offices specified on Schedule 5.17 and the filings specified on Schedule 5.17, and through the delivery of the Pledged Securities required to be delivered on the Closing Date), as security for the Obligations.

(b) Upon the execution and delivery of any Mortgage to be executed and delivered pursuant to Section 4.01(m) and Section 6.11(c), such Mortgage shall be effective to create in favor of the Agent for the benefit of the Secured Parties a legal, valid and enforceable Lien on the mortgaged property described therein and proceeds thereof; and when such Mortgage is filed in the recording office designated by the Borrower, such Mortgage shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such mortgaged property and the proceeds thereof, as security for the Obligations (as defined in the relevant Mortgage), in each case prior and superior in right to any other Person (subject to the Subordination Agreement), Liens permitted by Section 7.01 or other encumbrances or rights permitted by the relevant Mortgage).

5.18 Solvency.

After giving effect to the transactions contemplated by this Agreement, and before and after giving effect to each Borrowing, the Loan Parties, on a Consolidated basis, are and will be Solvent.

5.19 Senior Indebtedness.

All Borrowings permitted under this Agreement are, and when incurred or issued will be, permitted under (and shall give rise to no breach or violation of) the Senior Credit Agreements, any other Junior Indebtedness or any Permitted Amendment or Refinancing of any of the foregoing (or under the definitive documentation relating thereto).

5.20 Labor Matters.

There are no strikes or other labor disputes against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries pending or, to the knowledge of the Parent, Holdings or the Borrower, threatened that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect. Hours worked by and payment made to employees of the Parent, Holdings, the Borrower and its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect. All payments due from the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries on account of employee health and welfare insurance that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect if not paid have been paid or accrued as a liability on the books of the Parent, Holdings, the Borrower or the relevant Restricted Subsidiary.

5.21 Regulation H

. No Mortgage encumbers improved real property that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968.

5.22 Anti-Money Laundering and Economic Sanctions Laws.

(a) No Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or, to the knowledge of senior management of each Loan Party, Affiliate (i) has violated or is in violation of any applicable Anti-Money Laundering Law or (ii) has engaged or engages in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds of the Term Loans from any category of offenses designated in any applicable law, regulation or other binding measure implementing the "Forty Recommendations" and "Nine Special Recommendations" published by the Organization for Economic Co-operation and Development's Financial Action Task Force on Money Laundering.

(b) No Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or, to the knowledge of senior management of each Loan Party, such Affiliate that is acting or benefiting in any capacity in connection with the Term Loans is an Embargoed Person.

(c) Except as otherwise authorized by OFAC, to the extent applicable to such Person, no Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or, to the knowledge of senior management of each Loan Party, such Affiliate acting or benefiting in any capacity in connection with the Term Loans (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Embargoed Person, (ii) deals in, or otherwise engages in any transaction related to, any property or interests in property blocked pursuant to any applicable Economic Sanctions Laws or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the applicable prohibitions set forth in any Economic Sanctions Laws.

5.23 Insurance.

The properties of the Loan Parties and the Restricted Subsidiaries are insured with financially sound and reputable insurance companies (after giving effect to any self-insurance compatible with the following standards) which are not Affiliates of the Loan Parties, in such amounts, with such deductibles and covering such risks (including, without limitation, workmen's compensation, public liability, business interruption, property damage and directors and officers liability insurance) as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Loan Parties or the applicable Restricted Subsidiary operates.

5.24 [Reserved]

5.25 EEA Financial Institution.

No Loan Party is an EEA Financial Institution.

5.26 Casualty, Etc.

Neither the business nor the properties of any Loan Party or any of its Subsidiaries are affected by any fire, explosion, accident, strike, drought, storm, hail, earthquake, embargo or other casualty (whether or not covered by insurance) that, either individually or in the aggregate, has had a Material Adverse Effect.

ARTICLE VI
AFFIRMATIVE COVENANTS

Until the Payment in Full of the Obligations, each Loan Party shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02 and 6.03) cause each Restricted Subsidiary to:

6.01 Financial Statements.

Furnish to the Agent for delivery to each Lender (which may be electronically delivered):

(a) within 120 days (or, in the case of the Fiscal year ending on or around February 1, 2020, by no later than June 15, 2020) after the end of each Fiscal Year of the Parent, commencing with the Fiscal Year ending on or around February 1, 2019, (x) a copy of the audited consolidated balance sheet of Parent, Holdings, the Borrower and its Subsidiaries as at the end of such Fiscal Year and the related audited consolidated statements of income, stockholders' equity and cash flows as of the end of and for such Fiscal Year, setting forth in each case in comparative form the figures as of the end of and for the previous Fiscal Year, reported on by from independently certified public accountants of nationally recognized standing (without a "going concern" or like qualification or exception as to the scope of such audit, other than any such qualification or exception resulting from (i) an upcoming maturity date of the Senior Debt or of the Obligations or (ii) the inability or potential inability to satisfy the financial covenant set forth in Section 7.18 of each Senior Credit Agreement on a future date or in a future period) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Parent, Holdings, the Borrower and its Subsidiaries on a Consolidated basis in accordance with GAAP, and (y) to the extent required under SEC reporting requirements, an opinion of such Registered Public Accounting Firm independently assessing Loan Parties' internal controls over financial reporting in accordance with Item 308 of SEC Regulation S-K, PCAOB Auditing Standard No. 2, and Section 404 of Sarbanes-Oxley expressing a conclusion that contains no statement that there is a material weakness in such internal controls;

(b) not later than 60 days after the end of each of the first three Fiscal Quarters of each Fiscal Year of the Parent (or, in the case of the Fiscal Quarter ending on or around (x) May 2, 2020, by no later than July 31, 2020 and (y) July 31, 2020, by no later than October 29, 2020), commencing with the Fiscal Quarter ending on or around November 4, 2018 (provided, that for the Fiscal Quarter ending on or around November 4, 2018, such financial statements shall be due within the time period prescribed by the SEC reporting requirements), the unaudited consolidated balance sheet of the Parent, Holdings, the Borrower and its Subsidiaries as at the end of such Fiscal Quarter and the related unaudited consolidated statements of income, stockholders' equity and cash flows for such Fiscal Quarter and the then elapsed portion of the current Fiscal Year, setting forth in each case in comparative form (i) the figures as of the end of and for the corresponding period in the previous Fiscal Year, and (ii) the figures for such period set forth in the projections delivered pursuant to Section 6.02(d) hereof, in each case, certified by a Responsible Officer as being fairly stated in all material respects (subject only to normal year-end audit adjustments and the lack of notes);

(c) not later than 30 days (or in the case of a Fiscal Month that is also a Fiscal Quarter end, 45 days, and in the case of the last Fiscal Month of each Fiscal Year, 60 days) after the end of each Fiscal Month of each Fiscal Year of the Parent, the unaudited consolidated balance sheet of the Parent, Holdings, the Borrower and its Subsidiaries as at the end of such Fiscal Month and the related unaudited consolidated statements of income and cash flows as of the end of and for such Fiscal Month and the portion of the Fiscal Year through the end of such Fiscal Month, setting forth in each case in comparative form (i) the figures as of the end of and for the corresponding period in the previous Fiscal Year, and (ii) the figures for such period set forth in the projections delivered pursuant to Section 6.02(d) hereof, in each case, certified by a Responsible Officer as being fairly stated in all material respects (subject only to normal year-end audit adjustments and the lack of notes); and

(d) all such financial statements to be complete and correct in all material respects and to be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods (except as approved by such accountants or officer, as the case may be, and disclosed therein and except, in the case of the financial statements referred to in clauses (b) and (c), for customary year-end adjustments and the absence of footnotes);

If the Parent has filed (within the time period required above) a Form 10-Q or 10-K, as applicable, with the SEC for any fiscal quarter or fiscal year described above, then to the extent that such quarterly or annual report on Form 10-Q or 10-K contains any of the foregoing items, the Lenders will accept such Form 10-Q or 10-K in lieu of such items; provided that such filings shall be delivered to the Agent and each Lender in the same manner as set forth below. Documents required to be delivered pursuant to this Section 6.01 may be delivered by posting such documents electronically with notice of such posting to the Agent and each Lender and if so posted, such documents shall be deemed to have been delivered on the date on which the Borrower posts such documents or provides a link thereto on the Borrower's website listed on Schedule 10.02 or another public website (including EDGAR or any successor system thereto) to which the Borrower may so direct.

6.02 Certificates; Other Information.

Furnish to the Agent, in form and detail reasonably, satisfactory to the Agent, for delivery to each Lender, or, in the case of clause (i), to the relevant Lender:

(a) concurrently with the delivery of the financial statements referred to in Section 6.01(a), a certificate of the independent certified public accountants of the Parent in customary form reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate (which

certificate may be limited to the extent required by accounting rules or guidelines and will not be required if such accountants no longer provide such certificates to its customers (or their lenders) generally);

(b) concurrently with the delivery of any financial statements pursuant to Section 6.01, (i) a Compliance Certificate executed by a Responsible Officer on behalf of the Borrower stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate and (ii) (x) [reserved], and (y) to the extent not previously disclosed to the Agent, a description of any new Subsidiary and a listing of any new registrations, and applications for registration, of Intellectual Property acquired or made by any Loan Party since the date of the most recent list delivered pursuant to this clause (y) (or, in the case of the first such list so delivered, since the Closing Date);

(c) [reserved]

(d) as soon as available, but in any event not later than 45 days after the end of each Fiscal Year of the Parent (commencing with the Fiscal Year ending on or nearest to February 1, 2019), a detailed consolidated budget for the following fiscal year (including a projected consolidated balance sheet of the Parent, Holdings, the Borrower and its Subsidiaries and the related consolidated statements of projected cash flow and projected income;

(e) promptly upon delivery thereof to the Parent, Holdings or the Borrower and to the extent permitted, copies of any accountants' letters addressed to its Board of Directors (or any committee thereof);

(f) promptly after the same are sent, copies of all financial statements and reports that the Parent, Holdings or the Borrower sends to the holders of any class of its debt securities or public equity securities (except for materials sent solely to Permitted Investors) and, promptly after the same are filed, copies of all financial statements and reports that the Parent, Holdings or the Borrower may make to, or file with, the SEC, in each case to the extent not already provided pursuant to Section 6.01 or any other clause of this Section 6.02;

(g) the financial and collateral reports described on Schedule 6.02 hereto, at the times set forth in such Schedule;

(h) promptly, such additional financial and other information as the Agent (for its own account or upon the reasonable request from any Lender) may from time to time reasonably request;

(i) concurrently with the delivery of any financial statements pursuant to Section 6.01, a copy of management's discussion and analysis with respect to such financial statements in the form included with the Parent's financial reporting to the SEC; and

(j) promptly following receipt, copies of any amendments, modifications, consents, waivers and forbearances under the Senior Loan Documents and any material notices received from any lender or agent of, under or with respect to the Senior Debt not otherwise provided to the Agent under this Agreement and the other Loan Documents.

Documents required to be delivered pursuant to Section 6.01(a), (b), or (c) or Section 6.02(d) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Borrower's behalf on an

Internet or intranet website, if any, to which each Lender and the Agent have access (whether a commercial, third-party website or whether sponsored by the Agent).

6.03 Notices.

Promptly upon a Responsible Officer of the Parent or any Loan Party obtaining knowledge thereof, give notice to the Agent of:

(a) of the occurrence of any Default or Event of Default;

(b) any litigation, investigation or proceeding which may exist at any time between the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries and any other Person, that in either case, could reasonably be expected to have a Material Adverse Effect;

(c) the following events, that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, as soon as possible and in any event within 30 days after the Parent, the Borrower or any of its Restricted Subsidiaries knows thereof, as applicable: (i) the occurrence of any Reportable Event with respect to any Single Employer Plan, (ii) that a Single Employer Plan has failed to satisfy the minimum funding standards within the meaning of Section 412 of the Code or Section 302 of ERISA, or an application may be or has been made for a waiver or modification of the minimum funding standard (including any required installment payments) or an extension of any amortization period under Section 412 of the Code or Section 303 or 304 with respect to a Single Employer Plan, (iii) a failure to make any required contribution to a Single Employer Plan or Non-U.S. Plan, (iv) Parent, Holdings, the Borrower or any of its Restricted Subsidiaries incurs any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (v) the creation of any Lien in favor of the PBGC or a Single Employer Plan, (vi) or any withdrawal from, or the termination or partial termination or Insolvency of any Multiemployer Plan, (vii) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Single Employer Plans), as of any applicable annual valuation date, exceeds the value of the assets of such Single Employer Plan allocable to such accrued benefits, (viii) the institution of proceedings or the taking of any other action by the PBGC or the Parent or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination or partial termination or Insolvency of, any Plan, (ix) any Non-U.S. Plan fails to obtain or retain (as applicable) registered status under and as required by applicable law and/or be administered in a timely manner in all respects in compliance with all applicable laws, or (x) the occurrence of any similar events with respect to a Commonly Controlled Plan, that would reasonably be likely to result in a direct obligation of the Parent, the Borrower or any of its Restricted Subsidiaries to pay money;

(d) the occurrence of any default under the Tax Receivable Agreement;

(e) any development or event that has had or could reasonably be expected to have a Material Adverse Effect;

(f) the acquisition of any Property after the Closing Date in which the Agent does not already have a perfected security interest and in which a security interest is required to be created or perfected pursuant to Section 6.11;

(g) of any casualty or other insured damage to any material portion of the Collateral or the commencement of any action or proceeding for the taking of any interest in a material portion of the Collateral under power of eminent domain or by condemnation or similar proceeding or if any material portion of the Collateral is damaged or destroyed;

(h) the occurrence of any default or event of default under any Senior Credit Agreement;

(i) of any material change in accounting policies or financial reporting practices by any Loan Party or any Subsidiary thereof;

(j) of the filing of any Lien for unpaid Taxes against any Loan Party in excess of $3,000,000;

(k) of any failure by any Loan Party to pay rent (which failure continues for more than ten (10) days following the day on which such rent first came due) at (i) any of the Loan Parties' distribution centers, fulfillment centers or warehouses; (ii) ten percent (10%) or more of such Loan Party's store locations or any of such Loan Party's other locations if such failure would be reasonably likely to result in a Material Adverse Effect;

(l) of any change in: (i) any Loan Party's legal name; (ii) the location of any Loan Party's chief executive office or its principal place of business or any office in which it maintains books or records relating to Collateral; (iii) any Loan Party's organizational form (e.g., corporation, limited liability company, partnership, etc.) or jurisdiction of incorporation or formation; or (iv) any Loan Party's Federal Taxpayer Identification Number, in each case no later than 10 days before the occurrence of such change (or such lesser period as agreed to by the Agent in its Permitted Discretion); and

(m) of the movement of Collateral with a value in excess of $600,000 in the aggregate to a location not previously disclosed to the Agent (including the establishment of any new office or facility but excluding Collateral out for repair and, for the avoidance of doubt, Collateral in transit between locations previously disclosed to the Agent) no later than 30 days after taking such action (or such later time as agreed to by the Agent in its Permitted Discretion).

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Parent, Holdings, the Borrower or the relevant Restricted Subsidiary has taken or proposes to take with respect thereto.

6.04 Payment of Obligations.

Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its material obligations and liabilities, including Taxes, governmental assessments and governmental charges, except (i) where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves required in conformity with GAAP with respect thereto have been provided on the books of the Parent, Holdings, the Borrower or its Subsidiaries, as the case may be, and such contest effectively suspends collection of the contested obligation and enforcement of any Lien securing such obligation, (ii) to the extent that failure to pay or satisfy such obligations could not, in the aggregate, reasonably be expected to have a Material Adverse Effect or (iii) in connection with any rental payments or other obligations in respect to Leases to which any Loan Party or any of its Restricted Subsidiaries is a party during the months ended May 31, 2020, June 30, 2020, July 31, 2020, August 31, 2020 and September 30, 2020 (the "COVID Lease Exception Period"), so long as (x) no more than twenty-five percent (25%) of Leases for stores in the aggregate are terminated by the owners of such stores during such months and (y) no Leases related to the Borrower's Headquarters are terminated by the owners of such headquarters.

6.05 Preservation of Existence, Etc.

(a) (i) Preserve, renew and keep in full force and effect its corporate or other existence and (ii) take all reasonable action to maintain all rights (other than Intellectual Property rights, the maintenance of which is addressed in Section 6.06(c)), privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Section 7.04 or except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (b) comply with all applicable Requirements of Law except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

6.06 Maintenance of Properties.

(a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in reasonably good working order and condition, ordinary wear and tear excepted; and

(b) Take all commercially reasonable and necessary steps, including, in any proceeding before the United States Patent and Trademark Office or the United States Copyright Office to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of the Borrower Intellectual Property, including, filing of applications for renewal, affidavits of use and affidavits of incontestability, except in each case to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect.

6.07 Maintenance of Insurance.

(a) Maintain, with financially sound and reputable insurance companies, insurance on all its material Property in at least such amounts and against at least such risks (but including in any event public liability, product liability and business interruption) as are usually insured against in the same general area by companies engaged in the same or a similar business. All such insurance shall, to the extent customary (but in any event, not including business interruption insurance and personal injury insurance) (i) provide that no cancellation thereof shall be effective until at least 10 days after receipt by the Agent of written notice thereof and (ii) name the Agent as insured party or lender's loss payee.

(b) If any portion of any Property subject to a Mortgage is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then the Borrower shall, or shall cause each Loan Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Agent evidence of such compliance in form and substance reasonably acceptable to the Agent.

(c) (i) Cause fire and extended coverage policies maintained with respect to any Collateral to be endorsed or otherwise amended to include (A) a non-contributing mortgage clause (regarding improvements to real estate) and lenders' loss payable clause (regarding personal property), in form and substance reasonably satisfactory to the Agent, which endorsements or amendments shall provide that the insurer shall pay all proceeds otherwise payable to the Loan Parties under the policies directly to the Agent, (B) a provision to the effect that none of the Loan Parties, Credit Parties or any other Person shall be a co-insurer and (C) such other provisions as the Agent may reasonably require from time to time to protect the interests of the Credit Parties, (ii) cause commercial general liability policies to be endorsed

to name the Agent as an additional insured, (iii) cause business interruption policies to name the Agent as a loss payee, and (iv) cause each such policy referred to in this Section 6.07 to also provide that it shall not be canceled, modified or not renewed (A) by reason of nonpayment of premium except upon not less than ten (10) days' prior written notice thereof by the insurer to the Agent (giving the Agent the right to cure defaults in the payment of premiums) or (B) for any other reason except upon not less than thirty (30) days' prior written notice thereof by the insurer to the Agent.

(d) Deliver to the Agent, prior to the cancellation, modification materially adverse to the Lenders or non-renewal of any such policy of insurance, notice of such cancellation, modification or non-renewal and, if requested by the Agent, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Agent, including an insurance binder) together with evidence reasonably satisfactory to the Agent of payment of the premium therefor.

6.08 Compliance with Requirements of Laws.

Comply in all material respects with the Requirements of Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except if the failure to comply therewith could not reasonably be expected individually or in the aggregate to have a Material Adverse Effect.

6.09 Designation as Senior Indebtedness.

Designate all Obligations as "Designated Senior Indebtedness" (or such similar term) under, and defined in, any documents, agreements, or indentures relating to or evidencing any Junior Indebtedness that is subordinated Indebtedness and all supplements thereto.

6.10 Inspection Rights.

(a) (i) Keep proper books of records and account in which full, true and correct entries in conformity with GAAP and all applicable Requirement of Law shall be made of all material dealings and transactions in relation to its business and activities, (ii) permit representatives of any Lender to visit and inspect any of its properties (in the case of any real property lease, to the extent permitted in the relevant lease agreement) and examine and make abstracts from any of its books and records upon reasonable prior notice and during normal business hours (provided that such visits shall be coordinated by the Agent), (iii) permit representatives of any Lender to have reasonable discussions regarding the business, operations, properties and financial and other condition of the Parent, Holdings, the Borrower and its Restricted Subsidiaries with officers and employees of the Parent, Holdings, the Borrower and its Restricted Subsidiaries, and (provided that any Lender shall coordinate any request for such discussions through the Agent), (iv) permit representatives of the Agent to have reasonable discussions regarding the business, operations, properties and financial and other condition of the Parent, Holdings, the Borrower and its Restricted Subsidiaries with its independent certified public accountants; provided that a Responsible Officer of the Parent or the Borrower shall be present during such discussion and any such discussions with the Parent's independent certified public accountants at the Parent's expense shall, except while an Event of Default has occurred and is continuing, be limited to one meeting per calendar year; provided, however, that when an Event of Default exists the Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Loan Parties at any time during normal business hours with reasonable prior notice.

6.11 Additional Collateral and Additional Loan Parties.

(a) With respect to any Property (other than Excluded Property (as defined in the Security Documents)) located in the United States acquired after the Closing Date by any Loan Party (other

than (x) any interests in real property and any Property described in paragraph (b) of this Section 6.11, (y) any Property subject to a Lien expressly permitted by Section 7.01(g) and (z) Instruments, Certificated Securities, Securities and Chattel Paper (each as defined under the Security Agreement), which are referred to in the last sentence of this paragraph (a)) as to which the Agent for the benefit of the Secured Parties does not have a perfected Lien, promptly (i) give notice of such Property to the Agent and execute and deliver to the Agent such amendments to the Security Documents or such other documents as the Agent reasonably requests to grant to the Agent for the benefit of the Secured Parties a security interest in such Property and (ii) take all actions reasonably requested by the Agent to grant to the Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents and with the priority required hereunder) in such Property (with respect to Property of a type owned by a Loan Party as of the Closing Date to the extent the Agent for the benefit of the Secured Parties, has a perfected security interest in such Property as of the Closing Date), including, without limitation, if applicable, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Security Documents or by law or as may be reasonably requested by the Agent. Any Instrument, Certificated Security (other than in respect of the Equity Interests of any Subsidiary to the extent that the delivery of certificates representing such Equity Interests are not otherwise required to be delivered pursuant to clause (c) or (d) below), Security or Chattel Paper in excess of $600,000 shall be promptly delivered to the Agent indorsed in a manner reasonably satisfactory to the Agent to be held as Collateral pursuant to the relevant Security Document.

(b) With respect to any fee interest in any real property located in the United States having a value (together with improvements thereof) of at least $2,400,000 acquired after the Closing Date by any Loan Party (other than any such real property subject to a Lien expressly permitted by Section 7.01(g)), (i) give notice of such acquisition to the Agent and execute and deliver a first priority Mortgage (subject to Liens permitted by Section 7.01) in favor of the Agent for the benefit of the Secured Parties, covering such real property (provided that no Mortgage nor survey shall be obtained if the Agent determines in consultation with the Borrower that the costs of obtaining such Mortgage or survey are excessive in relation to the value of the security to be afforded thereby), (ii) provide the Lenders with (1) a lenders' title insurance policy with extended coverage covering such real property in an amount at least equal to the purchase price of such real property (or such other amount as shall be reasonably specified by the Agent) as well as (2) "Life-of-Loan" flood hazard determination (together with an executed notice to the Borrower) and evidence of flood insurance, if applicable and (3) a current ALTA survey thereof, together with a surveyor's certificate unless the title insurance policy referred to above shall not contain an exception for any matter shown by a survey (except to the extent an existing survey has been provided and specifically incorporated into such title insurance policy) and shall include all reasonably requested survey-related endorsements, each in form and substance reasonably satisfactory to the Agent, and (iii) deliver to the Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Agent.

(c) With respect to any new Domestic Subsidiary that is a Material Subsidiary (and is not an Unrestricted Subsidiary) created or acquired after the Closing Date (which, for the purposes of this paragraph, shall include (x) any previously non-wholly owned Domestic Subsidiary that becomes wholly owned and is a Material Subsidiary (and is not an Unrestricted Subsidiary) and (y) any Domestic Subsidiary that was previously an Immaterial Subsidiary or an Unrestricted Subsidiary and becomes a Material Subsidiary (and is not an Unrestricted Subsidiary) or a Restricted Subsidiary, as applicable) by any Loan Party, promptly (i) give notice of such acquisition or creation or becoming a Material Subsidiary to the Agent and, if requested by the Agent, execute and deliver to the Agent such amendments to the Security Documents or such other documents as the Agent reasonably deems necessary to grant to the Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents and with the priority required hereby) in the Equity Interests of such new Subsidiary that is owned by such Loan Party, (ii) deliver to the Agent the original certificates, if any, representing such Equity Interests,

together with undated stock powers, in blank, executed and delivered by a duly authorized officer of such Loan Party, and (iii) if such new Subsidiary is a wholly owned Domestic Subsidiary (and is not an Unrestricted Subsidiary or an Immaterial Subsidiary), cause such new Subsidiary (A) to provide a Facility Guaranty and become a party to the Security Documents and (B) to take such actions necessary or advisable to grant to the Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents and with the priority required hereby) in the Collateral described in the Security Documents with respect to such new Subsidiary (to the extent the Agent, for the benefit of the Secured Parties, has a perfected security interest in the same type of Collateral as of the Closing Date), including, without limitation, if applicable, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Security Documents or by law or as may be reasonably requested by the Agent.

(d) With respect to any new first tier Foreign Subsidiary that is a Material Subsidiary (and is not an Unrestricted Subsidiary) created or acquired after the Closing Date (which, for the purposes of this paragraph, shall include any first-tier Foreign Subsidiary that previously was an Immaterial Subsidiary or an Unrestricted Subsidiary and becomes a Material Subsidiary or a Restricted Subsidiary, as applicable) by any Loan Party, promptly (i) give notice of such acquisition or creation to the Agent and, if requested by the Agent, execute and deliver to the Agent such amendments to the Security Documents or such other documents as the Agent deems necessary or reasonably advisable in order to grant to the Agent, for the benefit of the Secured Parties, a perfected security interest (to the extent required by the Security Documents and with the priority required hereby) in the Equity Interests of such new Subsidiary that is owned by such Loan Party (provided that in no event shall more than 65% of the total outstanding voting Equity Interests of any Foreign Subsidiary be required to be so pledged except to the extent such Foreign Subsidiary is a Loan Party hereunder), and, if applicable, (ii) to the extent permitted by applicable law, deliver to the Agent the original certificates, if any, representing such Equity Interests, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of such Loan Party, and take such other action as may be necessary or, in the reasonable opinion of the Agent, necessary to perfect or ensure appropriate priority the Lien of the Agent thereon.

Notwithstanding any provision set forth herein or in any other Loan Documents to the contrary, in no event shall (x) any Foreign Subsidiary be required to guarantee the obligations of the Borrower or any Domestic Subsidiary, (y) the assets of any Foreign Subsidiary constitute security or secure, or such assets or the proceeds of such assets be required to be available for, payment of the obligations of the Borrower or any Domestic Subsidiary, or (z) more than 65% of the voting stock of any Foreign Subsidiary directly held by the Borrower and its Domestic Subsidiaries be required to be pledged to secure the obligations of the Borrower or any Domestic Subsidiary.

In no event shall compliance with this Section 6.11 waive or be deemed a waiver or Consent to any transaction giving rise to the need to comply with this Section 6.11 if such transaction was not otherwise expressly permitted by this Agreement.

6.12 [Reserved]

6.13 [Reserved]

6.14 Environmental Laws.

Except, in each case, to the extent that the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (a) comply, and take all reasonable actions to cause any lessees and other Persons operating or occupying its properties to comply with all applicable Environmental Laws and environmental permits; (b) obtain and renew all environmental permits necessary

for its operations and properties; and, (c) in each case to the extent required by applicable Environmental Laws, conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Materials of Environmental Concern from any of its properties, in accordance with the requirements of all applicable Environmental Laws.

6.15 Further Assurances.

Maintain the security interest created by the Security Documents as a perfected security interest having at least the priority described herein (if applicable, to the extent such security interest can be perfected through the filing of UCC-1, financing statements and other filings required under applicable Requirement of Law, the Intellectual Property filings to be made pursuant to the Security Documents or the delivery of Pledged Securities required to be delivered under the Security Documents), subject to the rights of the Loan Parties under the Loan Documents to dispose of the Collateral. From time to time the Loan Parties shall execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take all such actions, as the Agent may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, or of renewing the rights of the Secured Parties with respect to the Collateral as to which the Agent, for the ratable benefit of the Secured Parties, has a perfected Lien pursuant hereto or thereto, including, without limitation, filing any financing or continuation statements or financing change statements under the Uniform Commercial Code or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby.

6.16 Post-Closing Obligations.

Perform all actions identified on Schedule 6.16 by the deadlines set forth therein as such deadlines may be extended by the Agent in its reasonable discretion.

6.17 Use of Proceeds.

(a) The proceeds of the Term Loans will be used only for the repayment of the ABL Loans, for general corporate purposes, and to pay fees and expenses in connection with the Loan Documents, the ABL Loan Documents and the Senior Term Loan Documents.

(b) No part of the proceeds of any Term Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, (a) to purchase, acquire or carry any "margin stock" or (b) for any purpose that entails a violation of any of the regulations of the Federal Reserve Board, including Regulations T, U and X. The Borrower will not request any Borrowing, and the Borrower shall not use, and shall take reasonable efforts to ensure that each Loan Party, their respective Subsidiaries and their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Money Laundering Laws or Economic Sanctions Laws or (ii) in any manner that would result in the violation of any applicable Sanctions, Economic Sanctions Laws, or any Anti-Money Laundering Laws by any Credit Party.

6.18 Compliance with Terms of Leaseholds.

Except (x) during the COVID Lease Exception Period, so long as (1) no more than twenty-five percent (25%) of Leases for stores in the aggregate are terminated by the owners of such stores during such months and (2) no Leases related to the Borrower's Headquarters are terminated by the owners of such headquarters, and (y) as otherwise expressly permitted hereunder, (a) make all rental payments and otherwise perform all related obligations in respect of all material Leases to which any Loan Party or any of its Restricted Subsidiaries is a party, keep such material Leases in full force and effect, except to the

extent such would not reasonably be expected to result in a Material Adverse Effect, (b) not allow any material Leases to which any Loan Party or any of its Restricted Subsidiaries is a party to lapse or be terminated or any rights to renew such Leases to be forfeited or cancelled except (i) pursuant to their terms or (ii) to the extent such Lease is no longer used or useful in the conduct of the business of the Loan Parties in the ordinary course of business, (c) notify the Agent of any default by any Loan Party with respect to such Leases and cooperate with the Agent in all commercially reasonable respects to cure any such default, in each case to the extent such default would constitute a violation of the proceeding clause (a), and (d) cause each of its Subsidiaries to do the foregoing.

6.19 Compliance with Material Contracts.

Each Loan Party shall perform and observe in all material respects the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect and cause each of its Subsidiaries to do so. A list of Material Contracts of the Loan Parties as of the Closing Date is set forth on Schedule 6.19.

6.20 [Reserved]

6.21 [Reserved]

ARTICLE VII
NEGATIVE COVENANTS

Until the Payment in Full of the Obligations, no Loan Party shall, nor shall it permit any Restricted Subsidiary to, directly or indirectly:

7.01 Liens

. Create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except the following (collective, "Permitted Encumbrances"):

(a) Liens for taxes, assessments or other governmental charges or levies not yet due or which are being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are maintained on the books of the Borrower or its Restricted Subsidiaries, as the case may be, to the extent required by GAAP;

(b) landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 90 days, that are being contested in good faith by appropriate proceedings or the existence of which, individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect;

(c) [reserved];

(d) deposits and other Liens to secure the performance of bids, trade contracts (other than for borrowed money), leases, subleases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(e) easements, zoning restrictions, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business that, in the aggregate, do not materially detract from the value of the Property subject thereto or materially interfere with the ordinary conduct of the business of the Borrower or any of its Restricted Subsidiaries;

(f) Liens in existence on the date hereof listed on Schedule 7.01(f);

(g) Liens securing Indebtedness of the Borrower or any Restricted Subsidiary incurred pursuant to Section 7.03(c), 7.03(f), 7.03(j) or 7.03(o); provided that (i) in the case of any such Liens securing Indebtedness incurred pursuant to Section 7.03(c) or 7.03(j) to the extent incurred to finance Permitted Acquisitions or Investments permitted under Section 7.02, such Liens shall be created substantially concurrently with the acquisition of the assets financed by such Indebtedness, such Liens do not at any time encumber any Property of the Borrower or any Restricted Subsidiary other than the Property financed by such Indebtedness and the proceeds thereof and after-acquired property subjected to a Lien securing Indebtedness and other obligations incurred prior to such time (and which Indebtedness and other obligations are permitted hereunder) that require, pursuant to their terms at such time, a pledge of after-acquired property, it being understood that such requirement shall not be permitted to apply to any property which such requirement would not have applied but for such acquisition and (ii) in the case of any such Liens securing Indebtedness incurred pursuant to Section 7.03(o), such Liens are not created or incurred in connection with, or in contemplation of, such Permitted Acquisition or Investment permitted under Section 7.02, and (iii) such Liens are limited to all or part of the same property or assets that secured the Indebtedness to which such Liens relate under Section 7.03(o) (and no other Property of the Loan Parties);

(h) Liens created pursuant to the Security Documents;

(i) any interest or title of a lessor or licensor under any leases or subleases, licenses or sublicenses entered into by the Borrower or any Restricted Subsidiary in the ordinary course of its business and covering only the assets so leased or licensed, which shall be on a non-exclusive basis (or an exclusive basis within a specific or defined field of use) with respect to any Borrower Intellectual Property, and any financing statement filed in connection with any such lease or license;

(j) Liens arising from judgments in circumstances not constituting an Event of Default under Section 8.01(g);

(k) Liens on Property acquired pursuant to a Permitted Acquisition under Section 7.02(f) (and the proceeds thereof) or Property of a Subsidiary Guarantor in existence at the time such Subsidiary Guarantor is acquired pursuant to a Permitted Acquisition under Section 7.02(f) and not created in contemplation thereof;

(l) Liens on Property of Non-Guarantor Subsidiaries securing Indebtedness or other obligations not prohibited by this Agreement to be incurred by such Non-Guarantor Subsidiaries;

(m) with respect to any Non-Guarantor Subsidiaries, receipt of progress payments and advances from customers in the ordinary course of business to the extent same creates a Lien on the related inventory and proceeds thereof;

(n) Liens in favor of customs and revenue authorities arising as a matter of law to secure the payment of customs duties in connection with the importation of goods;

(o) Liens arising out of consignment or similar arrangements for the sale by the Borrower and its Restricted Subsidiaries of goods through third parties in the ordinary course of business;

(p) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with an Investment permitted by Section 7.02;

(q) Liens deemed to exist in connection with Investments permitted by Section 7.02(b) that constitute repurchase obligations;

(r) Liens upon specific items of inventory or other goods (and the proceeds thereof) of any Non-Guarantor Subsidiaries arising in the ordinary course of business securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(s) Liens on cash or cash equivalents securing any Hedge Agreement permitted hereunder;

(t) other Liens covering Property with respect to obligations (other than for borrowed money) that do not exceed $6,000,000 in the aggregate at any one time outstanding;

(u) the rights reserved or vested in any Person by the terms of any lease, license, franchise, grant or permit held by the Borrower or any of its Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(v) banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a depositary institution;

(w) Liens arising from Uniform Commercial Code financing statement regarding operating leases or consignments entered into by the Borrower and its Restricted Subsidiaries in the ordinary course of business;

(x) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business; and (iii) in favor of a banking institution arising as a matter of law encumbering deposits, securities and movables) and which are within the general parameters customary in the banking industry;

(y) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(z) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into by the Borrower or any Restricted Subsidiary in the ordinary course of business;

(aa) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement not prohibited hereunder;

(bb) Liens arising by operation of law under Article 2 of the Uniform Commercial Code in favor of a reclaiming seller of goods or buyer of goods;

(cc) security given to a public or private utility or any governmental authority as required in the ordinary course of business;

(dd) Liens on securities which are the subject of repurchase agreements incurred in the ordinary course of business; and

(ee) Liens on Collateral securing Indebtedness incurred pursuant to Section 7.03(u) and any other "Obligations" as defined in any Senior Credit Agreement.

7.02 Investments

. Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Equity Interests, bonds, notes, debentures or other debt securities of, or all or substantially all of the assets constituting an ongoing business (including pursuant to any merger or Division) from, or make any other investment in, any other Person, other than guarantees of operating leases in the ordinary course of business (all of the foregoing, "Investments"), except:

(a) extensions of trade credit in the ordinary course of business;

(b) Investments in Cash Equivalents;

(c) Investments arising in connection with the incurrence of Indebtedness permitted by Sections 7.03(b), (e) and (h);

(d) loans and advances to employees of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries in the ordinary course of business in an aggregate amount (for the Parent, Holdings, the Borrower and all such Restricted Subsidiaries) not to exceed $2,400,000 (excluding (for purposes of such cap) travel and entertainment expenses, but including relocation expenses) at any one time outstanding;

(e) Investments (other than those relating to the incurrence of Indebtedness permitted by Section 7.03(c)) by the Borrower or any of its Restricted Subsidiaries in the Borrower or any Person that, prior to such Investment, is a Subsidiary Guarantor or is a Subsidiary that becomes a Subsidiary Guarantor at the time of such Investment;

(f) except during the Extended Accommodation Period, Permitted Acquisitions by the Borrower;

(g) loans by the Borrower or any of its Restricted Subsidiaries to the officers or directors of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries in connection with management incentive plans; provided that such loans represent cashless transactions pursuant to which such officers or directors directly invest the proceeds of such loans in the Equity Interests of the Parent;

(h) except during the Extended Accommodation Period, as long as no Event of Default has occurred and is continuing, Investments by the Borrower and its Restricted Subsidiaries in joint ventures or similar arrangements in an aggregate amount (for the Borrower and all Restricted Subsidiaries) not to exceed $6,000,000 at any one time outstanding;

(i) Investments (including debt obligations) received in the ordinary course of business by the Borrower or any Restricted Subsidiary in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising out of the ordinary course of business;

(j) Investments by any Non-Guarantor Subsidiary in any other Non-Guarantor Subsidiary;

(k) Investments in existence on the Closing Date and listed on Schedule 7.02;

(l) Investments of the Borrower or any Restricted Subsidiary under Hedge Agreements permitted hereunder;

(m) Investments of any Person in existence at the time such Person becomes a Restricted Subsidiary; provided that such Investment was not made in connection with or anticipation of such Person becoming a Restricted Subsidiary; provided, that Investments in Non-Guarantor Subsidiaries and joint ventures permitted under this clause (m) shall be subject to the baskets applicable thereto in Sections 7.02(h) and 7.02(o);

(n) Subsidiaries of the Borrower may be established or created, if (i) to the extent such new Subsidiary is a Domestic Subsidiary, the Borrower and such Subsidiary comply with the provisions of Section 6.11(c) and (ii) to the extent such new Subsidiary is a Foreign Subsidiary, the Borrower complies with the provisions of Section 6.11(d); provided that, in each case, to the extent such new Subsidiary is created solely for the purpose of consummating a merger transaction pursuant to an acquisition or Investment permitted by Section 7.02(f), or 7.02(p), and such new Subsidiary at no time holds any assets or liabilities other than any merger consideration contributed to it contemporaneously with the closing of such merger transactions, such new Subsidiary shall not be required to take the actions set forth in Section 6.11(c) or 6.11(d), as applicable, until the respective acquisition is consummated (at which time the surviving entity of the respective merger transaction shall be required to so comply within ten Business Days);

(o) except during the Extended Accommodation Period, (i) as long as no Event of Default has occurred and is continuing, Investments by the Borrower or any Subsidiary Guarantor in any Non-Guarantor Subsidiary in an aggregate amount (for the Borrower and all Subsidiary Guarantors) not to exceed $6,000,000 less the amount of Indebtedness incurred pursuant to Section 7.03(h) at any time outstanding and (ii) Investments in Non-Guarantor Subsidiaries pursuant to Section 7.05(k)(ii);

(p) Investments arising directly out of the receipt by the Borrower or any Restricted Subsidiary of non-cash consideration for any sale of assets permitted under Section 7.05; provided that such non-cash consideration shall in no event exceed 25% of the total consideration received for such sale;

(q) Investments resulting from pledges and deposits referred to in Sections 7.01(d), (p), (s), (y), (aa);

(r) the forgiveness or conversion to equity of any Indebtedness permitted by Section 7.03(b), (e) or (h);

(s) any Investment in a Foreign Subsidiary to the extent such Investment is substantially contemporaneously repaid in full with a dividend or other distribution from such Foreign Subsidiary;

(t) Guarantee Obligations permitted by Section 7.03(e) and any payments made in respect of such Guarantee Obligations; and

(u) Except during the Extended Accommodation Period, other Investments of the types not described above, provided that the ABL Payment Conditions are satisfied at the time of making any such Investment.

It is further understood and agreed that for purposes of determining the value of any Investment outstanding for purposes of this Section 7.02, such amount shall deemed to be the amount of such Investment when made, purchased or acquired less any returns on such Investment (not to exceed the original amount invested).

7.03 Indebtedness

. Create, issue, incur, assume, or suffer to exist any Indebtedness, except:

(a) Indebtedness of the Parent, Holdings, the Borrower or any Subsidiary Guarantor pursuant to any Loan Document or Hedge Agreements;

(b) Indebtedness (i) of the Borrower to any of its Restricted Subsidiaries, (ii) of any Subsidiary Guarantor to the Borrower or any Restricted Subsidiary, and (iii) of any Non-Guarantor Subsidiary to any other Non-Guarantor Subsidiary; provided that (x) in the case of Indebtedness owing to a Loan Party, such Indebtedness shall be evidenced by one or more promissory notes that are pledged to the Agent for the benefit of the Secured Parties pursuant to the Guarantee and Collateral Agreement and (y) in the case of any Indebtedness owing by a Loan Party to a Restricted Subsidiary that is not a Subsidiary Guarantor, (A) such Indebtedness shall be on subordination terms reasonably satisfactory to the Agent and (B) such Indebtedness shall be otherwise permitted under the provisions of Section 7.02;

(c) (i) Indebtedness (including, without limitation, Capital Lease Obligations) secured by Liens permitted by Section 7.01(g) in an aggregate principal amount not to exceed, together with any Permitted Amendment or Refinancing referred to in the following clause (iii) hereof, $6,000,000 at any one time outstanding; (ii) Indebtedness arising out of sale and leaseback transactions permitted by Section 7.15; and (iii) any Permitted Amendment or Refinancing of any of the foregoing;

(d) Indebtedness outstanding on the date hereof and listed on Schedule 7.03(d) and any Permitted Amendment or Refinancing thereof;

(e) Guarantee Obligations (i) by the Borrower or any of its Restricted Subsidiaries of obligations of the Borrower or any Subsidiary Guarantor, (ii) by any Non-Guarantor Subsidiary of obligations of any Non-Guarantor Subsidiary or (iii) by the Parent of lease obligations of Borrower or a Restricted Subsidiary;

(f) Indebtedness of Non-Guarantor Subsidiaries in respect of local lines of credit, letters of credit, bank guarantees, factoring arrangements, sale/leaseback transactions and similar extensions of credit in the ordinary course of business not to exceed at any one time outstanding an aggregate principal amount equal to $6,000,000;

(g) Indebtedness of the Borrower or any of its Restricted Subsidiaries arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn by the Borrower or such Restricted Subsidiary in the ordinary course of business against insufficient funds, so long as such Indebtedness is promptly repaid;

(h) (i) Indebtedness of any Non-Guarantor Subsidiary to the Borrower or any Subsidiary Guarantor and (ii) Guarantee Obligations of the Borrower or any Subsidiary Guarantor of Indebtedness of any Non-Guarantor Subsidiaries, in an aggregate principal amount for all such Indebtedness and, without duplication, Guarantee Obligations not to exceed, together with any Investments under Section 7.02(o), $6,000,000 at any one time outstanding;

(i) additional Indebtedness of the Borrower or any of its Restricted Subsidiaries in an aggregate principal amount (for the Borrower and all Restricted Subsidiaries) not to exceed $12,000,000 at

any one time outstanding; provided that up to $6,000,000 of such indebtedness may be secured by Liens permitted by Section 7.01(t);

(j) Indebtedness under a Permitted Seller Note issued as consideration in connection with an acquisition permitted under Section 7.02(f), in an aggregate principal amount not to exceed, together with any Permitted Amendment or Refinancing referred to in this clause (j) $12,000,000 at any one time outstanding together with any Permitted Amendment or Refinancing thereof; provided that any such Indebtedness shall be subordinated to the Obligations in a manner reasonably satisfactory to the Agent;

(k) Indebtedness of the Borrower or any of its Restricted Subsidiaries in respect of workers' compensation claims, health, disability or other employee benefits, property casualty or liability insurance, take-or-pay obligations in supply arrangements, self-insurance obligations, performance, bid and surety bonds and completion guaranties, in each case in the ordinary course of business;

(l) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries arising from agreements providing for indemnification or adjustment of purchase price or similar obligations in any case incurred in connection with an acquisition or other Investment permitted by Section 7.02(f) or the disposition of any business, assets or Restricted Subsidiary;

(m) unsecured, senior, senior subordinated or subordinated Indebtedness of the Parent, Holdings, the Borrower (including guarantees thereof by any Subsidiary Guarantor) (such Indebtedness and/or guarantees incurred under this clause (m) or any Permitted Amendment or Refinancing thereof being collectively referred to as the "Junior Indebtedness") in an aggregate principal amount not to exceed (1) $12,000,000 at any one time outstanding plus (2) Subordinated Indebtedness incurred pursuant to Section 8.04 or Section 8.04 of the ABL Credit Agreement or Senior Term Loan Credit Agreement, as applicable; provided that (i) no scheduled principal payments, prepayments, redemptions or sinking fund or like payments of any Junior Indebtedness shall be required prior to the date at least 180 days after the Maturity Date), (ii) [reserved], (iii) no Default or Event of Default shall have occurred and be continuing at the time of incurrence of such Indebtedness (solely with respect to clause (1) above) or would result therefrom and (iv) in the case of Junior Indebtedness that is subordinated to the Obligations in respect of payment and/or lien priority, the terms of subordination applicable to any Junior Indebtedness shall be reasonably satisfactory to the Agent and shall, in any event, define "senior indebtedness" or a similar phrase for purposes thereof to include all of the Obligations of the Loan Parties;

(n) [reserved];

(o) Indebtedness of any Person that becomes a Restricted Subsidiary as part of a Permitted Acquisition or any Investment permitted by Section 7.02 after the Closing Date and any Permitted Amendment or Refinancing thereof; provided that (A) such acquired Indebtedness exists at the time such Person becomes a Restricted Subsidiary and is not created in contemplation of or in connection with such Person becoming a Restricted Subsidiary (except to the extent such acquired Indebtedness refinanced (and did not increase principal (except for accrued interest and premium (including tender premiums and make whole amounts) thereon plus other reasonable and customary fees and expenses including upfront fees, original issue discount and defeasance costs) or shorten maturity during the term of this Agreement) other Indebtedness to facilitate such entity becoming a Restricted Subsidiary), (B) the aggregate principal amount of Indebtedness permitted by this clause (o) (i) shall not at any one time outstanding exceed together with any Permitted Amendment or Refinancing referred to in the following clause (ii) hereof, $6,000,000 and (ii) any Permitted Amendment or Refinancing;

(p) [reserved];

(q) [reserved];

(r) Indebtedness consisting of promissory notes issued by the Borrower or any Guarantor to current or former officers, consultants and directors or employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of the Parent or Holdings issued in lieu of cash payment; provided that such purchase or redemption is permitted under Section 7.06;

(s) Indebtedness of the Borrower or any Restricted Subsidiary consisting of the financing of insurance premiums in the ordinary course of business;

(t) guaranties in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of the Borrower and its Restricted Subsidiaries;

(u) Indebtedness of a Borrower or a Guarantor in respect of any Senior Credit Agreement (and any Permitted Amendment or Refinancing thereof); and

(v) Indebtedness consisting of earn-outs and similar deferred consideration in consideration in connection with a Permitted Acquisition or other Investment permitted by Section 7.02 in an aggregate amount outstanding at any one time not to exceed $9,000,000.

7.04 Fundamental Changes.

Consummate any merger, consolidation or amalgamation or Division or similar transaction, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution) or division (or similar transaction), or Dispose of all or substantially all of its Property or business, or division or similar transaction except that:

(a) (i) any Restricted Subsidiary may be merged, amalgamated, liquidated or consolidated with or into the Borrower (provided that the Borrower shall be the continuing or surviving corporation) or (ii) any Restricted Subsidiary may be merged, amalgamated, liquidated or consolidated with or into any Subsidiary Guarantor (provided that (x) a Subsidiary Guarantor shall be the continuing or surviving corporation or (y) simultaneously with such transaction, the continuing or surviving corporation shall become a Subsidiary Guarantor and the Borrower shall comply with Section 6.11 in connection therewith);

(b) any Non-Guarantor Subsidiary may be merged or consolidated with or into, or be liquidated into, any other Non-Guarantor Subsidiary;

(c) any Non-Guarantor Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution, winding-up or otherwise) to any Restricted Subsidiary;

(d) Dispositions permitted by Section 7.05 may be consummated;

(e) any Investment expressly permitted by Section 7.02 may be structured as a merger, consolidation or amalgamation;

(f) any Excluded Subsidiary may be dissolved or liquidated; and

(g) So long as no Default or Event of Default is continuing or would result therefrom, Holdings may be merged with and into Parent, with Parent being the surviving entity in such merger.

7.05 Dispositions

. Dispose of any of its owned Property (including, without limitation, receivables) whether now owned or hereafter acquired, or, in the case of any Restricted Subsidiary, issue or sell any shares of such Restricted Subsidiary's Equity Interests to any Person, except:

(a) the Disposition of surplus, obsolete or worn out property in the ordinary course of business or Intellectual Property that is not material to the business of any Loan Party;

(b) (i) the sale of inventory in the ordinary course of business, (ii) the non-exclusive (or exclusive within a specific or defined field of use) cross-licensing or licensing of Intellectual Property, in the ordinary course of business and (iii) the contemporaneous exchange, in the ordinary course of business, of Property for Property of a like kind (other than as set forth in clause (ii)), to the extent that the Property received in such exchange is of a value equivalent to the value of the Property exchanged (provided that after giving effect to such exchange, the value of the Property of the Borrower or any Subsidiary Guarantor subject to perfected first priority Liens in favor of the Agent under the Security Documents is not materially reduced, and provided, other than with respect to any such exclusivity within a specific or defined field of use, that the terms of such licenses shall not restrict the right of the Agent to use and/or dispose of such Intellectual Property owned by a Loan Party in connection with the conduct of a Liquidation or other exercise of creditor remedies);

(c) Dispositions permitted by Section 7.04;

(d) (i) the Disposition of other assets, so long as at least (x) 75% of the consideration received by the disposing Person is cash or Cash Equivalents and (y) any such Disposition is made for fair market value, as determined in good faith and approved by the Board of Directors or similar governing body of the disposing Person, and (ii) any Recovery Event;

(e) the sale or issuance of any Subsidiary's Equity Interests to the Borrower or any Subsidiary Guarantor; provided that the sale or issuance of Equity Interests of an Unrestricted Subsidiary to the Borrower or any Subsidiary Guarantor is otherwise permitted by Section 7.02;

(f) bulk sales or other dispositions of Inventory of a Loan Party not in the ordinary course of business, at arms' length, in connection with Permitted Store Closings;

(g) the leasing, occupancy agreements or sub-leasing of Property that would not materially interfere with the required use (if any) of such Property by the Borrower or their respective Restricted Subsidiaries;

(h) the sale or discount, in each case without recourse and in the ordinary course of business, of overdue accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof consistent with the Borrower's commercially reasonable business judgment (and not as part of any bulk sale or financing of receivables);

(i) transfers of condemned property as a result of the exercise of "eminent domain" or other similar policies to the respective Governmental Authority or agency that has condemned same (whether by deed in lieu of condemnation or otherwise), and transfers of properties that have been subject to a casualty to the respective insurer of such property as part of an insurance settlement;

(j) the Disposition of any Immaterial Subsidiary or any Unrestricted Subsidiary or their respective assets;

(k) the transfer of Property (i) by the Borrower or any Subsidiary Guarantor to the Borrower or any other Subsidiary Guarantor; provided that any such transfer made by any Loan Party in a Foreign Subsidiary shall be subject to satisfaction of the ABL Payment Conditions but shall not be permitted during the Extended Accommodation Period; (ii) by a Borrower or any Subsidiary Guarantor to a Non-Guarantor Subsidiary that is a Restricted Subsidiary to the extent such Property consists of (A) showroom leases, employees, showroom fixtures, signage, samples, or contracts relating to the foregoing, or intellectual property, in each case that is specific to the operations of such Non-Guarantor Subsidiary (and, with respect to any such transferred intellectual property, is not used by any Loan Party in the operation of its business) or (B) other Property (excluding cash and Cash Equivalents) with a fair market value not to exceed $120,000 in the aggregate, or (iii) from a Non-Guarantor Subsidiary to (A) the Borrower or any Subsidiary Guarantor for no more than fair market value or (B) any other Non-Guarantor Subsidiary that is a Restricted Subsidiary; provided that any sale or issuance of Equity Interests of an Unrestricted Subsidiary to the Borrower or any Subsidiary Guarantor is otherwise permitted by Section 7.02;

(l) the Disposition of Cash Equivalents in the ordinary course of business;

(m) sale and leaseback transactions permitted by Section 7.15;

(n) Liens permitted by Section 7.01;

(o) Restricted Payments permitted by Section 7.06;

(p) the cancellation of intercompany Indebtedness among the Borrower and any Subsidiary Guarantor;

(q) Investments permitted by Section 7.02; and

(r) the sale or issuance of the Equity Interests of (i) any Foreign Subsidiary that is a Restricted Subsidiary to any other Foreign Subsidiary that is a Restricted Subsidiary or (ii) any Foreign Subsidiary that is an Unrestricted Subsidiary to any other Foreign Subsidiary that is an Unrestricted Subsidiary, in each case, including, without limitation, in connection with any tax restructuring activities not otherwise prohibited hereunder.

Notwithstanding anything to the contrary contained in this Section 7.05 (other than Section 7.05(a), clause (ii) of Section 7.05(b) or Section 7.05(k)), no Borrower Intellectual Property shall be the subject of any Disposition to any non-Loan Party.

7.06 Restricted Payments.

Declare or pay any dividend on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement, cancellation, termination or other acquisition of, any Equity Interests of the Parent, Holdings, the Borrower or any Subsidiary, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of the Parent, Holdings, the Borrower or any Restricted Subsidiary, or enter into any derivatives or other transaction with any financial institution, commodities or stock exchange or clearinghouse (a "Derivatives Counterparty"), obligating the Parent, Holdings the Borrower or any Restricted Subsidiary to make payments to such Derivatives Counterparty as a result of any change in market value of any such Equity Interests (collectively, "Restricted Payments"), except that:

(a) any Subsidiary may make Restricted Payments, directly or indirectly, to the Borrower;

(b) Non-Guarantor Subsidiaries may make Restricted Payments to other Non-Guarantor Subsidiaries or to any Loan Party;

(c) the Loan Parties and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(d) the Borrower and its Subsidiaries may declare and make dividend or distribution payments, directly or indirectly, to Holdings (and Holdings may pay to any direct or indirect parent company of Holdings) to permit Holdings (or any such direct or indirect parent company of Holdings) to pay for any taxable period for which Holdings, the Borrower or such applicable Subsidiary, as applicable, was a member of a consolidated, combined or similar income tax group for federal and/or applicable state or local income tax purposes or are entities treated as disregarded from any member of such a group for U.S. federal income and, if applicable, state income Tax purposes (a "Tax Group") of which Holdings (or any direct or indirect parent company of Holdings, as applicable) is the common parent, any consolidated, combined or similar income Taxes of such Tax Group that are due and payable by Holdings (or such direct or indirect parent company of Holdings) for such taxable period, but only to the extent such income Taxes are attributable to the Borrower and its Subsidiaries, provided that (x) the amount of such dividends or distributions for any taxable period shall not exceed the amount of such income Taxes that the Borrower and its relevant Subsidiaries would have paid had the Borrower and such Subsidiaries been a stand-alone corporate taxpayer (or a stand-alone corporate Tax Group) and (y) dividends or distributions in respect of an Unrestricted Subsidiary shall be permitted only to the extent that dividends or distributions were made by such Unrestricted Subsidiary to a member of the Tax Group or any of its Subsidiaries for such purpose;

(e) the Borrower may make other Restricted Payments to Holdings who, in turn, may make other Restricted Payments to the Parent to permit the Parent to make payments required under the Tax Receivable Agreement;

(f) except during the Extended Accommodation Period, the Borrower may make other Restricted Payments to Holdings who, in turn, may make other Restricted Payments to the Parent who, in turn, may make other Restricted Payments to its stockholders so long as the ABL Payment Conditions are satisfied;

(g) the Borrower may declare and pay cash dividends to Holdings, and Holdings may declare and pay cash dividends to the Parent, not to exceed an amount necessary to permit Holdings or the Parent, as applicable, to pay its proportionate share of (i) reasonable and customary corporate and operating expenses (including reasonable out-of-pocket expenses for legal, administrative and accounting services provided by third parties, and compensation, benefits and other amounts payable to officers and employees in connection with their employment in the ordinary course of business and to board of director observers), and (ii) franchise fees or similar taxes and fees required to maintain its corporate existence;

(h) Investments constituting Restricted Payments and permitted by Section 7.02;

(i) the Parent may make Restricted Payments in the form of common stock of the Parent or preferred stock of the Parent; and

(j) so long as no Default or Event of Default shall have occurred and be continuing, the Borrower may make Restricted Payments to Holdings and Holdings may make Restricted Payments to Parent, to permit Holdings or the Parent to purchase its common stock or common stock options from present or former officers, consultants and directors or employees (and their heirs, estates and assigns) of Parent, Holdings, the Borrower or any Subsidiary upon the death, disability or termination of employment of such officer or employee; provided that the aggregate amount of payments under this clause (k) in any

fiscal year of the Parent shall not exceed the sum of (i) $2,400,000 plus any proceeds received from key man life insurance policies and (ii) any Restricted Payments permitted (but not made) pursuant to this clause (k) in the immediately prior fiscal year.

7.07 Prepayments of Indebtedness.

Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner any Indebtedness (other than any Senior Debt), or make any payment in violation of any subordination terms of any Indebtedness (other than any Senior Debt), except:

(a) mandatory or scheduled payments of principal, interest and fees as and when due in respect of any Indebtedness (other than Subordinated Indebtedness) permitted under Section 7.03 hereof;

(b) the Borrower may prepay, redeem, repurchase or defease any Indebtedness with the proceeds of any Permitted Amendment or Refinancing or pursuant to any asset sale tender offers required by the terms of such Indebtedness;

(c) except during the Extended Accommodation Period, voluntary prepayments, repurchases, redemptions or defeasances of (i) Indebtedness permitted under Section 7.03 hereof and not described in clause (b), above, and not constituting Subordinated Indebtedness or intercompany Indebtedness, as long as the ABL Payment Conditions are satisfied, (ii) Subordinated Indebtedness in accordance with the applicable subordination terms thereof and as long as the ABL Payment Conditions are satisfied, and (iii) intercompany Indebtedness in accordance with the applicable subordination terms thereof and as long as the ABL Payment Conditions are satisfied; and

(d) any Permitted Amendment or Refinancing of any such Indebtedness.

7.08 Change in Nature of Business.

(a) In the case of the Parent and Holdings, notwithstanding anything to the contrary in this Agreement or any other Loan Document:

(i) conduct, transact or otherwise engage in, or commit to conduct, transact or otherwise engage in, any business or operations other than (i) those incidental to its ownership of the Equity Interests of Holdings, the Borrower and (indirectly) the Subsidiaries of the Borrower and those incidental to Investments by or in the Parent or Holdings, as applicable, permitted hereunder, (ii) those incidental to the issuance of and performance under any Senior Credit Agreement (or any other Indebtedness permitted under Section 7.03(p), (q) or (u)) or any Permitted Amendment or Refinancing of the foregoing, (iii) activities incidental to the maintenance of its existence and compliance with applicable laws and legal, tax and accounting matters related thereto and activities relating to its employees (including but not limited to payment or reimbursement of indemnification obligations to its directors or officers and payment of Board of Directors fees), (iv) activities relating to the performance of obligations under the Loan Documents to which it is a party or expressly permitted thereunder, (v) engaging in activities incidental to being a public company, (vi) the receipt and payment of Restricted Payments permitted under Section 7.06 and (vii) the other transactions expressly permitted under this Section 7.08;

(ii) incur, create, assume or suffer to exist any Indebtedness or other liabilities or financial obligations, except (i) Indebtedness permitted by Section 7.03(m), (ii)

nonconsensual obligations imposed by operation of law, (iii) pursuant to the Loan Documents to which it is a party, (iv) obligations with respect to its Equity Interests and options in respect thereof, (v) in respect of any Senior Credit Agreement (or any other Indebtedness permitted under Section 7.03(p), (q) or (u)) or any Permitted Amendment or Refinancing of the foregoing, (vi) obligations to its employees, officers and directors not prohibited hereunder; and (vii) guarantees permitted by Section 7.03(v).

(b) In the case of each of the Loan Parties, engage in any business, services, or activities substantially different from the business, services, or activities conducted by the Loan Parties and their Subsidiaries on the Closing Date or any business, service or activity incidental or directly related or similar to any business activity that is a reasonable extension, development or expansion thereof or ancillary thereto.

7.09 Transactions with Affiliates.

Enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of Property (including pursuant to a Division), the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate (other than the Parent, Holdings the Borrower or any Restricted Subsidiary) unless such transaction is (a) otherwise not prohibited under this Agreement and (b) upon fair and reasonable terms no less favorable to the Parent, Holdings the Borrower or such Restricted Subsidiary, as the case may be, than it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate. Notwithstanding the foregoing, the Borrower and its Restricted Subsidiaries may without being subject to the terms of this Section 7.09, (i) enter into any transaction with any Person which is an Affiliate of the Parent only by reason of such Person and the Parent having common directors; (ii) enter into and perform its or their obligations under the agreements set forth on Schedule 7.09, as in effect on the Closing Date or as the same may be amended, supplemented, replaced or otherwise modified from time to time in a manner that does not materially increase the obligations of the Loan Parties thereunder, and (iii) enter into transactions with Affiliates permitted by Sections 7.02(c), 7.02(o), 7.02(s), 7.03(h), 7.03(i), 7.03(r), 7.04(c), 7.05(e), 7.05(k)(ii) and 7.06 hereof. For the avoidance of doubt, this Section 7.09 shall not apply to employment arrangements with, and payments of compensation, indemnification payments, expense reimbursement or benefits to or for the benefit of, current or former employees, officers or directors of the Parent, Holdings the Borrower or any of its Restricted Subsidiaries.

7.10 Burdensome Agreements.

Enter into any agreement that prohibits or limits the ability of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries to create, incur, assume or suffer to exist any Lien upon any of its Property or revenues, whether now owned or hereafter acquired, to secure the Obligations or, in the case of any Guarantor, its obligations under the Security Documents, other than (a) this Agreement and the other Loan Documents, the ABL Loan Documents, Senior Term Loan Documents, and any agreement related to any Junior Indebtedness, and any Permitted Amendment or Refinancing thereof (b) any agreements governing any secured Indebtedness otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby and the proceeds thereof), (c) software and other Intellectual Property licenses expressly permitted hereunder pursuant to which the Parent, Holdings, the Borrower or such Restricted Subsidiary is the licensee or licensor of the relevant software or Intellectual Property, as the case may be, (in which case, any prohibition or limitation shall relate only to the assets subject of the applicable license), (d) Contractual Obligations incurred in the ordinary course of business and on customary terms which limit Liens on the assets subject of the applicable Contractual Obligation or impose restrictions on cash or other deposits with respect thereto, (e) any agreements regarding Indebtedness of any Non-Guarantor Subsidiary not prohibited under Section 7.02 (in which case, any prohibition or limitation shall only be effective against the assets of such Non-Guarantor Subsidiary and its

Subsidiaries), (f) prohibitions and limitations in effect on the date hereof and listed on Schedule 7.10, (g) customary provisions contained in joint venture agreements and other similar agreements applicable to joint ventures entered into in the ordinary course of business, (h) customary provisions restricting the subletting or assignment of any lease governing a leasehold interest, (i) customary restrictions and conditions contained in any agreement relating to an asset sale permitted by Section 7.04 or 7.05, (j) any agreement in effect at the time any Person becomes a Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Subsidiary, and (k) any restrictions on Liens imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (f) and (j) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive with respect to such encumbrance and other restrictions than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

7.11 Use of Proceeds.

Use the proceeds of any Borrowing, whether directly or indirectly, and whether immediately, incidentally or ultimately, (a) to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund Indebtedness originally incurred for such purpose, or (b) for any purposes other than the repayment of the ABL Loans, for general corporate purposes, and to pay fees and expenses in connection with the Loan Documents, the ABL Loan Documents and the Senior Term Loan Documents.

7.12 Amendment of Material Documents.

Amend, modify or otherwise change, or consent or agree to any amendment, modification, waiver or other change to (i) any agreement or instrument governing or evidencing Junior Indebtedness in any manner that is materially adverse to the Lenders without the prior consent of the Agent (which shall not be unreasonably withheld, conditioned or delayed), or (ii) any of its organizational documents, other than amendments, modifications or waivers that could not reasonably be expected to adversely affect the Lenders or Agent; provided that the Borrower shall deliver or cause to be delivered to the Agent a copy of all such amendments, modifications or waivers promptly after the execution and delivery thereof to the extent not filed publicly.

7.13 Fiscal Year.

Change the Fiscal Year of any Loan Party, or, other than as permitted pursuant to Section 1.03, the accounting policies or reporting practices of the Loan Parties, except as required by GAAP.

7.14 [Reserved]

7.15 Sales and Leasebacks.

Enter into any arrangement with any Person providing for the leasing by the Borrower or any Restricted Subsidiary of real or personal property which is to be sold or transferred by the Borrower or such Restricted Subsidiary (a) to such Person or (b) to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of the Borrower or such Restricted Subsidiary, except for (i) sales or transfers that do not exceed $6,000,000 in the aggregate at any one time outstanding, (ii) sales or transfers by the Borrower or any Subsidiary Guarantor to the Borrower or any other Subsidiary Guarantor and (iii) sales or transfers by any Non-Guarantor Subsidiary to any other Non-Guarantor Subsidiary that is a Restricted Subsidiary.

7.16 Clauses Restricting Subsidiary Distributions.

Enter into any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (a) make Restricted Payments in respect of any Equity Interests of such Restricted Subsidiary held by, or pay any Indebtedness owed to, the Borrower or any Restricted Subsidiary or (b) make Investments in the Borrower or any Restricted Subsidiary, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) any restrictions with respect to such Restricted Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Equity Interests or assets of such Restricted Subsidiary to the extent permitted hereunder, (iii) any restrictions set forth in the documentation for any Senior Credit Agreement or any Junior Indebtedness or any Permitted Amendment or Refinancing of any of the foregoing, (iv) any restrictions contained in agreements related to Indebtedness of (A) the Borrower or any Subsidiary Guarantor with respect to the disposition of assets securing such Indebtedness (in which case, any prohibition or limitation shall only be effective against the assets financed thereby and the proceeds thereof) and (B) any Non-Guarantor Subsidiary not prohibited under Section 7.02 (in which case such restriction shall relate only to such Non-Guarantor Subsidiary and its Subsidiaries), (v) any restrictions regarding non-exclusive licenses (or exclusive licenses within a specific or defined field of use) or sublicenses by the Borrower and its respective Restricted Subsidiaries of Intellectual Property in the ordinary course of business (in which case such restriction shall relate only to such Intellectual Property), (vi) Contractual Obligations incurred in the ordinary course of business which include customary provisions restricting the assignment of any agreement relating thereto, (vii) customary provisions contained in joint venture agreements and other similar agreements applicable to joint ventures entered into in the ordinary course of business, (viii) customary provisions restricting the subletting or assignment of any lease governing a leasehold interest, (ix) customary restrictions and conditions contained in any agreement relating to an asset sale permitted by Section 7.04 or 7.05, (x) any agreement in effect at the time any Person becomes a Restricted Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Restricted Subsidiary and (xi) such restrictions in effect on the Closing Date and listed on Schedule 7.16, (xii) negative pledges and restrictions on Liens and asset dispositions in favor of any holder of Indebtedness for borrowed money permitted under Section 7.03 but only if such negative pledge or restriction expressly permits Liens for the benefit of the Agent and the Lenders with respect to the credit facilities established hereunder and the Obligations under the Loan Documents on a senior basis and without a requirement that such holders of such Indebtedness be secured by such Liens equally and ratably or on a junior basis and (xiii) negative pledges and restrictions on Liens and asset dispositions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (x) and (xi) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive with respect to such encumbrance and other restrictions than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

7.17 Limitation on Hedge Agreements.

Enter into any Hedge Agreement other than Hedge Agreements entered into in the ordinary course of business or as required hereby, and not for speculative purposes, to protect against changes in interest rates or foreign exchange rates or commodity, raw material, energy or utility prices.

7.18 [Reserved].

7.19 Tax Receivable Agreement.

Terminate, or agree to the termination of, the Tax Receivable Agreement.

7.20 Sanctions.

Directly or, knowingly, indirectly, use the proceeds of any Borrowing, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is the target of Sanctions, that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as Lender, Agent, or otherwise) of Sanctions.

ARTICLE VIII
EVENTS OF DEFAULT AND REMEDIES

8.01 Events of Default.

Any one or more of the following events shall constitute an event of default (each, an "Event of Default"):

(a) Non-Payment. The Borrower or any other Loan Party fails to pay (i) any amount of principal of any Term Loan, or (ii) any interest, fee or any other amount payable hereunder or under any other Loan Document, in each case of this clause (ii) within three Business Days after any such interest or other amount becomes due; or

(b) Specific Covenants. Any Loan Party fails to perform or observe any term, covenant or agreement contained in any of (i) Sections 6.01(a), 6.01(b), 6.01(c) (in each case after a five (5) Business Day grace period), 6.02(a), 6.02(b), 6.03(a), 6.05(a)(i) or Article VII or (ii) Sections 6.07, provided that, if (A) any such Default described in this clause (b)(iii) is of a type that can be cured within five (5) Business Days and (B) such Default could not materially adversely impact the Agent's Liens on the Collateral, such Default shall not constitute an Event of Default for five (5) Business Days after the occurrence of such Default so long as the Loan Parties are diligently pursuing the cure of such Default; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after the date that such Loan Party receives from the Agent or any Lender notice of the existence of such default; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by any Loan Party herein, in any other Loan Document, or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document shall prove to have been inaccurate in any material respect when made or deemed made; or

(e) Cross-Default. (x) Other than with respect to any Senior Debt, the Parent, Holdings, the Borrower or any of their respective Restricted Subsidiaries shall, (i) default in making any payment of any principal of any Material Indebtedness (excluding the Term Loans) on the scheduled or original due date with respect thereto; or (ii) default in making any payment of any interest on any such Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event of default shall occur, the effect of which payment or other default or other event of default described in clauses (i), (ii) or (iii) of this paragraph (e) is to cause, or to permit the holder or beneficiary of such Material Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Indebtedness to become due prior to its

stated maturity or to become subject to a mandatory offer to purchase by the obligor thereunder or to become payable and such Indebtedness does become due, become subject to a mandatory offer to purchase or become payable, or (y) with respect to any Senior Debt, any default shall occur under the terms applicable to such Senior Debt resulting in acceleration of the maturity of such Senior Debt or result in the holder or holders thereof, or any trustee or agent for such holder or holders, to cause such Senior Debt to become due and payable prior to its stated maturity; provided that this paragraph (e) shall not apply to (A) secured Indebtedness that becomes due as a result of the sale, transfer, destruction or other disposition of the Property or assets securing such Indebtedness if such sale, transfer, destruction or other disposition is not prohibited hereunder or (B) any Guarantee Obligations except to the extent such Guarantee Obligations shall become due and payable by any Loan Party and remain unpaid after any applicable grace period or period permitted following demand for the payment thereof; or

(f) Insolvency Proceedings, Etc. (i) The Parent, any Loan Party or any of their respective Restricted Subsidiaries which are not Immaterial Subsidiaries shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) any case, proceeding, or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of 60 days; or (iii) there shall be commenced against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) any case, proceeding, or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against substantially all of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall consent to or approve of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(g) Judgments. There is entered against the Parent, any Loan Party or any of their respective Restricted Subsidiaries which are not Immaterial Subsidiaries (i) one or more judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding $12,000,000 (to the extent not paid or covered by independent third-party insurance as to which the insurer is rated at least "A" by A.M. Best Company, has been notified of the potential claim and does not dispute coverage), or (ii) any one or more non-monetary judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 45 days from the entry thereof; or

(h) ERISA. (i) The Parent, Holdings, the Borrower or any of its Restricted Subsidiaries shall incur any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any Single Employer Plan shall fail to satisfy the minimum funding standard required for any plan year or part thereof under Section 412 of the Code or Section 302 of ERISA), whether or not waived, or any Lien in favor of the PBGC or a

Single Employer Plan shall arise on the assets of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which commencement of proceedings or appointment of a trustee is reasonably likely to result in the termination of such Single Employer Plan for purposes of Title IV of ERISA, (iv) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries incurs any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (v) any Non-U.S. Plan fails to obtain or retain (as applicable) registered status under and as required by applicable law and/or be administered in a timely manner in all respects in compliance with all applicable laws, (vi) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (vii) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries shall, or is reasonably likely to, incur any liability as a result of a withdrawal from, or the Insolvency of, a Multiemployer Plan (including the withdrawal by an ERISA Affiliate), (viii) the institution of proceedings or the taking of any other action by the PBGC or the Parent or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination or partial termination, or Insolvency of, any Plan, (ix) a contribution required to be made with respect to a Plan or a Non-U.S. Plan has not been timely made, (x) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Single Employer Plans), as of any applicable annual valuation date, exceeds the value of the assets of such Single Employer Plan allocable to such accrued benefits, (xi) the occurrence of any similar events with respect to a Commonly Controlled Plan, that would reasonably be likely to result in a direct obligation of the Parent, the Borrower or any of its Restricted Subsidiaries to pay money, or (xii) any other event or condition (other than one which could not reasonably be expected to result in a violation of any applicable law or of the qualification requirements of the Code) shall occur or exist with respect to a Plan, Non-U.S. Plan, or a Commonly Controlled Plan; and in each case in clauses (i) through (xii) above, such event or condition, together with all other such events or conditions, if any, could reasonably be expected to result in a direct obligation of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries to pay money that would have a Material Adverse Effect; or

(i) Invalidity of Loan Documents. (i) Any provision of any Loan Document, at any time after its execution and delivery and for any reason, other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 7.04 or 7.05) or as a result of acts or omissions by any Agent or any Lender or the Payment in Full of the Obligations, ceases to be in full force and effect in any material respect, or any Loan Party contests in writing the validity or enforceability of any provision of any Loan Document; or any Loan Party denies in writing that it has any or further liability or obligation under any provision of any Loan Document (other than as a result of Payment in Full of the Obligations), or purports in writing to revoke, terminate or rescind any Loan Document; or (ii) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted in writing by any Loan Party not to be, a valid and perfected Lien on any material portion of the Collateral, with the priority required by (but subject to the limitations set forth in) the applicable Security Document and this Agreement except (i) as a result of the sale, release or other disposition of the applicable Collateral in a Disposition permitted by Section 7.05 or other transaction permitted under the Loan Documents, or (ii) relating to an immaterial amount of Collateral, or (iii) as a result of the failure of the Agent, through its acts or omissions and through no fault of the Loan Parties, to maintain the perfection of its Liens in accordance with applicable Requirement of Law; or

(j) Change of Control. There occurs any Change of Control; or

(k) Cessation of Business. Except as otherwise expressly permitted hereunder, the determination of the Loan Parties, whether by vote of the Loan Parties' Board of Directors or otherwise to: suspend the operation of the Loan Parties' business in the ordinary course, liquidate all or substantially all of their assets or store locations, or employ an agent or other third party to conduct any so-called store

closing, store liquidation or "Going-Out-Of-Business" sales for all or substantially all of the Loan Parties' stores; or

(l) Subordination. (i) The subordination provisions of the documents evidencing any Subordinated Indebtedness (or subordinated Junior Indebtedness) (collectively, the "Subordination Provisions") shall, in whole or in part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of the applicable Subordinated Indebtedness; or (ii) the Borrower or any other Loan Party shall, directly or indirectly, disavow or contest in any manner (A) the effectiveness, validity or enforceability of any of the Subordination Provisions, (B) that the Subordination Provisions exist for the benefit of the Credit Parties, or (C) that all payments of principal of or premium and interest on the applicable Subordinated Indebtedness, or realized from the liquidation of any property of any Loan Party, shall be subject to any of the Subordination Provisions.

8.02 Remedies Upon Event of Default.

If any Event of Default occurs and is continuing, the Agent may, or, at the request of the Required Lenders shall, take any or all of the following actions:

(a) [reserved];

(b) declare the unpaid principal amount of all outstanding Term Loans, all interest accrued and unpaid thereon, and all other Obligations to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties;

(c) [reserved]; and

(d) whether or not the maturity of the Obligations shall have been accelerated pursuant hereto, proceed to protect, enforce and exercise all rights and remedies of the Credit Parties under this Agreement, any of the other Loan Documents or Requirement of Law, including, but not limited to, by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Agreement and the other Loan Documents or any instrument pursuant to which the Obligations are evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of the Credit Parties;

provided, however, that upon the occurrence of any Default or Event of Default with respect to any Loan Party or any Subsidiary thereof under Section 8.01(f), the obligation of each Lender to make Term Loans shall automatically terminate, the unpaid principal amount of all outstanding Term Loans, all interest accrued thereon and all other Obligations shall automatically become due and payable as aforesaid shall automatically become effective, in each case without further act of the Agent or any Lender.

No remedy herein is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other Requirement of Law.

8.03 Application of Funds

After the exercise of remedies provided for in Section 8.02 (or after the Term Loans have automatically become immediately due and payable), any amounts received from any Loan Party, from the liquidation of

any Collateral of any Loan Party, or on account of the Obligations, shall be applied by the Agent against the Obligations in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Agent and amounts payable under Article III) payable to the Agent, in its capacity as such;

Second, to payment of that portion of the Obligations constituting indemnities, expenses, and other amounts (other than principal, interest and fees) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Term Loans and other Obligations, and fees (including any Early Termination Fee), ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Term Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to payment of all other Obligations, ratably among the Lenders in proportion to the respective amounts described in this clause Fifth held by them;

Last, the balance, if any, after Payment in Full of all of the Obligations, to the Loan Parties or as otherwise required by Requirement of Law.

8.04 [Reserved]

ARTICLE IX
THE AGENT

9.01 Appointment.

(a) Each of the Lenders hereby irrevocably designates and appoints the Agent as the agent of such Lender under the Loan Documents and each such Lender irrevocably authorizes the Agent, in such capacity, to take such action on its behalf under the provisions of the applicable Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Agent by the terms of the applicable Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Agent shall not have any duties or responsibilities, except those expressly set forth herein or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Agent. The provisions of this Article are solely for the benefit of the Agent and the other Credit Parties, and no Loan Party or any Subsidiary thereof shall have rights as a third party beneficiary of any of such provisions.

(b) The Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders hereby irrevocably appoints and authorizes the Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Agent, as "collateral agent," and any agents or attorneys-in-fact appointed by the Agent for purposes of holding or enforcing any Lien on the Collateral (or any portion

thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Agent, shall be entitled to the benefits of all provisions of this Section 9 (including Section 9.09) and Section 10.04, as though such agents and attorneys-in-fact were the "collateral agent" under the Loan Documents as if set forth in full herein with respect thereto.

(c) The provisions of this Section 9.01 are for the benefit of the Agent and the Lenders, and no Loan Party or any Subsidiary thereof shall have rights as a third party beneficiary of any of such provisions (other than the provisions of Section 9.06).

9.02 [Reserved]

9.03 [Reserved].

9.04 Delegation of Duties.

The Agent may execute any of its duties under the applicable Loan Documents by or through sub-agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the 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 the Agent. The Agent shall not be responsible for the negligence or misconduct of any sub-agents or attorneys in-fact selected by it with reasonable care.

9.05 Exculpatory Provisions.

The 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, neither the Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates shall:

(a) be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(b) 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 Agent is required to exercise as directed in writing by the Applicable Lenders, provided that the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or Requirement of Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law; and

(c) 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 Loan Parties or any of its Affiliates that is communicated to or obtained by the Person serving as the Agent or any of its Affiliates in any capacity.

The Agent shall not be liable for any action taken or not taken by it (i) with the Consent or at the request of the Applicable Lenders (as the Agent shall believe in good faith shall be necessary under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a final and non-appealable judgment of a court of competent jurisdiction.

The 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 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 the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

9.06 Reliance by Agent.

The Agent shall be entitled to rely, and shall not incur any liability for relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Parent, Holdings and the Borrower), independent accountants and other experts selected by the Agent. In determining compliance with any condition hereunder to the making of a Term Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Agent may presume that such condition is satisfactory to such Lender unless the Agent shall have received written notice to the contrary from such Lender prior to the making of such Term Loan. The Agent may consult with legal counsel (who may be counsel for any Loan Party), 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.

9.07 Notice of Default

. The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Agent has received notice from a Lender, the Parent, Holdings or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Agent receives such a notice, the Agent shall give notice thereof to the Lenders. The Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided that unless and until the Agent shall have received such directions, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Credit Parties. In no event shall the Agent be required to comply with any such directions to the extent that the Agent believes that its compliance with such directions would be unlawful.

9.08 Non-Reliance on Agent and Other Lenders.

Each Lender expressly acknowledges that neither the Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by the Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by the Agent to any Lender. Each Lender represents to the Agent that it has, independently and without reliance upon the Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Term Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under the applicable Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan

Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Agent hereunder, the Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party that may come into the possession of the Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

9.09 Indemnification

. The Lenders agree to indemnify the Agent in its capacity as such, any sub-agent thereof, and any Related Party, as the case may be (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective Applicable Percentages in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Term Loans of such Lender shall have been assigned (but which indemnified claims relate to actions or inactions prior to such assignment) or the date upon which the Obligations shall have been Paid in Full, ratably in accordance with such Applicable Percentages immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time be imposed on, incurred by or asserted against the Agent, any sub-agent thereof, and their Related Parties in any way relating to or arising out of, the Commitments, the Term Loans, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Agent, any sub-agent thereof, and their Related Parties under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the Agent's, any sub-agent's, and their Related Parties' gross negligence or willful misconduct. The agreements in this Section shall survive the payment of the Obligations and all other amounts payable hereunder.

9.10 Rights as a Lender

. The Person serving as the 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 Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the 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 Loan Parties or any Subsidiary or other Affiliate thereof as if such Person were not the Agent hereunder and without any duty to account therefor to the Lenders.

9.11 Successor Agent; Removal of Agent.

(a) The Agent may resign upon 30 days' notice to the Lenders and the Borrower effective upon appointment of a successor Agent. Upon receipt of any such notice of resignation, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless a Specified Event of Default shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the retiring Agent, and the retiring Agent's rights, powers and duties as Agent shall be terminated, without any other or further act or deed on the part of the retiring Agent or any of the parties to this Agreement or any holders of the Term Loans. If no successor Agent shall have been so appointed by the Required Lenders with such consent of the Borrower and shall have accepted such appointment within 30 days after the retiring Agent's giving of notice of resignation, then the retiring Agent may, on behalf of the Lenders and with the consent of the Borrower (such consent not to be unreasonably withheld or delayed), appoint a successor Agent, that shall be a bank that has an office in New York, New York with a combined capital and surplus of at least $500,000,000.

After any retiring Agent's resignation as Agent, the provisions of this Article and Section 10.04 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement and the other Loan Documents. The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor.

9.12 Collateral and Guaranty Matters.

The Credit Parties irrevocably authorize the Agent, at its option and in its discretion,

(a) to release any Lien on any property granted to or held by the Agent under any Loan Document (i) upon Payment in Full of all Obligations, (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing by the Applicable Lenders in accordance with Section 10.01;

(b) to subordinate any Lien on any property granted to or held by the Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(g); and

(c) to release any Guarantor from its obligations under its Facility Guaranty if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder.

Upon request by the Agent at any time, the Applicable Lenders will confirm in writing the Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under its Facility Guaranty pursuant to this Section 9.12. In each case as specified in this Section 9.12, the Agent will, at the Loan Parties' expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Security Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under its Facility Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.12.

9.13 [Reserved].

9.14 Agent May File Proofs of Claim.

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Agent (irrespective of whether the principal of any Term Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Term Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Agent and the other Credit Parties (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Agent and the other Credit Parties and their respective agents and counsel and all other amounts due the Lenders and the Agent under Sections 2.03(i), 2.03(j), 2.09 and 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, interim receiver, assignee, trustee, monitor, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Agent and if the Agent shall consent to the making

of such payments directly to the Lenders, to pay to the Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Agent to authorize or consent to or accept or adopt on behalf of any Credit Party any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Credit Party or to authorize the Agent to vote in respect of the claim of any Credit Party or in any such proceeding.

9.15 Notice of Transfer.

The Agent may deem and treat a Lender party to this Agreement as the owner of such Lender's portion of the Obligations for all purposes, unless and until, and except to the extent, an Assignment and Assumption shall have become effective as set forth in Section 10.06.

9.16 Reports and Financial Statements.

By signing this Agreement, each Lender:

(a) [reserved];

(b) [reserved]

(c) is deemed to have requested that the Agent furnish, and the Agent agrees to furnish, such Lender, promptly after they become available, copies of all commercial finance examinations and appraisals of the Collateral received by the Agent (collectively, the "Reports");

(d) [reserved];

(e) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that the Agent or any other party performing any audit or examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel;

(f) agrees to keep all financial statements and Reports confidential in accordance with the provisions of Section 10.07 hereof; and

(g) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold the Agent and any such other Lender preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any Borrowing that the indemnifying Lender has made or may make to the Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Term Loan or Term Loans; and (ii) to pay and protect, and indemnify, defend, and hold the Agent and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including attorney costs) incurred by the Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

9.17 Agency for Perfection.

Each Credit Party hereby appoints each other Credit Party as agent for the purpose of perfecting Liens for the benefit of the Credit Parties, in assets which, in accordance with Article 9 of the UCC or any other applicable Requirement of Law can be perfected only by possession or control. Should any Credit Party (other than the Agent) obtain possession or control of any such Collateral, such Credit Party shall notify the Agent thereof, and, promptly upon the Agent's request therefor shall deliver such Collateral to the Agent or otherwise deal with such Collateral in accordance with the Agent's instructions.

9.18 Relation Among Lenders.

The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of, or (except as otherwise set forth herein in case of the Agent) authorized to act for, any other Lender.

ARTICLE X
MISCELLANEOUS

10.01 Amendments and Waivers.

(a) Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.01. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Agent and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights or obligations of the Agent, the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Agent may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall:

(i) increase the Term Loan of any Lender without the written Consent of such Lender;

(ii) as to any Lender, postpone any date fixed by this Agreement or any other Loan Document for any scheduled payment (including the Maturity Date) or mandatory prepayment of principal, interest, fees or other amounts due hereunder or under any of the other Loan Documents without the written Consent of such Lender;

(iii) as to any Lender, reduce the principal of, or the rate of interest specified herein on, any Term Loan held by such Lender, or (subject to clause (iv) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document to or for the account of such Lender, without the written Consent of such Lender; provided, however, that only the Consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate;

(iv) as to any Lender, change Section 2.13 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written Consent of such Lender;

(v) change any provision of this Section or the definition of "Required Lenders", or any other provision hereof or of any Loan Document specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or under any other Loan Document or make any determination or grant any consent hereunder or thereunder, without the written Consent of each Lender;

(vi) except as expressly permitted hereunder or under any other Loan Document, release, or limit the liability of, any Loan Party without the written Consent of each Lender;

(vii) except for Dispositions permitted under Section 7.04 or Section 7.05 or as provided in Section 9.10, release all or substantially all of the Collateral from the Liens of the Security Documents without the written Consent of each Lender;

(viii) [reserved]; and

(ix) except as expressly permitted herein or in any other Loan Document, subordinate the Obligations hereunder or the Liens granted hereunder or under the other Loan Documents, to any other Indebtedness or Lien, as the case may be without the written Consent of each Lender;

and, provided further, that (i) no amendment, waiver or Consent shall, unless in writing and signed by the Agent in addition to the Lenders required above, affect the rights or duties of any Agent under this Agreement or any other Loan Document; (ii) [reserved], and (iii) no Consent is required to effect any amendment or supplement to the Subordination Agreement, (A) that is solely for the purpose of adding the holders of Indebtedness incurred or issued pursuant to an Amendment or Refinancing of any Senior Credit Agreement (or any agent or trustee of such holders) as parties thereto, as permitted under Section 7.03(n) (it being understood that any such amendment or supplement may make such other changes to the Subordination Agreement as, in the good faith determination of the Agent, are required to effectuate the foregoing and provided that such other changes are not adverse to the interests of the Lenders) or (B) that is expressly contemplated by the Subordination Agreement with respect to an Amendment or Refinancing of any Senior Credit Agreement permitted under Section 7.03(u) (or the comparable provisions, if any, of any successor intercreditor agreement with respect to an Amendment or Refinancing of any Senior Credit Agreement permitted under Section 7.03(u); provided further that no such agreement shall, pursuant to this clause (v), amend, modify or otherwise affect the rights or duties of the Agent hereunder or under any other Loan Document without the prior written consent of the Agent.

(b) Notwithstanding anything to the contrary in this Agreement or any other Loan Document, any Loan Document may be amended, supplemented and waived with the consent of the Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment, supplement or waiver is delivered in order (i) to comply with local Requirement of Law or advice of local counsel, (ii) to cure ambiguities, mistakes or defects or (iii) to cause any Loan Document to be consistent with this Agreement and the other Loan Documents.

(c) If any Lender (other than Sun Finco) does not Consent (a "Non-Consenting Lender") to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the Consent of each Lender and that has been approved by the Required Lenders, the Borrower may replace such Non-Consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

10.02 Notices; Effectiveness; Electronic Communications.

(a) Notices Generally. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy notice, when received, to the address, telecopier number, electronic email address or telephone number specified on Schedule 10.02 in the case of the Loan Parties or the Agent, and as set forth in an administrative questionnaire delivered to the Agent in the case of the Lenders, or to such other address as may be hereafter notified by the respective parties hereto; provided that any notice, request or demand to or upon the Agent, the Lenders, the Parent, Holdings or the Borrower shall not be effective until received.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Agent; provided that the foregoing shall not apply to notices pursuant to Section 2 unless otherwise agreed by the Agent and the applicable Lender, as the case may be. The Agent, the Parent, Holdings 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.

(b) Electronic Communications. Notices and other communications to the Lenders and hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Agent that it is incapable of receiving notices under such Article by electronic communication. The 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 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), 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; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(c) [Reserved].

(d) Change of Address, Etc. Each of the Loan Parties and the Agent may change its address, telecopier or telephone number or email address for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number or email address for notices and other communications hereunder by notice to the Borrower and the Agent. In addition, each Lender agrees to notify the Agent from time to time to ensure that the Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(e) Reliance by Agent and Lenders. The Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices) purportedly given by or on

behalf of the Loan Parties even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify the Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Loan Parties. All telephonic notices to and other telephonic communications with the Agent may be recorded by the Agent, and each of the parties hereto hereby consents to such recording.

10.03 No Waiver; Cumulative Remedies.

No failure to exercise and no delay in exercising, on the part of the Agent or any Credit Party, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law. Without limiting the generality of the foregoing, the making of a Term Loan shall not be construed as a waiver of any Default or Event of Default, regardless of whether any Credit Party may have had notice or knowledge of such Default or Event of Default at the time.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Agent in accordance with Section 8.02 for the benefit of all the Lenders and the other Credit Parties; provided, however, that the foregoing shall not prohibit (a) the Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents or (b) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13); and provided, further, that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b) and (c) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

10.04 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Borrower shall (a) pay or reimburse the Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the development, preparation, execution and delivery of this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith and any amendment, supplement or modification thereto (whether or not the transactions contemplated thereby shall be consummated), and (b) pay or reimburse the Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the administration of the transactions contemplated hereby and thereby, including, without limitation, the reasonable and documented fees and disbursements and other charges of counsel to the Agent (including one primary counsel and such local counsel as the Agent may reasonably require in connection with collateral matters), outside consultants, appraisers, and commercial finance examiners in connection with all of the foregoing, all customary fees and charges (as adjusted from time to time) of the Agent with respect to the disbursement of funds (or the receipt of funds) to or for the account of the Borrower (whether by wire transfer or otherwise), (c) pay or reimburse each Lender and the Agent for all their out-of-pocket costs and expenses incurred in connection with the enforcement of any rights under this Agreement, the other Loan Documents and any such other documents and in connection with the Term Loans made under this Agreement, including all such expenses incurred during any workout, restructuring or negotiations in

respect of such Term Loans, including, without limitation, the fees and disbursements of counsel (including the allocated fees and expenses of in-house counsel) to each Lender and the Agent, and (d) to pay, indemnify, or reimburse each Lender and the Agent for, and hold each Lender and the Agent harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying, stamp, excise and similar other taxes, if any, which may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of this Agreement the other Loan Documents and any such other documents.

(b) Indemnification. The Borrower shall pay, indemnify or reimburse each Lender, the Agent, and their respective affiliates, and their respective officers, directors, trustees, employees, advisors, agents and controlling Persons (each, an "Indemnitee") for, and hold each Indemnitee harmless from and against any and all other liabilities, obligations, claims, losses, damages, penalties, costs, expenses or disbursements incurred or asserted against any such Indemnitee by any Loan Party, any of the directors, officers, shareholders or creditors of any Loan Party or any other Person arising out of any actions, judgments or suits of any kind or nature whatsoever, arising out of or in connection with any claim, action or proceeding relating to or otherwise with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including, without limitation, any of the foregoing relating to the use of proceeds of the Term Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of the Parent, Holdings, the Borrower, any of their respective Subsidiaries or any of the Properties, or to any Blocked Account Agreement or other Person who has entered into a control agreement with any Credit Party, and the fees and disbursements and other charges of legal counsel in connection with claims, actions or proceedings by any Indemnitee against the Parent, Holdings or the Borrower hereunder (all the foregoing in this clause (d), collectively, the "Indemnified Liabilities"); provided that neither the Parent, Holdings nor the Borrower shall have any obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the bad faith, gross negligence or willful misconduct of, such Indemnitee or its affiliates, officers, directors, trustees, employees, advisors, agents or controlling Persons. All amounts due under this Section 10.04 shall be payable promptly after receipt of a reasonably detailed invoice therefor. Statements payable by the Borrower pursuant to this Section 10.04 shall be submitted to the Borrower at the address thereof set forth in Section 10.02, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Agent.

(c) Waiver of Consequential Damages, Etc. To the fullest extent permitted by Requirements of Law, each party hereto shall not assert, and hereby waive, any claim against any other party hereto, 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 Term Loan or the use of the proceeds thereof.

(d) Limitation of Liability. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee 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 other than for direct or actual damages resulting from the bad faith, gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(e) Survival. The agreements in this Section shall survive the resignation of any Agent, the assignment of any Commitment or Term Loan by any Lender, the replacement of any Lender and the repayment, satisfaction or discharge of all the other Obligations.

10.05 Payments Set Aside.

To the extent that any payment by or on behalf of the Loan Parties is made to any Credit Party, or any Credit Party exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Credit Party in its discretion) to be repaid to a receiver, interim receiver, trustee, monitor, custodian, conservator, liquidator, rehabilitator or similar officer, or any other party in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Credit Party severally agrees to pay to the Agent upon demand its Applicable Percentage (without duplication) of any amount so recovered from or repaid by the Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal rate determined by the Agent in accordance with banking industry rules on interbank compensation plus any administrative, processing, or similar fees customarily charged by the Agent in connection with the foregoing. The obligations of the Credit Parties under clause (b) of the preceding sentence shall survive the Payment in Full of the Obligations.

10.06 Successors and Assigns.

(a) 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 no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder or under any other Loan Document without the prior written Consent of the Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of Section 10.06(b), (ii) by way of participation in accordance with the provisions of Section 10.06(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.06(f) (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 subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Credit Parties) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Term Loan 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 Term Loan at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A)of this Section, the aggregate amount of the principal outstanding balance of the Term Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000 unless each of the Agent and, so long as no Specified Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(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 all of its the Term Loans;

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) a Specified Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund with respect to such Lender, provided that after the passage of seven (7) Business Days of receipt of written notice of an assignment from the Agent by the Borrower without the Borrower giving the Agent written notice of the Borrower's objection to such assignment, the Borrower shall be deemed to have consented to such assignment; and

(B) the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Term Loan if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500, provided, however, that the Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it shall not be a Lender, shall deliver to the Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to the Loan Parties or any of the Loan Parties' Subsidiaries or Affiliates, (B) to a natural Person, or (C) to Sponsor or any Sponsor Affiliate.

Subject to acceptance and recording thereof by the Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement (including, for the avoidance of doubt, any rights and obligations pursuant to Section 3.01), and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations

under this Agreement (and, in the case of an Assignment and Assumption 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 3.01, 3.04, 3.05, and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at their expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 10.06(d).

(c) Register. The Agent, acting solely for this purpose as an agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and principal amounts (and stated interest) of the Term Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Loan Parties, the Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register is intended to cause each Term Loan and other obligation hereunder to be in registered form within the meaning of Section 5f.103-1(c) of the United States Treasury Regulations and within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code. The 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.

(d) Participations. (i) Any Lender may at any time, without the consent of, or notice to, the Loan Parties or the Agent, sell participations to any Person (other than a natural person, the Loan Parties or any of the Loan Parties' 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 the Term 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 Loan Parties, the Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any Participant shall agree in writing to comply with all confidentiality obligations set forth in Section 10.07 as if such Participant was a Lender hereunder.

(i) 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 the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Documents; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in clauses (i) through (iv) of the first proviso to Section 10.01 that affects such Participant. Subject to subsection (e) of this Section, the Loan Parties agree that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 (subject to the limitations and requirements of Section 3.01 and Section 3.06) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.06(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.02 as though it were a Lender.

(ii) 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 Term 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 in connection with a Tax audit or other proceeding 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 and within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code. 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 Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant shall not be entitled to the benefits of Section 3.01 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Loan Parties, to comply and in fact complies with Section 3.01(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) 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.

(g) Matters Specific to Sun Finco. Notwithstanding anything to the contrary in this Agreement or the other Loan Documents (other than any restrictions herein with respect to Disqualified Institutions, including the assignment or sale thereto or participation thereof), (i) neither Sun Finco nor any of its Affiliates shall be required to comply with this Section 10.06 in connection with any transaction involving any other Affiliate of Sun Finco or any of its lenders or funding or financing sources, and neither Sun Finco nor any of its Affiliates shall have an obligation to disclose any such transaction to any Person and (ii) there shall be no limitation or restriction on (A) the ability of Sun Finco or its Affiliates to assign or otherwise transfer its rights and/or obligations under this Agreement or any other Loan Document, any Commitment, any Term Loan or any Obligation to any other Affiliate of Sun Finco or any lender or financing or funding source of Sun Finco or any of its Affiliates or (B) any such lender's or funding or financing source's ability to assign or otherwise transfer its rights and/or obligations under this Agreement or any other Loan Document, any Commitment, any Term Loan or any Obligation; provided, however, that Sun Finco shall continue to be liable as a "Lender" under this Agreement and the other Loan Documents unless such other Person complies with the provisions of this Agreement to become a "Lender."

10.07 Treatment of Certain Information; Confidentiality.

Each of the Credit Parties agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates, Approved Funds, and to its and its Affiliates' and Approved Funds' respective partners, directors, officers, employees, agents, funding sources, attorneys, advisors and 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), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority), (c) to the extent required by Requirement of Laws or regulations or by any subpoena or similar legal process, provided that the Agent or such Lender, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation; (d) to any other party hereto, (e) 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, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement; or (ii) any actual or prospective counterparty (or its advisors) to any Hedge Agreement relating to any Loan Party and its obligations, (g) with the consent of the Borrower, (h) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender) or (i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to any Credit Party or any of their respective Affiliates on a non-confidential basis from a source other than the Loan Parties and which source is not known by such Agent or Lender to be subject to a confidentiality restriction in respect thereof in favor of any of the Credit Parties or any Affiliate of the Credit Parties.

For purposes of this Section, "Information" means all information received from the Loan Parties or any Subsidiary thereof relating to the Loan Parties or any Subsidiary thereof or their respective businesses, other than any such information that is available to any Credit Party on a non-confidential basis prior to disclosure by the Loan Parties or any Subsidiary thereof, provided that, in the case of information received from any Loan Party or any Subsidiary after the Closing Date, such information is clearly identified at the time of delivery as confidential. 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.

Each of the Credit Parties acknowledges that (a) the Information may include material non-public information concerning the Loan Parties or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with Requirement of Law, including the Securities Laws.

10.08 Right of Setoff.

If an Event of Default shall have occurred and be continuing or if any Lender shall have been served with a trustee process or similar attachment relating to property of a Loan Party, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Agent or the Required Lenders, to the fullest extent permitted by Requirement of Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) or other property at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the Obligations now or hereafter existing under this Agreement or any other Loan Document to such Lender, regardless of the adequacy of the Collateral, and irrespective of whether or not such Lender 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 of such Lender different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender and its respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or its respective

Affiliates may have. Each Lender agrees to notify the Borrower and the 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.

10.09 Interest Rate Limitation.

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by Requirement of Law (the "Maximum Rate"). If the Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Term Loans and other Obligations or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by Requirement of Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

10.10 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 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. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Agent and when the 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, pdf or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Agreement.

10.11 Survival.

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Credit Parties, regardless of any investigation made by any Credit Party or on their behalf and notwithstanding that any Credit Party may have had notice or knowledge of any Default or Event of Default at the time of any Borrowing, and shall continue in full force and effect as long as any Term Loan or any other Obligation hereunder shall remain unpaid or unsatisfied. Further, the provisions of Sections 3.01, 3.04, 3.05 and 10.04 and Article IX shall survive and remain in full force and effect regardless of the repayment of the Obligations or the termination of this Agreement or any provision hereof.

10.12 Severability.

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.13 Replacement of Lenders.

If any Lender requests compensation under Section 3.04, or ceases to make LIBOR Rate Loans as a result of any condition described in Section 3.02 or 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02 or if any Lender is a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Agent, require such Lender (other than Crystal) to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Section 3.01 and 3.05) 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:

(a) the Borrower shall have paid to the Agent the assignment fee specified in Section 10.06(b);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Term Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and

(d) such assignment does not conflict with Requirement of Laws; and

(e) in the case of an assignment resulting from a Lender being a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

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.

10.14 GOVERNING LAW

. THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

10.15 SUBMISSION TO JURISDICTION; WAIVERS

. Each Loan Party hereby irrevocably and unconditionally:

(a) submits for itself and its Property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in

any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same. Nothing herein shall limit the right of the Agent or any Lender to bring proceedings against any Loan Party in any other court;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to it at its address set forth in Schedule 10.02 or at such other address of which the Agent shall have been notified pursuant thereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

10.16 Waivers of Jury Trial.

EACH OF THE PARENT, HOLDINGS, THE BORROWER, THE AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

10.17 No Advisory or Fiduciary Responsibility.

In connection with all aspects of each transaction contemplated hereby, the Loan Parties each acknowledge and agree that: (i) the credit facility provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Loan Parties, on the one hand, and the Credit Parties, on the other hand, and each of the Loan Parties is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each Credit Party is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Loan Parties or any of their respective Affiliates, stockholders, creditors or employees or any other Person; (iii) none of the Credit Parties has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Loan Parties with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether any of the Credit Parties has advised or is currently advising any Loan Party or any of its Affiliates on other matters) and none of the Credit Parties has any obligation to any Loan Party or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (iv) the Credit Parties and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Loan Parties and their respective Affiliates, and none of the Credit Parties has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Credit Parties have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. Each of the Loan Parties hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against each of the Credit Parties with respect to any breach or alleged breach of agency or fiduciary duty.

10.18 USA PATRIOT Act; Proceeds of Crime Act.

Each Lender that is subject to the Patriot Act and the Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties that pursuant to the requirements of the Patriot Act), it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Agent, as applicable, to identify each Loan Party in accordance with the Patriot Act. Each Loan Party is in compliance, in all material respects, with the Patriot Act. No part of the proceeds of the Term Loans will be used by the Loan Parties, directly or indirectly, for any purpose which would contravene or breach the Proceeds of Crime Act or for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

10.19 Foreign Asset Control Regulations.

Neither of the advance of the Term Loans nor the use of the proceeds of any thereof will violate the Trading With the Enemy Act (50 U.S.C. § 1 et seq., as amended) (the "Trading With the Enemy Act") or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) (the "Foreign Assets Control Regulations") or any enabling legislation or executive order relating thereto (which for the avoidance of doubt shall include, but shall not be limited to (a) Executive Order 13224 of September 21, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the "Executive Order") and (b) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56)). Furthermore, none of the Borrower or its Affiliates (a) is or will become a "blocked person" as described in the Executive Order, the Trading With the Enemy Act or the Foreign Assets Control Regulations or (b) engages or will engage in any dealings or transactions, or be otherwise associated, with any such "blocked person" or in any manner violative of any such order.

10.20 Time of the Essence.

Time is of the essence of the Loan Documents.

10.21 [Reserved].

10.22 Press Releases.

(a) Each Credit Party executing this Agreement agrees that neither it nor its Affiliates will in the future issue any press releases or other public disclosure using the name of the Agent or its Affiliates or referring to this Agreement or the other Loan Documents without at least two (2) Business Days' prior notice to the Agent and without the prior written consent of the Agent unless (and only to the extent that) such Credit Party or Affiliate is required to do so under Requirement of Law and then, in any event, such Credit Party or Affiliate will consult with the Agent before issuing such press release or other public disclosure.

(b) Each Loan Party consents to the publication by the Agent or any Lender of advertising material relating to the financing transactions contemplated by this Agreement using any Loan Party's name, product photographs, logo or trademark. The Agent or such Lender shall provide a draft reasonably in advance of any advertising material to the Borrower prior to the publication thereof for review and comment by the Borrower. The Agent reserves the right to provide to industry trade organizations information necessary and customary for inclusion in league table measurements.

10.23 Additional Waivers.

(a) The Obligations are the joint and several obligations of each Loan Party. To the fullest extent permitted by applicable Requirement of Law, the obligations of each Loan Party shall not be affected by (i) the failure of any Credit Party to assert any claim or demand or to enforce or exercise any right or remedy against any other Loan Party under the provisions of this Agreement, any other Loan Document or otherwise, (ii) any release of any other Loan Party from any of the terms or provisions of, this Agreement or any other Loan Document, or (iii) the failure to perfect any security interest in, or the release of, any of the Collateral or other security held by or on behalf of any Agent or any other Credit Party.

(b) Except as provided herein or in any other Loan Document or pursuant to any amendment or waiver executed pursuant to Section 10.01, the Obligations of each Loan Party shall not be subject to any reduction, limitation, impairment or termination for any reason (other than the Payment in Full of the Obligations), including any claim of waiver, release, surrender, alteration or compromise of any of the Obligations, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Obligations or otherwise. Without limiting the generality of the foregoing, the Obligations of each Loan Party shall not be discharged or impaired or otherwise affected by the failure of any Agent or any other Credit Party to assert any claim or demand or to enforce any remedy under this Agreement, any other Loan Document or any other agreement, by any waiver or modification of any provision of any thereof, any default, failure or delay, willful or otherwise, in the performance of any of the Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of any Loan Party or that would otherwise operate as a discharge of any Loan Party as a matter of law or equity (other than the Payment in Full of all of the Obligations).

(c) To the fullest extent permitted by Requirement of Law, each Loan Party waives any defense based on or arising out of any defense of any other Loan Party or the unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any other Loan Party, other than the Payment in Full of all the Obligations. The Agent and the other Credit Parties may, at their election, foreclose on any security held by one or more of them by one or more judicial or non-judicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Obligations, make any other accommodation with any other Loan Party, or exercise any other right or remedy available to them against any other Loan Party, without affecting or impairing in any way the liability of any Loan Party hereunder except to the extent that all of the Obligations have been Paid in Full. To the fullest extent permitted by Requirement of Law, each Loan Party waives any defense arising out of any such election even though such election operates, pursuant to Requirement of Law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Loan Party against any other Loan Party.

(d) Upon payment by any Loan Party of any Obligations, all rights of such Loan Party against any other Loan Party arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior Payment in Full of all of the Obligations. In addition, any indebtedness of any Loan Party now or hereafter held by any other Loan Party is hereby subordinated in right of payment to the prior Payment in Full of the Obligations and no Loan Party will demand, sue for or otherwise attempt to collect any such indebtedness until Payment in Full of the Obligations. If any amount shall erroneously be paid to any Loan Party on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of any Loan Party, such amount shall be held in trust for the benefit of the Credit Parties and shall forthwith be paid to the Agent to be credited against the payment of the Obligations, whether matured or unmatured, in accordance with the terms of this Agreement and the other Loan Documents.

10.24 Judgment Currency.

If, for the purposes of obtaining judgment in any court in any jurisdiction with respect to this Agreement or any other Loan Document, it becomes necessary to convert into a particular currency (the "Judgment Currency") any amount due under this Agreement or under any other Loan Document in any currency other than the Judgment Currency (the "Currency Due"), then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgment is given. For this purpose "rate of exchange" means the rate at which the Agent is able, on the relevant date, to purchase the Currency Due with the Judgment Currency in accordance with its normal practice for the applicable currency conversion in the wholesale market. In the event that there is a change in the rate of exchange prevailing there is a change in the rate of exchange prevailing between the conversion date and the date of actual payment of the amount due, the Loan Parties will pay such additional amount (if any, but in any event not a lesser amount) as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of Currency Due which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the conversion date. If the amount of the Currency Due which the applicable Agent is so able to purchase is less than the amount of the Currency Due originally due to it, the applicable Loan Party shall indemnify and save the Agent and the Lenders harmless from and against all loss or damage arising as a result of such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Agreement and the other Loan Documents, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Agent from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Agreement or any other Loan Document or under any judgment or order.

10.25 No Strict Construction.

The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

10.26 Attachments.

The exhibits, schedules and annexes attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail.

10.27 Electronic Execution of Assignments and Certain Other Documents.

The words "execute," "execution," "signed," "signature," and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

10.28 Acknowledgement and Consent to Bail-In of EEA Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document;

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

10.29 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with

respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 10.29, the following terms have the following meanings:

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

VINCE, LLC, as Borrower

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

VINCE INTERMEDIATE HOLDINGS, LLC, as a Loan Party

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

VINCE HOLDING CORP., as a Loan Party

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

REBECCA TAYLOR, INC., as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

PARKER HOLDING, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

REBECCA TAYLOR RETAIL STORE, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

PARKER LIFESTYLE, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Interim Chief Executive Officer and Chief Financial Officer

SK FINANCIAL SERVICES, LLC, as Agent and a Lender

By: /s/ Chad Crosby
Name: Chad Crosby
Title: Vice President and Assistant Secretary

EXHIBIT 10.45

VINCE, LLC

EMPLOYMENT AGREEMENT

EMPLOYMENT AGREEMENT (this "Agreement") dated as of March 8, 2021, by and between Vince, LLC, a Delaware limited liability company (the "Company") and a wholly owned subsidiary of Vince Holding Corp., a Delaware corporation (the "Parent"), and Jonathan "Jack" Schwefel (the "Executive").

W I T N E S S E T H

WHEREAS, the Company desires to employ the Executive as the Chief Executive Officer of the Company; and

WHEREAS, the Company and the Executive desire to enter into this Agreement as to the terms of the Executive's employment with the Company.

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

1. POSITION AND DUTIES.

(a) **GENERAL.** During the Employment Term, the Executive shall serve as the Chief Executive Officer of the Company, the Parent and any other direct and/or indirect subsidiaries of the Parent, as designated by the Company. In this capacity, the Executive shall have the duties, authorities and responsibilities commensurate with the duties, authorities and responsibilities of persons in similar capacities in similarly sized companies, and such other duties, authorities and responsibilities as may reasonably be assigned to the Executive from time to time that are not inconsistent with the Executive's position with the Company and the Parent. The Executive's principal place of employment with the Company shall be in New York, New York, provided that the Executive understands and agrees that the Executive's position requires frequent travel for business purposes, including to the Company's offices in Los Angeles, California. The Executive shall report directly to the Board of Directors of the Parent (the "Board").

(b) **OTHER ACTIVITIES.** During the Employment Term, the Executive shall devote all of the Executive's business time, energy, business judgment, knowledge and skill and the Executive's best efforts to the performance of the Executive's duties with the Company, provided that the foregoing shall not prevent the Executive from (i) with prior written notice to the Board, serving on the boards of directors (and board committees) of non-profit organizations, and, with the prior written approval of the Board, other for profit companies, (ii) participating in charitable, civic, educational, professional, community or industry affairs, and/or (iii) managing the Executive's passive personal investments, in each case so long as such activities in the aggregate do not interfere or conflict with the Executive's duties hereunder or create a potential business or fiduciary conflict. Executive acknowledges that he is subject to, and agrees to comply with, among other policies adopted by Parent or the Company from time to time which may be

applicable to Executive, (x) any policy regarding a "clawback" of compensation in certain circumstances, including the clawback provided for in the Vince Holding Corp. 2013 Omnibus Incentive Plan, as amended (the "2013 Incentive Plan"), (y) Parent's stock ownership policy applicable to senior executives, and (z) Parent's policy regarding trading in Parent securities.

(c) **BOARD SEAT.** The Board shall take such action as may be necessary to appoint or elect the Executive as a member of the Board, effective as of the Effective Date. Thereafter, during the Employment Term, the Board shall nominate the Executive for re-election as a member of the Board at the expiration of the then current term, provided that the foregoing shall not be required to the extent prohibited by legal or regulatory requirements.

2. EMPLOYMENT TERM.

(a) The Company agrees to employ the Executive pursuant to the terms of this Agreement, and the Executive agrees to be so employed, for a term commencing on March 29, 2021 **(**the "Effective Date") and ending on March 29, 2022 (the "Initial Term"). Following the Initial Term, the term of this Agreement shall be automatically extended for successive one-year periods (each, a "Renewal Term"); provided, however, that either party hereto may elect not to extend this Agreement by giving written notice to the other party at least sixty (60) days prior to the end of the Initial Term or any Renewal Term. Notwithstanding the foregoing, the Executive's employment hereunder may be earlier terminated in accordance with Section 6 hereof, subject to the provisions of Section 7 hereof. The period of time between the Effective Date and the termination of the Executive's employment hereunder shall be referred to herein as the "Employment Term."

(b) It is acknowledged and agreed that if this Agreement is not renewed by the Company pursuant to Section 2(a) above, and not as a result of Executive's Death, Disability, or Cause pursuant to Section 6(a), 6(b), or 6(c) below, such non-renewal by the Company will be deemed a termination Without Cause pursuant to Section 6(d) below. In the event that Executive's employment with the Company ceases at the end of any term because Executive (and not the Company) has given a non-renewal notice set forth in Section 2(a) above, and not as a result of the occurrence of Good Reason pursuant to Section 6(e) below, then such termination of employment shall be treated as a voluntary termination by Executive Without Good Reason pursuant to Section 6(f) below.

3. BASE SALARY. During the Employment Term, the Company agrees to pay the Executive a base salary at an annual rate of $800,000, payable in accordance with the regular payroll practices of the Company, but not less frequently than monthly. The Executive's Base Salary shall be subject to annual review by the Board (or a committee thereof) and may be increased from time to time by and at the discretion of the Board. The base salary as determined herein shall constitute "Base Salary" for purposes of this Agreement.

4. BONUS AND LONG TERM INCENTIVES.

(a) **ANNUAL BONUS.** During the Employment Term, the Executive shall be eligible to receive an annual discretionary incentive payment under the Company's discretionary annual bonus plan as may be in effect from time to time (the "Annual Bonus"), provided that such Annual

Bonus shall be prorated to the Effective Date for the Initial Term and subject to certain conditions, including achievement of performance metrics as established by the Compensation Committee of the Parent's Board of Directors (the "Compensation Committee"), with threshold Annual Bonus opportunity to be fifty percent (50%) of Executive's Base Salary, target Annual Bonus opportunity at one hundred percent (100%) of Base Salary (the "Target Bonus") and the maximum Annual Bonus opportunity set at two hundred percent (200%) of Base Salary. Any Annual Bonus payable hereunder shall be paid at the same time annual bonuses are paid to other senior executives of the Company, subject to the Executive's continued employment with the Company through the date of payment (except as otherwise provided in Section 7 hereof).

(b) **INITIAL EQUITY GRANTS**. Executive shall, subject to the approval of the Compensation Committee, be granted an initial equity grant of 50,000 restricted stock units ("RSUs"), to be granted as soon as practicable after the Effective Date, subject to the Restricted Stock Unit Grant Agreement attached hereto as Exhibit A, and shall otherwise be subject to the terms of the 2013 Incentive Plan.

(c) **ANNUAL EQUITY GRANTS**. Executive shall be entitled to additional equity grants at the discretion of the Compensation Committee, with his first eligibility to be on the first anniversary of the Effective Date. Following the first anniversary of the Effective Date, Executive shall be eligible for equity grants at the same time and on the same vesting terms as other executive officers of the Company, subject at all times to the discretion of the Compensation Committee.

(d) **RELOCATION BONUS**. In support of Executive's relocation to New York, New York, the Company shall pay Executive a lump sum cash relocation bonus of $100,000. The relocation bonus shall be paid in the first payroll following the Effective Date in accordance with the Company's ordinary payroll practices and procedures. If Executive terminates Executive's employment without Good Reason or the Company terminates Executive's employment for Cause, Executive shall repay 100% of the relocation bonus if such termination occurs within the Initial Term, and 50% if such termination occurs after the Initial Term and before the end of the first Renewal Term.

5. EMPLOYEE BENEFITS.

(a) **BENEFIT PLANS.** During the Employment Term, the Executive shall be entitled to participate in any employee benefit plan that the Company has adopted or may adopt, maintain or contribute to for the benefit of its employees generally, subject to satisfying the applicable eligibility requirements, and except to the extent such plans are duplicative of the benefits otherwise provided hereunder. The Executive's participation will be subject to the terms of the applicable plan documents and generally applicable Company policies. Notwithstanding the foregoing, the Company may modify or terminate any employee benefit plan at any time.

(b) **VACATION TIME.** During the Employment Term, the Executive shall be entitled to five (5) weeks of paid vacation per calendar year (as prorated for partial years) in accordance with the Company's policy on accrual and use applicable to employees as in effect from time to time.

(c) **BUSINESS AND TRAVEL EXPENSES.** Upon presentation of reasonable substantiation and documentation as the Company may specify from time to time, the Executive shall be reimbursed in accordance with the Company's expense reimbursement policy, for all reasonable out-of-pocket business expenses incurred and paid by the Executive during the Employment Term and in connection with the performance of the Executive's duties hereunder.

(d) **INDEMNIFICATION; D&O INSURANCE.** Both during and after the Employment Term, regardless of the reason for termination, the Company hereby agrees to indemnify the Executive and hold the Executive harmless to the maximum extent permitted by the Company's organizational documents against and in respect of any and all actions, suits, proceedings, investigations, claims, demands, judgments, costs, expenses (including reasonable attorney's fees), losses, and damages resulting from the Executive's good faith performance of the Executive's duties and obligations with the Company and Parent hereunder. The Company shall cover the Executive under directors' and officers' liability insurance both during and, while potential liability exists, after the term of this Agreement in the same amount and to the same extent as the Company covers its other active officers and directors. The foregoing obligations shall survive the termination of the Executive's employment with the Company.

(e) **FRINGE BENEFITS AND PERQUISITES**. During the Employment Term, Executive shall be entitled to fringe benefits and perquisites consistent with the practices of the Company and subject to governing program requirements, and to the extent the Company provides similar benefits or perquisites (or both) to similarly situated executives of the Company, including without limitation, clothing allowance.

6. TERMINATION. The Executive's employment and the Employment Term shall terminate on the first of the following to occur:

(a) **DISABILITY.** Upon ten (10) days' prior written notice by the Company to the Executive of a termination due to Disability. For purposes of this Agreement, "Disability" shall be defined as the inability of the Executive to have performed the Executive's material duties hereunder after reasonable accommodation due to a physical or mental injury, infirmity or incapacity for one hundred eighty (180) days (including weekends and holidays) in any three hundred, sixty-five (365)-day period as determined by the Board in its reasonable discretion. The Executive shall cooperate in all respects with the Company if a question arises as to whether the Executive has become disabled (including, without limitation, submitting to reasonable examinations by one or more medical doctors and other health care specialists selected by the Company and authorizing such medical doctors and other health care specialists to discuss the Executive's condition with the Company).

(b) **DEATH.** Automatically upon the date of death of the Executive.

(c) **CAUSE.** Immediately upon written notice by the Company to the Executive of a termination for Cause. "Cause" shall mean:

(i) the Executive's willful misconduct or gross negligence in the performance of the Executive's duties to the Company;

(ii) the Executive's willful failure to substantially perform the executive's duties to the Company or to follow the lawful directives of the Board (other than as a result of death or physical or mental incapacity);

(iii) the Executive's indictment for, conviction of, or pleading of guilty or nolo contendere to, a felony or any crime involving moral turpitude;

(iv) the Executive's performance of any material act of theft, embezzlement, fraud, dishonesty or misappropriation of the Company's property;

(v) the Executive's material breach of this Agreement or any other agreement with the Company or Parent, or a material violation of the Company's or Parent's code of conduct or other written policy.

For purposes of this Section 6(c), an act or failure to act shall be considered "willful" only if done or omitted to be done without a good faith reasonable belief that such act or failure to act was in the best interests of the Company.

Any determination of Cause by the Company will be made by a resolution approved by a majority of the members of the Board (other than the Executive, as applicable), provided that no such determination may be made until the Executive has been given written notice detailing the specific Cause event and a period of thirty (30) days following receipt of such notice to cure such event (if susceptible to cure) to the reasonable satisfaction of the Board. Notwithstanding anything to the contrary contained herein, the Executive's right to cure shall not apply if there are habitual breaches by the Executive.

(d) **WITHOUT CAUSE.** Immediately upon written notice by the Company to the Executive of an involuntary termination without Cause (other than for death or Disability).

(e) **GOOD REASON.** Upon written notice by the Executive to the Company of a termination for Good Reason. "Good Reason" shall mean the occurrence of any of the following events, without the express written consent of the Executive, unless such events are fully corrected in all material respects by the Company within thirty (30) days following written notification by the Executive to the Company:

(i) material diminution in the Executive's duties, authorities or responsibilities as in effect on the Effective Date (other than temporarily while physically or mentally incapacitated or as required by applicable law), such that Executive no longer has the title of, or serves or functions as, Chief Executive Officer of the Company;

(ii) a reduction by the Company in Executive's Base Salary or Target Bonus opportunity as in effect from time to time;

(iii) failure of the Board to nominate Executive for election to the Board at an annual meeting of shareholders or, so long as the Parent remains a controlled company pursuant to New York Stock Exchange rules, failure of the Executive to have been elected by the shareholders to the Board at any time (in each case other than solely due to any future stock exchange rules or other legal requirement prohibiting Executive from being on the Board); or

(iv) the Company fails to obtain the written assumption of its obligations under this Agreement by a successor to the Company not later than the consummation of a merger, consolidation or sale of the Company; or

(v) relocation of the Executive's primary work location by more than fifty (50) miles from its then current location; or

(vi) the Company's material breach of the Company's obligations under this Agreement.

The Executive shall provide the Company with a written notice detailing the specific circumstances alleged to constitute Good Reason within ninety (90) days after the Executive first knows, or with the exercise of reasonable diligence would know, of the occurrence of such circumstances, and must actually terminate employment within thirty (30) days following the expiration of the Company's cure period as set forth above. Otherwise, any claim of such circumstances as "Good Reason" shall be deemed irrevocably waived by the Executive.

(f) **WITHOUT GOOD REASON.** Upon sixty (60) days' prior written notice by the Executive to the Company of the Executive's voluntary termination of employment without Good Reason (which the Company may, in its sole discretion, make effective earlier than any notice date).

7. CONSEQUENCES OF TERMINATION.

(a) **DEATH.** In the event that the Executive's employment and the Employment Term ends on account of the Executive's death, the Executive or the Executive's estate, as the case may be, shall be entitled to the following (with the amounts due under Sections 7(a)(i), 7(a)(iii) and 7(a)(iv) hereof to be paid within sixty (60) days following termination of employment, or such earlier date as may be required by applicable law):

(i) any unpaid Base Salary through the date of termination;

(ii) any Annual Bonus earned but unpaid with respect to a fiscal year ending on or preceding the date of termination, payable as provided in Section 4 hereof (without regard to any continued employment requirement);

(iii) reimbursement for any unreimbursed business expenses incurred through the date of termination;

(iv) any accrued but unused vacation time in accordance with Company policy; and

(v) all other accrued and vested payments, benefits or fringe benefits to which the Executive is entitled in accordance with the terms and conditions of the applicable compensation or benefit plan, program or arrangement of the Company (collectively, Sections 7(a)(i) through 7(a)(v) hereof shall be hereafter referred to as the "Accrued Benefits").

(b) **DISABILITY.** In the event that the Executive's employment and/or Employment Term ends on account of the Executive's Disability, the Company shall pay or provide the Executive with the Accrued Benefits.

(c) **TERMINATION FOR CAUSE OR WITHOUT GOOD REASON.** If the Executive's employment is terminated (x) by the Company for Cause, or (y) by the Executive without Good Reason, the Company shall pay to the Executive the Accrued Benefits (other than the benefit described in Section 7(a)(ii) hereof).

(d) **TERMINATION WITHOUT CAUSE OR FOR GOOD REASON.** If the Executive's employment by the Company is terminated (x) by the Company other than for Cause, or (y) by the Executive for Good Reason, the Company shall pay or provide the Executive with the following:

(i) the Accrued Benefits;

(ii) a pro rata portion of the Executive's Annual Bonus for the fiscal year in which the date of termination occurs, based on final, audited actual results for such fiscal year, and pro-rated based on the number of days the Executive was employed during such fiscal year, with any earned amounts to be payable at the same time that any Annual Bonus for such fiscal year would have been paid pursuant to Section 4(a);

(iii) subject to the Executive's continued compliance with the obligations in Sections 8, 9 and 10 hereof, the Company shall continue to pay the Executive the Base Salary at the rate being paid at the termination date, for the earlier of twelve (12) months or until the executive secures other employment equal to or greater than his Base Salary at such time (the "Severance Period"), provided, however, that in the event that Executive obtains other employment which pays the Executive a base salary less than the Base Salary on the termination date, then the payments under this clause (iii) shall immediately become subject to offset by the amount of the base salary and guaranteed compensation, if any, from such other employment; and

(iv) if the Executive makes a timely election of continued health benefit coverage under the Consolidated Omnibus Budget Reconciliation Act ("COBRA"), the Company will continue to pay the employer portion of the associated monthly premiums during the Severance Period, with Executive responsible to pay the associated employee portion of the monthly premium as directed by the Company in order to be covered by COBRA. Effective the first day of the month following the last date of the Company COBRA subsidy period, Executive will become responsible to pay 100% of the COBRA premium to continue healthcare insurance for the remainder of the applicable COBRA period. Notwithstanding the foregoing, the Company shall not be obligated to provide the continuation coverage contemplated by this Section 7(d)(iv) if it would result in the imposition of excise taxes on the Company for failure to comply with the nondiscrimination requirements of the Patient Protection and Affordable Care Act of 2010, as amended, and the Health Care and Education Reconciliation Act of 2010, as amended (to the extent applicable).

Notwithstanding the foregoing, to the extent that the payment of any amount under this Section 7 constitutes "nonqualified deferred compensation" for purposes of "Code Section 409A" (as

defined in Section 20 hereof), any such payment scheduled to occur during the first sixty (60) days following such termination shall not be paid until the sixtieth (60th) day following such termination and shall include payment of any amount that was otherwise scheduled to be paid prior thereto; and Payments and benefits provided in this Section 7(d) shall be in lieu of any termination or severance payments or benefits for which the Executive may be eligible under any of the plans, policies or programs of the Company or under the Worker Adjustment Retraining Notification Act of 1988 or any similar state statute or regulation.

(e) **OTHER OBLIGATIONS.** Upon any termination of the Executive's employment with the Company, the Executive shall promptly resign from any position as an officer, director or fiduciary of any Company-related entity, including without limitation as a member of the Board.

(f) **EXCLUSIVE REMEDY.** The amounts payable to the Executive following termination of employment and the Employment Term hereunder pursuant to Sections 6 and 7 hereof shall be in full and complete satisfaction of the Executive's rights under this Agreement and any other claims that the Executive may have in respect of the Executive's employment with the Company or any of its affiliates, and the Executive acknowledges that such amounts are fair and reasonable, and are the Executive's sole and exclusive remedy, in lieu of all other remedies at law or in equity, with respect to the termination of the Executive's employment hereunder or any breach of this Agreement, other than the Executive's rights as an equity or security holder in the Company or its affiliates, which shall survive the Employment Term in accordance with the terms of the definitive documentation related thereto.

(g) **CODE SECTION 280G.** To the extent that any amount payable to the Executive hereunder, as well as any other "parachute payment," as such term is defined under Section 280G of the Internal Revenue Code of 1986, as amended (the "Code"), payable to the Executive in connection with the Executive's employment by the Company, exceed the limitations of Section 280G of the Code such that an excise tax will be imposed under Section 4999 of the Code (the "Excise Tax"), then such payments shall be either (x) reduced to the minimum extent necessary to avoid application of the Excise Tax or (y) provided to the Executive in full, whichever of the foregoing amounts, when taking into account applicable federal, state, local and foreign income and employment taxes, the Excise Tax and any other applicable taxes, results in the receipt by the Executive, on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such benefits may be taxable under the Excise Tax. In the event of a reduction in benefits hereunder, the reduction shall occur in the following order: (i) benefits valued as parachute payments, (ii) any cash severance based on a multiple of Base Salary or Annual Bonus, (iii) any other cash amounts payable to the Executive, and (iv) acceleration of vesting of any equity awards.

8. RELEASE; MITIGATION; SET-OFFS. Any and all amounts payable and benefits or additional rights provided pursuant to this Agreement in connection with the Executive's termination of employment beyond the Accrued Benefits (other than the benefit described in Section 7(a)(ii) hereof) shall only be payable if the Executive delivers to the Company and does not revoke a general release of claims in favor of the Company substantially in the form of Exhibit B attached hereto. Such release shall be executed and delivered (and no longer subject to revocation, if applicable) within sixty (60) days following termination. Except as otherwise expressly provided in Section 7 hereof, in no event shall the Executive be obligated to seek other employment or take any other action by way of mitigation of the amounts payable to the Executive

under any of the provisions of this Agreement, and such amounts shall not be offset by any amount received by the Executive from any other source. Subject to the provisions of Section 20(b)(v) hereof and the limitations of applicable wage laws, the Company's obligations to pay the Executive amounts hereunder shall be subject to set-off, counterclaim or recoupment of amounts owed by the Executive to the Company or any of its affiliates.

9. RESTRICTIVE COVENANTS.

(a) **CONFIDENTIALITY.** During the course of the Executive's employment with the Company, the Executive will have access to Confidential Information. For purposes of this Agreement, "Confidential Information" means all data, information, ideas, concepts, discoveries, trade secrets, inventions (whether or not patentable or reduced to practice), innovations, improvements, know-how, developments, techniques, methods, processes, treatments, drawings, sketches, specifications, designs, patterns, models, plans and strategies, and all other confidential or proprietary information or trade secrets in any form or medium (whether merely remembered or embodied in a tangible or intangible form or medium) whether now or hereafter existing, relating to or arising from the past, current or potential business, activities and/or operations of the Company or any of its affiliates, including, without limitation, any such information relating to or concerning finances, sales, marketing, advertising, transition, promotions, pricing, personnel, customers, suppliers, vendors, partners and/or competitors. The Executive agrees that the Executive shall not, directly or indirectly, use, make available, sell, disclose or otherwise communicate to any person, other than in the course of the Executive's assigned duties and for the benefit of the Company, either during the period of the Executive's employment or at any time thereafter, any Confidential Information or other confidential or proprietary information received from third parties subject to a duty on the Company's and its subsidiaries' and affiliates' part to maintain the confidentiality of such information, and to use such information only for specified limited purposes, in each case, which shall have been obtained by the Executive during the Executive's employment by the Company (or any predecessor). The foregoing shall not apply to information that (i) was known to the public prior to its disclosure to the Executive; (ii) becomes generally known to the public subsequent to disclosure to the Executive through no wrongful act of the Executive or any representative of the Executive; or (iii) the Executive is required to disclose by applicable law, regulation or legal process (provided that the Executive provides the Company with prior notice of the contemplated disclosure and cooperates with the Company at its expense in seeking a protective order or other appropriate protection of such information). Unless this Agreement is otherwise required to be disclosed under applicable law, rule or regulation, the terms and conditions of this Agreement shall remain strictly confidential, and the Executive hereby agrees not to disclose the terms and conditions hereof to any person or entity, other than immediate family members, legal advisors or personal tax or financial advisors, or prospective future employers solely for the purpose of disclosing the limitations on the Executive's conduct imposed by the provisions of this Section 9 who, in each case, agree to keep such information confidential. Notwithstanding anything herein to the contrary, nothing in this Section 9(a) will (x) prohibit the Executive from making reports of possible violations of federal law or regulation to any governmental agency or entity in accordance with the provisions of and rules promulgated under any whistleblower protection provisions of state or federal law or regulation, or (y) require notification or prior approval by the Company of any reporting described in the foregoing clause (x).

(b) **NONCOMPETITION.** The Executive acknowledges that (i) the Executive will continue to perform services of a unique nature for the Company that are irreplaceable, and that the Executive's performance of such services to a competing business will result in irreparable harm to the Company, (ii) the Executive has had and will have access to Confidential Information which, if disclosed, would unfairly and inappropriately assist in competition against the Company or any of its affiliates, (iii) in the course of the Executive's employment by a competitor, the Executive would inevitably use or disclose such Confidential Information, and (iv) the Executive has generated and will generate goodwill for the Company and its affiliates in the course of the Executive's employment. Accordingly, during the Executive's employment hereunder and for a period of twelve (12) months thereafter, the Executive agrees that the Executive will not, directly or indirectly, own, manage, operate, control, be employed by (whether as an employee, consultant, independent contractor or otherwise, and whether or not for compensation) or render services to any person, firm, corporation or other entity, in whatever form, engaged in the luxury and contemporary apparel business, including without limitation the following brands: ALC, Veronica Beard, Theory, Helmut Lang, DVF, J Brand, James Perse, Joie and Rag and Bone. Notwithstanding the foregoing, nothing herein shall prohibit the Executive from being a passive owner of not more than one percent (1%) of the equity securities of a publicly traded corporation engaged in a business that is in competition with the Company or any of its direct affiliates, so long as the Executive has no active participation in the business of such corporation.

(c) **NONSOLICITATION; NONINTERFERENCE.** During the Executive's employment with the Company and for a period of twelve (12) months thereafter, the Executive agrees that the Executive shall not, except in the furtherance of the Executive's duties hereunder, directly or indirectly, individually or on behalf of any other person, firm, corporation or other entity, (i) solicit, aid or induce any customer of the Company to change his, her or its business relationship with the Company (ii) solicit, aid or induce any employee, representative or agent of the Company or any of its direct affiliates to leave such employment or retention or to accept employment with or render services to or with any other person, firm, corporation or other entity unaffiliated with the Company, or hire or retain any such employee, representative or agent, or take any action to materially assist or aid any other person, firm, corporation or other entity in identifying, hiring or soliciting any such employee, representative or agent, or (iii) interfere, or aid or induce any other person or entity in interfering, with the relationship between the Company or any of its direct affiliates and any of their respective vendors, joint venturers or licensors. An employee, representative or agent shall be deemed covered by this Section 9(c) while so employed or retained and for a period of six (6) months thereafter. Notwithstanding the foregoing, the provisions of this Section 9(c) shall not be violated by general advertising or solicitation not specifically targeted at Company-related persons or entities.

(d) **NONDISPARAGEMENT.** Both during the Employment Term and at all times thereafter, regardless of the reason for termination, the Executive agrees not to make negative comments or otherwise disparage the Company or its officers, directors, employees, shareholders, members, agents or products other than in the good faith performance of the Executive's duties to the Company while the Executive is employed by the Company. The foregoing shall not be violated by truthful statements in response to legal process, required governmental testimony or filings, or administrative or arbitral proceedings (including, without limitation, depositions in connection with such proceedings).

(e) **INVENTIONS.** (i) The Executive acknowledges and agrees that all ideas, methods, inventions, discoveries, improvements, work products, developments, software, know-how, processes, techniques, methods, works of authorship and other work product, whether patentable or unpatentable, (A) that are reduced to practice, created, invented, designed, developed, contributed to, or improved with the use of any Company resources and/or within the scope of the Executive's work with the Company or that relate to the business, operations or actual or demonstrably anticipated research or development of the Company, and that are made or conceived by the Executive, solely or jointly with others, during the period of the Executive's employment with the Company, or (B) suggested by any work that the Executive performs in connection with the Company, either while performing the Executive's duties with the Company or on the Executive's own time, but only insofar as the Inventions are related to the Executive's work as an employee or other service provider to the Company, shall belong exclusively to the Company (or its designee), whether or not patent or other applications for intellectual property protection are filed thereon (the "Inventions"). The Executive will keep full and complete written records (the "Records"), in the manner prescribed by the Company, of all Inventions, and will promptly disclose all Inventions completely and in writing to the Company. The Records shall be the sole and exclusive property of the Company, and the Executive will surrender them upon the termination of the Employment Term, or upon the Company's request. The Executive will assign to the Company the Inventions and all patents or other intellectual property rights that may issue thereon in any and all countries, whether during or subsequent to the Employment Term, together with the right to file, in the Executive's name or in the name of the Company (or its designee), applications for patents and equivalent rights (the "Applications"). The Executive will, at any time during and subsequent to the Employment Term, make such applications, sign such papers, take all rightful oaths, and perform all other acts as may be requested from time to time by the Company to perfect, record, enforce, protect, patent or register the Company's rights in the Inventions, all without additional compensation to the Executive from the Company. The Executive will also execute assignments to the Company (or its designee) of the Applications, and give the Company and its attorneys all reasonable assistance (including the giving of testimony) to obtain the Inventions for the Company's benefit, all without additional compensation to the Executive from the Company, but entirely at the Company's expense.

(i) In addition, the Inventions will be deemed Work for Hire, as such term is defined under the copyright laws of the United States, on behalf of the Company and the Executive agrees that the Company will be the sole owner of the Inventions, and all underlying rights therein, in all media now known or hereinafter devised, throughout the universe and in perpetuity without any further obligations to the Executive. If the Inventions, or any portion thereof, are deemed not to be Work for Hire, or the rights in such Inventions do not otherwise automatically vest in the Company, the Executive hereby irrevocably conveys, transfers and assigns to the Company, all rights, in all media now known or hereinafter devised, throughout the universe and in perpetuity, in and to the Inventions, including, without limitation, all of the Executive's right, title and interest in the copyrights (and all renewals, revivals and extensions thereof) to the Inventions, including, without limitation, all rights of any kind or any nature now or hereafter recognized, including, without limitation, the unrestricted right to make modifications, adaptations and revisions to the Inventions, to exploit and allow others to exploit the Inventions and all rights to sue at law or in equity for any infringement, or other unauthorized use or conduct in derogation of the Inventions, known or unknown, prior to the date hereof, including, without limitation, the right to receive all proceeds and damages therefrom. In addition, the Executive hereby waives any so-called "moral

rights" with respect to the Inventions. To the extent that the Executive has any rights in the results and proceeds of the Executive's service to the Company that cannot be assigned in the manner described herein, the Executive agrees to unconditionally waive the enforcement of such rights. The Executive hereby waives any and all currently existing and future monetary rights in and to the Inventions and all patents and other registrations for intellectual property that may issue thereon, including, without limitation, any rights that would otherwise accrue to the Executive's benefit by virtue of the Executive being an employee of or other service provider to the Company.

(f) **RETURN OF COMPANY PROPERTY.** On the date of the Executive's termination of employment with the Company for any reason (or at any time prior thereto at the Company's request), the Executive shall return all property belonging to the Company or its affiliates (including, but not limited to, any Company-provided laptops, computers, cell phones, wireless electronic mail devices or other equipment, or documents and property belonging to the Company). The Executive may retain the Executive's rolodex and similar address books provided that such items only include contact information.

(g) **REASONABLENESS OF COVENANTS.** In signing this Agreement, the Executive gives the Company assurance that the Executive has carefully read and considered all of the terms and conditions of this Agreement, including the restraints imposed under this Section 9. The Executive agrees that these restraints are necessary for the reasonable and proper protection of the Company and its affiliates and their Confidential Information and that each and every one of the restraints is reasonable in respect of subject matter, length of time and geographic area, and that these restraints, individually or in the aggregate, will not prevent the Executive from obtaining other suitable employment during the period in which the Executive is bound by the restraints. The Executive covenants that the Executive will not challenge the reasonableness or enforceability of any of the covenants set forth in this Section 9, and that the Executive will reimburse the Company and its affiliates for all costs (including reasonable attorneys' fees) incurred in connection with any action to enforce any of the provisions of this Section 9 if either the Company and/or its affiliates prevails on any material issue involved in such dispute or if the Executive challenges the reasonableness or enforceability of any of the provisions of this Section 9. It is also agreed that each of the Company's affiliates will have the right to enforce all of the Executive's obligations to that affiliate under this Agreement, including without limitation pursuant to this Section 9.

(h) **REFORMATION.** If it is determined by a court of competent jurisdiction in any state that any restriction in this Section 9 is excessive in duration or scope or is unreasonable or unenforceable under applicable law, it is the intention of the parties that such restriction may be modified or amended by the court to render it enforceable to the maximum extent permitted by the laws of that state.

(i) **TOLLING.** In the event of any violation of the provisions of this Section 9, the Executive acknowledges and agrees that the post-termination restrictions contained in this Section 9 shall be extended by a period of time equal to the period of such violation, it being the intention of the parties hereto that the running of the applicable post-termination restriction period shall be tolled during any period of such violation.

(j) **SURVIVAL OF PROVISIONS.** The obligations contained in Sections 9 and 10 hereof shall survive the termination or expiration of the Employment Term and the Executive's employment with the Company and shall be fully enforceable thereafter.

10. COOPERATION. In connection with any termination of the Executive's employment with the Company, the Executive agrees to assist the Company, as reasonably requested by the Company, in its succession planning efforts to facilitate a smooth transition of the Executive's job responsibilities to the Executive's successor. In addition, upon the receipt of reasonable notice from the Company (including outside counsel), the Executive agrees that while employed by the Company and thereafter, the Executive will respond and provide information with regard to matters in which the Executive has knowledge as a result of the Executive's employment with the Company, and will provide reasonable assistance to the Company, its affiliates and their respective representatives in defense of all claims that may be made against the Company or its affiliates, and will assist the Company and its affiliates in the prosecution of all claims that may be made by the Company or its affiliates, to the extent that such claims may relate to the period of the Executive's employment with the Company. The Executive agrees to promptly inform the Company if the Executive becomes aware of any lawsuit involving such claims that may be filed or threatened against the Company or its affiliates. The Executive also agrees to promptly inform the Company (to the extent that the Executive is legally permitted to do so) if the Executive is asked to assist in any investigation of the Company or its affiliates (or their actions), regardless of whether a lawsuit or other proceeding has then been filed against the Company or its affiliates with respect to such investigation, and shall not do so unless legally required. Upon presentation of appropriate documentation, the Company shall pay or reimburse the Executive for all reasonable out-of-pocket travel, duplicating or telephonic expenses incurred by the Executive in complying with this Section 10.

11. EQUITABLE RELIEF AND OTHER REMEDIES. The Executive acknowledges and agrees that the Company's remedies at law for a breach or threatened breach of any of the provisions of Section 9 or Section 10 hereof would be inadequate and, in recognition of this fact, the Executive agrees that, in the event of such a breach or threatened breach, in addition to any remedies at law, the Company shall be entitled to seek equitable relief in the form of specific performance, a temporary restraining order, a temporary or permanent injunction or any other equitable remedy which may then be available, without the necessity of showing actual monetary damages or the posting of a bond or other security. In the event of a violation by the Executive of Section 9 or Section 10 hereof, any severance being paid to the Executive pursuant to this Agreement or otherwise shall immediately cease, and any severance previously paid to the Executive shall be immediately repaid to the Company.

12. NO ASSIGNMENTS. This Agreement is personal to each of the parties hereto. Except as provided in this Section 12 or Section 7(a) hereof, no party may assign or delegate any rights or obligations hereunder without first obtaining the written consent of the other party hereto. The Company shall assign this Agreement to any successor to all or substantially all of the business and/or assets of the Company; provided that the Company shall require such successor to expressly assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. As used in this Agreement, "Company" shall mean the Company and any successor to its business and/or assets,

which assumes and agrees to perform the duties and obligations of the Company under this Agreement by operation of law or otherwise.

13. NOTICE. For purposes of this Agreement, notices and all other communications provided for in this Agreement shall be in writing and shall be deemed to have been duly given (a) on the date of delivery, if delivered by hand, (b) on the date of transmission, if delivered by electronic mail, (c) on the first business day following the date of deposit, if delivered by guaranteed overnight delivery service, or (d) on the fourth business day following the date delivered or mailed by United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the Executive:

At the address (or to the facsimile number) shown
in the books and records of the Company.

If to the Company:

Vince, LLC
500 Fifth Avenue
New York, NY 10110
Attention: Senior Vice President, Chief Human Resources Officer
Email: lmeiner@vince.com

With a copy (which shall not constitute notice to the Company) to:

Vince, LLC
500 Fifth Avenue
New York, NY 10110
Attention: General Counsel
Email: legal@vince.com

or to such other address as either party may have furnished to the other in writing in accordance herewith, except that notices of change of address shall be effective only upon receipt.

14. SECTION HEADINGS; INCONSISTENCY. The section headings used in this Agreement are included solely for convenience and shall not affect, or be used in connection with, the interpretation of this Agreement. In the event of any inconsistency between the terms of this Agreement and any form, award, plan or policy of the Company, the terms of this Agreement shall govern and control.

15. SEVERABILITY. The provisions of this Agreement shall be deemed severable. The invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the validity, legality or enforceability of the remainder of this Agreement in such jurisdiction or the validity, legality or enforceability of any provision of this Agreement in any other

jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by applicable law.

16. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.

17. GOVERNING LAW; JURISDICTION. This Agreement, the rights and obligations of the parties hereto, and all claims or disputes relating thereto, shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the choice of law provisions thereof. Each of the parties agrees that any dispute between the parties shall be resolved only in the courts of the State of Delaware or the United States District Court for the District of Delaware and the appellate courts having jurisdiction of appeals in such courts. In that context, and without limiting the generality of the foregoing, each of the parties hereto irrevocably and unconditionally (a) submits in any proceeding relating to this Agreement or the Executive's employment by the Company or any affiliate, or for the recognition and enforcement of any judgment in respect thereof (a "Proceeding"), to the exclusive jurisdiction of the courts of the State of Delaware, the court of the United States of America for the District of Delaware, and appellate courts having jurisdiction of appeals from any of the foregoing, and agrees that all claims in respect of any such Proceeding shall be heard and determined in such Delaware State court or, to the extent permitted by law, in such federal court, (b) consents that any such Proceeding may and shall be brought in such courts and waives any objection that the Executive or the Company may now or thereafter have to the venue or jurisdiction of any such Proceeding in any such court or that such Proceeding was brought in an inconvenient court and agrees not to plead or claim the same, (c) WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE EXECUTIVE'S EMPLOYMENT BY THE COMPANY OR ANY AFFILIATE OF THE COMPANY, OR THE EXECUTIVE'S OR THE COMPANY'S PERFORMANCE UNDER, OR THE ENFORCEMENT OF, THIS AGREEMENT, (d) agrees that service of process in any such Proceeding may be effected by mailing a copy of such process by registered or certified mail (or any substantially similar form of mail), postage prepaid, to such party at the Executive's or the Company's address as provided in Section 13 hereof, and (e) agrees that nothing in this Agreement shall affect the right to effect service of process in any other manner permitted by the laws of the State of Delaware. Except as provided in Section 9(g) hereof, the parties acknowledge and agree that in connection with any dispute hereunder, each party shall pay all of its own costs and expenses, including, without limitation, its own legal fees and expenses; provided, however, that if either the Executive or the Company or its affiliates prevail on all material issues involved in such dispute, the non-prevailing party shall reimburse the prevailing party for all costs (including reasonable attorneys' fees) incurred in connection with such dispute.

18. MISCELLANEOUS. No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing and signed by the Executive and such officer or director of the Company as may be designated by the Board. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. This Agreement together with all exhibits hereto (if any) sets forth the entire

agreement of the parties hereto in respect of the subject matter contained herein and supersedes any and all prior agreements or understandings between the Executive and the Company with respect to the subject matter hereof; provided that the restrictive covenants and other obligations contained in Section 9 are independent of, supplemental to and do not modify, supersede or restrict (and shall not be modified, superseded by or restricted by) any non-competition, non-solicitation, confidentiality or other restrictive covenants in any other current or future agreement unless reference is made to the specific provisions hereof which are intended to be superseded. No agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party which are not expressly set forth in this Agreement. Any such adjustment would not trigger the Executive's right to terminate employment for Good Reason.

19. REPRESENTATIONS. The Executive represents and warrants to the Company that (a) the Executive has the legal right to enter into this Agreement and to perform all of the obligations on the Executive's part to be performed hereunder in accordance with its terms, and (b) the Executive is not a party to any agreement or understanding, written or oral, and is not subject to any restriction, which, in either case, could prevent the Executive from entering into this Agreement or performing all of the Executive's duties and obligations hereunder.

20. TAX MATTERS.

(a) **WITHHOLDING.** The Company may withhold from any and all amounts payable under this Agreement or otherwise such federal, state and local taxes as may be required to be withheld pursuant to any applicable law or regulation.

(b) **SECTION 409A COMPLIANCE.**

(i) The intent of the parties is that payments and benefits under this Agreement comply with Internal Revenue Code Section 409A and the regulations and guidance promulgated thereunder (collectively "Code Section 409A") and, accordingly, to the maximum extent permitted, this Agreement shall be interpreted to be in compliance therewith. To the extent that any provision hereof is modified in order to comply with Code Section 409A, such modification shall be made in good faith and shall, to the maximum extent reasonably possible, maintain the original intent and economic benefit to the Executive and the Company of the applicable provision without violating the provisions of Code Section 409A. Executive agrees and acknowledges that the Company makes no representations with respect to the application of Code Section 409A and other tax consequences to any payments hereunder and, by entering into this Agreement, Executive agrees to accept the potential application of Code Section 409A and the other tax consequences of any payment made hereunder.

(ii) A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amount or benefit upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Code Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." Notwithstanding anything to the contrary in this Agreement, if the Executive is deemed on the date of termination to be a "specified employee" within the meaning

of that term under Code Section 409A(a)(2)(B), then with regard to any payment or the provision of any benefit that is considered "nonqualified deferred compensation" under Code Section 409A payable on account of a "separation from service," such payment or benefit shall not be made or provided until the date which is the earlier of (A) the expiration of the six (6)-month period measured from the date of such "separation from service" of the Executive, and (B) the date of the Executive's death, to the extent required under Code Section 409A. Upon the expiration of the foregoing delay period, all payments and benefits delayed pursuant to this Section 20(b)(ii) (whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid or reimbursed to the Executive in a lump sum, and all remaining payments and benefits due under this Agreement shall be paid or provided in accordance with the normal payment dates specified for them herein.

(iii) To the extent that reimbursements or other in-kind benefits under this Agreement constitute "nonqualified deferred compensation" for purposes of Code Section 409A, (A) all such expenses or other reimbursements hereunder shall be made on or prior to the last day of the taxable year following the taxable year in which such expenses were incurred by the Executive, (B) any right to such reimbursement or in-kind benefits shall not be subject to liquidation or exchange for another benefit, and (C) no such reimbursement, expenses eligible for reimbursement, or in-kind benefits provided in any taxable year shall in any way affect the expenses eligible for reimbursement, or in-kind benefits to be provided, in any other taxable year.

(iv) For purposes of Code Section 409A, the Executive's right to receive installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments. Whenever a payment under this Agreement specifies a payment period with reference to a number of days, the actual date of payment within the specified period shall be within the sole discretion of the Company.

(v) Notwithstanding any other provision of this Agreement to the contrary, in no event shall any payment or benefit under this Agreement that constitutes "nonqualified deferred compensation" for purposes of Code Section 409A be subject to offset by any other amount unless otherwise permitted by Code Section 409A.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

VINCE HOLDING CORP.

By:/s/ David Stefko

Name:David Stefko

Title: Interim Chief Executive Officer and Chief Financial Officer

VINCE, LLC

By:/s/ David Stefko

Name:David Stefko

Title: Interim Chief Executive Officer and Chief Financial Officer

EXECUTIVE

/s/ Jack Schwefel

Signature

Employment Agreement Signature Page

EXHIBIT A

RESTRICTED STOCK UNIT AGREEMENT

EXHIBIT B

GENERAL RELEASE

I, Jonathan "Jack" Schwefel, in consideration of and subject to the performance by VINCE, LLC (together with its parent and subsidiaries, the "Company"), of its obligations under the Employment Agreement dated as of March 8, 2021 (the "Agreement"), do hereby release and forever discharge as of the date hereof the Company and its respective parent, affiliates, subsidiaries and direct or indirect parent entities and all present, former and future directors, officers, agents, representatives, employees, successors and assigns of the Company and/or its respective affiliates, subsidiaries and direct or indirect parent entities (collectively, the "Released Parties") to the extent provided below (this "General Release"). The Released Parties are intended to be third-party beneficiaries of this General Release, and this General Release may be enforced by each of them in accordance with the terms hereof in respect of the rights granted to such Released Parties hereunder. Terms used herein but not otherwise defined shall have the meanings given to them in the Agreement.

1. I understand that any payments or benefits paid or granted to me under Section 7 of the Agreement represent, in part, consideration for signing this General Release and are not salary, wages or benefits to which I was already entitled. I understand and agree that I will not receive certain of the payments and benefits specified in Section 7 of the Agreement unless I execute this General Release and do not revoke this General Release within the time period permitted hereafter. Such payments and benefits will not be considered compensation for purposes of any employee benefit plan, program, policy or arrangement maintained or hereafter established by the Company or its affiliates.

2. Except as provided in paragraphs 4 and 5 below and except for the provisions of the Agreement which expressly survive the termination of my employment with the Company, I knowingly and voluntarily (for myself, my heirs, executors, administrators and assigns) release and forever discharge the Company and the other Released Parties from any and all claims, suits, controversies, actions, causes of action, cross-claims, counterclaims, demands, debts, compensatory damages, liquidated damages, punitive or exemplary damages, other damages, claims for costs and attorneys' fees, or liabilities of any nature whatsoever in law and in equity, both past and present (through the date that this General Release becomes effective and enforceable) and whether known or unknown, suspected, or claimed against the Company or any of the Released Parties which I, my spouse, or any of my heirs, executors, administrators or assigns, may have, by reason of any matter, cause, or thing whatsoever, from the beginning of my initial dealings with the Company to the date of this General Release, and particularly, but without limitation of the foregoing general terms, any claims arising from or relating in any way to my employment relationship with the Company, the terms and conditions of that employment relationship, and the termination of that employment relationship (including, but not limited to, any allegation, claim or violation, arising under: Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; the Age Discrimination in Employment Act of 1967, as amended (including the Older Workers Benefit Protection Act); the Equal Pay Act of 1963, as amended; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act of 1993; the Worker Adjustment Retraining and Notification Act; the Executive Retirement Income Security Act of 1974; any applicable Executive Order Programs; the Fair Labor Standards Act; or

their state or local counterparts; or under any other federal, state or local civil or human rights law, or under any other local, state, or federal law, regulation or ordinance; or under any public policy, contract or tort, or under common law; or arising under any policies, practices or procedures of the Company; or any claim for wrongful discharge, breach of contract, infliction of emotional distress, defamation; or any claim for costs, fees, or other expenses, including attorneys' fees incurred in these matters) (all of the foregoing collectively referred to herein as the "Claims"). I understand and intend that no reference herein to a specific form of claim, statute or type of relief is intended to limit the scope of this Release.

3. I represent that I have made no assignment or transfer of any right, claim, demand, cause of action, or other matter covered by paragraph 2 above.

4. I agree that this General Release does not waive or release any rights or claims that I may have under the Age Discrimination in Employment Act of 1967 which arise after the date I execute this General Release. I acknowledge and agree that my separation from employment with the Company in compliance with the terms of the Agreement shall not serve as the basis for any claim or action (including, without limitation, any claim under the Age Discrimination in Employment Act of 1967).

5. I agree that I hereby waive all rights to sue or obtain equitable, remedial or punitive relief from any or all Released Parties of any kind whatsoever in respect of any Claim, including, without limitation, reinstatement, back pay, front pay, and any form of injunctive relief. Notwithstanding the above, I further acknowledge that I am not waiving and am not being required to waive any right that cannot be waived under law, including the right to file an administrative charge or participate in an administrative investigation or proceeding; provided, however, that I disclaim and waive any right to share or participate in any monetary award resulting from the prosecution of such charge or investigation or proceeding. Additionally, I am not waiving (i) any right to the Accrued Benefits or any severance benefits to which I am entitled under the Agreement, (ii) any claim relating to directors' and officers' liability insurance coverage or any right of indemnification under the Company's organizational documents, as provided under Section 5(d) of the Agreement, or otherwise, or (iii) my rights as an equity or security holder in the Company or its affiliates.

6. In signing this General Release, I acknowledge and intend that it shall be effective as a bar to each and every one of the Claims hereinabove mentioned or implied. I expressly consent that this General Release shall be given full force and effect according to each and all of its express terms and provisions, including those relating to unknown and unsuspected Claims (notwithstanding any state or local statute that expressly limits the effectiveness of a general release of unknown, unsuspected and unanticipated Claims), if any, as well as those relating to any other Claims hereinabove mentioned or implied. I acknowledge and agree that this waiver is an essential and material term of this General Release and that without such waiver the Company would not have agreed to the terms of the Agreement. I further agree that in the event I should bring a Claim seeking damages against the Company, or in the event I should seek to recover against the Company in any Claim brought by a governmental agency on my behalf, this General Release shall serve as a complete defense to such Claims to the maximum extent permitted by law. I further agree that I am not aware of any pending claim of the type described in paragraph 2 above as of the execution of this General Release.

7. I agree that neither this General Release, nor the furnishing of the consideration for this General Release, shall be deemed or construed at any time to be an admission by the Company, any Released Party or myself of any improper or unlawful conduct.

8. I agree that if I violate this General Release by suing the Company or the other Released Parties, I will pay all costs and expenses of defending against the suit incurred by the Released Parties, including reasonable attorneys' fees.

9. I agree that, except to the extent that disclosure is otherwise required by applicable law, rule or regulation, this General Release and the Agreement are confidential and agree not to disclose any information regarding the terms of this General Release or the Agreement, except to my immediate family and any tax, legal or other counsel that I have consulted regarding the meaning or effect hereof or as required by law, and I will instruct each of the foregoing not to disclose the same to anyone.

10. Any non-disclosure provision in this General Release does not prohibit or restrict me (or my attorney) from responding to any inquiry about this General Release or its underlying facts and circumstances by the Securities and Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), any other self-regulatory organization or any governmental entity.

11. I and the Company hereby acknowledge that Section 5(d), Sections 7 through 13, 15, 17, and 18 through 21 of the Agreement shall survive my execution of this General Release.

12. I represent that I am not aware of any claim by me other than the claims that are released by this General Release. I acknowledge that I may hereafter discover claims or facts in addition to or different than those which I now know or believe to exist with respect to the subject matter of the release set forth in paragraph 1 above and which, if known or suspected at the time of entering into this General Release, may have materially affected this General Release and my decision to enter into it.

13. Notwithstanding anything in this General Release to the contrary, this General Release shall not relinquish, diminish, or in any way affect any rights or claims arising out of any breach by the Company or by any Released Party of the Agreement after the date hereof.

14. Whenever possible, each provision of this General Release shall be interpreted in, such manner as to be effective and valid under applicable law, but if any provision of this General Release is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or any other jurisdiction, but this General Release shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

BY SIGNING THIS GENERAL RELEASE, I REPRESENT AND AGREE THAT:

1. I HAVE READ IT CAREFULLY;

2. I UNDERSTAND ALL OF ITS TERMS AND KNOW THAT I AM GIVING UP IMPORTANT RIGHTS, INCLUDING, BUT NOT LIMITED TO, RIGHTS

UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE EQUAL PAY ACT OF 1963, THE AMERICANS WITH DISABILITIES ACT OF 1990, AND THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED;

3. I VOLUNTARILY CONSENT TO EVERYTHING IN IT;

4. I HAVE BEEN ADVISED TO CONSULT WITH AN ATTORNEY BEFORE EXECUTING IT AND I HAVE DONE SO OR, AFTER CAREFUL READING AND CONSIDERATION, I HAVE CHOSEN NOT TO DO SO OF MY OWN VOLITION;

5. I HAVE HAD AT LEAST **[**21**][**45**]** DAYS FROM THE DATE OF MY RECEIPT OF THIS RELEASE TO CONSIDER IT, AND THE CHANGES MADE SINCE MY RECEIPT OF THIS RELEASE ARE NOT MATERIAL OR WERE MADE AT MY REQUEST AND WILL NOT RESTART THE REQUIRED **[**21**][**45**]**-DAY PERIOD;

6. I UNDERSTAND THAT I HAVE SEVEN (7) DAYS AFTER THE EXECUTION OF THIS RELEASE TO REVOKE IT AND THAT THIS RELEASE SHALL NOT BECOME EFFECTIVE OR ENFORCEABLE UNTIL THE REVOCATION PERIOD HAS EXPIRED;

7. I HAVE SIGNED THIS GENERAL RELEASE KNOWINGLY AND VOLUNTARILY AND WITH THE ADVICE OF ANY COUNSEL RETAINED TO ADVISE ME WITH RESPECT TO IT; AND

8. I AGREE THAT THE PROVISIONS OF THIS GENERAL RELEASE MAY NOT BE AMENDED, WAIVED, CHANGED OR MODIFIED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY AND BY ME.

SIGNED: DATED: Executive's Signature

VINCE.
REBECCA TAYLOR
Parker

EXHIBIT 10.46

April 5, 2021

Akiko Okuma

Dear Akiko:

I am pleased to provide this letter confirming the terms of your employment with Vince LLC (hereafter "Vince" or the "Company"). The terms of the employment are as follows:

Effective Date:	September 30, 2021
Title:	SVP, General Counsel & Secretary (Member of Steering Committee)
Reports to:	CEO
Location:	New York, NY
Base Compensation:	Your annual base salary is $350,000 to be paid in accordance with the Company's payroll policies and procedure that are in effect from time to time. This position is classified as exempt. As such, you are not eligible for overtime pay for hours worked over 40 days in a week.
Short-Term Incentive:	You will be eligible to participate in the Company's discretionary annual bonus plan starting Fiscal Year 2021, with a target bonus of 60% of your base salary. Your bonus will be paid to you in accordance with the terms of the bonus plan.
Long-Term Incentive:	Starting Fiscal Year 2021, you will be eligible to participate in the ongoing annual Long-Term Incentive Program of Vince, subject to the terms of such program as approved by and at the discretion of the Vince Board. The Vince Board will determine the target amount and terms (such as equity mix and vesting schedule) of the annual awards each year, based upon the Company's and/or Vince's performance as well as market conditions and other factors.
Vacation/Holiday:	You will receive 25 annualized vacation days in accordance with Company policies. Vacation will be earned each pay period ratably over the calendar year. Additionally, you will be entitled to all Company holidays and personal holidays as per the Company policies.
Benefits:	You will be enrolled in and entitled to participate in the Company's employee benefit plans on the same basis as other executive level management employees of the Company participating in such plans, subject to the terms of such plans, and subject to the Company's right to amend, terminate or take other similar action with respect to such plans.
Merchandise Discount:	You will be eligible to receive a discount privilege from the Company as set forth in the Company's Associate Handbook. In addition, you and your immediate family are eligible to receive Vince's merchandise discount of 75% off apparel and 50% off licensed merchandise in Vince and Rebecca Taylor retail stores and online. Immediate family includes spouse/domestic partner and children. For your immediate family member to be eligible for the discount, you must be present at the time of purchase or must make the purchase for the immediate family member. Discount amounts are subject to change at any time.
Clothing Allowance:	You will receive an annualized clothing allowance, to be used and reported in accordance with the Company policy, of $6,000, with respect to the Vince, Rebecca Taylor and Parker brands. This is a discretionary benefit and is subject to change with or without notice.
Severance:	If your employment is terminated by the Company without cause (as such term is defined in Vince's equity plan), then subject to the execution of a satisfactory release by you, you will receive severance payments, equivalent to your then current base rate of pay, for the next twelve (12) months or until employment is earlier secured. If you are, as of the termination date, enrolled in the Company's medical and dental plans, you will continue to receive medical and dental coverage in

accordance with the Company's plans that are then in place until the end of the salary continuation period or, at the Company's option, coverage under another comparable medical and/or dental plan.

Restrictive Covenants:

Notice Period Requirement. Should you voluntarily resign your employment, you shall provide the Company with a sixty (60) days working notice period. During this notice period, you agree to continue performing all of the functions and responsibilities of your position, continue to give your full time and attention to such responsibilities, and assist the Company in preparing for your departure.

Non-Compete. During your employment and for a period of twelve (12) months thereafter, you shall not directly or indirectly (i) source, manufacture, produce, design, develop, promote, sell, license, distribute, or market anywhere in the world (the "Territory") any contemporary apparel, accessories or related products ("Competitive Products") or (ii) own, manage, operate, be employed by, participate in or have any interest in any other business or enterprise engaged in the design, production, distribution or sale of Competitive Products anywhere in the Territory; provided, however, that nothing herein shall prohibit you from being a passive owner of not more than five percent (5%) of the outstanding stock of any class of securities of a corporation or other entity engaged in such business which is publicly traded, so long as you have no active participation in the business of such corporation or other entity.

Non-Solicit, Non-Interference. During your employment and for a period of twelve (12) months thereafter, you shall not, except in furtherance of your duties during your employment with the Company or and of its affiliates (collectively, the "Group Companies"), directly or indirectly, individually or on behalf of any other person, firm, corporation or other entity, (A) solicit or induce any employee, consultant, representative or agent of any of the Group Companies, to leave such employment or retention or to accept employment with or render services to or with any other person, firm, corporation or other entity unaffiliated with the Company or hire or retain any such employee, consultant, representative or agent, or take any action to materially assist or aid any other person, firm corporation or other entity in identifying, hiring or soliciting any such employee, consultant, representative or agent, or (B) interfere, or aid or induce any other person or entity in interfering, with the relationship between the Group Companies and their respective customers, suppliers, vendors, joint ventures, distribution partners, franchisees, licensors, licensees or any other business relation of the Company or its affiliates. Any person described in subparagraph (A) above shall be deemed covered by this paragraph while so employed or retained and for the period specified above thereafter, unless such person's employment has been terminated by the applicable Group Company.

Non-disparagement. During your period of employment and thereafter, you shall not make any negative comments or otherwise disparage the Group Companies or any of their respective officers, directors, employees, shareholders, agents, products or business, or take any action, including making any public statements or publishing or participating in the publication of any accounts or stories relating to any persons, entities, products or businesses which negatively impacts or brings such person, entity, product or business into public ridicule or disrepute except if testifying truthfully under oath pursuant to subpoena or other legal process, in which event you agree to provide the Company, as appropriate, with notice of subpoena and opportunity to respond.

Compliance with Law:

This letter is intended to comply with applicable law. Without limiting the foregoing, this letter is intended to comply with the requirements of section 409A of the Internal Revenue Code ("409A"), and, specifically, with the separation pay and short-term deferral exceptions of 409A. Notwithstanding anything in the letter to the contrary, separation pay may only be made upon a "separation from service" under 409A and only in a manner permitted by 409A. For purposes of 409A, the right to a series of installment payments under this letter shall be treated as a right to a series of separate payments. In no event may you, directly or indirectly, designate the calendar year of a payment. All reimbursements and in-kind benefits provided in this letter shall be made or provided in accordance with the requirements of 409A (including, where applicable, the reimbursement rules set forth in the regulations issued under 409A). If you are a "specified employee" of a publicly traded corporation on your termination date (as determined by the Company in accordance with 409A), to the extent required by 409A, separation pay due under this letter will be delayed for a period of six (6) months. Any separation pay that is postponed because of 409A will be paid to you (or, if you die, your beneficiary) within 30 days after the end of the six-

month delay period. Your position is considered an executive officer within the meanings of the Securities Exchange Act of 1934, as amended, and rules and regulations promulgated thereunder, as of the date approved by the Vince Board.

The employment relationship is one that is at-will, meaning both you and the Company have the right to terminate your employment at any time, for any reason, with or without cause, and without prior notice.

This letter constitutes the sole and entire terms of your employment, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject.

The terms of your employment are strictly confidential.

Congratulations, Akiko! We are confident that you will continue to make significant contributions and we look forward to your joining our team. If you agree to the employment terms listed, please sign this letter and return it via email to lmeiner@vince.com as soon as practicable.

[*Signature Page to Follow.*]

Sincerely,

/s/Jonathan Schwefel_____
Jonathan (Jack) Schwefel
Chief Executive Officer, Vince, LLC

/s/Lee Meiner_____
Lee Meiner
SVP, CHRO, Vince, LLC

I agree to the terms of the offer as outlined above:

/s/Akiko Okuma_____
Akiko Okuma

EXHIBIT 10.47

SIXTH AMENDMENT TO CREDIT AGREEMENT

This **SIXTH AMENDMENT TO CREDIT AGREEMENT** (this "Amendment") is entered into as of April 26, 2021, by and among **VINCE, LLC**, a Delaware limited liability company (the "Borrower"), the Guarantors signatory hereto, **CITIZENS BANK, N.A.** (in its individual capacity, "Citizens"), as administrative agent and collateral agent under the Loan Documents (in such capacities, the "Agent"), Citizens, as an L/C Issuer, and each of the Lenders party hereto.

W I T N E S S E T H:

WHEREAS, the Borrower, the Guarantors from time to time party thereto, the Agent, the L/C Issuers from time to time party thereto, and the Lenders from time to time party thereto are parties to a Credit Agreement, dated as of August 21, 2018 (as amended by that certain First Amendment to Credit Agreement, dated as of November 1, 2019, that certain Joinder, Confirmation, Ratification, Commitment Increase and Second Amendment to Credit Agreement and Related Documents, dated as of November 4, 2019, that certain Third Amendment to Credit Agreement, dated as of June 8, 2020, and certain Amendment and Consent, dated as of June 23, 2020, and that certain Fifth Amendment to Credit Agreement, dated as of December 11, 2020) and as further restated, amended and restated, supplemented, modified, or otherwise in effect from time to time prior to the date hereof, the "Credit Agreement"; the Credit Agreement as amended hereby, the "Amended Credit Agreement"); and

WHEREAS, the Borrower, the Guarantors, the Agent, the L/C Issuer and the Lenders wish to further amend the Credit Agreement;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

SECTION 1. Definitions.

Unless otherwise indicated, all capitalized terms used herein (including the preamble and the recitals) and not otherwise defined shall have the respective meanings provided to such terms in the Amended Credit Agreement.

SECTION 2. Amendments to Credit Agreement.

(a) Subject to the satisfaction (or waiver) of the conditions set forth in Section 3 of this Amendment, the Credit Agreement (excluding the schedules and exhibits thereto, which shall remain in full force and effect, unless expressly amended pursuant to this Amendment) is hereby amended as set forth in Annex A attached hereto such that all of the newly inserted double underlined text (indicated textually in the same manner as the following example: **double-underlined text**) and any formatting changes attached hereto shall be deemed to be inserted and

all stricken text (indicated textually in the same manner as the following example: ~~**stricken text**~~) shall be deemed to be deleted therefrom.

SECTION 3. Conditions of Effectiveness of this Amendment. This Amendment shall become effective on the date when the following conditions shall have been satisfied (or waived) (the "Amendment Effective Date"):

(a) execution and delivery of this Amendment by the Borrower, each Guarantor, the Agent and the Lenders;

(b) all action on the part of the Loan Parties necessary for the valid execution, delivery and performance by the other Loan Parties of this Amendment and all other documentation, instruments, and agreements to be executed in connection herewith shall have been duly and effectively taken and evidence thereof reasonably satisfactory to the Agent shall have been provided to the Agent, including an officer's certificate, dated as of the date hereof, certifying as to and (as applicable) attaching the Loan Parties' organization documents (which to the extent filed with a Governmental Authority, shall be certified as of a recent date by such Governmental Authority) or certifying as to no changes thereto since such documents were last delivered, the resolutions of the governing body of each Loan Party, the good standing, existence or its equivalent of each Loan Party, and of the incumbency (including specimen signatures) of the Responsible Officers of each Loan Party;

(c) the Agent shall have received UCC, tax lien, litigation, bankruptcy and intellectual property searches from all offices that Agent deems appropriate in its sole discretion; and

(d) the Agent shall have received the Sixth Amendment to Credit Agreement (the "Sixth Term Loan Amendment") executed by the Term Agent, the Required Lenders (as defined in the Term Loan Agreement) and the Borrowers and Guarantors, each in form and substance reasonably satisfactory to the Agent.

SECTION 4. [Reserved]

SECTION 5. Representations and Warranties. To induce the Agent and the Lenders to enter into this Amendment, the Borrower and each other Loan Party represents and warrants to the Agent, the L/C Issuer and the Lenders on and as of the Amendment Effective Date that, in each case:

(a) all of the representations and warranties contained in the Credit Agreement or the other Loan Documents are true and correct in all material respects on the Amendment Effective Date both immediately before and after giving effect to this Amendment, with the same effect as though such representations and warranties had been made on and as of the Amendment Effective Date (it being understood that (x) any representation or warranty that is qualified by materiality or Material Adverse Effect shall be required to be true and correct in all respects after taking into account such qualification and (y) any representation or warranty made as of a specific date shall be true and correct in all material respects (or all respects after taking into account such

qualification, as the case may be) as of such date); and

(b) no Default or Event of Default exists as of the Amendment Effective Date, after giving effect to this Amendment and the waivers contained herein.

SECTION 6. Reference to and Effect on the Credit Agreement and the Loan Documents; Ratification.

(a) On and after the Amendment Effective Date, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof" or words of like import referring to the Credit Agreement shall mean and be a reference to the Credit Agreement, as amended by this Amendment.

(b) The Credit Agreement and each of the other Loan Documents, as specifically amended by this Amendment, are and shall continue to be in full force and effect and are hereby in all respects ratified and confirmed. Without limiting the generality of the foregoing, the Security Documents and all of the Collateral described therein do and shall continue to secure the payment of all Obligations of the Loan Parties under the Loan Documents, in each case, as amended by this Amendment.

(c) The Borrower expressly acknowledges and agrees that (i) there has not been, and this Amendment does not constitute or establish, a novation with respect to the Credit Agreement or any of the other Loan Documents, or a mutual departure from the strict terms, provisions, and conditions thereof, other than as set forth herein, and (ii) nothing in this Amendment shall affect or limit Agent's or the Lenders' right to demand payment of liabilities owing from Borrower to Agent or the Lenders under, or to demand strict performance of the terms, provisions and conditions of, the Credit Agreement and the other Loan Documents, to exercise any and all rights, powers, and remedies under the Credit Agreement or the other Loan Documents or at law or in equity, or to do any and all of the foregoing, immediately at any time after the occurrence of a Default or an Event of Default under the Credit Agreement or the other Loan Documents.

(d) Each Loan Party hereby restates, ratifies, and reaffirms each and every term, covenant, and condition set forth in the Credit Agreement and the other Loan Documents to which it is a party effective as of the date hereof.

(e) The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Lender, the Agent or any Issuer under any of the Loan Documents, nor constitute a waiver of any provision of any of the Loan Documents.

SECTION 7. Governing Law. THIS AMENDMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 8. Counterparts. This Amendment 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. Delivery of an executed counterpart of a signature page of this Amendment by telecopy, pdf or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Amendment.

SECTION 9. Electronic Execution. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed signature page counterpart hereof by telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart hereof. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Amendment and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic association of signatures and records on electronic platforms, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, any other similar state laws based on the Uniform Electronic Transactions Act, the Uniform Commercial Code, each as amended, and the parties hereto hereby waive any objection to the contrary, provided that (x) nothing herein shall require Agent to accept electronic signature counterparts in any form or format and (y) Agent reserves the right to require, at any time and at its sole discretion, the delivery of manually executed counterpart signature pages to this Agreement and the parties hereto agree to promptly deliver such manually executed counterpart signature pages.

SECTION 10. Release. BY EXECUTION OF THIS AMENDMENT, EACH LOAN PARTY ACKNOWLEDGES AND CONFIRMS THAT SUCH LOAN PARTY DOES NOT HAVE ANY OFFSETS, DEFENSES (OTHER THAN FOR PAYMENT ACTUALLY MADE), CLAIMS OR COUNTERCLAIMS AGAINST AGENT, ANY LENDER, OR ANY OF THEIR SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS, PREDECESSORS, SUCCESSORS OR ASSIGNS WHETHER ASSERTED OR UNASSERTED. EACH LOAN PARTY AND ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, AFFILIATES, PREDECESSORS, EMPLOYEES, AGENTS, HEIRS AND EXECUTORS, AS APPLICABLE (COLLECTIVELY, "RELEASING PARTIES"), JOINTLY AND SEVERALLY, RELEASE AND FOREVER DISCHARGE AGENT, EACH LENDER LLC AND THEIR RESPECTIVE SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS, SUCCESSORS AND ASSIGNS, FROM ANY AND ALL MANNER OF ACTION AND ACTIONS, CAUSE AND CAUSES OF ACTION, SUITS, DEBTS, CONTROVERSIES, DAMAGES, JUDGMENTS, EXECUTIONS, CLAIMS, COUNTERCLAIMS AND DEMANDS ("CLAIMS") WHATSOEVER, ASSERTED OR UNASSERTED, IN LAW OR IN EQUITY WHICH THE RELEASING PARTIES EVER HAD OR NOW HAVE UPON OR BY REASON OF ANY MANNER, CAUSE, CAUSES OR THING WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY PRESENTLY EXISTING CLAIMS WHETHER OR NOT PRESENTLY SUSPECTED, CONTEMPLATED OR

ANTICIPATED, IN EACH CASE RELATED TO THE LOAN DOCUMENTS AND BASED ON FACTS THAT ARE EXISTING ON OR BEFORE THE SIXTH AMENDMENT EFFECTIVE DATE; PROVIDED, THAT, WITH RESPECT TO ANY RELEASING PARTIES, THE FOREGOING RELEASE SHALL NOT APPLY TO (W) ANY CLAIMS ARISING AS A RESULT OF NONCOMPLIANCE WITH, OR OTHER MATERIAL BREACH BY, SUCH RELEASEE OF THIS AMENDMENT, (X) ANY CLAIMS RESULTING FROM SUCH RELEASEE'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR BAD FAITH, (Y) ANY CLAIMS REGARDING OBLIGATIONS OF SUCH RELEASEE UNDER THIS AMENDMENT OR (Z) ANY CLAIMS ARISING FROM DISPUTES ARISING SOLELY AMONG THE RELEASEES THAT DO NOT INVOLVE ANY ACT OR OMMISSION BY ANY RELEASING PARTY OR ITS AFFILIATES. THE PROVISIONS OF THIS SECTION 10 SHALL SURVIVE THE TERMINATION OF THIS AMENDMENT, THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THE PAYMENT IN FULL OF THE OBLIGATIONS.

SECTION 11. Miscellaneous. Sections 10.04, 10.10, 10.12, 10.14, 10.15 and 10.16 of the Credit Agreement are incorporated herein *mutatis mutandis*. This Amendment shall constitute a Loan Document.

SECTION 12. Consent. Notwithstanding any of the restrictions set forth in Section 9.1 of the Intercreditor Agreement, the Agent hereby consents to the Sixth Term Loan Amendment.

[The remainder of the page is intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Amendment as of the date first above written.

VINCE, LLC, as Borrower

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

VINCE INTERMEDIATE HOLDINGS, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

VINCE HOLDING CORP., as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

REBECCA TAYLOR, INC., as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

PARKER HOLDING, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

REBECCA TAYLOR RETAIL STORE, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

PARKER LIFESTYLE, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

CITIZENS BANK, N.A., as Agent, a Lender, Swing Line Lender and L/C Issuer

By: /s/ Richard Norberg
Name: Richard Norberg
Title: Vice President

PNC BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Michele Ranieri
Name: Michele Ranieri
Title:

Annex A

Credit Agreement

[Please see attached]

CREDIT AGREEMENT

Dated as of August 21, 2018
as amended on November 1, 2019
as amended on November 4, 2019
as amended on June 8, 2020
as amended on June 23, 2020
as amended on December 11, 2020,
and as amended on April [__], 2021
among

VINCE, LLC,
as the Borrower,

The Guarantors Named Herein,

CITIZENS BANK, N.A.,
as Agent

and

The Other Lenders Party Hereto

CITIZENS BANK, N.A.,
as Sole Lead Arranger and Sole Bookrunner

SCHEDULES

EXHIBITS

	Form of
A-1	Committed Loan Notice
A-2	Swing Line Loan Notice
B-1	Revolving Note
B-2	Swing Line Note
C	Compliance Certificate
D	Assignment and Assumption
E-1	Foreign Lender Exemption Certificate
E-2	Foreign Lender U.S. Tax Compliance Certificate
E-3	Alternative Form Foreign Lender U.S. Tax Compliance Certificate
E-4	Foreign Partnership U.S. Tax Compliance Certificate
F	Closing and Solvency Certificate
G	Representations and Warranties Certificate
H	Credit Card Notification
I	Borrowing Base Certificate
J	Joinder Agreement
K	Closing Checklist
L	Intercreditor Agreement
M	Payment Conditions Certificate

CREDIT AGREEMENT

This **CREDIT AGREEMENT** ("Agreement") is entered into as of August 21, 2018, among **VINCE, LLC**, a Delaware limited liability company (the "Borrower"), the Guarantors named on Schedule 1.01 hereto, each Lender from time to time party hereto, each L/C Issuer from time to time party hereto, and **CITIZENS BANK, N.A.**, as administrative agent, collateral agent and an L/C issuer.

The Borrower has requested that the Lenders provide a revolving credit facility, and the Lenders have indicated their willingness to lend and the L/C Issuers have indicated their willingness to issue Letters of Credit, in each case on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND ACCOUNTING TERMS

SECTION 1.1 Defined Terms.

As used in this Agreement, the following terms shall have the meanings set forth below:

"ABL Priority Collateral" has the meaning given to the term "Revolver Priority Collateral" in the Intercreditor Agreement.

"Accelerated Borrowing Base Delivery Event" means (I) (a) at all times through January 29, 2022 and (b) at any time from and after January 30, 2022 and through the end of the Extended Accommodation Period, either (i) the occurrence and continuance of any Specified Event of Default or (ii) the failure of the Borrower to maintain Excess Availability of at least the Trigger Amount for three (3) consecutive Business Days and (II) after the end of the Extended Accommodation Period, either (i) the occurrence and continuance of any Specified Event of Default or (ii) the failure of the Borrower to maintain Excess Availability of at least the Trigger Amount for three (3) consecutive Business Days. For purposes of this Agreement, the occurrence of an Accelerated Borrowing Base Delivery Event under clauses (I)(b) or (II) of this definition above shall be deemed continuing (x) so long as such Specified Event of Default has not been waived, and/or (y) if such Accelerated Borrowing Base Delivery Event arises as a result of the Borrower's failure to achieve Excess Availability of at least the Trigger Amount for three (3) consecutive Business Days, until the date Excess Availability shall have been at least equal to the Trigger Amount for (x) in the case of clause (I)(b) above, sixty (60) consecutive calendar days and (y) in the case of clause (II)(ii) above, thirty (30) consecutive calendar days. The termination of an Accelerated Borrowing Base Delivery Event as provided herein shall in no way limit, waive or delay the occurrence of a subsequent Accelerated Borrowing Base Delivery Event in the event that the conditions set forth in this definition again arise.

"Acceptable Document of Title" means, with respect to any Inventory, a tangible bill of lading or other document (as defined in the UCC) that (a) is issued to the order of a Loan Party (or, if so requested by the Agent solely with respect to negotiable documents (as defined in the UCC), to the order of the Agent) or a Loan Party as owner and shipper and such Loan Party or the Agent as consignee, (b) solely with respect to Inventory subject to a negotiable document of title, that have been delivered to Agent or an agent acting on behalf of Agent pursuant to a Customs Broker/Carrier Agreement with all necessary endorsements (or such other arrangements satisfactory to the Agent relating to such documents shall have been made), and Agent shall have control over such documents evidencing ownership of the subject Inventory, (c) is not subject to

any Lien (other than in favor of the Agent and the Term Agent), and (d) is on terms otherwise reasonably acceptable to the Agent.

"Accommodation Account Debtors" means (a) Amazon, Inc. and its Affiliates, The TJX Companies, Inc. and its Affiliates, Nordstrom, Inc. and its Affiliates, Macy's, Inc. and its Affiliates, Dillard's, Inc. and its Affiliates, Saks Inc. and its Affiliates, and any other account debtors so long as, as of any date of determination, the non-credit-enhanced, senior unsecured long-term debt of such account debtor and/or its Affiliates is rated at least BBB+/Baa1 or higher by S&P and/or Moody's, as applicable, and (b) any account debtor located in a foreign jurisdiction other than Canada and named as a debtor whose accounts are insured by credit insurance in form, substance and amount, and by an insurer reasonably satisfactory to Agent, it being acknowledged, for the avoidance of doubt, that the Accounts owing from such account debtors are subject to clause (n) of the definition of Eligible Trade Receivables.

"Accommodation Period" means the period from the Fifth Amendment Date through July 31, 2021.

"Account" means "accounts" as defined in the UCC and also means a right to payment of a monetary obligation, whether or not earned by performance, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (b) for services rendered or to be rendered, or (c) arising out of the use of a credit or charge card or information contained on or for use with the card. The term "Account" does not include (a) rights to payment evidenced by chattel paper or an instrument, (b) commercial tort claims, (c) deposit accounts, (d) investment property, or (e) letter of credit rights or letters of credit.

"ACH" means automated clearing house transfers.

"Acquisition" means, with respect to any Person (a) an Investment in or a purchase of a fifty percent (50%) or greater interest in the Equity Interests of any other Person, (b) a purchase or other acquisition of all or substantially all of the assets or properties of another Person, (c) a purchase or acquisition of a Real Estate portfolio or stores from any other Person or assets constituting a business unit, line of business or division of any other Person, (d) any merger or consolidation of such Person with any other Person or other transaction or series of transactions resulting in the acquisition of all or substantially all of the assets, or greater than fifty percent (50%) of the Equity Interests, of any Person, in each case, in any transaction or group of transactions which are part of a common plan.

"Additional Commitment Lender" shall have the meaning provided in Section 2.15(c).

"Adjusted LIBOR Rate" means, with respect to any LIBOR Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of one percent (1%)) equal the LIBOR Rate for such Interest Period multiplied by the Statutory Reserve Rate. The Adjusted LIBOR Rate will be adjusted automatically as to all LIBOR Borrowings then outstanding as of the effective date of any change in the Statutory Reserve Rate.

"Adjustment Date" means the first day of each Fiscal Quarter, commencing November 4, 2018.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Agent.

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" of a Person means the power, directly or indirectly to direct or cause the direction of the management and policies of such Person, in either case whether by contract or otherwise.

"Agent" means Citizens Bank, N.A. in its capacity as administrative agent and collateral agent under any of the Loan Documents, or any successor thereto.

"Agent Parties" shall have the meaning specified in Section 10.02(c).

"Agent's Office" means the Agent's address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Agent may from time to time notify the Borrower and the Lenders.

"Aggregate Commitments" means the Commitments of all of the Lenders. As of the Fifth Amendment Date, the Aggregate Commitments of all Lenders is $100,000,000.

"Agreement" means this Credit Agreement.

"Amended or Refinanced" means, in respect of any obligation, or the agreement or contract pursuant to which such obligation is incurred, (a) such obligation (or any portion thereof) or related agreement or contract as extended, renewed, defeased, amended, amended and restated, supplemented, modified, restructured, consolidated, refinanced, replaced, refunded or repaid from time to time and (b) any other obligation issued in exchange or replacement for or to refinance such obligation, in whole or in part, whether with same or different lenders, arrangers and/or agents and whether with a larger or smaller aggregate principal amount and/or a shorter or longer maturity, in each case to the extent not prohibited under the terms of the Loan Documents then in effect. "Amend or Refinance" and "Amendment or Refinancing" shall have correlative meanings.

"Anti-Money Laundering Laws" means any and all laws, judgments, orders, executive orders, decrees, ordinances, rules, regulations, statutes, case law or treaties applicable to a Loan Party, its Subsidiaries or Affiliates, related to terrorism financing or money laundering including any applicable provision of Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001 (Title III of Pub. L. 107-56) and The Currency and Foreign Transactions Reporting Act (also known as the "Bank Secrecy Act", 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

"Applicable Lenders" means the Required Lenders, all affected Lenders, or all Lenders, as the context may require.

"Applicable Margin" means:

(i) From and after the Closing Date until the first Adjustment Date, the percentages set forth in Level II of the pricing grid in clause (b) below; and

(ii) Except as set forth in clause (c) below, from and after the first Adjustment Date and on each Adjustment Date thereafter, the Applicable Margin shall be determined from the following pricing grid based upon Average Daily Excess Availability as of the Fiscal Quarter ended immediately preceding such Adjustment Date; provided, however, that upon the occurrence of an Event of Default, the Agent may, and at the direction of the Required Lenders shall, immediately increase the Applicable Margin to that set forth in Level III (even if the Average Daily Excess Availability requirements for a different Level have been met); provided further that if the information set forth in any Borrowing Base Certificate proves to be false or incorrect due to intentional misrepresentation by the Borrower such that the Applicable Margin would have been higher than was otherwise in effect during any period, without constituting a waiver of any Default or Event of Default arising as a result thereof, interest due under this Agreement shall be immediately recalculated at such higher rate for any applicable periods and shall be due and payable on demand.

Level	Average Daily Excess Availability	LIBOR Margin	Base Rate Loan Margin
I	Greater than or equal to 50% of the Aggregate Commitments	1.50%	0.50%
II	Greater than or equal to 25% of the Aggregate Commitments but less than 50% of the Aggregate Commitments	1.75%	0.75%
III	Less than 25% of the Aggregate Commitments	2.00%	1.00%

(iii) During the Accommodation Period, from and after (x) the Fifth Amendment Date until the first Adjustment Date thereafter, the percentages set forth in Level III of the pricing grid below and (y) following the first Adjustment Date after the Fifth Amendment Date until the first Adjustment Date following the termination of the Accommodation Period, the Applicable Margin shall be determined from the following pricing grid based upon Average Daily Excess Availability as of the Fiscal Quarter ended immediately preceding such Adjustment Date; provided, however, that upon the occurrence of an Event of Default, the Agent may, and at the direction of the Required Lenders shall, immediately increase the Applicable Margin to that set forth in Level III (even if the Average Daily Excess Availability requirements for a different Level have been met); provided further that if the information set forth in any Borrowing Base Certificate proves to be false or incorrect due to intentional misrepresentation by the Borrower such that the Applicable Margin would have been higher than was otherwise in effect during any period, without constituting a waiver of any Default or Event of Default arising as a result thereof, interest due under this Agreement shall be immediately recalculated at such higher rate for

any applicable periods and shall be due and payable on demand.

Level	Average Daily Excess Availability	LIBOR Margin	Base Rate Loan Margin
I	Greater than or equal to 50% of the Aggregate Commitments	2.25%	1.25%
II	Greater than or equal to 25% of the Aggregate Commitments but less than 50% of the Aggregate Commitments	2.50%	1.50%
III	Less than 25% of the Aggregate Commitments	2.75%	1.75%

"Applicable Percentage" means with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate Commitments represented by such Lender's Commitment at such time, subject to adjustment as provided in Sections 2.16 and 10.06. If the Commitment of each Lender to

make Loans and the obligation of each L/C Issuer to make L/C Credit Extensions have been terminated pursuant to Section 8.02 or if the Aggregate Commitments have expired, then the Applicable Percentage of each Lender shall be determined based on the Applicable Percentage of such Lender most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or other instrument pursuant to which such Lender becomes a party hereto, as applicable.

"Applicable Rate" means, at any time of calculation, (a) with respect to Commercial Letters of Credit, a per annum rate equal to the Applicable Margin for Loans which are LIBOR Rate Loans *less* 0.50%, and (b) with respect to Standby Letters of Credit, a per annum rate equal to the Applicable Margin for Loans which are LIBOR Rate Loans.

"Appraised Value" means the appraised orderly liquidation value, net of costs and expenses to be incurred in connection with any such liquidation, which value is expressed as a percentage of Cost of Eligible Inventory as set forth in the inventory stock ledger of the applicable Loan Party, which value shall be determined from time to time by the most recent appraisal undertaken by an independent appraiser reasonably satisfactory to the Agent.

"Approved Fund" means, with respect to any Lender, any Fund that is administered or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers or manages such Lender.

"Arranger" means Citizens Bank, N.A., in its capacity as sole lead arranger and sole bookrunner.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06), and accepted by the Agent, in substantially the form of Exhibit D or any other form approved by the Agent.

"Audited Financial Statement" means the audited consolidated balance sheet of Parent and its Subsidiaries for the Fiscal Year ended February 3, 2018, the related audited consolidated statements of income, cash flows and shareholders' equity, and the footnotes thereto.

"Auto-Extension Letter of Credit" shall have the meaning specified in Section 2.03(b)(iii).

"Availability Period" means the period from and including the Closing Date to the Termination Date.

"Availability Reserves" means any Reserves established by the Agent in its Permitted Discretion which relate to any factor which the Agent reasonably determines, without duplication of any other Reserves or items that are otherwise addressed or excluded through eligibility criteria or factored into the advance rates (a) to reflect the impediments to the Agent's ability to realize upon the ABL Priority Collateral, (b) to reflect claims and liabilities that the Agent determines will need to be satisfied in connection with the realization upon the ABL Priority Collateral, or (c) to reflect criteria, events, conditions, contingencies or risks which adversely affect any component of the Borrowing Base, the aggregate value of the Collateral reflected in the Borrowing Base or the validity or enforceability of the Loan Documents or the material remedies of the Credit Parties thereunder. Without limiting the generality of the foregoing, Availability Reserves may include, in the Agent's Permitted Discretion, (but are not limited to) reserves based on: (i) rent, (ii) customs duties, and other costs to release Inventory which is being imported into the United States, (iii) outstanding Taxes and other governmental charges, including, without limitation, ad valorem, real estate, personal

property, sales, claims of the PBGC and other Taxes which may have priority over the interests of the Agent in the Collateral, (iv) salaries, wages, vacation pay and benefits due to employees of any Loan Party, (v) Customer Credit Liabilities, (vi) customer deposits, (vii) reserves for reasonably anticipated changes in the Appraised Value of Eligible Inventory between appraisals, (viii) warehousemen's, carrier's or bailee's charges and other Permitted Encumbrances which have priority over the interests of the Agent in the Collateral, (ix) amounts due to vendors on account of consigned goods, (x) Cash Management Reserves, (xi) Bank Products Reserves, (xii) obligations with respect to the Loan Parties' self-insurance, (xiii) amounts due to vendors on account of Eligible In-Transit Inventory (but only to the extent such amounts are not supported by a Commercial Letter of Credit), (xiv) reserves for pension plan contributions, (xv) reserves based on dilution of Accounts, (xvi) reserves for deductibles in respect of credit insurance policies covering Eligible Trade Receivables and (xvii) reserves in the Agent's Permitted Discretion for any non-retail third party location (including fulfillment centers) in which Collateral with a value in excess of $500,000 of inventory is maintained, whether or not such location is in a Landlord Lien State (or, to the extent that more than $2,500,000 of Collateral in the aggregate is maintained at all such locations, even if the value of the Collateral at any location is less than $500,000) (including based on fees charged by the operator of any such facility); provided, that (i) notwithstanding the foregoing, (a) the Agent shall only be permitted to impose rent reserves with respect to any leased location of any Loan Party equal to one (1) month's rent (plus any past due rent) against the assets included in the Borrowing Base if the Loan Parties do not deliver to the Agent a Collateral Access Agreement by the 90th day after the Closing Date for (x) any leased location of any Loan Party that is located in a Landlord Lien State, (y) any leased distribution center of any Loan Party in which Collateral with a value in excess of $500,000 of inventory is maintained at any time, whether or not such location is in a Landlord Lien State (or, to the extent that more than $2,500,000 of Collateral in the aggregate is maintained at all such leased distribution centers, even if the value of the Collateral at any leased distribution center is less than $500,000), and (z) the headquarters location, and (b) the Agent shall only be permitted to impose reserves equal to two (2) month's fees (calculated based on the average monthly fees charged by the applicable third party warehouse location during the most recently completed twelve month period) or one (1) month's rent (plus any past due rent), as applicable, for any third party warehouse location (including any fulfillment center) not leased or owned by a Loan Party in which Collateral with a value in excess of $500,000 of inventory is maintained, whether or not such third party warehouse location is in a Landlord Lien State (or, to the extent that more than $2,500,000 of Collateral in the aggregate is maintained at all such third party warehouse locations, even if the value of the Collateral at any third party warehouse location is less than $500,000)); (ii) Bank Product Reserves in respect of Hedge Agreements secured by Collateral shall require the consent of the Borrower; and (iii) any Reserve with respect to Customer Credit Liabilities under clause (a) of the definition thereof shall not exceed 25% of such Customer Credit Liabilities.

"Average Daily Excess Availability" shall mean the average daily Excess Availability for the immediately preceding Fiscal Quarter.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Bank Products" means any services or facilities provided to any Loan Party by the Agent, any Lender, or any of their respective branches or Affiliates on account of (a) Hedge Agreements, (b) leasing, or (c) factoring (but only to the extent that the applicable Loan Party and the Credit Party furnishing such services or facilities notify the Agent in writing within ten (10) Business Days after the date on which such

service or facility is first provided that such services or facilities are to be deemed Bank Products hereunder, provided that any such services or facilities provided by Citizens Bank shall not require any such notice and shall constitute Bank Products hereunder), but excluding Cash Management Services.

"Bank Product Reserves" means such reserves as the Agent from time to time determine in its Permitted Discretion as being appropriate to reflect the liabilities and obligations of the Loan Parties with respect to Bank Products then provided or outstanding.

"Banker's Acceptance" means a time draft or bill of exchange or other deferred payment obligation relating to a Commercial Letter of Credit which has been accepted by an L/C Issuer.

"Base Rate" means for any day a fluctuating rate per annum equal to the highest of (a) the rate of interest in effect for such day as publicly announced from time to time by Citizens Bank as its "prime rate"; (b) the Federal Funds Rate for such day, plus 0.50%; and (c) the LIBOR Rate for a one month interest period as determined on such day, plus 1.00%. The "prime rate" is a rate set by Citizens Bank based upon various factors including Citizens Bank's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in Citizens Bank's prime rate, the Federal Funds Rate or the LIBOR Rate, respectively, shall take effect at the opening of business on the day specified in the public announcement of such change.

"Base Rate Loan" means a Loan that bears interest based on the Base Rate.

"Benchmark Replacement" means the sum of: (a) the alternate benchmark rate (which may include Term SOFR or another rate based on SOFR) that has been selected by the Agent and the Borrower giving due consideration to (i) any selection or recommendation of a replacement rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a rate of interest as a replacement to the LIBOR Rate for U.S. dollar-denominated syndicated credit facilities and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than one percent (1%) per annum, the Benchmark Replacement will be deemed to be one percent (1%) per annum for the purposes of this Credit Agreement.

"Benchmark Replacement Adjustment" means, with respect to any replacement of the LIBOR Rate with an Unadjusted Benchmark Replacement for each applicable Interest Period, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Agent and the Borrower giving due consideration to: (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the LIBOR Rate with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of the LIBOR Rate with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities at such time.

"Benchmark Replacement Conforming Changes" means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Interest Period," timing and frequency of determining rates and making payments of interest and other administrative matters) that the Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Agent in a manner substantially consistent with market practice (or, if the Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Agent determines that no market practice

for the administration of the Benchmark Replacement exists, in such other manner of administration as the Agent decides is reasonably necessary in connection with the administration of this Credit Agreement).

"Benchmark Replacement Date" means the earlier to occur of the following events with respect to the LIBOR Rate:

(1) in the case of clause (1) or (2) of the definition of "Benchmark Transition Event," the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of the LIBOR Rate permanently or indefinitely ceases to provide the LIBOR Rate; or

(2) in the case of clause (3) of the definition of "Benchmark Transition Event," the date of the public statement or publication of information referenced therein.

"Benchmark Transition Event" means the occurrence of one or more of the following events with respect to the LIBOR Rate:

(1) a public statement or publication of information by or on behalf of the administrator of the LIBOR Rate announcing that such administrator has ceased or will cease to provide the LIBOR Rate, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the LIBOR Rate;

(2) a public statement or publication of information by the regulatory supervisor for the administrator of the LIBOR Rate, the U.S. Federal Reserve System, an insolvency official with jurisdiction over the administrator for the LIBOR Rate, a resolution authority with jurisdiction over the administrator for the LIBOR Rate or a court or an entity with similar insolvency or resolution authority over the administrator for the LIBOR Rate, which states that the administrator of the LIBOR Rate has ceased or will cease to provide the LIBOR Rate permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the LIBOR Rate; or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of the LIBOR Rate or a Governmental Authority having jurisdiction over the Agent in effect announcing that the LIBOR Rate is no longer representative.

"Benchmark Transition Start Date" means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication) and (b) in the case of an Early Opt-in Election, the date specified by the Agent or the Required Lenders, as applicable, by notice to the Borrower, the Agent (in the case of such notice by the Required Lenders) and the Lenders.

"Benchmark Unavailability Period" means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to the LIBOR Rate and solely to the extent that the LIBOR Rate has not been replaced with a Benchmark Replacement, the period (x) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the LIBOR Rate for all purposes hereunder in accordance with Section 3.03(b) and (y) ending at the time that a Benchmark Replacement has replaced the LIBOR Rate for all purposes hereunder pursuant to Section 3.03(b).

"Beneficial Ownership Certification" means, with respect to the Borrower, a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation, which certification shall be substantially similar in form and substance to the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly, in May 2018, by the Loan Syndications and Trading Association and the Securities Industry and Financial Markets Association or such other form satisfactory to the Agent.

"Beneficial Ownership Regulation" means CFR § 1010.230.

"Blocked Account" means any deposit account in which any funds of any of the Loan Parties from one or more DDAs (other than any Excluded DDA) are concentrated and with respect to which a Blocked Account Agreement has been, or is required to be, executed in accordance with the terms hereof.

"Blocked Account Agreement" means with respect to a deposit account or Securities Account established by a Loan Party, an agreement, in form and substance reasonably satisfactory to the Agent, establishing control (within the meaning of Section 9-104 or Section 8-106 of the UCC, as applicable) of such deposit account or Securities Account by the Agent and whereby the bank or intermediary maintaining such deposit account or Securities Account agrees, upon the occurrence and during the continuance of Cash Dominion Events, to comply only with the instructions originated by the Agent without the further consent of any Loan Party.

"Blocked Account Bank" has the meaning provided in Section 6.12.

"Board of Directors" means, as to any Person, the board of directors (or comparable managers) of such Person, or any committee thereof duly authorized to act on behalf of such board of directors (or comparable managers).

"Borrower Intellectual Property" has the meaning specified in Section 5.09.

"Borrower Materials" has the meaning specified in Section 6.02.

"Borrower" has the meaning set forth in the preamble.

"Borrower's Headquarters" means the Borrower's offices located at 500 Fifth Avenue, 20th Floor, New York, NY 10110 or such other address where the Borrower's principal books and records are located as the Borrower may notify the Agent from time to time.

"Borrowing" means a Committed Borrowing or a Swing Line Borrowing made to the Borrower, as the context may require.

"Borrowing Base" means, at any time of calculation, an amount equal to (but not less than zero):

(i) the face amount of Eligible Trade Receivables of the Loan Parties multiplied by 85%;

plus

(ii) the face amount of Eligible Credit Card Receivables of the Loan Parties multiplied by 90%;

plus

(iii) 90% multiplied by the Appraised Value of Eligible Inventory of the Loan Parties multiplied by the cost of such Eligible Inventory, provided that Eligible In-Transit Inventory shall not exceed 30% of the Borrowing Base;

plus

(iv) 100% of Eligible Cash On Hand, in an aggregate amount of up to $5,000,000; provided, that Eligible Cash On Hand included in the Borrowing Base may not be withdrawn from the Qualified Account, thereby reducing the Borrowing Base, unless and until the Borrower furnishes the Agent with (x) notice of such intended withdrawal, (y) a Borrowing Base Certificate as of the date of such proposed withdrawal reflecting that, after giving effect to such withdrawal, no Overadvance exists or would result from such withdrawal and (z) a certificate of a Responsible Officer on behalf of the Parent certifying that no Default or Event of Default shall have occurred and be continuing at the time of such withdrawal or would result therefrom;

minus

(v) the sum of (i) the then amount of all Reserves and (ii) the Term Loan Reserve.

"Borrowing Base Certificate" means a certificate substantially in the form of Exhibit I hereto (with such changes therein as may be reasonably required by the Agent to reflect the components of and Reserves against the Borrowing Base as provided for hereunder from time to time), executed and certified as accurate and complete in all material respects by a Responsible Officer of the Borrower which shall include appropriate exhibits, schedules, supporting documentation, and additional reports as reasonably requested by the Agent.

"Business Day" means (a) any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Requirements of Law of, or are in fact closed in, the state where the Agent's Office in the applicable jurisdiction is located and (b) if such day relates to any interest rate settings as to a LIBOR Rate denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such LIBOR Rate Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such LIBOR Rate Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market.

"Capital Expenditures" means, for any period, with respect to any Person, the aggregate of all cash expenditures by such Person for the acquisition or leasing (pursuant to Capital Lease Obligations but excluding any amount representing capitalized interest) of fixed or capital assets or additions to equipment (including replacements, capitalized repairs and improvements during such period) which are required to be capitalized under GAAP on a balance sheet of such Person; provided that in any event the term "Capital Expenditures" shall exclude: (i) any Permitted Acquisition and any other Investment permitted hereunder; (ii) expenditures to the extent financed with the proceeds from any casualty insurance or condemnation or eminent domain, to the extent that the proceeds therefrom are utilized (or are contractually committed to be utilized) for capital expenditures within twelve (12) months of the receipt of such proceeds; (iii) expenditures for leasehold improvements for which such Person has been reimbursed or received a credit; and (iv) expenditures to the extent they are made with the proceeds of equity contributions (other than in respect of Disqualified Stock) made to the Borrower after the Closing Date, (v) the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment solely to the extent that the gross amount of such purchase price is reduced by the credit granted by the seller of such equipment for the equipment being traded in at such time; (vi) without duplication of the provisions of clause (iii), above, expenditures that are accounted for as capital expenditures by the Parent, Holdings, the Borrower or any Restricted Subsidiary and that actually are paid for by a Person other than the Parent, Holdings, the

Borrower or any Restricted Subsidiary and for which neither the Parent, Holdings, the Borrower nor any Restricted Subsidiary has provided or is 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); (vii) expenditures that constitute operating lease expenses in accordance with GAAP; (viii) any capitalized interest expense reflected as additions to property, plant or equipment in the consolidated balance sheet of the Parent, Holdings, the Borrower and the Restricted Subsidiaries; and (ix) any non-cash compensation or other non-cash costs reflected as additions to property, plant or equipment in the consolidated balance sheet of the Parent, Holdings, the Borrower and the Restricted Subsidiaries.

"Capital Lease Obligations" means, with respect to any Person for any period, the obligations of such Person to pay rent or 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 leases on a balance sheet of such Person under GAAP and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

"Cash Collateral Account" means, with respect to the L/C Obligations, an account (which may, in accordance with Section 2.03(g) and at the Borrower's option, be established as an interest-bearing account) established by the Borrower with Citizens Bank, and in the name of, the Agent (or as the Agent shall otherwise direct) and under the sole and exclusive dominion and control of the Agent, in which deposits are required to be made in accordance with Section 2.03 or Section 8.02.

"Cash Collateralize" means to deposit in the Cash Collateral Account or to pledge and deposit with or deliver to the Agent, for the benefit of one or more of the Agent, the L/C Issuer or the Lenders, as collateral for L/C Obligations or obligations of the Lenders to fund participations in respect thereof (as the context may require), cash or deposit account balances or, if the Agent and the L/C Issuer shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to the Agent and the L/C Issuer and in an amount equal to 103% of the maximum stated amount of any such Letter of Credit, determined in the manner set forth in Section 1.07 hereof. "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support. Any such amounts on deposit may, at the option of the Agent after request by the Borrower, be invested in Cash Equivalents.

"Cash Dominion Event" means (a) all times during the Accommodation Period and (b) at any time (other than during the Accommodation Period), either (i) the occurrence and continuance of any Specified Event of Default, or (ii) the failure of the Borrower to maintain Excess Availability of at least the Cash Dominion Trigger Amount for three (3) consecutive Business Days. For purposes of this Agreement, the occurrence of a Cash Dominion Event under clause (b) of this definition above shall be deemed continuing (i) so long as such Specified Event of Default has not been waived, and/or (ii) if the Cash Dominion Event arises as a result of the Borrower's failure to achieve Excess Availability of at least the Cash Dominion Trigger Amount for three (3) consecutive Business Days, until the date Excess Availability shall have been at least equal to the Cash Dominion Trigger Amount for thirty (30) consecutive calendar days; provided that a Cash Dominion Event may be discontinued only three (3) times during any 365 day period. The termination of a Cash Dominion Event as provided herein shall in no way limit, waive or delay the occurrence of a subsequent Cash Dominion Event in the event that the conditions set forth in this definition again arise.

"Cash Dominion Trigger Amount" means (i) from the Third Amendment Date through and including September 5, 2020, $15,000,000, (ii) from September 6, 2020 until the Fifth Amendment Date, the greater of (x) twelve-and-one-half percent (12.5%) of the Loan Cap (without giving effect to the Term Loan Reserve) in effect on such date and (y) $10,000,000, (iii) from the end of the Accommodation Period through the last day of the Extended Accommodation Period, $15,000,000 and (iv) at all other times after

the end of the Extended Accommodation Period, the greater of (x) twelve-and-one-half percent (12.5%) of the Loan Cap (without giving effect to the Term Loan Reserve) in effect on such date and (y) $5,000,000.

"Cash Equivalents" means (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of one year or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than $500,000,000; (c) commercial paper of an issuer rated at least A-2 by S&P or P-2 by Moody's, or carrying an equivalent rating by a nationally recognized rating agency if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within one year from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's; (f) securities with maturities of one year or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; and (g) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of any of clauses (a) through (f) of this definition; or (h) money market funds that (i) purport to comply generally with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated AAA by S&P or Aaa by Moody's or carrying an equivalent rating by a nationally recognized rating agency, and (iii) have portfolio assets of at least $5,000,000,000; or (i) in the case of Foreign Subsidiaries, (i) such local currencies in those countries in which such Foreign Subsidiary transacts business from time to time in the ordinary course of business and (ii) investments of comparable tenor and credit quality to those described above customarily utilized in the countries in which such Foreign Subsidiaries operate for short-term cash management purposes.

"Cash Management Reserves" means such Reserves as the Agent, from time to time, determines in its Permitted Discretion as being appropriate to reflect the reasonably anticipated liabilities and obligations of the Loan Parties with respect to Cash Management Services then provided or outstanding.

"Cash Management Services" means any cash management services provided to any Loan Party by the Agent or any Lender or any of their respective Affiliates, including, without limitation, (a) ACH transactions, (b) controlled disbursement services, treasury, depository, overdraft, and electronic funds transfer services, (c) credit card processing services, (d) credit or debit cards, (e) purchase cards, (f) supply chain finance services (including, without limitation, electronic trade payable services and supplier accounts receivable purchases), and (g) foreign exchange facilities (but, with respect to this clause (g), only to the extent that the applicable Loan Party and the Credit Party furnishing such cash management services notify the Agent in writing within ten (10) Business Days after the date on which such cash management services are first provided that such cash management services are to be deemed Cash Management Services hereunder, provided that any such cash management services provided by Citizens Bank shall not require any such notice and shall constitute Cash Management Services hereunder). For the avoidance of doubt, Cash Management Services do not include Hedge Agreements.

"CFC" means any Subsidiary that is a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"CFC Holdco" means any Domestic Subsidiary that has no material assets other than the Equity Interests of and, if applicable, Indebtedness of one or more Foreign Subsidiaries that are CFCs.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines 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, 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 or issued.

"Change of Control" means an event or series of events by which:

(i) the Parent shall cease directly or indirectly to own 100% of the Equity Interests of Holdings and the Borrower (except to the extent Holdings is permitted to merge with the Parent pursuant to Section 7.04); or

(ii) any "person" or "group" (as such terms are used in Section 13(d) and 14(d) of the Securities Exchange Act), other than one or more Permitted Investors shall be the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act) of Equity Interests having more, directly or indirectly, than 35% of the total voting power of all outstanding capital stock of the Parent in the election of directors, unless at such time the Permitted Investors are direct or indirect "beneficial owners" (as so defined) of Equity Interests of the Parent having a greater percentage of the total voting power of all outstanding Equity Interests of the Parent in the election of directors than that owned by each other "person" or "group" described above; or

(iii) for any reason whatsoever, a majority of the Board of Directors of the Parent shall not be Continuing Directors; or

(iv) a "Change of Control" (or comparable term) shall occur under the Term Facility, any Junior Indebtedness or the documentation for any Amendment or Refinancing of the foregoing, in each case (other than the Term Facility), if the outstanding principal amount thereof is in excess of $15,000,000.

"Citizens Bank" means Citizens Bank, National Association.

"Closing Date" means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01, which date is August 21, 2018.

"Code" means the Internal Revenue Code of 1986, and the regulations promulgated thereunder, as amended and in effect.

"Collateral" means any and all "Collateral", "Security Assets" or "Mortgaged Property" as defined in any applicable Security Document and all other property that is subject to Liens in favor of the Agent under the terms of the Security Documents.

"Collateral Access Agreement" means an agreement reasonably satisfactory in form and substance to the Agent executed by (a) a bailee or other Person in possession of Collateral, or (b) any landlord of Real Estate

leased by any Loan Party, pursuant to which such Person (i) acknowledges the Agent's Lien on the Collateral, (ii) releases or subordinates such Person's Liens in the Collateral held by such Person or located on such Real Estate, (iii) provides the Agent with access to the Collateral held by such bailee or other Person or located in or on such Real Estate, and (iv) makes such other agreements with the Agent as the Agent may reasonably require.

"Collection Account" has the meaning provided in Section 6.12.

"Commercial Letter of Credit" means any letter of credit or similar instrument (including, without limitation, Bankers' Acceptances) issued for the purpose of providing the primary payment mechanism in connection with the purchase of any materials, goods or services by a Loan Party in the ordinary course of business of such Loan Party.

"Commitments" means, as to each Lender, its obligation to make Committed Loans to the Borrower pursuant to Section 2.01, (b) purchase participations in L/C Obligations, and (c) purchase participations in Swing Line Loans, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 or in the Assignment and Assumption or other instrument pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. As of the Closing Date, the total Commitments of all Lenders is $80,000,000. As of the Fifth Amendment Date, the Commitments of all Lenders is $100,000,000.

"Commitment Fee Percentage" means, for any day, 0.25%.

"Committed Borrowing" means a borrowing consisting of simultaneous Committed Loans of the same Type and, in the case of LIBOR Rate Loans, having the same Interest Period made by each of the Lenders pursuant to Section 2.01.

"Committed Loan" means any loan at any time made by any Lender pursuant to Section 2.01.

"Committed Loan Notice" means a notice of (a) a Committed Borrowing, (b) a Conversion of Committed Loans from one Type to the other, or (c) a continuation of LIBOR Rate Loans pursuant to Section 2.02(b), which, if in writing, shall be substantially in the form of Exhibit A-1 (Committed Loan Notice).

"Commonly Controlled Entity" means an entity, whether or not incorporated, that is under common control with the Parent within the meaning of Section 4001 of ERISA.

"Commonly Controlled Plan" has the meaning set forth in Section 5.12(b).

"Compliance Certificate" means a certificate substantially in the form of Exhibit C.

"Consent" means actual consent given by a Lender from whom such consent is sought; or the passage of seven (7) Business Days from receipt of written notice to a Lender from the Agent of a proposed course of action to be followed by the Agent without such Lender's giving the Agent written notice of that Lender's objection to such course of action.

"Consolidated" means, when used to modify a financial term, test, statement, or report of a Person, the application or preparation of such term, test, statement or report (as applicable) based upon the consolidation, in accordance with GAAP, of the financial condition or operating results of such Person and its Subsidiaries.

"Consolidated EBITDA" means, of any Person for any period, Consolidated Net Income of such Person and its Restricted Subsidiaries for such period plus, without duplication and to the extent reflected as a charge in the statement of such Consolidated Net Income, the sum of (a) income tax (or any alternative tax in lieu thereof) expense (including state franchise and similar taxes), (b) Consolidated Net Interest Expense of such Person and its Restricted Subsidiaries, amortization or writeoff of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including commitment and administrative fees and charges with respect to this Agreement, the Term Facility, Indebtedness incurred pursuant to Section 7.03(n), any Junior Indebtedness and any Permitted Amendment or Refinancing of any of the foregoing), (c) depreciation and amortization expense, (d) amortization or impairment of intangibles (including, but not limited to, goodwill) and organization costs, (e) any extraordinary, unusual or non-recurring expenses or losses (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, losses on sales of assets outside of the ordinary course of business) (subject, including with respect to any expenses or losses incurred in response to the COVID-19 pandemic or related disruptions ("COVID Adjustments"), to the cap in clause (A) of the proviso hereto), (f) stock-option based and other equity-based compensation expenses, (g) transaction costs, fees and expenses (including those relating to the transactions contemplated hereby, by Section 7.03(n) hereof and by the Term Facility (including any Amendment or Refinancing or waivers of the Loan Documents, Indebtedness incurred pursuant to Section 7.03(n) and/or the Term Facility), and those payable in connection with the sale of Equity Interests (including any secondary or follow-on offerings), the incurrence, repayment, redemption, repurchase or defeasance of Indebtedness permitted under Section 7.03, any disposition of Property permitted under Section 7.05 or any recapitalization or any Permitted Acquisition or other Investment permitted under Section 7.02 or any other Specified Transaction (in each case whether or not successful)), (h) expenses or losses with respect to liability or casualty events and proceeds from any business interruption insurance, in each case, to the extent covered by insurance and actually reimbursed or otherwise paid, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed or otherwise paid by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed or otherwise paid within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed or otherwise paid within such 365 days) (in the case of this clause (h) to the extent not reflected as revenue or income in such statement of such Consolidated Net Income and without duplication of any amounts included in Consolidated Net Income), (i) to the extent actually reimbursed, expenses incurred to the extent covered by indemnification provisions in any agreement in connection with any Investment, Permitted Acquisition or any sale, conveyance, transfer or other Disposition of assets permitted under this Agreement, (j) any call premium, tender premium, original issue discount or expenses associated with the repurchase, redemption, defeasance, or repayment of Indebtedness, (k) the amount of any restructuring charges or reserves (which, for the avoidance of doubt, shall include retention, severance, systems establishment cost, excess pension charges, contract termination costs, future lease commitments, costs to consolidate facilities and relocate employees, costs related to the winddown of leases and costs related to store closures) deducted in such period in computing such Consolidated Net Income (subject, including any COVID Adjustments, to the cap in clause (A) of the proviso hereto), (l) any non-cash charges, expenses or losses (including any impairment charges and the impact of purchase accounting, including, but not limited to, the amortization of inventory step-up) reducing such Consolidated Net Income for such period (excluding any such charge that represents an accrual or reserve for a cash expenditure for a future period, other than straight-line rent expense determined in accordance with GAAP), and (m) through the Fiscal Year ending on or around February 2, 2019, one-time costs and expenses related to the replacement of services provided to the Borrower on the Closing Date under the terms of the Shared Services Agreement, minus, to the extent included in the statement of such Consolidated Net Income for such period, the sum of (a) any extraordinary, unusual or non-recurring income or gains (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, gains on the sales of assets outside of the ordinary course of business) and (b) any non-cash items increasing Consolidated Net Income for such Person for such period (excluding any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges made in any prior period or which will result in the receipt of cash in a future period or the amortization of lease incentives), all as determined on a Consolidated basis; provided that for purposes of calculating Consolidated EBITDA of the Parent, Holdings, the Borrower and its Restricted Subsidiaries for any period, (A) the Consolidated EBITDA of any Person acquired by the Parent, Holdings, the Borrower or its Restricted Subsidiaries during such period shall be included on a pro forma basis for such period to give effect to the transactions on the Closing Date and any Specified Transactions (but assuming the consummation of such Specified Transaction and the incurrence or assumption of any Indebtedness in connection therewith occurred on the first day of such period, and assuming any synergies and cost savings to the extent certified by the Borrower as having been determined in good faith to be reasonably anticipated to be realizable within 12 months following such Specified Transaction and provided that the aggregate amount of synergies and costs savings included in Consolidated EBITDA for any period of four consecutive fiscal quarters, together with any amounts added back to Consolidated EBITDA pursuant to clauses (e) and (k) hereof (inclusive of any COVID Adjustments), shall not exceed, for any four fiscal quarter period ending prior to or on January 29, 2022, 27.5%, and thereafter, 22.5%, in each case, of Consolidated EBITDA for such four fiscal quarter period (calculated before giving effect to such adjustment) (provided that to the extent that Consolidated EBITDA for such four fiscal quarter period shall be less than zero prior to giving effect to such adjustment, Consolidated EBITDA shall be deemed to be zero solely for purposes of calculating the cap applicable to such adjustment)), (B) the Consolidated EBITDA of any Person Disposed of by the Parent, Holdings, the Borrower or its Restricted Subsidiaries during such period shall be excluded for such period (assuming the consummation of such Disposition and the repayment of any Indebtedness in connection therewith occurred on the first day of such period), (C) to the extent included in such Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period any income (loss) for such period attributable to the early extinguishment of (i) Indebtedness, (ii) obligations under any Hedge Agreements or (iii) other derivative instruments, (D) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period any net after-tax gain or loss resulting from Hedge Agreement or other derivative instruments and the application of Statement of Financial Accounting Standards No. 133 and International Accounting Standard No. 39 and their respective related pronouncements and interpretations, and (E) any gains or losses attributable to foreign currency translations not entered into for speculative purposes, including those relating to mark-to-market of Indebtedness denominated in foreign currencies resulting from the application of GAAP, including FAS No. 52.

Notwithstanding the foregoing, Consolidated EBITDA for the Parent, Holdings, the Borrower and its Restricted Subsidiaries shall be deemed to be: (i) for the Fiscal Quarter ending October 28, 2017, $11,206,000.00, (ii) for the Fiscal Quarter ending February 3, 2018, $4,483,000.00, (iii) for the Fiscal Quarter ending May 5, 2018, $(1,457,000.00), and (iv) for the Fiscal Quarter ending August 3, 2018, $778,000.00.

"Consolidated Fixed Charge Coverage Ratio" means, at any date of determination, with respect to the Parent, Holdings, the Borrower and its Restricted Subsidiaries, the ratio of (a) (i) Consolidated EBITDA for such period, minus (ii) Capital Expenditures (other than Financed Capital Expenditures) made in cash during such period, minus (iii) the aggregate amount of federal, state, provincial, territorial, municipal, local and foreign income Taxes paid in cash during such period (but not less than zero) and all amounts actually paid by the Loan Parties under the Tax Receivable Agreement to (b) the sum of (i) Consolidated Net Interest Expense for such period, plus (ii) scheduled payments of principal on Indebtedness during such period (after giving effect to any reduction thereof due to mandatory or permitted prepayments on such Indebtedness), plus (iii) the aggregate amount of Restricted Payments made

pursuant to Section 7.06(f) and (g) hereof during such period (but excluding Restricted Payments to the extent funded by an issuance by the Borrower of Indebtedness permitted under Section 7.03 hereof (other than the Obligations), an Equity Issuance permitted hereunder or a capital contribution to the Borrower).

Notwithstanding the foregoing, (A) Capital Expenditures (other than Financed Capital Expenditures) for the Parent, Holdings, the Borrower and its Restricted Subsidiaries shall be deemed to be: (i) for the Fiscal Quarter ending February 3, 2018, $859,000.00, (ii) for the Fiscal Quarter ending May 5, 2018, $152,000.00, and (iii) for the Fiscal Quarter ending August 3, 2018, $2,061,000.00, (B) for purposes of calculating the amount under clause (b)(i) for each "Testing Period" listed on Schedule 1.01(c), such amounts shall be calculated as the sum of (x) the "Plug Value" listed under the heading "clause (b)(i)" on such Schedule 1.01(c) for such "Testing Period" and (y) the Consolidated Net Interest Expense for the period listed on such Schedule 1.01(c) in the right-hand column under the heading "clause (b)(i)" with respect to such "Testing Period" and (C) for purposes of calculating the amount due under clause (b)(ii) above for each "Testing Period" listed on Schedule 1.01(c), such amounts shall be calculated as the sum of (x) the "Plug Value" listed under the heading "clause (b)(ii)" on such Schedule 1.01(c) for such "Testing Period" and (y) the scheduled payments of principal on Indebtedness (after giving effect to any reduction thereof due to mandatory or permitted prepayments of such Indebtedness) for the period listed on such Schedule 1.01(c) in the right-hand column under the heading "clause (b)(ii)" with respect to such "Testing Period."

"Consolidated Net Income" means, of any Person for any period, the consolidated net income (or loss) of such Person and its Restricted Subsidiaries for such period, determined on a Consolidated basis in accordance with GAAP; provided that in calculating Consolidated Net Income of the Parent, Holdings, the Borrower and its Restricted Subsidiaries for any period, there shall be excluded (a) the income (or deficit) of any Person accrued prior to the date it becomes a Restricted Subsidiary or is merged into or consolidated with the Borrower or any of its Restricted Subsidiaries and (b) the income (or deficit) of any Person (other than a Restricted Subsidiary) in which the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Parent, Holdings, the Borrower or such Restricted Subsidiary in the form of dividends or similar distributions (which dividends and distributions shall be included in the calculation of Consolidated Net Income). Notwithstanding the foregoing, the effect of any non-cash items resulting from any amortization, write-up, write-down or write-off of assets or liabilities (including intangible assets, goodwill, deferred financing costs and the effect of straight-lining of rents as a result of purchase accounting adjustments) in connection with any future Permitted Acquisition, Investment permitted under Section 7.02, Disposition, merger, consolidation or similar transaction or any other non-cash impairment charges incurred subsequent to the Closing Date resulting from the application at SFAS Nos. 141, 142 or 144 (excluding any non-cash item to the extent that it represents an accrual of or reserve for cash expenditures in any future period except to the extent such item is subsequently reversed) shall be excluded from Consolidated Net Income.

"Consolidated Net Interest Expense" means, of any Person for any period, (a) total cash interest expense (including that attributable to Capital Lease Obligations) of such Person and its Restricted Subsidiaries for such period with respect to all outstanding Indebtedness of such Person and its Restricted Subsidiaries, minus (b) the sum of (i) total cash interest income of such Person and its Restricted Subsidiaries for such period, in each case determined in accordance with GAAP plus (ii) one-time financing fees (to the extent included in such Person's consolidated interest expense for such period), including, those paid in connection with the transactions occurring on the Closing Date or in connection with any Amendment or Refinancing hereof. For purposes of the foregoing, interest expense of any Person shall be determined after giving effect to any net payments made or received by such Person with respect to interest rate Hedge Agreements (other than early termination payments) permitted hereunder.

"Continuing Directors" means the directors of the Parent on the Closing Date, and each other director if, in each case, such other director's nomination for election to the Board of Directors of the Parent is recommended by at least a majority of the then Continuing Directors or such other director receives the affirmative vote or consent of, or is appointed or otherwise approved by, the Sponsor, or those Permitted Investors which then hold a majority of the voting Equity Interests in the Parent then held by all Permitted Investors, in his or her election by the shareholders of the Parent.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Controlled Affiliate" means as to any Person, any other Person that (a) directly or indirectly is in control of, or is controlled by, or is under common control with, such Person and (b) is organized by such Person (or any Person referred to in clause (a) of this definition) primarily for the purpose of making equity or debt investments in one or more companies. For purposes of this definition, "control" of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Convert", "Conversion" and "Converted" each refers to a conversion of Committed Loans of one Type into Committed Loans of the other Type.

"COVID Lease Exception Period" has the meaning set forth in Section 6.04.

"Cost" means the cost of purchases of Inventory, based upon the Borrower's accounting practices, known to the Agent, which practices are in effect on the Closing Date as such calculated cost is determined from invoices received by the Borrower, the Borrower's purchase journals or the Borrower's stock ledger. "Cost" does not include inventory capitalization costs or other non-purchase price charges (such as freight) used in the Borrower's calculation of cost of goods sold.

"Covenant Compliance Event" means that Excess Availability at any time is less than ten (10%) percent of the Loan Cap (without giving effect to the Term Loan Reserve). For purposes hereof, the occurrence of a Covenant Compliance Event shall be deemed continuing until Excess Availability has exceeded the amount set forth above for thirty (30) consecutive days, in which case a Covenant Compliance Event shall no longer be deemed to be continuing for purposes of this Agreement. The termination of a Covenant Compliance Event as provided herein shall in no way limit, waive or delay the occurrence of a subsequent Covenant Compliance Event in the event that the conditions set forth in this definition again arise.

"Credit Card Issuer" shall mean any person (other than Borrower or other Loan Party) who issues or whose members issue credit cards, including, without limitation, MasterCard or VISA bank credit or debit cards or other bank credit or debit cards issued through MasterCard International, Inc., Visa, U.S.A., Inc. or Visa International and American Express, Discover, Diners Club, Carte Blanche, JCB, NYCE, Star/Mac, Tyme, Pulse, Accel, AFF, Shazam, CU244, Alaska Option, Maestro, Novus, Interac, Push Funds, Switch, Solo, Visa Delta and other non-bank credit or debit cards, including, without limitation, credit or debit cards issued by or through American Express Travel Related Services Company, Inc., and Novus Services, Inc. and other issuers reasonably approved by the Agent.

"Credit Card Notifications" has the meaning provided in Section 6.12.

"Credit Card Processor" shall mean any servicing or processing agent or any factor or financial intermediary who facilitates, services, processes or manages the credit authorization, billing transfer and/or payment procedures with respect to any Loan Party's sales transactions involving credit card or debit card purchases by customers using credit cards or debit cards issued by any Credit Card Issuer.

"Credit Card Receivables" means, collectively, (a) all present and future rights of the Borrower or a Guarantor to payment from any Credit Card Issuer or Credit Card Processor arising from sales of goods or rendition of services to customers who have purchased such goods or services using a credit or debit card and (b) all present and future rights of the Borrower or a Guarantor to payment from any Credit Card Issuer or Credit Card Processor in connection with the sale or transfer of Accounts arising pursuant to the sale of goods or rendition of services to customers who have purchased such goods or services using a credit card or a debit card, including, but not limited to, all amounts at any time due or to become due from any Credit Card Issuer or Credit Card Processor under the Credit Card Agreements or otherwise, in each case above calculated net of prevailing interchange charges.

"Credit Extensions" mean each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

"Credit Party" or "Credit Parties" means (a) individually, (i) each Lender and its Affiliates, (ii) the Agent and its Affiliates, (iii) each L/C Issuer, (iv) the Arranger, (v) each holder of any Other Liabilities, and (vi) each successor and permitted assign of each of the foregoing, and (b) collectively, all of the foregoing, in each case, to the extent relating to the services provided to, and obligations owing by or guaranteed by, the Loan Parties.

"Cure Date" has the meaning provided in Section 8.04.

"Currency Due" has the meaning provided in Section 10.24.

"Customer Credit Liabilities" means at any time, the aggregate remaining balance at such time of (a) outstanding gift certificates and gift cards of the Loan Parties entitling the holder thereof to use all or a portion of the certificate or gift card to pay all or a portion of the purchase price for any Inventory, and (b) outstanding merchandise credits of the Loan Parties.

"Customs Broker/Carrier Agreement" means an agreement in form and substance reasonably satisfactory to the Agent among a Loan Party, a customs broker, freight forwarder, consolidator, or carrier, and the Agent, in which the customs broker, freight forwarder, consolidator, or carrier acknowledges that it has control over and, among other things, holds the documents evidencing ownership of the subject Inventory for the benefit of the Agent and agrees, upon notice from the Agent (which notice shall be delivered only upon the occurrence and during the continuance of an Event of Default), to hold and dispose of the subject Inventory solely as directed by the Agent.

"Daily LIBOR Rate" means, for any day, a rate per annum equal to the Adjusted LIBOR Rate in effect on such day for deposits in Dollars for a one day period (subject to any interest rate floor set forth in the definition of "Adjusted LIBOR Rate"); provided, however, that upon at least three (3) Business Days prior written notice to the Agent, and not more than once every 90 days, the Borrower may (x) elect to substitute the Adjusted LIBOR Rate for a one week or one month period for the Adjusted LIBOR Rate for a one day period for the purpose of determining the Daily LIBOR Rate or (y), if the Borrower has already made the election described in the foregoing clause (x), elect to substitute the Adjusted LIBOR Rate in effect on such day for deposits in Dollars for a one day period, a one week period, or a one month period for the purpose of determining the Daily LIBOR Rate. For the avoidance of doubt, all Daily LIBOR Rate Loans outstanding at any one time shall bear interest at the same Daily LIBOR Rate.

"Daily LIBOR Borrowing" means a Borrowing comprised of Daily LIBOR Rate Loans.

"Daily LIBOR Rate Loan" means a Committed Loan that bears interest at a rate based on the Daily LIBOR Rate.

"DDA" means any checking, savings or other demand deposit account maintained by any of the Loan Parties. All funds in each DDA shall be conclusively presumed to be Collateral and proceeds of Collateral and the Agent and the Lenders shall have no duty to inquire as to the source of the amounts on deposit in any DDA.

"Debtor Relief Laws" means each of (i) the Bankruptcy Code of the United States and (ii) all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Requirement of Laws of the United States from time to time in effect and affecting the rights of creditors generally.

"Default" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means (a) when used with respect to Letter of Credit Fees, a rate equal to the Applicable Rate plus two percent (2%) per annum, and (b) otherwise, when used with respect to Obligations, an interest rate equal to two percent (2%) per annum in excess of the rate then applicable to such Obligation.

"Defaulting Lender" means, subject to Section 2.17(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within one Business Day of the date such Loans were required to be funded hereunder, or (ii) pay to the Agent, the L/C Issuer, the Swing Line Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swing Line Loans) within one Business Day of the date when due, (b) has notified the Company, the Agent, the L/C Issuer or the Swing Line Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect, (c) has failed, within three Business Days after written request by the Agent or the Company, to confirm in writing to the Agent and the Company that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Agent and the Company), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) has been deemed insolvent or (iii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iv) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender 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 Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.17(b)) as of the date established therefor by the Agent in a written notice of such determination, which shall be delivered by the Agent to the Company, the L/C Issuer, the Swing Line Lender and each other Lender promptly following such determination.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory is the target of any comprehensive Sanction.

"Disposition" or "Dispose" means with respect to any Property, any sale, sale and leaseback, assignment, conveyance, transfer or other effectively complete disposition thereof. The terms "Dispose" and "Disposed of" shall have correlative meanings. For the avoidance of doubt, it is understood and agreed that Holdings,

the Borrower and any Restricted Subsidiary may, in the ordinary course of business, grant non-exclusive licenses (or exclusive licenses within a specific or defined field of use) to Intellectual Property owned or developed by, or licensed to, such entity and that, for purposes of this Agreement and the other Loan Documents, such licenses shall not constitute a "Disposition" of such Intellectual Property; provided, that the terms of such licenses shall not restrict the right of the Agent (x) to use such Intellectual Property in connection with the conduct of a Liquidation without the payment of royalty or other compensation or (y) other than with respect to any such exclusivity within a specific or defined field of use, to dispose of such Intellectual Property owned by such entity in connection with the conduct of a Liquidation or other exercise of creditor remedies.

"Disqualified Institution" means (a) those banks, financial institutions and other entities designated in writing by the Borrower to the Agent prior to the Closing Date, in each case, together with their respective Affiliates, and (b) any corporate competitors of the Borrower and its Restricted Subsidiaries and the Affiliates of such corporate competitors (other than bona fide debt funds or investors) designated in writing by the Borrower to the Agent prior to the Closing Date. The Agent will make the list of Disqualified Institutions available to any Lender upon request.

"Disqualified Stock" means any Equity Interest that (a) requires the payment of any dividends (other than dividends payable solely in shares of Qualified Stock), (b) matures or is mandatorily redeemable or subject to mandatory repurchase or redemption or repurchase at the option of the holders thereof, in each case in whole or in part and whether upon the occurrence of any event, pursuant to a sinking fund obligation on a fixed date or otherwise (including as the result of a failure to maintain or achieve any financial performance standards), prior to the date that is 91 days after the final scheduled maturity date of the Obligations (other than (i) upon Payment in Full of the Obligations or (ii) if the issuer has the option to settle for Qualified Stock (and cash in lieu of fractional shares thereof in de minimis amounts)) or (c) are convertible or exchangeable, automatically or at the option of any holder thereof, into any Indebtedness, Equity Interest or other assets other than Qualified Stock; provided that if such Equity Interests are issued pursuant to a plan for the benefit of Holdings, any Parent Company, the Parent, Holdings, the Borrower, or any Restricted Subsidiary or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Borrower or its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability.

"Division" means the division of the assets, liabilities and/or obligations of a Person (the "Dividing Person") among two or more Persons, whether pursuant to a "plan of division" or similar arrangement pursuant to Section 18-217 of the Delaware Limited Liability Company Act or any similar provision under the laws of any other applicable jurisdiction and pursuant to which the Dividing Person may or may not survive.

"Dollars" and "$" mean lawful money of the United States.

"Domestic Subsidiary" means any direct or indirect Restricted Subsidiary organized under the laws of United States, any state thereof or the District of Columbia (excluding, for the avoidance of doubt, any Subsidiary organized under the laws of Puerto Rico or any other territory) other than (i) a Domestic Subsidiary of a Foreign Subsidiary that is a CFC or (ii) any CFC Holdco.

"Early Opt-in Election" means the occurrence of:

(1)(a) a determination by the Agent or (b) a notification by the Required Lenders to the Agent (with a copy to the Borrower) that the Required Lenders have determined that U.S. dollar-denominated syndicated credit facilities being executed at such time, or that include language similar to that contained in Section 3.03(b),

are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace the LIBOR Rate, and

(2)(a) the election by the Agent or (b) the election by the Required Lenders to declare that an Early Opt-in Election has occurred and the provision, as applicable, by the Agent of written notice of such election to the Borrower and the Lenders or by the Required Lenders of written notice of such election to the Agent.

"Economic Sanctions Laws" means any and all laws, judgments, orders, executive orders, decrees, ordinances, rules, regulations, statutes, case law or treaties applicable to a Loan Party, its Subsidiaries or Affiliates relating to economic sanctions and terrorism financing, including any applicable provisions of the Trading with the Enemy Act (50 U.S.C. App. §§ 5(b) and 16, as amended), the International Emergency Economic Powers Act, (50 U.S.C. §§ 1701-1706, as amended) and Executive Order 13224 (effective September 24, 2001), as amended.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Eligible Assignee" means (a) a Credit Party or any of its Affiliates under common control with such Credit Party; (b) a bank, insurance company, or company engaged in the business of making commercial loans, which Person, together with its Affiliates, has a combined capital and surplus in excess of $250,000,000; (c) an Approved Fund; and (d) any other Person (other than a natural Person) satisfying the requirements of Section 10.06(b) hereof; provided that notwithstanding the foregoing, "Eligible Assignee" shall not include a Disqualified Institution (with respect to clause (a) of the definition thereof, unless an Event of Default pursuant to Section 8.01(a) or (f) has occurred and is continuing), a Permitted Investor, a Loan Party or any of their respective Affiliates or Subsidiaries.

"Eligible Cash on Hand" means cash or Cash Equivalents owned by the Loan Parties, which are (a) available for use by the Loan Parties, without condition or restriction, (b) free and clear of any pledge or other Lien (other than Liens permitted pursuant to clauses (h), (v), (x), and (z) of Section 7.01 of this Agreement), (c) subject to the first priority perfected security interest of Agent (subject to Liens permitted pursuant to clauses (v), (x) and (z) of Section 7.01 of this Agreement), (d) in a Qualified Account, and (e) for which Agent shall have received evidence, in form and substance reasonably satisfactory to Agent, of the amount of such cash or Cash Equivalents held in such Qualified Account as of the applicable date of the calculation.

"Eligible Credit Card Receivables" means at the time of any determination thereof, each Credit Card Receivable that satisfies the following criteria at the time of creation and continues to satisfy such criteria at the time of such determination: such Credit Card Receivable (i) has been earned by performance and represents the bona fide amounts due to a Loan Party from a Credit Card Issuer or Credit Card Processor, and in each case is originated in the ordinary course of business of such Loan Party, and (ii) in each case is

not ineligible for inclusion in the calculation of the Borrowing Base, pursuant to any of clauses (a) through (g) below. Without limiting the foregoing, to qualify as an Eligible Credit Card Receivable, an Account shall indicate no Person other than a Loan Party as payee or remittance party. In determining the amount to be so included, the face amount of an Account shall be reduced by, without duplication, to the extent not reflected in such face amount, (i) the amount of all accrued and actual discounts, claims, credits or credits pending, promotional program allowances, price adjustments, finance charges or other allowances (including any amount that a Loan Party may be obligated to rebate to a customer, a Credit Card Issuer or Credit Card Processor pursuant to the terms of any agreement or understanding (written or oral)) and (ii) the aggregate amount of all cash received in respect of such Account but not yet applied by the Loan Parties to reduce the amount of such Credit Card Receivable. Except as otherwise agreed by the Agent, any Credit Card Receivable included within any of the following categories shall not constitute an Eligible Credit Card Receivable:

(i) Credit Card Receivables which do not constitute an Account or a payment intangible (as defined in the UCC);

(ii) Credit Card Receivables that have been unpaid for more than five (5) Business Days from the date of sale (or such longer period(s) as may be approved by the Agent in its Permitted Discretion);

(iii) Credit Card Receivables (i) that are not subject to a perfected first-priority security interest in favor of the Agent (subject to Liens permitted under Section 7.01 having priority by operation of applicable Requirement of Law), for the benefit of itself and the other Credit Parties, or (ii) with respect to which a Loan Party does not have good and valid title thereto, free and clear of any Lien (other than Liens granted to the Agent pursuant to the Security Documents, or to the Term Agent under the Term Facility, or any Permitted Amendment or Refinancing of the foregoing and other Liens having priority by operation of applicable Requirement of Law);

(iv) Credit Card Receivables which are disputed, are with recourse, or with respect to which a claim, counterclaim, offset or chargeback (other than chargebacks in the ordinary course by the Credit Card Processors) has been asserted (to the extent of such claim, counterclaim, offset or chargeback);

(v) Credit Card Receivables as to which a Credit Card Issuer or a Credit Card Processor has the right under certain circumstances to require a Loan Party to repurchase such Loan Party's entire portfolio of Accounts from such Credit Card Issuer or Credit Card Processor (it being acknowledged and understood that any right of a Credit Card Issuer or Credit Card Processors to chargeback a Credit Card Receivable shall not be deemed a right of such Credit Card Issuer or Credit Card Processor to require a Loan Party to repurchase such Loan Party's Accounts under this clause (e));

(vi) Credit Card Receivables due from a Credit Card Issuer or a Credit Card Processor of the applicable credit card which is the subject of any bankruptcy or insolvency proceedings; or

(vii) Credit Card Receivables which the Agent determines in its Permitted Discretion to be uncertain of collection or which do not meet such other reasonable eligibility criteria for Credit Card Receivables as the Agent may determine.

"Eligible In-Transit Inventory" means, as of any date of determination thereof, without duplication of other Eligible Inventory, In-Transit Inventory:

(1) Which has been shipped from a foreign location for receipt by a Loan Party, but which has not yet been delivered to such Loan Party, which In-Transit Inventory has been in transit for sixty (60) days or less from the date of shipment of such Inventory;

(2) For which the purchase order is in the legal name of a Loan Party and title and risk of loss has passed to such Loan Party;

(3) For which each relevant freight carrier, freight forwarder, customs broker, non-vessel owning common carrier or shipping company in possession of such Inventory or documents related thereto shall have entered into a Customs Broker/Carrier Agreement;

(4) Which is subject to an Acceptable Document of Title;

(5) Which is insured in accordance with the provisions of this Agreement and the other Loan Documents (including, without limitation, marine cargo insurance);

(6) unless the Agent shall otherwise agree in its Permitted Discretion, for which payment of the purchase price has been made by the applicable Loan Party or the purchase price is supported by a Commercial Letter of Credit;

(7) which at all times is subject to Agent's first-priority perfected security interest; and

(8) Which otherwise would constitute Eligible Inventory;

provided that the Agent may, in its discretion, and upon notice to the Borrower, exclude any particular Inventory from the definition of "Eligible In-Transit Inventory" in the event the Agent determines in its Permitted Discretion that such Inventory is subject to any Person's right of reclamation, repudiation, or stoppage in transit, which is (or is capable of being) senior to, or pari passu with, the Lien of the Agent or may otherwise adversely impact the ability of the Agent to realize upon such Inventory.

"Eligible Inventory" means, as of the date of determination thereof, without duplication, (i) Eligible In-Transit Inventory of the Loan Parties and (ii) items of Inventory of a Loan Party that are finished goods, merchantable and readily saleable to the public in the ordinary course of such Loan Party's business, in each case that is not excluded as ineligible for inclusion in the calculation of the Borrowing Base by virtue of one or more of the criteria set forth below. Except as otherwise agreed by the Agent, in its Permitted Discretion, the following items of Inventory shall not be included in Eligible Inventory:

(i) Inventory that is not solely owned by a Loan Party or a Loan Party does not have good and valid title thereto free and clear of any Lien, including any Inventory the subject of any retention of title arrangements (other than Liens granted to the Agent pursuant to the Security Documents and to the Term Agent under the Term Facility and Liens permitted by Section 7.01 having priority by operation of applicable Requirements of Law or other Liens of record by landlords permitted by Section 7.01 which have been subordinated to the Lien of the Agent pursuant to a subordination agreement on terms reasonable satisfactory to the Agent);

(ii) Inventory that is leased by or is on consignment to or by a Loan Party, other than Inventory, not to exceed to $3,000,000 in value (valued at the lower of cost or market) in the aggregate at any time, of the Loan Parties on consignment to third parties and located at retail stores of such third parties, provided, that (i) such Loan Party shall have delivered to the Agent a written agreement relating to such Inventory between the Loan Party and such third party (in form and substance reasonably satisfactory to

the Agent), (ii) the Loan Parties shall have taken such actions as are required by the UCC or other applicable Requirements of Law to perfect, and maintain the first priority of, their Liens and security interest in such Inventory, including filing such financing statements and delivering proper notices to the applicable Persons (including other secured parties of the third party consignee) as the Agent may reasonably request, each in form and substance satisfactory to the Agent, (iii) the Loan Parties shall have taken such actions as are required by the UCC or other applicable Requirements of Law to assign such Liens and security interests to the Agent, (iv) such Inventory shall be consigned by a Loan Party to a Person who is not a Loan Party and (v) the Loan Parties shall have provided evidence reasonably satisfactory to the Agent that clauses (i) through (iv) of the foregoing proviso are satisfied;

(iii) Inventory (other than (i) Eligible In-Transit Inventory or (ii) Inventory in-transit between the Loan Parties' locations in the United States or in storage trailers at Loan Parties' locations in the United States) that is not located in the United States of America (excluding territories or possessions of the United States) or, if the Loan Parties have taken steps to create and perfect a first priority Lien in such Inventory under the Requirements of Law of Canada (and its provinces) and taken such other actions as may be reasonably requested by Agent in connection therewith (including the receipt of customary legal opinions), Canada at a location that is owned or leased by a Loan Party, provided that notwithstanding the foregoing, Inventory in transit between such owned or leased locations in the United States shall be deemed eligible if all of the other eligibility criteria set forth in this definition are satisfied;

(iv) Inventory that is comprised of goods which (i) are damaged, defective, or otherwise unmerchantable, (ii) are to be returned to the vendor, (iii) are obsolete or slow moving, or custom items, work-in-process, or that constitute samples, spare parts for equipment, promotional, marketing, labels, bags and other packaging and shipping materials or supplies used or consumed in a Loan Party's business, (iv) are not in compliance in all material respects with all standards imposed by any Governmental Authority having regulatory authority over such Inventory, its use or sale, (v) are bill and hold goods, or (vi) are raw materials;

(v) Inventory that is not subject to a perfected first-priority security interest in favor of the Agent (subject to Liens permitted by Section 7.01 which have priority by operation of applicable Requirements of Law);

(vi) Inventory as to which casualty insurance in compliance with the provisions of Section 6.07 hereof is not in effect;

(vii) Inventory that has been sold but not yet delivered or as to which a Loan Party has accepted a deposit;

(viii) Inventory that is subject to any licensing, patent, royalty, trademark, trade name or copyright agreement with any third party (x) from which any Loan Party or any of its Subsidiaries has received notice of a dispute in respect of any such agreement (but ineligibility shall be limited to the amount of such dispute) or (y) which would require any consent of any third Person for the sale or disposition of that Inventory (which consent has not been obtained) or the payment of any monies to any third party upon such sale or other disposition; or

(ix) Inventory acquired in a Permitted Acquisition or which is not of the type usually sold in the ordinary course of the Loan Parties' business, unless and until the Agent has completed or received (A) an appraisal of such Inventory from appraisers reasonably satisfactory to the Agent and established Inventory Reserves (if applicable) therefor, provided such Inventory is not otherwise ineligible as a result of any of clauses (a) through (h) above, and (B) such other due diligence as the Agent may reasonably require, all of the results of the foregoing to be reasonably satisfactory to the Agent in its

Permitted Discretion; provided it is agreed that so long as the Agent has received reasonable prior notice of such Permitted Acquisition and the Loan Parties reasonably cooperate (and cause the Person being acquired to reasonably cooperate) with the Agent, the Agent shall use reasonable best efforts to complete such due diligence and related appraisal on or prior to the closing date of such Permitted Acquisition.

"Eligible Trade Receivables" means Accounts arising from the sale of the Loan Parties' Inventory (other than those consisting of Credit Card Receivables) or rendition of services that satisfy the following criteria at the time of creation and meets the same at the time of such determination: such Account (i) has been earned by performance and represents the bona fide amounts due to a Loan Party from an account debtor, and in each case is originated in the ordinary course of business of such Loan Party, and (ii) is not ineligible for inclusion in the calculation of the Borrowing Base pursuant to any of clauses (a) through (s) below. Without limiting the foregoing, to qualify as an Eligible Trade Receivable, an Account shall indicate no Person other than a Loan Party as payee or remittance party. In determining the amount to be so included, the face amount of an Account shall be reduced by, without duplication, to the extent not reflected in such face amount, (i) the amount of all accrued and actual discounts, claims, credits or credits pending, promotional program allowances, shared advertising costs, price adjustments, finance charges or other allowances (including any amount that a Loan Party may be obligated to rebate to a customer pursuant to the terms of any agreement or understanding (written or oral) (collectively, "Account Allowances")) and (ii) the aggregate amount of all cash received in respect of such Account but not yet applied by the Loan Parties to reduce the amount of such Eligible Trade Receivable. Except as otherwise agreed by the Agent, any Account included within any of the following categories shall not constitute an Eligible Trade Receivable:

(i) Accounts that are not evidenced by an invoice;

(ii) Accounts that have been outstanding for more than (x) sixty (60) days (or, solely during the Accommodation Period and solely with respect to Accommodation Account Debtors, ninety (90) days) from the due date or (y) ninety (90) days (or, solely during the Accommodation Period and solely with respect to Accommodation Account Debtors, one hundred twenty (120) days) past the invoice date (or one hundred twenty (120) days (or, solely during the Accommodation Period, one hundred fifty (150 days) past the invoice date for Accounts due from those account debtors agreed to in writing by the Agent from time to time acting in its Permitted Discretion);

(iii) Accounts due from any account debtor fifty percent (50%) or more of whose Accounts are not eligible under clause (b), above.

(iv) Except as set forth in the proviso hereto, all Accounts owed by an account debtor and/or its Affiliates together exceed twenty percent (20%) (or any other percentage now or hereafter established by the Agent for any particular account debtor) of the amount of all Accounts at any one time (the "Concentration Limit") (but the portion of the Accounts not in excess of the applicable percentage may be deemed Eligible Trade Receivables, in the Agent's Permitted Discretion), provided that the Concentration Limit for Accounts due from (x) Nordstrom, Inc. and its Affiliates shall equal (1) seventy percent (70%) so long as Nordstrom, Inc.'s credit rating and/or family rating is investment grade BBB- or higher by S&P or Baa3 or higher by Moody's or (2) otherwise, fifty percent (50%), (y) each of Macy's, Inc. and its Affiliates and Saks Inc. and its Affiliates shall equal thirty-five percent (35%), respectively, during the Accommodation Period, and (z) Neiman Marcus shall equal thirty percent (30%); provided, further, that during the Accommodation Period, the Concentration Limit shall not apply to Accounts due from Nordstrom, Inc. and its Affiliates so long as Nordstrom, Inc.'s credit rating and/or family rating is investment grade BBB- or higher by S&P or Baa3 or higher by Moody's;

(v) Accounts (i) that are not subject to a perfected first-priority security interest in favor of the Agent (other than Liens permitted by Section 7.01 which have priority by operation of applicable Requirements of Law), or (ii) with respect to which a Loan Party does not have good and valid title thereto, free and clear of any Lien (other than Liens granted to the Agent pursuant to the Security Documents and Liens granted to the Term Agent under the Term Facility and other Liens permitted by Section 7.01 which have priority by operation of applicable Requirements of Law);

(vi) Accounts which are disputed or with respect to which a claim, counterclaim, offset or chargeback has been asserted, but only to the extent of such dispute, counterclaim, offset or chargeback;

(vii) Accounts which arise out of any sale (i) not made in the ordinary course of business, or (ii) made on a basis other than upon credit terms usual to the business of the Loan Parties;

(viii) Accounts which are owed by any Affiliate or any employee of a Loan Party (provided that this clause (h) shall not exclude any Account of any account debtor solely on the basis that it is a portfolio company of the Sponsor);

(ix) Accounts for which all consents, approvals or authorizations of, or registrations or declarations with any Governmental Authority required to be obtained, effected or given in connection with the performance of such Account by the account debtor or in connection with the enforcement of such Account by the Agent have been duly obtained, effected or given and are in full force and effect;

(x) Accounts due from an account debtor which is the subject of any bankruptcy or insolvency proceeding, has had a trustee or receiver appointed for all or a substantial part of its property, has made an assignment for the benefit of creditors or has suspended its business;

(xi) Accounts due from any Governmental Authority except to the extent that the subject account debtor is the federal government of the United States of America and the Loan Parties have complied with the Federal Assignment of Claims Act of 1940 have been complied with;

(xii) Accounts (i) owing from any Person that is also a supplier to, or creditor of, a Loan Party or any of its Subsidiaries unless such Person has waived any right of setoff in a manner reasonably acceptable to the Agent or (ii) representing any manufacturer's or supplier's credits, discounts, incentive plans or similar arrangements entitling a Loan Party or any of its Subsidiaries to discounts on future purchase therefrom; provided, that the existence of any Account Allowance as described above with respect to an Account shall not cause the applicable account debtor to be a supplier to, or creditor of, a Loan Party for the purposes of subclause (l)(i) above;

(xiii) Accounts arising out of sales on a bill-and-hold, guaranteed sale, sale-or-return, sale on approval or consignment basis or subject to any right of return;

(xiv) Accounts owing from (i) any Embargoed Person, or (ii) any Person located in a foreign jurisdiction other than Canada; provided, that up to $5,000,000 in the aggregate of Accounts owing from Persons located in a foreign jurisdiction other than Canada shall constitute Eligible Trade Receivables provided, that, such Accounts would otherwise constitute Eligible Trade Receivables and such Accounts are covered by credit insurance in form, substance and amount, and by an insurer reasonably satisfactory to Agent;

(xv) Accounts evidenced by a promissory note or other instrument;

(xvi) Accounts consisting of amounts due from vendors as rebates or allowances;

(xvii) Accounts which include extended payment terms (datings) beyond those generally furnished in the ordinary course of business;

(xviii) Accounts acquired in a Permitted Acquisition, unless and until the Agent has (A) completed or received such due diligence as the Agent may require with respect thereto, all of the results of the foregoing to be reasonably satisfactory to the Agent and (B) Agent otherwise agrees that such Accounts shall be deemed Eligible Trade Receivables; or

(xix) Accounts which are not (i) billed and collected in the United States and (ii) payable in Dollars.

"Embargoed Person" means any party that (i) is listed in any Sanctions related list of designated Persons maintained by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), including the list of "Specially Designated Nationals and Blocked Persons", or the United States Department of State, the United Nations Security Council, the European Union, or any EU member state, (ii) resides, is organized or chartered, or has a place of business in a country or territory that is the subject of OFAC comprehensive sanctions programs, (iii) is subject to any Requirement of Law that would prohibit all or substantially all financial or other transactions with that Person or would require that assets of that Person that come into the possession of a third-party be blocked, (iv) any agency, political subdivision or instrumentality of the government of a country or territory that is the subject of OFAC comprehensive sanctions programs, (v) any natural person ordinarily resident in a country or territory that is the subject of OFAC comprehensive sanctions programs, or (vi) any Person fifty percent (50%) or more owned directly, or indirectly, individually or in the aggregate, by any of the above.

"Environmental Laws" means any and all applicable laws, rules, orders, regulations, statutes, ordinances, codes or decrees (including, without limitation, common law) of any international authority, foreign government, the United States, or any state, provincial, local, municipal or other governmental authority, regulating, relating to or imposing liability or standards of conduct concerning protection of the environment, as has been, is now, or at any time hereafter is, in effect.

"Environmental Liability" means any liability, claim, action, suit, judgment or order under or relating to any Environmental Law for any damages, injunctive relief, losses, fines, penalties, fees, expenses (including reasonable fees and expenses of attorneys and consultants) or costs, whether contingent or otherwise, including those arising from or relating to: (a) compliance or non-compliance with any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Materials of Environmental Concern, (c) exposure to any Materials of Environmental Concern, (d) the Release of any Materials of Environmental Concern or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equipment" has the meaning set forth in the UCC or any other applicable Requirement of Law.

"Equity Interests" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation).

"Equity Issuance" means any issuance by the Parent of its Qualified Stock in a public or private offering.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Loan Parties within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Event of Default" has the meaning specified in Section 8.01.

"Excess Availability" means the difference, at any time of calculation, between the Loan Cap and the Total Outstandings.

"Excluded DDA" means (i) any deposit account exclusively used for payroll or employee benefits, and (ii) any deposit account which is a trust or fiduciary account.

"Excluded Subsidiary" means (a) any Subsidiary that is not directly or indirectly a wholly owned Subsidiary of the Parent, (b) any Immaterial Subsidiary, (c) any Subsidiary that is prohibited by applicable Requirements of Law or, to the extent mutually agreed the same would prevent the granting thereof, Contractual Obligations that are in existence on the Closing Date or at the time of acquisition of such Subsidiary and not entered into in contemplation thereof from providing a Facility Guaranty or if providing a Facility Guaranty by such Subsidiary would require governmental (including regulatory) consent, approval, license or authorization (unless such consent, approval license or authorization has been obtained), (d) any Foreign Subsidiary, (e) any Unrestricted Subsidiary, (f) any Subsidiary that is a captive insurance company and (g) any other Subsidiary with respect to which, in the reasonable judgment of the Agent and the Borrower, the burden or cost or other consequences of providing a Facility Guaranty shall be excessive in view of the benefits to be obtained by the Credit Parties therefrom. For the avoidance of doubt, each Excluded Subsidiary is a Non-Guarantor Subsidiary hereunder.

"Excluded Swap Obligations" means, with respect to any Guarantor, any obligation (a "Swap Obligation") to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act, if, and to the extent that, all or a portion of the Guarantee Obligation of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee Obligation with respect thereto) is or becomes illegal or unlawful under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason not to constitute an "eligible contract participant" as defined in the Commodity Exchange Act (determined after giving effect to Section 2.8 of the Guarantee and Collateral Agreement) at the time the Guarantee Obligation of such Guarantor or the grant of such security interest would otherwise have become effective with respect to such related Swap Obligation but for such Guarantor's failure to constitute an "eligible contract participant" under the Commodity Exchange Act or any such rule, regulation or order at such time.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net or gross income (however denominated), Taxes imposed on or measured by net or gross profits, franchise or capital Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient's being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any 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 (i) such Lender (or its assignor, if any) acquires such interest in the

Loan or Commitment (or designates a new lending office) (other than pursuant to an assignment request by the Borrower under Section 10.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a) or (c), 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, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Extended Accommodation Period" means the period from the Third Amendment Date through the delivery of the Compliance Certificate pursuant to Section 6.02(b) (and the related financial statements) in connection with the Fiscal Month ended January 28, 2023.

"Extended Accommodation Period Compliance Event" means, solely during the Extended Accommodation Period, that Excess Availability is less than (w) at any time from the Third Amendment Date through and including September 5, 2020, $15,000,000, (x) at any time during the period beginning September 6, 2020 until the Fifth Amendment Date, $10,000,000, (y) at any time during the period beginning on the Fifth Amendment Date through July 31, 2021, $7,500,000 and (z) at any time during the period beginning on August 1, 2021 through the end of the Extended Accommodation Period, $10,000,000. For purposes hereof, the occurrence of an Extended Accommodation Period Compliance Event shall be deemed continuing until Excess Availability has exceeded the amount set forth above for thirty (30) consecutive days, in which case an Extended Accommodation Period Compliance Event shall no longer be deemed to be continuing for purposes of this Agreement. The termination of an Extended Accommodation Period Compliance Event as provided herein shall in no way limit, waive or delay the occurrence of a subsequent Extended Accommodation Period Compliance Event in the event that the conditions set forth in this definition again arise.

"Extended Accommodation Period Specified Contribution" has the meaning set forth in Section 8.04(b).

"Facility Guaranty" means a guarantee of the Obligations made by any Person in favor of the Agent and the other Credit Parties pursuant to the Security Agreement or in such other form reasonably satisfactory to the Agent.

"FATCA" means 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 and any agreement entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities in connection with the implementation of such Sections of the Code.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Citizens Bank on such day on such transactions as determined by the Agent.

"Federal Reserve Bank of New York's Website" means the website of the Federal Reserve Bank of New York at http://www.newyorkfed.org, or any successor source.

"Fee Letter" means the letter agreement, dated as of the date hereof, between the Borrower and the Agent.

"Fifth Amendment Date" means December 11, 2020.

"Fifth Amendment Fee Letter" means the Fee Letter by and between the Borrower and the Agent, dated as of the Fifth Amendment Date.

"Financed Capital Expenditures" shall mean Capital Expenditures made through purchase money financing (other than from Credit Extensions or the Term Loans hereunder) or Capital Lease transactions permitted hereunder.

"Financial Advisor" has the meaning set forth in Section 6.23.

"Financial Covenant" means the covenant specified in Section 7.18(a) and/or Section 7.18(b).

"Financial Performance Projections" means (i) the projected consolidated balance sheets, statements of income, cash flows, and stockholder's equity of the Parent and its Subsidiaries, (ii) the projected Borrowing Base and (iii) Excess Availability forecasts, in each case, prepared by management of the Parent and in form and substance reasonably satisfactory to the Agent.

"Fiscal Month" means one of the three fiscal periods in a Fiscal Quarter each of which is approximately one month in duration. There are 12 Fiscal Months in each Fiscal Year.

"Fiscal Quarter" means one of the four 13-week, or, if applicable, 14-week quarters in a Fiscal Year, with the first of such quarters beginning on the first day of a Fiscal Year and ending on a Saturday of the thirteenth (or fourteenth, if applicable) week in such quarter.

"Fiscal Year" means the fiscal year ending on the Saturday closest to January 31 in any calendar year.

"Flood Insurance Laws" means collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statue thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto and (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto.

"Foreign Lender" means any Recipient that is not a U.S. Person.

"Foreign Subsidiary" means any Subsidiary that is not a Domestic Subsidiary.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"Fronting Exposure" means, at any time there is a Defaulting Lender, (a) with respect to any L/C Issuer, such Defaulting Lender's Applicable Percentage of the outstanding L/C Obligations other than L/C Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swing Line Lender, such Defaulting Lender's Applicable Percentage of Swing Line Loans other than Swing Line Loans as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders in accordance with the terms hereof.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

"Governmental Authority" means any nation or government, any state, province or other political subdivision thereof and any governmental entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and, as to any Lender, any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Guarantee Obligation" means, as to any Person (the "guaranteeing person"), any obligation of (a) the guaranteeing person or (b) another Person (including, without limitation, any bank under any letter of credit) to induce the creation of which the guaranteeing person has issued a guarantee, reimbursement, counterindemnity or similar obligation, in either case guaranteeing or by which such Person becomes contingently liable for any Indebtedness, net worth, working capital earnings, leases, dividends or other distributions upon the stock or equity interests (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase Property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business, guarantees of operating leases in the ordinary course of business, and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets or any Investment permitted under this Agreement. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Guarantor" means (i) the Parent, (ii) Holdings, (iii) Rebecca Taylor, Inc., a New York corporation, Parker Holding, LLC, a Delaware limited liability company, Parker Lifestyle, LLC, a Delaware limited liability company, and Rebecca Taylor Retail Store, LLC, a New York limited liability company, and (iv) each Subsidiary of the Parent that executes and delivers a Facility Guaranty pursuant hereto; provided that no Excluded Subsidiary shall be required to be a Guarantor hereunder.

"Hedge Agreements" means all interest rate swaps, caps or collar agreements or similar arrangements entered into by the Borrower or its Subsidiaries providing for protection against fluctuations in interest rates or currency exchange rates or the exchange of nominal interest obligations or the price of commodities, raw materials, utilities and energy, either generally or under specific contingencies.

"Holdings" means Vince Intermediate Holding, LLC, a Delaware limited liability company.

"Honor Date" has the meaning specified in Section 2.03(c)(i).

"Immaterial Subsidiary" means, on any date, any Subsidiary of the Company that (i) had less than 3% of consolidated assets and 3% of annual consolidated revenues of the Parent, Holdings, the Borrower and its Restricted Subsidiaries as reflected on the most recent financial statements delivered pursuant to Section 6.01 prior to such date and (ii) (A) that is listed on the attached Schedule 1.01(b) or (B) has been designated as such by the Borrower in a written notice delivered to the Agent (other than, in either case, any such Subsidiary as to which the Borrower has revoked such designation by written notice to the Agent so long as such Subsidiary either provides a Facility Guaranty upon such designation and complies with Section 6.11 or otherwise qualifies as an Excluded Subsidiary hereunder); provided that no Subsidiary with Property of the type included in the Borrowing Base may be designated as an Immaterial Subsidiary, and provided further that at no time shall all Immaterial Subsidiaries so designated by the Borrower have in the aggregate consolidated assets or annual consolidated revenues (as reflected on the most recent financial statements delivered pursuant to Section 6.01 prior to such time) in excess of 3% of consolidated assets or annual consolidated revenues, respectively, of the Parent, Holdings, the Borrower and its Restricted Subsidiaries.

"Increase Effective Date" shall have the meaning provided therefor in Section 2.15(d).

"Indebtedness" means, of any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of Property or services (other than (i) trade payables, current accounts and similar obligations incurred in the ordinary course of such Person's business and not more than 90 days past due (unless being contested in good faith by appropriate proceedings) and (ii) earn-outs and other contingent payments in respect of acquisitions except to the extent that the liability on account of any such earn-out or contingent payment becomes fixed), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to Property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such Property, in which case only the lesser of the amount of such obligation and the fair market value of such Property shall constitute Indebtedness), (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under acceptance, letter of credit or similar facilities, (g) all obligations of such Person in respect of Disqualified Stock, except for agreements with directors, officers and employees to acquire such Equity Interest upon the death or termination of employment of such director, officer or employee, (h) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (f) above, other than guarantees of operating leases in the ordinary course of business, and (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on Property (including, without limitation, accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation (and in the event such Person has not assumed or become liable for payment of such obligation, only the lesser of the amount of such obligation and the fair market value of such Property shall constitute Indebtedness. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such person is liable therefore as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnitees" has the meaning specified in Section 10.04(b).

"Information" has the meaning specified in Section 10.07.

"Insolvency" means, with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insolvent" means pertaining to a condition of Insolvency.

"Intellectual Property" means the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including, without limitation, copyrights, domain names, patents, trademarks, trade names, technology, know-how and processes, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Intercreditor Agreement" means (i) the Intercreditor Agreement, dated as of the Closing Date, by and among the Agent and the Term Agent, as it may be amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof or (ii) any other intercreditor agreement among the Agent and any agent or trustee with respect to the Term Facility or any Permitted Amendment or Refinancing thereof, as it may be amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof.

"Interest Payment Date" means, (a) as to any Daily LIBOR Rate Loan, within five days of the end of each Fiscal Month; (b) as to any LIBOR Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; provided, however, that if any Interest Period for a LIBOR Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (c) as to any Base Rate Loan (including a Swing Line Loan), the first Business Day of each month and the Maturity Date.

"Interest Period" means as to each LIBOR Rate Loan, the period commencing on the date such LIBOR Rate Loan is disbursed or Converted to or continued as a LIBOR Rate Loan and ending on the date one week, two weeks, one month, two months, three months or six months thereafter, as selected by the Borrower in a Committed Loan Notice; provided that:

(1) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(2) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(3) no Interest Period shall extend beyond the Maturity Date.

For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent Conversion or continuation of such Borrowing.

"In-Transit Inventory" means Inventory of a Loan Party which is in the possession of a common carrier and is in transit from a foreign vendor of a Loan Party to a location of a Loan Party in the United States or, if the Loan Parties have taken steps to create and perfect a first priority Lien in such Inventory under the Requirements of Law of Canada (and its provinces) and taken such other actions as may be reasonably requested by Agent in connection therewith (including the receipt of customary legal opinions), Canada.

"Inventory" has the meaning given that term in the UCC or other applicable Requirement of Law, and shall also include, without limitation, all: (a) goods which (i) are leased by a Person as lessor, (ii) are held by a Person for sale or lease or to be furnished under a contract of service, (iii) are furnished by a Person under

a contract of service, or (iv) consist of raw materials, work in process, or materials used or consumed in a business; (b) goods of said description in transit; (c) goods of said description which are returned, repossessed or rejected; and (d) packaging, advertising, and shipping materials related to any of the foregoing.

"Inventory Reserves" means such reserves as may be established from time to time by the Agent in its Permitted Discretion, without duplication of any other Reserves or items that are otherwise addressed or excluded through eligibility criteria or factored into the advance rates, to reflect the changes in the determination of the saleability, at retail, of the Eligible Inventory or which reflect such other factors as negatively affect the market value of the Eligible Inventory.

"Investment" has the meaning given to such term in Section 7.02 hereof.

"IRS" means the United States Internal Revenue Service.

"ISP" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance).

"Issuer Documents" means with respect to any Letter of Credit, the Letter Credit Application, and any other document, agreement and instrument entered into by an L/C Issuer and the Borrower or in favor of an L/C Issuer and relating to any such Letter of Credit.

"Joinder Agreement" means an agreement substantially in the form of Exhibit J.

"Judgment Currency" has the meaning given to such term in Section 10.24.

"Junior Indebtedness" has the meaning given to such term in Section 7.03(m).

"Landlord Lien State" means any state, province or territory in which a landlord's claim for rent has priority by operation of applicable Requirement of Law over the Lien of the Agent in any of the Collateral.

"L/C Advance" means with respect to each Lender, such Lender's funding of its participation in any L/C Borrowing in accordance with its Applicable Percentage.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on or prior to the date required to be reimbursed by the Borrower pursuant to Section 2.03(c)(i) or refinanced as a Committed Borrowing.

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry thereof, or the increase of the amount thereof.

"L/C Issuer" means (a) Citizens Bank, in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder and (b) one other Lender selected by the Borrower with the consent of the Agent (such consent not to be unreasonably withheld). Any L/C Issuer may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such L/C Issuer, in which case the term "L/C Issuer" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

"L/C Obligations" means, at any date of determination and without duplication, the aggregate Stated Amount of all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts under Letters of Credit, including all L/C Borrowings. For purposes of computing the amounts available to be drawn

under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.07. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"Lease" means any agreement pursuant to which a Loan Party is entitled to the use or occupancy of any real property for any period of time.

"Lenders" means the Lenders having Commitments from time to time or at any time and, unless the context requires otherwise, includes the Swing Line Lender. Any Lender may, in its reasonable discretion, arrange for one or more Loans to be made by Affiliates or branches of such Lender, in which case the term "Lender" shall include any such Affiliate or branch with respect to Loans made by such Affiliate or branch.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Agent.

"Letter of Credit" means each Banker's Acceptance, each Standby Letter of Credit and each Commercial Letter of Credit issued hereunder.

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable L/C Issuer.

"Letter of Credit Expiration Date" means the day that is seven days prior to the Maturity Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

"Letter of Credit Fee" has the meaning specified in Section 2.03(i).

"Letter of Credit Sublimit" means an amount equal to $25,000,000 plus the amount of any increase in the Aggregate Commitments made pursuant to Section 2.15 hereof. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments. A permanent reduction of the Aggregate Commitments shall not require a corresponding pro rata reduction in the Letter of Credit Sublimit; provided, however, that if the Aggregate Commitments are reduced to an amount less than the Letter of Credit Sublimit, then the Letter of Credit Sublimit shall be reduced to an amount equal to (or, at Borrower's option, less than) the Aggregate Commitments.

"LIBOR Borrowing" means a Borrowing comprised of LIBOR Rate Loans.

"LIBOR Rate" means:

(i) for any Interest Period with respect to a LIBOR Rate Loan or Daily LIBOR Rate Loan, the rate per annum (i) equal to the London Interbank Offered Rates ("LIBOR") administered by the ICE Benchmark Administration (or any Person that takes over administration of such rate) for Dollar deposits for a duration equal to or comparable to the duration of such Interest Period, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Agent from time to time) at or about 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period; or, (ii) if such rate is not available at such time for any reason, the rate per annum determined by the Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the LIBOR Rate Loan being made, continued or converted and with a term equivalent to such Interest Period would be

offered by Citizens Bank to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two London Banking Days prior to the commencement of such Interest Period, which rate is approved by the Agent;

(ii) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to LIBOR administered by the ICE Benchmark Administration (or any Person that takes over administration of such rate) for Dollar deposits with a term of one (1) month commencing such day that appears on the relevant Bloomberg page (or such other commercially available source providing such quotations as may be designated by the Agent from time to time) at or about 11:00 a.m., London time on such day;

(iii) if the LIBOR Rate shall be less than 1.00% per annum, such rate shall be deemed 1.00% per annum for the purposes of this Agreement; and

(iv) the Agent does not warrant, nor accept responsibility, nor shall the Agent have any liability with respect to the administration, submission or any other matter related to the rates referred to in this definition of "LIBOR Rate" or with respect to any comparable or successor rate thereto.

"LIBOR Rate Loan" means a Committed Loan that bears interest at a rate based on the Adjusted LIBOR Rate, which, for the avoidance of doubt, does not include Daily LIBOR Borrowings.

"Lien" means any mortgage, pledge, hypothecation, collateral assignment, encumbrance, lien (statutory or other), charge or other security interest or any other security agreement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing). For the avoidance of doubt, it is understood and agreed that Holdings, the Borrower and any of its Restricted Subsidiaries may, as part of their business, grant non-exclusive licenses (or exclusive licenses within a specific or defined field of use) to Intellectual Property owned or developed by, or licensed to, such entity. For purposes of this Agreement and the other Loan Documents, such licensing activity shall not constitute a "Lien" on such Intellectual Property; provided, that the terms of such licenses shall not restrict the right of the Agent (x) to use such Intellectual Property in connection with the conduct of a Liquidation without the payment of royalty or other compensation or (y) other than with respect to any such exclusivity within a specific or defined field of use, to dispose of such Intellectual Property owned by such entity in connection with the conduct of a Liquidation or other exercise of creditor remedies

"Limited Condition Acquisition" means any acquisition or other Investment (including acquisitions subject to a letter of intent or purchase agreement), the consummation of which is not conditioned on the availability of, or on obtaining, third party financing and which is not a "sign and close" transaction; provided that in the event the consummation of any such acquisition or Investment shall not have occurred on or prior to the date that is 120 days following the signing of the applicable Limited Condition Acquisition agreement, such acquisition or Investment shall no longer constitute a Limited Condition Acquisition for any purpose.

"Liquidation" means the exercise by the Agent of those rights and remedies accorded to the Agent under the Loan Documents and applicable Requirements of Laws as a creditor of the Loan Parties with respect to the realization on the Collateral, including (after the occurrence and during the continuation of an Event of Default) the conduct by the Loan Parties acting with the consent of the Agent, of any public, private or "going-out-of-business", "store closing" or other similar sale or any other disposition of the Collateral for the purpose of liquidating the Collateral. Derivations of the word "Liquidation" (such as "Liquidate") are used with like meaning in this Agreement.

"Loan" means an extension of credit by a Lender to the Borrower under Article II in the form of a Committed Loan or a Swing Line Loan.

"Loan Account" has the meaning assigned to such term in Section 2.11.

"Loan Cap" means, at any time of determination, the lesser of (a) the Aggregate Commitments and (b) the Borrowing Base.

"Loan Documents" means this Agreement, each Note, each Issuer Document, the Fee Letter, the Third Amendment Fee Letter, the Fifth Amendment Fee Letter, all Borrowing Base Certificates, Request for Credit Extensions, all Compliance Certificates, all Payment Conditions Certificates, the Blocked Account Agreements, all Collateral Access Agreements, all Credit Card Notifications, the Security Documents, any Facility Guaranty, any Joinder Agreement, and the Intercreditor Agreement, each as amended and in effect from time to time, and any and all other agreements, certificates, notices, instruments and documents now or hereafter executed by any Loan Party or Subsidiary of a Loan Party and delivered to the Agent or any Lender in respect of the transactions contemplated by this Agreement.

"Loan Parties" means, collectively, the Borrower and the Guarantors. "Loan Party" means any one of such Persons.

"London Banking Day" means any day on which dealings in dollar deposits are conducted by and between banks in the London interbank eurodollar market.

"Management Investors" means the directors, officers and other employees of the Parent and its Subsidiaries.

"Material Adverse Effect" means a material adverse effect on (i) the operations, business, properties, or financial condition of the Parent and its Subsidiaries, taken as a whole; (ii) the validity or enforceability of the Loan Documents or the material rights and remedies of the Agent and the Lenders thereunder, in each case, taken as a whole; or (iii) the ability of the Loan Parties (taken as a whole) to perform any of its obligations under the Loan Documents in a manner that materially and adversely affects the Lenders.

"Material Contract" means, with respect to any Loan Party, any document or agreement relating to or evidencing each contract to which such Person is a party the termination of which would reasonably be expected to have a Material Adverse Effect; provided that the term "Material Contract" does not include any document or agreement relating to or evidencing Material Indebtedness.

"Material Indebtedness" means the Term Facility, the Subordinated Indebtedness described in Section 7.03(n) incurred pursuant to the Third Lien Credit Agreement, and other Indebtedness (other than the Obligations) of the Loan Parties in an aggregate principal amount exceeding $15,000,000.

"Material Subsidiary" means any Subsidiary that is not an Immaterial Subsidiary.

"Materials of Environmental Concern" means any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products, polychlorinated biphenyls, urea-formaldehyde insulation, asbestos, pollutants, contaminants, radioactivity and any other substances that are defined as hazardous or toxic under any Environmental Law, that are regulated pursuant to any Environmental Law.

"Maturity Date" means the earlier of (a) August 21, 2023 and (b) the "Maturity Date" under the Term Facility.

"Maximum Rate" has the meaning provided therefor in Section 10.09.

"Measurement Period" means, at any date of determination, the most recently completed twelve Fiscal Months of the Borrower.

"Moody's" means Moody's Investors Service, Inc., or any successor thereto.

"Mortgages" means any mortgage, deed of trust, hypothec or other similar document made by any Loan Party in favor of, or for the benefit of, the Agent for the benefit of the Secured Parties, in form and substance reasonably satisfactory to the Agent and the Borrower (taking into account the law of the jurisdiction in which such mortgage, deed of trust, hypothec or similar document is to be recorded), as the same may be amended, supplemented or otherwise modified from time to time.

"Most Recently Ended" means, with respect to any period, the most recently ended period for which the financial statements required by Section 6.01(a), Section 6.01(b) or Section 6.01(c), as applicable, have been delivered or required to have been delivered.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Multiple Employer Plan" means a Plan which has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"Non-Consenting Lender" has the meaning provided therefor in Section 10.01(c).

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Non-Excluded Taxes" means (a) all 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 other than Excluded Taxes and (b) Other Taxes.

"Non-Extension Notice Date" has the meaning specified in Section 2.03(b)(iii).

"Non-Guarantor Subsidiary" means any Subsidiary of the Borrower which is not a Subsidiary Guarantor.

"Non-Recourse Debt" means Indebtedness (a) no default with respect to which would permit (upon notice, lapse of time or both) any holder of any other Indebtedness of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity, and (b) as to which the lenders or holders thereof have been notified in writing that they will not have any recourse to the capital stock or assets of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than the Equity Interests of an Unrestricted Subsidiary which is the issuer or a guarantor or the direct or indirect parent of the issuer or guarantor of such indebtedness).

"Non-U.S. Plan" means any plan, fund (including, without limitation, any superannuation fund) or other similar program established or maintained outside of the United States of America by the Borrower or any one or more of its Subsidiaries primarily for the benefit of employees of the Borrower or such Subsidiaries residing outside of the United States of America, which plan, fund or other similar program provides, or

results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code.

"Note" means a Revolving Note or a Swing Line Note, as applicable.

"Obligations" means (a) all advances to, and debts (including principal, interest, fees, and reasonable costs and expenses), liabilities, obligations, covenants, indemnities, and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit (including payments in respect of reimbursement of disbursements, interest thereon and obligations to provide cash collateral therefor), whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees, and reasonable costs and expenses and indemnities that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees costs, expenses and indemnities are allowed claims in such proceeding, and (b) any Other Liabilities; provided that the Obligations shall exclude all Excluded Swap Obligations.

"OFAC" has the meaning set forth in the definition of "Embargoed Person".

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from 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 Document, or sold or assigned an interest in any Loan or Loan Document).

"Other Liabilities" means any obligation on account of (a) any Cash Management Services furnished to any of the Loan Parties or any of the Restricted Subsidiaries and/or (b) any Bank Product furnished to any of the Loan Parties and/or any of the Restricted Subsidiaries.

"Other Taxes" means 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 imposed with respect to an assignment (other than an assignment made pursuant to Section 10.13).

"Outstanding Amount" means (i) with respect to Committed Loans and Swing Line Loans on any date, the amount of the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Loans occurring on such date; and (ii) with respect to any L/C Obligations on any date, the amount of the aggregate outstanding amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the Borrower of Unreimbursed Amounts.

"Overadvance" means a Credit Extension to the extent that, immediately after the making of such Credit Extension, the aggregate principal balance of all Credit Extensions then outstanding exceeds the Loan Cap as then in effect.

"PA Specified Event of Default" means the occurrence of any Event of Default described in Sections 8.01(a) (Non-Payment), 8.01(b) (but only insofar as such an Event of Default arises from a breach of the provisions of Section 6.01(a) (Annual Financial Statements), Section 6.01(b) (Quarterly Financial

Statements), Section 6.02(b) (Compliance Certificates), Section 6.12 (Cash Management) or Section 6.02(c) (Borrowing Base Certificates)), 8.01(d) (Representations and Warranties; but only insofar as such Event of Default arises from a material misrepresentation contained in any Borrowing Base Certificate), or 8.01(f) (Insolvency Proceedings, Etc.).

"Parent" means Vince Holding Corp., a Delaware corporation.

"Participant" has the meaning specified in Section 10.06(d).

"Participant Register" has the meaning provided therefor in Section 10.06(d)(ii).

"Payment Conditions" means, at the time of determination with respect to any specified transaction or payment, that (i) no Event of Default exists or would arise as a result of entering into such transaction or the making of such payment, (ii) immediately after giving pro forma effect to such transaction or payment and projected on a pro forma basis for the immediately succeeding six (6) Fiscal Months following such transaction or payment, Excess Availability shall be at least the greater of (x) 20% of the Loan Cap (without giving effect to the Term Loan Reserve) and (y) $10,000,000 immediately after giving effect to such transaction or payment and for each Fiscal Month during such projected six month period and (iii) the Consolidated Fixed Charge Coverage Ratio for the Most Recently Ended period of twelve months preceding such transaction or payment shall be greater than or equal to 1.00 to 1.00 (after giving pro forma effect to such transaction or payment as if such transaction or payment had been made as of the first day of such period), provided that the provisions of this clause (iii) shall not be applicable if Excess Availability, immediately after giving pro forma effect to such transaction or payment and projected for the immediately succeeding six (6) Fiscal Months following such transaction or payment, is equal to at least the greater of (x) 25% of the Loan Cap (without giving effect to the Term Loan Reserve) and (y) $12,500,000; and (iv) the Borrower shall have delivered a Payment Conditions Certificate to the Agent including a reasonably detailed calculation of such calculated Excess Availability and, if applicable, Consolidated Fixed Charge Coverage Ratio.

"Payment in Full" means (a) the termination of the Aggregate Commitments and (b) the payment in Dollars in full, in cash or immediately available funds of all outstanding Obligations (excluding contingent indemnification obligations for which a claim has not then been asserted) including, with respect to (i) amounts available to be drawn under outstanding Letters of Credit (or indemnities or other undertakings issued in respect of outstanding Letters of Credit), the cancellation of such Letters of Credit or the Cash Collateralization thereof or the delivery and provision of backstop letters of credit in respect thereof and (ii) outstanding Obligations with respect to Bank Products and Cash Management Services (or indemnities or other undertakings issued pursuant thereto in respect of outstanding Bank Products and Cash Management Services), the delivery or provision of cash collateral or backstop letters of credit in respect thereof other than (x) unasserted contingent indemnification Obligations, (y) any Obligations relating to Bank Products that, at such time, are allowed by the applicable Bank Product provider to remain outstanding without being required to be repaid or collateralized, and (z) any Obligations relating to Cash Management Services that, at such time, are allowed by the applicable provider of such Cash Management Services to remain outstanding without being required to be repaid or collateralized. "Paid in Full" shall have the correlative meaning.

"Payoff Indebtedness" means Indebtedness under (a) that certain Credit Agreement, dated as of November 27, 2013, by and among Bank of America, N.A., as the agent, the lenders party thereto, Vince, LLC as the "Borrower", and the other parties thereto, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time until the date that is immediately prior to the Closing Date and (b) that certain Term Loan Agreement, dated as of November 27, 2013, among Vince, LLC and Vince Intermediate Holding, LLC, each as "Borrowers", Vince Holding Corp., as "Holdings", Bank of

America, N.A., as the agent, the lenders party thereto, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time until the date that is immediately prior to the Closing Date.

"PBGC" means the Pension Benefit Guaranty Corporation.

"PCAOB" means the Public Company Accounting Oversight Board.

"Pension Plan" means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to (or to which there is an obligation to contribute) by the Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code, and each such plan for the five-year period immediately following the latest date on which the Borrower or an ERISA Affiliate maintained, contributed to or had an obligation to contribute to such plan.

"Permitted Acquisition" means (i) any acquisition (including, if applicable, in the case of any Intellectual Property, by way of license) approved by the Required Lenders or (ii) an Acquisition in which all of the following conditions are satisfied:

(i) Such Acquisition shall have been approved by the Board of Directors of the Person (or similar governing body if such Person is not a corporation) which is the subject of such Acquisition and such Person shall not have announced that it will oppose such Acquisition or shall not have commenced any action which alleges that such Acquisition shall violate applicable law;

(ii) in the event the purchase price for the Acquisition exceeds $15,000,000, (i) not less than five Business Days prior to the consummation of any such Acquisition (or such shorter period of time the Agent may approve) the Agent shall have received the then current drafts of the documentation to be executed in connection with such Acquisition (with final copies of such documentation to be delivered to the Agent promptly upon becoming available), including all schedules and exhibits thereto, a quality of earnings report, and pro forma financial statements, and (ii) the Agent shall have received notice of the closing date for such Acquisition; provided that such notice shall be given unless doing so would materially interfere with, or would cause materially adverse economic consequences with respect to, the consummation of such Acquisition;

(iii) any Person or assets or division acquired is, at the time of such Acquisition, and shall be in the same business or lines of business, or business reasonably related, ancillary or complementary thereto, in which the Borrower and/or its Subsidiaries are engaged as of the Closing Date;

(iv) [Reserved];

(v) such Person shall have become a Restricted Subsidiary and, if such Person shall be a wholly-owned Domestic Subsidiary (and not an Excluded Subsidiary), a Guarantor and the provisions of Section 6.11 shall have been complied with to the reasonable satisfaction of the Agent provided that, notwithstanding the foregoing, the aggregate consideration expended in respect of Persons that shall not become Guarantors or wholly owned Subsidiaries may not exceed $15,000,000; and

(vi) The Loan Parties shall have satisfied the Payment Conditions (provided that, solely in connection with Limited Condition Acquisitions the Payment Conditions shall be tested as of the date the definitive agreements for such Limited Condition Acquisition are entered into, and no PA Specified Event of Default shall have occurred and be continuing at the time such Limited Condition Acquisition is consummated).

"Permitted Amendment or Refinancing" shall mean, with respect to any Person, any Amendment or Refinancing of any Indebtedness of such Person; provided that (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so Amended or Refinanced except (i) by an amount equal to unpaid accrued interest and premium (including tender premiums and make whole amounts), thereon plus other reasonable and customary fees and expenses (including upfront fees, original issue discount and defeasance costs) incurred in connection with such Amendment or Refinancing and (ii) by an amount equal to any existing commitments unutilized thereunder, (b) other than with respect to a Permitted Amendment or Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(c), the Indebtedness resulting from such Amendment or Refinancing has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being Amended or Refinanced, (c) other than with respect to a Permitted Amendment or Refinancing in respect of Indebtedness permitted pursuant to Sections 7.03(c), at the time thereof, no Event of Default shall have occurred and be continuing, (d) if such Indebtedness being Amended or Refinanced is Indebtedness permitted pursuant to Section 7.03(d), 7.03(i), 7.03(m), 7.03(n), or 7.03(o), (i) to the extent such Indebtedness being Amended or Refinanced is subordinated in right of payment or in lien priority to the Obligations, the Indebtedness resulting from such Amendment or Refinancing is subordinated in right of payment or in lien priority, as applicable, to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being Amended or Refinanced, (ii) the terms and conditions of any such Amended or Refinanced Indebtedness under Section 7.03(m), or 7.03(o) shall be usual and customary for high yield securities of the type issued, (iii) the other terms and conditions (including, if applicable, as to collateral but excluding as to subordination, pricing, premiums and optional prepayment or optional redemption provisions) of any such Amended or Refinanced Indebtedness, taken as a whole, are not materially less favorable to the Loan Parties or the Lenders than the terms and conditions of the Indebtedness being Amended or Refinanced, taken as a whole (provided that a certificate of a Responsible Officer delivered to the Agent at least five Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the requirements of clause (ii) and this clause (iii) unless the Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees)) and (iv) the obligors (including any guarantors) in respect of the Indebtedness resulting from such modification, refinancing, refunding, renewal, replacement or extension shall be the same as the obligors (including any guarantors) of the Indebtedness being Amended or Refinanced and (e) in the case of any Permitted Amendment or Refinancing in respect of the Term Facility, (x) such Permitted Amendment or Refinancing is secured only by all or any portion of the collateral securing the Indebtedness being Amended or Refinanced and (y) and such Permitted Amendment or Refinancing is subject to the Intercreditor Agreement and (f) in the case of any Permitted Amendment or Refinancing that is guaranteed (including in respect of the Term Facility), such Permitted Amendment or Refinancing is guaranteed only by the Guarantors guaranteeing and secured only by all or any portion of the collateral securing the Indebtedness being Amended or Refinanced. When used with respect to any specified Indebtedness, "Permitted Amendment or Refinancing" shall mean the Indebtedness incurred to effectuate a Permitted Amendment or Refinancing of such specified Indebtedness.

"Permitted Discretion" means a determination made by the Agent, in the exercise of its reasonable credit judgment from the viewpoint of an asset based lender, exercised in good faith in accordance with customary business practices for comparable asset based lending transactions.

"Permitted Encumbrances" has the meaning set forth in Section 7.01.

"Permitted Investors" means the collective reference to (i) the Sponsor and Sponsor Affiliates, (ii) the Management Investors, (iii) any Permitted Transferees of any of the foregoing Persons, and (iv) any ''group'' (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Securities Exchange Act or any successor provision) of which any of the foregoing are members; *provided* that in the case of such ''group'' and without giving effect to the existence of such ''group'' or any other ''group,'' such Persons specified in clauses (i), (ii) or (iii) above, collectively, have beneficial ownership, directly or indirectly, of more than 50% of the total voting power of the voting stock of Holdings held by such ''group," and provided further, that, in no event shall the Sponsor own a lesser percentage of voting stock than any other Person or group referred to in clauses (ii), (iii) and (iv).

"Permitted Overadvance" means an Overadvance made by the Agent to the Borrower, in its discretion, which:

(i) is made to maintain, protect or preserve the Collateral and/or the Credit Parties' rights under the Loan Documents or which is otherwise for the benefit of the Credit Parties; or

(ii) is made to enhance the likelihood of, or to maximize the amount of, repayment of any Obligation;

(iii) is made to pay any other amount chargeable to any Loan Party hereunder; and

(iv) together with all other Permitted Overadvances then outstanding, shall not (i) exceed five percent (5%) of the Borrowing Base at any time or (ii) unless a Liquidation is occurring, remain outstanding for more than forty-five (45) consecutive Business Days, unless in each case, the Required Lenders otherwise agree.

provided however, that the foregoing shall not (i) modify or abrogate any of the provisions of Section 2.03 regarding the Lenders' obligations with respect to Letters of Credit or Section 2.04 regarding the Lenders' obligations with respect to Swing Line Loans, or (ii) result in any claim or liability against the Agent (regardless of the amount of any Overadvance) for Unintentional Overadvances, and such Unintentional Overadvances shall not reduce the amount of Permitted Overadvances allowed hereunder, and further provided that in no event shall the Agent make an Overadvance, if after giving effect thereto, the principal amount of the Credit Extensions would exceed the Aggregate Commitments (as in effect prior to any termination of the Commitments pursuant to Section 2.06 hereof).

"Permitted Seller Note" means a promissory note containing subordination and other related provisions reasonably acceptable to the Agent, representing Indebtedness of the Borrower or any of its Subsidiaries incurred in connection with any acquisition permitted under Section 7.02(f) and payable to the seller in connection therewith.

"Permitted Store Closings" means (a) store closures and related dispositions which do not exceed (i) in any Fiscal Year of the Borrower and its Subsidiaries, the greater of five (5) stores and 10% of the total number of stores in existence on the first day of such Fiscal Year (net of new store openings), and (b) the related Inventory is disposed of at such stores in accordance with liquidation agreements and with professional liquidators acceptable to the Agent.

"Permitted Transferee" means (a) in the case of the Sponsor, (i) any Sponsor Affiliate, (ii) any managing director, general partner, limited partner, director, officer or employee of the Sponsor or any Sponsor Affiliate (collectively, the "Sponsor Associates"), (iii) the heirs, executors, administrators, testamentary trustees, legatees or beneficiaries of any Sponsor Associate and (iv) any trust, the beneficiaries of which, or a corporation or partnership, the stockholders or partners of which, include only a Sponsor Associate,

his or her spouse, parents, siblings, members of his or her immediate family (including adopted children and step children) and/or direct lineal descendants; and (b) in the case of any Management Investor, (i) his or her executor, administrator, testamentary trustee, legatee or beneficiaries, (ii) his or her spouse, parents, siblings, members of his or her immediate family (including adopted children and step children) and/or direct lineal descendants or (iii) a trust, the beneficiaries of which, or a corporation or partnership, the stockholders or partners of which, include only a Management Investor and his or her spouse, parents, siblings, members of his or her immediate family (including adopted children) and/or direct lineal descendants.

"Person" means any natural person, corporation, limited liability company, unlimited liability company, trust, joint venture, association, company, partnership, limited partnership, Governmental Authority or other entity.

"Plan" means at a relevant time, any employee benefit plan within the meaning of Section 3(3) of ERISA and in respect of which the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Platform" has the meaning specified in Section 6.02.

"Pledged Securities" has the meaning set forth in the Security Agreement.

"Property" means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including, without limitation, Equity Interests.

"Public Lender" has the meaning specified in Section 6.02.

"Qualified Account" means any investment or deposit account maintained by a Loan Party with the Agent or specifically and solely used for purposes of holding such Eligible Cash On Hand and which account is subject to a deposit account control agreement reasonably acceptable to the Agent.

"Qualified Stock" means any Equity Interests that are not Disqualified Stock.

"Real Estate" means all Leases and all land, together with the buildings, structures, parking areas, and other improvements thereon, now or hereafter owned by any Loan Party, including all easements, rights-of-way, and similar rights relating thereto and all leases, tenancies, and occupancies thereof.

"Recipient" means the Agent, any Lender, the L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

"Recovery Event" means any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of the Borrowers or any Subsidiary Guarantor.

"Register" has the meaning specified in Section 10.06(c).

"Registered Public Accounting Firm" has the meaning specified by the Securities Laws and shall be independent of the Borrower and its Subsidiaries as prescribed by the Securities Laws.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates.

"Release" means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment or within or upon any building, structure or facility.

"Relevant Governmental Body" means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

"Reports" has the meaning provided in Section 9.16(c).

"Representations and Warranties Certificate" means a certificate in the form of Exhibit G.

"Request for Credit Extension" means (a) with respect to a Borrowing, Conversion or continuation of Committed Loans, a Committed Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, and (c) with respect to a Swing Line Loan, a Swing Line Loan Notice.

"Required Lenders" means, as of any date of determination, at least two (2) Lenders (or one (1) Lender to the extent that there is only one (1) Lender) holding more than 50% of the Aggregate Commitments or, if the Commitment of each Lender to make Loans and the obligation of the L/C Issuer to make L/C Credit Extensions have been terminated, Lenders holding in the aggregate more than 50% of the Total Outstandings (with the aggregate amount of each Lender's risk participation and funded participation in L/C Obligations and Swing Line Loans being deemed "held" by such Lender for purposes of this definition); provided that the Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

"Requirement of Law" means as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Reserves" means all Inventory Reserves and Availability Reserves. The Agent shall have the right, at any time and from time to time after the Closing Date in its Permitted Discretion to establish or modify Reserves upon three (3) Business Days prior written notice to the Borrower (during which period the Agent shall be available to discuss any such proposed Reserve with the Borrower and the Borrower may take such action as may be required so that the event, condition or matter that is the basis for such Reserve no longer exists, in a manner and to the extent reasonably satisfactory to the Agent), provided that no such prior notice shall be required for (1) changes to any Availability Reserves resulting solely by virtue of mathematical calculations of the amount of the Reserve in accordance with the methodology of calculation previously utilized (such as, but not limited to, rent and Customer Credit Liabilities), or (2) if a Specified Event of Default has occurred and is continuing; provided further that all such Reserves (including the amount of such Reserve) shall bear a reasonable relationship to the circumstances, conditions, events or contingencies that are the basis for such Reserve. Notwithstanding anything herein to the contrary, Reserves shall not duplicate eligibility criteria contained in the definition of Eligible Credit Card Receivables, Eligible In-Transit Inventory, Eligible Inventory, Eligible Trade Receivables or reserves criteria deducted in computing the Appraised Value of Eligible Inventory. In the event the circumstances, conditions, events or contingencies underlying any such Reserve cease to exist or the liability that is the basis for any such

Reserve has been reduced, such Reserve shall be rescinded or reduced by an amount as determined in the Agent's Permitted Discretion.

"Responsible Officer" means the chief executive officer, president, chief financial officer (or similar title), chief operating officer, controller or treasurer (or similar title) of the Parent, Holdings or the Borrower, as applicable, or (with respect to Section 6.03) any Restricted Subsidiary and, with respect to financial matters, the chief financial officer (or similar title) or treasurer (or similar title) of the Parent, Holdings or the Borrower, as applicable.

"Restricted Payment" has the meaning given to such term in Section 7.06 hereof.

"Restricted Subsidiary" means any Subsidiary of the Borrower which is not an Unrestricted Subsidiary.

"Retail DDA" means a DDA of any Loan Party used solely in the operation of a store location.

"Revolving Note" means the promissory note of the Borrower substantially in the form of Exhibit B-1, payable to the order of each Lender, evidencing the Committed Loans made by such Lender from time to time.

"S&P" means Standard & Poor's Ratings Services, a subsidiary of The McGraw-Hill Companies, Inc. and any successor to the rating agency business thereof.

"Sanction(s)" means any economic sanctions administered or enforced by any Governmental Authority of the United States, Canada or the European Union (including, without limitation, OFAC, the United States Department of State, Foreign Affairs and International Trade Canada or the Department of Public Safety Canada or Her Majesty's Treasury).

"Sarbanes-Oxley" means the Sarbanes-Oxley Act of 2002.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Secured Parties" has the meaning set forth in the Security Agreement.

"Securities Account" has the meaning provided in Section 8-501 of the UCC.

"Securities Laws" means the Securities Act of 1933, the Securities Exchange Act of 1934, Sarbanes-Oxley, and the applicable accounting and auditing principles, rules, standards and practices promulgated, approved or incorporated by the SEC or the PCAOB.

"Security Agreement" means the Guarantee and Collateral Agreement dated as of the Closing Date among the Loan Parties and the Agent.

"Security Documents" means the Security Agreement, the Blocked Account Agreements, the Mortgages, the Intercreditor Agreement, the Credit Card Notifications and each other security agreement or other instrument or document executed and delivered to the Agent pursuant to this Agreement or any other Loan Document granting a Lien to secure any of the Obligations.

"Settlement Date" has the meaning provided in Section 2.14(a).

"Shared Services Agreement" means the Shared Services Agreement, dated as of November 27, 2013, between the Borrower and Kellwood, LLC.

"Single Employer Plan" means any Pension Plan, but excluding any Multiemployer Plan.

"SOFR" with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark, (or a successor administrator) on the Federal Reserve Bank of New York's Website.

"Solvent" means with respect to any Person, as of any date of determination, (a) on a going concern basis the amount of the "fair value" of the assets of such Person will, as of such date, exceed the amount of all "liabilities of such Person, contingent or otherwise", as of such date, as such quoted terms are determined in accordance with applicable federal, state, provincial, territorial, municipal, local and foreign laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person will, as of such date, be greater than the amount that will be required to pay the liability of such Person on its debts as such debts become absolute and matured, (c) such Person will not have, as of such date, an insufficient amount of capital with which to conduct its business, (d) such Person will be able to pay its debts as they mature, and (e) such Person is not "insolvent" within the meaning of Section 101(32) of the Bankruptcy Code. For purposes of this definition, (i) "debt" means liability on a "claim", (ii) "claim" means any (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured and (iii) except as otherwise provided by applicable law, the amount of "contingent liabilities" at any time shall be the amount thereof which, in light of all the facts and circumstances existing at such time, can reasonably be expected to become actual or matured liabilities.

"Specified Contribution" has the meaning set forth in Section 8.04(a).

"Specified Event of Default" means the occurrence of any Event of Default described in any of Sections 8.01(a) (Non-Payment), 8.01(b) (but only insofar as such an Event of Default arises from a breach of the provisions of Section 6.01(a) (Annual Financial Statements), Section 6.01(b) (Quarterly Financial Statements), Section 6.02(b) (Compliance Certificates), Section 6.12 (Cash Management), Section 7.18 (Financial Covenant), Section 6.02(c) (Borrowing Base Certificates), or Section 6.22 (Accommodation Period Reporting Obligations), 8.01(d) (Representations and Warranties; but only insofar as such Event of Default arises from a material misrepresentation contained in any Borrowing Base Certificate), or 8.01(f) (Insolvency Proceedings, Etc.).

"Specified Transaction" means (a) any Investment that results in a Person becoming a Restricted Subsidiary or an Unrestricted Subsidiary, any Permitted Acquisition or any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or any Disposition of a business unit, line of business or division of the Borrower or a Restricted Subsidiary, any designation of a Subsidiary as a Restricted Subsidiary or Unrestricted Subsidiary, in each case whether by merger, consolidation, amalgamation or otherwise or (b) any incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility or line of credit) and any Restricted Payment that by the terms of this Agreement requires such test to be calculated on a "pro forma basis" or after giving "pro forma effect."

"Sponsor" means Sun Capital Partners V, L.P. and any Controlled Affiliates thereof (but excluding any portfolio companies of the foregoing).

"Sponsor Affiliate" means the collective reference to any entities (other than a portfolio company) controlled directly or indirectly by the Sponsor.

"Spot Rate" for a currency means the rate determined by the Agent or the L/C Issuer, as applicable, to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Agent or the L/C Issuer may obtain such spot rate from another financial institution designated by the Agent or the L/C Issuer if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

"Standby Letter of Credit" means any Letter of Credit that is not a Commercial Letter of Credit and that (a) is used in lieu or in support of performance guaranties or performance, surety or similar bonds (excluding appeal bonds) arising in the ordinary course of business, (b) is used in lieu or in support of stay or appeal bonds, (c) supports the payment of insurance premiums for reasonably necessary casualty insurance carried by any of the Loan Parties, or (d) supports payment or performance for identified purchases or exchanges of products or services in the ordinary course of business.

"Stated Amount" means at any time the maximum amount for which a Letter of Credit may be honored.

"Statutory Reserve Rate" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the FRB to which the Agent is subject with respect to the Adjusted LIBOR Rate, for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. LIBOR Rate Loans and Daily LIBOR Rate Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"Subordinated Indebtedness" means Indebtedness which is expressly subordinated in right of payment to the prior Payment in Full of the Obligations and which is in form and on terms reasonably satisfactory to the Agent.

"Subordination Provisions" has the meaning set forth in Section 8.01(l).

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company, unlimited liability company or other business entity of which a majority of the shares of Equity Interests having ordinary voting power for the election of directors or other governing body are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Loan Parties.

"Subsidiary Guarantors" means each Subsidiary of the Borrower that is a Guarantor hereunder.

"Swing Line Borrowing" means a borrowing of a Swing Line Loan pursuant to Section 2.04.

"Swing Line Lender" means Citizens Bank in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

"Swing Line Loan" has the meaning specified in Section 2.04(a).

"Swing Line Loan Notice" means a notice of a Swing Line Borrowing pursuant to Section 2.04(b), which, if in writing, shall be substantially in the form of Exhibit A-2.

"Swing Line Note" means the promissory note of the Borrower substantially in the form of Exhibit B-2, payable to the order of the Swing Line Lender, evidencing the Swing Line Loans made by the Swing Line Lender.

"Swing Line Sublimit" means an amount equal to the lesser of (a) $10,000,000 and (b) the Commitments. The Swing Line Sublimit is part of, and not in addition to, the Commitments. A permanent reduction of the Commitments shall not require a corresponding pro rata reduction in the Swing Line Sublimit; provided, however, that if the Commitments are reduced to an amount less than the Swing Line Sublimit, then the Swing Line Sublimit shall be reduced to an amount equal to (or, at Borrower's option, less than) the Commitments.

"Tax Credit" means a credit against, relief or remission for, or repayment of, any Taxes.

"Tax Deduction" means a deduction or withholding from a payment under any Loan Document for and on account of any taxes, levies, imposts, duties, fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein with respect to such payments and all interest, penalties or similar liabilities with respect thereto.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other similar fees or charges in the nature of a tax, levy, et cetera, imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Tax Receivable Agreement" means that certain Tax Receivable Agreement by and among the Parent, the stockholders of the Parent party thereto and Sun Cardinal LLC, as stockholder representative, as amended, modified or supplemented from time to time not in violation of this Agreement.

"Term Agent" means Crystal Financial LLC, in its capacity as administrative agent under the Term Facility, and any successor thereto.

"Term Facility" means the term loan financing facility, in an amount not to exceed $27,500,000, evidenced by the Term Loan Agreement and the other Term Loan Documents.

"Term Loan Borrowing Base" means the "Borrowing Base" as defined in the Term Loan Agreement, as in effect on the date hereof.

"Term Loan Reserve" means, at any time, an amount equal to the greater of (a) $0 and (b) the amount, if any, by which the outstanding principal amount of the Term Loans exceeds the sum of:

(i) the face amount of Eligible Trade Receivables of the Loan Parties multiplied by 5%; *plus*

(ii) the face amount of Eligible Credit Card Receivables of the Loan Parties multiplied by 10%; *plus*

(iii) 5% multiplied by the Appraised Value of Eligible Inventory of the Loan Parties multiplied by the cost of such Eligible Inventory; *plus*

(iv) (i) on or prior to July 31, 2021, 60% and (ii) on or after August 1, 2021, 55%, in each case, multiplied by the Appraised Value (pursuant to clause (ii) of such term as defined in the Term Loan Agreement) of the Eligible Intellectual Property (as defined in the Term Loan Agreement).

The Loan Parties hereby agree that the Agent is permitted to maintain the Term Loan Reserve, as and when required under the Intercreditor Agreement.

"Term Loan Agreement" means that certain Credit Agreement dated as of the Closing Date among the Borrower, as borrower, Holdings, as a guarantor, Parent, as a guarantor, Term Agent, as administrative agent, the lenders party thereto and the other agents, arrangers and bookrunners identified therein, and any Permitted Amendment or Refinancing thereof, in each case, as the same may be amended, restated, replaced, modified or supplemented from time to time in accordance with the terms thereof and the terms of this Agreement and the Intercreditor Agreement.

"Term Loan Documents" means the Term Loan Agreement, the other "Loan Documents" under and as defined in the Term Loan Agreement, and each other agreement, instrument or document executed or delivered pursuant to or in connection with the Term Loan Agreement, as the same may be amended, restated, replaced, modified or supplemented from time to time in accordance with the terms thereof and the terms of this Agreement and the Intercreditor Agreement.

"Term Loan Borrowing Base Certificate" means the "Term Borrowing Base Certificate" as defined in the Term Loan Agreement, as in effect on the date hereof.

"Term Loans" means "Loans" as defined in the Term Loan Agreement.

"Term SOFR" means the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

"Termination Date" means the earliest to occur of (i) the Maturity Date, (ii) the date on which the maturity of the Obligations is accelerated (or deemed accelerated) and the Commitments are irrevocably terminated (or deemed terminated) in accordance with Article VIII, or (iii) the termination of the Commitments in accordance with the provisions of Section 2.06 hereof.

"Third Amendment Date" means June 8, 2020.

"Third Amendment Fee Letter" means each Fee Letter by and between the Borrower and the Agent, dated as of the Third Amendment Date.

"Third Lien Credit Agreement" means the Credit Agreement, dated as December 11, 2020, by and among the Borrower, the Guarantors named therein, SK Financial Services, LLC, as administrate agent and collateral agent and the other lenders from time to time party thereto, as the same may be amended from time to time hereafter to the extent permitted hereunder and in accordance with the Third Lien Subordination Agreement.

"Third Lien Loan Documents" means all "Loan Documents" as defined in the Third Lien Credit Agreement.

"Third Lien Subordination Agreement" means that certain Subordination Agreement by and between the Agent, the Term Agent, the Loan Parties and SK Financial Services, LLC, dated as of December 11, 2020.

"Total Outstandings" means, without duplication, the aggregate Outstanding Amount of all Loans and all L/C Obligations.

"Trading with the Enemy Act" has the meaning set forth in Section 10.19.

"Trigger Amount" means (A) during the Extended Accommodation Period, the greater of (x) twenty percent (20%) of the Loan Cap in effect on such date (without giving effect to the Term Loan Reserve) and (y) $20,000,000, and (B) at all other times, the greater of (x) fifteen percent (15%) of the Loan Cap in effect on such date (without giving effect to the Term Loan Reserve) and (y) $6,000,000.

"Type" means a Loan's character as a Base Rate Loan, a LIBOR Rate Loan, or a Daily LIBOR Rate Loan.

"UCC" or "Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in the New York; provided, however, that if a term is defined in Article 9 of the Uniform Commercial Code differently than in another Article thereof, the term shall have the meaning set forth in Article 9; provided further that, if by reason of mandatory provisions of law, perfection, or the effect of perfection or non-perfection, of a security interest in any Collateral or the availability of any remedy hereunder is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, "Uniform Commercial Code" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection or availability of such remedy, as the case may be.

"UCP 600" means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce ("ICC") Publication No. 600 (or such later version thereof as may be in effect at the time of issuance).

"Unintentional Overadvance" means an Overadvance which, to the Agent's knowledge, did not constitute a Overadvance when made but which has become a Overadvance resulting from changed circumstances beyond the control of the Credit Parties, including, without limitation, a reduction in the Appraised Value of property or assets included in the Borrowing Base or misrepresentation by any of the Loan Parties.

"United States" and "U.S." mean the United States of America.

"Unreimbursed Amount" has the meaning specified in Section 2.03(c)(i).

"Unrestricted Subsidiary" means (i) any Subsidiary of the Borrower designated as such and listed on Schedule 4.01 on the Closing Date and (ii) any Subsidiary of the Borrower that is designated by a resolution of the Board of Directors of the Borrower as an Unrestricted Subsidiary, but only to the extent that, in the case of each of clauses (i) and (ii), such Subsidiary: (a) has no Indebtedness other than Non-Recourse Debt; (b) is not party to any agreement, contract, arrangement or understanding with the Borrower or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Borrower; (c) is a Person with respect to which neither the Borrower nor any of the Restricted Subsidiaries has any direct or indirect obligation (x) to subscribe for additional Equity Interest or warrants, options or other rights to acquire Equity Interests or (y) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; (d) has not guaranteed or otherwise provided credit support at the time of such designation for any Indebtedness of the Borrower or any of its Restricted Subsidiaries; (e) does not hold any assets constituting ABL Priority Collateral or otherwise of the type included in the Borrowing Base; and (f) to the extent requested by the Agent, such Subsidiary shall have entered into an agreement with the Agent, in form and substance reasonably satisfactory to the Agent, allowing the use of the assets and other property (including any intellectual property) of such Subsidiary as may be necessary or desirable for the Liquidation of the ABL Priority Collateral or such other assets without payment of royalty or other compensation (unless, in the case of any such the assets and other property (including any intellectual property) being

transferred to such Subsidiary in accordance with this Agreement, prior to any such transfer, the Borrower shall have delivered to the Agent an updated Borrowing Base Certificate eliminating the ABL Priority Collateral subject to such assets and other property (including any intellectual property) necessary or desirable for the Liquidation of the ABL Priority Collateral from the calculation of the Borrowing Base and, after giving effect thereto, no Event of Default or Overadvance shall exists). If, at any time, any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes hereof. Subject to the foregoing, the Board of Directors of the Borrower may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary or any Restricted Subsidiary to be an Unrestricted Subsidiary; provided that (i) such designation shall only be permitted if no Default or Event of Default would be in existence following such designation and the Loan Parties would be in compliance with Section 7.18 on the date of such designation after giving pro forma effect to such designation, (ii) any designation of an Unrestricted Subsidiary as a Restricted Subsidiary shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of any outstanding Indebtedness of such Unrestricted Subsidiary and (iii) any designation of a Restricted Subsidiary as an Unrestricted Subsidiary shall be deemed to be an Investment in an Unrestricted Subsidiary and shall reduce amounts available for Investments in Unrestricted Subsidiaries permitted by Section 7.02 in an amount equal to the fair market value of the Subsidiary so designated; provided that the Borrower may subsequently redesignate any such Unrestricted Subsidiary as a Restricted Subsidiary so long as the Borrower does not subsequently re-designate such Restricted Subsidiary as an Unrestricted Subsidiary for a period of the succeeding four Fiscal Quarters. Notwithstanding anything contained herein to the contrary, no Subsidiary of the Borrower shall be designated as an Unrestricted Subsidiary during the Extended Accommodation Period.

"Updated 2020 Appraisal/Exam" means (x) the updated inventory appraisal, in form and substance satisfactory to the Agent, for which the Agent agreed not to engage an appraiser before October 1, 2020 (or such later date as determined by the Agent in its sole discretion) and (y) the updated field examination, for which the Agent agreed not to engage an examiner before September 7, 2020 (or such later date as determined by the Agent in its sole discretion).

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Tax Compliance Certificate" has the meaning specified in Section 3.01(e)(ii)(B)(III).

"Weighted Average Life to Maturity" shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (ii) the then outstanding principal amount of such Indebtedness; provided, that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being Amended or Refinanced (the "Applicable Indebtedness"), the effects of any amortization of or prepayments made on such Applicable Indebtedness prior to the date of the applicable Amendment or Refinancing shall be disregarded.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Notwithstanding anything to the contrary herein or in any other Loan Document, any reference to a defined term as defined in the Term Loan Agreement or any other Term Loan Document shall refer to the definition

of such term as in effect on the date hereof, except with respect to any amendment or modification thereto permitted under the Intercreditor Agreement or otherwise consented by the Agent and, if applicable, the Lenders or Required Lenders party hereto.

SECTION 1.2 **Other Interpretive Provisions.**

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(i) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (iii) the words "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) 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 rights.

(ii) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(iii) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

SECTION 1.3 **Accounting Terms.**

(i) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statement, except as otherwise specifically prescribed herein.

(ii) Changes in GAAP. (i) If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement 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, (x) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and

(y) upon request, the Borrower shall provide to the Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

(1) Notwithstanding any other provision contained herein, the effects of FASB 842 shall be disregarded for all purposes under this Agreement.

(2) Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used here shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to Statement of Financial Accounting Standards 141R or ASC 805 (or any other financial accounting standard having a similar result or effect).

SECTION 1.4 **[Reserved]**

SECTION 1.5 **Rounding.**

Any financial ratios required to be maintained by the Loan Parties pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to two places more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.6 **Times of Day.**

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

SECTION 1.7 **Letter of Credit Amounts.**

Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the maximum amount available to be drawn under such Letter of Credit as in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the maximum stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum amount available to be drawn under such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

SECTION 1.8 **Currency Equivalents Generally.**

(i) For purposes of determining compliance with Sections 7.02 and 7.03 with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder); provided that, for the avoidance of doubt, the below provisions of Section 1.09 shall otherwise apply to such Sections, including with respect to determining whether any Investment or Indebtedness may be incurred or made at any time under such Sections.

(ii) For purposes of determining the Consolidated Fixed Charge Coverage Ratio, amounts denominated in a currency other than Dollars will be converted to Dollars at the currency exchange rates used in preparing the Borrower's financial statements corresponding to the test period with respect to

the applicable date of determination and will, in the case of Indebtedness, reflect the currency translation effects, determined in accordance with GAAP, of Hedge Agreements permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness; provided that, notwithstanding anything to the contrary herein, Loans and L/C Obligations denominated in a currency other than Dollars will be converted to Dollars at the Spot Rate.

SECTION 1.9 **Pro Forma Basis.**

(i) Notwithstanding anything to the contrary herein, the Consolidated Fixed Charge Coverage Ratio shall be calculated in the manner prescribed by this Section 1.09.

(ii) For purposes of calculating the Consolidated Fixed Charge Coverage Ratio, Specified Transactions (and the incurrence or repayment of any Indebtedness in connection therewith) that have been made (i) during the applicable period and (ii) subsequent to such period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a pro forma basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated EBITDA and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable period. If since the beginning of any applicable period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into Holdings, the Borrower or any of its Restricted Subsidiaries since the beginning of such period shall have made any Specified Transaction that would have required adjustment pursuant to this Section 1.09, then the Consolidated Fixed Charge Coverage Ratio shall be calculated to give pro forma effect thereto in accordance with this Section 1.09.

(iii) Whenever pro forma effect is to be given to a Specified Transaction, the pro forma calculations shall be made in good faith by a Responsible Officer of the Borrower and include, for the avoidance of doubt, the amount of cost savings and synergies projected by the Borrower in good faith to be reasonably anticipated to be realizable within 12 months after the closing date of such Specified Transaction (provided that to the extent any such operational changes are not associated with a transaction, such changes shall be limited to those for which all steps have been taken for realizing such savings and are factually supportable, reasonably identifiable and supported by an officer's certificate delivered to the Agent) (calculated on a pro forma basis as though such cost savings and synergies had been realized on the first day of such period as if such cost savings and synergies were realized during the entirety of such period) relating to such Specified Transaction, net of the amount of actual benefits realized during such period from such actions; provided that any increase in Consolidated EBITDA as a result of cost savings and synergies shall be subject to the limitations set forth in the definition of Consolidated EBITDA.

(iv) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Consolidated Fixed Charge Coverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable period and (ii) subsequent to the end of the applicable period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Consolidated Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable period.

SECTION 1.10 **LIBOR Notification.**

The interest rate on LIBOR Rate Loans is determined by reference to the LIBOR Rate, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate

at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the "IBA") for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that, in the future, the London interbank offered rate may become unavailable or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on LIBOR Rate Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate is no longer available or in certain other circumstances as set forth in Section 3.03, an alternative rate of interest may be selected and implemented in accordance with the mechanism contained in such Section. The Agent will notify the Borrower, pursuant to Section 3.03 in advance of any change to the reference rate upon which the interest rate on LIBOR Rate Loans is based. However, the Agent does not warrant or accept responsibility for, nor shall the Agent have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of "LIBOR Rate" or with respect to any comparable or successor rate thereto or replacement rate thereof, including, without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 3.03, will be similar to, or produce the same value or economic equivalence of, the LIBOR Rate or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability.

SECTION 1.11 **Divisions.** For all purposes under the Loan Documents, in connection with a Division: (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II
THE COMMITMENTS AND CREDIT EXTENSIONS

SECTION 2.1 **Committed Loans**.

Subject to the terms and conditions set forth herein, each Lender severally agrees to make Committed Loans to the Borrower from time to time, on any Business Day during the Availability Period, in an aggregate principal amount not to exceed at any time outstanding the lesser of (x) the amount of the Commitment of such Lender, and (y) such Lender's Applicable Percentage of the Borrowing Base; subject in each case to the following limitations:

(i) after giving effect to any Committed Borrowing, the Total Outstandings shall not exceed the Loan Cap;

(ii) after giving effect to any Committed Borrowing, the aggregate Outstanding Amount of the Committed Loans of any Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans made to the Borrower shall not exceed the Commitment of such Lender, and

(iii) The Outstanding Amount of all L/C Obligations shall not at any time exceed the Letter of Credit Sublimit.

Within the limits of the Commitment for each Lender, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01, prepay under Section 2.05, and reborrow under this Section 2.01.

SECTION 2.2 **Borrowings, Conversions and Continuations of Committed Loans.**

(i) Committed Loans (other than Swing Line Loans) may be Base Rate Loans, LIBOR Rate Loans, or Daily LIBOR Rate Loans as the Borrower may request subject to and in accordance with this Section 2.02. All Swing Line Loans shall be only Base Rate Loans. All Committed Loans shall be made in Dollars.

(ii) Subject to the other provisions of this Section 2.02, Committed Borrowings of more than one Type may be incurred at the same time. Each Committed Borrowing, each Conversion of Committed Loans from one Type to the other, and each continuation of LIBOR Rate Loans shall be made upon the Borrower's irrevocable notice to the Agent, which may be given by telephone. Each such notice must be received by the Agent not later than (i) 1:00 p.m. three Business Days prior to the requested date of any Borrowing of, Conversion to or continuation of LIBOR Rate Loans or of any Conversion of LIBOR Rate Loans to Base Rate Loans or Daily LIBOR Rate Loans, and (ii) 3:00 p.m. on the requested date of any Borrowing of Base Rate Loans or Daily LIBOR Rate Loans. Each telephonic notice by the Borrower pursuant to this Section 2.02(b) must be confirmed promptly by delivery to the Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of, Conversion to or continuation of LIBOR Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $1,000,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.04(c), each Borrowing of or Conversion to Base Rate Loans or Daily LIBOR Rate Loans shall be in such minimum amounts as the Agent may require. Each Committed Loan Notice (whether telephonic or written) shall specify (i) whether the Borrower is requesting a Committed Borrowing, a Conversion of Committed Loans from one Type to the other, or a continuation of LIBOR Rate Loans, (ii) the requested date of the Borrowing, Conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Committed Loans to be borrowed, Converted or continued, (iv) the Type of Committed Loans to be borrowed or to which existing Committed Loans are to be Converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Committed Loan in a Committed Loan Notice or if the Borrower fails to give a timely notice requesting a Conversion or continuation, then the applicable Committed Loans shall be made as, or Converted to, Daily LIBOR Rate Loans (unless the Borrower has elected to borrow as Base Rate Loans in lieu of Daily LIBOR Rate Loans pursuant to subclause (y) of the last sentence of this clause (b)). Any such automatic Conversion to Daily LIBOR Rate Loans or Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable LIBOR Rate Loans. If the Borrower requests a Borrowing of, Conversion to, or continuation of LIBOR Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month. Notwithstanding anything to the contrary herein, (x) a Swing Line Loan may not be Converted to a LIBOR Rate Loan and (y) at no time may Base Rate Loans and Daily LIBOR Rate Loans be outstanding at the same time, rather the Borrower must choose to borrow, continue, or convert such Committed Borrowings into one or the other of such Type or into LIBOR Rate Loans.

(iii) Following receipt of a Committed Loan Notice, the Agent shall promptly notify each Lender of the amount of its Applicable Percentage of the applicable Committed Loans, and if no timely notice of a Conversion or continuation is provided by the Borrower, the Agent shall notify each Lender of the details of any automatic Conversion to Base Rate Loans described in Section 2.02(b). In the case of a Committed Borrowing, each Lender shall make the amount of its Committed Loan available to the Agent in immediately available funds at the Agent's Office not later than 4:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in

Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01) the Agent shall make all funds so received available to the Borrower in like funds as received by the Agent either by (i) crediting the account of the Borrower on the books of Citizens Bank with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Agent by the Borrower; provided, however, that if, on the date the Committed Loan Notice with respect to such Borrowing is given by the Borrower, there are L/C Borrowings outstanding with respect to the Borrower, then the proceeds of such Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(iv) To the extent not paid by the Borrower when due (after taking into consideration any grace period), the Agent, without the request of the Borrower, may advance any interest, fee, service charge (including direct wire fees), expenses, or other payment to which any Credit Party is entitled from the Loan Parties pursuant hereto or any other Loan Document and may charge the same to the Loan Account notwithstanding that an Overadvance may result thereby; provided, that the Agent may not charge amounts owing in respect of Other Liabilities to the Loan Account to the extent an Overadvance may result thereby. The Agent shall advise the Borrower of any such advance or charge promptly after the making thereof. Such action on the part of the Agent shall not constitute a waiver of the Agent's rights and the Borrower's obligations under Section 2.05(c). Any amount which is added to the principal balance of the Loan Account as provided in this Section 2.02(d) shall bear interest at the interest rate then and thereafter applicable to Base Rate Loans.

(v) Except as otherwise provided herein, a LIBOR Rate Loan may be continued or converted only on the last day of an Interest Period for such LIBOR Rate Loan. During the existence of any Event of Default, (i) no Loans may be requested as, converted to or continued as LIBOR Rate Loans and (ii) no Loans may be requested as, converted to or continued as Daily LIBOR Rate Loans without the consent of the Required Lenders.

(vi) The Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for LIBOR Rate Loans upon determination of such interest rate. At any time that Base Rate Loans are outstanding, the Agent shall notify the Borrower and the Lenders of any change in Citizens Bank's "prime rate" used in determining the Base Rate promptly following the public announcement of such change.

(vii) After giving effect to all Committed Borrowings, all Conversions of Committed Loans from one Type to another in accordance with the terms hereof, and all continuations of Committed Loans as the same Type, there shall not be more than six (6) Interest Periods with respect to LIBOR Rate Loans in effect unless otherwise agreed to between the Agent and the Borrower with respect to all Committed Loans.

(viii) The Agent, the Lenders, the Swing Line Lender and the L/C Issuer shall have no obligation to make any Loan or to provide any Letter of Credit if an Overadvance would result. The Agent may, in its discretion, make Permitted Overadvances to the Borrower without the consent of any of the Borrower, the Lenders, the Swing Line Lender and the L/C Issuer and the Borrower and each Lender and L/C Issuer shall be bound thereby. Any Permitted Overadvance may constitute a Swing Line Loan. A Permitted Overadvance is for the account of the Borrower and shall constitute a Base Rate Loan and an Obligation and shall be repaid by the Borrower in accordance with the provisions of Section 2.05(c). The making of any such Permitted Overadvance on any one occasion shall not obligate the Agent or any Lender to make or permit any Permitted Overadvance on any other occasion or to permit such Permitted Overadvances to remain outstanding. The making by the Agent of a Permitted Overadvance shall not modify or abrogate any of the provisions of Section 2.03 regarding the Lenders' obligations to purchase participations with respect to Letter of Credits issued for the Borrower or of Section 2.04 regarding the

Lenders' obligations to purchase participations with respect to Swing Line Loans. The Agent shall have no liability for, and no Loan Party or Credit Party shall have the right to, or shall, bring any claim of any kind whatsoever against the Agent with respect to Unintentional Overadvances regardless of the amount of any such Overadvances.

SECTION 2.3 **Letters of Credit.**

(i) The Letter of Credit Commitment.

(1) Subject to the terms and conditions set forth herein, (A) the L/C Issuer agrees, in reliance upon the agreements of the Lenders set forth in this Section 2.03, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date, to issue Letters of Credit in Dollars for the account of the Borrower or a Restricted Subsidiary, and to amend or extend Letters of Credit previously issued by it, in accordance with Section 2.03(b) below, and (2) to honor drawings under the Letters of Credit; and (B) the applicable Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower or Restricted Subsidiary and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Outstandings shall not exceed the Loan Cap, (y) the aggregate Outstanding Amount of the Committed Loans of any Lender, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender's Commitment, and (z) the Outstanding Amount of the L/C Obligations shall not exceed the applicable Letter of Credit Sublimit. Each request by the Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. All Existing Letters of Credit shall be deemed to have been issued pursuant hereto, and from and after the Closing Date shall be subject to and governed by the terms and conditions hereof.

(2) The L/C Issuer shall not issue any Letter of Credit, if:

a. subject to Section 2.03(b)(iii), the expiry date of such requested Standby Letter of Credit would occur more than twelve months after the date of issuance or last extension (or such other period as may be acceptable to the Agent and the L/C Issuer), unless the Required Lenders have approved such expiry date; or

b. the expiry date of such requested Commercial Letter of Credit would occur more than one (1) year after the date of issuance (or such other period as may be acceptable to the Agent and the L/C Issuer), unless the Required Lenders have approved such expiry date; or

c. the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless either such Letter of Credit is Cash Collateralized on or prior to the date of issuance of such Letter of Credit or, with respect to an Auto-Extension Letter of Credit, on or prior to the date of any extension of such Letter of Credit which would extend the expiry date thereof to a date beyond the Letter of Credit

Expiration Date (or, in each case, such later date as to which the Agent may agree) or all the Lenders have approved such expiry date; or

d. any order, judgment or decree of any Governmental Authority or arbitrator having binding powers shall by its terms purport to enjoin or restrain the L/C Issuer from issuing such Letter of Credit, or any Requirement of Law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which the L/C Issuer in good faith deems material to it (for which the L/C Issuer is not otherwise compensated);

e. the issuance of such Letter of Credit would violate one or more policies of the L/C Issuer applicable to letters of credit generally or any Requirement of Law binding upon the L/C Issuer;

f. such Letter of Credit is to be denominated in a currency other than Dollars, except as may be approved by the Agent and the L/C Issuer, each in their sole discretion;

g. the L/C Issuer does not as of the issuance date of such requested Letter of Credit issue Letters of Credit in the requested currency;

h. such Letter of Credit contains any provisions for automatic reinstatement of the Stated Amount after any drawing thereunder; or

i. any Lender is at that time a Defaulting Lender, unless (i) after giving effect to the requested issuance, there would exist no Fronting Exposure (in the good faith determination of the L/C Issuer) or (ii) the L/C Issuer has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the L/C Issuer (in its good faith determination) with the Borrower or such Lender to eliminate the L/C Issuer's actual or potential Fronting Exposure (after giving effect to Section 2.16(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which the L/C Issuer has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(3) The L/C Issuer shall be under no obligation to amend any Letter of Credit if the L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof or if the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(4) The L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the L/C Issuer shall have all of the benefits and immunities (A) provided to the Agent in Article IX with respect to any acts taken or omissions suffered by the L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Agent" as used in Article IX included the L/C

Issuer with respect to such acts or omissions, and (B) as additionally provided herein with respect to the L/C Issuer.

(ii) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(1) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the L/C Issuer (with a copy to the Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower and the Borrower. Such Letter of Credit Application may be sent by facsimile, hand delivered, or transmitted by electronic communication (if arrangements for doing so have been approved by the L/C Issuer). Such Letter of Credit Application must be received by the L/C Issuer and the Agent not later than 1:00 p.m. at least three Business Days (or such other date and time as the Agent and the L/C Issuer may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the L/C Issuer: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount and currency thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the Borrower or Restricted Subsidiary for whose account the Letter of Credit is being issued, and (H) such other matters as the L/C Issuer may reasonably require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of amendment thereof (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as the L/C Issuer may reasonably require. Additionally, the Borrower shall furnish to the L/C Issuer and the Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as the L/C Issuer or the Agent may reasonably require.

(2) Subject to the provisions of Section 2.02(b)(iv) hereof, promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with the Agent (by telephone or in writing) that the Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the L/C Issuer will provide the Agent with a copy thereof. Unless the L/C Issuer has received written notice from any Lender, the Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied or unless the L/C Issuer would not be permitted, or would have no obligation, at such time to issue such Letter of Credit under the terms hereof (by reason of the provisions of Section 2.03(a)(ii) or otherwise), then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with the L/C Issuer's usual and customary business practices. Immediately upon the issuance or amendment of each Letter of Credit, each Lender having a Commitment to the Borrower shall be deemed to (without any further action), and hereby irrevocably and unconditionally agrees to, purchase from the L/C Issuer, without recourse or warranty, a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Applicable Percentage times the Stated

Amount of such Letter of Credit. Upon any change in the Commitments under this Agreement, it is hereby agreed that with respect to all L/C Obligations, there shall be an automatic adjustment to the participations hereby created to reflect the new Applicable Percentages of the assigning and assignee Lenders.

(3) If the Borrower so requests in any applicable Letter of Credit Application, the L/C Issuer may, in its sole and absolute discretion, agree to issue a Standby Letter of Credit that has automatic extension provisions (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Standby Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve-month period to be agreed upon at the time such Standby Letter of Credit is issued. Unless otherwise directed by the L/C Issuer, the Borrower shall not be required to make a specific request to the L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the L/C Issuer to permit the extension of such Standby Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided, however, that the L/C Issuer shall not permit any such extension if (A) the L/C Issuer has determined that it would not be permitted, or would have no obligation, at such time to issue such Standby Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of Section 2.03(a)(ii) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is five Business Days before the Non-Extension Notice Date (1) from the Agent that the Required Lenders have elected not to permit such extension or (2) from the Agent, any Lender or the Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied, and in each such case directing the L/C Issuer not to permit such extension.

(4) Any L/C Issuer (other than Citizens Bank or any of its Affiliates) shall notify the Agent in writing on each Business Day of all Letters of Credit issued on the prior Business Day by such L/C Issuer, provided that (A) until the Agent advises any such L/C Issuer that the provisions of Section 4.02 are not satisfied, or (B) the aggregate amount of the Letters of Credit issued in any such week exceeds such amount as shall be agreed by the Agent and the L/C Issuer, such L/C Issuer shall be required to so notify the Agent in writing only once each week of the Letters of Credit issued by such L/C Issuer during the immediately preceding week as well as the daily amounts outstanding for the prior week, such notice to be furnished on such day of the week as the Agent and such L/C Issuer may agree. The L/C Issuer will also deliver (contemporaneously with the notification set forth in the first sentence hereof) to the Borrower and the Agent a true and complete copy of such Letter of Credit or amendment.

(5) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the L/C Issuer will also deliver to the Borrower and the Agent a true and complete copy of such Letter of Credit or amendment.

(iii) Drawings and Reimbursements; Funding of Participations.

(1) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the L/C Issuer shall notify the Borrower and the Agent thereof; provided, however, that any failure to give or delay in giving such notice

shall not relieve the Borrower of its obligation to reimburse the L/C Issuer and the Lenders with respect to any such payment. Not later than 1:00 p.m. on the second Business Day immediately following the day that the Borrower receives notice from the L/C Issuer of a drawing under a Letter of Credit to be reimbursed in Dollars (each such date, an "Honor Date"), the Borrower shall reimburse the L/C Issuer through the Agent in an amount equal to the amount of such drawing and in the applicable currency, together with all interest accruing on such amount from the date of such drawing. If any Borrower fails to so reimburse the L/C Issuer by such time, the Agent shall promptly notify each applicable Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Lender's Applicable Percentage thereof. In such event, the Borrower shall be deemed to have requested a Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, subject to the amount of the unutilized portion of the Loan Cap and the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by the L/C Issuer or the Agent pursuant to this Section 2.03(c)(i) may be given by telephone 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) Each applicable Lender shall upon any notice from the Agent pursuant to Section 2.03(c)(i) make funds available to the Agent (and the Agent may apply Cash Collateral provided for this purpose) for the account of the L/C Issuer, in Dollars, at the Agent's Office for Dollar-denominated payments in an amount equal to its Applicable Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Agent, whereupon, subject to the provisions of Section 2.03(c)(iii), each such Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Agent shall remit the funds so received to the L/C Issuer in Dollars.

(3) With respect to any Unreimbursed Amount that is not fully refinanced by a Committed Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the L/C Issuer an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate for Base Rate Loans. In such event, each Lender's payment to the Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(4) Until each applicable Lender funds its Committed Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Lender's Applicable Percentage of such amount shall be solely for the account of the L/C Issuer.

(5) Each Lender's obligation to make Committed Loans or L/C Advances to reimburse the L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the L/C Issuer, any Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default or Event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the

foregoing; provided, however, that each Lender's obligation to make Committed Loans pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrower to reimburse the L/C Issuer for the amount of any payment made by the L/C Issuer under any Letter of Credit, together with interest as provided herein.

(6) If any Lender fails to make available to the Agent for the account of the L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), then, without limiting the other provisions of this Agreement, the L/C Issuer shall be entitled to recover from such Lender (acting through the Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the L/C Issuer at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the L/C Issuer in accordance with banking industry rules on interbank compensation plus any administrative, processing or similar fees customarily charged by the L/C Issuer in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Committed Loan included in the relevant Committed Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of the L/C Issuer submitted to any Lender (through the Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(iv) Repayment of Participations.

(1) At any time after the L/C Issuer has made a payment under any Letter of Credit and has received from any Lender its L/C Advance in respect of such payment in accordance with Section 2.03(c), if the L/C Issuer, or the Agent for the account of the L/C Issuer, receives any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Agent pursuant to Section 2.03(g)), the L/C Issuer shall distribute any payment it receives to the Agent and the Agent will distribute to such Lender its Applicable Percentage thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's L/C Advance was outstanding) in Dollars and in the same funds as those received by the Agent.

(2) If any payment received by the L/C Issuer or by Agent for the account of the L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the L/C Issuer in its discretion), each applicable Lender shall pay to the Agent for the account of the L/C Issuer its Applicable Percentage thereof on demand of the Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the Payment in Full of the Obligations and the termination of this Agreement.

(v) Obligations Absolute. Subject to the limitations set forth below, the obligation of the Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(1) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(2) the existence of any claim, counterclaim, setoff, defense or other right that any Borrower or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(3) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(4) waiver by the L/C Issuer of any requirement that exists for the L/C Issuer's protection and not the protection of the Borrower or any waiver by the L/C Issuer which does not in fact materially prejudice the Borrower;

(5) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(6) any payment made by the L/C Issuer in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(7) any payment by the L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law or any Bail-In Action;

(8) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Borrower or any of its Subsidiaries; or

(9) the fact that any Default or Event of Default shall have occurred and be continuing.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of non-compliance with the Borrower's instructions or other irregularity, the Borrower will immediately notify the L/C Issuer. The Borrower shall be conclusively deemed to have waived any such claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

(vi) Role of L/C Issuer. Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any responsibility to obtain any document

(other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuer, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable to any Loan Party or to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Required Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence, bad faith or willful misconduct; (iii) any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit or any error in interpretation of technical terms; (iv) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document, or (v) for any action, neglect or omission under or in connection with any Letter of Credit or Issuer Documents, including, without limitation, the issuance or amendment of any Letter of Credit, the failure to issue or amend any Letter of Credit, or the honoring or dishonoring of any demand under any Letter of Credit, and such action or neglect or omission will be binding upon the Loan Parties and the Lenders; provided that the Borrowers may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to punitive, consequential or exemplary, damages suffered by the Borrower were caused by the L/C Issuer's willful misconduct, bad faith or gross negligence. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude the Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuer, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.03(e); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrower may have a claim against the L/C Issuer, and the L/C Issuer may be liable to the Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrower which the Borrower proves were caused by the L/C Issuer's willful misconduct, bad faith or gross negligence or the L/C Issuer's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a 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. The L/C Issuer may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(vii) Cash Collateral. If, as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall, in each case, immediately Cash Collateralize the then Outstanding Amount of all L/C Obligations in an amount equal to 103% of the Outstanding Amount of all L/C Obligations, pursuant to documentation in form and substance reasonably satisfactory to the Agent and the L/C Issuer (which documents are hereby Consented to by the Lenders). Sections 2.05, 2.06(c) and 8.02(c) set forth certain additional requirements to deliver Cash Collateral hereunder. The Borrower hereby grants to the Agent a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing to secure all Obligations. Such cash collateral shall be maintained in blocked, non-interest bearing deposit accounts at Citizens Bank; provided that interest may be earned on the investment of such deposits, which investments shall be made at the option and in the sole discretion of the Agent (at the request of the Borrower and at the Borrower's risk and expense). If at any time the Agent determines that any funds held as cash collateral are subject to any right or claim of any Person other than the Agent or that the total amount of such funds is less than the aggregate Outstanding Amount of all L/C

Obligations, the Borrower will, forthwith upon demand by the Agent, pay to the Agent, as additional funds to be deposited as cash collateral, an amount equal to the excess of (x) such aggregate Outstanding Amount over (y) the total amount of funds, if any, then held as cash collateral that the Agent determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit as cash collateral, such funds shall be applied to reimburse the L/C Issuer and, to the extent not so applied, shall thereafter be applied to satisfy other Obligations. The Agent may, at any time and from time to time after the initial deposit of Cash Collateral, request that additional Cash Collateral be provided in order to protect against the results of exchange rate fluctuations.

(viii) Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by the L/C Issuer and the Borrower when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the ISP shall apply to each Standby Letter of Credit, and (ii) the rules of the UCP shall apply to each Commercial Letter of Credit. Notwithstanding the foregoing, the L/C Issuer shall not be responsible to the Borrower for, and the L/C Issuer's rights and remedies against the Borrower shall not be impaired by, any action or inaction of the L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Requirement of Law or any order of a jurisdiction where the L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(ix) Letter of Credit Fees. The Borrower shall pay to the Agent for the account of each applicable Lender in accordance with its Applicable Percentage, in Dollars, a Letter of Credit fee (the "Letter of Credit Fee") for each Letter of Credit issued for the account of the Borrower or a Restricted Subsidiary equal to the Applicable Rate for the relevant period times the Dollar Equivalent of the daily Stated Amount under each such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit). For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of the Letter of Credit shall be determined in accordance with Section 1.07. Letter of Credit Fees shall be (i) due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand, and (ii) computed on a quarterly basis in arrears. Notwithstanding anything to the contrary contained herein, while any Specified Event of Default exists, all overdue Letter of Credit Fees shall accrue at the Default Rate as provided in Section 2.08(b) hereof.

(x) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuer. The Borrower shall pay directly to the L/C Issuer for its own account, in Dollars, a fronting fee (the "Fronting Fee") with respect to each Letter of Credit, at a rate equal to 0.125% per annum, computed on the daily amount available with respect to each Letter of Credit, on a quarterly basis in arrears. Such fronting fees shall be due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date, on the Termination Date, and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of the Letter of Credit shall be determined in accordance with Section 1.07. In addition, the Borrower shall pay directly to the L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(xi) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

SECTION 2.4 **Swing Line Loans**.

(i) The Swing Line. Subject to the terms and conditions hereof and relying upon the representations and warranties set forth herein and upon the agreements of the Lenders set forth in this Section 2.04, the Swing Line Lender may in its sole discretion and without any obligation to do so make loans (each such loan, a "Swing Line Loan") to the Borrower from time to time on any Business Day during the Availability Period in an aggregate amount not to exceed at any time outstanding the amount of the Swing Line Sublimit, notwithstanding the fact that such Swing Line Loans, when aggregated with the Applicable Percentage of the Outstanding Amount of Committed Loans and L/C Obligations of the Lender acting as Swing Line Lender, may exceed the amount of such Lender's Commitment; provided, however, that after giving effect to any Swing Line Loan, (i) the Total Outstandings shall not exceed the Loan Cap, and (ii) the aggregate Outstanding Amount of the Committed Loans of any Lender to the Borrower at such time, plus such Lender's Applicable Percentage of the Outstanding Amount of all L/C Obligations of the Borrower at such time, plus such Lender's Applicable Percentage of the Outstanding Amount of all Swing Line Loans at such time shall not exceed such Lender's Commitment, and provided, further, that the Borrower shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan, and provided further that the Swing Line Lender shall not be obligated to make any Swing Line Loan if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Credit Extension may have, Fronting Exposure. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swing Line Loan shall bear interest only at a rate based on the Base Rate. Immediately upon the making of a Swing Line Loan, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender's Applicable Percentage *multiplied by* the amount of such Swing Line Loan. The Swing Line Lender shall have all of the benefits and immunities (A) provided to the Agent in Article IX with respect to any acts taken or omissions suffered by the Swing Line Lender in connection with Swing Line Loans made by it or proposed to be made by it as if the term "Agent" as used in Article IX included the Swing Line Lender with respect to such acts or omissions, and (B) as additionally provided herein with respect to the Swing Line Lender.

(ii) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Borrower's irrevocable notice to the Swing Line Lender and the Agent, which may be given by telephone. Each such notice must be received by the Swing Line Lender and the Agent not later than 3:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of $100,000, and (ii) the requested borrowing date, which shall be a Business Day. Each such telephonic notice must be confirmed promptly by delivery to the Swing Line Lender and the Agent of a written Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will confirm with the Agent (by telephone or in writing) that the Agent has also received such Swing Line Loan Notice and, if not, the Swing Line Lender will notify the Agent (by telephone or in writing) of the contents thereof. Unless the Swing Line Lender has received notice (by telephone or in writing) from the Agent at the request of the Required Lenders prior to 2:00 p.m. on the date of the proposed Swing Line Borrowing (A) directing the Swing Line Lender not to make such Swing Line Loan as a result of the limitations set forth in the provisos to the first sentence of Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article IV is not then satisfied, then, subject to the terms and conditions hereof, the Swing Line Lender may, not later than 4:00 p.m. on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrower either by (i) crediting the account of the Borrower on the books of Citizens Bank with the amount of such funds or (ii) wire transferring such

funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Swing Line Lender by the Borrower; provided, however, that if, on the date of the proposed Swing Line Loan, there are L/C Borrowings of the Borrower outstanding, then the proceeds of such Borrowing, first, shall be applied to the payment in full of any such L/C Borrowings, and second, shall be made available to the Borrower as provided above.

(iii) Refinancing of Swing Line Loans.

(1) In addition to settlements required under Section 2.14 hereof, the Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Borrower (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Lender make a Base Rate Loan in an amount equal to such Lender's Applicable Percentage of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the Loan Cap and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the Borrower with a copy of the applicable Committed Loan Notice promptly after delivering such notice to the Agent. Each Lender shall make an amount equal to its Applicable Percentage of the amount specified in such Committed Loan Notice available to the Agent in immediately available funds for the account of the Swing Line Lender at the Agent's Office not later than 1:00 p.m. on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Agent shall remit the funds so received to the Swing Line Lender.

(2) If for any reason any Swing Line Loan cannot be refinanced by such a Committed Borrowing in accordance with Section 2.04(c)(i), the request for Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Lenders fund their risk participation in the relevant Swing Line Loan and each Lender's payment to the Agent for the account of the Swing Line Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(3) If any Lender fails to make available to the Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swing Line Lender shall be entitled to recover from such Lender (acting through the Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the Swing Line Lender in accordance with banking industry rules on interbank compensation plus any administrative, processing or similar fees customarily charged by the Swing Line Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Committed Loan to the Borrower included in the relevant Committed Borrowing or funded participation in the relevant Swing Line Loan, as the case may be. A certificate of the Swing Line Lender submitted to any Lender (through the Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(4) Each Lender's obligation to make Committed Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, any Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default or an Event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Committed Loans pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrower to repay Swing Line Loans, together with interest as provided herein.

(iv) Repayment of Participations.

(1) At any time after any Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender, or the Agent on behalf of the Swing Line Lender, receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute such payment to the Agent and the Agent shall distribute to each such Lender its Applicable Percentage of such payment (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's risk participation was funded) in the same funds as those received by the Swing Line Lender.

(2) If any payment received by the Swing Line Lender, or the Agent on behalf of the Swing Line Lender, in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.05 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Lender shall pay to the Swing Line Lender its Applicable Percentage thereof on demand of the Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Agent will make such demand upon the request of the Swing Line Lender. The obligations of the Lenders under this clause shall survive the Payment in Full of the Obligations and the termination of this Agreement.

(v) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrower for interest on the Swing Line Loans. Until each Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.04 to refinance such Lender's Applicable Percentage of any Swing Line Loan, interest in respect of such Applicable Percentage shall be solely for the account of the Swing Line Lender.

(vi) Payments Directly to Swing Line Lender. The Borrower shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

SECTION 2.5 **Prepayments; Loan Reallocation**.

(i) The Borrower may, upon irrevocable notice from the Borrower to the Agent, at any time or from time to time voluntarily prepay Committed Loans in whole or in part without premium or penalty; provided that (A) such notice must be received by the Agent not later than 11:00 a.m. (1) three Business Days prior to any date of prepayment of LIBOR Rate Loans, (2) on the date of prepayment of Daily LIBOR Loans, and (3) on the date of prepayment of Base Rate Loans; (B) any prepayment of LIBOR Rate Loans shall be in a principal amount of $1,000,000 or a whole multiple of $100,000 in excess thereof;

(D) any prepayment of Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid and, if LIBOR Rate Loans, the Interest Period(s) of such Loans. The Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a LIBOR Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Subject to Section 2.16, each such prepayment shall be applied to the Committed Loans of the Lenders in accordance with their respective Applicable Percentages.

(ii) The Borrower may, upon irrevocable notice to the Swing Line Lender (with a copy to the Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Swing Line Lender and the Agent not later than 1:00 p.m. on the date of the prepayment, and (ii) any such prepayment shall be in a minimum principal amount of $100,000. Each such notice shall specify the date and amount of such prepayment. If such notice is given, then the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(iii) If for any reason the Total Outstandings at any time exceed the Loan Cap as then in effect, the Borrower shall immediately prepay the Loans and L/C Borrowings and Cash Collateralize the L/C Obligations (other than L/C Borrowings) in an aggregate amount equal to such excess, with such amounts to be applied to such Loans, L/C Borrowings and L/C Obligations as the Agent may determine; provided, however, that the Borrower shall not be required to Cash Collateralize the L/C Obligations (other than the L/C Borrowings) pursuant to this Section 2.05(c) unless after prepayment in full of the Loans the Total Outstandings exceed the Loan Cap then in effect.

(iv) The Borrower shall prepay the Loans pursuant to the provisions of Section 6.12 hereof and, after the occurrence and during the continuance of a Specified Event of Default or to the extent required by the provisions of Section 2.06, Cash Collateralize the L/C Obligations to the extent required pursuant to the provisions of Section 2.03(g) hereof.

(v) Promptly upon the Borrower's receipt of any Specified Contribution or Extended Accommodation Period Specified Contribution, the Borrower shall prepay the Loans and Cash Collateralize the L/C Obligations in an amount equal to such Specified Contribution.

(vi) Prepayments made on account of the Obligations first, shall be applied ratably to the L/C Borrowings and the Swing Line Loans made to the Borrower, second, shall be applied ratably to the outstanding Committed Loans, third, after the occurrence and during the continuance of a Specified Event of Default, shall be used to Cash Collateralize the remaining L/C Obligations; and, fourth, the amount remaining, if any, after the prepayment in full of all L/C Borrowings, Swing Line Loans and Committed Loans outstanding at such time and the Cash Collateralization of the remaining L/C Obligations (to the extent required hereunder) in full shall be deposited by the Agent in a deposit account of the Borrower and may be utilized by the Borrower in the ordinary course of its business to the extent otherwise permitted hereunder. Upon the drawing of any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from the Borrower or any other Loan Party) to reimburse the L/C Issuer or the Lenders, as applicable, and, to the extent not so applied, shall thereafter be applied to satisfy other Obligations.

(vii) During the Extended Accommodation Period, if, as of the final Business Day of each weekly period from the first complete calendar week after the Third Amendment Date, the Outstanding Amount of all Loans is greater than $0 and the balance of the Loan Parties' aggregate cash and Cash Equivalents exceeds $5,000,000, then the Borrower shall, on the next Business Day thereafter, prepay the Loans until (x) the balance of the Loan Parties' aggregate cash and Cash Equivalents is less than or equal to $5,000,000 or (y) the Outstanding Amount of all Loans is $0.

(viii) Any prepayments of the Loans or other Obligations pursuant to this Section 2.05 shall not reduce the Commitments.

SECTION 2.6 **Termination or Reduction of Commitments**.

(i) The Borrower may, upon irrevocable notice from the Borrower to the Agent (except as set forth below), terminate the Aggregate Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit or from time to time permanently reduce in part the Aggregate Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit; provided that (i) any such notice shall be received by the Agent not later than 1:00 p.m. five (5) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of $1,000,000 or any whole multiple of $100,000 in excess thereof and (iii) the Borrower shall not reduce (A) the Aggregate Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Outstandings would exceed the Aggregate Commitments, (B) the Letter of Credit Sublimit if, after giving effect thereto, the Outstanding Amount of L/C Obligations (other than L/C Borrowings) not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit, and (C) the Swing Line Sublimit if, after giving effect thereto, and to any concurrent payments hereunder, the Outstanding Amount of Swing Line Loans made to the Borrower hereunder would exceed the Swing Line Sublimit. Notwithstanding anything to the contrary contained herein, the Borrower may rescind any notice of reduction or termination of the Commitments provided pursuant to this Section 2.06(a), if such notice states that such termination or reduction is conditioned upon the effectiveness of an Amendment or Refinancing of all part of the Committed Loans hereunder or from the proceeds of an asset sale or an Equity Issuance, which Amendment or Refinancing, asset sale or Equity Issuance shall not have been consummated or shall otherwise have been delayed.

(ii) If, after giving effect to any reduction of the Aggregate Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Aggregate Commitments, such Letter of Credit Sublimit or Swing Line Sublimit shall be automatically reduced by the amount of such excess.

(iii) The Agent will promptly notify the Lenders of any termination or reduction made pursuant to this Section 2.06. Upon any reduction of the Aggregate Commitments, the Commitment of each Lender shall be reduced by such Lender's Applicable Percentage of such reduction amount. All fees (including, without limitation, Commitment Fees and Letter of Credit Fees) and interest in respect of the Aggregate Commitments accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

SECTION 2.7 **Repayment of Obligations**.

(i) The Borrower shall repay to the Agent, for the account of the Lenders, on the Termination Date the aggregate amount of Obligations (including the Loans, but excluding contingent indemnification obligations for which a claim has not then been asserted) outstanding on such date.

SECTION 2.8 **Interest**.

(i) Subject to the provisions of Section 2.08(b) below, (i) each LIBOR Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the LIBOR Rate for such Interest Period plus the Applicable Margin; (ii) each Base Rate Loan made to the Borrower shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Margin; (iii) each Swing Line Loan made to the Borrower shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Margin; and (iv) each Daily LIBOR Rate Loan made to the Borrower shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Daily LIBOR Rate plus the Applicable Margin, which, for the avoidance of doubt, shall be the Applicable Margin set forth in the column labeled "LIBOR Margin" in the table set forth in the definition of Applicable Margin.

(ii) (1) Upon and after the occurrence of a Specified Event of Default, and during the continuation thereof, the Loans shall, at the Agent's option, bear interest at a fluctuating interest rate per annum equal to the Default Rate to the fullest extent permitted by Requirement of Law.

(1) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(iii) Except as provided in Section 2.08(b)(ii), interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

SECTION 2.9 **Fees**.

In addition to certain fees described in subsections (i) and (j) of Section 2.03:

(i) Commitment Fee. The Borrower shall pay to the Agent for the account of each Lender (other than a Defaulting Lender) in accordance with its Applicable Percentage, a commitment fee equal to the Commitment Fee Percentage *multiplied by* the average daily amount by which the Aggregate Commitments exceed the Total Outstandings (excluding outstanding Swing Line Loans) (subject to adjustment as provided in Section 2.16) during the immediately preceding quarter. For purposes of calculating the amount of the commitment fee only, the Aggregate Commitments and the Commitment of any Lender who is also the Swing Line Lender shall be reduced by the average daily amount of Swing Line Loans outstanding during the applicable quarter. The commitment fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period.

(ii) Other Fees. The Borrower shall pay to the Arranger and the Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letter, the Third Amendment Fee Letter, and the Fifth Amendment Fee Letter; provided that the "Collateral Monitoring Fee" described in the Fee Letter due on the second anniversary of the Closing Date shall be due and payable on January 1, 2021. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

SECTION 2.10 **Computation of Interest and Fees**.

(i) All computations of interest for Base Rate Loans shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(ii) All calculations of interest payable by the Loan Parties under this Agreement or any other Loan Document are to be made on the basis of the nominal interest rate described herein and therein and not on the basis of effective yearly rates or on any other basis which gives effect to the principle of deemed reinvestment of interest which principle does not apply to any interest calculated under this Agreement or any Loan Document. The parties hereto acknowledge that there is a material difference between the stated nominal interest rates and the effective yearly rates of interest and that they are capable of making the calculations required to determine such effective yearly rates of interest.

SECTION 2.11 **Evidence of Debt**.

(i) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by the Agent (the "Loan Account") in the ordinary course of business. In addition, each Lender may record in such Lender's internal records, an appropriate notation evidencing the date and amount of each Loan from such Lender, each payment and prepayment of principal of any such Loan, and each payment of interest, fees and other amounts due in connection with the Obligations due to such Lender. The accounts or records maintained by the Agent and each Lender acting solely as a non-fiduciary agent for the Borrower, shall be prima facie evidence of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Agent in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Agent, the Borrower shall execute and deliver to such Lender (through the Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto. Upon receipt of an affidavit of a Lender as to the loss, theft, destruction or mutilation of such Lender's Note and upon cancellation of such Note, the Borrower will issue, in lieu thereof, a replacement Note in favor of such Lender, in the same principal amount thereof and otherwise of like tenor.

(ii) In addition to the accounts and records referred to in Section 2.11(a), each Lender and the Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the accounts and records maintained by the Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error.

SECTION 2.12 **Payments Generally; Agent's Clawback**.

(i) General. All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly

provided herein, all payments by the Borrower hereunder shall be made, as applicable, to the Agent, for the account of the respective Lenders to which such payment is owed, at the Agent's Office in Dollars in immediately available funds not later than 2:00 p.m. on the date specified herein. All payments received by the Agent after 2:00 p.m. at the option of the Agent be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment (other than with respect to payment of a LIBOR Rate Loan) to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(ii) (1) Funding by Lenders; Presumption by Agent. Unless the Agent shall have received notice from a Lender prior to the proposed date of any Committed Borrowing of LIBOR Rate Loans or Daily LIBOR Rate Loans (or in the case of any Committed Borrowing of Base Rate Loans, prior to 1:00 p.m. on the date of such Committed Borrowing) that such Lender will not make available to the Agent such Lender's share of such Committed Borrowing, the Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or in the case of a Committed Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) 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 Committed Borrowing available to the Agent, then the applicable Lender and the Borrower, severally agree to pay to the Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrowers to but excluding the date of payment to the Agent at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation plus any administrative processing or similar fees customarily charged by the Agent in connection with the foregoing. If the applicable Borrower and such Lender shall pay such interest to the Agent for the same or an overlapping period, the Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Committed Borrowing to the Agent, then the amount so paid shall constitute such Lender's Committed Loan included in such Committed Borrowing. 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 Agent.

(1) Payments by Borrower; Presumptions by Agent. Unless the Agent shall have received notice from the Parent or the Borrower prior to the time at which any payment is due to the Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrower will not make such payment, the 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 applicable Lenders or the L/C Issuer, 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 applicable Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, in immediately available funds 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, as applicable, the Agent, at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation.

A notice of the Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.12(b) shall be conclusive, absent manifest error.

(iii) Failure to Satisfy Conditions Precedent. If any Lender makes available to the Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Agent because the conditions to the

applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof (subject to the provisions of the last paragraph of Section 4.02 hereof), the Agent shall promptly return such funds (in like funds as received from such Lender) to such Lender, without interest.

(iv) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Committed Loans to the Borrower, to fund participations in Letters of Credit and Swing Line Loans and to make payments hereunder are several and not joint. The failure of any Lender to make any Committed Loan, to fund any such participation or to make any payment hereunder on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Committed Loan, to purchase its participation or to make its payment hereunder.

(v) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

SECTION 2.13 **Sharing of Payments by Lenders**.

If, other than as expressly provided elsewhere herein, any Credit Party shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of, interest on, or other amounts with respect to the Obligations resulting in such Credit Party's receiving payment of a proportion of the aggregate amount of such Obligations, greater than its pro rata share thereof as provided herein (including as in contravention of the priorities of payment set forth in Section 8.03), then the Credit Party receiving such greater proportion shall (a) notify the Agent of such fact, and (b) purchase (for cash at face value) participations in the Obligations of the other Credit Parties, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Credit Parties ratably and in the priorities set forth in Section 8.03, provided that:

(1) if any such participations or subparticipations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations or subparticipations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(2) the provisions of this Section 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 this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) payments made in accordance with Sections 2.15 or 2.17, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Committed Loans or subparticipations in L/C Obligations or Swing Line Loans to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Requirement of Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

SECTION 2.14 **Settlement Amongst Lenders**.

(i) The amount of each Lender's Applicable Percentage of outstanding Loans (including outstanding Swing Line Loans) shall be computed weekly (or more frequently in the Agent's

discretion) and shall be adjusted upward or downward based on all Loans (including Swing Line Loans) and repayments of Loans (including Swing Line Loans) received by the Agent as of 3:00 p.m. on the first Business Day (such date, the "Settlement Date") following the end of the period specified by the Agent.

(ii) The Agent shall deliver to each of the Lenders promptly after a Settlement Date a summary statement of the amount of outstanding Committed Loans and Swing Line Loans for the period and the amount of repayments received for the period. As reflected on the summary statement, (i) the Agent shall transfer to each applicable Lender its Applicable Percentage of repayments, and (ii) each Lender shall transfer to the Agent, or the Agent shall transfer to each Lender, such amounts as are necessary to insure that, after giving effect to all such transfers, the amount of Committed Loans made by each Lender to the Borrower shall be equal to such Lender's Applicable Percentage of all Committed Loans outstanding to the Borrower as of such Settlement Date. If the summary statement requires transfers to be made to the Agent by the Lenders and is received prior to 1:00 p.m. on a Business Day, such transfers shall be made in immediately available funds no later than 3:00 p.m. that day; and, if received after 1:00 p.m., then no later than 3:00 p.m. on the next Business Day. The obligation of each Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by the Agent. If and to the extent any Lender shall not have so made its transfer to the Agent, such Lender agrees to pay to the Agent forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Agent equal to the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation plus any administrative, processing, or similar fees customarily charged by the Agent in connection with the foregoing.

SECTION 2.15 **Increase in Commitments**.

(i) Request for Increase. Provided no Default then exists or would arise therefrom, upon notice to the Agent (which shall promptly notify the Lenders), and without the Lenders' consent, the Borrower may request (i) an increase in the Aggregate Commitments in an aggregate amount not exceeding $20,000,000; provided that any such request for a Commitment Increase shall be in a minimum amount of $5,000,000 (or if less, for the Borrower, the remaining unused amount available under this Section 2.15(a)); and (ii) the Borrower may make a maximum of four (4) such requests for a Commitment Increase. Each then existing Lender may (but shall have no obligation to) participate in such Commitment Increase. At the time of sending such request for a Commitment Increase, the Borrower (in consultation with the Agent) shall specify the time period within which each then existing Lender is requested to respond (which shall in no event be less than ten (10) Business Days from the date of delivery of such notice to the Lenders).

(ii) Lender Elections to Increase. Each Lender shall notify the Agent within such time period whether or not it agrees to increase its applicable Commitment and, if so, whether by an amount equal to, greater than, or less than its Applicable Percentage of such requested Commitment Increase. Any Lender not responding within such time period shall be deemed to have declined to increase its Commitment.

(iii) Notification by Agent; Additional Commitment Lenders. The Agent shall notify the Borrower and each applicable Lender of the Lenders' responses to each request made hereunder for a Commitment Increase. To achieve the full amount of a requested Commitment Increase, to the extent that the existing applicable Lenders decline to increase their Commitments, or decline to increase their Commitments to the amount requested by the Borrower, the Borrower may, at its option, request the Agent or any of its Affiliates to, and the Agent and such Affiliates shall, use its reasonable efforts to arrange for other Eligible Assignees to become a Lender hereunder and to issue commitments in an amount equal to the amount of the increase in the Aggregate Commitments requested by the Borrower and not accepted by the existing Lenders (each such Eligible Assignee issuing a commitment and becoming a Lender, an

"Additional Commitment Lender"), provided, however, that without the consent of the Agent, at no time shall the Commitment of any Additional Commitment Lender be less than $5,000,000.

(iv) Effective Date and Allocations. If the Aggregate Commitments are increased in accordance with this Section 2.15, the Agent, in consultation with the Borrower, shall determine the effective date (the "Increase Effective Date") and the final allocation of such Commitment Increase. The Agent shall promptly notify the Borrower and the Lenders of the final allocation of such Commitment Increase and the Increase Effective Date and on the Increase Effective Date (i) the Aggregate Commitments under, and for all purposes of, this Agreement shall be increased by the aggregate amount of such Commitment Increase, and (ii) Schedule 2.01 shall be deemed modified, without further action, to reflect the revised Commitments and Applicable Percentages of the Lenders.

(v) Conditions to Effectiveness of Increase. As a condition precedent to such increase, (i) the Borrower shall deliver to the Agent a certificate of each Loan Party dated as of the Increase Effective Date signed by a Responsible Officer of such Loan Party (A) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase, and (B) in the case of the Borrower, certifying that, before and after giving effect to such increase, the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects on and as of the Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects as of such earlier date, and except to the extent that such representations and warranties are qualified by materiality, in which case they are true and correct in all respects, and except that for purposes of this Section 2.15(e), the representations and warranties contained in Section 5.01 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b), respectively, of Section 6.01, (ii) the Borrower, the Agent, and any Additional Commitment Lender shall have executed and delivered a Joinder Agreement; (iii) the Borrower shall have paid such fees and other compensation to the Additional Commitment Lenders and to any existing Lender increasing its Commitment as the Borrower and such Lenders shall agree; (iv) the Borrower shall have paid such arrangement fees to the Agent and such Affiliates as the Borrower and the Agent may agree; (v) the Borrower, the Additional Commitment Lenders and any existing Lender increasing its Commitment shall have delivered such other instruments, documents and agreements evidencing the Commitment Increase as the Agent may reasonably have requested; and (vi) no Default exists.

(vi) Adjustments to Credit Exposure. Upon each increase in the Commitments pursuant to this Section 2.15, (x) each applicable Lender will automatically and without further act be deemed to have assigned to each Lender providing a portion of the Commitment Increase in respect of such increase, and each such Additional Commitment Lender and existing Lender increasing its applicable Commitment will automatically and without further act be deemed to have assumed, a portion of such Lender's participations hereunder in outstanding Letters of Credit and Swing Loans such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding (i) participations hereunder in Letters of Credit, (ii) participations hereunder in Swing Loans held by each applicable Lender will equal the percentage of the applicable Commitments of all such Lenders and (y) if, on the date of such increase, there are any Loans of such class outstanding, such Loans shall on or prior to the effectiveness of such Commitment Increase be prepaid from the proceeds of additional Loans made hereunder (reflecting such increase in the applicable Commitments), which prepayment shall be accompanied by accrued interest on such Loans being prepaid and any costs incurred by any Lender in accordance with Section 3.05. The Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

(vii) Conflicting Provisions. This Section 2.15 shall supersede any provisions in Sections 2.13 or 10.01 to the contrary.

(viii) The terms and provisions of any Commitment Increase shall be, except as otherwise set forth in the relevant Joinder Agreement, identical to those of the applicable Loans and for purposes of this Agreement, any Commitment Increase shall be deemed to be Loans and Commitments. Each Joinder Agreement may, without the consent of any other Lender or Credit Party, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Agent and the Borrower, to effect the provisions of this Section 2.15.

SECTION 2.16 **Defaulting Lenders**.

(i) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Requirement of Law:

(1) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders" and Section 10.01.

(2) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Agent from a Defaulting Lender pursuant to Section 10.08 shall be applied at such time or times as may be determined by the Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the L/C Issuer or Swing Line Lender hereunder; third, to Cash Collateralize the L/C Issuer's Fronting Exposure with respect to such Defaulting Lender; fourth, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Agent; fifth, if so determined by the Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuer's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement; sixth, to the payment of any amounts owing to the Lenders, the L/C Issuer or Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the L/C Issuer or the Swing Line Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or L/C Borrowings in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and L/C Obligations owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or L/C Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in L/C Obligations and Swing Line Loans are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.16(a)(iv). Any payments,

prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.16(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(3) Certain Fees.

a. No Defaulting Lender shall be entitled to receive any fee payable under Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

b. Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Applicable Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.16(a)(ii).

c. With respect to any fee payable under Section 2.09(a) or any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrower shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Obligations or Swing Line Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to the L/C Issuer and Swing Line Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's or Swing Line Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(4) Reallocation of Applicable Percentages to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in L/C Obligations and Swing Line Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (x) the conditions set forth in Section 4.02 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Outstanding Amount of Obligations of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(5) Cash Collateral, Repayment of Swing Line Loans. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to them hereunder or under applicable Requirement of Law, (x) first, prepay Swing Line Loans in an amount equal to the Swing Line Lenders' Fronting Exposure and (y) second, Cash Collateralize the L/C Issuers' Fronting Exposure in accordance with the procedures set forth in Section 2.03(g).

(ii) Defaulting Lender Cure. If the Borrower, the Agent, the Swing Line Lender and the L/C Issuer agree in writing that a Lender is no longer a Defaulting Lender, the Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Agent may determine to be necessary to cause the Committed Loans and funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages (without giving effect to Section 2.16(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

ARTICLE III
TAXES, YIELD PROTECTION AND ILLEGALITY

SECTION 3.1 **Taxes**.

(i) All payments made by or on account of the Borrower under any Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes unless required by applicable Requirement of Law. If any Taxes are required to be withheld by any applicable withholding agent from any amounts payable hereunder or under any other Loan Document, (i) the applicable withholding agent shall make such deductions, (ii) the applicable withholding agent shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Requirement of Law, and (iii) to the extent the deduction is on account of Non-Excluded Taxes or Other Taxes, the amounts so payable to the Agent or such Lender shall be increased to the extent necessary to yield to the Agent or such Lender (after deduction or withholding of all Non-Excluded Taxes and Other Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement.

(ii) Without limiting the provisions of paragraph (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Requirement of Law.

(iii) Whenever any Non-Excluded Taxes or Other Taxes are payable by the Borrower, as promptly as possible thereafter the Borrower shall send to the Agent for the account of the Agent or Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing payment thereof if such receipt is obtainable, or, if not, other reasonable evidence of payment. The Borrower shall indemnify the Agent and the Lenders for any Non-Excluded Taxes payable in connection with any payments made by the Borrower under any Loan Document and any Other Taxes (including Non-Excluded Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided, however, that if an indemnitee does not notify the Borrower of any indemnification claim under this Section 3.01(c) within 180 days after such indemnitee has received written notice of the claim of a taxing authority giving rise to such indemnification claim, the Borrower shall not be required to indemnify such indemnitee for any incremental interest or penalties resulting from the such indemnitee's failure to notify the Borrower within such 180 day period. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Agent), or by the Agent on its own behalf, shall be conclusive absent manifest error.

(iv) If the Agent or any Lender determines, in good faith, that it has received a refund of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by any Borrower or with respect to which any Borrower has paid additional amounts pursuant to Section 3.01 or Section 3.02, it shall promptly pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Non-Excluded Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower, upon the request of the Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent or such Lender in the event the Agent or such Lender is required to repay such refund to such Governmental Authority; provided, further, that no Borrower shall be required to repay to the Agent or such Lender an amount in excess of the amount paid over by such party to the Borrower pursuant to this Section. This paragraph shall not be construed to require the Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to any Borrower or any other Person. The agreements in this Section shall survive the termination of this Agreement and the payment of the Obligations.

(v) Status of Lenders; Tax Documentation.

(1) Any Recipient 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 Agent, at the time or times reasonably requested by the Borrower or the Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Recipient, if reasonably requested by the Borrower or the Agent, shall deliver such other documentation prescribed by applicable Requirement of Law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Recipient 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 3.01(e)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Recipient's reasonable judgment such completion, execution or submission would subject such Recipient to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Recipient.

(2) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

a. any Recipient that is a U.S. Person shall deliver to the Borrower and the Agent on or prior to the date on which such Recipient becomes a Recipient under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Agent), executed copies of IRS Form W-9 certifying that such Recipient 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 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 Recipient under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the 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 copies of IRS Form W-8BEN or W-8BENE, as applicable, 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 or W-8BENE, as applicable, 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 copies 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 E-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or W-8BENE, as applicable; or

iv. to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BENE, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-2 or Exhibit E-3, 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 E-4 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 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 Recipient under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Agent), executed copies of any other form prescribed by applicable Requirement of 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 Requirement of Law to permit the Borrower or the Agent to determine the withholding or deduction required to be made;

d. on or before the date the Agent becomes a party to this Agreement, the Agent shall provide to the Borrower two accurate and complete original, signed copies of IRS Form W-9 or the applicable IRS Form W-8, as the case may be; and

e. if a payment made to a Recipient under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Recipient 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 Recipient shall deliver to the Borrower and the Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Agent such documentation

prescribed by applicable Requirement of 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 Agent as may be necessary for the Borrower and the Agent to comply with their obligations under FATCA and to determine that such Recipient has complied with such Recipient'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.

(3) Each Recipient agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Agent in writing of its legal inability to do so.

(vi) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Agent or any assignment of rights by, or the replacement of, a Lender or the L/C Issuer, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

(vii) Evidence of Payments. Upon request by the Borrower or the Agent, as the case may be, after any payment of Taxes by the Borrower or by the Agent to a Governmental Authority as provided in this Section 3.01, the Borrower shall deliver to the Agent or the Agent shall deliver to the Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Agent, as the case may be.

(viii) For purposes of this Section 3.01, the term "Lender" includes the L/C Issuer.

SECTION 3.2 **Illegality**.

If any Lender reasonably determines that any Requirement of Law or Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund LIBOR Rate Loans or Daily LIBOR Rate Loans, or to determine or charge interest rates based upon the LIBOR Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Agent, (i) any obligation of such Lender to make or continue LIBOR Rate Loans or Daily LIBOR Rate Loans or to Convert Base Rate Loans to LIBOR Rate Loans or Daily LIBOR Rate Loans shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the LIBOR Rate component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Agent without reference to the LIBOR Rate component of the Base Rate, in each case, until such Lender notifies the Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of LIBOR Rate Loans or Daily LIBOR Rate Loans and shall, upon demand from such Lender (with a copy to the Agent), prepay or, if applicable, Convert all LIBOR Rate Loans or Daily LIBOR Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Agent without reference to the LIBOR Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such LIBOR Rate Loans or Daily LIBOR Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBOR Rate Loans or Daily LIBOR Rate Loans and (y) if such notice asserts the illegality of such Lender determining or charging

interest rates based upon the LIBOR Rate, the Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the LIBOR Rate component thereof until the Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the LIBOR Rate. Upon any such prepayment or Conversion, the Borrower shall also pay accrued interest on the amount so prepaid or Converted.

SECTION 3.3 **Inability to Determine Rates**.

(i) Temporary Unavailability of LIBOR Rate. If prior to the commencement of any Interest Period for a LIBOR Borrowing:

(1) the Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBOR Rate or the LIBOR Rate, as applicable, for such Interest Period; or

(2) the Agent is advised by Required Lenders that the Adjusted LIBOR Rate or the LIBOR Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost of making or maintaining their Loans included in such Borrowing for such Interest Period

then the Agent shall give notice thereof to the Borrower and the Lenders as promptly as practicable thereafter and, until the Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (x) any Committed Loan Notice that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a LIBOR Borrowing shall be ineffective and (y) if any Request for Credit Extension requests a LIBOR Borrowing, such Borrowing shall be made as a Base Rate Borrowing.

(ii) Successor LIBOR Rate.

(1) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, the Agent and the Borrower may amend this Credit Agreement to replace the LIBOR Rate with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5th) Business Day after the Agent has posted such proposed amendment to all Lenders and the Borrower so long as the Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. Any such amendment with respect to an Early Opt-in Election will become effective on the date that Lenders comprising the Required Lenders have delivered to the Agent written notice that such Required Lenders accept such amendment. No replacement of the LIBOR Rate with a Benchmark Replacement pursuant to this Section 3.03(b) will occur prior to the applicable Benchmark Transition Start Date.

(2) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement, the Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Credit Agreement.

(3) Notices; Standards for Decisions and Determinations. The Agent will promptly notify the Borrower and the Lenders of (A) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date and Benchmark Transition Start Date, (B) the implementation of any Benchmark Replacement, (C) the effectiveness of any Benchmark Replacement Conforming Changes and (D) the commencement or conclusion of any Benchmark Unavailability Period, provided that the failure to give such notice under this clause (D) shall not affect the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Agent or Lenders pursuant to this Section 3.03(b), including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this Section 3.03(b).

(4) Benchmark Unavailability Period. Upon the commencement of a Benchmark Unavailability Period, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of LIBOR Loans to be made, converted or continued during such Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans. During any Benchmark Unavailability Period, (A) the obligation of the Lenders to make or maintain LIBOR Loans shall be suspended, (B) any request for a Borrowing of, conversion to or continuation of LIBOR Loans shall be ineffective and will be deemed to have been a request for a Borrowing of or conversion to Base Rate Loans, and (C) the component of the Base Rate based upon the LIBOR Rate will not be used in any determination of the Base Rate.

SECTION 3.4 **Increased Costs; Reserves on LIBOR Rate Loans**.

(i) Increased Costs Generally. If any Change in Law shall:

(1) 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 requirements reflected in the LIBOR Rate) or the L/C Issuer;

(2) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) 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

(3) impose on any Lender or the L/C Issuer or the London interbank market any other condition, cost or expense affecting this Agreement or LIBOR Rate Loans or Daily LIBOR Rate Loans made by such Lender or any Letter of Credit or participation therein, in each case that is not otherwise accounted for in the definition of Adjusted LIBOR Rate or this clause (a);

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any LIBOR Rate Loan or Daily LIBOR Rate Loans (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or the L/C Issuer 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 or the L/C Issuer hereunder (whether of principal, interest or any other amount) then, within fifteen (15) days after demand therefor by such Lender or the L/C Issuer setting forth in reasonable detail such increased costs, the Loan Parties will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as the case may be, for such additional costs incurred or reduction suffered; provided that in no event shall this Section apply to Taxes, which shall be exclusively governed by Section 3.01.

(ii) Capital Requirements. If any Lender or the L/C Issuer reasonably determines that any Change in Law affecting such Lender or the L/C Issuer or any Lending Office of such Lender or such Lender's or the L/C Issuer's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or the L/C Issuer's capital or on the capital or liquidity of such Lender's or the L/C Issuer'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 Line Loans held by, such Lender, or the Letters of Credit issued by the L/C Issuer, to a level below that which such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the L/C Issuer's policies and the policies of such Lender's or the L/C Issuer's holding company with respect to capital adequacy), then from time to time upon demand of such Lender or L/C Issuer setting forth in reasonable detail the charge and calculation of such reduced rate of return the Loan Parties will pay to such Lender or the L/C Issuer, as the case may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer or such Lender's or the L/C Issuer's holding company for any such reduction suffered.

(iii) Certificates for Reimbursement. A certificate of a Lender or the L/C Issuer setting forth the amount or amounts necessary to compensate such Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Loan Parties shall pay such Lender or the L/C Issuer, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(iv) Delay in Requests. Failure or delay on the part of any Lender or the L/C Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's or the L/C Issuer's right to demand such compensation, provided that the Loan Parties shall not be required to compensate a Lender or the L/C Issuer pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than 180 days prior to the date that such Lender or the L/C Issuer, 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 L/C Issuer'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 180 day period referred to above shall be extended to include the period of retroactive effect thereof).

(v) Reserves on LIBOR Rate Loans. Without duplication of any reserves specified in the definition of "LIBOR Rate", the Borrower shall pay to each Lender, as long as such Lender shall be required to maintain LIBOR liabilities, additional interest on the unpaid principal amount of each LIBOR Rate Loan or Daily LIBOR Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), which shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least 15 days' prior notice (with a copy to the Agent) of such additional interest from such Lender. If a Lender fails to give notice 15 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 15 days from receipt of such notice.

SECTION 3.5 **Compensation for Losses**.

Upon written demand of any Lender (with a copy to the Agent) from time to time, which such demand shall set forth in reasonable detail the basis for requesting such amount, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(i) any continuation, Conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(ii) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or Convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower;

(iii) any assignment of a LIBOR Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each LIBOR Rate Loan made by it at the LIBOR Rate for such Loan by a matching deposit or other borrowing in the London interbank market for a comparable amount and for a comparable period, whether or not such LIBOR Rate Loan was in fact so funded.

SECTION 3.6 **Mitigation Obligations**.

If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, 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 judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

SECTION 3.7 **Survival**.

All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder, and resignation of the Agent.

ARTICLE IV
CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

SECTION 4.1 **Conditions to Initial Credit Extension**.

The agreement of each Lender and L/C Issuer to make the initial Credit Extension requested to be made by it is subject to the satisfaction (or waiver), prior to or concurrently with the making of such extension of credit on the Closing Date, of the following conditions precedent:

(i) Credit Agreement; Security Documents. The Agent shall have received (i) this Agreement, executed and delivered by the Agent, the L/C Issuer, each Loan Party and each Lender whose name appears on the signature pages hereof, (ii) the Security Documents specified on the Closing Checklist attached hereto as Exhibit K required to be delivered on the Closing Date (except to the extent set forth in Sections 6.12(a) and 6.21 hereof), executed and delivered by the Loan Parties and the Agent, (iii) an Acknowledgement and Consent in the form attached to the Security Agreement executed and delivered by each Issuer (as defined therein), if any, that is not a Loan Party, (iv) a Note executed by the Borrower in favor of each Lender requesting a Note, (v) a Representations and Warranties Certificate executed by each Loan Party, and (vi) all other Loan Documents specified on the Closing Checklist attached hereto as Exhibit K and required to be delivered on the Closing Date (except to the extent set forth in Section 6.21 hereof), each duly executed by the applicable Loan Parties and all other Persons party thereto.

(ii) Payoff Indebtedness. (i) The Parent, Holdings, the Borrower and its Restricted Subsidiaries shall have no Indebtedness for borrowed money outstanding as of the Closing Date other than under the Term Facility, this Agreement and the other Indebtedness permitted by Section 7.03 and (ii) the Borrower shall be released from its obligations under the Payoff Indebtedness, which releases shall be in form and substance reasonably satisfactory to the Agent, including, without limiting the foregoing, if applicable, (a) proper termination statements (Form UCC-3 or the appropriate equivalent) for filing under the Uniform Commercial Code or equivalent statute or regulation of each jurisdiction where a financing statement or application for registration (Form UCC-1 or the appropriate equivalent) was filed with respect to the Borrower in connection with the security interests created with respect to the Payoff Indebtedness and (b) terminations of any security interest in, or Lien on, any patents, trademarks, copyrights, or similar interests of the Borrower and (iii) other than with respect to the letters of credit covered by a back to back letter of credit issued hereunder on the Closing Date, the Parent and its Subsidiaries shall have made arrangements reasonably satisfactory to the Agent and the Arranger for the cancellation of any letters of credit issued for the account of the Parent, Holdings or the Borrower and outstanding thereunder.

(iii) Term Facility. Substantially concurrently with the satisfaction of the other conditions precedent set forth in this Section 4.01(c), the Parent, Holdings, and the Borrower shall have entered into the Term Facility and the Agent shall have received (i) a counterpart of the Intercreditor Agreement, signed by the administrative agent under the Term Facility and acknowledged by the Loan Parties party thereto and (ii) a certificate signed by a Responsible Officer attaching true, correct and complete copies of the material documents relating to the Term Facility and certifying that all of such documents are in full force and effect.

(iv) Fees. The Agent and the Lenders shall have received (i) all fees required to be paid under the Fee Letter, and (ii) all reasonable out-of-pocket expenses for which reasonably detailed invoices have been presented (including reasonable and documented out-of-pocket fees, disbursements and other charges of counsel to the Agent), in each case under this clause (ii) required to be paid pursuant to Section 10.04 on or before the Closing Date.

(v) Closing and Solvency Certificate. The Agent shall have received a certification (after giving effect to the transactions contemplated hereby) of the Loan Parties and their Restricted Subsidiaries signed by a Responsible Officer of the Borrower that such Loan Parties and their Restricted Subsidiaries are Solvent, substantially in the form of Exhibit F hereto.

(vi) Lien Searches. The Agent shall have received the results of a recent lien search in each of the jurisdictions in which Uniform Commercial Code financing statements or other filings or recordations should be made to evidence or perfect security interests in all assets of the Loan Parties, and such search shall reveal no liens on any of the assets of the Loan Party, except for Liens permitted by Section 7.01 or liens to be discharged (or requiring estoppel letters) on or prior to the Closing Date.

(vii) Legal Opinions. The Agent shall have received an executed legal opinion of Kirkland & Ellis LLP, counsel to the Loan Parties, in form and substance reasonably satisfactory to the Agent.

(viii) Pledged Stock; Stock Powers; Pledged Notes. The Agent shall have received (i) copies of the certificates representing the shares, if any, of Equity Interests of Holdings and the Borrower and (to the extent required by the terms of the Security Documents) each of the Borrower's Subsidiaries pledged to the Agent pursuant to (and, in the case of the Equity Interests of any Foreign Subsidiary (other than Excluded Subsidiaries), subject to the limitations of) the Security Documents, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) copies of each promissory note (if any) required to be pledged to the Agent pursuant to the Security Documents endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof. The original certificates and notes shall have been delivered to the Term Agent.

(ix) Filings, Registrations and Recordings. Each document (including, without limitation, any Uniform Commercial Code financing statement) required by the Security Documents to be filed, registered or recorded in order to create in favor of the Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein with the priority provided for in the Security Documents, shall have been delivered to the Agent in proper form for filing, registration or recordation and the Agent shall have received evidence reasonably satisfactory to it that such filings have been made or have been provided for.

(x) Insurance. Except as otherwise provided in Section 6.16 hereof, the Agent shall have received insurance certificates satisfying the requirements of Section 6.07.

(xi) Pro Forma Balance Sheet; Financial Statements; Financial Plan; Financial Performance Projections. The Lenders shall have received (i) the unaudited pro forma consolidated balance sheet of the Parent and its consolidated Subsidiaries (the "Pro Forma Balance Sheet"), certified by the Parent as having been prepared giving effect (as if such events had occurred on such date) to (A) the loans to be made under the Term Facility on the Closing Date and the use of the proceeds thereof, and (B) the payment of fees and expenses in connection with the foregoing; (ii) the financial statements of the Parent and its Subsidiaries referred to in Section 5.01, and (iii) Financial Performance Projections for the first year following the Closing Date and for each year thereafter through the Fiscal Year ending on or around February 4, 2023. The Pro Forma Balance Sheet shall have been prepared based upon the best information available to the Parent as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis the estimated financial position of the Parent and its consolidated Subsidiaries as at the end of the fiscal quarter ending August 4, 2018, assuming that the events specified in the preceding sentence had actually occurred at such date, and shall be so certified by the Parent. The Agent shall have received and be reasonably satisfied with the business plan and capital structure of the Borrower and the Guarantors.

(xii) Certificate of Representations and Warranties. The Agent shall have received a certificate of representations and warranties covering all of the Loan Parties, executed by a financial officer of the Borrower, substantially in the form attached hereto as Exhibit G.

(xiii) Excess Availability. After giving effect to all Letters of Credit to be issued at, or immediately subsequent to, the establishment of the credit facility contemplated hereby, Excess Availability shall be not less than twenty percent (20%) of the Loan Cap.

(xiv) Borrowing Base Certificate. The Agent shall have received a Borrowing Base Certificate dated the Closing Date, relating to the Fiscal Month ended on August 4, 2018, with respect to the Borrower's provisional calculation of the Borrowing Base, to be prepared in good faith by the Borrower based on the information and good faith estimates available as of such date, and executed by a Responsible Officer, subject to the delivery of an updated Borrowing Base Certificate within seven (7) Business Days of the Closing Date.

(xv) No Material Adverse Effect. There shall have been no Material Adverse Effect since February 3, 2018.

(xvi) No Litigation. There shall exist no action, suit, investigation or proceeding pending or, to the knowledge of the Loan Parties, threatened in writing in any court or before any arbitrator or governmental authority in which there is a reasonable possibility of a decision which would reasonably be expected to have a Material Adverse Effect.

(xvii) Consents. Any consents or approvals required in connection with the effectiveness of the Term Facility, this Agreement and the other Loan Documents shall have been obtained and shall be in full force and effect.

(xviii) Officer's Certificate. The Agent shall have received an officer's certificate, dated as of the Closing Date, certifying as to and (as applicable) attaching the organization documents of each Loan Party (which, to the extent filed with a Governmental Authority, shall be certified as of a recent date by such Governmental Authority), the resolutions of the governing body of each Loan Party, the good standing, existence or its equivalent of each Loan Party and of the incumbency (including specimen signatures) of the Responsible Officers of each Loan Party.

(xix) Due Diligence. Agent shall have completed its business, financial, and legal due diligence of the Loan Parties, including (i) a completed commercial finance examination of the Loan Parties' assets, liabilities, cash management systems, books and records and (ii) all inventory appraisals reasonably requested by Agent, and the results of such commercial finance examination and inventory appraisals shall be reasonably satisfactory to Agent in all respects.

(xx) USA PATRIOT Act; KYC. At least three (3) Business Days prior to the Closing Date, the Lenders shall have received (i) all documentation and other information requested by them and required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act and (ii) to the extent the Borrower constitutes a "legal entity customer" under the Beneficial Ownership Regulation, a completed Beneficial Ownership Certification in relation to the Borrower.

SECTION 4.2 **Conditions to all Credit Extensions**.

The obligation of each Lender to honor any Request for Credit Extension (other than a Committed Loan Notice requesting only a Conversion of Committed Loans to the other Type, or a continuation of LIBOR Rate Loans) and of each L/C Issuer to issue each Letter of Credit is subject to the following conditions precedent:

(i) The representations and warranties of each Loan Party contained in Article V or in any other Loan Document shall be true and correct in all material respects on and as of the date of such Credit Extension, except (i) to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date, and (ii) in the case of any representation and warranty qualified by materiality, they shall be true and correct in all respects.

(ii) No Default or Event of Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(iii) The Agent and, if applicable, the L/C Issuer or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

(iv) After giving effect to the Credit Extension requested to be made on any such date and the use of proceeds thereof, no Overadvance shall exist.

(v) During the Extended Accommodation Period, after giving effect to any Borrowing requested to be made on any such date (giving effect to any use of proceeds otherwise permitted hereunder made substantially contemporaneously therewith) the balance of the Loan Parties' aggregate cash and Cash Equivalents shall not exceed $5,000,000.

Each Request for Credit Extension (other than a Committed Loan Notice requesting only a Conversion of Committed Loans to the other Type or a continuation of LIBOR Rate Loans) submitted by the Borrower shall be deemed to be a representation and warranty by the Borrower that the conditions specified in Section 4.02 have been satisfied on and as of the date of the applicable Credit Extension. The conditions set forth in this Section 4.02 are for the sole benefit of the Credit Parties but until the Required Lenders otherwise direct the Agent to cease making Loans and issuing Letters of Credit, the applicable Lenders will fund their Applicable Percentage of all Loans and L/C Advances and participate in all Swing Line Loans and Letters of Credit whenever made or issued, which are requested by the Borrower and which, notwithstanding the failure of the Loan Parties to comply with the provisions of this Article IV, are agreed to by the Agent, provided, however, the making of any such Loans or the issuance of any Letters of Credit shall not be deemed a modification or waiver by any Credit Party of the provisions of this Article IV on any future occasion or a waiver of any rights or the Credit Parties as a result of any such failure to comply.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

To induce the Credit Parties to enter into this Agreement and to make Loans and to issue Letters of Credit hereunder, each Loan Party represents and warrants to the Agent and the other Credit Parties that:

SECTION 5.1 **Financial Condition**.

(i) The (i) audited income statement of Parent for the fiscal years ending as at January 30, 2016, January 28, 2017 and February 3, 2018, reported on by and accompanied by an unqualified report from PricewaterhouseCoopers LLP, and (ii) unaudited consolidated balance sheet of Parent as of April 29, 2017 and May 5, 2018, and related consolidated statements of income and of cash flows for the fiscal quarters ended on such dates present fairly in all material respects the financial condition of Parent as at such dates, and the results of its operations and its cash flows (as applicable) for the respective periods then ended. All such financial statements, including the related schedules and notes thereto and normal year-end adjustments, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as approved by the aforementioned firm of accountants and disclosed therein and, in the

case of such unaudited financial statements, subject to normal year-end adjustments and the absence of footnotes). Except as set forth on Schedule 5.01(a), as of the Closing Date, none of Parent or its Subsidiaries (i) has any material Guarantee Obligations, contingent liabilities or material liabilities for taxes, or any long-term leases or unusual forward or long-term commitments, including, without limitation, any interest rate or foreign currency swap or exchange transaction or other obligation in respect of derivatives, which are not reflected in the most recent financial statements referred to in this paragraph but which would in accordance with GAAP be so reflected in a consolidated balance sheet of the Parent its Subsidiaries as of the Closing Date and (ii) is party to any arrangement to pay principal or interest with respect to any Indebtedness of any Person which is not reflected in the most recent financial statements referred to in this paragraph, (x) which was incurred by the Parent or any of its Subsidiaries or guaranteed by the Parent or any of its Subsidiaries at any time or the proceeds of which are or were transferred to or used by the Parent or any of its Subsidiaries and (y) the payments in respect of which are intended to be made with the proceeds of payments to such Person by the Parent or any of its consolidated Subsidiaries or with any Indebtedness or Equity Interests issued by the Parent or any such Subsidiary.

(ii) As of the Closing Date, the Financial Performance Projections delivered to the Agent and attached hereto as Schedule 5.01(b) represent the Loan Parties' good faith estimate of future financial performance and are based on assumptions believed by the Loan Parties to be fair and reasonable in light of current market conditions, it being acknowledged and agreed by Agent and Lenders that projections as to future events are not to be viewed as facts and that the actual results during the period or periods covered by the Financial Performance Projections may materially differ from the projected results set forth therein.

SECTION 5.2 **No Change**.

There has been no event, circumstance, development, change or effect since the date of the Audited Financial Statement that has had a Material Adverse Effect.

SECTION 5.3 **Existence, Compliance with Requirements of Law**.

Each of the Parent, Holdings, the Borrower and its Restricted Subsidiaries (a) (i) is duly organized (or incorporated), validly existing and in good standing (or, only where if applicable, the equivalent status in any foreign jurisdiction) under the laws of the jurisdiction of its organization or incorporation, (ii) has the corporate or organizational power and authority, and the legal right, to own and operate its Property, to lease the Property it operates as lessee and to conduct the business in which it is currently engaged except, in each case, to the extent that any such failure to have such power, authority or right would not reasonably be expected to have a Material Adverse Effect and (iii) is duly qualified as a foreign corporation or limited liability company and in good standing (where such concept is relevant) under the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification except, in each case, to the extent that the failure to be so qualified or in good standing (where such concept is relevant) would not reasonably be expected to have a Material Adverse Effect and (b) is in compliance with all applicable Requirements of Law except to the extent that any such failure to comply therewith would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.4 **Corporate Power; Authorization; Enforceable Obligations**.

Each Loan Party has the corporate power and authority to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to borrow hereunder. Each Loan Party has taken all necessary corporate or other action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. Except as would not reasonably be expected to have a Material

Adverse Effect, no consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority is required in connection with the extensions of credit hereunder or the execution, delivery, performance, validity or enforceability of this Agreement or any of the other Loan Documents, except (i) consents, authorizations, filings and notices, which consents, authorizations, filings and notices have been obtained or, within any period set forth in the relevant Security Document, will be obtained or made and are or will be in full force and effect or the failure to obtain which would not reasonably be expected to have a Material Adverse Effect, (ii) filings to perfect the Liens created by the Security Documents, (iii) filings pursuant to the Assignment of Claims Act of 1940, as amended (31 U.S.C. § 3727 et seq.), in respect of Accounts of the Parent and its Subsidiaries the obligor in respect of which is the United States of America or any department, agency or instrumentality thereof, and (iv) the filings referred to in Section 5.17. Each Loan Document has been duly executed and delivered on behalf of each Loan Party that is a party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party that is a party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law) and the implied covenants of good faith and fair dealing.

SECTION 5.5 **No Legal Bar**.

The execution, delivery and performance of this Agreement and the other Loan Documents, the borrowings hereunder and the use of the proceeds thereof will not (a) violate the organizational or governing documents of any of the Loan Parties, (b) violate, in any material respect, any applicable Requirement of Law or any material Contractual Obligation of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, or (c) result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any applicable Requirement of Law or any such Contractual Obligation (other than Liens required to be granted in favor of the Agent and the Term Agent pursuant to the Loan Documents).

SECTION 5.6 **No Material Litigation**.

No litigation, proceeding or, to the knowledge of the Parent and the Borrower, investigation of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Parent and the Borrower, likely to be commenced within a reasonable time period against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries or against any of their Properties or revenues which, taken as a whole, (a) are material and adverse with respect to any of the Loan Documents or (b) would reasonably be expected to have a Material Adverse Effect.

SECTION 5.7 **No Default**.

No Default or Event of Default has occurred and is continuing.

SECTION 5.8 **Ownership of Property; Liens**.

Except as set forth in Schedule 5.08(a), each of the Parent, Holdings, the Borrower and their respective Restricted Subsidiaries has good and marketable title in fee simple to, or a valid leasehold interest in or in the case of real property subject to a license, a right to use, all its real property, and good title to, or a valid leasehold interest in or right to use, all its other Property (other than Intellectual Property), in each case, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and none of such Property is subject to any Lien other than Liens permitted by Section 7.01. Schedule 5.08(b) lists all real property which is owned, leased or licensed to use by any Loan Party as of the Closing Date.

SECTION 5.9 **Intellectual Property**.

Each of the Parent, Holdings, the Borrower and its respective Restricted Subsidiaries owns, or has a valid license to use, all Intellectual Property necessary for the conduct of its business as currently conducted free and clear of all Liens, except for Liens permitted by Section 7.01 and except where the failure to so own or have a license to use would not reasonably be expected to have a Material Adverse Effect. To the Parent's, Holdings', and the Borrower's knowledge, no holding, injunction, decision or judgment has been rendered by any Governmental Authority and none of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries has entered into any settlement stipulation or other agreement (except license agreements in the ordinary course of business) which would cancel the validity of the Parent's, Holdings', the Borrower's or any Restricted Subsidiary's rights in any Intellectual Property owned by the Parent, Holdings, the Borrower or any Restricted Subsidiary (the "Borrower Intellectual Property") in any respect that would reasonably be expected to have a Material Adverse Effect. To the Parent's, Holdings' and the Borrower's knowledge, no pending claim has been asserted or threatened in writing by any Person challenging the use by the Parent, Holdings, the Borrower or any Restricted Subsidiaries of any Borrower Intellectual Property or the validity of any Borrower Intellectual Property, except in each case as would not reasonably be expected to have a Material Adverse Effect. To the Parent's, Holdings' and the Borrower's knowledge, the use of any Borrower Intellectual Property by the Parent, Holdings, the Borrower or its Restricted Subsidiaries does not infringe on the rights of any other Person in a manner that would reasonably be expected to have a Material Adverse Effect. The Parent, Holdings, the Borrower and its Restricted Subsidiaries have taken all commercially reasonable actions that in the exercise of their reasonable business judgment should be taken to protect the Borrower Intellectual Property, including Borrower Intellectual Property that is confidential in nature, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.10 **Taxes**.

Each of the Parent, Holdings, the Borrower and each of its Restricted Subsidiaries (i) has timely filed or caused to be filed all federal, state, provincial, territorial and other Tax returns that are required to be filed by it, and (ii) has duly and timely paid all Taxes due and payable and all other Taxes, fees or other charges imposed on it or any of its Property, assets, income, businesses and franchises by any Governmental Authority responsible for administering Taxes (other than any the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which any reserves required in conformity with GAAP have been provided on the books of the Parent, Holdings, the Borrower or such Restricted Subsidiary, as the case may be), except in each case where the failure to do so would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. There are no current, proposed or, to the knowledge of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, pending Tax assessments, deficiencies or audits against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, as the case may be, except those that are currently being contested in good faith by appropriate proceedings and with respect to which any reserves required in conformity with GAAP have been provided on the books of the Parent, Holdings, the Borrower or such Restricted Subsidiary, as the case may be, or that would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 5.11 **Federal Regulations**.

No part of the proceeds of any Loans, and no other extensions of credit hereunder, will be used for "buying" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect or for any purpose that violates the provisions of the regulations of the Federal Reserve Board. If requested by any Lender (through the Agent) or the

Agent, the Borrower will furnish to the Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1 referred to in Regulation U.

SECTION 5.12 **ERISA**.

(i) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) no Reportable Event has occurred with respect to any Single Employer Plan; (ii) no Single Employer Plan has failed to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA), nor applied for or received a waiver of the minimum funding standard or an extension of an amortization period within the meaning of Section 412 of the Code or Section 303 or 304 of ERISA during the five-year period prior to the date on which this representation is made; (iii) each Plan has complied with its terms and with all applicable laws, including without limitation the applicable provisions of ERISA and the Code; (iv) all contributions required to be made with respect to a Single Employer Plan have been made; (v) no termination of a Single Employer Plan has occurred, and no Lien in favor of the PBGC or a Single Employer Plan has arisen, during such five-year period; (vi) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Single Employer Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Single Employer Plan allocable to such accrued benefits; (vi) none of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries has incurred any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan; and (viii) none of the Parent, Holdings, the Borrower nor any of its Restricted Subsidiaries has had (or reasonably expects to have) a complete or partial withdrawal from any Multiemployer Plan that has resulted or would reasonably be expected to result in a liability under ERISA and, to the knowledge of the Parent and the Borrower, no Multiemployer Plan is Insolvent.

(ii) the Parent, Holdings, the Borrower and its Restricted Subsidiaries have not incurred, and do not reasonably expect to incur, any liability under ERISA or the Code with respect to any plan within the meaning of Section 3(3) of ERISA which is subject to Title IV of ERISA that is maintained by a Commonly Controlled Entity (other than the Parent, Holdings, the Borrower and its Restricted Subsidiaries) (a "Commonly Controlled Plan") merely by virtue of being treated as a single employer under Title IV of ERISA with the sponsor of such plan that would reasonably be likely to have a Material Adverse Effect and result in a direct obligation of the Parent, Holdings, the Borrower and its Restricted Subsidiaries to pay money.

(iii) With respect to any Non-U.S. Plan, none of the following events or conditions exists and is continuing that, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect: (a) substantial non-compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders; (b) failure to be maintained, where required, in good standing with applicable regulatory authorities; (c) any obligation of the Parent or its Subsidiaries in connection with the termination or partial termination of, or withdrawal from, any such Non-U.S. Plan; (d) any Lien on the property of the Parent or its Subsidiaries in favor of a Governmental Authority as a result of any action or inaction regarding such a Non-U.S. Plan; (e) for each such Non-U.S. Plan which is a funded or insured plan, failure to be funded or insured on an ongoing basis to the extent required by applicable non-U.S. law (using actuarial methods and assumptions which are consistent with the valuations last filed with the applicable Governmental Authorities); (f) any facts that, to the best knowledge of the Parent or any of its Subsidiaries, exist that would reasonably be expected to give rise to a dispute and any pending or threatened disputes that, to the best knowledge of the Parent or any of its Subsidiaries, would reasonably be expected to result in a material liability to the Parent or any of its Subsidiaries concerning the assets of any such Non-U.S. Plan (other than individual claims for the payment of benefits); and (g) failure to make all contributions in a timely manner to the extent required by applicable non-U.S. law.

SECTION 5.13 **Investment Company Act**.

No Loan Party or any Subsidiary thereof is an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

SECTION 5.14 **Subsidiaries**.

(i) The Subsidiaries listed on Schedule 5.14 constitute all the Subsidiaries of the Parent or Holdings at the Closing Date. Schedule 5.14 sets forth as of the Closing Date the name and jurisdiction of incorporation of each Subsidiary and, as to each Subsidiary, the percentage of each class of Equity Interests owned by any Loan Party and the designation of such Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary. There are no Excluded Subsidiaries as of the Closing Date.

(ii) As of the Closing Date, except as set forth on Schedule 5.14, there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments of any nature relating to any Equity Interests of the Borrower or any of its Restricted Subsidiaries.

SECTION 5.15 **Environmental Compliance**.

Other than exceptions to any of the following that would not reasonably be expected to have a Material Adverse Effect: none of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law for the operation of the business or (ii) has become subject to any Environmental Liability.

SECTION 5.16 **Accuracy of Information, etc**.

No statement or information (excluding the projections and pro forma financial information referred to below and information of a general economic or general industry nature) contained in this Agreement, any other Loan Document or any report or certificate furnished to the Agent or the Lenders or any of them, by or on behalf of any Loan Party for use in connection with the transactions contemplated by this Agreement or the other Loan Documents when taken as a whole, contained as of the date such statement, information, or certificate was so furnished, any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements contained herein or therein not materially misleading in light of the circumstances under which such statements contained therein. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events, including the Financial Performance Projections, is not to be viewed as fact, that such financial information is subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties, that no assurance can be given that the projected results will be realized, and that actual results during the period or periods covered by such projections and financial information may differ significantly from the projected results set forth therein by a material amount. There is no fact known to any Loan Party that could reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein, in the other Loan Documents or in any other documents, certificates and statements furnished to the Agent and the Lenders for use in connection with the transactions contemplated hereby and by the other Loan Documents.

SECTION 5.17 **Security Documents**.

(i) The Security Documents are effective to create in favor of the Agent for the benefit of the Secured Parties referred to therein, a legal, valid and enforceable security interest (except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law) and the implied covenants of good faith and fair dealing) in the Collateral described therein (including any proceeds of any item of Collateral) to the extent required by the Security Documents. In the case of (i) the Pledged Securities described in the Security Agreement, when any stock certificates or notes, as applicable, representing such Pledged Securities are delivered to the Term Agent (as agent for the Agent pursuant to the Intercreditor Agreement) and (ii) the other Collateral described in the Security Documents, when financing statements in appropriate form are filed, within the time periods (if any) required by applicable law, in the offices specified on Schedule 5.17 (which financing statements have been duly completed and executed (as applicable) and delivered to the Agent) and such other filings as are specified on Schedule 5.17 are made, the Agent shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral (including any proceeds of any item of Collateral) (to the extent a security interest in such Collateral can be perfected through the filing of financing statements in the offices specified on Schedule 5.17 and the filings specified on Schedule 5.17, and through the delivery of the Pledged Securities required to be delivered on the Closing Date), as security for the Obligations, in each case prior and superior in right to any other Person (except (i) Liens in favor of the Term Agent, (ii) in the case of Collateral other than Pledged Securities, Liens permitted by Section 7.01 and (iii) Liens permitted by Section 7.01 which otherwise, by operation of law or contract, have priority over the Liens securing the Obligations) to the extent required by the Security Documents.

(ii) Upon the execution and delivery of any Mortgage to be executed and delivered pursuant to Section 4.01(m) and Section 6.11(c), such Mortgage shall be effective to create in favor of the Agent for the benefit of the Secured Parties a legal, valid and enforceable Lien on the mortgaged property described therein and proceeds thereof; and when such Mortgage is filed in the recording office designated by the Borrower, such Mortgage shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such mortgaged property and the proceeds thereof, as security for the Obligations (as defined in the relevant Mortgage), in each case prior and superior in right to any other Person (subject to the Intercreditor Agreement, Liens permitted by Section 7.01 or other encumbrances or rights permitted by the relevant Mortgage).

SECTION 5.18 **Solvency**.

After giving effect to the transactions contemplated by this Agreement, and before and after giving effect to each Credit Extension, the Loan Parties, on a Consolidated basis, are and will be Solvent.

SECTION 5.19 **Senior Indebtedness**.

All Borrowings permitted under this Agreement are, and when incurred or issued will be, permitted under (and shall give rise to no breach or violation of) the Term Facility any other Junior Indebtedness or any Permitted Amendment or Refinancing of any of the foregoing (or under the definitive documentation relating thereto).

SECTION 5.20 **Labor Matters**.

There are no strikes or other labor disputes against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries pending or, to the knowledge of the Parent, Holdings or the Borrower, threatened that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect. Hours worked by and payment made to employees of the Parent, Holdings, the Borrower and its Restricted

Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect. All payments due from the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries on account of employee health and welfare insurance that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect if not paid have been paid or accrued as a liability on the books of the Parent, Holdings, the Borrower or the relevant Restricted Subsidiary.

SECTION 5.21 **Regulation H.** No Mortgage encumbers improved real property that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968.

SECTION 5.22 **Anti-Money Laundering and Economic Sanctions Laws**.

(i) No Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or, to the knowledge of senior management of each Loan Party, Affiliate (i) has violated or is in violation of any applicable Anti-Money Laundering Law or (ii) has engaged or engages in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds of the Loans from any category of offenses designated in any applicable law, regulation or other binding measure implementing the "Forty Recommendations" and "Nine Special Recommendations" published by the Organization for Economic Co-operation and Development's Financial Action Task Force on Money Laundering.

(ii) No Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or, to the knowledge of senior management of each Loan Party, such Affiliate that is acting or benefiting in any capacity in connection with the Loans is an Embargoed Person.

(iii) Except as otherwise authorized by OFAC, to the extent applicable to such Person, no Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or, to the knowledge of senior management of each Loan Party, such Affiliate acting or benefiting in any capacity in connection with the Loans (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Embargoed Person, (ii) deals in, or otherwise engages in any transaction related to, any property or interests in property blocked pursuant to any applicable Economic Sanctions Laws or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the applicable prohibitions set forth in any Economic Sanctions Laws.

SECTION 5.23 **Insurance**.

The properties of the Loan Parties and the Restricted Subsidiaries are insured with financially sound and reputable insurance companies (after giving effect to any self-insurance compatible with the following standards) which are not Affiliates of the Loan Parties, in such amounts, with such deductibles and covering such risks (including, without limitation, workmen's compensation, public liability, business interruption, property damage and directors and officers liability insurance) as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Loan Parties or the applicable Restricted Subsidiary operates. Schedule 5.23 sets forth a description of all insurance maintained

by or on behalf of the Loan Parties and the Restricted Subsidiaries as of the Closing Date. As of the Closing Date, each insurance policy listed on Schedule 5.23 is in full force and effect and all premiums in respect thereof that are due and payable have been paid.

SECTION 5.24 **Deposit Accounts; Credit Card Arrangements**.

(i) Annexed hereto as Schedule 5.24(a) is a list of all DDAs, Securities Accounts, collections accounts, concentration accounts, checking accounts, and lockboxes maintained by the Loan Parties as of the Closing Date, which Schedule includes, with respect to each DDA and Securities Account (i) the name and address of the depository or intermediary; (ii) the account number(s) maintained with such depository or intermediary; (iii) a contact person at such depository or intermediary, (iv) the identification of each Blocked Account Bank, and (v) whether such DDA is an Excluded DDA or a Retail DDA, if applicable.

(ii) Annexed hereto as Schedule 5.24(b) is a list of all agreements as of the Closing Date to which any Loan Party is a party with respect to the processing and/or payment to such Loan Party of the proceeds of any credit card charges and debit card charges for sales made by such Loan Party.

SECTION 5.25 **EEA Financial Institution**.

No Loan Party is an EEA Financial Institution.

SECTION 5.26 **Casualty, Etc**.

Neither the business nor the properties of any Loan Party or any of its Subsidiaries are affected by any fire, explosion, accident, strike, drought, storm, hail, earthquake, embargo or other casualty (whether or not covered by insurance) that, either individually or in the aggregate, has had a Material Adverse Effect.

ARTICLE VI
AFFIRMATIVE COVENANTS

Until the Payment in Full of the Obligations, each Loan Party shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, and 6.03) cause each Restricted Subsidiary to:

SECTION 6.1 **Financial Statements**.

Furnish to the Agent for delivery to each Lender (which may be electronically delivered):

(i) within 120 days after the end of each Fiscal Year of the Parent (or, in the case of the Fiscal Year ending on February 1, 2020, on or before June 15, 2020), commencing with the Fiscal Year ending on or around February 1, 2019, (x) a copy of the audited consolidated balance sheet of Parent, Holdings, the Borrower and its Subsidiaries as at the end of such Fiscal Year and the related audited consolidated statements of income, stockholders' equity and cash flows as of the end of and for such Fiscal Year, setting forth in each case in comparative form the figures as of the end of and for the previous Fiscal Year, reported on by independently certified public accountants of nationally recognized standing (without a "going concern" or like qualification or exception as to the scope of such audit, other than any such qualification or exception resulting from (i) an upcoming maturity date of the Term Facility or of the Obligations or (ii) the inability or potential inability to satisfy the Financial Covenant or the financial covenant set forth in Section 7.18 of the Term Loan Agreement on a future date or in a future period) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Parent, Holdings, the Borrower and its Subsidiaries on a

Consolidated basis in accordance with GAAP, and (y) to the extent required under SEC reporting requirements, an opinion of such Registered Public Accounting Firm independently assessing Loan Parties' internal controls over financial reporting in accordance with Item 308 of SEC Regulation S-K, PCAOB Auditing Standard No. 2, and Section 404 of Sarbanes-Oxley expressing a conclusion that contains no statement that there is a material weakness in such internal controls;

(ii) not later than 60 days after the end of each of the first three Fiscal Quarters of each Fiscal Year of the Parent (or in the case of the Fiscal Quarter ending on or around (x) May 2, 2020, by no later than July 31, 2020 and (y) August 1, 2020, by no later than October 29, 2020) commencing with the Fiscal Quarter ending on or around November 4, 2018 (provided, that for the Fiscal Quarter ending on or around November 4, 2018, such financial statements shall be due within the time period prescribed by the SEC reporting requirements), the unaudited consolidated balance sheet of the Parent, Holdings, the Borrower and its Subsidiaries as at the end of such Fiscal Quarter and the related unaudited consolidated statements of income, stockholders' equity and cash flows for such Fiscal Quarter and the then elapsed portion of the current Fiscal Year, setting forth in each case in comparative form (i) the figures as of the end of and for the corresponding period in the previous Fiscal Year, and (ii) the figures for such period set forth in the projections delivered pursuant to Section 6.02(d) hereof, in each case, certified by a Responsible Officer as being fairly stated in all material respects (subject only to normal year-end audit adjustments and the lack of notes);

(iii) not later than 30 days (or in the case of a Fiscal Month that is also a Fiscal Quarter end, 45 days, and in the case of the last Fiscal Month of each Fiscal Year, 60 days) after the end of each Fiscal Month of each Fiscal Year of the Parent, the unaudited consolidated balance sheet of the Parent, Holdings, the Borrower and its Subsidiaries as at the end of such Fiscal Month and the related unaudited consolidated statements of income and the related unaudited consolidated statements of income, and cash flows as of the end of and for such Fiscal Month and the portion of the Fiscal Year through the end of such Fiscal Month, setting forth in each case in comparative form (i) the figures as of the end of and for the corresponding period in the previous Fiscal Year, and (ii) the figures for such period set forth in the projections delivered pursuant to Section 6.02(d) hereof, in each case, certified by a Responsible Officer as being fairly stated in all material respects (subject only to normal year-end audit adjustments and the lack of notes); and

(iv) all such financial statements to be complete and correct in all material respects and to be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods (except as approved by such accountants or officer, as the case may be, and disclosed therein and except, in the case of the financial statements referred to in clauses (b) and (c), for customary year-end adjustments and the absence of footnotes);

If the Parent has filed (within the time period required above) a Form 10-Q or 10-K, as applicable, with the SEC for any fiscal quarter or fiscal year described above, then to the extent that such quarterly or annual report on Form 10-Q or 10-K contains any of the foregoing items, the Lenders will accept such Form 10-Q or 10-K in lieu of such items; provided that such filings shall be delivered to the Agent and each Lender in the same manner as set forth below. Documents required to be delivered pursuant to this Section 6.01 may be delivered by posting such documents electronically with notice of such posting to the Agent and each Lender and, if so posted, such documents shall be deemed to have been delivered on the date on which the Borrower posts such documents or provides a link thereto on the Borrower's website listed on Schedule 10.02 or another public website (including EDGAR or any successor system thereto) to which the Borrower may so direct the Agent and the Lenders.

SECTION 6.2 **Certificates; Other Information**.

Furnish to the Agent, in form and detail reasonably, satisfactory to the Agent, for delivery to each Lender, or, in the case of clause (i), to the relevant Lender:

(i) concurrently with the delivery of the financial statements referred to in Section 6.01(a), a certificate of the independent certified public accountants of the Parent in customary form reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate (which certificate may be limited to the extent required by accounting rules or guidelines and will not be required if such accountants no longer provide such certificates to its customers (or their lenders) generally);

(ii) concurrently with the delivery of any financial statements pursuant to Section 6.01 or immediately upon the occurrence of a Covenant Compliance Event or Extended Accommodation Period Compliance Event, (i) a Compliance Certificate executed by a Responsible Officer on behalf of the Parent stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate and (ii) (x) all information and calculations necessary for determining compliance by the Parent, Holdings, the Borrower and its Restricted Subsidiaries with the provisions of Section 7.18, including a calculation of the Consolidated Fixed Charge Coverage Ratio as of the last day of the Fiscal Month most recently ended, regardless of whether or not the financial covenants contained in Section 7.18 are required to be complied with in such Fiscal Month, and (y) to the extent not previously disclosed to the Agent, a description of any new Subsidiary and a listing of any new registrations, and applications for registration, of Intellectual Property acquired or made by any Loan Party since the date of the most recent list delivered pursuant to this clause (y) (or, in the case of the first such list so delivered, since the Closing Date);

(iii) on the fifteenth (15th) Business Day after the end of each Fiscal Month (or, if such day is not a Business Day, on the next succeeding Business Day), or weekly at the Borrower's discretion (provided that if the Borrower elects to provide weekly Borrowing Base Certificates the Borrower must do so for a period of at least eight consecutive weeks), (x) a Borrowing Base Certificate showing the Borrowing Base as of the close of business as of the last day of the immediately preceding Fiscal Month, each Borrowing Base Certificate to be certified as complete and correct in all material respects by a Responsible Officer of the Borrower; provided that at any time that an Accelerated Borrowing Base Delivery Event has occurred and is continuing, such Borrowing Base Certificate shall be delivered on Wednesday of each week (or, if Wednesday is not a Business Day, on the next succeeding Business Day), as of the close of business on the immediately preceding Saturday (it being understood and agreed that any Borrowing Base Certificate delivered during the Accommodation Period in accordance with this provision shall be understood to have been delivered subject to Borrower's knowledge at the date of issuance and without performing customary monthly accounting procedures), (y) together with each delivery of a Borrowing Base Certificate, in a form reasonably acceptable to Agent, (1) reconciliations of the Accounts and Inventory as shown on the month-end Borrowing Base Certificate for the immediately preceding month, detailing the ineligibles and Reserves calculations and (2) such other collateral reports and information as the Agent may reasonably request, all with supporting materials as Agent shall reasonably request and (z) together with each delivery of a Borrowing Base Certificate, a Term Loan Borrowing Base Certificate and all supporting information in respect thereof delivered to the Term Agent;

(iv) as soon as available, but in any event not later than 45 days after the end of each Fiscal Year of the Parent (commencing with the Fiscal Year ending on or nearest to February 1, 2019), a detailed consolidated budget for the following fiscal year (including a projected consolidated balance sheet of the Parent, Holdings, the Borrower and its Subsidiaries and the related consolidated statements of projected cash flow and projected income, together with a projection of the Borrowing Base, Excess Availability and the Term Loan Reserve, in each case prepared on a month by month basis);

(v) promptly upon delivery thereof to the Parent, Holdings or the Borrower and to the extent permitted, copies of any accountants' letters addressed to its Board of Directors (or any committee thereof);

(vi) promptly after the same are sent, copies of all financial statements and reports that the Parent, Holdings or the Borrower sends to the holders of any class of its debt securities or public equity securities (except for materials sent solely to Permitted Investors) and, promptly after the same are filed, copies of all financial statements and reports that the Parent, Holdings or the Borrower may make to, or file with, the SEC, in each case to the extent not already provided pursuant to Section 6.01 or any other clause of this Section 6.02;

(vii) the financial and collateral reports described on Schedule 6.02 hereto, at the times set forth in such Schedule;

(viii) promptly, (A) such additional financial and other information as the Agent (for its own account or upon the reasonable request from any Lender) and (B) such other information and documentation the Agent or any Lender, for purposes of compliance with applicable "know your customer" requirements under the USA Patriot Act, the Beneficial Ownership Regulation or other applicable anti-corruption and anti-terrorism laws, may from time to time reasonably request;

(ix) concurrently with the delivery of any financial statements pursuant to Section 6.01, a copy of management's discussion and analysis with respect to such financial statements in the form included with the Parent's financial reporting to the SEC; and

(x) promptly following receipt, copies of any amendments, modifications, consents, waivers and forbearances under the Term Loan Documents and any material notices received from any lender or agent of, under or with respect to the Term Loan Facility not otherwise provided to the Agent under this Agreement and the other Loan Documents; and

(xi) promptly following receipt, copies of any amendments, modifications, consents, waivers and forbearances under the Third Lien Loan Documents and any material notices received from any lender or agent of, under or with respect to the Subordinated Indebtedness incurred thereunder not otherwise provided to the Agent under this Agreement and the other Loan Documents.

Documents required to be delivered pursuant to Section 6.01(a), (b), or (c) or Section 6.02(d) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Agent have access (whether a commercial, third-party website or whether sponsored by the Agent).

The Loan Parties hereby acknowledge that (a) the Agent and/or the Arranger will make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Loan Parties hereunder (collectively, "Borrower Materials") by delivering the Borrower Materials via electronic mail or posting the Borrower Materials on Debt Domain, IntraLinks, Syndtrak or another similar electronic system (the "Platform") and (b) certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Loan Parties or their securities) (each, a "Public Lender"). The Loan Parties hereby agree that they will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall

mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Loan Parties shall be deemed to have authorized the Agent, the Arranger, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Loan Parties or their securities for purposes of United States Securities Laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Investor"; and (z) the Agent and the Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Investor."

SECTION 6.3 **Notices**.

Promptly upon a Responsible Officer of the Parent or any Loan Party obtaining knowledge thereof, give notice to the Agent of:

(i) of the occurrence of any Default or Event of Default;

(ii) any litigation, investigation or proceeding which may exist at any time between the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries and any other Person, that in either case, could reasonably be expected to have a Material Adverse Effect;

(iii) the following events, that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, as soon as possible and in any event within 30 days after the Parent, the Borrower or any of its Restricted Subsidiaries knows thereof, as applicable: (i) the occurrence of any Reportable Event with respect to any Single Employer Plan, (ii) that a Single Employer Plan has failed to satisfy the minimum funding standards within the meaning of Section 412 of the Code or Section 302 of ERISA, or an application may be or has been made for a waiver or modification of the minimum funding standard (including any required installment payments) or an extension of any amortization period under Section 412 of the Code or Section 303 or 304 with respect to a Single Employer Plan, (iii) a failure to make any required contribution to a Single Employer Plan or Non-U.S. Plan, (iv) Parent, Holdings, the Borrower or any of its Restricted Subsidiaries incurs any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (v) the creation of any Lien in favor of the PBGC or a Single Employer Plan, (vi) or any withdrawal from, or the termination or partial termination or Insolvency of any Multiemployer Plan, (vii) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Single Employer Plans), as of any applicable annual valuation date, exceeds the value of the assets of such Single Employer Plan allocable to such accrued benefits, (viii) the institution of proceedings or the taking of any other action by the PBGC or the Parent or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination or partial termination or Insolvency of, any Plan, (ix) any Non-U.S. Plan fails to obtain or retain (as applicable) registered status under and as required by applicable law and/or be administered in a timely manner in all respects in compliance with all applicable laws, or (x) the occurrence of any similar events with respect to a Commonly Controlled Plan, that would reasonably be likely to result in a direct obligation of the Parent, the Borrower or any of its Restricted Subsidiaries to pay money;

(iv) the occurrence of any default under the Tax Receivable Agreement;

(v) any development or event that has had or could reasonably be expected to have a Material Adverse Effect;

(vi) the acquisition of any Property after the Closing Date in which the Agent does not already have a perfected security interest and in which a security interest is required to be created or perfected pursuant to Section 6.11;

(vii) of any casualty or other insured damage to any material portion of the ABL Priority Collateral or the commencement of any action or proceeding for the taking of any interest in a material portion of the ABL Priority Collateral under power of eminent domain or by condemnation or similar proceeding or if any material portion of the ABL Priority Collateral is damaged or destroyed;

(viii) the occurrence of any default or event of default under the Term Facility or the Third Lien Credit Agreement;

(ix) of any material change in accounting policies or financial reporting practices by any Loan Party or any Subsidiary thereof;

(x) of the filing of any Lien for unpaid Taxes against any Loan Party in excess of $2,500,000;

(xi) of any failure by any Loan Party to pay rent (which failure continues for more than ten (10) days following the day on which such rent first came due) at (i) any of the Loan Parties' distribution centers, fulfillment centers or warehouses; (ii) ten percent (10%) or more of such Loan Party's store locations or any of such Loan Party's other locations if such failure would be reasonably likely to result in a Material Adverse Effect;

(xii) of any change in: (i) any Loan Party's legal name; (ii) the location of any Loan Party's chief executive office or its principal place of business or any office in which it maintains books or records relating to Collateral; (iii) any Loan Party's organizational form (e.g., corporation, limited liability company, partnership, etc.) or jurisdiction of incorporation or formation; or (iv) any Loan Party's Federal Taxpayer Identification Number, in each case no later than 10 days before the occurrence of such change (or such lesser period as agreed to by the Agent in its Permitted Discretion); and

(xiii) of the movement of Collateral with a value in excess of $500,000 in the aggregate to a location not previously disclosed to the Agent (including the establishment of any new office or facility but excluding Collateral out for repair and, for the avoidance of doubt, Collateral in transit between locations previously disclosed to the Agent) no later than 30 days after taking such action (or such later time as agreed to by the Agent in its Permitted Discretion);

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Parent, Holdings, the Borrower or the relevant Restricted Subsidiary has taken or proposes to take with respect thereto.

SECTION 6.4 **Payment of Obligations**.

Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its material obligations and liabilities, including Taxes, governmental assessments and governmental charges, except (i) where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves required in conformity with GAAP with respect thereto have been provided on the books of the Parent, Holdings, the Borrower or its Subsidiaries, as the case may be, and such contest effectively suspends collection of the contested obligation and enforcement of any Lien securing such obligation, (ii) to the extent that failure to pay or satisfy such obligations could not, in the aggregate, reasonably be expected to have a Material Adverse Effect or (iii) in connection with any rental

payments or other obligations in respect to Leases to which any Loan Party or any of its Restricted Subsidiaries is a party during the months ended June 30, 2020, July 31, 2020, August 31, 2020 and September 30, 2020 (the "COVID Lease Exception Period"), so long as (x) no more than twenty-five percent (25%) of Leases for stores in the aggregate are terminated by the owners of such stores during such months and (y) no Leases related to the Borrower's Headquarters are terminated by the owners of such headquarters. Nothing contained herein shall be deemed to limit the rights of the Agent with respect to determining Reserves pursuant to this Agreement.

SECTION 6.5 **Preservation of Existence, Etc.**

(i) (i) Preserve, renew and keep in full force and effect its corporate or other existence and (ii) take all reasonable action to maintain all rights (other than Intellectual Property rights, the maintenance of which is addressed in Section 6.06(c)), privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Section 7.04 or except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (b) comply with all applicable Requirements of Law except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

SECTION 6.6 **Maintenance of Properties**.

(i) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in reasonably good working order and condition, ordinary wear and tear excepted; and

(ii) Take all commercially reasonable and necessary steps, including, in any proceeding before the United States Patent and Trademark Office or the United States Copyright Office to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of the Borrower Intellectual Property, including, filing of applications for renewal, affidavits of use and affidavits of incontestability, except in each case to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect.

SECTION 6.7 **Maintenance of Insurance**.

(i) Maintain, with financially sound and reputable insurance companies, insurance on all its material Property in at least such amounts and against at least such risks (but including in any event public liability, product liability and business interruption) as are usually insured against in the same general area by companies engaged in the same or a similar business. All such insurance shall, to the extent customary (but in any event, not including business interruption insurance and personal injury insurance) (i) provide that no cancellation thereof shall be effective until at least 10 days after receipt by the Agent of written notice thereof and (ii) name the Agent as insured party or lender's loss payee.

(ii) If any portion of any Property subject to a Mortgage is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then the Borrower shall, or shall cause each Loan Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Agent evidence of such compliance in form and substance reasonably acceptable to the Agent.

(iii) (i) Cause fire and extended coverage policies maintained with respect to any Collateral to be endorsed or otherwise amended to include (A) a non-contributing mortgage clause (regarding improvements to real estate) and lenders' loss payable clause (regarding personal property), in form and substance reasonably satisfactory to the Agent, which endorsements or amendments shall provide that the insurer shall pay all proceeds otherwise payable to the Loan Parties under the policies directly to the Agent, (B) a provision to the effect that none of the Loan Parties, Credit Parties or any other Person shall be a co-insurer and (C) such other provisions as the Agent may reasonably require from time to time to protect the interests of the Credit Parties, (ii) cause commercial general liability policies to be endorsed to name the Agent as an additional insured, (iii) cause business interruption policies to name the Agent as a loss payee, and (iv) cause each such policy referred to in this Section 6.07 to also provide that it shall not be canceled, modified or not renewed (A) by reason of nonpayment of premium except upon not less than ten (10) days' prior written notice thereof by the insurer to the Agent (giving the Agent the right to cure defaults in the payment of premiums) or (B) for any other reason except upon not less than thirty (30) days' prior written notice thereof by the insurer to the Agent.

(iv) Deliver to the Agent, prior to the cancellation, modification materially adverse to the Lenders or non-renewal of any such policy of insurance, notice of such cancellation, modification or non-renewal and, if requested by the Agent, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Agent, including an insurance binder) together with evidence reasonably satisfactory to the Agent of payment of the premium therefor.

SECTION 6.8 **Compliance with Requirements of Laws**.

Comply in all material respects with the Requirements of Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except if the failure to comply therewith could not reasonably be expected individually or in the aggregate to have a Material Adverse Effect.

SECTION 6.9 **Designation as Senior Indebtedness**.

Designate all Obligations as "Designated Senior Indebtedness" (or such similar term) under, and defined in, any documents, agreements, or indentures relating to or evidencing any Junior Indebtedness that is subordinated Indebtedness and all supplements thereto.

SECTION 6.10 **Inspection Rights**.

(i) (i) Keep proper books of records and account in which full, true and correct entries in conformity with GAAP and all applicable Requirement of Law shall be made of all material dealings and transactions in relation to its business and activities, (ii) permit representatives of any Lender to visit and inspect any of its properties (in the case of any real property lease, to the extent permitted in the relevant lease agreement) and examine and make abstracts from any of its books and records upon reasonable prior notice and during normal business hours (provided that such visits shall be coordinated by the Agent), (iii) permit representatives of any Lender to have reasonable discussions regarding the business, operations, properties and financial and other condition of the Parent, Holdings, the Borrower and its Restricted Subsidiaries with officers and employees of the Parent, Holdings, the Borrower and its Restricted Subsidiaries, and (provided that any Lender shall coordinate any request for such discussions through the Agent), (iv) permit representatives of the Agent to have reasonable discussions regarding the business, operations, properties and financial and other condition of the Parent, Holdings, the Borrower and its Restricted Subsidiaries with its independent certified public accountants; provided that a Responsible Officer of the Parent or the Borrower shall be present during such discussion and any such discussions with the Parent's independent certified public accountants at the Parent's expense shall, except while an Event of Default has occurred and is continuing, be limited to one meeting per calendar year; provided, however,

that when an Event of Default exists the Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Loan Parties at any time during normal business hours with reasonable prior notice.

(ii) Upon the request of the Agent after reasonable prior written notice, permit the Agent or professionals (including investment bankers, consultants, accountants, lawyers and appraisers) retained by the Agent to conduct commercial finance examinations and inventory appraisals, including, without limitation, of (i) the Borrower's practices in the computation of the Borrowing Base and (ii) the assets included in the Borrowing Base and related financial information such as, but not limited to, sales, gross margins, payables, accruals and reserves. Subject to the immediately succeeding sentence, the Loan Parties shall pay the reasonable and documented out-of-pocket fees and expenses of the Agent and such professionals with respect to such examinations and inventory appraisals including, for the avoidance of doubt, in connection with the Updated 2020 Appraisal/Exam. The Agent may conduct (A) one (1) commercial finance examinations and one (1) inventory appraisals in any twelve month period at the Borrower's expense, provided that, in the event that Excess Availability is less than 20% of the Loan Cap for longer than three (3) consecutive Business Days, the Agent may undertake two (2) commercial finance examinations and two (2) inventory appraisals in any twelve month period (inclusive of any commercial finance examinations or inventory appraisals already conducted during such period) at the Borrower's expense and (B) additional commercial finance examinations and inventory appraisals as the Agent may require in its reasonable discretion if an Event of Default has occurred and is continuing, at the expense of the Borrower. The Agent shall have received the Updated 2020 Appraisal/Exam by, with respect to the examination, November 15, 2020 and, with respect to the inventory appraisal, by November 15, 2020.

SECTION 6.11 **Additional Collateral and Additional Loan Parties.**

(i) With respect to any Property (other than Excluded Property (as defined in the Security Documents)) located in the United States acquired after the Closing Date by any Loan Party (other than (x) any interests in real property and any Property described in paragraph (b) of this Section 6.11, (y) any Property subject to a Lien expressly permitted by Section 7.01(g) and (z) Instruments, Certificated Securities, Securities and Chattel Paper (each as defined in the Security Agreement), which are referred to in the last sentence of this paragraph (a)) as to which the Agent for the benefit of the Secured Parties does not have a perfected Lien, promptly (i) give notice of such Property to the Agent and execute and deliver to the Agent such amendments to the Security Documents or such other documents as the Agent reasonably requests to grant to the Agent for the benefit of the Secured Parties a security interest in such Property and (ii) take all actions reasonably requested by the Agent to grant to the Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents and with the priority required hereunder) in such Property (with respect to Property of a type owned by a Loan Party as of the Closing Date to the extent the Agent for the benefit of the Secured Parties, has a perfected security interest in such Property as of the Closing Date), including, without limitation, if applicable, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Security Documents or by law or as may be reasonably requested by the Agent. Any Instrument, Certificated Security (other than in respect of the Equity Interests of any Subsidiary to the extent that the delivery of certificates representing such Equity Interests are not otherwise required to be delivered pursuant to clause (c) or (d) below), Security or Chattel Paper in excess of $500,000 shall be promptly delivered to the Agent indorsed in a manner reasonably satisfactory to the Agent to be held as Collateral pursuant to the relevant Security Document.

(ii) With respect to any fee interest in any real property located in the United States having a value (together with improvements thereof) of at least $2,000,000 acquired after the Closing Date by any Loan Party (other than any such real property subject to a Lien expressly permitted by Section 7.01(g)), (i) give notice of such acquisition to the Agent and execute and deliver a first priority

Mortgage (subject to Liens permitted by Section 7.01) in favor of the Agent for the benefit of the Secured Parties, covering such real property (provided that no Mortgage nor survey shall be obtained if the Agent determines in consultation with the Borrower that the costs of obtaining such Mortgage or survey are excessive in relation to the value of the security to be afforded thereby), (ii) provide the Lenders with (1) a lenders' title insurance policy with extended coverage covering such real property in an amount at least equal to the purchase price of such real property (or such other amount as shall be reasonably specified by the Agent) as well as (2) "Life-of-Loan" flood hazard determination (together with an executed notice to the Borrower) and evidence of flood insurance, if applicable and (3) a current ALTA survey thereof, together with a surveyor's certificate unless the title insurance policy referred to above shall not contain an exception for any matter shown by a survey (except to the extent an existing survey has been provided and specifically incorporated into such title insurance policy) and shall include all reasonably requested survey-related endorsements, each in form and substance reasonably satisfactory to the Agent, and (iii) deliver to the Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Agent.

(iii) With respect to any new Domestic Subsidiary that is a Material Subsidiary (and is not an Unrestricted Subsidiary) created or acquired after the Closing Date (which, for the purposes of this paragraph, shall include (x) any previously non-wholly owned Domestic Subsidiary that becomes wholly owned and is a Material Subsidiary (and is not an Unrestricted Subsidiary) and (y) any Domestic Subsidiary that was previously an Immaterial Subsidiary or an Unrestricted Subsidiary and becomes a Material Subsidiary (and is not an Unrestricted Subsidiary) or a Restricted Subsidiary, as applicable) by any Loan Party, promptly (i) give notice of such acquisition or creation or becoming a Material Subsidiary to the Agent and, if requested by the Agent, execute and deliver to the Agent such amendments to the Security Documents or such other documents as the Agent reasonably deems necessary to grant to the Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents and with the priority required hereby) in the Equity Interests of such new Subsidiary that is owned by such Loan Party, (ii) deliver to the Agent copies the certificates, if any, representing such Equity Interests, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of such Loan Party (with originals to be delivered to the Term Agent), and (iii) if such new Subsidiary is a wholly owned Domestic Subsidiary (and is not an Unrestricted Subsidiary or an Immaterial Subsidiary), cause such new Subsidiary (A) to provide a Facility Guaranty and become a party to the Security Documents and (B) to take such actions necessary or advisable to grant to the Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents and with the priority required hereby) in the Collateral described in the Security Documents with respect to such new Subsidiary (to the extent the Agent, for the benefit of the Secured Parties, has a perfected security interest in the same type of Collateral as of the Closing Date), including, without limitation, if applicable, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Security Documents or by law or as may be reasonably requested by the Agent.

(iv) With respect to any new first tier Foreign Subsidiary that is a Material Subsidiary (and is not an Unrestricted Subsidiary) created or acquired after the Closing Date (which, for the purposes of this paragraph, shall include any first-tier Foreign Subsidiary that previously was an Immaterial Subsidiary or an Unrestricted Subsidiary and becomes a Material Subsidiary or a Restricted Subsidiary, as applicable) by any Loan Party, promptly (i) give notice of such acquisition or creation to the Agent and, if requested by the Agent, execute and deliver to the Agent such amendments to the Security Documents or such other documents as the Agent deems necessary or reasonably advisable in order to grant to the Agent, for the benefit of the Secured Parties, a perfected security interest (to the extent required by the Security Documents and with the priority required hereby) in the Equity Interests of such new Subsidiary that is owned by such Loan Party (provided that in no event shall more than 65% of the total outstanding voting Equity Interests of any Foreign Subsidiary be required to be so pledged except to the extent such Foreign Subsidiary is a Loan Party hereunder), and, if applicable, (ii) to the extent permitted by applicable law,

deliver to the Agent copies of the certificates, if any, representing such Equity Interests, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of such Loan Party (with originals to be delivered to the Term Agent), and take such other action as may be necessary or, in the reasonable opinion of the Agent, necessary to perfect or ensure appropriate priority the Lien of the Agent thereon.

Notwithstanding any provision set forth herein or in any other Loan Documents to the contrary, in no event shall (x) any Foreign Subsidiary be required to guarantee the obligations of the Borrower or any Domestic Subsidiary, (y) the assets of any Foreign Subsidiary constitute security or secure, or such assets or the proceeds of such assets be required to be available for, payment of the obligations of the Borrower or any Domestic Subsidiary, or (z) more than 65% of the voting stock of any Foreign Subsidiary directly held by the Borrower and its Domestic Subsidiaries be required to be pledged to secure the obligations of the Borrower or any Domestic Subsidiary.

In no event shall compliance with this Section 6.11 waive or be deemed a waiver or Consent to any transaction giving rise to the need to comply with this Section 6.11 if such transaction was not otherwise expressly permitted by this Agreement or constitute or be deemed to constitute, with respect to any Subsidiary, an approval of such Person as the Borrower or permit the inclusion of any acquired assets in the computation of the Borrowing Base.

SECTION 6.12 **Cash Management**.

(i) On the date which is 30 days after the Closing Date (or such later date as the Agent may reasonably agree, such agreement not to be unreasonably withheld, delayed, conditioned or denied), the Loan Parties shall, at all times, maintain cash management arrangements and procedures reasonably satisfactory to Agent; provided that from and after the Closing Date, the Borrower and the other Loan Parties will maintain their primary concentration and collection accounts and their primary disbursement and operating accounts with the Agent or its affiliates and maintain all (to the extent practicable to do so) depository accounts (including local store depository accounts, except for local store deposit accounts in locations where the Agent and its Affiliates do not have branches) and other cash management relationships (including controlled disbursement accounts and ACH transactions) with the Agent or its Affiliates.

(ii) On or prior to the Closing Date, each of the Loan Parties shall:

(1) deliver to the Agent copies of notifications (each, a "Credit Card Notification") substantially in the form attached hereto as Exhibit H which have been executed on behalf of such Loan Party and delivered to each of such Loan Party's Credit Card Processors which Credit Card Processors are listed on Schedule 5.24(b); and

(2) enter into a Blocked Account Agreement in form and substance reasonably satisfactory to the Agent with each bank at which one or more Blocked Accounts or Securities Accounts are maintained (each, a "Blocked Account Bank") covering such Blocked Accounts and Securities Accounts; provided that, such Blocked Account Agreements may be put in place within sixty (60) days following the Closing Date (or such longer period as the Agent may agree in its Permitted Discretion).

(iii) The Loan Parties shall ACH or wire transfer no less frequently than daily (and whether or not there are then any outstanding Obligations) to a Blocked Account subject to a Blocked Account Agreement all of the following (other than, in each case, amounts maintained in any Excluded DDA or proceeds from the sale of Inventory in the Loan Parties' retail stores on deposit in one or more Retail DDAs):

(1) all proceeds of collections of Accounts;

(2) all net proceeds, and all other cash payments received by a Loan Party from any Person or from any source or on account of any sale or other transaction or event;

(3) all available cash receipts from the sale of Inventory (including without limitation, proceeds of credit card charges) and other assets (whether or not constituting Collateral); and

(4) the then contents of each DDA (other than any Excluded DDA or Retail DDA) (net of any minimum balance, not to exceed $300,000 in the aggregate for all DDAs (other than any Excluded DDA or Retail DDA) at any time).

(iv) The Loan Parties shall promptly (and, in any event, within two (2) Business Days) ACH or wire transfer (and whether or not there are then any outstanding Obligations) to a Blocked Account subject to a Blocked Account Agreement all amounts on deposit in each of the Retail DDAs to the extent that those amounts exceed: (i) $50,000 on deposit in any individual Retail DDA, or (ii) $3,000,000 on deposit in all Retail DDAs in the aggregate.

(v) Upon the occurrence and during the continuance of a Cash Dominion Event and receipt of notice from the Agent (and whether or not there are then any outstanding Obligations), in addition to the requirements set forth in clause (c) above:

(1) the Loan Parties shall ACH or wire transfer no less frequently than daily to a concentration account maintained by the Agent at Citizens Bank (the "Collection Account") the then contents of each DDA (other than any Excluded DDA) (net of any minimum balance, not to exceed $300,000 in the aggregate for all DDAs (other than any Excluded DDA) at any time);

(2) the Loan Parties shall, and shall cause each Blocked Account Bank to, ACH or wire transfer no less frequently than daily to the Collection Account the then entire ledger balance of each Blocked Account (net of any minimum balance, not to exceed $2,500 for each Blocked Account, as may be required to be kept in the subject Blocked Account by the Blocked Account Bank); and

(3) such transferred amounts described in the foregoing clause (i) and clause (ii) shall be applied by Agent to repay outstanding Loans, L/C Obligations, other amounts then due and payable hereunder, and to Cash Collateralize outstanding Letters of Credit.

The Loan Parties shall undertake all action which may be necessary to effectuate the foregoing ACH and wire transfers as and when required hereunder.

(vi) The Collection Account shall at all times be under the sole dominion and control of the Agent. The Loan Parties hereby acknowledge and agree that (i) the Loan Parties have no right of withdrawal from the Collection Account, (ii) the funds on deposit in the Collection Account shall at all times be collateral security for the Obligations, and (iii) the funds on deposit in the Collection Account shall be applied as provided in this Agreement. In the event that, notwithstanding the provisions of this Section 6.12, any Loan Party receives or otherwise has dominion and control of any such proceeds or collections while a Cash Dominion Event exists, such proceeds and collections shall be held in trust by such Loan Party for the Agent, shall not be commingled with any of such Loan Party's other funds or deposited in any account of such Loan Party and shall, not later than the Business Day after receipt thereof,

be deposited into the Collection Account or dealt with in such other fashion as such Loan Party may be instructed by the Agent. Notwithstanding the foregoing, to the extent that no Obligations are outstanding, any amounts deposited in the Collection Account shall be disbursed by the Agent to such depository accounts as may be designated by the Borrower. For the avoidance of doubt, Eligible Cash on Hand in a Qualified Account may only be withdrawn by the Borrower as set forth in clause (d) of the definition of "Borrowing Base."

(vii) Upon the reasonable request of the Agent, the Loan Parties shall cause bank statements and/or other reports to be delivered to the Agent not less often than monthly, accurately setting forth all amounts deposited in each Blocked Account to ensure the proper transfer of funds as set forth above.

SECTION 6.13 **Cycle Counts; Physical Count.**

Cause cycle counts to be undertaken, at the expense of the Loan Parties, consistent with past practices, following such methodology as is consistent with the past business practices of the Loan Parties. Cause a physical count of the Inventory to be undertaken, at the expense of the Loan Parties, no less than one time per Fiscal Year. Upon the Agent's reasonable request therefor, the Borrower shall provide the Agent with the results of any such cycle count and/or physical count.

SECTION 6.14 **Environmental Laws.**

Except, in each case, to the extent that the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (a) comply, and take all reasonable actions to cause any lessees and other Persons operating or occupying its properties to comply with all applicable Environmental Laws and environmental permits; (b) obtain and renew all environmental permits necessary for its operations and properties; and, (c) in each case to the extent required by applicable Environmental Laws, conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Materials of Environmental Concern from any of its properties, in accordance with the requirements of all applicable Environmental Laws.

SECTION 6.15 **Further Assurances.**

Maintain the security interest created by the Security Documents as a perfected security interest having at least the priority described herein (if applicable, to the extent such security interest can be perfected through the filing of UCC-1, financing statements and other filings required under applicable Requirement of Law, the Intellectual Property filings to be made pursuant to the Security Documents or the delivery of Pledged Securities required to be delivered under the Security Documents), subject to the rights of the Loan Parties under the Loan Documents to dispose of the Collateral. From time to time the Loan Parties shall execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take all such actions, as the Agent may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, or of renewing the rights of the Secured Parties with respect to the Collateral as to which the Agent, for the ratable benefit of the Secured Parties, has a perfected Lien pursuant hereto or thereto, including, without limitation, filing any financing or continuation statements or financing change statements under the Uniform Commercial Code or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby.

SECTION 6.16 **[Reserved]**.

SECTION 6.17 **Use of Proceeds**.

(i) The proceeds of the Loans and the Letters of Credit will be used only for the repayment of Payoff Indebtedness and the Loan Parties' and their Restricted Subsidiaries' working capital, general corporate purposes not inconsistent with the terms hereof or in contravention of any Requirement of Law or any Loan Document, or to pay fees and expenses in connection therewith.

(ii) No part of the proceeds of any Loan or any Letter of Credit will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, (a) to purchase, acquire or carry any "margin stock" or (b) for any purpose that entails a violation of any of the regulations of the Federal Reserve Board, including Regulations T, U and X. The Borrower will not request any Credit Extension, and the Borrower shall not use, and shall take reasonable efforts to ensure that each Loan Party, their respective Subsidiaries and their respective directors, officers, employees and agents shall not use, the proceeds of any Credit Extension (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Money Laundering Laws or Economic Sanctions Laws or (ii) in any manner that would result in the violation of any applicable Sanctions, Economic Sanctions Laws, or any Anti-Money Laundering Laws by any Credit Party.

SECTION 6.18 **Compliance with Terms of Leaseholds**.

Except (x) during the COVID Lease Exception Period, so long as (1) no more than twenty-five percent (25%) of Leases for stores in the aggregate are terminated by the owners of such stores during such months and (2) no Leases related to the Borrower's Headquarters are terminated by the owners of such headquarters and (y) as otherwise expressly permitted hereunder, (a) make all rental payments and otherwise perform all related obligations in respect of all material Leases to which any Loan Party or any of its Restricted Subsidiaries is a party, keep such material Leases in full force and effect, except to the extent such would not reasonably be expected to result in a Material Adverse Effect, (b) not allow such Leases to lapse or be terminated or any rights to renew such Leases to be forfeited or cancelled except (i) pursuant to their terms or (ii) to the extent such Lease is no longer used or useful in the conduct of the business of the Loan Parties in the ordinary course of business, (c) notify the Agent of any default by any Loan Party with respect to such Leases and cooperate with the Agent in all commercially reasonable respects to cure any such default, in each case to the extent such default would constitute a violation of the proceeding clause (a), and (d) cause each of its Subsidiaries to do the foregoing.

SECTION 6.19 **Compliance with Material Contracts**.

Each Loan Party shall perform and observe in all material respects the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect, and cause each of its Subsidiaries to do so. A list of Material Contracts of the Loan Parties as of the Closing Date is set forth on Schedule 6.19.

SECTION 6.20 **Beneficial Ownership Certification.**

The Loan Parties shall promptly provide to Agent updates to the information provided in the most recently delivered Beneficial Ownership Certification, to the extent from time to time reasonably requested by the Agent.

SECTION 6.21 **Post-Closing Obligations.** The Loan Parties shall cause the actions to be taken and the items to be delivered as set forth on Schedule 6.21 by the deadlines set forth therein (as such deadlines may be extended in the sole discretion of the Agent), in each case, to the reasonable satisfaction of the Agent.

SECTION 6.22 **Extended Accommodation Period Reporting Obligations.** For the period commencing March 30, 2020 and ending upon the last day of the Extended Accommodation Period, as soon as available and in any event no later than the third Business Day of each week, the Credit Parties shall furnish to the Agent, for delivery to the Lenders, weekly flash reporting consisting of a 13-week cash flow report regarding the 13-week period ended with the previous Friday, in each case, in form and substance reasonably acceptable to the Agent and prepared by, or under the review of, the Financial Advisor.

SECTION 6.23 **Financial Advisor.** From and after February 1, 2021, the Borrowers shall retain a financial advisor proposed by the Borrower and reasonably acceptable to the Agent in its discretion (the "Financial Advisor"), and such retention shall be pursuant to an engagement letter and on terms (including scope of engagement) and conditions (including preparation of the reports described in Section 6.22) reasonably satisfactory to the Agent; provided, that the fees and rates payable to the Financial Advisor shall, in the reasonable judgment of the Borrower and the Agent, be market for services of such type. The Loan Parties covenant and agree to cooperate fully with the Financial Advisor including, without limitation, in connection with the preparation of the reports described in Section 6.22. The Loan Parties shall cause, and hereby authorize, the Financial Advisor to communicate directly with the Agent and/or the Lenders (or their respective agents and advisors) regarding any and all matters related to the Loan Parties, including, without limitation, all financial reports and projections developed, reviewed or reasonably requested by the Agent or the Lenders, and at such times as shall be required by the Agent, including, without limitation, pursuant to weekly updates via a weekly conference call with the Financial Advisor if requested by the Agent. Prior to the later of (a) March 31, 2021 or (b) the date that Average Daily Excess Availability has been equal to at least 25% of the Loan Cap (without giving effect to the Term Loan Reserve) for a period of at least thirty (30) consecutive calendar days, the Borrowers shall not terminate the engagement of the Financial Advisor unless a replacement Financial Advisor has been expressly approved by the Agent in writing in its discretion. The retention of the Financial Advisor shall be at the sole cost and expense of the Borrowers at all times.

ARTICLE VII
NEGATIVE COVENANTS

Until the Payment in Full of the Obligations, no Loan Party shall, nor shall it permit any Restricted Subsidiary to, directly or indirectly:

SECTION 7.1 **Liens.** Create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except for the following (collectively, the "Permitted Encumbrances"):

(i) Liens for taxes, assessments or other governmental charges or levies not yet due or which are being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are maintained on the books of the Borrower or its Restricted Subsidiaries, as the case may be, to the extent required by GAAP;

(ii) landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 90 days, that are being contested in good faith by appropriate proceedings or the existence of which, individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect;

(iii) Liens securing Indebtedness incurred pursuant to Section 7.03(n); provided that such Liens shall be subordinated to the Lien of the Agent pursuant to the Third Lien Subordination Agreement;

(iv) deposits and other Liens to secure the performance of bids, trade contracts (other than for borrowed money), leases, subleases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(v) easements, zoning restrictions, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business that, in the aggregate, do not materially detract from the value of the Property subject thereto or materially interfere with the ordinary conduct of the business of the Borrower or any of its Restricted Subsidiaries;

(vi) Liens in existence on the date hereof listed on Schedule 7.01(f);

(vii) Liens securing Indebtedness of the Borrower or any Restricted Subsidiary incurred pursuant to Section 7.03(c), 7.03(f), 7.03(j) or 7.03(o); provided that (i) in the case of any such Liens securing Indebtedness incurred pursuant to Section 7.03(c) or 7.03(j) to the extent incurred to finance Permitted Acquisitions or Investments permitted under Section 7.02, such Liens shall be created substantially concurrently with the acquisition of the assets financed by such Indebtedness, such Liens do not at any time encumber any Property of the Borrower or any Restricted Subsidiary other than the Property financed by such Indebtedness (which shall not include ABL Priority Collateral) and the proceeds thereof and after-acquired property subjected to a Lien securing Indebtedness and other obligations incurred prior to such time (and which Indebtedness and other obligations are permitted hereunder) that require, pursuant to their terms at such time, a pledge of after-acquired property, it being understood that such requirement shall not be permitted to apply to any property which such requirement would not have applied but for such acquisition and (ii) in the case of any such Liens securing Indebtedness incurred pursuant to Section 7.03(o), (x) such Liens are not created or incurred in connection with, or in contemplation of, such Permitted Acquisition or Investment permitted under Section 7.02, (y) such Liens do not apply to ABL Priority Collateral and (iii) such Liens are limited to all or part of the same property or assets that secured the Indebtedness to which such Liens relate under Section 7.03(o) (and no other Property of the Loan Parties);

(viii) Liens created pursuant to the Security Documents;

(ix) any interest or title of a lessor or licensor under any leases or subleases, licenses or sublicenses entered into by the Borrower or any Restricted Subsidiary in the ordinary course of its business and covering only the assets so leased or licensed, , which shall be on a non-exclusive basis (or an exclusive basis within a specific or defined field of use) with respect to any Borrower Intellectual Property, and any financing statement filed in connection with any such lease or license;

(x) Liens arising from judgments in circumstances not constituting an Event of Default under Section 8.01(g);

(xi) Liens on Property (other than ABL Priority Collateral) acquired pursuant to a Permitted Acquisition under Section 7.02(f) (and the proceeds thereof) or Property (other than ABL Priority Collateral) of a Subsidiary Guarantor in existence at the time such Subsidiary Guarantor is acquired pursuant to a Permitted Acquisition under Section 7.02(f) and not created in contemplation thereof;

(xii) Liens on Property of Non-Guarantor Subsidiaries securing Indebtedness or other obligations not prohibited by this Agreement to be incurred by such Non-Guarantor Subsidiaries;

(xiii) with respect to any Non-Guarantor Subsidiaries, receipt of progress payments and advances from customers in the ordinary course of business to the extent same creates a Lien on the related inventory and proceeds thereof;

(xiv) Liens in favor of customs and revenue authorities arising as a matter of law to secure the payment of customs duties in connection with the importation of goods;

(xv) Liens arising out of consignment or similar arrangements for the sale by the Borrower and its Restricted Subsidiaries of goods through third parties in the ordinary course of business;

(xvi) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with an Investment permitted by Section 7.02;

(xvii) Liens deemed to exist in connection with Investments permitted by Section 7.02(b) that constitute repurchase obligations;

(xviii) Liens upon specific items of inventory or other goods (and the proceeds thereof) of any Non-Guarantor Subsidiaries arising in the ordinary course of business securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(xix) Liens on cash or cash equivalents securing any Hedge Agreement permitted hereunder;

(xx) other Liens covering Property (other than ABL Priority Collateral) with respect to obligations (other than for borrowed money) that do not exceed $5,000,000 in the aggregate at any one time outstanding;

(xxi) the rights reserved or vested in any Person by the terms of any lease, license, franchise, grant or permit held by the Borrower or any of its Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(xxii) banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a depositary institution;

(xxiii) Liens arising from Uniform Commercial Code financing statement regarding operating leases or consignments entered into by the Borrower and its Restricted Subsidiaries in the ordinary course of business;

(xxiv) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business; and (iii) in favor of a banking institution arising as a matter of law encumbering deposits, securities and movables) and which are within the general parameters customary in the banking industry;

(xxv) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(xxvi) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into by the Borrower or any Restricted Subsidiary in the ordinary course of business;

(xxvii) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement not prohibited hereunder;

(xxviii) Liens arising by operation of law under Article 2 of the Uniform Commercial Code in favor of a reclaiming seller of goods or buyer of goods;

(xxix) security given to a public or private utility or any governmental authority as required in the ordinary course of business;

(xxx) Liens on securities which are the subject of repurchase agreements incurred in the ordinary course of business; and

(xxxi) so long as the same are subject to the Intercreditor Agreement, Liens on Collateral securing Indebtedness incurred pursuant to Section 7.03(u) and any other "Obligations" as defined in the Term Loan Agreement; provided that such Liens are subject to the Intercreditor Agreement in all respects.

SECTION 7.2 **Investments.** Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Equity Interests, bonds, notes, debentures or other debt securities of, or all or substantially all of the assets constituting an ongoing business (including pursuant to any merger or Division) from, or make any other investment in, any other Person, other than guarantees of operating leases in the ordinary course of business (all of the foregoing, "Investments"), except:

(i) extensions of trade credit in the ordinary course of business;

(ii) Investments in Cash Equivalents;

(iii) Investments arising in connection with the incurrence of Indebtedness permitted by Sections 7.03(b), (e) and (h);

(iv) loans and advances to employees of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries in the ordinary course of business in an aggregate amount (for the Parent, Holdings, the Borrower and all such Restricted Subsidiaries) not to exceed $2,000,000 (excluding (for purposes of such cap) travel and entertainment expenses, but including relocation expenses) at any one time outstanding;

(v) Investments (other than those relating to the incurrence of Indebtedness permitted by Section 7.03(c)) by the Borrower or any of its Restricted Subsidiaries in the Borrower or any Person that, prior to such Investment, is a Subsidiary Guarantor or is a Subsidiary that becomes a Subsidiary Guarantor at the time of such Investment;

(vi) except during the Extended Accommodation Period, Permitted Acquisitions by the Borrower;

(vii) loans by the Borrower or any of its Restricted Subsidiaries to the officers or directors of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries in connection with management incentive plans; provided that such loans represent cashless transactions pursuant to which such officers or directors directly invest the proceeds of such loans in the Equity Interests of the Parent;

(viii) except during the Extended Accommodation Period, as long as no Event of Default has occurred and is continuing, Investments by the Borrower and its Restricted Subsidiaries in joint ventures or similar arrangements in an aggregate amount (for the Borrower and all Restricted Subsidiaries) not to exceed $5,000,000 at any one time outstanding;

(ix) Investments (including debt obligations) received in the ordinary course of business by the Borrower or any Restricted Subsidiary in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising out of the ordinary course of business;

(x) Investments by any Non-Guarantor Subsidiary in any other Non-Guarantor Subsidiary;

(xi) Investments in existence on the Closing Date and listed on Schedule 7.02;

(xii) Investments of the Borrower or any Restricted Subsidiary under Hedge Agreements permitted hereunder;

(xiii) Investments of any Person in existence at the time such Person becomes a Restricted Subsidiary; provided that such Investment was not made in connection with or anticipation of such Person becoming a Restricted Subsidiary; provided, that Investments in Non-Guarantor Subsidiaries and joint ventures permitted under this clause (m) shall be subject to the baskets applicable thereto in Sections 7.02(h) and 7.02(o);

(xiv) Subsidiaries of the Borrower may be established or created, if (i) to the extent such new Subsidiary is a Domestic Subsidiary, the Borrower and such Subsidiary comply with the provisions of Section 6.11(c) and (ii) to the extent such new Subsidiary is a Foreign Subsidiary, the Borrower complies with the provisions of Section 6.11(d); provided that, in each case, to the extent such new Subsidiary is created solely for the purpose of consummating a merger transaction pursuant to an acquisition or Investment permitted by Section 7.02(f) or 7.02(p), and such new Subsidiary at no time holds any assets or liabilities other than any merger consideration contributed to it contemporaneously with the closing of such merger transactions, such new Subsidiary shall not be required to take the actions set forth in Section 6.11(c) or 6.11(d), as applicable, until the respective acquisition is consummated (at which time the surviving entity of the respective merger transaction shall be required to so comply within ten Business Days);

(xv) except during the Extended Accommodation Period, (i) as long as no Event of Default has occurred and is continuing, Investments by the Borrower or any Subsidiary Guarantor in any Non-Guarantor Subsidiary in an aggregate amount (for the Borrower and all Subsidiary Guarantors) not to exceed $5,000,000 less the amount of Indebtedness incurred pursuant to Section 7.03(h) at any time outstanding and (ii) Investments in Non-Guarantor Subsidiaries pursuant to Section 7.05(k)(ii);

(xvi) Investments arising directly out of the receipt by the Borrower or any Restricted Subsidiary of non-cash consideration for any sale of assets (other than assets of the type included in the Borrowing Base) permitted under Section 7.05; provided that such non-cash consideration shall in no event exceed 25% of the total consideration received for such sale;

(xvii) Investments resulting from pledges and deposits referred to in Section 7.01(d), (p), (s), (y), and (aa);

(xviii) the forgiveness or conversion to equity of any Indebtedness permitted by Section 7.03(b), (e) or (h);

(xix) any Investment in a Foreign Subsidiary to the extent such Investment is substantially contemporaneously repaid in full with a dividend or other distribution from such Foreign Subsidiary;

(xx) Guarantee Obligations permitted by Section 7.03(e) and any payments made in respect of such Guarantee Obligations; and

(xxi) Except during the Extended Accommodation Period, other Investments of the types not described above, provided that the Payment Conditions are satisfied at the time of making any such Investment.

It is further understood and agreed that for purposes of determining the value of any Investment outstanding for purposes of this Section 7.02, such amount shall deemed to be the amount of such Investment when made, purchased or acquired less any returns on such Investment (not to exceed the original amount invested). Notwithstanding the foregoing, to the extent any such Investment otherwise permitted under Section 7.02(h), (m), (p), (n), (o), (s), or (u) includes intellectual property that may be necessary or desirable for the Liquidation of the ABL Priority Collateral, either (x) such intellectual property shall be subject to an irrevocable license in favor of the Agent (in form and substance reasonably satisfactory to the Agent) permitting the Liquidation of the ABL Priority Collateral without payment of royalty or other compensation or (y) prior to any such Investment, the Borrower shall have delivered to the Agent an updated Borrowing Base Certificate eliminating the ABL Priority Collateral subject to such intellectual property from the calculation of the Borrowing Base and, after giving effect thereto, no Event of Default or Overadvance shall exists.

SECTION 7.3 **Indebtedness.** Create, issue, incur, assume, or suffer to exist any Indebtedness, except:

(i) Indebtedness of the Parent, Holdings, the Borrower or any Subsidiary Guarantor pursuant to any Loan Document or Hedge Agreements;

(ii) Indebtedness (i) of the Borrower to any of its Restricted Subsidiaries, (ii) of any Subsidiary Guarantor to the Borrower or any Restricted Subsidiary, and (iii) of any Non-Guarantor Subsidiary to any other Non-Guarantor Subsidiary; provided that (x) in the case of Indebtedness owing to a Loan Party, such Indebtedness shall be evidenced by one or more promissory notes that are pledged to the Agent (or the Term Agent in accordance with the terms of the Intercreditor Agreement) for the benefit of the Secured Parties pursuant to the Guarantee and Collateral Agreement and (y) in the case of any Indebtedness owing by a Loan Party to a Restricted Subsidiary that is not a Subsidiary Guarantor, (A) such Indebtedness shall be on subordination terms reasonably satisfactory to the Agent and (B) such Indebtedness shall be otherwise permitted under the provisions of Section 7.02;

(iii) (i) Indebtedness (including, without limitation, Capital Lease Obligations) secured by Liens permitted by Section 7.01(g) in an aggregate principal amount not to exceed, together with any Permitted Amendment or Refinancing referred to in the following clause (iii) hereof, $5,000,000 at any one time outstanding; (ii) Indebtedness arising out of sale and leaseback transactions permitted by Section 7.15; and (iii) any Permitted Amendment or Refinancing of any of the foregoing;

(iv) Indebtedness outstanding on the date hereof and listed on Schedule 7.03(d) and any Permitted Amendment or Refinancing thereof;

(v) Guarantee Obligations (i) by the Borrower or any of its Restricted Subsidiaries of obligations of the Borrower or any Subsidiary Guarantor, (ii) by any Non-Guarantor Subsidiary of obligations of any Non-Guarantor Subsidiary or (iii) by the Parent of lease obligations of Borrower or a Restricted Subsidiary;

(vi) Indebtedness of Non-Guarantor Subsidiaries in respect of local lines of credit, letters of credit, bank guarantees, factoring arrangements, sale/leaseback transactions and similar extensions of credit in the ordinary course of business not to exceed at any one time outstanding an aggregate principal amount equal to $5,000,000;

(vii) Indebtedness of the Borrower or any of its Restricted Subsidiaries arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn by the Borrower or such Restricted Subsidiary in the ordinary course of business against insufficient funds, so long as such Indebtedness is promptly repaid;

(viii) (1) Indebtedness of any Non-Guarantor Subsidiary to the Borrower or any Subsidiary Guarantor and (ii) Guarantee Obligations of the Borrower or any Subsidiary Guarantor of Indebtedness of any Non-Guarantor Subsidiaries, in an aggregate principal amount for all such Indebtedness and, without duplication, Guarantee Obligations not to exceed, together with any Investments under Section 7.02(o), $5,000,000 at any one time outstanding;

(ix) additional Indebtedness of the Borrower or any of its Restricted Subsidiaries in an aggregate principal amount (for the Borrower and all Restricted Subsidiaries) not to exceed $10,000,000 at any one time outstanding; provided that up to $5,000,000 of such indebtedness may be secured by Liens permitted by Section 7.01(t);

(x) Indebtedness under a Permitted Seller Note issued as consideration in connection with an acquisition permitted under Section 7.02(f), in an aggregate principal amount not to exceed, together with any Permitted Amendment or Refinancing referred to in this clause (j) $10,000,000 at any one time outstanding together with any Permitted Amendment or Refinancing thereof; provided that any such Indebtedness shall be subordinated to the Obligations in a manner reasonably satisfactory to the Agent;

(xi) Indebtedness of the Borrower or any of its Restricted Subsidiaries in respect of workers' compensation claims, health, disability or other employee benefits, property casualty or liability insurance, take-or-pay obligations in supply arrangements, self-insurance obligations, performance, bid and surety bonds and completion guaranties, in each case in the ordinary course of business;

(xii) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries arising from agreements providing for indemnification or adjustment of purchase price or similar obligations in any case incurred in connection with an acquisition or other Investment permitted by Section 7.02(f) or the disposition of any business, assets or Restricted Subsidiary;

(xiii) unsecured, senior, senior subordinated or subordinated Indebtedness of the Parent, Holdings, the Borrower (including guarantees thereof by any Subsidiary Guarantor) (such Indebtedness and/or guarantees incurred under this clause (m) or any Permitted Amendment or Refinancing thereof being collectively referred to as the "Junior Indebtedness") in an aggregate principal amount not to exceed (1) $10,000,000 at any one time outstanding plus (2) Subordinated Indebtedness incurred pursuant to Section 8.04 or Section 8.04 of the Term Loan Agreement; provided that (i) no scheduled principal payments, prepayments, redemptions or sinking fund or like payments of any Junior Indebtedness shall be required prior to the date at least 180 days after the Maturity Date), (ii) [reserved], (iii) no Default or Event of Default shall have occurred and be continuing at the time of incurrence of such Indebtedness (solely with respect to clause (1) above) or would result therefrom, (iv) in the case of Junior Indebtedness that is subordinated to the Obligations in respect of payment and/or lien priority, (A) the terms of subordination applicable to any Junior Indebtedness shall be reasonably satisfactory to the Agent and shall, in any event, define "senior indebtedness" or a similar phrase for purposes thereof to include all of the Obligations of the Loan Parties and (B) after giving effect to the incurrence of such Junior Indebtedness, the Parent shall be in compliance with Section 7.18, calculated on a pro forma basis for the period as if such Junior Indebtedness had been incurred on the first day of such period ending on or prior to such date) (or, with respect to clause (2) above, on the relevant Cure Date, after giving effect to Section 8.04)) and (v) in the case of Junior Indebtedness that is unsecured senior Indebtedness, after giving effect to the incurrence of such Junior Indebtedness, the Parent shall be in compliance with Section 7.18, calculated on a pro forma basis as if such Junior Indebtedness had been incurred on the first day of such period ending on or prior to such date);

(xiv) Subordinated Indebtedness of the Loan Parties incurred pursuant to the Third Lien Credit Agreement in an aggregate principal amount not to exceed $20,000,000 together with any fees and interest thereon, whether accrued and unpaid or paid in kind; provided that such Indebtedness shall be subordinated to the Obligations pursuant to the Third Lien Subordination Agreement;

(xv) Indebtedness of any Person that becomes a Restricted Subsidiary as part of a Permitted Acquisition or any Investment permitted by Section 7.02 after the Closing Date and any Permitted Amendment or Refinancing thereof; provided that (A) such acquired Indebtedness exists at the time such Person becomes a Restricted Subsidiary and is not created in contemplation of or in connection with such Person becoming a Restricted Subsidiary (except to the extent such acquired Indebtedness refinanced (and did not increase principal (except for accrued interest and premium (including tender premiums and make whole amounts) thereon plus other reasonable and customary fees and expenses including upfront fees, original issue discount and defeasance costs) or shorten maturity during the term of this Agreement) other Indebtedness to facilitate such entity becoming a Restricted Subsidiary), (B) the aggregate principal amount of Indebtedness permitted by this clause (o)(i) shall not at any one time outstanding exceed together with any Permitted Amendment or Refinancing referred to in the following clause (ii) hereof, $5,000,000 and (ii) any Permitted Amendment or Refinancing;

(xvi) [reserved];

(xvii) [reserved];

(xviii) Indebtedness consisting of promissory notes issued by the Borrower or any Guarantor to current or former officers, consultants and directors or employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of the Parent or Holdings issued in lieu of cash payment; provided that such purchase or redemption is permitted under Section 7.06;

(xix) Indebtedness of the Borrower or any Restricted Subsidiary consisting of the financing of insurance premiums in the ordinary course of business;

(xx) guaranties in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of the Borrower and its Restricted Subsidiaries;

(xxi) Indebtedness of a Borrower or a Guarantor in respect of the Term Facility (and any Permitted Amendment or Refinancing thereof) in an aggregate principal amount not to exceed the amount permitted in the Intercreditor Agreement; and

(xxii) Indebtedness consisting of earn-outs and similar deferred consideration in consideration in connection with a Permitted Acquisition or other Investment permitted by Section 7.02 in an aggregate amount outstanding at any one time not to exceed $7,500,000.

SECTION 7.4 **Fundamental Changes**.

Consummate any merger, consolidation or amalgamation, or Division (or similar transaction), or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or substantially all of its Property or business, or division or similar transaction except that:

(i) (i) any Restricted Subsidiary may be merged, amalgamated, liquidated or consolidated with or into the Borrower (provided that the Borrower shall be the continuing or surviving corporation) or (ii) any Restricted Subsidiary may be merged, amalgamated, liquidated or consolidated with or into any Subsidiary Guarantor (provided that (x) a Subsidiary Guarantor shall be the continuing or surviving corporation or (y) simultaneously with such transaction, the continuing or surviving corporation shall become a Subsidiary Guarantor and the Borrower shall comply with Section 6.11 in connection therewith);

(ii) any Non-Guarantor Subsidiary may be merged or consolidated with or into, or be liquidated into, any other Non-Guarantor Subsidiary;

(iii) any Non-Guarantor Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution, winding-up or otherwise) to any Restricted Subsidiary;

(iv) Dispositions permitted by Section 7.05 may be consummated;

(v) any Investment expressly permitted by Section 7.02 may be structured as a merger, consolidation or amalgamation;

(vi) any Excluded Subsidiary may be dissolved or liquidated; and

(vii) So long as no Default or Event of Default is continuing or would result therefrom, Holdings may be merged with and into Parent, with Parent being the surviving entity in such merger.

SECTION 7.5 **Dispositions**. Dispose of any of its owned Property (including, without limitation, receivables) whether now owned or hereafter acquired, or, in the case of any Restricted Subsidiary, issue or sell any shares of such Restricted Subsidiary's Equity Interests to any Person, except:

(i) the Disposition of (i) surplus, obsolete or worn out property in the ordinary course of business or (ii) Intellectual Property that is not material to the business of any Loan Party and is not necessary or desirable for the Liquidation of ABL Priority Collateral;

(ii) (i) the sale of inventory in the ordinary course of business, (ii) the non-exclusive (or exclusive within a specific or defined field of use) cross-licensing or licensing of Intellectual Property, in the ordinary course of business and (iii) the contemporaneous exchange, in the ordinary course of business, of Property for Property of a like kind (other than as set forth in clause (ii)), to the extent that the Property received in such exchange is of a value equivalent to the value of the Property exchanged (provided that after giving effect to such exchange, the value of the Property of the Borrower or any Subsidiary Guarantor subject to perfected first priority Liens in favor of the Agent under the Security Documents is not materially reduced, and provided that the terms of any such licenses shall not restrict the right of the Agent to use such Intellectual Property in connection with the conduct of a Liquidation (which rights shall be exercisable without payment of royalty or other compensation) or, other than with respect to any such exclusivity within a specific or defined field of use, to dispose of such Intellectual Property owned by such entity in connection with the conduct of a Liquidation or other exercise of creditor remedies;

(iii) Dispositions permitted by Section 7.04;

(iv) (i) the Disposition of other assets not constituting ABL Priority Collateral, so long as at least (x) 75% of the consideration received by the disposing Person is cash or Cash Equivalents and (y) any such Disposition is made for fair market value, as determined in good faith and approved by the Board of Directors or similar governing body of the disposing Person, and (ii) any Recovery Event;

(v) the sale or issuance of any Subsidiary's Equity Interests to the Borrower or any Subsidiary Guarantor; provided that the sale or issuance of Equity Interests of an Unrestricted Subsidiary to the Borrower or any Subsidiary Guarantor is otherwise permitted by Section 7.02;

(vi) bulk sales or other dispositions of Inventory of a Loan Party not in the ordinary course of business, at arms' length, in connection with Permitted Store Closings;

(vii) the leasing, occupancy agreements or sub-leasing of Property that would not materially interfere with the required use (if any) of such Property by the Borrower or their respective Restricted Subsidiaries;

(viii) the sale or discount, in each case without recourse and in the ordinary course of business, of overdue accounts receivable arising in the ordinary course of business, but only (i) in connection with the compromise or collection thereof consistent with the Borrower's commercially reasonable business judgment (and not as part of any bulk sale or financing of receivables), and (ii) provided that, if such overdue accounts constitute Eligible Credit Card Receivables or Eligible Trade Receivables, the Borrower receives not less than the amounts borrowed or available to be borrowed under the Borrowing Base therefor;

(ix) transfers of condemned property as a result of the exercise of "eminent domain" or other similar policies to the respective Governmental Authority or agency that has condemned same (whether by deed in lieu of condemnation or otherwise), and transfers of properties that have been subject to a casualty to the respective insurer of such property as part of an insurance settlement;

(x) the Disposition of any Immaterial Subsidiary or any Unrestricted Subsidiary or their respective assets;

(xi) the transfer of Property (i) by the Borrower or any Subsidiary Guarantor to the Borrower or any other Subsidiary Guarantor; provided that any such transfer made by any Loan Party in a Foreign Subsidiary shall be subject to satisfaction of the Payment Conditions but shall not be permitted

during the Extended Accommodation Period; (ii) by a Borrower or any Subsidiary Guarantor to a Non-Guarantor Subsidiary that is a Restricted Subsidiary to the extent such Property consists of (A) showroom leases, employees, showroom fixtures, signage, samples, or contracts relating to the foregoing, or intellectual property, in each case that is specific to the operations of such Non- Guarantor Subsidiary (and, with respect to any such transferred intellectual property, is not used by any Loan Party in the operation of its business) or (B) other Property (excluding cash and Cash Equivalents) with a fair market value not to exceed $100,000 in the aggregate, or (iii) from a Non-Guarantor Subsidiary to (A) the Borrower or any Subsidiary Guarantor for no more than fair market value or (B) any other Non-Guarantor Subsidiary that is a Restricted Subsidiary; provided that any sale or issuance of Equity Interests of an Unrestricted Subsidiary to the Borrower or any Subsidiary Guarantor is otherwise permitted by Section 7.02;

(xii) the Disposition of Cash Equivalents in the ordinary course of business;

(xiii) sale and leaseback transactions permitted by Section 7.15;

(xiv) Liens permitted by Section 7.01;

(xv) Restricted Payments permitted by Section 7.06;

(xvi) the cancellation of intercompany Indebtedness among the Borrower and any Subsidiary Guarantor;

(xvii) Investments permitted by Section 7.02; and

(xviii) the sale or issuance of the Equity Interests of (i) any Foreign Subsidiary that is a Restricted Subsidiary to any other Foreign Subsidiary that is a Restricted Subsidiary or (ii) any Foreign Subsidiary that is an Unrestricted Subsidiary to any other Foreign Subsidiary that is an Unrestricted Subsidiary, in each case, including, without limitation, in connection with any tax restructuring activities not otherwise prohibited hereunder.

Notwithstanding the foregoing, if any sales, transfers or dispositions otherwise permitted under this Section 7.05(c), (d), (e), (j), (k), (m), (n), (o), (q), or (r) include the sales, transfers or dispositions of intellectual property that may be necessary or desirable for the Liquidation of the ABL Priority Collateral, either (x) such intellectual property shall be subject to an irrevocable license in favor of the Agent (in form and substance reasonably satisfactory to the Agent) permitting the Liquidation of the ABL Priority Collateral without payment of royalty or other compensation or (y) prior to any such sale, transfer or disposition, the Borrower shall have delivered to the Agent an updated Borrowing Base Certificate eliminating the ABL Priority Collateral subject to such intellectual property from the calculation of the Borrowing Base and, after giving effect thereto, no Event of Default or Overadvance shall exists.

SECTION 7.6 **Restricted Payments**.

Declare or pay any dividend on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement, cancellation, termination or other acquisition of, any Equity Interests of the Parent, Holdings, the Borrower or any Subsidiary, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of the Parent, Holdings, the Borrower or any Restricted Subsidiary, or enter into any derivatives or other transaction with any financial institution, commodities or stock exchange or clearinghouse (a "Derivatives Counterparty"), obligating the Parent, Holdings the Borrower or any Restricted Subsidiary to make payments to such Derivatives Counterparty as a result of any change in market value of any such Equity Interests (collectively, "Restricted Payments"), except that:

(i) any Subsidiary may make Restricted Payments, directly or indirectly, to the Borrower;

(ii) Non-Guarantor Subsidiaries may make Restricted Payments to other Non-Guarantor Subsidiaries or to any Loan Party;

(iii) the Loan Parties and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(iv) the Borrower and its Subsidiaries may declare and make dividend or distribution payments, directly or indirectly, to Holdings (and Holdings may pay to any direct or indirect parent company of Holdings) to permit Holdings (or any such direct or indirect parent company of Holdings, as applicable) to pay for any taxable period for which Holdings, the Borrower or such applicable Subsidiary, as applicable, was a member of a consolidated, combined or similar income tax group for federal and/or applicable state or local income tax purposes or are entities treated as disregarded from any member of such a group for U.S. federal income and, if applicable, state income Tax purposes (a "Tax Group") of which Holdings (or any direct or indirect parent company of Holdings, as applicable) is the common parent, any consolidated, combined or similar income Taxes of such Tax Group that are due and payable by Holdings (or such direct or indirect parent company of Holdings) for such taxable period, but only to the extent such income Taxes are attributable to the Borrower and its Subsidiaries, provided that (x) the amount of such dividends or distributions for any taxable period shall not exceed the amount of such income Taxes that the Borrower and its relevant Subsidiaries would have paid had the Borrower and such Subsidiaries been a stand-alone corporate taxpayer (or a stand-alone corporate Tax Group) and (y) dividends or distributions in respect of an Unrestricted Subsidiary shall be permitted only to the extent that dividends or distributions were made by such Unrestricted Subsidiary to a member of the Tax Group or any of its Subsidiaries for such purpose;

(v) the Borrower may make other Restricted Payments to Holdings who, in turn, may make other Restricted Payments to the Parent to permit the Parent to make payments required under the Tax Receivable Agreement;

(vi) except during the Extended Accommodation Period, the Borrower may make other Restricted Payments to Holdings who, in turn, may make other Restricted Payments to the Parent who, in turn, may make other Restricted Payments to its stockholders so long as the Payment Conditions are satisfied;

(vii) the Borrower may declare and pay cash dividends to Holdings, and Holdings may declare and pay cash dividends to the Parent, not to exceed an amount necessary to permit Holdings or the Parent, as applicable, to pay its proportionate share of (i) reasonable and customary corporate and operating expenses (including reasonable out-of-pocket expenses for legal, administrative and accounting services provided by third parties, and compensation, benefits and other amounts payable to officers and employees in connection with their employment in the ordinary course of business and to board of director observers), and (ii) franchise fees or similar taxes and fees required to maintain its corporate existence;

(viii) Investments constituting Restricted Payments and permitted by Section 7.02;

(ix) the Parent may make Restricted Payments in the form of common stock of the Parent or preferred stock of the Parent; and

(x) so long as no Default or Event of Default shall have occurred and be continuing, the Borrower may make Restricted Payments to Holdings and Holdings may make Restricted Payments to Parent, to permit Holdings or the Parent to purchase its common stock or common stock options from present or former officers, consultants and directors or employees (and their heirs, estates and assigns) of Parent, Holdings, the Borrower or any Subsidiary upon the death, disability or termination of employment of such officer or employee; provided that the aggregate amount of payments under this clause (k) in any fiscal year of the Parent shall not exceed the sum of (i) $2,000,000 plus any proceeds received from key man life insurance policies and (ii) any Restricted Payments permitted (but not made) pursuant to this clause (k) in the immediately prior fiscal year.

SECTION 7.7 **Prepayments of Indebtedness**.

Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner any Indebtedness, or make any payment in violation of any subordination terms of any Indebtedness, except:

(i) mandatory or scheduled payments of principal, interest and fees as and when due in respect of any Indebtedness (other than (i) Subordinated Indebtedness and (ii) the Term Loans) permitted under Section 7.03 hereof;

(ii) the Borrower may prepay, redeem, repurchase or defease any Indebtedness with the proceeds of any Permitted Amendment or Refinancing or pursuant to any asset sale tender offers required by the terms of such Indebtedness;

(iii) except during the Extended Accommodation Period, voluntary prepayments, repurchases, redemptions or defeasances of (i) Indebtedness permitted under Section 7.03 hereof and not described in clause (b), above, and not constituting Subordinated Indebtedness or intercompany Indebtedness, as long as the Payment Conditions are satisfied, (ii) Subordinated Indebtedness (including Indebtedness permitted under Section 7.03(n)) in accordance with the applicable subordination terms thereof and as long as the Payment Conditions are satisfied, and (iii) intercompany Indebtedness in accordance with the applicable subordination terms thereof and as long as the Payment Conditions are satisfied;

(iv) any Permitted Amendment or Refinancing of any such Indebtedness; and

(v) (i) payments of interest and fees as and when due in respect of the Term Loans under the Term Loan Documents, (ii) scheduled amortization payments as and when due under the Term Loan Agreement, (iii) mandatory payments of the Term Loan Facility pursuant to Section 2.06 of the Term Loan Agreement (as in effect on the Closing Date), other than pursuant to Section 2.06(b) of the Term Loan Agreement, and (iv) commencing with the date that is ten (10) Business Days after the date of delivery of the information required by Section 6.01(a) for the fiscal year ending on or around February 1, 2020, mandatory payments of the Term Loan Facility pursuant to Section 2.06(b) of the Term Loan Agreement (as in effect on the Closing Date) (including, for the avoidance of doubt, a portion of such payment), so long as (x) no Event of Default exists or would arise as a result of the making of such payment, (y) immediately after giving pro forma effect to such payment (or such portion of such payment), Excess Availability shall be at least 20% of the Loan Cap (without giving effect to the Term Loan Reserve) immediately after giving effect to such payment (or such portion of such payment) and (z) the Borrower shall have delivered to the Agent a certificate confirming compliance with such conditions and including a reasonably detailed calculation of such calculated Excess Availability; provided that in the event that the conditions in clauses (x), (y), and (z) are not satisfied on any date on which such a payment would be due under Section 2.06(b) the Term Loan Agreement and are satisfied within one hundred twenty (120) days

following such date that such payment would have been due, the Borrower may make such payment (or pay the remaining portion of such payment that was not previously made, as the case may be) to the Term Agent for the benefit of the Lenders (as defined in the Term Loan Agreement) to the extent that the conditions in clauses (x), (y), and (z) are satisfied at the time of such payment.

SECTION 7.8 **Change in Nature of Business**.

(i) In the case of the Parent and Holdings, notwithstanding anything to the contrary in this Agreement or any other Loan Document:

(1) conduct, transact or otherwise engage in, or commit to conduct, transact or otherwise engage in, any business or operations other than (i) those incidental to its ownership of the Equity Interests of Holdings, the Borrower and (indirectly) the Subsidiaries of the Borrower and those incidental to Investments by or in the Parent or Holdings, as applicable, permitted hereunder, (ii) those incidental to the issuance of and performance under the Term Facility (or any other Indebtedness permitted under Section 7.03(p), (q) or (u)) or any Permitted Amendment or Refinancing of the foregoing, (iii) activities incidental to the maintenance of its existence and compliance with applicable laws and legal, tax and accounting matters related thereto and activities relating to its employees (including but not limited to payment or reimbursement of indemnification obligations to its directors or officers and payment of Board of Directors fees), (iv) activities relating to the performance of obligations under the Loan Documents to which it is a party or expressly permitted thereunder, (v) engaging in activities incidental to being a public company, (vi) the receipt and payment of Restricted Payments permitted under Section 7.06 and (vii) the other transactions expressly permitted under this Section 7.08;

(2) incur, create, assume or suffer to exist any Indebtedness or other liabilities or financial obligations, except (i) Indebtedness permitted by Section 7.03(m)(ii) nonconsensual obligations imposed by operation of law, (iii) pursuant to the Loan Documents to which it is a party, (iv) obligations with respect to its Equity Interests and options in respect thereof, (v) in respect of the Term Facility (or any other Indebtedness permitted under Section 7.03(p), (q) or (u)) or any Permitted Amendment or Refinancing of the foregoing, (vi) obligations to its employees, officers and directors not prohibited hereunder; and (vii) guarantees permitted by 7.03(v).

(ii) In the case of each of the Loan Parties, engage in any business, services, or activities substantially different from the business, services, or activities conducted by the Loan Parties and their Subsidiaries on the Closing Date or any business, service or activity incidental or directly related or similar to any business activity that is a reasonable extension, development or expansion thereof or ancillary thereto.

SECTION 7.9 **Transactions with Affiliates**.

Enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of Property (including pursuant to a Division), the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate (other than the Parent, Holdings the Borrower or any Restricted Subsidiary) unless such transaction is (a) otherwise not prohibited under this Agreement and (b) upon fair and reasonable terms no less favorable to the Parent, Holdings the Borrower or such Restricted Subsidiary, as the case may be, than it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate. Notwithstanding the foregoing, the Borrower and its Restricted Subsidiaries may without being

subject to the terms of this Section 7.09, (i) enter into any transaction with any Person which is an Affiliate of the Parent only by reason of such Person and the Parent having common directors; (ii) enter into and perform its or their obligations under the agreements set forth on Schedule 7.09, as in effect on the Closing Date or as the same may be amended, supplemented, replaced or otherwise modified from time to time in a manner that does not materially increase the obligations of the Loan Parties thereunder, and (iii) enter into transactions with Affiliates permitted by Sections 7.02(c), 7.02(o), 7.02(s), 7.03(h), 7.03(i), 7.03(r), 7.04(c), 7.05(e), 7.05(k)(ii) and 7.06 hereof. For the avoidance of doubt, this Section 7.09 shall not apply to employment arrangements with, and payments of compensation, indemnification payments, expense reimbursement or benefits to or for the benefit of, current or former employees, officers or directors of the Parent, Holdings the Borrower or any of its Restricted Subsidiaries.

SECTION 7.10 **Burdensome Agreements**.

Enter into any agreement that prohibits or limits the ability of the Parent, Holdings the Borrower or any of its Restricted Subsidiaries to create, incur, assume or suffer to exist any Lien upon any of its Property or revenues, whether now owned or hereafter acquired, to secure the Obligations or, in the case of any Guarantor, its obligations under the Security Documents, other than (a) this Agreement and the other Loan Documents, the Loan Documents under (and as defined in) the Term Facility and any agreement related to any Junior Indebtedness, and any Permitted Amendment or Refinancing thereof (b) any agreements governing any secured Indebtedness otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby and the proceeds thereof), (c) software and other Intellectual Property licenses expressly permitted hereunder pursuant to which the Parent, Holdings, the Borrower or such Restricted Subsidiary is the licensee or licensor of the relevant software or Intellectual Property, as the case may be, (in which case, any prohibition or limitation shall relate only to the assets subject of the applicable license), (d) Contractual Obligations incurred in the ordinary course of business and on customary terms which limit Liens on the assets subject of the applicable Contractual Obligation or impose restrictions on cash or other deposits with respect thereto, (e) any agreements regarding Indebtedness of any Non-Guarantor Subsidiary not prohibited under Section 7.02 (in which case, any prohibition or limitation shall only be effective against the assets of such Non-Guarantor Subsidiary and its Subsidiaries), (f) prohibitions and limitations in effect on the date hereof and listed on Schedule 7.10, (g) customary provisions contained in joint venture agreements and other similar agreements applicable to joint ventures entered into in the ordinary course of business, (h) customary provisions restricting the subletting or assignment of any lease governing a leasehold interest, (i) customary restrictions and conditions contained in any agreement relating to an asset sale permitted by Section 7.04 or 7.05, (j) any agreement in effect at the time any Person becomes a Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Subsidiary, and (k) any restrictions on Liens imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (f) and (j) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive with respect to such encumbrance and other restrictions than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

SECTION 7.11 **Use of Proceeds**.

Use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, (a) to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund Indebtedness originally incurred for such purpose, or (b) for any purposes other than (i) the acquisition of working capital assets in the ordinary course of business, (ii) to finance Capital Expenditures of the Loan

Parties and their Subsidiaries, and (iii) for general corporate purposes (including Permitted Acquisitions), in each case to the extent expressly permitted under Requirements of Law and the Loan Documents.

SECTION 7.12 **Amendment of Material Documents**.

(i) Amend, modify or otherwise change, or consent or agree to any amendment, modification, waiver or other change to (i) any agreement or instrument governing or evidencing Junior Indebtedness in any manner that is materially adverse to the Lenders without the prior consent of the Agent (which shall not be unreasonably withheld, conditioned or delayed) or (ii) any of its organizational documents, other than amendments, modifications or waivers that could not reasonably be expected to adversely affect the Lenders or Agent, (b) amend, supplement, or otherwise modify the Term Loan Documents, if such modification is in violation of the terms of the Intercreditor Agreement or (c) amend, supplement, or otherwise modify the Third Lien Loan Documents, if such modification is in violation of the terms of the Third Lien Subordination Agreement; provided that the Borrower shall deliver or cause to be delivered to the Agent a copy of all such amendments, modifications or waivers promptly after the execution and delivery thereof to the extent not filed publicly.

SECTION 7.13 **Fiscal Year**.

Change the Fiscal Year of any Loan Party, or, other than as permitted pursuant to Section 1.03, the accounting policies or reporting practices of the Loan Parties, except as required by GAAP.

SECTION 7.14 **Deposit Accounts; Credit Card Processors**.

Open new DDAs (other than Excluded DDAs and Retail DDAs) unless the Loan Parties shall have delivered to the Agent appropriate Blocked Account Agreements consistent with the provisions of Section 6.12 and otherwise satisfactory to the Agent. No Loan Party shall maintain any bank accounts or enter into any agreements with Credit Card Issuers or Credit Card Processors other than the ones expressly contemplated herein or in Section 6.12 hereof.

SECTION 7.15 **Sales and Leasebacks**.

Enter into any arrangement with any Person providing for the leasing by the Borrower or any Restricted Subsidiary of real or personal property which is to be sold or transferred by the Borrower or such Restricted Subsidiary (a) to such Person or (b) to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of the Borrower or such Restricted Subsidiary, except for (i) sales or transfers that do not exceed $5,000,000 in the aggregate at any one time outstanding, (ii) sales or transfers by the Borrower or any Subsidiary Guarantor to the Borrower or any other Subsidiary Guarantor and (iii) sales or transfers by any Non-Guarantor Subsidiary to any other Non-Guarantor Subsidiary that is a Restricted Subsidiary.

SECTION 7.16 **Clauses Restricting Subsidiary Distributions**.

Enter into any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (a) make Restricted Payments in respect of any Equity Interests of such Restricted Subsidiary held by, or pay any Indebtedness owed to, the Borrower or any Restricted Subsidiary or (b) make Investments in the Borrower or any Restricted Subsidiary, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) any restrictions with respect to such Restricted Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Equity Interests or assets of such Restricted Subsidiary to the extent permitted hereunder, (iii) any restrictions set forth in the documentation for the Term Facility or any Junior

Indebtedness or any Permitted Amendment or Refinancing of any of the foregoing, (iv) any restrictions contained in agreements related to Indebtedness of (A) the Borrower or any Subsidiary Guarantor with respect to the disposition of assets securing such Indebtedness (in which case, any prohibition or limitation shall only be effective against the assets financed thereby and the proceeds thereof) and (B) any Non-Guarantor Subsidiary not prohibited under Section 7.02 (in which case such restriction shall relate only to such Non-Guarantor Subsidiary and its Subsidiaries), (v) any restrictions regarding non-exclusive licenses (or exclusive licenses within a specific or defined field of use) or sublicenses by the Borrower and its respective Restricted Subsidiaries of Intellectual Property in the ordinary course of business (in which case such restriction shall relate only to such Intellectual Property), (vi) Contractual Obligations incurred in the ordinary course of business which include customary provisions restricting the assignment of any agreement relating thereto, (vii) customary provisions contained in joint venture agreements and other similar agreements applicable to joint ventures entered into in the ordinary course of business, (viii) customary provisions restricting the subletting or assignment of any lease governing a leasehold interest, (ix) customary restrictions and conditions contained in any agreement relating to an asset sale permitted by Section 7.04 or 7.05, (x) any agreement in effect at the time any Person becomes a Restricted Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Restricted Subsidiary and (xi) such restrictions in effect on the Closing Date and listed on Schedule 7.16, (xii) negative pledges and restrictions on Liens and asset dispositions in favor of any holder of Indebtedness for borrowed money permitted under Section 7.03 but only if such negative pledge or restriction expressly permits Liens for the benefit of the Agent and the Lenders with respect to the credit facilities established hereunder and the Obligations under the Loan Documents on a senior basis and without a requirement that such holders of such Indebtedness be secured by such Liens equally and ratably or on a junior basis and (xiii) negative pledges and restrictions on Liens and asset dispositions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (x) and (xi) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive with respect to such encumbrance and other restrictions than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

SECTION 7.17 **Limitation on Hedge Agreements**.

Enter into any Hedge Agreement other than Hedge Agreements entered into in the ordinary course of business or as required hereby, and not for speculative purposes, to protect against changes in interest rates or foreign exchange rates or commodity, raw material, energy or utility prices.

SECTION 7.18 **Financial Covenant**.

(i) Fixed Charge Coverage Ratio. Other than during the Extended Accommodation Period, during the continuance of a Covenant Compliance Event, permit the Consolidated Fixed Charge Coverage Ratio, calculated for the Measurement Period ending on the last day of the Fiscal Month most recently ended for which financial statements and a Compliance Certificate have been delivered prior to the occurrence of the Covenant Compliance Event, and each Measurement Period ended thereafter, to be less than 1.00:1.00.

(ii) Extended Accommodation Period Fixed Charge Coverage Ratio. Solely during the Extended Accommodation Period, during the continuance of an Extended Accommodation Period Compliance Event, permit the Consolidated Fixed Charge Coverage Ratio, calculated for the Measurement Period ending on the last day of the Fiscal Month most recently ended for which financial statements and a Compliance Certificate have been delivered prior to the occurrence of the Extended Accommodation Period Compliance Event, and each Measurement Period ended thereafter, to be less than 1.00:1.00.

SECTION 7.19 **Tax Receivable Agreement**.

Terminate, or agree to the termination of, the Tax Receivable Agreement.

SECTION 7.20 **Sanctions**.

Directly or, knowingly, indirectly, use the proceeds of any Credit Extension, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is the target of Sanctions, that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as Lender, Agent, Issuer, Swing Loan Lender, or otherwise) of Sanctions.

ARTICLE VIII
EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1 **Events of Default.**

Any one or more of the following events shall constitute an event of default (each, an "Event of Default"):

(i) Non-Payment. The Borrower or any other Loan Party fails to pay (i) any amount of principal of any Loan or any L/C Obligation, or deposit any funds as Cash Collateral in respect of L/C Obligations when and as required to be paid, or (ii) any interest, fee or any other amount payable hereunder or under any other Loan Document, in each case of this clause (ii) within three Business Days after any such interest or other amount becomes due; or

(ii) Specific Covenants. Any Loan Party fails to perform or observe any term, covenant or agreement contained in any of (i) Sections 6.01(a), 6.01(b), 6.01(c) (after a five (5) Business Day grace period), 6.02(a), 6.02(b), 6.03(a), 6.05(a)(i) or Article VII, (ii) Section 6.02(c) (after a two (2) Business Day grace period if an Accelerated Borrowing Base Delivery Event described in clause (ii) of the definition thereof has occurred and is continuing; provided that, if no such Accelerated Borrowing Base Delivery Event has occurred and is continuing, the applicable grace period shall be five (5) Business Days) or Section 6.22 (after a two (2) Business Day grace period) or (iii) Sections 6.07, 6.10(b), 6.12, or 6.23 provided that, if (A) any such Default described in this clause (b)(iii) is of a type that can be cured within five (5) Business Days and (B) such Default could not materially adversely impact the Agent's Liens on the Collateral, such Default shall not constitute an Event of Default for five (5) Business Days after the occurrence of such Default so long as the Loan Parties are diligently pursuing the cure of such Default; or

(iii) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after the date that such Loan Party receives from the Agent or any Lender notice of the existence of such default; or

(iv) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by any Loan Party herein, in any other Loan Document, or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document (including, without limitation, any Borrowing Base Certificate) shall prove to have been inaccurate in any material respect when made or deemed made; or

(v) Cross-Default. The Parent, Holdings, the Borrower or any of their respective Restricted Subsidiaries shall (i) default in making any payment of any principal of any Material Indebtedness (excluding the Loans) on the scheduled or original due date with respect thereto; or (ii) default in making any payment of any interest on any such Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event of default shall occur, the effect of which payment or other default or other event of default described in clauses (i), (ii) or (iii) of this paragraph (e) is to cause, or to permit the holder or beneficiary of such Material Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Indebtedness to become due prior to its stated maturity or to become subject to a mandatory offer to purchase by the obligor thereunder or to become payable; provided that this paragraph (e) shall not apply to (A) secured Indebtedness that becomes due as a result of the sale, transfer, destruction or other disposition of the Property or assets securing such Indebtedness if such sale, transfer, destruction or other disposition is not prohibited hereunder or (B) any Guarantee Obligations except to the extent such Guarantee Obligations shall become due and payable by any Loan Party and remain unpaid after any applicable grace period or period permitted following demand for the payment thereof; provided, further, that no "Event of Default" (as defined in the Term Loan Agreement) arising from a failure to comply with Section 7.18(a) (Fixed Charge Coverage Ratio) of the Term Loan Agreement shall constitute an Event of Default under this paragraph (e) until the earliest to occur of (w) the date that is ten (10) Business Days after the day on which financial statements for the applicable fiscal quarter are required to have been delivered under the Term Loan Agreement, in connection with which such "Event of Default" (as defined in the Term Loan Agreement) has occurred, to the extent such "Event of Default" has not been waived or cured prior to such date, (x) the acceleration of the Indebtedness under the Term Facility, (y) a Collateral Enforcement Action (as defined in the Intercreditor Agreement) by the Term Agent with respect to any Collateral and (z) the Term Agent's delivery to the Agent of a written notice commencing the "Standstill Period" under and as defined in the Intercreditor Agreement; or

(vi) Insolvency Proceedings, Etc. (i) The Parent, any Loan Party or any of their respective Restricted Subsidiaries which are not Immaterial Subsidiaries shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) any case, proceeding, or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of 60 days; or (iii) there shall be commenced against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) any case, proceeding, or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against substantially all of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall consent to or approve of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(vii) Judgments. There is entered against the Parent, any Loan Party or any of their respective Restricted Subsidiaries which are not Immaterial Subsidiaries (i) one or more judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding $10,000,000 (to the extent not paid or covered by independent third-party insurance as to which the insurer is rated at least "A" by A.M. Best Company, has been notified of the potential claim and does not dispute coverage), or (ii) any one or more non-monetary judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 45 days from the entry thereof; or

(viii) ERISA. (i) The Parent, Holdings, the Borrower or any of its Restricted Subsidiaries shall incur any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any Single Employer Plan shall fail to satisfy the minimum funding standard required for any plan year or part thereof under Section 412 of the Code or Section 302 of ERISA), whether or not waived, or any Lien in favor of the PBGC or a Single Employer Plan shall arise on the assets of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which commencement of proceedings or appointment of a trustee is reasonably likely to result in the termination of such Single Employer Plan for purposes of Title IV of ERISA, (iv) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries incurs any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (v) any Non-U.S. Plan fails to obtain or retain (as applicable) registered status under and as required by applicable law and/or be administered in a timely manner in all respects in compliance with all applicable laws, (vi) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (vii) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries shall, or is reasonably likely to, incur any liability as a result of a withdrawal from, or the Insolvency of, a Multiemployer Plan (including the withdrawal by an ERISA Affiliate), (viii) the institution of proceedings or the taking of any other action by the PBGC or the Parent or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination or partial termination, or Insolvency of, any Plan, (ix) a contribution required to be made with respect to a Plan or a Non-U.S. Plan has not been timely made, (x) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Single Employer Plans), as of any applicable annual valuation date, exceeds the value of the assets of such Single Employer Plan allocable to such accrued benefits, (xi) the occurrence of any similar events with respect to a Commonly Controlled Plan, that would reasonably be likely to result in a direct obligation of the Parent, the Borrower or any of its Restricted Subsidiaries to pay money, or (xii) any other event or condition (other than one which could not reasonably be expected to result in a violation of any applicable law or of the qualification requirements of the Code) shall occur or exist with respect to a Plan, Non-U.S. Plan, or a Commonly Controlled Plan; and in each case in clauses (i) through (xii) above, such event or condition, together with all other such events or conditions, if any, could reasonably be expected to result in a direct obligation of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries to pay money that would have a Material Adverse Effect; or

(ix) Invalidity of Loan Documents. (i) Any provision of any Loan Document, at any time after its execution and delivery and for any reason, other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 7.04 or 7.05) or as a result of acts or omissions by any Agent or any Lender or the Payment in Full of the Obligations, ceases to be in full force and effect in any material respect, or any Loan Party contests in writing the validity or enforceability of any provision of any Loan Document; or any Loan Party denies in writing that it has any or further liability or obligation under any provision of any Loan Document (other than as a result of Payment in Full

of the Obligations), or purports in writing to revoke, terminate or rescind any Loan Document; or (ii) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted in writing by any Loan Party not to be, a valid and perfected Lien on any material portion of the Collateral, with the priority required by (but subject to the limitations set forth in) the applicable Security Document and this Agreement except (i) as a result of the sale, release or other disposition of the applicable Collateral in a Disposition permitted by Section 7.05 or other transaction permitted under the Loan Documents, or (ii) relating to an immaterial amount of Collateral not constituting ABL Priority Collateral, or (iii) as a result of the failure of the Agent, through its acts or omissions and through no fault of the Loan Parties, to maintain the perfection of its Liens in accordance with applicable Requirement of Law; or

(x) Change of Control. There occurs any Change of Control; or

(xi) Cessation of Business. Except as otherwise expressly permitted hereunder, the determination of the Loan Parties, whether by vote of the Loan Parties' Board of Directors or otherwise to: suspend the operation of the Loan Parties' business in the ordinary course, liquidate all or substantially all of their assets or store locations, or employ an agent or other third party to conduct any so-called store closing, store liquidation or "Going-Out-Of-Business" sales for all or substantially all of the Loan Parties' stores;

(xii) Subordination. (i) The subordination provisions of the documents evidencing any Subordinated Indebtedness (or subordinated Junior Indebtedness) (collectively, the "Subordination Provisions") shall, in whole or in part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of the applicable Subordinated Indebtedness; or (ii) the Borrower or any other Loan Party shall, directly or indirectly, disavow or contest in any manner (A) the effectiveness, validity or enforceability of any of the Subordination Provisions, (B) that the Subordination Provisions exist for the benefit of the Credit Parties, or (C) that all payments of principal of or premium and interest on the applicable Subordinated Indebtedness, or realized from the liquidation of any property of any Loan Party, shall be subject to any of the Subordination Provisions; or

(xiii) Intercreditor Agreement. The Intercreditor Agreement shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect, or any party to such Intercreditor Agreement shall contest in writing, the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Liens securing the Obligations, for any reason shall not have the priority contemplated by the Intercreditor Agreement.

SECTION 8.2 **Remedies Upon Event of Default**.

If any Event of Default occurs and is continuing, the Agent may, or, at the request of the Required Lenders shall, take any or all of the following actions:

(i) declare the Commitments of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such Commitments and obligations shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other Obligations to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties;

(iii) require that the Loan Parties Cash Collateralize the L/C Obligations; and

(iv) whether or not the maturity of the Obligations shall have been accelerated pursuant hereto, proceed to protect, enforce and exercise all rights and remedies of the Credit Parties under this Agreement, any of the other Loan Documents or Requirement of Law, including, but not limited to, by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Agreement and the other Loan Documents or any instrument pursuant to which the Obligations are evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of the Credit Parties;

provided, however, that upon the occurrence of any Default or Event of Default with respect to any Loan Party or any Subsidiary thereof under Section 8.01(f), the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans, all interest accrued thereon and all other Obligations shall automatically become due and payable, and the obligation of the Loan Parties to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Agent or any Lender.

No remedy herein is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other Requirement of Law.

SECTION 8.3 **Application of Funds**

(i) After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), any amounts received from any Loan Party, from the liquidation of any Collateral of any Loan Party, or on account of the Obligations, shall be applied by the Agent against the Obligations in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Agent and amounts payable under Article III) payable to the Agent, in its capacity as such;

Second, to payment of that portion of the Obligations constituting indemnities, expenses, and other amounts (other than principal, interest and fees) payable to the Lenders and the L/C Issuer (on account of Letters of Credit) (including fees, charges and disbursements of counsel to the respective Lenders and the L/C Issuer (on account of Letters of Credit) and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to the extent not previously reimbursed by the Lenders, to payment to the Lenders of that portion of the Obligations constituting principal and accrued and unpaid interest on any Permitted Overadvances, ratably among the Lenders in proportion to the amounts described in this clause Third payable to them;

Fourth, to the extent that Swing Line Loans made to the Borrower have not been refinanced by a Committed Loan, payment to the Swing Line Lender of that portion of the Obligations constituting accrued and unpaid interest on the Swing Line Loans made to the Borrower;

Fifth, to the extent that Swing Line Loans made to the Borrower have not been refinanced by a Committed Loan, payment to the Swing Line Lender of that portion of the Obligations constituting unpaid principal on the Swing Line Loans made to the Borrower;

Sixth, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, L/C Borrowings and other Obligations, and fees (including Letter of Credit Fees), ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Sixth payable to them;

Seventh, to payment of that portion of the Obligations constituting unpaid principal of the Loans and L/C Borrowings, and to the Agent for the account of the L/C Issuer, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit, ratably among the Lenders and the L/C Issuer in proportion to the respective amounts described in this clause Seventh held by them;

Eighth, to payment of all other Obligations (excluding the Other Liabilities, but including without limitation the cash collateralization of unliquidated indemnification obligations for which a claim has been made as provided in Section 10.04), ratably among the Lenders in proportion to the respective amounts described in this clause Eighth held by them;

Ninth, to payment of that portion of the Obligations of the Loan Parties arising from Cash Management Services and Bank Products, in each case, to the extent that the Agent has implemented a Reserve in respect thereof, ratably among the Lenders and their Affiliates in proportion to the respective amounts described in this clause Ninth held by them;

Tenth, to payment of that portion of the Obligations of the Loan Parties arising from Cash Management Services (other than those described in clause Ninth above), ratably among the Lenders and their Affiliates in proportion to the respective amounts described in this clause Tenth held by them;

Eleventh, to payment of all other Obligations of the Loan Parties arising from Bank Products (other than those described in clause Ninth above), ratably among the Lenders and their Affiliates in proportion to the respective amounts described in this clause Eleventh held by them; and

Last, the balance, if any, after Payment in Full of all of the Obligations, to the Loan Parties or as otherwise required by Requirement of Law.

Subject to Section 2.03(c), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Seventh above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

SECTION 8.4 **Right to Cure.**

(i) Except for any breach that occurs during the Extended Accommodation Period (which, for the avoidance of doubt, shall be governed by the terms of clause (b) below), for purposes of curing an Event of Default arising from the Loan Parties' failure to comply with the Financial Covenant set forth in Section 7.18(a) upon and during the continuation of a Covenant Compliance Event, any cash equity contribution to the Parent or Holdings (funded with proceeds of common equity or other preferred equity (other than Disqualified Stock)) or to any Loan Party as Subordinated Indebtedness incurred on terms (including subordination terms) to be acceptable to Agent, in each case the proceeds of which shall be substantially concurrently contributed to the capital of the Borrower (if such contribution is not in the form of Subordinated Indebtedness of the Borrower), on or prior to the day that is ten (10) Business Days after the day on which a Compliance Certificate is required to be delivered pursuant to Section 6.02(b) (the "Cure Date") will, at the irrevocable election of the Borrower, be included in the calculation of Excess Availability in an amount that is sufficient to cause Excess Availability to be in excess of 10% of the Loan Cap (without

giving effect to the Term Loan Reserve) (a "Specified Contribution"); provided that (a) (i) in each twelve-Fiscal Month period there shall be no more than three (3) Specified Contributions made and (ii) there shall be no more than five (5) Specified Contributions made in the aggregate after the Closing Date, (b) such Specified Contribution shall be in a minimum amount that is sufficient to cause Excess Availability to be in excess of 10% of the Loan Cap (without giving effect to the Term Loan Reserve), (c) all Specified Contributions (i) will be disregarded for the purposes of calculation of Consolidated EBITDA for the purpose of calculating the Financial Covenant, basket levels, pricing, and other items governed by reference to Consolidated EBITDA and (ii) shall be in readily available funds, (d) the proceeds of each Specified Contribution shall be contributed to the Borrower as (i) an equity contribution in the form of common Equity Interests or preferred Equity Interests (other than Disqualified Stock) or (ii) Subordinated Indebtedness and (e) the proceeds received by the Parent or Holdings from all Specified Contributions shall be promptly contributed to the Borrower and promptly used by the Borrower to prepay the Loans and Cash Collateralize the L/C Obligations in accordance with Section 2.05(e); provided that prior to receipt by the Borrower of the Specified Contribution and the application of such amounts as provided in this Section 8.04, any Event of Default that has occurred as a result of a breach of the Financial Covenant shall be deemed to be continuing and, as a result, the Lenders (including the Swing Line Lender and the L/C Issuer) shall have no obligation to make additional loans or otherwise extend additional credit hereunder. Upon the Borrower's receipt of such Specified Contribution and the application of the amounts as provided above, the Covenant Compliance Event that has occurred shall be deemed to no longer be continuing (and shall cease) (with the same effect as though no Covenant Compliance Event shall have occurred for the Fiscal Month for which the applicable Compliance Certificate was delivered) and any Default or Event of Default arising from the Loan Parties' failure to comply with the Financial Covenant for such Fiscal Month during the continuance of such Covenant Compliance Event shall be deemed not to have occurred for purposes of the Loan Documents. The termination of a Covenant Compliance Event as provided in this Section 8.04 shall in no way limit, waive or delay the occurrence of a subsequent Covenant Compliance Event in the event that the conditions for a Covenant Compliance Event again arise.

(ii) For any breach that occurs during the Extended Accommodation Period, for purposes of curing an Event of Default arising from the Loan Parties' failure to comply with the Financial Covenant contained in Section 7.18(b) upon and during the continuation of an Extended Accommodation Period Compliance Event, upon prior written notice to the Agent, any cash equity contribution to the Parent or Holdings (funded with proceeds of common equity or other preferred equity (other than Disqualified Stock)) or to any Loan Party as Subordinated Indebtedness incurred on terms (including subordination terms) to be acceptable to Agent, in each case the proceeds of which shall be substantially concurrently contributed to the capital of the Borrower (if such contribution is not in the form of Subordinated Indebtedness of the Borrower), on or prior to the day that is ten (10) Business Days after the day on which a Compliance Certificate is required to be delivered pursuant to Section 6.02(b) (the "Extended Accommodation Period Cure Date") will, at the irrevocable election of the Borrower, be included in the calculation of Excess Availability in an amount that is sufficient to cause Excess Availability to be equal to or in excess of (i) at any time during the period beginning September 6, 2020 through the day immediately prior to the Fifth Amendment Date, $10,000,000, (ii) at any time during the period beginning on the Fifth Amendment Date through July 31, 2021, $7,500,000, and (iii) at any time during the period beginning on August 1, 2021 through the end of the Extended Accommodation Period, $10,000,000 (an "Extended Accommodation Period Specified Contribution"); provided that (a) during each fiscal quarter, no more than one (1) Extended Accommodation Period Specified Contribution shall be permitted to be made, (b) such Extended Accommodation Period Specified Contribution shall be in an amount of not less than $1,000,000 and in a minimum amount that is sufficient to cause Excess Availability to be equal to or in excess of (i) at any time during the period beginning September 6, 2020 through the day immediately prior to the Fifth Amendment Date, $10,000,000, (ii) at any time during the period beginning on the Fifth Amendment Date through July 31, 2021, $7,500,000 and (iii) at any time during the period beginning on August 1, 2021 through the end of the Extended Accommodation Period, $10,000,000, (c) the Extended Accommodation

Period Specified Contribution (i) will be disregarded for the purposes of calculation of Consolidated EBITDA for the purpose of calculating the Financial Covenant, basket levels, pricing, and other items governed by reference to Consolidated EBITDA and (ii) shall be in readily available funds, (d) the proceeds of the Extended Accommodation Period Specified Contribution shall be contributed to the Borrower as (i) an equity contribution in the form of common Equity Interests or preferred Equity Interests (other than Disqualified Stock) or (ii) Subordinated Indebtedness and (e) the proceeds received by the Parent or Holdings from the Extended Accommodation Period Specified Contribution shall be promptly contributed to the Borrower and promptly used by the Borrower to prepay the Loans and Cash Collateralize the L/C Obligations in accordance with Section 2.05(e); provided that prior to receipt by the Borrower of the Extended Accommodation Period Specified Contribution and the application of such amounts as provided in this Section 8.04(b), any Event of Default that has occurred as a result of a breach of the Financial Covenant in Section 7.18(b) shall be deemed to be continuing. Upon the Borrower's receipt of such Extended Accommodation Period Specified Contribution and the application of the amounts as provided above, the Extended Accommodation Period Compliance Event that has occurred shall be deemed to no longer be continuing (and shall cease) (with the same effect as though no Extended Accommodation Period Compliance Event shall have occurred for the Fiscal Month for which the applicable Compliance Certificate was delivered) and any Default or Event of Default arising from the Loan Parties' failure to comply with the Financial Covenant contained in Section 7.18(b) for such Fiscal Month during the continuance of such Extended Accommodation Period Compliance Event shall be deemed not to have occurred for purposes of the Loan Documents. The termination of an Extended Accommodation Period Compliance Event as provided in this Section 8.04(b) shall in no way limit, waive or delay the occurrence of a subsequent Extended Accommodation Period Compliance Event in the event that the conditions for an Extended Accommodation Period Compliance Event again arise. For the avoidance of doubt, in no event shall any Subordinated Indebtedness incurred under the Third Lien Credit Agreement be deemed to be a Specified Contribution or Extended Accommodation Period Specified Contribution and the proceeds thereof shall not be included in the calculation of Consolidated EBITDA for any purpose under this Agreement.

(iii) Notwithstanding anything to the contrary contained herein, all "Specified Contributions" under Section 8.04 of the Term Loan Agreement will be disregarded for all purposes of the calculation of Consolidated EBITDA for all purposes (including calculating the Financial Covenant, basket levels, pricing and other items governed by reference to Consolidated EBITDA).

ARTICLE IX
THE AGENT

SECTION 9.1 **Appointment**.

(i) Each of the Lenders, the Swing Line Lender and the L/C Issuer hereby irrevocably designates and appoints the Agent as the agent of such Lender under the Loan Documents and each such Lender, Swing Line Lender and L/C Issuer irrevocably authorizes the Agent, in such capacity, to take such action on its behalf under the provisions of the applicable Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Agent by the terms of the applicable Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Agent shall not have any duties or responsibilities, except those expressly set forth herein or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Agent. The provisions of this Article

are solely for the benefit of the Agent and the other Credit Parties, and no Loan Party or any Subsidiary thereof shall have rights as a third party beneficiary of any of such provisions.

(ii) The Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders, the Swing Line Lender and the L/C Issuer hereby irrevocably appoints and authorizes the Agent to act as the agent of such Lender, Swing Line Lender and L/C Issuer for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Agent, as "collateral agent," and any agents or attorneys-in-fact appointed by the Agent for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Agent, shall be entitled to the benefits of all provisions of this Section 9 (including Section 9.09) and Section 10.04, as though such agents and attorneys-in-fact were the "collateral agent" under the Loan Documents as if set forth in full herein with respect thereto.

(iii) The provisions of this Section 9.01 are for the benefit of the Agent, the Lenders and the L/C Issuer, and no Loan Party or any Subsidiary thereof shall have rights as a third party beneficiary of any of such provisions (other than the provisions of Section 9.06).

SECTION 9.2 [Reserved]

SECTION 9.3 [Reserved].

SECTION 9.4 **Delegation of Duties**.

The Agent may execute any of its duties under the applicable Loan Documents by or through sub-agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the 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 the Agent. The Agent shall not be responsible for the negligence or misconduct of any sub-agents or attorneys in-fact selected by it with reasonable care.

SECTION 9.5 **Exculpatory Provisions.**

The 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, neither the Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates shall:

(i) be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(ii) 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 Agent is required to exercise as directed in writing by the Applicable Lenders, provided that the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or Requirement of Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(iii) 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 Loan Parties or any of its Affiliates that is communicated to or obtained by the Person serving as the Agent or any of its Affiliates in any capacity.

The Agent shall not be liable for any action taken or not taken by it (i) with the Consent or at the request of the Applicable Lenders (as the Agent shall believe in good faith shall be necessary under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a final and non-appealable judgment of a court of competent jurisdiction.

The 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 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 the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

SECTION 9.6 **Reliance by Agent**.

The Agent shall be entitled to rely, and shall not incur any liability for relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Parent, Holdings, and the Borrower), independent accountants and other experts selected by the Agent. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Agent may presume that such condition is satisfactory to such Lender or the L/C Issuer unless the Agent shall have received written notice to the contrary from such Lender or the L/C Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The Agent may consult with legal counsel (who may be counsel for any Loan Party), 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.

SECTION 9.7 **Notice of Default.** The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Agent has received notice from a Lender, the Parent, Holdings, or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Agent receives such a notice, the Agent shall give notice thereof to the Lenders. The Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided that unless and until the Agent shall have received such directions, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Credit Parties. In no event shall the Agent be required to comply with any such directions to the extent that the Agent believes that its compliance with such directions would be unlawful.

SECTION 9.8 **Non-Reliance on Agent and Other Lenders**.

Each Lender and the L/C Issuer expressly acknowledges that neither the Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by the Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by the Agent to any Lender. Each Lender and the L/C Issuer represents to the Agent that it has, independently and without reliance upon the Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Loans hereunder and enter into this Agreement. Each Lender and the L/C Issuer also represents that it will, independently and without reliance upon the Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under the applicable Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Agent hereunder, the Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party that may come into the possession of the Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

SECTION 9.9 **Indemnification.** The Lenders agree to indemnify the Agent in its capacity as such, any sub-agent thereof, the L/C Issuer and any Related Party, as the case may be (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective Applicable Percentages in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Commitments of such Lender shall have been assigned (but which indemnified claims relate to actions or inactions prior to such assignment) or the date upon which the Obligations shall have been Paid in Full, ratably in accordance with such Applicable Percentages immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time be imposed on, incurred by or asserted against the Agent, any sub-agent thereof, the L/C Issuer and their Related Parties in any way relating to or arising out of, the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Agent, any sub-agent thereof, the L/C Issuer and their Related Parties under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the Agent's, any sub-agent's, the L/C Issuer's and their Related Parties' gross negligence or willful misconduct. The agreements in this Section shall survive the payment of the Obligations and all other amounts payable hereunder.

SECTION 9.10 **Rights as a Lender.** The Person serving as the 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 Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the 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 Loan Parties or any Subsidiary or other Affiliate thereof as if such Person were not the Agent hereunder and without any duty to account therefor to the Lenders.

SECTION 9.11 **Successor Agent; Removal of Agent**.

(i) The Agent may resign upon 30 days' notice to the Lenders, the L/C Issuer and the Borrower effective upon appointment of a successor Agent. Upon receipt of any such notice of resignation, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless a Specified Event of Default shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the retiring Agent, and the retiring Agent's rights, powers and duties as Agent shall be terminated, without any other or further act or deed on the part of the retiring Agent or any of the parties to this Agreement or any holders of the Loans. If no successor Agent shall have been so appointed by the Required Lenders with such consent of the Borrower and shall have accepted such appointment within 30 days after the retiring Agent's giving of notice of resignation, then the retiring Agent may, on behalf of the Lenders and the L/C Issuer and with the consent of the Borrower (such consent not to be unreasonably withheld or delayed), appoint a successor Agent, that shall be a bank that has an office in New York, New York with a combined capital and surplus of at least $500,000,000. After any retiring Agent's resignation as Agent, the provisions of this Article and Section 10.04 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement and the other Loan Documents. The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor.

(ii) If the Person serving as Agent is a Defaulting Lender pursuant to clause (d) of the definition of Defaulting Lender, the Required Lenders may, to the extent permitted by applicable Requirements of Law, by notice in writing to the Borrower and such Person remove such Person as Agent and, in consultation with the Borrower, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the "Removal Effective Date"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

SECTION 9.12 **Collateral and Guaranty Matters**.

The Credit Parties irrevocably authorize the Agent, at its option and in its discretion,

(i) to release any Lien on any property granted to or held by the Agent under any Loan Document (i) upon Payment in Full of all Obligations, (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing by the Applicable Lenders in accordance with Section 10.01;

(ii) to subordinate any Lien on any property granted to or held by the Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(g); and

(iii) to release any Guarantor from its obligations under its Facility Guaranty if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder.

Upon request by the Agent at any time, the Applicable Lenders will confirm in writing the Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under its Facility Guaranty pursuant to this Section 9.12. In each case as specified in this Section 9.12, the Agent will, at the Loan Parties' expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Security Documents or to subordinate

its interest in such item, or to release such Guarantor from its obligations under its Facility Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.12.

SECTION 9.13 **No Other Duties, Etc.**

Anything herein to the contrary notwithstanding, the Arranger, listed on the cover page hereof shall not have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity as the Agent, a Lender or the L/C Issuer hereunder.

SECTION 9.14 **Agent May File Proofs of Claim.**

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuer, the Agent and the other Credit Parties (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the L/C Issuer, the Agent and the other Credit Parties and their respective agents and counsel and all other amounts due the Lenders and the Agent under Sections 2.03(i), 2.03(j), 2.09 and 10.04) allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, interim receiver, assignee, trustee, monitor, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the L/C Issuer to make such payments to the Agent and if the Agent shall consent to the making of such payments directly to the Lenders and the L/C Issuer, to pay to the Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Agent to authorize or consent to or accept or adopt on behalf of any Credit Party any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Credit Party or to authorize the Agent to vote in respect of the claim of any Credit Party or in any such proceeding.

SECTION 9.15 **Notice of Transfer**.

The Agent may deem and treat a Lender party to this Agreement as the owner of such Lender's portion of the Obligations for all purposes, unless and until, and except to the extent, an Assignment and Acceptance shall have become effective as set forth in Section 10.06.

SECTION 9.16 **Reports and Financial Statements.**

By signing this Agreement, each Lender:

(i) agrees to furnish the Agent after the occurrence and during the continuance of a Cash Dominion Event (and thereafter at such frequency as the Agent may reasonably request) with a summary of all Other Liabilities due or to become due to such Lender. In connection with any distributions

to be made hereunder, the Agent shall be entitled to assume that no amounts are due to any Lender on account of Other Liabilities unless the Agent has received written notice thereof from such Lender and if such notice is received, the Agent shall be entitled to assume that the only amounts due to such Lender on account of Other Liabilities is the amount set forth in such notice;

(ii) is deemed to have requested that the Agent furnish, and the Agent agrees to furnish, such Lender, promptly after they become available, copies of all Borrowing Base Certificates and financial statements required to be delivered by the Borrower hereunder

(iii) is deemed to have requested that the Agent furnish, and the Agent agrees to furnish, such Lender, promptly after they become available, copies of all commercial finance examinations and appraisals of the Collateral received by the Agent (collectively, the "Reports");

(iv) expressly agrees and acknowledges that the Agent makes no representation or warranty as to the accuracy of the Borrowing Base Certificates, financial statements or Reports, and shall not be liable for any information contained in any Borrowing Base Certificate, financial statement or Report;

(v) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that the Agent or any other party performing any audit or examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel;

(vi) agrees to keep all Borrowing Base Certificates, financial statements and Reports confidential in accordance with the provisions of Section 10.07 hereof; and

(vii) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold the Agent and any such other Lender preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any Credit Extensions that the indemnifying Lender has made or may make to the Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Loan or Loans; and (ii) to pay and protect, and indemnify, defend, and hold the Agent and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including attorney costs) incurred by the Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

SECTION 9.17 **Agency for Perfection**.

Each Credit Party hereby appoints each other Credit Party as agent for the purpose of perfecting Liens for the benefit of the Credit Parties, in assets which, in accordance with Article 9 of the UCC or any other applicable Requirement of Law can be perfected only by possession or control. Should any Credit Party (other than the Agent) obtain possession or control of any such Collateral, such Credit Party shall notify the Agent thereof, and, promptly upon the Agent's request therefor shall deliver such Collateral to the Agent or otherwise deal with such Collateral in accordance with the Agent's instructions.

SECTION 9.18 **Relation Among Lenders.**

The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of, or (except as otherwise set forth herein in case of the Agent) authorized to act for, any other Lender.

ARTICLE X
MISCELLANEOUS

SECTION 10.1 **Amendments and Waivers**.

(i) Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.01. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Agent and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights or obligations of the Agent, the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Agent may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall:

(1) increase the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.02) without the written Consent of such Lender;

(2) as to any Lender, postpone any date fixed by this Agreement or any other Loan Document for (i) any scheduled payment (including the Maturity Date) or mandatory prepayment of principal, interest, fees or other amounts due hereunder or under any of the other Loan Documents without the written Consent of such Lender, or (ii) any mandatory termination of the Aggregate Commitments hereunder or under any other Loan Document, without the written Consent of such Lender;

(3) as to any Lender, reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing held by such Lender, or (subject to clause (iv) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document to or for the account of such Lender, without the written Consent of such Lender; provided, however, that only the Consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest or Letter of Credit Fees at the Default Rate;

(4) as to any Lender, change Section 2.13 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written Consent of such Lender;

(5) change any provision of this Section or the definition of "Required Lenders", or any other provision hereof or of any Loan Document specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or under any other Loan Document or make any determination or grant any consent hereunder or thereunder, without the written Consent of each Lender;

(6) except as expressly permitted hereunder or under any other Loan Document, release, or limit the liability of, any Loan Party without the written Consent of each Lender;

(7) except for Dispositions permitted under Section 7.04 or Section 7.05 or as provided in Section 9.10, release all or substantially all of the Collateral from the Liens of the Security Documents without the written Consent of each Lender;

(8) increase any advance rate percentage set forth in the definition of "Borrowing Base" or otherwise change the definition of the term "Borrowing Base" or any component definition thereof if as a result thereof the amounts available to be borrowed by the Borrower would be increased, without the written Consent of all Lenders, *provided that* the foregoing shall not limit the discretion of the Agent to change, establish or eliminate any Reserves; and

(9) except as expressly permitted herein or in any other Loan Document, subordinate the Obligations hereunder or the Liens granted hereunder or under the other Loan Documents, to any other Indebtedness or Lien, as the case may be without the written Consent of each Lender;

and, provided further, that (i) no amendment, waiver or Consent shall, unless in writing and signed by the L/C Issuer in addition to the Lenders required above, affect the rights or duties of the L/C Issuer under this Agreement or any Issuer Document relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or Consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or Consent shall, unless in writing and signed by the Agent in addition to the Lenders required above, affect the rights or duties of any Agent under this Agreement or any other Loan Document; (iv) the Fee Letter, Third Amendment Fee Letter, and Fifth Amendment Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto, and (v) no Consent is required to effect any amendment or supplement to the Intercreditor Agreement, (A) that is solely for the purpose of adding the holders of Indebtedness incurred or issued pursuant to an Amendment or Refinancing of the Term Facility (or any agent or trustee of such holders) as parties thereto, as contemplated by the terms of the Intercreditor Agreement and permitted under Section 7.03(n) (it being understood that any such amendment or supplement may make such other changes to the Intercreditor Agreement as, in the good faith determination of the Agent, are required to effectuate the foregoing and provided that such other changes are not adverse to the interests of the Lenders) or (B) that is expressly contemplated by the Intercreditor Agreement with respect to an Amendment or Refinancing of the Term Facility permitted under Section 7.03(n) (or the comparable provisions, if any, of any successor intercreditor agreement with respect to an Amendment or Refinancing of the Term Facility permitted under Section 7.03(n); provided further that no such agreement shall, pursuant to this clause (v), amend, modify or otherwise affect the rights or duties of the Agent hereunder or under any other Loan Document without the prior written consent of the Agent. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

(ii) Notwithstanding anything to the contrary in this Agreement or any other Loan Document, (x) no provider or holder of any Bank Products or Cash Management Services shall have any voting or approval rights hereunder (or be deemed a Lender) solely by virtue of its status as the provider or holder of such agreements or products or the Obligations owing thereunder, nor shall the consent of any such provider or holder be required (other than in their capacities as Lenders, to the extent applicable) for

any matter hereunder or under any of the other Loan Documents, including as to any matter relating to the Collateral or the release of Collateral or any Loan Party, and (y) any Loan Document may be amended, supplemented and waived with the consent of the Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment, supplement or waiver is delivered in order (i) to comply with local Requirement of Law or advice of local counsel, (ii) to cure ambiguities, mistakes or defects or (iii) to cause any Loan Document to be consistent with this Agreement and the other Loan Documents.

(iii) If any Lender (other than Citizens) does not Consent (a "Non-Consenting Lender") to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the Consent of each Lender and that has been approved by the Required Lenders, the Borrower may replace such Non-Consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

SECTION 10.2 **Notices; Effectiveness; Electronic Communications**.

(i) Notices Generally. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy notice, when received, to the address, telecopier number, electronic email address or telephone number specified on Schedule 10.02 in the case of the Loan Parties, the Agent, the L/C Issuer or the Swing Line Lender, and as set forth in an administrative questionnaire delivered to the Agent in the case of the Lenders, or to such other address as may be hereafter notified by the respective parties hereto; provided that any notice, request or demand to or upon the Agent, the Lenders, the Parent, Holdings, or the Borrower shall not be effective until received.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Agent; provided that the foregoing shall not apply to notices pursuant to Section 2 unless otherwise agreed by the Agent and the applicable Lender, as the case may be. The Agent, the Parent, Holdings, 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.

(ii) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agent, provided that the foregoing shall not apply to notices to any Lender or the L/C Issuer pursuant to Article II if such Lender or the L/C Issuer, as applicable, has notified the Agent that it is incapable of receiving notices under such Article by electronic communication. The 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 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), 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; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during

the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(iii) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to any Loan Party, any Lender, the L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Loan Parties' or the Agent's transmission of Borrower Materials through the Internet.

(iv) Change of Address, Etc. Each of the Loan Parties, the Agent, the L/C Issuer and the Swing Line Lender may change its address, telecopier or telephone number or email address for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number or email address for notices and other communications hereunder by notice to the Borrower, the Agent, the L/C Issuer and the Swing Line Lender. In addition, each Lender agrees to notify the Agent from time to time to ensure that the Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Requirement of Law, including the Securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Borrower or its securities for purposes of the Securities Laws.

(v) Reliance by Agent, L/C Issuer and Lenders. The Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices and Swing Line Loan Notices) purportedly given by or on behalf of the Loan Parties even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify the Agent, the L/C Issuer, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Loan Parties. All telephonic notices to and other telephonic communications with the Agent may be recorded by the Agent, and each of the parties hereto hereby consents to such recording.

SECTION 10.3 **No Waiver; Cumulative Remedies**.

No failure to exercise and no delay in exercising, on the part of the Agent or any Credit Party, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies,

powers and privileges provided by law. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether any Credit Party may have had notice or knowledge of such Default or Event of Default at the time.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Agent in accordance with Section 8.02 for the benefit of all the Lenders, the L/C Issuer and the other Credit Parties; provided, however, that the foregoing shall not prohibit (a) the Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents, (b) the L/C Issuer or the Swing Line Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as L/C Issuer or Swing Line Lender, as the case may be) hereunder and under the other Loan Documents, or (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13); and provided, further, that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b) and (c) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

SECTION 10.4 **Expenses; Indemnity; Damage Waiver.**

(i) Costs and Expenses. The Borrower shall (a) pay or reimburse the Agent and the Arrangers for all their respective reasonable and documented out-of-pocket costs and expenses incurred in connection with the syndication of the Commitments (other than fees payable to syndicate members) and the development, preparation, execution and delivery of this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith and any amendment, supplement or modification thereto (whether or not the transactions contemplated thereby shall be consummated), and (b) pay or reimburse the Agent and L/C Issuer only, for all their respective reasonable and documented out-of-pocket costs and expenses incurred in connection with the administration of the transactions contemplated hereby and thereby, including, without limitation, the reasonable and documented fees and disbursements and other charges of counsel to the Agent (including one primary counsel and such local counsel as the Agent may reasonably require in connection with collateral matters), outside consultants, appraisers, and commercial finance examiners in connection with all of the foregoing, all customary fees and charges (as adjusted from time to time) of the Agent with respect to the disbursement of funds (or the receipt of funds) to or for the account of the Borrower (whether by wire transfer or otherwise), and of the L/C Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, (c) pay or reimburse each Lender, Swing Line Lender, L/C Issuer, the Agent and the Arrangers for all their out-of-pocket costs and expenses incurred in connection with the enforcement of any rights under this Agreement, the other Loan Documents and any such other documents and in connection with the Loans made and Letters of Credit issued under this Agreement, including all such expenses incurred during any workout, restructuring or negotiations in respect of such Loans and Letters of Credit, including, without limitation, the fees and disbursements of counsel (including the allocated fees and expenses of in-house counsel) to each Lender. Swing Line Lender, L/C Issuer and the Agent, and (d) to pay, indemnify, or reimburse each Lender, Swing Line Lender, L/C Issuer, and the Agent for, and hold each Lender, Swing Line Lender, L/C Issuer, and the Agent harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying, stamp, excise and similar other taxes, if any, which may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions

contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of this Agreement the other Loan Documents and any such other documents.

(ii) Indemnification. The Borrower shall pay, indemnify or reimburse each Lender, Swing Line Lender, L/C Issuer, the Agent, each Arranger and their respective affiliates, and their respective officers, directors, trustees, employees, advisors, agents and controlling Persons (each, an "Indemnitee") for, and hold each Indemnitee harmless from and against any and all other liabilities, obligations, claims, losses, damages, penalties, costs, expenses or disbursements incurred or asserted against any such Indemnitee by any Loan Party, any of the directors, officers, shareholders or creditors of any Loan Party or any other Person arising out of any actions, judgments or suits of any kind or nature whatsoever, arising out of or in connection with any claim, action or proceeding relating to or otherwise with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including, without limitation, any of the foregoing relating to the use of proceeds of the Loans or the Letters of Credit or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of the Parent, Holdings, the Borrower, any of their respective Subsidiaries or any of the Properties, or to any Blocked Account Agreement or other Person who has entered into a control agreement with any Credit Party, and the fees and disbursements and other charges of legal counsel in connection with claims, actions or proceedings by any Indemnitee against the Parent, Holdings, or the Borrower hereunder (all the foregoing in this clause (d), collectively, the "Indemnified Liabilities"); provided that neither the Parent, Holdings, nor the Borrower shall have any obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the bad faith, gross negligence or willful misconduct of, such Indemnitee or its affiliates, officers, directors, trustees, employees, advisors, agents or controlling Persons. All amounts due under this Section 10.04 shall be payable promptly after receipt of a reasonably detailed invoice therefor. Statements payable by the Borrower pursuant to this Section 10.04 shall be submitted to the Borrower at the address thereof set forth in Section 10.02, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Agent.

(iii) Waiver of Consequential Damages, Etc. To the fullest extent permitted by Requirements of Law, each party hereto shall not assert, and hereby waive, any claim against any other party hereto, 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.

(iv) Limitation of Liability. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee 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 other than for direct or actual damages resulting from the bad faith, gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(v) Survival. The agreements in this Section shall survive the resignation of any Agent, the L/C Issuer or the Swing Line Lender, the assignment of any Commitment or Loan by any Lender, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

SECTION 10.5 **Payments Set Aside**.

To the extent that any payment by or on behalf of the Loan Parties is made to any Credit Party, or any Credit Party exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Credit Party in its discretion) to be repaid to a receiver, interim receiver, trustee, monitor, custodian, conservator, liquidator, rehabilitator or similar officer, or any other party in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Credit Party severally agrees to pay to the Agent upon demand its Applicable Percentage (without duplication) of any amount so recovered from or repaid by the Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Credit Parties under clause (b) of the preceding sentence shall survive the Payment in Full of the Obligations.

SECTION 10.6 **Successors and Assigns.**

(i) 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 no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder or under any other Loan Document without the prior written Consent of the Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of Section 10.06(b), (ii) by way of participation in accordance with the provisions of Section 10.06(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.06(f) (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 subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Credit Parties) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(ii) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans (including for purposes of this Section 10.06(b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(1) 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 or an Affiliate of a Lender or an Approved Fund with respect to a Lender, no minimum amount need be assigned; and

b. in any case not described in subsection (b)(i)(A)of this Section, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the 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 with respect to such assignment is delivered to the Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000 unless each of the Agent and, so long as no Specified Event of Default has occurred and is continuing, the

Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(2) 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 all of its the Loans or the Commitments, except that this clause (ii) shall not apply to the Swing Line Lender's rights and obligations in respect of Swing Line Loans;

(3) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

a. the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) a Specified Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund with respect to such Lender, provided that after the passage of seven (7) Business Days of receipt of written notice of an assignment from the Agent by the Borrower without the Borrower giving the Agent written notice of the Borrower's objection to such assignment, the Borrower shall be deemed to have consented to such assignment; and

b. the consent of the Agent, the L/C Issuer and the Swing Line Lender (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Commitment if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(4) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500, provided, however, that the Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it shall not be a Lender, shall deliver to the Agent an Administrative Questionnaire.

(5) No Assignment to Certain Persons. No such assignment shall be made (A) to the Loan Parties or any of the Loan Parties' Subsidiaries or Affiliates, (B) to any Defaulting Lender or any of its Subsidiaries or Affiliates, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), (C) to a natural Person, or (D) to Sponsor or any Sponsor Affiliate.

(6) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrower and the Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to

each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Agent, the L/C Issuer or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swing Line Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Requirement of Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement (including, for the avoidance of doubt, any rights and obligations pursuant to Section 3.01), and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption 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 3.01, 3.04, 3.05, and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, the Borrower (at their expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 10.06(d).

(iii) Register. The Agent, acting solely for this purpose as an agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Loan Parties, the Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register is intended to cause each Loan and other obligation hereunder to be in registered form within the meaning of Section 5f.103-1(c) of the United States Treasury Regulations and within the meaning of Sections 163(f), 871(h)(2), and 881(c)(2) of the Code. The 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.

(iv) Participations. (i) Any Lender may at any time, without the consent of, or notice to, the Loan Parties or the Agent, sell participations to any Person (other than a natural person, a Defaulting Lender or the Loan Parties or any of the Loan Parties' 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 (including such Lender's participations in L/C Obligations and/or Swing Line 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 Loan Parties, the Agent, the Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in connection with such Lender's rights and

obligations under this Agreement. Any Participant shall agree in writing to comply with all confidentiality obligations set forth in Section 10.07 as if such Participant was a Lender hereunder.

(1) 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 the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Documents; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in clauses (i) through (iv) of the first proviso to Section 10.01 that affects such Participant. Subject to subsection (e) of this Section, the Loan Parties agree that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 (subject to the limitations and requirements of Section 3.01 and Section 3.06) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.06(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.02 as though it were a Lender.

(2) 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 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 in connection with a Tax audit or other proceeding 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 and within the meaning of Sections 163(f), 871(h)(2), and 881(c)(2) of the Code. 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 Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(v) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant shall not be entitled to the benefits of Section 3.01 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Loan Parties, to comply and in fact complies with Section 3.01(e) as though it were a Lender.

(vi) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) 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.

(vii) Resignation as L/C Issuer or Swing Line Lender after Assignment or Resignation. Notwithstanding anything to the contrary contained herein, if at any time Citizens Bank assigns all of its

Commitment and Loans pursuant to subsection (b) above, or resigns as Agent in accordance with the provisions of Section 9.09, Citizens Bank may, (i) upon 30 days' notice to the Borrower and the Lenders, resign as L/C Issuer and/or (ii) with duplication of any notice required under Section 9.09, upon 30 days' notice to the Borrower, resign as Swing Line Lender. In the event of any such resignation as L/C Issuer or Swing Line Lender, the Borrower shall be entitled to appoint from among the Lenders a successor L/C Issuer or Swing Line Lender hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of Citizens Bank as L/C Issuer or Swing Line Lender, as the case may be. If Citizens Bank resigns as L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If Citizens Bank resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c). Upon the appointment of a successor L/C Issuer and/or Swing Line Lender, (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring L/C Issuer or Swing Line Lender, as the case may be, (b) the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Citizens Bank to effectively assume the obligations of Citizens Bank with respect to such Letters of Credit, and (c) the successor Swing Line Lender shall repay all outstanding Obligations with respect to Swing Line Loans due to the resigning Swing Line Lender. Any resignation by Citizens Bank as Agent pursuant to this Section shall also constitute its resignation as L/C Issuer and Swing Line Lender.

SECTION 10.7 **Treatment of Certain Information; Confidentiality**.

Each of the Credit Parties agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates, Approved Funds, and to its and its Affiliates' and Approved Funds' respective partners, directors, officers, employees, agents, funding sources, attorneys, advisors and 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), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority), (c) to the extent required by Requirement of Laws or regulations or by any subpoena or similar legal process, provided that the Agent or such Lender, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation; (d) to any other party hereto, (e) 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, (f) subject to an agreement (including any electronic agreement contained in any Platform) containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be an Additional Commitment Lender; or (ii) any actual or prospective counterparty (or its advisors) to any Hedge Agreement relating to any Loan Party and its obligations, (g) with the consent of the Borrower, (h) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender) or (i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to any Credit Party or any of their respective Affiliates on a non-confidential basis from a source other than the Loan Parties and which source is not known by such Agent or Lender to be subject to a confidentiality restriction in respect thereof in favor of any of the Credit Parties or any Affiliate of the Credit Parties.

For purposes of this Section, "Information" means all information received from the Loan Parties or any Subsidiary thereof relating to the Loan Parties or any Subsidiary thereof or their respective businesses, other than any such information that is available to any Credit Party on a non-confidential basis prior to disclosure by the Loan Parties or any Subsidiary thereof, provided that, in the case of information received from any Loan Party or any Subsidiary after the Closing Date, such information is clearly identified at the time of delivery as confidential. 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.

Each of the Credit Parties acknowledges that (a) the Information may include material non-public information concerning the Loan Parties or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with Requirement of Law, including the Securities Laws.

SECTION 10.8 **Right of Setoff**.

If an Event of Default shall have occurred and be continuing or if any Lender shall have been served with a trustee process or similar attachment relating to property of a Loan Party, each Lender, the L/C Issuer and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Agent or the Required Lenders, to the fullest extent permitted by Requirement of Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) or other property at any time held and other obligations (in whatever currency) at any time owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the Obligations now or hereafter existing under this Agreement or any other Loan Document to such Lender or the L/C Issuer, regardless of the adequacy of the Collateral, and irrespective of whether or not such Lender or the L/C Issuer 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 of such Lender or the L/C Issuer different from the branch or office holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Agent for further application in accordance with the provisions of Section 2.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Agent and the other Credit Parties, and (y) the Defaulting Lender shall provide promptly to the Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective Affiliates may have. Each Lender and the L/C Issuer agrees to notify the Borrower and the 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.

SECTION 10.9 **Interest Rate Limitation**.

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by Requirement of Law (the "Maximum Rate"). If the Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans and other Obligations (other than Other Liabilities not then due and owing) or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by

Requirement of Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

SECTION 10.10 **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 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. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Agent and when the 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, pdf or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Agreement.

SECTION 10.11 **Survival.**

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Credit Parties, regardless of any investigation made by any Credit Party or on their behalf and notwithstanding that any Credit Party may have had notice or knowledge of any Default or Event of Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding. Further, the provisions of Sections 3.01, 3.04, 3.05 and 10.04 and Article IX shall survive and remain in full force and effect regardless of the repayment of the Obligations, the expiration of the Letters of Credit or the termination of the Commitments or the termination of this Agreement or any provision hereof.

SECTION 10.12 **Severability**.

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Agent, the L/C Issuer or the Swing Line Lender, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

SECTION 10.13 **Replacement of Lenders**.

If any Lender requests compensation under Section 3.04, or ceases to make LIBOR Rate Loans or Daily LIBOR Rate Loans as a result of any condition described in Section 3.02 or 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any

Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02 or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Agent, require such Lender (other than Citizens Bank) to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Section 3.01 and 3.05) 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 Agent the assignment fee specified in Section 10.06(b);

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and L/C 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 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and

(iv) such assignment does not conflict with Requirement of Laws; and

(v) in the case of an assignment resulting from a Lender being a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

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.

SECTION 10.14 **GOVERNING LAW.** THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 10.15 **SUBMISSION TO JURISDICTION; WAIVERS.** Each Loan Party hereby irrevocably and unconditionally:

(i) submits for itself and its Property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

(ii) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same. Nothing herein shall limit the right of the Agent or any Lender to bring proceedings against any Loan Party in any other court;

(iii) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to it at its address set forth in Schedule 10.02 or at such other address of which the Agent shall have been notified pursuant thereto;

(iv) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(v) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

SECTION 10.16 **Waivers of Jury Trial.**

EACH OF THE PARENT, HOLDINGS, THE BORROWER, THE AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

SECTION 10.17 **No Advisory or Fiduciary Responsibility**.

In connection with all aspects of each transaction contemplated hereby, the Loan Parties each acknowledge and agree that: (i) the credit facility provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Loan Parties, on the one hand, and the Credit Parties, on the other hand, and each of the Loan Parties is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each Credit Party is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Loan Parties or any of their respective Affiliates, stockholders, creditors or employees or any other Person; (iii) none of the Credit Parties has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Loan Parties with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether any of the Credit Parties has advised or is currently advising any Loan Party or any of its Affiliates on other matters) and none of the Credit Parties has any obligation to any Loan Party or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (iv) the Credit Parties and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Loan Parties and their respective Affiliates, and none of the Credit Parties has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Credit Parties have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. Each of the Loan Parties hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against each of the Credit Parties with respect to any breach or alleged breach of agency or fiduciary duty.

SECTION 10.18 **USA PATRIOT Act; Proceeds of Crime Act.**

Each Lender that is subject to the USA Patriot Act and the Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties that pursuant to the requirements of the USA Patriot Act), it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Agent, as applicable, to identify each Loan Party in accordance with the Act. Each Loan Party is in compliance, in all material respects, with the USA Patriot Act. No part of the proceeds of the Loans will be used by the Loan Parties, directly or indirectly, for any purpose which would contravene or breach the Proceeds of Crime Act or for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

SECTION 10.19 **Foreign Asset Control Regulations**.

Neither of the advance of the Loans nor the use of the proceeds of any thereof will violate the Trading With the Enemy Act (50 U.S.C. § 1 et seq., as amended) (the "Trading With the Enemy Act") or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) (the "Foreign Assets Control Regulations") or any enabling legislation or executive order relating thereto (which for the avoidance of doubt shall include, but shall not be limited to (a) Executive Order 13224 of September 21, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the "Executive Order") and (b) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56)). Furthermore, none of the Borrower or its Affiliates (a) is or will become a "blocked person" as described in the Executive Order, the Trading With the Enemy Act or the Foreign Assets Control Regulations or (b) engages or will engage in any dealings or transactions, or be otherwise associated, with any such "blocked person" or in any manner violative of any such order.

SECTION 10.20 **Time of the Essence.**

Time is of the essence of the Loan Documents.

SECTION 10.21 **[Reserved].**

SECTION 10.22 **Press Releases.**

(i) Each Credit Party executing this Agreement agrees that neither it nor its Affiliates will in the future issue any press releases or other public disclosure using the name of the Agent or its Affiliates or referring to this Agreement or the other Loan Documents without at least two (2) Business Days' prior notice to the Agent and without the prior written consent of the Agent unless (and only to the extent that) such Credit Party or Affiliate is required to do so under Requirement of Law and then, in any event, such Credit Party or Affiliate will consult with the Agent before issuing such press release or other public disclosure.

(ii) Each Loan Party consents to the publication by the Agent or any Lender of advertising material relating to the financing transactions contemplated by this Agreement using any Loan Party's name, product photographs, logo or trademark. The Agent or such Lender shall provide a draft reasonably in advance of any advertising material to the Borrower prior to the publication thereof for review and comment by the Borrower. The Agent reserves the right to provide to industry trade organizations information necessary and customary for inclusion in league table measurements.

SECTION 10.23 **Additional Waivers**.

(i) The Obligations are the joint and several obligations of each Loan Party. To the fullest extent permitted by applicable Requirement of Law, the obligations of each Loan Party shall not be affected by (i) the failure of any Credit Party to assert any claim or demand or to enforce or exercise any right or remedy against any other Loan Party under the provisions of this Agreement, any other Loan Document or otherwise, (ii) any release of any other Loan Party from any of the terms or provisions of, this Agreement or any other Loan Document, or (iii) the failure to perfect any security interest in, or the release of, any of the Collateral or other security held by or on behalf of any Agent, the Collateral Agent or any other Credit Party.

(ii) Except as provided herein or in any other Loan Document or pursuant to any amendment or waiver executed pursuant to Section 10.01, the Obligations of each Loan Party shall not be subject to any reduction, limitation, impairment or termination for any reason (other than the Payment in Full of the Obligations), including any claim of waiver, release, surrender, alteration or compromise of any of the Obligations, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Obligations or otherwise. Without limiting the generality of the foregoing, the Obligations of each Loan Party shall not be discharged or impaired or otherwise affected by the failure of any Agent or any other Credit Party to assert any claim or demand or to enforce any remedy under this Agreement, any other Loan Document or any other agreement, by any waiver or modification of any provision of any thereof, any default, failure or delay, willful or otherwise, in the performance of any of the Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of any Loan Party or that would otherwise operate as a discharge of any Loan Party as a matter of law or equity (other than the Payment in Full of all of the Obligations).

(iii) To the fullest extent permitted by Requirement of Law, each Loan Party waives any defense based on or arising out of any defense of any other Loan Party or the unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any other Loan Party, other than the Payment in Full of all the Obligations. The Agent and the other Credit Parties may, at their election, foreclose on any security held by one or more of them by one or more judicial or non-judicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Obligations, make any other accommodation with any other Loan Party, or exercise any other right or remedy available to them against any other Loan Party, without affecting or impairing in any way the liability of any Loan Party hereunder except to the extent that all of the Obligations have been Paid in Full. To the fullest extent permitted by Requirement of Law, each Loan Party waives any defense arising out of any such election even though such election operates, pursuant to Requirement of Law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Loan Party against any other Loan Party.

(iv) Upon payment by any Loan Party of any Obligations, all rights of such Loan Party against any other Loan Party arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior Payment in Full of all of the Obligations. In addition, any indebtedness of any Loan Party now or hereafter held by any other Loan Party is hereby subordinated in right of payment to the prior Payment in Full of the Obligations and no Loan Party will demand, sue for or otherwise attempt to collect any such indebtedness until Payment in Full of the Obligations. If any amount shall erroneously be paid to any Loan Party on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of any Loan Party, such amount shall be held in trust for the benefit of the Credit Parties and shall forthwith be paid to the Agent to be credited against the payment of the Obligations, whether matured or unmatured, in accordance with the terms of this Agreement and the other Loan Documents.

SECTION 10.24 **Judgment Currency.**

If, for the purposes of obtaining judgment in any court in any jurisdiction with respect to this Agreement or any other Loan Document, it becomes necessary to convert into a particular currency (the "Judgment Currency") any amount due under this Agreement or under any other Loan Document in any currency other than the Judgment Currency (the "Currency Due"), then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgment is given. For this purpose "rate of exchange" means the rate at which the Agent is able, on the relevant date, to purchase the Currency Due with the Judgment Currency in accordance with its normal practice for the applicable currency conversion in the wholesale market. In the event that there is a change in the rate of exchange prevailing there is a change in the rate of exchange prevailing between the conversion date and the date of actual payment of the amount due, the Loan Parties will pay such additional amount (if any, but in any event not a lesser amount) as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of Currency Due which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the conversion date. If the amount of the Currency Due which the applicable Agent is so able to purchase is less than the amount of the Currency Due originally due to it, the applicable Loan Party shall indemnify and save the Agent, the L/C Issuer and the Lenders harmless from and against all loss or damage arising as a result of such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Agreement and the other Loan Documents, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Agent from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Agreement or any other Loan Document or under any judgment or order.

SECTION 10.25 **No Strict Construction**.

The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

SECTION 10.26 **Attachments**.

The exhibits, schedules and annexes attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail.

SECTION 10.27 **Electronic Execution of Assignments and Certain Other Documents**.

The words "execute," "execution," "signed," "signature," and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 10.28 **Acknowledgement and Consent to Bail-In of EEA Financial Institutions**.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(i) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an EEA Financial Institution; and

(ii) the effects of any Bail-in Action on any such liability, including, if applicable:

(1) a reduction in full or in part or cancellation of any such liability;

(2) conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document;

(3) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

SECTION 10.29 **Acknowledgement Regarding Any Supported QFCs**. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(i) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(ii) As used in this Section 10.29, the following terms have the following meanings:

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

VINCE, LLC, as Borrower

By: _____
Name:
Title:

VINCE INTERMEDIATE HOLDINGS, LLC, as a Loan Party

By: _____
Name:
Title:

VINCE HOLDING CORP., as a Loan Party

By: _____
Name:
Title:

REBECCA TAYLOR, INC., as a Loan Party

By:
Name:
Title:

PARKER HOLDING, LLC, as a Loan Party

By:
Name:
Title:

REBECCA TAYLOR RETAIL STORE, LLC, as a Loan Party

By:
Name:
Title:

PARKER LIFESTYLE, LLC, as a Loan Party

By:
Name:
Title:

CITIZENS BANK, NATIONAL ASSOCIATION, as Agent, a Lender, Swing Line Lender and L/C Issuer

By: _____
Name:
Title:

Schedule 1.01(c)
Consolidated Fixed Charge Coverage Ratio

		Clause (b)(i)
Testing Period	**Plug Value**	***Plus*** **actual Consolidated Net Interest Expense for the**
November 3, 2018	$3,744,688	N/A
February 2, 2019	$3,744,688	N/A
May 4, 2019	$3,744,688	N/A
August 3, 2019	$3,396,090	Month ended August 3, 2019
November 2, 2019	$2,346,060	Months ended August 3, 2019 through November 2, 2019
February 1, 2020	$1,490,928	Months ended August 3, 2019 through February 1, 2020
May 2, 2020	$608,973	Months ended August 3, 2019 through May 2, 2020

		Clause (b)(ii)
Testing Period	**Plug Value**	***Plus*** **actual scheduled payments of principal on Indebtedness during such period (after giving effect to any reduction thereof due to mandatory or permitted prepayments on such Indebtedness)**
November 3, 2018	$2,750,000	N/A
February 2, 2019	$2,750,000	N/A
May 4, 2019	$2,062,500	Fiscal Quarter ended February 2, 2019
August 3, 2019	$1,375,000	Fiscal Quarters ended February 2, 2019 and May 4, 2019
November 2, 2019	$687,500	Fiscal Quarters ended February 2, 2019, May 4, 2019 and August 3, 2019

2548/21798-049 CURRENT/123127207v6
SIXTH AMENDMENT TO CREDIT AGREEMENT

This **SIXTH AMENDMENT TO CREDIT AGREEMENT** (this "Amendment") is entered into as of April 23, 2021, by and among **VINCE, LLC**, a Delaware limited liability company (the "Borrower"), the Guarantors signatory hereto, **CRYSTAL FINANCIAL LLC (D/B/A SLR CREDIT SOLUTIONS)** (in its individual capacity, "Crystal"), as administrative agent and collateral agent under the Loan Documents (in such capacities, the "Agent") and each of the Lenders party hereto.

W I T N E S S E T H:

WHEREAS, the Borrower, the Guarantors from time to time party thereto, the Agent and the Lenders from time to time party thereto are parties to a Credit Agreement, dated as of August 21, 2018 (as amended, restated, amended and restated, supplemented, modified, or otherwise in effect from time to time prior to the date hereof, the "Credit Agreement"; the Credit Agreement as amended hereby, the "Amended Credit Agreement"); and

WHEREAS, the Borrower, the Guarantors, the Agent and the Lenders wish to further amend the Credit Agreement;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

SECTION 1. Definitions.

Unless otherwise indicated, all capitalized terms used herein (including the preamble and the recitals) and not otherwise defined shall have the respective meanings provided to such terms in the Amended Credit Agreement.

SECTION 2. Amendments to Credit Agreement. Subject to the satisfaction (or waiver) of the conditions set forth in Section 3 of this Amendment, the Credit Agreement (excluding the schedules and exhibits thereto, which shall remain in full force and effect, unless expressly amended pursuant to this Amendment) is hereby amended as set forth in Annex A attached hereto such that all of the newly inserted double underlined text (indicated textually in the same manner as the following example: **double-underlined text**) and any formatting changes attached hereto shall be deemed to be inserted and all stricken text (indicated textually in the same manner as the following example: ~~**stricken text**~~) shall be deemed to be deleted therefrom:

SECTION 3. Conditions of Effectiveness of this Amendment. This Amendment shall become effective on the date when the following conditions shall have been satisfied (or waived) (the "Sixth Amendment Effective Date"):

(a) execution and delivery of this Amendment by the Borrower, each Guarantor, the Agent and the Lenders;

(b) all action on the part of the Loan Parties necessary for the valid execution, delivery and performance by the other Loan Parties of this Amendment and all other documentation, instruments, and agreements to be executed in connection herewith shall have been duly and effectively taken and evidence thereof reasonably satisfactory to the Agent shall have been provided to the Agent, including an officer's certificate, dated as of the date hereof, certifying as to and (as applicable) attaching the Loan Parties' organization documents (which to the extent filed with a Governmental Authority, shall be certified as of a recent date by such Governmental Authority) or certifying as to no changes thereto since such documents were last delivered, the resolutions of the governing body of each Loan Party, the good standing, existence or its equivalent of each Loan Party, and of the incumbency (including specimen signatures) of the Responsible Officers of each Loan Party;

(c) [reserved];

(d) [reserved];

(e) [reserved];

(f) the Agent shall have received UCC and tax lien searches from all offices that Agent deems appropriate in its sole discretion; and

(g) the Agent shall have received the Sixth Amendment to Credit Agreement (the "Sixth ABL Amendment"), executed by the ABL Agent and the Borrowers and Guarantors, each in form and substance reasonably satisfactory to the Agent.

SECTION 4. Representations and Warranties. To induce the Agent and the Lenders to enter into this Amendment, the Borrower and each other Loan Party represents and warrants to the Agent and the Lenders on and as of the Sixth Amendment Effective Date that, in each case:

(a) all of the representations and warranties contained in the Credit Agreement or the other Loan Documents are true and correct in all material respects on the Sixth Amendment Effective Date both immediately before and after giving effect to this Amendment, with the same effect as though such representations and warranties had been made on and as of the Sixth Amendment Effective Date (it being understood that (x) any representation or warranty that is qualified by materiality or Material Adverse Effect shall be required to be true and correct in all respects after taking into account such qualification and (y) any representation or warranty made as of a specific date shall be true and correct in all material respects (or all respects after taking into account such qualification, as the case may be) as of such date); and

(b) no Default or Event of Default exists as of the Sixth Amendment Effective Date, after giving effect to this Amendment and the waivers contained herein.

SECTION 5. [Reserved].

SECTION 6. Reference to and Effect on the Credit Agreement and the Loan Documents; Ratification.

(a) On and after the Sixth Amendment Effective Date, each reference in the Credit Agreement to "this Agreement," "hereunder," "hereof" or words of like import referring to the Credit Agreement shall mean and be a reference to the Credit Agreement, as amended by this

Amendment.

(b) The Credit Agreement and each of the other Loan Documents, as specifically amended by this Amendment, are and shall continue to be in full force and effect and are hereby in all respects ratified and confirmed. Without limiting the generality of the foregoing, the Security Documents and all of the Collateral described therein do and shall continue to secure the payment of all Obligations of the Loan Parties under the Loan Documents, in each case, as amended by this Amendment.

(c) The Borrower expressly acknowledges and agrees that (i) there has not been, and this Amendment does not constitute or establish, a novation with respect to the Credit Agreement or any of the other Loan Documents, or a mutual departure from the strict terms, provisions, and conditions thereof, other than as set forth herein, and (ii) nothing in this Amendment shall affect or limit Agent's or the Lenders' right to demand payment of liabilities owing from Borrower to Agent or the Lenders under, or to demand strict performance of the terms, provisions and conditions of, the Credit Agreement and the other Loan Documents, to exercise any and all rights, powers, and remedies under the Credit Agreement or the other Loan Documents or at law or in equity, or to do any and all of the foregoing, immediately at any time after the occurrence of a Default or an Event of Default under the Credit Agreement or the other Loan Documents.

(d) Each Loan Party hereby restates, ratifies, and reaffirms each and every term, covenant, and condition set forth in the Credit Agreement and the other Loan Documents to which it is a party effective as of the date hereof.

(e) The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Lender, the Agent or any Issuer under any of the Loan Documents, nor constitute a waiver of any provision of any of the Loan Documents.

SECTION 7. Governing Law. THIS AMENDMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 8. Counterparts. This Amendment 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. Delivery of an executed counterpart of a signature page of this Amendment by telecopy, pdf or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Amendment.

SECTION 9. Electronic Execution. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of an executed signature page counterpart hereof by telecopy, emailed .pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart hereof. The words "execution," "signed," "signature," "delivery," and words of like import in or relating

to any document to be signed in connection with this Amendment and the transactions contemplated hereby shall be deemed to include electronic signatures, the electronic association of signatures and records on electronic platforms, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, any other similar state laws based on the Uniform Electronic Transactions Act, the Uniform Commercial Code, each as amended, and the parties hereto hereby waive any objection to the contrary, provided that (x) nothing herein shall require Agent to accept electronic signature counterparts in any form or format and (y) Agent reserves the right to require, at any time and at its sole discretion, the delivery of manually executed counterpart signature pages to this Agreement and the parties hereto agree to promptly deliver such manually executed counterpart signature pages.

SECTION 10. Release. BY EXECUTION OF THIS AMENDMENT, EACH LOAN PARTY ACKNOWLEDGES AND CONFIRMS THAT SUCH LOAN PARTY DOES NOT HAVE ANY OFFSETS, DEFENSES (OTHER THAN FOR PAYMENT ACTUALLY MADE), CLAIMS OR COUNTERCLAIMS AGAINST AGENT, ANY LENDER, OR CRYSTAL FINANCIAL LLC (D/B/A SLR CREDIT SOLUTIONS), OR ANY OF THEIR SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS, PREDECESSORS, SUCCESSORS OR ASSIGNS WHETHER ASSERTED OR UNASSERTED. EACH LOAN PARTY AND ITS SUCCESSORS, ASSIGNS, PARENTS, SUBSIDIARIES, AFFILIATES, PREDECESSORS, EMPLOYEES, AGENTS, HEIRS AND EXECUTORS, AS APPLICABLE (COLLECTIVELY, "RELEASING PARTIES"), JOINTLY AND SEVERALLY, RELEASE AND FOREVER DISCHARGE AGENT, EACH LENDER, CRYSTAL FINANCIAL LLC (D/B/A SLR CREDIT SOLUTIONS) AND THEIR RESPECTIVE SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ATTORNEYS, SUCCESSORS AND ASSIGNS, FROM ANY AND ALL MANNER OF ACTION AND ACTIONS, CAUSE AND CAUSES OF ACTION, SUITS, DEBTS, CONTROVERSIES, DAMAGES, JUDGMENTS, EXECUTIONS, CLAIMS, COUNTERCLAIMS AND DEMANDS ("CLAIMS") WHATSOEVER, ASSERTED OR UNASSERTED, IN LAW OR IN EQUITY WHICH THE RELEASING PARTIES EVER HAD OR NOW HAVE UPON OR BY REASON OF ANY MANNER, CAUSE, CAUSES OR THING WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY PRESENTLY EXISTING CLAIMS WHETHER OR NOT PRESENTLY SUSPECTED, CONTEMPLATED OR ANTICIPATED, IN EACH CASE RELATED TO THE LOAN DOCUMENTS AND BASED ON FACTS THAT ARE EXISTING ON OR BEFORE THE SIXTH AMENDMENT EFFECTIVE DATE; PROVIDED, THAT, WITH RESPECT TO ANY RELEASING PARTIES, THE FOREGOING RELEASE SHALL NOT APPLY TO (W) ANY CLAIMS ARISING AS A RESULT OF NONCOMPLIANCE WITH, OR OTHER MATERIAL BREACH BY, SUCH RELEASEE OF THIS AMENDMENT, (X) ANY CLAIMS RESULTING FROM SUCH RELEASEE'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR BAD FAITH, (Y) ANY CLAIMS REGARDING OBLIGATIONS OF SUCH RELEASEE UNDER THIS AMENDMENT OR (Z) ANY CLAIMS ARISING FROM DISPUTES ARISING SOLELY AMONG THE RELEASEES THAT DO NOT INVOLVE ANY ACT OR OMMISSION BY ANY RELEASING PARTY OR ITS AFFILIATES. THE PROVISIONS OF THIS SECTION

10 SHALL SURVIVE THE TERMINATION OF THIS AMENDMENT, THE CREDIT AGREEMENT AND THE OTHER LOAN DOCUMENTS AND THE PAYMENT IN FULL OF THE OBLIGATIONS.

SECTION 11. Miscellaneous. Sections 10.04, 10.10, 10.12, 10.14, 10.15 and 10.16 of the Credit Agreement are incorporated herein *mutatis mutandis*. This Amendment shall constitute a Loan Document.

SECTION 12. Consent. Notwithstanding the restrictions set forth in Section 9.1 of the Intercreditor Agreement, the Agent hereby consents to the Sixth ABL Amendment.

[The remainder of the page is intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Amendment as of the date first above written.

VINCE, LLC, as Borrower

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

VINCE INTERMEDIATE HOLDINGS, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

VINCE HOLDING CORP., as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

REBECCA TAYLOR, INC., as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

PARKER HOLDING, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

REBECCA TAYLOR RETAIL STORE, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

PARKER LIFESTYLE, LLC, as a Guarantor

By: /s/ David Stefko
Name: David Stefko
Title: Chief Financial Officer

[Vince – Signature Page to Sixth Amendment]

CRYSTAL FINANCIAL LLC (D/B/A SLR CREDIT SOLUTIONS), as Agent and a Lender

By: /s/ Mirko Andrick
Name: Mirko Andrick
Title: Senior Managing Director

CRYSTAL FINANCIAL SPV LLC, as a Lender

By: /s/ Mirko Andrick
Name: Mirko Andrick
Title: Senior Managing Director

Annex A

Amended Credit Agreement

[Please see attached]

CREDIT AGREEMENT

Dated as of August 21, 2018

among

VINCE, LLC,
as the Borrower,

The Guarantors Named Herein,

CRYSTAL FINANCIAL LLC,
as Agent

and

The Other Lenders Party Hereto

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CREDIT AGREEMENT

This **CREDIT AGREEMENT** ("Agreement") is entered into as of August 21, 2018, among **VINCE, LLC**, a Delaware limited liability company (the "Borrower"), the Guarantors named on Schedule 1.01(a) hereto, each Lender from time to time party hereto, and **CRYSTAL FINANCIAL LLC**, as administrative agent and collateral agent.

The Borrower has requested that the Lenders provide a term loan credit facility, and the Lenders have indicated their willingness to lend term loans to the Borrower on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I
DEFINITIONS AND ACCOUNTING TERMS

SECTION 1.1 Defined Terms.

As used in this Agreement, the following terms shall have the meanings set forth below:

"ABL Agent" means Citizens Bank.

"ABL Borrowing Base Certificate" mean "Borrowing Base Certificate" as defined in the ABL Credit Agreement.

"ABL Commitments" means all "Commitments" as defined in the ABL Credit Agreement.

"ABL Credit Agreement" means the Credit Agreement, dated as of the date hereof, by and among the Borrower, the Guarantors named therein, Citizens Bank, as administrate agent and collateral agent and the other lenders from time to time party thereto, as the same may be amended from time to time hereafter to the extent permitted hereunder and in accordance with the Intercreditor Agreement.

"ABL Debt" means all "Obligations" (as defined in the ABL Credit Agreement) owing to the ABL Secured Parties under the ABL Loan Documents.

"ABL Excess Availability" means "Excess Availability" as defined in the ABL Credit Agreement.

"ABL Loan Cap" means the "Loan Cap" as defined under the ABL Credit Agreement.

"ABL Loan Documents" means all "Loan Documents" as defined in the ABL Credit Agreement.

"ABL Loans" means "Loans" as defined in the ABL Credit Agreement.

"ABL Payment Conditions" means "Payment Conditions" as defined in the ABL Credit Agreement as in effect on the date hereof, without giving effect to any amendments or modifications of such definition or any component definitions (or any sub-component definitions) thereof; provided, that "ABL Payment Conditions" as used hereunder shall also require compliance with Section 7.18(a) hereof, calculated on a pro forma basis immediately after giving effect to any transaction or payment as if such transaction or payment had been made as of the first day of such period; provided, further, that the Borrower shall have delivered a Compliance Certificate to the Agent including a reasonably detailed calculation of ABL Excess Availability and the Consolidated Fixed Charge Coverage Ratio.

"ABL Priority Collateral" has the meaning set forth in the Intercreditor Agreement.

"ABL Secured Parties" means the "Secured Parties" as defined in the ABL Credit Agreement.

"ABL Trigger Amount" means the "Trigger Amount" as defined in the ABL Credit Agreement.

"Accelerated Borrowing Base Delivery Event" means (I) (a) at all times through January 29, 2022 and (b) at any time from and after January 30, 2022 and through the end of the Extended Accommodation Period, either (i) the occurrence and continuance of any Specified Event of Default under the ABL Credit Agreement or (ii) the failure of the Borrower to maintain ABL Excess Availability of at least the ABL Trigger Amount for three (3) consecutive Business Days and (II) after the end of the Extended Accommodation Period, either (i) the occurrence and continuance of any Specified Event of Default under the ABL Credit Agreement or (ii) the failure of the Borrower to maintain ABL Excess Availability of at least the ABL Trigger Amount for three (3) consecutive Business Days. For purposes of this Agreement, the occurrence of an Accelerated Borrowing Base Delivery Event under clauses (I)(b) or (II) of this definition above shall be deemed continuing (x) so long as such Specified Event of Default has not been waived in accordance with the terms of the ABL Credit Agreement, and/or (y) if such Accelerated Borrowing Base Delivery Event arises as a result of the Borrower's failure to achieve ABL Excess Availability of at least the ABL Trigger Amount for three (3) consecutive Business Days, until the date ABL Excess Availability shall have been at least equal to the ABL Trigger Amount for (x) in the case of clause (I)(b) above, sixty (60) consecutive calendar days and (y) in the case of clause (II)(ii) above, thirty (30) consecutive calendar days. The termination of an Accelerated Borrowing Base Delivery Event as provided herein or under the ABL Credit Agreement shall in no way limit, waive or delay the occurrence of a subsequent Accelerated Borrowing Base Delivery Event in the event that the conditions set forth in this definition again arise.

"Account" means "accounts" as defined in the UCC and also means a right to payment of a monetary obligation, whether or not earned by performance, (a) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (b) for services rendered or to be rendered, or (c) arising out of the use of a credit or charge card or information contained on or for use with the card. The term "Account" does not include (a) rights to payment evidenced by chattel paper or an instrument, (b) commercial tort claims, (c) deposit accounts, (d) investment property, or (e) letter of credit rights or letters of credit.

"ACH" means automated clearing house transfers.

"Acquisition" means, with respect to any Person (a) an Investment in or a purchase of a fifty percent (50%) or greater interest in, the Equity Interests of any other Person, (b) a purchase or other acquisition of all or substantially all of the assets or properties of, another Person, (c) a purchase or acquisition of a Real Estate portfolio or stores from any other Person or assets constituting a business unit, line of business or division of any other Person, (d) any merger or consolidation of such Person with any other Person or other transaction or series of transactions resulting in the acquisition of all or substantially all of the assets, or greater than fifty percent (50%) of the Equity Interests, of any Person, in each case, in any transaction or group of transactions which are part of a common plan.

"Adjustment Date" means the first day of each Fiscal Quarter, commencing February 1, 2020.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Agent.

"Affiliate" means, with respect to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, "control"

of a Person means the power, directly or indirectly to direct or cause the direction of the management and policies of such Person, in either case whether by contract or otherwise.

"Agent" means Crystal Financial LLC in its capacity as administrative agent and collateral agent under any of the Loan Documents, or any successor thereto.

"Agent's Office" means the Agent's address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Agent may from time to time notify the Borrower and the Lenders.

"Agreement" means this Credit Agreement.

"Amended or Refinanced" means, in respect of any obligation, or the agreement or contract pursuant to which such obligation is incurred, (a) such obligation (or any portion thereof) or related agreement or contract as extended, renewed, defeased, amended, amended and restated, supplemented, modified, restructured, consolidated, refinanced, replaced, refunded or repaid from time to time and (b) any other obligation issued in exchange or replacement for or to refinance such obligation, in whole or in part, whether with same or different lenders, arrangers and/or agents and whether with a larger or smaller aggregate principal amount and/or a shorter or longer maturity, in each case to the extent not prohibited under the terms of the Loan Documents then in effect. "Amend or Refinance" and "Amendment or Refinancing" shall have correlative meanings.

"Anti-Money Laundering Laws" means any and all laws, judgments, orders, executive orders, decrees, ordinances, rules, regulations, statutes, case law or treaties applicable to a Loan Party, its Subsidiaries or Affiliates, related to terrorism financing or money laundering including any applicable provision of Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001 (Title III of Pub. L. 107-56) and The Currency and Foreign Transactions Reporting Act (also known as the "Bank Secrecy Act", 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

"Applicable Lenders" means the Required Lenders, all affected Lenders, or all Lenders, as the context may require.

"Applicable Margin" means:

(i) From and after the Closing Date until the first anniversary of the Closing Date, the percentages set forth in "Level I" of the pricing grid in clause (b) below;

(ii) After the first anniversary of the Closing Date, except as set forth in (c) below, upon each Adjustment Date thereafter, the Applicable Margin shall be determined from the following pricing grid based upon Consolidated EBITDA for the Measurement Period ended immediately preceding such Adjustment Date for which financial statements have been delivered pursuant to Section 6.01; provided, however, that upon the occurrence of an Event of Default, the Agent may, and at the direction of the Required Lenders shall, immediately increase the Applicable Margin to that set forth in "Level I" (even if the Consolidated EBITDA requirements for a different Level have been met); provided further if the information set forth in any Compliance Certificate proves to be false or incorrect due to intentional misrepresentation by the Borrower such that the Applicable Margin would have been higher than was otherwise in effect during any period, without constituting a waiver of any Default or Event of Default arising as a result thereof, interest due under this Agreement shall be immediately recalculated at such higher rate for any applicable periods and shall be due and payable on demand.

Level	Consolidated EBITDA	LIBOR Margin
I	Less than $20,000,000	7.00%
II	Greater than or equal to $20,000,000	6.75%

(iii) From and after the Third Amendment Effective Date until the first anniversary of the Third Amendment Effective Date, 9.00%, of which 2.00% shall be deferred and paid in cash on the first anniversary of the Third Amendment Effective Date (the "Deferred Interest") and thereafter, through the Extended Accommodation Period, upon each Adjustment Date thereafter, the Applicable Margin shall be determined from the following pricing grid based upon Consolidated EBITDA for the Measurement Period ended immediately preceding such Adjustment Date for which financial statements have been delivered pursuant to Section 6.01; provided, however, that upon the occurrence of an Event of Default, the Agent may, and at the direction of the Required Lenders shall, immediately increase the Applicable Margin to that set forth in "Level I" (even if the Consolidated EBITDA requirements for a different Level have been met); provided further if the information set forth in any Compliance Certificate proves to be false or incorrect due to intentional misrepresentation by the Borrower such that the Applicable Margin would have been higher than was otherwise in effect during any period, without constituting a waiver of any Default or Event of Default arising as a result thereof, interest due under this Agreement shall be immediately recalculated at such higher rate for any applicable periods and shall be due and payable on demand;

Level	Consolidated EBITDA	LIBOR Margin
I	Less than $20,000,000	9.00%
II	Greater than or equal to $20,000,000	7.00%

"Applicable Percentage" means with respect to any Lender at any time, the percentage (carried out to the ninth decimal place) of such Lender's Commitment or the Total Outstandings at such time, subject to adjustment as provided in Section 10.06. The initial Applicable Percentage of each Lender is set forth opposite the name of such Lender on Schedule 2.01 or in the Assignment and Assumption or other instrument pursuant to which such Lender becomes a party hereto, as applicable.

"Applicable Premium Trigger Event" means (i) any prepayment by any Loan Party of all, or any part, of the principal balance of the Term Loan for any reason (including, but not limited to, any optional prepayment or mandatory prepayment (other than a prepayment pursuant to Sections 2.05(a)(ii), 2.06(b), (d) or (e)), and distribution in respect thereof, and any refinancing thereof), whether in whole or in part, and whether before or after (x) the occurrence of an Event of Default, or (y) the commencement of any Insolvency Proceeding, and notwithstanding any acceleration (for any reason) of the Obligations; (ii) the acceleration of the Obligations for any reason, including, but not limited to, acceleration in accordance with Section 8.02, including as a result of the commencement of an Insolvency Proceeding; (iii) the satisfaction, release, payment, restructuring, reorganization, replacement, reinstatement, defeasance or

compromise of any of the Obligations in any Insolvency Proceeding, foreclosure (whether by power of judicial proceeding or otherwise) or deed in lieu of foreclosure or the making of a distribution of any kind in any Insolvency Proceeding to the Agent, for the account of the Lenders in full or partial satisfaction of the Obligations; or (iv) the termination of this Agreement for any reason. For purposes of the definition of the term Early Termination Fee, if an Applicable Premium Trigger Event occurs under clause (ii), (iii) or (iv) above, the entire outstanding principal amount of the Term Loan shall be deemed to have been prepaid on the date on which such Applicable Premium Trigger Event occurs.

"Appraised Value" means the appraised orderly liquidation value, net of costs and expenses to be incurred in connection with any such liquidation, which value, (i) with respect to Eligible Inventory, is expressed as a percentage of Cost of Eligible Inventory as set forth in the inventory stock ledger of the applicable Loan Party, which value shall be determined from time to time by the most recent appraisal undertaken by an independent appraiser reasonably satisfactory to the ABL Agent, or (ii) with respect to Eligible Intellectual Property, shall be determined from time to time by reference to the most recent appraisal received by the Agent conducted by an independent appraiser that is retained by the Agent.

"Approved Fund" means, with respect to any Lender, any Fund that is administered or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers or manages such Lender.

"Assignee Group" means two or more Eligible Assignees that are Affiliates of one another or two or more Approved Funds managed by the same investment advisor.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06), and accepted by the Agent, in substantially the form of Exhibit D or any other form approved by the Agent.

"Audited Financial Statement" means the audited consolidated balance sheet of Parent and its Subsidiaries for the Fiscal Year ended February 3, 2018, the related audited consolidated statements of income, cash flows and shareholders' equity, and the footnotes thereto.

"Availability Reserves" means "Availability Reserves" as defined under the ABL Credit Agreement without giving effect to any amendments or modifications of such definition or any component definitions (or any sub-component definitions) thereof.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

"Bail-In Legislation" means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

"Blocked Account" means any deposit account in which any funds of any of the Loan Parties from one or more DDAs (other than any Excluded DDA) are concentrated and with respect to which a Blocked Account Agreement has been, or is required to be, executed in accordance with the terms hereof.

"Blocked Account Agreement" means with respect to a deposit account or Securities Account established by a Loan Party, an agreement, in form and substance reasonably satisfactory to the Agent, establishing control (within the meaning of Section 9-104 or Section 8-106 of the UCC, as applicable) of such deposit account or Securities Account by the Agent and whereby the bank or intermediary maintaining such

deposit account or Securities Account agrees, upon the occurrence and during the continuance of Cash Dominion Events, (as defined under the ABL Credit Agreement), to comply only with the instructions originated by the Agent without the further consent of any Loan Party.

"Blocked Account Bank" has the meaning provided in Section 6.12.

"Board of Directors" means, as to any Person, the board of directors (or comparable managers) of such Person, or any committee thereof duly authorized to act on behalf of such board of directors (or comparable managers).

"Borrower Intellectual Property" has the meaning specified in Section 5.09.

"Borrower" has the meaning set forth in the preamble.

"Borrower's Headquarters" means the Borrower's offices located at 500 Fifth Avenue, 20th Floor, New York, NY 10110 or such other address where principal books and records are located as the Borrower may notify the Agent from time to time.

"Borrowing" means the borrowing of Term Loans made by each of the Lenders pursuant to Section 2.01 to the Borrower on the Closing Date.

"Borrowing Base" means, at any time of calculation, an amount equal to (but not less than zero):

(i) the face amount of Eligible Trade Receivables of the Loan Parties multiplied by 90%;

plus

(ii) the face amount of Eligible Credit Card Receivables of the Loan Parties multiplied by 100%;

plus

(iii) 95% multiplied by the Appraised Value of Eligible Inventory of the Loan Parties multiplied by the Cost of such Eligible Inventory, provided that Eligible In-Transit Inventory shall not exceed 30% of the Borrowing Base;

plus

(iv) 100% of Eligible Cash On Hand in an aggregate amount of up to $5,000,000; provided, that Eligible Cash On Hand included in the Borrowing Base may not be withdrawn from the Qualified Account, thereby reducing the Borrowing Base, unless and until the Borrower furnishes the Agent with (x) notice of such intended withdrawal, (y) a Borrowing Base Certificate as of the date of such proposed withdrawal reflecting that, after giving effect to such withdrawal, no Overadvance (as defined under the ABL Credit Agreement) exists or would result from such withdrawal and (z) a certificate of a Responsible Officer on behalf of the Parent certifying that no Default or Event of Default shall have occurred and be continuing at the time of such withdrawal or would result therefrom;

plus

(v) (i) on or prior to July 31, 2021, 60% and (ii) on or after August 1, 2021, 55%, in each case, multiplied by the Appraised Value of the Eligible Intellectual Property;

minus

(vi) the then amount of all Reserves relating to the Loan Parties.

"Borrowing Base Certificate" means, collectively, the ABL Borrowing Base Certificate and the Term Loan Borrowing Base Certificate, collectively.

"Business Day" means (a) any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Requirements of Law of, or are in fact closed in, the state where the Agent's Office in the applicable jurisdiction is located and (b) if such day relates to any interest rate settings as to a LIBOR Rate denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such LIBOR Rate Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such LIBOR Rate Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market.

"Capital Expenditures" means, for any period, with respect to any Person, the aggregate of all cash expenditures by such Person for the acquisition or leasing (pursuant to Capital Lease Obligations but excluding any amount representing capitalized interest) of fixed or capital assets or additions to equipment (including replacements, capitalized repairs and improvements during such period) which are required to be capitalized under GAAP on a balance sheet of such Person; provided that in any event the term "Capital Expenditures" shall exclude: (i) any Permitted Acquisition and any other Investment permitted hereunder; (ii) expenditures to the extent financed with the proceeds from any casualty insurance or condemnation or eminent domain, to the extent that the proceeds therefrom are utilized (or are contractually committed to be utilized) for capital expenditures within twelve (12) months of the receipt of such proceeds; (iii) expenditures for leasehold improvements for which such Person has been reimbursed or received a credit; and (iv) expenditures to the extent they are made with the proceeds of equity contributions (other than in respect of Disqualified Stock) made to the Borrower after the Closing Date, (v) the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment solely to the extent that the gross amount of such purchase price is reduced by the credit granted by the seller of such equipment for the equipment being traded in at such time; (vi) without duplication of the provisions of clause (iii), above, expenditures that are accounted for as capital expenditures by the Parent, Holdings, the Borrower or any Restricted Subsidiary and that actually are paid for by a Person other than the Parent, Holdings, the Borrower or any Restricted Subsidiary and for which neither the Parent, Holdings, the Borrower nor any Restricted Subsidiary has provided or is 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); (vii) expenditures that constitute operating lease expenses in accordance with GAAP; (viii) any capitalized interest expense reflected as additions to property, plant or equipment in the consolidated balance sheet of the Parent, Holdings, the Borrower and the Restricted Subsidiaries; and (ix) any non-cash compensation or other non-cash costs reflected as additions to property, plant or equipment in the consolidated balance sheet of the Parent, Holdings, the Borrower and the Restricted Subsidiaries.

"Capital Lease Obligations" means, with respect to any Person for any period, the obligations of such Person to pay rent or 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 leases on a balance sheet of such Person under GAAP and, for the purposes of

this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

"Cash Equivalents" means (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States government or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within one year from the date of acquisition; (b) certificates of deposit, time deposits, eurodollar time deposits or overnight bank deposits having maturities of one year or less from the date of acquisition issued by any Lender or by any commercial bank organized under the laws of the United States or any state thereof having combined capital and surplus of not less than $500,000,000; (c) commercial paper of an issuer rated at least A-2 by S&P or P-2 by Moody's, or carrying an equivalent rating by a nationally recognized rating agency if both of the two named rating agencies cease publishing ratings of commercial paper issuers generally, and maturing within one year from the date of acquisition; (d) repurchase obligations of any Lender or of any commercial bank satisfying the requirements of clause (b) of this definition, having a term of not more than 30 days with respect to securities issued or fully guaranteed or insured by the United States government; (e) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, by any political subdivision or taxing authority of any such state, commonwealth or territory or by any foreign government, the securities of which state, commonwealth, territory, political subdivision, taxing authority or foreign government (as the case may be) are rated at least A by S&P or A by Moody's; (f) securities with maturities of one year or less from the date of acquisition backed by standby letters of credit issued by any Lender or any commercial bank satisfying the requirements of clause (b) of this definition; and (g) shares of money market mutual or similar funds which invest exclusively in assets satisfying the requirements of any of clauses (a) through (f) of this definition; or (h) money market funds that (i) purport to comply generally with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, as amended, (ii) are rated AAA by S&P or Aaa by Moody's or carrying an equivalent rating by a nationally recognized rating agency, and (iii) have portfolio assets of at least $5,000,000,000; or (i) in the case of Foreign Subsidiaries, (i) such local currencies in those countries in which such Foreign Subsidiary transacts business from time to time in the ordinary course of business and (ii) investments of comparable tenor and credit quality to those described above customarily utilized in the countries in which such Foreign Subsidiaries operate for short-term cash management purposes.

"CFC" means any Subsidiary that is a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"CFC Holdco" means any Domestic Subsidiary that has no material assets other than the Equity Interests of and, if applicable, Indebtedness of one or more Foreign Subsidiaries that are CFCs.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines 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, 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 or issued.

"Change of Control" means an event or series of events by which:

(i) the Parent shall cease directly or indirectly to own 100% of the Equity Interests of Holdings and the Borrower (except to the extent Holdings is permitted to merge with the Parent pursuant to Section 7.04); or

(ii) any "person" or "group" (as such terms are used in Section 13(d) and 14(d) of the Securities Exchange Act), other than one or more Permitted Investors shall be the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act) of Equity Interests having more, directly or indirectly, than 35% of the total voting power of all outstanding capital stock of the Parent in the election of directors, unless at such time the Permitted Investors are direct or indirect "beneficial owners" (as so defined) of Equity Interests of the Parent having a greater percentage of the total voting power of all outstanding Equity Interests of the Parent in the election of directors than that owned by each other "person" or "group" described above; or

(iii) for any reason whatsoever, a majority of the Board of Directors of the Parent shall not be Continuing Directors; or

(iv) a "Change of Control" (or comparable term) shall occur under the ABL Credit Agreement, any Junior Indebtedness or the documentation for any Amendment or Refinancing of the foregoing, in each case (other than the ABL Credit Agreement), if the outstanding principal amount thereof is in excess of $15,000,000.

"Citizens Bank" means Citizens Bank, National Association.

"Closing Date" means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01, which date is August 21, 2018.

"Code" means the Internal Revenue Code of 1986, and the regulations promulgated thereunder, as amended and in effect.

"Collateral" means any and all "Collateral", "Security Assets" or "Mortgaged Property" as defined in any applicable Security Document and all other property that is subject to Liens in favor of the Agent under the terms of the Security Documents.

"Collateral Access Agreement" means an agreement reasonably satisfactory in form and substance to the Agent executed by (a) a bailee or other Person in possession of Collateral, or (b) any landlord of Real Estate leased by any Loan Party, pursuant to which such Person (i) acknowledges the Agent's Lien on the Collateral, (ii) releases or subordinates such Person's Liens in the Collateral held by such Person or located on such Real Estate, (iii) provides the Agent with access to the Collateral held by such bailee or other Person or located in or on such Real Estate, and (iv) makes such other agreements with the Agent as the Agent may reasonably require.

"Combined Total Outstandings" means the sum of (i) "Total Outstandings" under the ABL Credit Agreement plus (ii) the Total Outstandings hereunder.

"Commercial Letter of Credit" means any letter of credit or similar instrument issued for the purpose of providing the primary payment mechanism in connection with the purchase of any materials, goods or services by a Loan Party in the ordinary course of business of such Loan Party.

"Commitments" means, as to each Lender, its obligation to make its pro rata portion of the Term Loan to the Borrower pursuant to Section 2.01 on the Closing Date, in an aggregate principal amount not to

exceed the amount set forth opposite such Lender's name on Schedule 2.01. As of the Closing Date, the total Commitments of all Lenders is $27,500,000.

"Commonly Controlled Entity" means an entity, whether or not incorporated, that is under common control with the Parent within the meaning of Section 4001 of ERISA.

"Commonly Controlled Plan" has the meaning set forth in Section 5.12(b).

"Compliance Certificate" means a certificate substantially in the form of Exhibit C.

"Consent" means actual consent given by a Lender from whom such consent is sought; or the passage of seven (7) Business Days from receipt of written notice to a Lender from the Agent of a proposed course of action to be followed by the Agent without such Lender's giving the Agent written notice of that Lender's objection to such course of action.

"Consolidated" means, when used to modify a financial term, test, statement, or report of a Person, the application or preparation of such term, test, statement or report (as applicable) based upon the consolidation, in accordance with GAAP, of the financial condition or operating results of such Person and its Subsidiaries.

"Consolidated Current Assets": at any date, all amounts (other than cash and Cash Equivalents) that would, in conformity with GAAP, be set forth opposite the caption "total current assets" (or any like caption) on a consolidated balance sheet of the Parent, Holdings, the Borrowers and their Restricted Subsidiaries at such date.

"Consolidated Current Liabilities": at any date, all amounts that would, in conformity with GAAP, be set forth opposite the caption "total current liabilities" (or any like caption) on a consolidated balance sheet of the Parent, Holdings, the Borrowers and their Restricted Subsidiaries at such date, but excluding (a) the current portion of any Indebtedness of the Parent, Holdings, the Borrowers and their Restricted Subsidiaries and (b) without duplication, all Indebtedness consisting of ABL Indebtedness, to the extent otherwise included therein.

"Consolidated EBITDA" means, of any Person for any period, Consolidated Net Income of such Person and its Restricted Subsidiaries for such period plus, without duplication and to the extent reflected as a charge in the statement of such Consolidated Net Income, the sum of (a) income tax (or any alternative tax in lieu thereof) expense (including state franchise and similar taxes), (b) Consolidated Net Interest Expense of such Person and its Restricted Subsidiaries, amortization or writeoff of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness (including commitment and administrative fees and charges with respect to this Agreement, the ABL Credit Agreement, Indebtedness incurred pursuant to Section 7.03(n), any Junior Indebtedness and any Permitted Amendment or Refinancing of any of the foregoing), (c) depreciation and amortization expense, (d) amortization or impairment of intangibles (including, but not limited to, goodwill) and organization costs, (e) any extraordinary, unusual or non-recurring expenses or losses (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, losses on sales of assets outside of the ordinary course of business) (subject, including with respect to any expenses or losses incurred in response to the COVID-19 pandemic or related disruptions ("COVID Adjustments"), to the cap in clause (A) of the proviso hereto), (f) stock-option based and other equity-based compensation expenses, (g) transaction costs, fees and expenses (including those relating to the transactions contemplated hereby, by Section 7.03(n) hereof, and by the ABL Credit Agreement (including any Amendment or Refinancing or waivers of the Loan Documents, Indebtedness incurred pursuant to Section 7.03(n) and/or the ABL Loan Documents), and those payable in connection with the

sale of Equity Interests (including any secondary or follow-on offerings), the incurrence, repayment, redemption, repurchase or defeasance of Indebtedness permitted under Section 7.03, any disposition of Property permitted under Section 7.05 or any recapitalization or any Permitted Acquisition or other Investment permitted under Section 7.02 or any other Specified Transaction (in each case whether or not successful)), (h) expenses or losses with respect to liability or casualty events and proceeds from any business interruption insurance, in each case, to the extent covered by insurance and actually reimbursed or otherwise paid, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed or otherwise paid by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed or otherwise paid within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed or otherwise paid within such 365 days) (in the case of this clause (h) to the extent not reflected as revenue or income in such statement of such Consolidated Net Income and without duplication of any amounts included in Consolidated Net Income), (i) to the extent actually reimbursed, expenses incurred to the extent covered by indemnification provisions in any agreement in connection with any Investment, Permitted Acquisition or any sale, conveyance, transfer or other Disposition of assets permitted under this Agreement, (j) any call premium, tender premium, original issue discount or expenses associated with the repurchase, redemption, defeasance, or repayment of Indebtedness, (k) the amount of any restructuring charges or reserves (which, for the avoidance of doubt, shall include retention, severance, systems establishment cost, excess pension charges, contract termination costs, future lease commitments, costs to consolidate facilities and relocate employees, costs related to the winddown of leases and costs related to store closures) deducted in such period in computing such Consolidated Net Income (subject, including any COVID Adjustments, to the cap in clause (A) of the proviso hereto), (l) any non-cash charges, expenses or losses (including any impairment charges and the impact of purchase accounting, including, but not limited to, the amortization of inventory step-up) reducing such Consolidated Net Income for such period (excluding any such charge that represents an accrual or reserve for a cash expenditure for a future period, other than straight-line rent expense determined in accordance with GAAP), and (m) through the Fiscal Year ending on or around February 2, 2019, one-time costs and expenses related to the replacement of services provided to the Borrower on the Closing Date under the terms of the Shared Services Agreement minus, to the extent included in the statement of such Consolidated Net Income for such period, the sum of (a) any extraordinary, unusual or non-recurring income or gains (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, gains on the sales of assets outside of the ordinary course of business) and (b) any non-cash items increasing Consolidated Net Income for such Person for such period (excluding any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges made in any prior period or which will result in the receipt of cash in a future period or the amortization of lease incentives), all as determined on a Consolidated basis; provided that for purposes of calculating Consolidated EBITDA of the Parent, Holdings, the Borrower and its Restricted Subsidiaries for any period, (A) the Consolidated EBITDA of any Person acquired by the Parent, Holdings, the Borrower or its Restricted Subsidiaries during such period shall be included on a pro forma basis for such period to give effect to the transactions on the Closing Date and any Specified Transactions (but assuming the consummation of such Specified Transaction and the incurrence or assumption of any Indebtedness in connection therewith occurred on the first day of such period, and assuming any synergies and cost savings to the extent certified by the Borrower as having been determined in good faith to be reasonably anticipated to be realizable within 12 months following such Specified Transaction and provided that the aggregate amount of synergies and costs savings included in Consolidated EBITDA for any period of four consecutive fiscal quarters, together with any amounts added back to Consolidated EBITDA pursuant to clauses (e) and (k) hereof (inclusive of any COVID Adjustments), shall not exceed, for any four fiscal quarter period ending prior to or on January 29, 2022, 27.5%, and thereafter, 22.5%, in each case, of Consolidated EBITDA for such four fiscal quarter period (calculated before giving effect to such adjustment) (provided that to the extent that Consolidated EBITDA for such four fiscal quarter period shall be less than zero prior to giving effect

to such adjustment, Consolidated EBITDA shall be deemed to be zero solely for purposes of calculating the cap applicable to such adjustment)), (B) the Consolidated EBITDA of any Person Disposed of by the Parent, Holdings, the Borrower or its Restricted Subsidiaries during such period shall be excluded for such period (assuming the consummation of such Disposition and the repayment of any Indebtedness in connection therewith occurred on the first day of such period), (C) to the extent included in such Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period any income (loss) for such period attributable to the early extinguishment of (i) Indebtedness, (ii) obligations under any Hedge Agreements or (iii) other derivative instruments, (D) to the extent included in Consolidated Net Income, there shall be excluded in determining Consolidated EBITDA for any period any net after-tax gain or loss resulting from Hedge Agreement or other derivative instruments and the application of Statement of Financial Accounting Standards No. 133 and International Accounting Standard No. 39 and their respective related pronouncements and interpretations, and (E) any gains or losses attributable to foreign currency translations not entered into for speculative purposes, including those relating to mark-to-market of Indebtedness denominated in foreign currencies resulting from the application of GAAP, including FAS No. 52.

Notwithstanding the foregoing, Consolidated EBITDA for the Parent, Holdings, the Borrower and its Restricted Subsidiaries shall be deemed to be: (i) for the Fiscal Quarter ending October 28, 2017, $11,206,000, (ii) for the Fiscal Quarter ending February 3, 2018, $4,483,000, (iii) for the Fiscal Quarter ending May 5, 2018, $(1,457,000), and (iv) for the Fiscal Quarter ending August 3, 2018, $778,000.

"Consolidated Fixed Charge Coverage Ratio" means, at any date of determination, with respect to the Parent, Holdings, the Borrower and its Restricted Subsidiaries, the ratio of (a) (i) Consolidated EBITDA for such period, minus (ii) Capital Expenditures (other than Financed Capital Expenditures) made in cash during such period, minus (iii) the aggregate amount of federal, state, provincial, territorial, municipal, local and foreign income Taxes paid in cash during such period (but not less than zero) and all amounts actually paid by the Loan Parties under the Tax Receivable Agreement to (b) the sum of (i) Consolidated Net Interest Expense for such period, plus (ii) scheduled payments of principal on Indebtedness during such period (after giving effect to any reduction thereof due to mandatory or permitted prepayments on such Indebtedness), plus (iii) the aggregate amount of Restricted Payments made pursuant to Section 7.06(f) and (g) hereof during such period (but excluding Restricted Payments to the extent funded by an issuance by the Borrower of Indebtedness permitted under Section 7.03 hereof (other than the Obligations), an Equity Issuance permitted hereunder or a capital contribution to the Borrower).

Notwithstanding the foregoing, (A) Capital Expenditures (other than Financed Capital Expenditures) for the Parent, Holdings, the Borrower and its Restricted Subsidiaries shall be deemed to be: (i) for the Fiscal Quarter ending February 3, 2018, $859,000, (ii) for the Fiscal Quarter ending May 5, 2018, $152,000, and (iii) for the Fiscal Quarter ending August 3, 2018, $2,061,000, (B) for purposes of calculating the amount under clause (b)(i) above for each "Testing Period" listed on Schedule 1.01(c) hereto, such amounts shall be calculated as the sum of (x) the "Plug Value" listed under the heading "clause (b)(i)" on such Schedule 1.01(c) for such "Testing Period" and (y) the Consolidated Net Interest Expense for the period listed on such Schedule 1.01(c) in the right-hand column under the heading "clause (b)(i)" with respect to such "Testing Period" and (C) for purposes of calculating the amount under clause (b)(ii) above for each "Testing Period" listed on Schedule 1.01(c) hereto, such amounts shall be calculated as the sum of (x) the "Plug Value" listed under the heading "clause (b)(ii)" on such Schedule 1.01(c) for such "Testing Period" and (y) the scheduled payments of principal on Indebtedness (after giving effect to any reduction thereof due to mandatory or permitted prepayments on such Indebtedness) for the period listed on such Schedule 1.01(c) in the right-hand column under the heading "clause (b)(ii)" with respect to such "Testing Period".

"Consolidated Net Income" means, of any Person for any period, the consolidated net income (or loss) of such Person and its Restricted Subsidiaries for such period, determined on a Consolidated basis in

accordance with GAAP; provided that in calculating Consolidated Net Income of the Parent, Holdings, the Borrower and its Restricted Subsidiaries for any period, there shall be excluded (a) the income (or deficit) of any Person accrued prior to the date it becomes a Restricted Subsidiary or is merged into or consolidated with the Borrower or any of its Restricted Subsidiaries and (b) the income (or deficit) of any Person (other than a Restricted Subsidiary) in which the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Parent, Holdings, the Borrower or such Restricted Subsidiary in the form of dividends or similar distributions (which dividends and distributions shall be included in the calculation of Consolidated Net Income). Notwithstanding the foregoing, the effect of any non-cash items resulting from any amortization, write-up, write-down or write-off of assets or liabilities (including intangible assets, goodwill, deferred financing costs and the effect of straight-lining of rents as a result of purchase accounting adjustments) in connection with any future Permitted Acquisition, Investment permitted under Section 7.02, Disposition, merger, consolidation or similar transaction or any other non-cash impairment charges incurred subsequent to the Closing Date resulting from the application at SFAS Nos. 141, 142 or 144 (excluding any non-cash item to the extent that it represents an accrual of or reserve for cash expenditures in any future period except to the extent such item is subsequently reversed) shall be excluded from Consolidated Net Income.

"Consolidated Net Interest Expense" means, of any Person for any period, (a) total cash interest expense (including that attributable to Capital Lease Obligations) of such Person and its Restricted Subsidiaries for such period with respect to all outstanding Indebtedness of such Person and its Restricted Subsidiaries, minus (b) the sum of (i) total cash interest income of such Person and its Restricted Subsidiaries for such period, in each case determined in accordance with GAAP plus (ii) one-time financing fees (to the extent included in such Person's consolidated interest expense for such period), including, those paid in connection with the transactions occurring on the Closing Date or in connection with any Amendment or Refinancing hereof. For purposes of the foregoing, interest expense of any Person shall be determined after giving effect to any net payments made or received by such Person with respect to interest rate Hedge Agreements (other than early termination payments) permitted hereunder.

"Consolidated Working Capital" means at any date, the difference of (a) Consolidated Current Assets on such date less (b) Consolidated Current Liabilities on such date.

"Continuing Directors" means the directors of the Parent on the Closing Date, and each other director if, in each case, such other director's nomination for election to the Board of Directors of the Parent is recommended by at least a majority of the then Continuing Directors or such other director receives the affirmative vote or consent of, or is appointed or otherwise approved by, the Sponsor, or those Permitted Investors which then hold a majority of the voting Equity Interests in the Parent then held by all Permitted Investors, in his or her election by the shareholders of the Parent.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Controlled Affiliate" means as to any Person, any other Person that (a) directly or indirectly, is in control of, is controlled by, or is under common control with, such Person and (b) is organized by such Person (or any other Person referred to in clause (a) of this definition) primarily for the purpose of making equity or debt investments in one or more companies. For purposes of this definition, "control" of a Person means

the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Cost" means the cost of purchases of Inventory, based upon the Borrower's accounting practices, known to the Agent, which practices are in effect on the Closing Date as such calculated cost is determined from invoices received by the Borrower, the Borrower's purchase journals or the Borrower's stock ledger. "Cost" does not include inventory capitalization costs or other non-purchase price charges (such as freight) used in the Borrower's calculation of cost of goods sold.

"COVID Lease Exception Period" has the meaning set forth in Section 6.04.

"Credit Card Issuer" shall mean any person (other than Borrower or other Loan Party) who issues or whose members issue credit cards, including, without limitation, MasterCard or VISA bank credit or debit cards or other bank credit or debit cards issued through MasterCard International, Inc., Visa, U.S.A., Inc. or Visa International and American Express, Discover, Diners Club, Carte Blanche, JCB, NYCE, Star/Mac, Tyme, Pulse, Accel, AFF, Shazam, CU244, Alaska Option, Maestro, Novus, Interac, Push Funds, Switch, Solo, Visa Delta and other non-bank credit or debit cards, including, without limitation, credit or debit cards issued by or through American Express Travel Related Services Company, Inc., and Novus Services, Inc. and other issuers reasonably approved by the Agent.

"Credit Card Notifications" has the meaning provided in Section 6.12.

"Credit Card Processor" shall mean any servicing or processing agent or any factor or financial intermediary who facilitates, services, processes or manages the credit authorization, billing transfer and/or payment procedures with respect to any Loan Party's sales transactions involving credit card or debit card purchases by customers using credit cards or debit cards issued by any Credit Card Issuer.

"Credit Card Receivables" means, collectively, (a) all present and future rights of the Borrower or a Guarantor to payment from any Credit Card Issuer or Credit Card Processor arising from sales of goods or rendition of services to customers who have purchased such goods or services using a credit or debit card and (b) all present and future rights of the Borrower or a Guarantor to payment from any Credit Card Issuer or Credit Card Processor in connection with the sale or transfer of Accounts arising pursuant to the sale of goods or rendition of services to customers who have purchased such goods or services using a credit card or a debit card, including, but not limited to, all amounts at any time due or to become due from any Credit Card Issuer or Credit Card Processor under the Credit Card Agreements or otherwise, in each case above calculated net of prevailing interchange charges.

"Credit Party" or "Credit Parties" means (a) individually, (i) each Lender and its Affiliates, (ii) the Agent and its Affiliates and (iii) each successor and permitted assign of each of the foregoing, and (b) collectively, all of the foregoing, in each case, to the extent relating to the services provided to, and obligations owing by or guaranteed by, the Loan Parties.

"Crystal" means Crystal Financial LLC and/or any of its Affiliates from time to time party hereto as a Lender.

"Cure Date" has the meaning provided in Section 8.04.

"Currency Due" has the meaning provided in Section 10.24.

"Customer Credit Liabilities" means at any time, the aggregate remaining balance at such time of (a) outstanding gift certificates and gift cards of the Loan Parties entitling the holder thereof to use all or a

portion of the certificate or gift card to pay all or a portion of the purchase price for any Inventory, and (b) outstanding merchandise credits of the Loan Parties.

"Customs Broker/Carrier Agreement" means an agreement in form and substance reasonably satisfactory to the Agent among a Loan Party, a customs broker, freight forwarder, consolidator, or carrier, and the Agent, in which the customs broker, freight forwarder, consolidator, or carrier acknowledges that it has control over and, among other things, holds the documents evidencing ownership of the subject Inventory for the benefit of the Agent and agrees, upon notice from the Agent (which notice shall be delivered only upon the occurrence and during the continuance of an Event of Default), to hold and dispose of the subject Inventory solely as directed by the Agent.

"DDA" means any checking, savings or other demand deposit account maintained by any of the Loan Parties. All funds in each DDA shall be conclusively presumed to be Collateral and proceeds of Collateral and the Agent and the Lenders shall have no duty to inquire as to the source of the amounts on deposit in any DDA.

"Debtor Relief Laws" means each of (i) the Bankruptcy Code of the United States and (ii) all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Requirement of Laws of the United States from time to time in effect and affecting the rights of creditors generally.

"Declined Proceeds" has the meaning set forth in Section 2.06.

"Default" means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

"Default Rate" means an interest rate equal to two percent (2%) per annum in excess of the rate then applicable to such Obligation.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory is the target of any comprehensive Sanction

"Discharge of ABL Obligations" means the Payment in Full of the Senior Revolving Claims (as defined in the Intercreditor Agreement).

"Disposition" or "Dispose" means with respect to any Property, any sale, sale and leaseback, assignment, conveyance, transfer or other effectively complete disposition thereof. The terms "Dispose" and "Disposed of" shall have correlative meanings. For the avoidance of doubt, it is understood and agreed that Holdings, the Borrower and any Restricted Subsidiary may, in the ordinary course of business, grant non-exclusive licenses (or exclusive licenses within a specific or defined field of use) to Intellectual Property owned or developed by, or licensed to, such entity and that, for purposes of this Agreement and the other Loan Documents, such licenses shall not constitute a "Disposition" of such Intellectual Property; provided, that other than with respect to any such exclusivity within a specific or defined field of use, the terms of such licenses shall not restrict the right of the Agent to use and/or dispose of such Intellectual Property owned by such entity in connection with the conduct of a Liquidation or other exercise of creditor remedies.

"Disqualified Institution" means (a) those banks, financial institutions and other entities designated in writing by the Borrower to the Agent prior to the Closing Date, in each case, together with their respective Affiliates, and (b) any corporate competitors of the Borrower and its Restricted Subsidiaries and the Affiliates of such corporate competitors (other than bona fide debt funds or investors) designated

in writing by the Borrower to the Agent prior to the Closing Date. The Agent will make the list of Disqualified Institutions available to any Lender upon request.

"Disqualified Stock" means any Equity Interest that (a) requires the payment of any dividends (other than dividends payable solely in shares of Qualified Stock), (b) matures or is mandatorily redeemable or subject to mandatory repurchase or redemption or repurchase at the option of the holders thereof, in each case in whole or in part and whether upon the occurrence of any event, pursuant to a sinking fund obligation on a fixed date or otherwise (including as the result of a failure to maintain or achieve any financial performance standards), prior to the date that is 91 days after the final scheduled maturity date of the Obligations (other than (i) upon Payment in Full of the Obligations or (ii) if the issuer has the option to settle for Qualified Stock (and cash in lieu of fractional shares thereof in de minimis amounts) or (c) are convertible or exchangeable, automatically or at the option of any holder thereof, into any Indebtedness, Equity Interest or other assets other than Qualified Stock; provided that if such Equity Interests are issued pursuant to a plan for the benefit of Holdings, the Parent, Holdings, the Borrower, or any Restricted Subsidiary or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Borrower or its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability.

"Division" means the division of the assets, liabilities and/or obligations of a Person (the "Dividing Person") among two or more Persons, whether pursuant to a "plan of division" or similar arrangement pursuant to Section 18-217 of the Delaware Limited Liability Company Act or any similar provision under the laws of any other applicable jurisdiction and pursuant to which the Dividing Person may or may not survive.

"Dollars" and "$" mean lawful money of the United States.

"Domestic Subsidiary" means any direct or indirect Restricted Subsidiary organized under the laws of United States, any state thereof or the District of Columbia (excluding, for the avoidance of doubt, any Subsidiary organized under the laws of Puerto Rico or any other territory) other than (i) a Domestic Subsidiary of a Foreign Subsidiary that is a CFC or (ii) any CFC Holdco.

"Early Termination Fee" means (i) during the period of time from and after the Sixth Amendment Effective Date up to (but not including) the date that is the first anniversary of the Sixth Amendment Effective Date, an amount equal to three (3.0%) of the principal amount of the Term Loan prepaid (or in the case of an Applicable Premium Trigger Event occurring under clauses (ii), (iii) or (iv) of the definition thereof, deemed to be prepaid) on such date in cash to the Agent for the ratable account of the Lenders; (ii) during the period of time from and after the first anniversary of the Sixth Amendment Effective Date up to (but not including) the date that is the second anniversary of the Sixth Amendment Effective Date, an amount equal to one and one half percent (1.5%) of the principal amount of the Term Loan prepaid (or in the case of an Applicable Premium Trigger Event occurring under clauses (ii), (iii) or (iv) of the definition thereof, deemed to be prepaid) on such date in cash to the Agent for the ratable account of the Lenders; and (iii) from and after the second anniversary of the Sixth Amendment Effective Date, zero.

"ECF Payment Date" has the meaning specified in Section 2.06(b).

"Economic Sanctions Laws" means any and all laws, judgments, orders, executive orders, decrees, ordinances, rules, regulations, statutes, case law or treaties applicable to a Loan Party, its Subsidiaries or Affiliates relating to economic sanctions and terrorism financing, including any applicable provisions of the Trading with the Enemy Act (50 U.S.C. App. §§ 5(b) and 16, as amended), the International

Emergency Economic Powers Act, (50 U.S.C. §§ 1701-1706, as amended) and Executive Order 13224 (effective September 24, 2001), as amended.

"EEA Financial Institution" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"EEA Member Country" means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

"Eligible Assignee" means (a) a Credit Party or any of its Affiliates under common control with such Credit Party; (b) a bank, insurance company, or company engaged in the business of making commercial loans, which Person, together with its Affiliates, has a combined capital and surplus in excess of $250,000,000; (c) an Approved Fund; and (d) any other Person (other than a natural Person) satisfying the requirements of Section 10.06(b) hereof; provided that notwithstanding the foregoing, "Eligible Assignee" shall not include a Disqualified Institution (with respect to clause (a) of the definition thereof, unless an Event of Default pursuant to Section 8.01(a) or (f) has occurred and is continuing), a Permitted Investor, a Loan Party or any of their respective Affiliates or Subsidiaries.

"Eligible Cash on Hand" means "Eligible Cash on Hand" as defined under the ABL Credit Agreement without giving effect to any amendments or modifications of such definition or any component definitions (or any sub-component definitions) thereof which could create additional ABL Excess Availability; provided, that in order for any Cash or Cash Equivalents to constitute Eligible Cash on Hand, it must be subject to the duly perfected first-priority Lien (subject to the Intercreditor Agreement) in favor of Agent under applicable law, and no other Lien (other than Permitted Encumbrances).

"Eligible Credit Card Receivables" means "Eligible Credit Card Receivables" as defined under the ABL Credit Agreement without giving effect to any amendments or modifications of such definition or any component definitions (or any sub-component definitions) thereof which could create additional ABL Excess Availability; provided, that in order for any Credit Card Receivable to constitute an Eligible Credit Card Receivable, it must be subject to the duly perfected first-priority Lien (subject to the Intercreditor Agreement) in favor of Agent under applicable law, and no other Lien (other than Permitted Encumbrances).

"Eligible In-Transit Inventory" means "Eligible In-Transit Inventory" as defined under the ABL Credit Agreement without giving effect to any amendments or modifications of such definition or any component definitions (or any sub-component definitions) thereof which could create additional ABL Excess Availability; provided, that in order for any In-Transit Inventory to constitute Eligible In-Transit Inventory, it must be subject to the duly perfected first-priority Lien (subject to the Intercreditor Agreement) in favor of Agent under applicable law, and no other Lien (other than Permitted Encumbrances).

"Eligible Intellectual Property" means, Borrower Intellectual Property determined by Agent in its Permitted Discretion, to be eligible for inclusion in the calculation of the Borrowing Base. Without limiting the foregoing, no Borrower Intellectual Property shall be Eligible Intellectual Property unless:

(a) The Parent, Holdings, the Borrower or any of its Restricted Subsidiaries has good and valid title to such Borrower Intellectual Property;

(b) The Parent, Holdings, the Borrower or any of its Restricted Subsidiaries is in compliance with the representations, warranties and covenants set forth in this Agreement and the other Loan Documents relating to such Borrower Intellectual Property;

(c) Agent shall have received evidence that all actions that the Agent may reasonably deem necessary or appropriate in its Permitted Discretion in order to create a valid, perfected and enforceable first-priority Lien on such Borrower Intellectual Property under applicable law (including, without limitation, filings at the PTO or such other equivalent foreign filing or registration office) has been taken; and

(d) With respect to the Borrower Intellectual Property which was not included in the most-recent appraisal received by the Agent under this Agreement or over which the Agent has not completed its legal and business due diligence in its Permitted Discretion, the Agent (i) shall have received an appraisal of such Borrower Intellectual Property in form and substance, and from appraisers, acceptable to the Agent in its Permitted Discretion and (ii) shall have completed its legal and business due diligence with the results of such due diligence satisfactory to the Agent in its Permitted Discretion; provided, however, that any such appraisals or legal or business due diligence shall be at the expense of the Borrower and shall not be subject to (and shall not be included in) the limitations set forth in Section 6.10 on the number of collateral audits, examinations, or appraisals for which the Agent is entitled to be reimbursed in any period.

"Eligible Inventory" means "Eligible Inventory" as defined under the ABL Credit Agreement without giving effect to any amendments or modifications of such definition or any component definitions (or any sub-component definitions) thereof which could create additional ABL Excess Availability; provided, that in order for any Inventory to constitute Eligible Inventory, it must be subject to the duly perfected first-priority Lien (subject to the Intercreditor Agreement) in favor of Agent under applicable law, and no other Lien (other than Permitted Encumbrances).

"Eligible Trade Receivables" means "Eligible Trade Receivables" as defined under the ABL Credit Agreement in effect on the Third Amendment Effective Date without giving effect to any amendments or modifications of such definition or any component definitions (or any sub-component definitions) thereof which could create additional ABL Excess Availability; provided, that in order for any Account to constitute an Eligible Trade Receivable, it must be subject to the duly perfected first priority Lien (subject to the Intercreditor Agreement) in favor of Agent under applicable law, and no other Lien (other than Permitted Encumbrances).

"Embargoed Person" means any party that (i) is listed in any Sanctions related list of designated Persons maintained by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), including the list of "Specially Designated Nationals and Blocked Persons", or the United States Department of State, the United Nations Security Council, the European Union, or any EU member state, (ii) resides, is organized or chartered, or has a place of business in a country or territory that is the subject of OFAC comprehensive sanctions programs, (iii) is subject to any Requirement of Law that would prohibit all or substantially all financial or other transactions with that Person or would require that assets of that Person

that come into the possession of a third-party be blocked, (iv) any agency, political subdivision or instrumentality of the government of a country or territory that is the subject of OFAC comprehensive sanctions programs, (v) any natural person ordinarily resident in a country or territory that is the subject of OFAC comprehensive sanctions programs, or (vi) any Person fifty percent (50%) or more owned directly, or indirectly, individually or in the aggregate, by any of the above.

"Environmental Laws" means any and all applicable laws, rules, orders, regulations, statutes, ordinances, codes or decrees (including, without limitation, common law) of any international authority, foreign government, the United States, or any state, provincial, local, municipal or other governmental authority, regulating, relating to or imposing liability or standards of conduct concerning protection of the environment, as has been, is now, or at any time hereafter is, in effect.

"Environmental Liability" means any liability, claim, action, suit, judgment or order under or relating to any Environmental Law for any damages, injunctive relief, losses, fines, penalties, fees, expenses (including reasonable fees and expenses of attorneys and consultants) or costs, whether contingent or otherwise, including those arising from or relating to: (a) compliance or non-compliance with any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Materials of Environmental Concern, (c) exposure to any Materials of Environmental Concern, (d) the Release of any Materials of Environmental Concern or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Equipment" has the meaning set forth in the UCC or any other applicable Requirement of Law.

"Equity Interests" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation).

"Equity Issuance" means any issuance by the Parent of its Qualified Stock in a public or private offering.

"ERISA" means the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" means any trade or business (whether or not incorporated) under common control with the Loan Parties within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time

"Event of Default" has the meaning specified in Section 8.01.

"Excess Cash Flow" means, with respect to the Parent, Holdings, the Borrower and its Restricted Subsidiaries on a Consolidated basis, for any Fiscal Year commencing with the Fiscal Year ending February 1, 2020, an amount equal to the sum of Consolidated EBITDA for such period minus the sum of the following, but without duplication:

(a) Financed Capital Expenditures paid in cash made during such period;

(b) Consolidated Net Interest Expense paid in cash during such period to the extent paid with the proceeds of Internally Generated Cash;

(c) consolidated Tax expenses paid for such period based on income, profits or capital, including state, franchise, capital, tariffs, customs, duties and similar taxes and withholding taxes paid in cash during such period to the extent paid with the proceeds of Internally Generated Cash;

(d) cash expenses that have been added back as part of the calculation of Consolidated EBITDA for such period;

(e) regularly scheduled payments of principal and any other permanent repayment of Indebtedness (other than with respect to the Term Loans or ABL Debt) to the extent permitted hereunder made during such period (other than, (x) for the avoidance of doubt, any Excess Cash Flow payments made during such period pursuant to Section 2.06(d) and (y) in respect of any revolving credit facility (or any other kind of Indebtedness that may be reborrowed or redrawn) during such period to the extent there is not an equivalent permanent reduction in commitments or availability thereunder), in each case, to the extent paid with the proceeds of Internally Generated Cash;

(f) permitted Restricted Payments under clauses (d), (e) and (g) of Section 7.06 paid in cash during such period to the extent paid with the proceeds of Internally Generated Cash;

(g) any increase in Consolidated Working Capital (if any);

(h) the amount of cash payments made in connection with Permitted Acquisitions and other permitted Investments (including transaction expenses, net working capital adjustments, and earnout payments, in each case, to the extent permitted under this Agreement to the extent consummated and, in each case, to the extent paid with the proceeds of Internally Generated Cash;

(i) permitted Investments in non-Affiliates of the Borrower paid in cash during such period to the extent paid with the proceeds of Internally Generated Cash;

(j) the amount of the anticipated payment due within the following twelve month period in respect of the Tax Receivable Agreement, to be estimated in good faith by the Borrower; provided, that, to the extent such amount actually paid in such following period is greater (or less) than such estimated amount, "Excess Cash Flow" for the following Fiscal Year shall be deemed to be decreased (or increased) by such amount (such adjustment to be made without duplication of any other adjustment in respect of such payment made in such following fiscal year);

plus any decrease in Consolidated Working Capital (if any).

"Excluded DDA" means (i) any deposit account exclusively used for payroll or employee benefits, and (ii) any deposit account which is a trust or fiduciary account.

"Excluded Subsidiary" means (a) any Subsidiary that is not directly or indirectly a wholly owned Subsidiary of the Parent, (b) any Immaterial Subsidiary, (c) any Subsidiary that is prohibited by applicable Requirements of Law or, to the extent mutually agreed the same would prevent the granting thereof, Contractual Obligations that are in existence on the Closing Date or at the time of acquisition of such Subsidiary and not entered into in contemplation thereof from providing a Facility Guaranty or if providing a Facility Guaranty by such Subsidiary would require governmental (including regulatory) consent, approval, license or authorization (unless such consent, approval license or authorization has been obtained), (d) any Foreign Subsidiary, (e) any Unrestricted Subsidiary, (f) any Subsidiary that is a captive insurance company and (g) any other Subsidiary with respect to which, in the reasonable judgment of the Agent and the Borrower, the burden or cost or other consequences of providing a Facility

Guaranty shall be excessive in view of the benefits to be obtained by the Credit Parties therefrom. For the avoidance of doubt, each Excluded Subsidiary is a Non-Guarantor Subsidiary hereunder.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net or gross income (however denominated), Taxes imposed on or measured by net or gross profits, franchise or capital Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient's being organized under the laws of, or having its principal office or, in the case of any Lender, its Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Term Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender (or its assignor, if any) acquires such interest in the Term Loan or Commitment (or designates a new lending office) (other than pursuant to an assignment request by the Borrower under Section 10.13) or (ii) such Lender changes its Lending Office, except in each case to the extent that, pursuant to Section 3.01(a) or (c), 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, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(e) and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Extended Accommodation Period" means the period from the Third Amendment Effective Date through the delivery of the Compliance Certificate pursuant to Section 6.02(b) (and the related financial statements) in connection with the Fiscal Month ended January 28, 2023.

"Extended Accommodation Period Compliance Event" means, solely during the Extended Accommodation Period, that ABL Excess Availability is less than (w) at any time from the Third Amendment Effective Date through and including September 5, 2020, $15,000,000, (x) at any time during the period beginning September 6, 2020 through the day immediately prior to the Fifth Amendment Effective Date, $10,000,000, (y) at any time during the period beginning on the Fifth Amendment Effective Date through July 31, 2021, $7,500,000 and (z) at any time during the period beginning on August 1, 2021 through the end of the Extended Accommodation Period, $10,000,000. For purposes hereof, the occurrence of an Extended Accommodation Period Compliance Event shall be deemed continuing until ABL Excess Availability has exceeded the amount set forth above for thirty (30) consecutive days, in which case an Extended Accommodation Period Compliance Event shall no longer be deemed to be continuing for purposes of this Agreement. The termination of an Extended Accommodation Period Compliance Event as provided herein shall in no way limit, waive or delay the occurrence of a subsequent Extended Accommodation Period Compliance Event in the event that the conditions set forth in this definition again arise.

"Extended Accommodation Period Specified Contribution" has the meaning set forth in Section 8.04(b).

"Facility Guaranty" means a guarantee of the Obligations made by any Person in favor of the Agent and the other Credit Parties pursuant to the Security Agreement or in such other form reasonably satisfactory to the Agent.

"FATCA" means 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 and any agreement entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities in connection with the implementation of such Sections of the Code.

"Fee Letter" means the letter agreement, dated as of the date hereof, between the Borrower and the Agent.

"Fifth Amendment" means that certain Fifth Amendment to Credit Agreement by and between the Loan Parties, the Agent and the Lenders party thereto, dated as of December 11, 2020.

"Fifth Amendment Effective Date" has the meaning set forth in the Fifth Amendment.

"Fifth Amendment Fee Letter" means that certain letter agreement by and between the Borrower and the Agent, dated as of the December 11, 2020.

"Financed Capital Expenditures" shall mean Capital Expenditures made through purchase money financing (other than from the Term Loans hereunder or ABL Debt) or Capital Lease transactions permitted hereunder.

"Financial Advisor" has the meaning set forth in Section 6.22.

"Financial Covenant" means the covenants specified in Sections 7.18(a) and (b).

"Financial Performance Projections" means (i) the projected consolidated balance sheets, statements of income, cash flows, and stockholder's equity of the Parent and its Subsidiaries, (ii) the projected Borrowing Base and (iii) ABL Excess Availability forecasts, in each case, prepared by management of the Parent and in form and substance reasonably satisfactory to the Agent.

"Fiscal Month" means one of the three fiscal periods in a Fiscal Quarter each of which is approximately one month in duration. There are 12 Fiscal Months in each Fiscal Year.

"Fiscal Quarter" means one of the four 13-week, or, if applicable, 14-week quarters in a Fiscal Year, with the first of such quarters beginning on the first day of a Fiscal Year and ending on a Saturday of the thirteenth (or fourteenth, if applicable) week in such quarter.

"Fiscal Year" means the fiscal year ending on the Saturday closest to January 31 in any calendar year.

"Flood Insurance Laws" means collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any successor statue thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any successor statute thereto and (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto.

"Foreign Lender" means any Recipient that is not a U.S. Person.

"Foreign Subsidiary" means any Subsidiary that is not a Domestic Subsidiary.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such

other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

"Governmental Authority" means any nation or government, any state, province or other political subdivision thereof and any governmental entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government and, as to any Lender, any securities exchange and any self-regulatory organization (including the National Association of Insurance Commissioners).

"Guarantee Obligation" means, as to any Person (the "guaranteeing person"), any obligation of (a) the guaranteeing person or (b) another Person (including, without limitation, any bank under any letter of credit) to induce the creation of which the guaranteeing person has issued a guarantee, reimbursement, counterindemnity or similar obligation, in either case guaranteeing or by which such Person becomes contingently liable for any Indebtedness, net worth, working capital earnings, leases, dividends or other distributions upon the stock or equity interests (the "primary obligations") of any other third Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of the guaranteeing person, whether or not contingent, (i) to purchase any such primary obligation or any Property constituting direct or indirect security therefor, (ii) to advance or supply funds (1) for the purchase or payment of any such primary obligation or (2) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (iii) to purchase Property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation or (iv) otherwise to assure or hold harmless the owner of any such primary obligation against loss in respect thereof; provided, however, that the term Guarantee Obligation shall not include endorsements of instruments for deposit or collection in the ordinary course of business, guarantees of operating leases in the ordinary course of business, and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets or any Investment permitted under this Agreement. The amount of any Guarantee Obligation of any guaranteeing person shall be deemed to be such guaranteeing person's maximum reasonably anticipated liability in respect thereof as determined by the Borrower in good faith.

"Guarantor" means (i) the Parent, (ii) Holdings and (iii) each Subsidiary of the Parent that executes and delivers a Facility Guaranty pursuant hereto; provided that no Excluded Subsidiary shall be required to be a Guarantor hereunder.

"Hedge Agreements" means all interest rate swaps, caps or collar agreements or similar arrangements entered into by the Borrower or its Subsidiaries providing for protection against fluctuations in interest rates or currency exchange rates or the exchange of nominal interest obligations or the price of commodities, raw materials, utilities and energy, either generally or under specific contingencies.

"Holdings" means Vince Intermediate Holding, LLC, a Delaware limited liability company.

"Immaterial Subsidiary" means, on any date, any Subsidiary of the Company that (i) had less than 3% of consolidated assets and 3% of annual consolidated revenues of the Parent, Holdings, the Borrower and its Restricted Subsidiaries as reflected on the most recent financial statements delivered pursuant to Section 6.01 prior to such date and (ii) (A) that is listed on the attached Schedule 1.01(b) or (B) has been designated as such by the Borrower in a written notice delivered to the Agent (other than, in either case, any such Subsidiary as to which the Borrower has revoked such designation by written notice to the Agent so long as such Subsidiary either provides a Facility Guaranty upon such designation and complies with Section 6.11 or otherwise qualifies as an Excluded Subsidiary hereunder); provided that no Subsidiary with Property of the type included in the Borrowing Base may be designated as an Immaterial Subsidiary, and provided further that at no time shall all Immaterial Subsidiaries so designated by the

Borrower have in the aggregate consolidated assets or annual consolidated revenues (as reflected on the most recent financial statements delivered pursuant to Section 6.01 prior to such time) in excess of 3% of consolidated assets or annual consolidated revenues, respectively, of the Parent, Holdings, the Borrower and its Restricted Subsidiaries.

"Indebtedness" means, of any Person at any date, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of Property or services (other than (i) trade payables, current accounts and similar obligations incurred in the ordinary course of such Person's business and not more than 90 days past due (unless being contested in good faith by appropriate proceedings) and (ii) earn-outs and other contingent payments in respect of acquisitions except to the extent that the liability on account of any such earn-out or contingent payment becomes fixed), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to Property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such Property, in which case only the lesser of the amount of such obligation and the fair market value of such Property shall constitute Indebtedness), (e) all Capital Lease Obligations of such Person, (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under acceptance, letter of credit or similar facilities, (g) all obligations of such Person in respect of Disqualified Stock, except for agreements with directors, officers and employees to acquire such Equity Interest upon the death or termination of employment of such director, officer or employee, (h) all Guarantee Obligations of such Person in respect of obligations of the kind referred to in clauses (a) through (f) above, other than guarantees of operating leases in the ordinary course of business, and (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on Property (including, without limitation, accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation (and in the event such Person has not assumed or become liable for payment of such obligation, only the lesser of the amount of such obligation and the fair market value of such Property shall constitute Indebtedness. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such person is liable therefore as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnitees" has the meaning specified in Section 10.04(b).

"Information" has the meaning specified in Section 10.07.

"Insolvency" means, with respect to any Multiemployer Plan, the condition that such Plan is insolvent within the meaning of Section 4245 of ERISA.

"Insolvency Proceeding" means any proceeding commenced by or against any Person under any Debtor Relief Laws or under any other provincial, state or federal bankruptcy or insolvency law, each as now and hereafter in effect, any successors to such statutes, and any similar laws in any jurisdiction including, without limitation, any laws relating to assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief and any law permitting a debtor to obtain a stay or a compromise of the claims of its creditors.

"Insolvent" means pertaining to a condition of Insolvency.

"Intellectual Property" means the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or otherwise, including, without limitation, copyrights, domain names, patents, trademarks, trade names, technology, know-how and processes, and all rights to sue at law or in equity for any infringement or other impairment thereof, including the right to receive all proceeds and damages therefrom.

"Intercreditor Agreement" means (i) the Intercreditor Agreement, dated as of the Closing Date, by and among the Agent and the ABL Agent, as it may be amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof or (ii) any other intercreditor agreement among the Agent and any agent or trustee with respect to the ABL Credit Agreement or any Permitted Amendment or Refinancing thereof, as it may be amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms hereof and thereof.

"Interest Payment Date" means each January 1, April 1, July 1, and October 1 of each year (or, if such day is not a Business Day, the immediately following Business Day), and the Maturity Date.

"Interest Period" means the period commencing on the date such LIBOR Rate Loan is disbursed and ending on the date three months thereafter; provided that:

(1) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(2) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(3) no Interest Period shall extend beyond the Maturity Date.

For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made.

"Internally Generated Cash" means cash generated from the operations of the business of the Borrower and its Subsidiaries; provided that, notwithstanding the foregoing, "Internally Generated Cash" shall not include (i) the proceeds of any Indebtedness (excluding the ABL Debt), (ii) the proceeds of the issuance of any Equity Interests or (iii) the proceeds of any insurance (other than business interruption insurance), indemnification or other payments from non-Loan Party Affiliates.

"In-Transit Inventory" means Inventory of a Loan Party which is in the possession of a common carrier and is in transit from a foreign vendor of a Loan Party to a location of a Loan Party in the United States or, if the Loan Parties have taken steps to create and perfect a first priority Lien in such Inventory under the Requirements of Law of Canada (and its provinces) and taken such other actions as may be reasonably requested by ABL Agent in connection therewith (including the receipt of customary legal opinions), Canada.

"Inventory" has the meaning given that term in the UCC or other applicable Requirement of Law, and shall also include, without limitation, all: (a) goods which (i) are leased by a Person as lessor, (ii) are held by a Person for sale or lease or to be furnished under a contract of service, (iii) are furnished by a Person under a contract of service, or (iv) consist of raw materials, work in process, or materials used or

consumed in a business; (b) goods of said description in transit; (c) goods of said description which are returned, repossessed or rejected; and (d) packaging, advertising, and shipping materials related to any of the foregoing.

"Inventory Reserves" means such reserves as may be established from time to time by the ABL Agent in its Permitted Discretion, without duplication of any other Reserves or items that are otherwise addressed or excluded through eligibility criteria or factored into the advance rates, to reflect the changes in the determination of the saleability, at retail, of the Eligible Inventory or which reflect such other factors as negatively affect the market value of the Eligible Inventory.

"Investment" has the meaning given to such term in Section 7.02 hereof.

"IRS" means the United States Internal Revenue Service.

"Judgment Currency" has the meaning given to such term in Section 10.24.

"Junior Indebtedness" has the meaning given to such term in Section 7.03(m).

"Landlord Lien State" means any state, province or territory in which a landlord's claim for rent has priority by operation of applicable Requirement of Law over the Lien of the Agent in any of the Collateral.

"Lease" means any agreement pursuant to which a Loan Party is entitled to the use or occupancy of any real property for any period of time.

"Lenders" means the Lenders having Commitments or Term Loans from time to time or at any time. Any Lender may, in its reasonable discretion, arrange for one or more Term Loans to be made by Affiliates or branches of such Lender, in which case the term "Lender" shall include any such Affiliate or branch with respect to Term Loans made by such Affiliate or branch.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such in such Lender's Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Agent.

"LIBOR Rate" means:

(i) for any Interest Period, the rate of interest per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations, including the "Money Rates" section of the Wall Street Journal, or as may be designated by the Agent from time to time) at or about 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period; or, (ii) if such rate is not available at such time for any reason, the rate per annum determined by the Agent to be the rate at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the LIBOR Rate Loan being made, continued or converted and with a term equivalent to such Interest Period would be offered by major money market banks to major banks in the London interbank eurodollar market at their request at approximately 11:00 a.m. (London time) two London Banking Days prior to the commencement of such Interest Period, which rate is approved by the Agent; and

(ii) If the LIBOR Rate shall be less than 1.00%, such rate shall be deemed 1.00% per annum for the purposes of this Agreement.

"LIBOR Rate Loan" means a Term Loan that bears interest at a rate based on the LIBOR Rate.

"Lien" means any mortgage, pledge, hypothecation, collateral assignment, encumbrance, lien (statutory or other), charge or other security interest or any other security agreement of any kind or nature whatsoever (including any conditional sale or other title retention agreement and any capital lease having substantially the same economic effect as any of the foregoing). For the avoidance of doubt, it is understood and agreed that Holdings, the Borrower and any of its Restricted Subsidiaries may, as part of their business, grant non-exclusive licenses (or exclusive licenses within a specific or defined field of use) to Intellectual Property owned or developed by, or licensed to, such entity. For purposes of this Agreement and the other Loan Documents, such licensing activity shall not constitute a "Lien" on such Intellectual Property; provided, other than with respect to any such exclusivity within a specific or defined field of use, that the terms of such licenses shall not restrict the right of the Agent to use and/or dispose of such Intellectual Property owned by such entity in connection with the conduct of a Liquidation or other exercise of creditor remedies.

"Limited Condition Acquisition": any acquisition or other Investment (including acquisitions subject to a letter of intent or purchase agreement), the consummation of which is not conditioned on the availability of, or on obtaining, third party financing and which is not a "sign and close" transaction; provided that in the event the consummation of any such acquisition or Investment shall not have occurred on or prior to the date that is 120 days following the signing of the applicable Limited Condition Acquisition agreement, such acquisition or Investment shall no longer constitute a Limited Condition Acquisition for any purpose.

"Liquidation" means the exercise by the Agent of those rights and remedies accorded to the Agent under the Loan Documents and applicable Requirements of Laws as a creditor of the Loan Parties with respect to the realization on the Collateral, including (after the occurrence and during the continuation of an Event of Default) the conduct by the Loan Parties acting with the consent of the Agent, of any public, private or "going-out-of-business", "store closing" or other similar sale or any other disposition of the Collateral for the purpose of liquidating the Collateral. Derivations of the word "Liquidation" (such as "Liquidate") are used with like meaning in this Agreement.

"Loan Account" has the meaning assigned to such term in Section 2.11.

"Loan Documents" means this Agreement, each Note, the Fee Letter, the Third Amendment Fee Letter, the Fifth Amendment Fee Letter, all Borrowing Base Certificates, the Term Loan Notices, all Compliance Certificates, the Blocked Account Agreements, all Collateral Access Agreements, all Credit Card Notifications, the Security Documents, any Facility Guaranty, and the Intercreditor Agreement, each as amended and in effect from time to time, and any and all other agreements, certificates, notices, instruments and documents now or hereafter executed by any Loan Party or Subsidiary of a Loan Party and delivered to the Agent or any Lender in respect of the transactions contemplated by this Agreement.

"Loan Parties" means, collectively, the Borrower and the Guarantors. "Loan Party" means any one of such Persons.

"London Banking Day" means any day on which dealings in dollar deposits are conducted by and between banks in the London interbank eurodollar market.

"Management Investors" means the directors, officers and other employees of the Parent and its Subsidiaries.

"Material Adverse Effect" means a material adverse effect on (i) the operations, business, properties, or financial condition of the Parent and its Subsidiaries, taken as a whole; (ii) the validity or enforceability of the Loan Documents or the material rights and remedies of the Agent and the Lenders thereunder, in each case, taken as a whole; or (iii) the ability of the Loan Parties (taken as a whole) to perform any of its obligations under the Loan Documents in a manner that materially and adversely affects the Lenders.

"Material Contract" means, with respect to any Loan Party, any document or agreement relating to or evidencing each contract to which such Person is a party the termination of which would reasonably be expected to have a Material Adverse Effect; provided that the term "Material Contract" does not include any document or agreement relating to or evidencing Material Indebtedness.

"Material Indebtedness" means Indebtedness under the ABL Credit Agreement, the Subordinated Indebtedness described in Section 7.03(n) incurred pursuant to the Third Lien Credit Agreement, and other Indebtedness (other than the Obligations) of the Loan Parties in an aggregate principal amount exceeding $15,000,000.

"Material Subsidiary" means any Subsidiary that is not an Immaterial Subsidiary.

"Materials of Environmental Concern" means any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products, polychlorinated biphenyls, urea-formaldehyde insulation, asbestos, pollutants, contaminants, radioactivity and any other substances that are defined as hazardous or toxic under any Environmental Law, that are regulated pursuant to any Environmental Law.

"Maturity Date" means the earlier of (a) August 21, 2023 and (b) the "Maturity Date" under the ABL Credit Agreement.

"Maximum Rate" has the meaning provided therefor in Section 10.09.

"Measurement Period" means, at any date of determination, the most recently completed twelve Fiscal Months of the Borrower.

"Moody's" means Moody's Investors Service, Inc., or any successor thereto.

"Mortgages" means any mortgage, deed of trust, hypothec or other similar document made by any Loan Party in favor of, or for the benefit of, the Agent for the benefit of the Secured Parties, in form and substance reasonably satisfactory to the Agent and the Borrower (taking into account the law of the jurisdiction in which such mortgage, deed of trust, hypothec or similar document is to be recorded), as the same may be amended, supplemented or otherwise modified from time to time.

"Most Recently Ended" means, with respect to any period, the most recently ended period for which the financial statements required by Section 6.01(a), Section 6.01(b) or Section 6.01(c), as applicable, have been delivered or required to have been delivered.

"Multiemployer Plan" means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

"Multiple Employer Plan" means a Plan which has two or more contributing sponsors (including the Borrower or any ERISA Affiliate) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"Net Cash Proceeds" means:

(a) with respect to any Disposition of Property or Recovery Event, proceeds (including, when received, any deferred or escrowed payments) received by any Loan Party in cash pursuant to such Disposition or Recovery Event, net of (i) reasonable and customary costs and expenses actually incurred in connection therewith, including legal fees and sales commissions; (ii) amounts required to be applied to the repayment of any Indebtedness secured by a Lien on the asset subject to such Disposition or Recovery Event; (iii) transfer or similar taxes; and (iv) reserves for indemnities, until such reserves are no longer needed (at which point, such amounts shall become Net Cash Proceeds); and

(b) with respect to any issuance of Indebtedness, the aggregate cash proceeds received by any Loan Party pursuant to such issuance, net of the direct costs and expenses relating to such issuance (including up-front, underwriters' and placement fees).

"Non-Consenting Lender" has the meaning provided therefor in Section 10.01(c).

"Non-Excluded Taxes" means all 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 other than Excluded Taxes and Other Taxes.

"Non-Guarantor Subsidiary" means any Subsidiary of the Borrower which is not a Subsidiary Guarantor.

"Non-Recourse Debt" means Indebtedness (a) no default with respect to which would permit (upon notice, lapse of time or both) any holder of any other Indebtedness of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment thereof to be accelerated or payable prior to its stated maturity, and (b) as to which the lenders or holders thereof have been notified in writing that they will not have any recourse to the capital stock or assets of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than the Equity Interests of an Unrestricted Subsidiary which is the issuer or a guarantor or the direct or indirect parent of the issuer or guarantor of such indebtedness).

"Non-U.S. Plan" means any plan, fund (including, without limitation, any superannuation fund) or other similar program established or maintained outside of the United States of America by the Borrower or any one or more of its Subsidiaries primarily for the benefit of employees of the Borrower or such Subsidiaries residing outside of the United States of America, which plan, fund or other similar program provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which plan is not subject to ERISA or the Code.

"Note" means the promissory note of the Borrower substantially in the form of Exhibit B, payable to the order of each Lender, evidencing the Term Loan made by such Lender from time to time.

"Obligations" means all advances to, and debts (including principal, interest, fees (including the Early Termination Fee, if applicable), and reasonable costs and expenses), liabilities, obligations, covenants, indemnities, and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Term Loan, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees, and reasonable costs and expenses and indemnities that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees costs, expenses and indemnities are allowed claims in such proceeding.

"OFAC" has the meaning set forth in the definition of "Embargoed Person".

"Other Connection Taxes" means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, or engaged in any other transaction pursuant to or enforced any Loan Document).

"Other Taxes" means 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 imposed with respect to an assignment (other than an assignment made pursuant to Section 10.13).

"PA Specified Event of Default" means the occurrence of any Event of Default described in any of Sections 8.01(a) (Non-Payment), 8.01(b) (but only insofar as such an Event of Default arises from a breach of the provisions of Section 6.01(a) (Annual Financial Statements), Section 6.01(b) (Quarterly Financial Statements), Section 6.02(b) (Compliance Certificates), Section 6.12 (Cash Management) or Section 6.02(c) (Borrowing Base Certificates)), 8.01(d) (Representations and Warranties; but only insofar as such Event of Default arises from a material misrepresentation contained in any Borrowing Base Certificate), or 8.01(f) (Insolvency Proceedings, Etc.).

"Parent" means Vince Holding Corp., a Delaware corporation.

"Participant" has the meaning specified in Section 10.06(d).

"Participant Register" has the meaning provided therefor in Section 10.06(d)(ii).

"Payment in Full" means the payment in Dollars in full in cash or immediately available funds of all outstanding Obligations (excluding contingent indemnification obligations for which a claim has not then been asserted). "Paid in Full" shall have the correlative meaning.

"Payoff Indebtedness" means Indebtedness under (a) that certain Credit Agreement, dated as of November 27, 2013, by and among Bank of America, N.A., as the agent, the lenders party thereto, Vince, LLC as the "Borrower", and the other parties thereto, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time until the date that is immediately prior to the Closing Date and (b) that certain Term Loan Agreement, dated as of November 27, 2013, among Vince, LLC and Vince Intermediate Holding, LLC, each as "Borrowers", Vince Holding Corp., as "Holdings", Bank of America, N.A., as the agent, the lenders party thereto, as the same may be amended, amended and restated, supplemented or otherwise modified from time to time until the date that is immediately prior to the Closing Date.

"PBGC" means the Pension Benefit Guaranty Corporation.

"PCAOB" means the Public Company Accounting Oversight Board.

"Pension Plan" means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to (or to which there is an obligation to contribute) by the Borrower and any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code, and each such plan for the five-

year period immediately following the latest date on which the Borrower or an ERISA Affiliate maintained, contributed to or had an obligation to contribute to such plan.

"Permitted Acquisition" means (i) any acquisition (including, if applicable, in the case of any Intellectual Property, by way of license) approved by the Required Lenders or (ii) an Acquisition in which all of the following conditions are satisfied:

(i) Such Acquisition shall have been approved by the Board of Directors of the Person (or similar governing body if such Person is not a corporation) which is the subject of such Acquisition and such Person shall not have announced that it will oppose such Acquisition or shall not have commenced any action which alleges that such Acquisition shall violate applicable law;

(ii) in the event the purchase price for the Acquisition exceeds $15,000,000, (i) not less than five Business Days prior to the consummation of any such Acquisition (or such shorter period of time the Agent may approve) the Agent shall have received the then current drafts of the documentation to be executed in connection with such Acquisition (with final copies of such documentation to be delivered to the Agent promptly upon becoming available), including all schedules and exhibits thereto, a quality of earnings report and pro forma financial statements, and (ii) the Agent shall have received notice of the closing date for such Acquisition; provided that such notice shall be given unless doing so would materially interfere with, or would cause materially adverse economic consequences with respect to, the consummation of such Acquisition;

(iii) any Person or assets or division acquired is, at the time of such Acquisition, and shall be in the same business or lines of business, or business reasonably related, ancillary or complementary thereto, in which the Borrower and/or its Subsidiaries are engaged as of the Closing Date;

(iv) [Reserved];

(v) such Person shall have become a Restricted Subsidiary and, if such Person shall be a wholly-owned Domestic Subsidiary (and not an Excluded Subsidiary), a Guarantor and the provisions of Section 6.11 shall have been complied with to the reasonable satisfaction of the Agent; provided that, notwithstanding the foregoing, the aggregate consideration expended in respect of Persons that shall not become Guarantors or wholly owned Subsidiaries may not exceed $15,000,000; and

(vi) The Loan Parties shall have satisfied the ABL Payment Conditions (provided that, solely in connection with Limited Condition Acquisitions such condition shall be tested as of the date the definitive agreements for such Limited Condition Acquisition are entered into, and no PA Specified Event of Default shall have occurred and be continuing at the time such Limited Condition Acquisition is consummated).

"Permitted Amendment or Refinancing" shall mean, with respect to any Person, any Amendment or Refinancing of any Indebtedness of such Person; provided that (a) other than with respect to a Permitted Amendment or Refinancing in respect of Indebtedness of the Loan Parties under the ABL Credit Agreement, the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so Amended or Refinanced except (i) by an amount equal to unpaid accrued interest and premium (including tender premiums and make whole amounts), thereon plus other reasonable and customary fees and expenses (including upfront fees, original issue discount and defeasance costs) incurred in connection with such Amendment or Refinancing and (ii) by an amount equal to any existing commitments unutilized thereunder, (b) other than with respect to a Permitted Amendment or Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(c), the Indebtedness resulting from such Amendment or Refinancing has a final maturity date equal to or

later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being Amended or Refinanced, (c) other than with respect to a Permitted Amendment or Refinancing in respect of Indebtedness permitted pursuant to Sections 7.03(c), at the time thereof, no Event of Default shall have occurred and be continuing, (d) if such Indebtedness being Amended or Refinanced is Indebtedness permitted pursuant to Section 7.03(d), 7.03(i), 7.03(m), 7.03(n), or 7.03(o), (i) to the extent such Indebtedness being Amended or Refinanced is subordinated in right of payment or in lien priority to the Obligations, the Indebtedness resulting from such Amendment or Refinancing is subordinated in right of payment or in lien priority, as applicable, to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being Amended or Refinanced, (ii) the terms and conditions of any such Amended or Refinanced Indebtedness under Section 7.03(m), or 7.03(o) shall be usual and customary for high yield securities of the type issued, (iii) the other terms and conditions (including, if applicable, as to collateral but excluding as to subordination, pricing, premiums and optional prepayment or optional redemption provisions) of any such Amended or Refinanced Indebtedness, taken as a whole, are not materially less favorable to the Loan Parties or the Lenders than the terms and conditions of the Indebtedness being Amended or Refinanced, taken as a whole (provided that a certificate of a Responsible Officer delivered to the Agent at least five Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the requirements of clause (ii) and this clause (iii) unless the Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees)) and (iv) the obligors (including any guarantors) in respect of the Indebtedness resulting from such modification, refinancing, refunding, renewal, replacement or extension shall be the same as the obligors (including any guarantors) of the Indebtedness being Amended or Refinanced and (e) in the case of any Permitted Amendment or Refinancing in respect of the ABL Credit Agreement, (x) such Permitted Amendment or Refinancing is secured only by all or any portion of the collateral securing the Indebtedness being Amended or Refinanced and (y) and such Permitted Amendment or Refinancing is subject to the Intercreditor Agreement and (f) in the case of any Permitted Amendment or Refinancing that is guaranteed (including in respect of the ABL Credit Agreement) or secured by all or any portion of the collateral securing the Indebtedness being Amended or Refinanced, such Permitted Amendment or Refinancing is guaranteed only by the Guarantors guaranteeing and secured only by all or any portion of the collateral securing the Indebtedness being Amended or Refinanced. When used with respect to any specified Indebtedness, "Permitted Amendment or Refinancing" shall mean the Indebtedness incurred to effectuate a Permitted Amendment or Refinancing of such specified Indebtedness.

"Permitted Discretion" means a determination made by the Agent, in the exercise of its reasonable credit judgment from the viewpoint of an asset based lender, exercised in good faith in accordance with customary business practices for comparable asset based lending transactions.

"Permitted Encumbrances" has the meaning set forth in Section 7.01.

"Permitted Investors" means the collective reference to (i) the Sponsor and Sponsor Affiliates, (ii) the Management Investors, (iii) any Permitted Transferees of any of the foregoing Persons, and (iv) any ''group'' (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Securities Exchange Act or any successor provision) of which any of the foregoing are members; provided that in the case of such ''group'' and without giving effect to the existence of such ''group'' or any other ''group,'' such Persons specified in clauses (i), (ii) or (iii) above, collectively, have beneficial ownership, directly or indirectly, of more than 50% of the total voting power of the voting stock of Holdings held by such ''group," and

provided further, that, in no event shall the Sponsor own a lesser percentage of voting stock than any other Person or group referred to in clauses (ii), (iii) and (iv).

"Permitted Seller Note" means a promissory note containing subordination and other related provisions reasonably acceptable to the Agent, representing Indebtedness of the Borrower or any of its Subsidiaries incurred in connection with any acquisition permitted under Section 7.02(f) and payable to the seller in connection therewith.

"Permitted Store Closings" means (a) store closures and related dispositions which do not exceed (i) in any Fiscal Year of the Borrower and its Subsidiaries, the greater of five (5) stores and 10% of the total number of stores in existence on the first day of such Fiscal Year (net of new store openings), and (b) the related Inventory is disposed of at such stores in accordance with liquidation agreements and with professional liquidators acceptable to the Agent.

"Permitted Transferee" means (a) in the case of the Sponsor, (i) any Sponsor Affiliate, (ii) any managing director, general partner, limited partner, director, officer or employee of the Sponsor or any Sponsor Affiliate (collectively, the "Sponsor Associates"), (iii) the heirs, executors, administrators, testamentary trustees, legatees or beneficiaries of any Sponsor Associate and (iv) any trust, the beneficiaries of which, or a corporation or partnership, the stockholders or partners of which, include only a Sponsor Associate, his or her spouse, parents, siblings, members of his or her immediate family (including adopted children and step children) and/or direct lineal descendants; and (b) in the case of any Management Investor, (i) his or her executor, administrator, testamentary trustee, legatee or beneficiaries, (ii) his or her spouse, parents, siblings, members of his or her immediate family (including adopted children and step children) and/or direct lineal descendants or (iii) a trust, the beneficiaries of which, or a corporation or partnership, the stockholders or partners of which, include only a Management Investor and his or her spouse, parents, siblings, members of his or her immediate family (including adopted children) and/or direct lineal descendants.

"Person" means any natural person, corporation, limited liability company, unlimited liability company, trust, joint venture, association, company, partnership, limited partnership, Governmental Authority or other entity.

"Plan" means at a relevant time, any employee benefit plan within the meaning of Section 3(3) of ERISA and in respect of which Holdings, the Borrower or any of its Restricted Subsidiaries is (or, if such plan were terminated at such time, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Pledged Securities" has the meaning set forth in the Security Agreement.

"Property" means any right or interest in or to property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, including, without limitation, Equity Interests.

"Qualified Account" means any investment or deposit account maintained by a Loan Party with the ABL Agent specifically and solely used for purposes of holding such Eligible Cash On Hand.

"Qualified Stock" means any Equity Interests that are not Disqualified Stock.

"Real Estate" means all Leases and all land, together with the buildings, structures, parking areas, and other improvements thereon, now or hereafter owned by any Loan Party, including all easements, rights-of-way, and similar rights relating thereto and all leases, tenancies, and occupancies thereof.

"Recipient" means the Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.

"Recovery Event" means any settlement of or payment in respect of any property or casualty insurance claim or any condemnation proceeding relating to any asset of the Borrowers or any Subsidiary Guarantor.

"Register" has the meaning specified in Section 10.06(c).

"Registered Public Accounting Firm" has the meaning specified by the Securities Laws and shall be independent of the Borrower and its Subsidiaries as prescribed by the Securities Laws.

"Rejection Notice" has the meaning set forth in Section 2.06.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates.

"Release" means any release, spill, emission, leaking, dumping, injection, pouring, deposit, disposal, discharge, dispersal, leaching or migration into or through the environment or within or upon any building, structure or facility.

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

"Reports" has the meaning provided in Section 9.16(c).

"Representations and Warranties Certificate" means a certificate in the form of Exhibit G.

"Required Lenders" means, as of any date of determination, at least two (2) Lenders (or one (1) Lender to the extent that there is only one (1) Lender) holding in the aggregate more than 50% of the Total Outstandings.

"Requirement of Law" means as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Reserves" means all Inventory Reserves and Availability Reserves. The ABL Agent shall have the right, at any time and from time to time after the Closing Date in its Permitted Discretion to establish or modify Reserves upon three (3) Business Days prior written notice to the Borrower (during which period the ABL Agent shall be available to discuss any such proposed Reserve with the Borrower and the Borrower may take such action as may be required so that the event, condition or matter that is the basis for such Reserve no longer exists, in a manner and to the extent reasonably satisfactory to the ABL Agent), provided that no such prior notice shall be required for (1) changes to any Availability Reserves resulting solely by virtue of mathematical calculations of the amount of the Reserve in accordance with the methodology of calculation previously utilized (such as, but not limited to, rent and Customer Credit Liabilities), or (2) if a Specified Event of Default has occurred and is continuing; provided further that all such Reserves (including the amount of such Reserve) shall bear a reasonable relationship to the circumstances, conditions, events or contingencies that are the basis for such Reserve. Notwithstanding anything herein to the contrary, Reserves shall not duplicate eligibility criteria contained in the definition

of Eligible Credit Card Receivables, Eligible In-Transit Inventory, Eligible Inventory, Eligible Trade Receivables or reserves criteria deducted in computing the Appraised Value of Eligible Inventory. In the event the circumstances, conditions, events or contingencies underlying any such Reserve cease to exist or the liability that is the basis for any such Reserve has been reduced, such Reserve shall be rescinded or reduced by an amount as determined in the ABL Agent's Permitted Discretion.

"Responsible Officer" means the chief executive officer, president, chief financial officer (or similar title), chief operating officer, controller or treasurer (or similar title) of the Parent, Holdings or the Borrower, as applicable, or (with respect to Section 6.03) any Restricted Subsidiary and, with respect to financial matters, the chief financial officer (or similar title) or treasurer (or similar title) of the Parent, Holdings or the Borrower, as applicable.

"Restricted Payment" has the meaning given to such term in Section 7.06 hereof.

"Restricted Subsidiary" means any Subsidiary of the Borrower which is not an Unrestricted Subsidiary.

"Retail DDA" means a DDA of any Loan Party used solely in the operation of a store location.

"S&P" means Standard & Poor's Ratings Services, a subsidiary of The McGraw-Hill Companies, Inc. and any successor to the rating agency business thereof.

"Sanction(s)" means any economic sanctions administered or enforced by any Governmental Authority of the United States, Canada or the European Union (including, without limitation, OFAC, the United States Department of State, Foreign Affairs and International Trade Canada or the Department of Public Safety Canada or Her Majesty's Treasury).

"Sarbanes-Oxley" means the Sarbanes-Oxley Act of 2002.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Second Amendment" means that certain Limited Waiver and Amendment to Credit Agreement dated as of March 30, 2020 by and among the Agent, the Lenders party thereto and the Borrower.

"Secured Parties" has the meaning set forth in the Security Agreement.

"Securities Account" has the meaning provided in Section 8-501 of the UCC.

"Securities Laws" means the Securities Act of 1933, the Securities Exchange Act of 1934, Sarbanes-Oxley, and the applicable accounting and auditing principles, rules, standards and practices promulgated, approved or incorporated by the SEC or the PCAOB.

"Security Agreement" means the Guarantee and Collateral Agreement dated as of the Closing Date among the Loan Parties and the Agent.

"Security Documents" means the Security Agreement, the Blocked Account Agreements, the Mortgages, the Intercreditor Agreement, the Credit Card Notifications and each other security agreement or other instrument or document executed and delivered to the Agent pursuant to this Agreement or any other Loan Document granting a Lien to secure any of the Obligations.

"Settlement Date" has the meaning provided in Section 2.14(a).

"Shared Services Agreement" means the Shared Services Agreement, dated as of November 27, 2013, between the Borrower and Kellwood, LLC.

"Single Employer Plan" means any Pension Plan, but excluding any Multiemployer Plan.

"Sixth Amendment" means that certain Sixth Amendment to Credit Agreement by and between the Loan Parties, the Agent and the Lenders party thereto, dated as of April 23, 2021.

"Sixth Amendment Effective Date" has the meaning set forth in the Sixth Amendment.

"Sixth Amendment Fee Letter" means that certain letter agreement by and between the Borrower and the Agent, dated as of the April 23, 2021.

"Solvent" means with respect to any Person, as of any date of determination, (a) on a going concern basis the amount of the "fair value" of the assets of such Person will, as of such date, exceed the amount of all "liabilities of such Person, contingent or otherwise", as of such date, as such quoted terms are determined in accordance with applicable federal, state, provincial, territorial, municipal, local and foreign laws governing determinations of the insolvency of debtors, (b) the present fair saleable value of the assets of such Person will, as of such date, be greater than the amount that will be required to pay the liability of such Person on its debts as such debts become absolute and matured, (c) such Person will not have, as of such date, an insufficient amount of capital with which to conduct its business, (d) such Person will be able to pay its debts as they mature, and (e) such Person is not "insolvent" within the meaning of Section 101(32) of the Bankruptcy Code. For purposes of this definition, (i) "debt" means liability on a "claim", (ii) "claim" means any (x) right to payment, whether or not such a right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured or (y) right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured or unmatured, disputed, undisputed, secured or unsecured and (iii) except as otherwise provided by applicable law, the amount of "contingent liabilities" at any time shall be the amount thereof which, in light of all the facts and circumstances existing at such time, can reasonably be expected to become actual or matured liabilities.

"Specified Contribution" has the meaning set forth in Section 8.04.

"Specified Event of Default" means the occurrence of any Event of Default described in any of Sections 8.01(a) (Non-Payment), 8.01(b) (but only insofar as such an Event of Default arises from a breach of the provisions of Section 6.01(a) (Annual Financial Statements), Section 6.01(b) (Quarterly Financial Statements), Section 6.02(b) (Compliance Certificates), Section 6.12 (Cash Management), Section 7.18 (Financial Covenant), Section 6.02(c) (Borrowing Base Certificates), Section 6.20 (Extended Accommodation Period Reporting Obligations), or Section 6.21 (Cash Hoarding)), 8.01(d) (Representations and Warranties; but only insofar as such Event of Default arises from a material misrepresentation contained in any Borrowing Base Certificate), or 8.01(f) (Insolvency Proceedings, Etc.).

"Specified Transaction" means (a) any Investment that results in a Person becoming a Restricted Subsidiary or an Unrestricted Subsidiary, any Permitted Acquisition or any Disposition that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or any Disposition of a business unit, line of business or division of the Borrower or a Restricted Subsidiary, any designation of a Subsidiary as a Restricted Subsidiary or Unrestricted Subsidiary, in each case whether by merger, consolidation, amalgamation or otherwise or (b) any incurrence or repayment of Indebtedness

(other than Indebtedness incurred or repaid under any revolving credit facility or line of credit) and any Restricted Payment that by the terms of this Agreement requires such test to be calculated on a "pro forma basis" or after giving "pro forma effect."

"Sponsor" means Sun Capital Partners V, L.P. and any Controlled Affiliates thereof (but excluding any portfolio companies of the foregoing).

"Sponsor Affiliate" means the collective reference to any entities (other than a portfolio company) controlled directly or indirectly by the Sponsor.

"Spot Rate" for a currency means the rate determined by the Agent to be the rate quoted by the Person acting in such capacity as the spot rate for the purchase by such Person of such currency with another currency through its principal foreign exchange trading office at approximately 11:00 a.m. on the date two Business Days prior to the date as of which the foreign exchange computation is made; provided that the Agent may obtain such spot rate from another financial institution designated by the Agent if the Person acting in such capacity does not have as of the date of determination a spot buying rate for any such currency.

"Subordinated Indebtedness" means Indebtedness which is expressly subordinated in right of payment to the prior Payment in Full of the Obligations and which is in form and on terms reasonably satisfactory to the Agent.

"Subordination Provisions" has the meaning set forth in Section 8.01(l).

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company, unlimited liability company or other business entity of which a majority of the shares of Equity Interests having ordinary voting power for the election of directors or other governing body are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Loan Parties.

"Subsidiary Guarantors" means each Subsidiary of the Borrower that is a Guarantor hereunder.

"Tax Receivable Agreement" means that certain Tax Receivable Agreement dated as of November 27, 2013 by and among the Parent, the stockholders of the Parent party thereto and Sun Cardinal LLC, as stockholder representative, as amended, modified or supplemented from time to time not in violation of this Agreement.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other similar fees or charges in the nature of a tax, levy, et cetera, imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term Borrowing Base Certificate" means a certificate substantially in the form of Exhibit I hereto (with such changes therein as may be reasonably required by the Agent to reflect the components of and Reserves against the Borrowing Base as provided for hereunder from time to time), executed and certified as accurate and complete in all material respects by a Responsible Officer of the Borrower which shall include appropriate exhibits, schedules, supporting documentation, and additional reports as reasonably requested by the Agent.

"Term Loan" has the meaning set forth in Section 2.01.

"Term Loan Notice" means the notice of Borrowing, which shall be substantially in the form of Exhibit A (Term Loan Notice).

"Term Loan Priority Account" has the meaning set forth in the Intercreditor Agreement.

"Term Loan Reserve" means "Term Loan Reserve" as defined under the ABL Credit Agreement as in effect on the Third Amendment Effective Date without giving effect to any amendments or modifications of such definition or any component definitions (or any sub-component definitions) thereof.

"Term Priority Collateral" has the meaning set forth in the Intercreditor Agreement.

"Termination Date" means the earliest to occur of (i) the Maturity Date or (ii) the date on which the maturity of the Obligations is accelerated (or deemed accelerated) in accordance with Article VIII.

"Third Amendment" means that certain Third Amendment to Credit Agreement by and between the Loan Parties, the Agent and the Lenders party thereto, dated as of June 8, 2020.

"Third Amendment Effective Date" has the meaning set forth in the Third Amendment.

"Third Amendment Fee Letter" means that certain letter agreement by and between the Borrower and the Agent, dated as of the June 8, 2020.

"Third Lien Credit Agreement" means the Credit Agreement, dated as December 11, 2020, by and among the Borrower, the Guarantors named therein, SK Financial Services, LLC, as administrate agent and collateral agent and the other lenders from time to time party thereto, as the same may be amended from time to time hereafter to the extent permitted hereunder and in accordance with the Third Lien Subordination Agreement.

"Third Lien Loan Documents" means all "Loan Documents" as defined in the Third Lien Credit Agreement.

"Third Lien Subordination Agreement" means that certain Subordination Agreement by and between the Agent, the ABL Agent, the Loan Parties and SK Financial Services, LLC, dated as of December 11, 2020.

"Total Outstandings" means, without duplication, the aggregate principal balance of the Term Loan owing to all Lenders.

"Trading with the Enemy Act" has the meaning set forth in Section 10.19.

"UCC" or "Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in the New York; provided, however, that if a term is defined in Article 9 of the Uniform Commercial Code differently than in another Article thereof, the term shall have the meaning set forth in Article 9; provided further that, if by reason of mandatory provisions of law, perfection, or the effect of perfection or non-perfection, of a security interest in any Collateral or the availability of any remedy hereunder is governed by the Uniform Commercial Code as in effect in a jurisdiction other than New York, "Uniform Commercial Code" means the Uniform Commercial Code as in effect in such other jurisdiction for purposes of the provisions hereof relating to such perfection or effect of perfection or non-perfection or availability of such remedy, as the case may be.

"United States" and "U.S." mean the United States of America.

"Unrestricted Subsidiary" means (i) any Subsidiary of the Borrower designated as such and listed on Schedule 4.01 on the Closing Date and (ii) any Subsidiary of the Borrower that is designated by a resolution of the Board of Directors of the Borrower as an Unrestricted Subsidiary, but only to the extent that, in the case of each of clauses (i) and (ii), such Subsidiary: (a) has no Indebtedness other than Non-Recourse Debt; (b) is not party to any agreement, contract, arrangement or understanding with the Borrower or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Borrower; (c) is a Person with respect to which neither the Borrower nor any of the Restricted Subsidiaries has any direct or indirect obligation (x) to subscribe for additional Equity Interest or warrants, options or other rights to acquire Equity Interests or (y) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results; (d) has not guaranteed or otherwise provided credit support at the time of such designation for any Indebtedness of the Borrower or any of its Restricted Subsidiaries; (e) does not hold any assets constituting Term Priority Collateral or otherwise of the type included in the Borrowing Base; and (f) to the extent requested by the Agent, such Subsidiary shall have entered into an agreement with the Agent, in form and substance reasonably satisfactory to the Agent, allowing the use of the assets and other property of such Subsidiary as may be necessary or desirable for the Liquidation of the Term Priority Collateral or such other assets. If, at any time, any Unrestricted Subsidiary would fail to meet the foregoing requirements as an Unrestricted Subsidiary, it shall thereafter cease to be an Unrestricted Subsidiary for purposes hereof. Subject to the foregoing, the Board of Directors of the Borrower may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary or any Restricted Subsidiary to be an Unrestricted Subsidiary; provided that (i) such designation shall only be permitted if no Default or Event of Default would be in existence following such designation and the Loan Parties would be in compliance with Section 7.18 on the date of such designation after giving pro forma effect to such designation, (ii) any designation of an Unrestricted Subsidiary as a Restricted Subsidiary shall be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of any outstanding Indebtedness of such Unrestricted Subsidiary and (iii) any designation of a Restricted Subsidiary as an Unrestricted Subsidiary shall be deemed to be an Investment in an Unrestricted Subsidiary and shall reduce amounts available for Investments in Unrestricted Subsidiaries permitted by Section 7.02 in an amount equal to the fair market value of the Subsidiary so designated; provided that the Borrower may subsequently redesignate any such Unrestricted Subsidiary as a Restricted Subsidiary so long as the Borrower does not subsequently re-designate such Restricted Subsidiary as an Unrestricted Subsidiary for a period of the succeeding four Fiscal Quarters. Notwithstanding anything contained herein to the contrary, no Subsidiary of the Borrower shall be designated as an Unrestricted Subsidiary during the Extended Accommodation Period.

"Updated 2020 Appraisals" has the meaning specified in the Third Amendment.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the Code.

"U.S. Tax Compliance Certificate" has the meaning specified in Section 3.01(e)(ii)(B)(III).

"Weighted Average Life to Maturity" shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (ii) the then outstanding principal amount of such Indebtedness; provided, that for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being Amended or Refinanced (the

"Applicable Indebtedness"), the effects of any amortization of or prepayments made on such Applicable Indebtedness prior to the date of the applicable Amendment or Refinancing shall be disregarded.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

Notwithstanding anything to the contrary herein or in any other Loan Document, any reference to a defined term as defined in the ABL Credit Agreement or any other ABL Loan Document shall refer to the definition of such term as in effect on the date hereof, except with respect to any amendment or modification thereto permitted under the Intercreditor Agreement or otherwise consented to by the Agent and the Lenders party hereto.

SECTION 1.2 Other Interpretive Provisions.

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(i) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (iii) the words "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) 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 rights.

(ii) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including;" the words "to" and "until" each mean "to but excluding;" and the word "through" means "to and including."

(iii) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

SECTION 1.3 Accounting Terms.

(i) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Audited Financial Statement, except as otherwise specifically prescribed herein.

(ii) Changes in GAAP. (i) If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrower or the Required Lenders shall so request, the Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement 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, (x) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (y) upon request, the Borrower shall provide to the Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

(1) Notwithstanding any other provision contained herein, the effects of FASB 842 shall be disregarded for all purposes under this Agreement.

(2) Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used here shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to Statement of Financial Accounting Standards 141R or ASC 805 (or any other financial accounting standard having a similar result or effect).

SECTION 1.4 LIBOR Notification.

The interest rate on LIBOR Rate Loans is determined by reference to the LIBOR Rate, which is derived from the London interbank offered rate. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the "IBA") for purposes of the IBA setting the London interbank offered rate. As a result, it is possible that, in the future, the London interbank offered rate may become unavailable or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on LIBOR Rate Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. In the event that the London interbank offered rate is no longer available or in certain other circumstances as set forth in Section 3.03, an alternative rate of interest may be selected and implemented in accordance with the mechanism contained in such Section. The Agent will notify the Borrower, pursuant to Section 3.03 in advance of any change to the reference rate upon which the interest rate on LIBOR Rate Loans is based. However, the Agent does not warrant or accept responsibility for, nor shall the Agent have any liability with respect to, the administration, submission or any other matter related to the rates in the definition of "LIBOR Rate" or with respect to any comparable or successor rate thereto or replacement rate thereof, including, without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate, as it may or may not be adjusted pursuant to Section 3.03, will be

similar to, or produce the same value or economic equivalence of, the LIBOR Rate or have the same volume or liquidity as did the London interbank offered rate prior to its discontinuance or unavailability.

SECTION 1.5 Rounding.

Any financial ratios required to be maintained by the Loan Parties pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to two places more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

SECTION 1.6 Times of Day.

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

SECTION 1.7 [Reserved].

SECTION 1.8 Currency Equivalents Generally.

(i) For purposes of determining compliance with Sections 7.02 and 7.03 with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder); provided that, for the avoidance of doubt, the below provisions of Section 1.09 shall otherwise apply to such Sections, including with respect to determining whether any Investment or Indebtedness may be incurred or made at any time under such Sections.

(ii) For purposes of determining the Consolidated Fixed Charge Coverage Ratio, amounts denominated in a currency other than Dollars will be converted to Dollars at the currency exchange rates used in preparing the Borrower's financial statements corresponding to the test period with respect to the applicable date of determination and will, in the case of Indebtedness, reflect the currency translation effects, determined in accordance with GAAP, of Hedge Agreements permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness; provided that, notwithstanding anything to the contrary herein, Term Loans denominated in a currency other than Dollars will be converted to Dollars at the Spot Rate.

SECTION 1.9 Pro Forma Basis.

(i) Notwithstanding anything to the contrary herein, the Consolidated Fixed Charge Coverage Ratio shall be calculated in the manner prescribed by this Section 1.09.

(ii) For purposes of calculating the Consolidated Fixed Charge Coverage Ratio, Specified Transactions (and the incurrence or repayment of any Indebtedness in connection therewith) that have been made (i) during the applicable period and (ii) subsequent to such period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a pro forma basis assuming that all such Specified Transactions (and any increase or decrease in Consolidated EBITDA and the component financial definitions used therein attributable to any Specified Transaction) had occurred on the first day of the applicable period. If since the beginning of any applicable period any Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or consolidated with or into Holdings, the Borrower or any of its Restricted Subsidiaries

since the beginning of such period shall have made any Specified Transaction that would have required adjustment pursuant to this Section 1.09, then the Consolidated Fixed Charge Coverage Ratio shall be calculated to give pro forma effect thereto in accordance with this Section 1.09.

(iii) Whenever pro forma effect is to be given to a Specified Transaction, the pro forma calculations shall be made in good faith by a Responsible Officer of the Borrower and include, for the avoidance of doubt, the amount of cost savings and synergies projected by the Borrower in good faith to be reasonably anticipated to be realizable within 12 months after the closing date of such Specified Transaction (provided that to the extent any such operational changes are not associated with a transaction, such changes shall be limited to those for which all steps have been taken for realizing such savings and are factually supportable, reasonably identifiable and supported by an officer's certificate delivered to the Agent) (calculated on a pro forma basis as though such cost savings and synergies had been realized on the first day of such period as if such cost savings and synergies were realized during the entirety of such period) relating to such Specified Transaction, net of the amount of actual benefits realized during such period from such actions; provided that any increase in Consolidated EBITDA as a result of cost savings and synergies shall be subject to the limitations set forth in the definition of Consolidated EBITDA.

(iv) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Consolidated Fixed Charge Coverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable period and (ii) subsequent to the end of the applicable period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Consolidated Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable period.

SECTION 1.10 Divisions.

For all purposes under the Loan Documents, in connection with a Division: (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II
THE COMMITMENTS AND BORROWINGS

SECTION 2.1 Term Loans.

Subject to the terms and conditions set forth herein, on the Closing Date, each Lender shall make to the Borrower a term loan in the principal amount equal to its pro rata share of Twenty Seven Million Five Hundred Thousand Dollars ($27,500,000) (the "Term Loan"), provided that, in no event shall the Term Loan made by any Lender exceed such Lender's Commitment. The Term Loan is not a revolving credit facility and may not be repaid and redrawn and any repayments or prepayments of principal on a Term Loan shall permanently reduce such Term Loan. The Borrower irrevocably authorizes the Agent and the Lenders to disburse the proceeds of the Term Loans on the Closing Date in accordance with the terms of this Agreement. Upon the making of the Term Loans on the Closing Date, the Commitments shall be irrevocably terminated.

SECTION 2.2 Borrowings of Term Loans.

(i) The Term Loans shall be LIBOR Rate Loans at all times, subject to Section 3.03.

(ii) To the extent not paid by the Borrower when due (after taking into consideration any grace period), the Agent, without the request of the Borrower, may advance any interest, fee, service charge (including direct wire fees), expenses, or other payment to which any Credit Party is entitled from the Loan Parties pursuant hereto or any other Loan Document and may charge the same to the Loan Account. The Agent shall advise the Borrower of any such advance or charge promptly after the making thereof. Such action on the part of the Agent shall not constitute a waiver of the Agent's rights and the Borrower's obligations under Section 2.05(c). Any amount which is added to the principal balance of the Loan Account as provided in this Section 2.02(d) shall constitute a Term Loan and shall bear interest at the interest rate then and thereafter applicable to the Term Loans.

(iii) The Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period upon determination of such interest rate.

SECTION 2.3 [Reserved].

SECTION 2.4 [Reserved].

SECTION 2.5 Voluntary Prepayments.

(1) The Borrower may, upon irrevocable notice from the Borrower to the Agent, at any time or from time to time voluntarily prepay Term Loans in whole or in part without premium or penalty (subject to Section 2.05(b) below); provided that, (A) such notice must be received by the Agent not later than 11:00 a.m. three (3) Business Days prior to any date of prepayment of such Term Loans; (B) any prepayment of Term Loans shall be in a principal amount of $1,000,000 or a whole multiple of $100,000 in excess thereof. Each such notice shall specify the date and amount of such prepayment and the Interest Period of such Term Loans. The Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a LIBOR Rate Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05.

(2) Notwithstanding anything to the contrary in this Agreement or any other Loan Document, the Borrower may prepay the Term Loans in accordance with the terms of this Section 2.05(a) (1) in an aggregate amount of up to $7,500,000 without any Early Termination Fee becoming due and payable; provided that, (i) no Event of Default shall have occurred and be continuing and (ii) any such prepayment shall not be made in connection with a refinancing transaction of the Total Outstandings hereunder; and (2) on any ECF Payment Date, the Borrower may elect to make a voluntary prepayment of the Term Loans in the same manner as the amount mandatorily prepaid pursuant to Section 2.06(b) in an additional amount not to exceed (taken together with amounts due and payable on such date pursuant to Section 2.06(b)) a combined amount of up to 100% of

Excess Cash Flow for such Fiscal Year, without any Early Termination Fee becoming due and payable thereon.

(ii) Early Termination Fee. Upon the occurrence of an Applicable Premium Trigger Event, the Borrower shall pay to the Agent, for the ratable benefit of the Lenders, the Early Termination Fee. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, it is understood and agreed that if the Obligations are accelerated as a result of the occurrence and continuance of any Event of Default (including by operation of law or otherwise), the Early Termination Fee, if any, determined as of the date of acceleration, will also be due and payable and will be treated and deemed as though the Term Loan was prepaid as of such date and shall constitute part of the Obligations for all purposes herein. Any Early Termination Fee payable in accordance with this Section 2.05(b) shall be presumed to be equal to the liquidated damages sustained by the Lenders as the result of the occurrence of the Applicable Premium Trigger Event, and the Loan Parties agree that it is reasonable under the circumstances currently existing. The Early Termination Fee, if any, shall also be payable in the event the Obligations (and/or this Agreement) are satisfied or released by foreclosure (whether by power of judicial proceeding), deed in lieu of foreclosure or by any other means. THE LOAN PARTIES EXPRESSLY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE OR LAW THAT PROHIBITS OR MAY PROHIBIT THE COLLECTION OF THE FOREGOING EARLY TERMINATION FEE IN CONNECTION WITH ANY SUCH ACCELERATION. The Loan Parties expressly agree that (A) the Early Termination Fee is reasonable and is the product of an arm's length transaction between sophisticated business people, ably represented by counsel, (B) the Early Termination Fee shall be payable notwithstanding the then prevailing market rates at the time payment is made, (C) there has been a course of conduct between Lenders and the Loan Parties giving specific consideration in this transaction for such agreement to pay the Early Termination Fee, (D) the Loan Parties shall be estopped hereafter from claiming differently than as agreed to in this Section 2.05(b), (E) their agreement to pay the Early Termination Fee is a material inducement to the Lenders to make the Term Loan, and (F) the Early Termination Fee represents a good faith, reasonable estimate and calculation of the lost profits or damages of the Lenders and that it would be impractical and extremely difficult to ascertain the actual amount of damages to the Lenders or profits lost by the Lenders as a result of such Applicable Premium Trigger Event.

SECTION 2.6 Mandatory Prepayments.

Unless any amount below is required to reduce the ABL Debt in accordance with the terms of the Intercreditor Agreement, and is actually applied to reduce the ABL Debt in accordance with the terms of the Intercreditor Agreement:

(i) If during any Fiscal Year of the Borrower, any Loan Party has received cumulative Net Cash Proceeds during such Fiscal Year from one or more Dispositions of Term Loan Priority Collateral, or, after the Discharge of ABL Obligations, any Property of any Loan Party or Subsidiary thereof (excluding any Disposition permitted by clause (a), (b), (c) (except as it relates to Section 7.04(d)), (e), (f), (g), (h), (i), (j), (k), (l), (n), (o), (p), (q) and (r) of Section 7.05) of at least $500,000, within five Business Days after the receipt by any Loan Party of such Net Cash Proceeds, the Borrower shall make a prepayment of the Term Loans in an amount equal to 100% of such excess Net Cash Proceeds. Notwithstanding the foregoing, the Borrower may, at its option by notice in writing to the Agent given no later than thirty (30) days following the Disposition resulting in such Net Cash Proceeds, provided that no Event of Default has occurred and is continuing, reinvest the Net Cash Proceeds of such Disposition in the business of the Borrower and its Subsidiaries within one hundred eighty (180) days following the receipt of such Net Cash Proceeds, or enter into a binding commitment thereof within said one hundred eighty (180) day period and subsequently makes such reinvestment within an additional ninety (90) days thereafter, with the amount of Net Cash Proceeds unused after such period to be applied

to prepay the Term Loans; provided, further, that (i) prior to the Discharge of ABL Obligations, the Loan Parties shall immediately deposit such Net Cash Proceeds from any Disposition relating to Property constituting Term Priority Collateral in the Term Loan Priority Account and (ii) subsequent to the Discharge of ABL Obligations, the Loan Parties shall immediately deposit Net Cash Proceeds from any Disposition of any Property in the Term Loan Priority Account; provided that, so long as no Event of Default has occurred and is continuing, the Agent shall release any funds to the Borrower which the Borrower requires to reinvest in the business of the Borrower and its Subsidiaries as set forth above or, prior to the expiration of the reinvestment period provided for in this Section 2.06(a), apply such funds to repayment of the Term Loans upon instruction of the Borrower in accordance with the terms of this Section 2.06(a).

(ii) Subject to any limitations contained in the Revolving Credit Agreement, within ten Business Days after the earlier to occur of the date on which (x) Borrower's Fiscal Year-end audited financial statements are required to be delivered or (y) such financial statements are actually delivered, in each case pursuant to Section 6.01(a) (commencing with the Fiscal Year ending February 1, 2020) (each such date, an "ECF Payment Date"), the Borrower shall make a prepayment of the Term Loans in an amount equal to (1) 50% of Excess Cash Flow for such Fiscal Year minus (2) the sum of (A) voluntary prepayments of Term Loans pursuant to Section 2.05(a) hereof made during such period and, at the election of the Borrower, any such payments made after the end of such period but prior to the ECF Payment Date (provided that such payments may not be deducted pursuant to this clause (2)(A) with respect to the following Fiscal Year) and (B) voluntary prepayments of ABL Debt pursuant to Section 2.05(a) of the ABL Credit Agreement made during such period accompanied by a permanent reduction in the ABL Commitments and, at the election of the Borrower, any such payments made after the end of such period but prior to the ECF Payment Date (provided that such payments may not be deducted pursuant to this clause (2)(B) with respect to the following Fiscal Year).

(iii) Upon the occurrence of a Change of Control, the Borrower shall make a prepayment of the Term Loans in an amount equal to 100% of the outstanding Obligations at such time.

(iv) Concurrently with the receipt by any Loan Party of the proceeds of any Specified Contribution pursuant to Section 8.04, the Borrower shall make a prepayment of the Term Loans in an amount equal to 100% of such Specified Contribution.

(v) If during any Fiscal Year of the Borrower, any Loan Party has received cumulative Net Cash Proceeds during such Fiscal Year from one or more Recovery Events in respect of Term Loan Priority Collateral, or, after the Discharge of ABL Obligations, any Property, of at least $500,000, not later than five (5) Business Days following the date of receipt of any Net Cash Proceeds in excess of such amount, the Borrower shall make a prepayment of the Term Loans in an amount equal to 100% of the Net Cash Proceeds then received in excess of such amount from any Recovery Event. Notwithstanding the foregoing, in the event any property of any Loan Party suffers an event of loss resulting in a Recovery Event, the Borrower may, at its option by notice in writing to the Agent given no later than thirty (30) days following the occurrence of the Recovery Event resulting in such Net Cash Proceeds, apply such Net Cash Proceeds to the rebuilding or replacement of such damaged, destroyed or condemned assets or property so long as such Net Cash Proceeds are in fact used to rebuild or replace the damaged, destroyed or condemned assets or property within one hundred eighty (180) days following the receipt of such Net Cash Proceeds, with the amount of Net Cash Proceeds unused after such period to be applied to prepay the Term Loans; provided, that (i) prior to the Discharge of ABL Obligations, the Loan Parties shall immediately deposit such Net Cash Proceeds from any Recovery Event relating to property constituting Term Priority Collateral in the Term Loan Priority Account and (ii) subsequent to the Discharge of ABL Obligations, the Loan Parties shall immediately deposit Net Cash Proceeds from any Recovery Event in the Term Loan Priority Account; provided, further, that so long as no Event of Default

has occurred and is continuing, the Agent shall release any funds to the Borrower which the Borrower requires to rebuild or replace damaged, destroyed or condemned assets or property as set forth above or, prior to the expiration of the reinvestment period provided for in this Section 2.06(e), apply such funds to repayment of the Term Loans upon instruction of the Borrower in accordance with the terms of this Section 2.06(e).

(vi) If for any reason the Combined Total Outstandings at any time exceed the Borrowing Base as then in effect, then (a) until the Discharge of ABL Obligations, the Borrower shall immediately prepay first, the ABL Debt and, then, the Term Loans and (b) thereafter, the Borrower shall immediately prepay the Term Loans, in each case in an aggregate amount to eliminate such excess. Each prepayment of the Term Loans made pursuant to this Section 2.06(f) shall be accompanied by the payment of (i) accrued interest to the date of such payment on the amount prepaid and (ii) whether before or after an Event of Default or acceleration, the Early Termination Fee, if any, payable pursuant to Section 2.05(b) in connection with any prepayment of the Term Loans.

(vii) No later than three (3) Business Days in advance of the making of any mandatory prepayment pursuant to this Section 2.06, Borrower shall deliver, or cause to be delivered, to Agent for distribution to the Lenders written notice of the amount and date of such mandatory prepayment. Notwithstanding the foregoing, each Lender may reject all or a portion of its pro rata share of any mandatory prepayment (such declined amounts, the "Declined Proceeds") of any Term Loans required to be made pursuant to clauses (a), (b), (d), (e) and (f) of this Section 2.06 by providing written notice (each, a "Rejection Notice") to Agent and Borrower no later than 5:00 P.M. (New York City time) one (1) Business Day prior to the scheduled date of such prepayment. Each Rejection Notice from a Lender shall specify the principal amount of the mandatory prepayment to be rejected by such Lender. If a Lender fails to deliver a Rejection Notice to Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the prepayment to be rejected, any such failure will be deemed to be an acceptance of the total amount of such mandatory prepayment of such Term Loans. Any Declined Proceeds may be retained by Borrower.

SECTION 2.7 Repayment of Obligations; Amortization.

(i) The Borrower shall repay to the Agent, for the account of the Lenders on the Termination Date the aggregate amount of Obligations (including the Term Loans, but excluding contingent indemnification obligations for which a claim has not then been asserted) outstanding on such date.

(ii) The Borrower shall repay the Term Loan on each Interest Payment Date in respect of each Fiscal Quarter of the Borrower (commencing with the Fiscal Quarter ending on February 2, 2019) in the principal amount of $687,500. Notwithstanding anything to the contrary in the Second Amendment, the Borrower shall not be required to repay the Term Loan pursuant to this Section 2.07(b) for the Interest Payment Dates occurring on April 1, 2020, July 1, 2020, October 1, 2020, January 1, 2021, April 1, 2021, July 1, 2021, October 1, 2021 and January 1, 2022.

SECTION 2.8 Interest.

(i) Subject to the provisions of Section 2.08(b) below, each Term Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the LIBOR Rate for such Interest Period plus the Applicable Margin.

(ii) (1) Upon and after the occurrence of Specified Event of Default, and during the continuation thereof, the Term Loans shall, at the Agent's option, bear interest at a fluctuating interest rate per annum equal to the Default Rate to the fullest extent permitted by Requirement of Law.

(1) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(iii) Except as provided in Section 2.08(b)(ii), interest on each Term Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein; provided that the Deferred Interest shall be due and payable on the first anniversary of the Third Amendment Effective Date. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

SECTION 2.9 Fees.

The Borrower shall pay to the Agent and the Lenders for their own respective accounts fees in the amounts and at the times specified in the Fee Letter, the Third Amendment Fee Letter and the Fifth Amendment Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

SECTION 2.10 Computation of Interest and Fees.

(i) All computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Term Loan for the day on which the Term Loan is made, and shall not accrue on a Term Loan, or any portion thereof, for the day on which the Term Loan or such portion is paid, provided that any Term Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(ii) All calculations of interest payable by the Loan Parties under this Agreement or any other Loan Document are to be made on the basis of the nominal interest rate described herein and therein and not on the basis of effective yearly rates or on any other basis which gives effect to the principle of deemed reinvestment of interest which principle does not apply to any interest calculated under this Agreement or any Loan Document. The parties hereto acknowledge that there is a material difference between the stated nominal interest rates and the effective yearly rates of interest and that they are capable of making the calculations required to determine such effective yearly rates of interest.

SECTION 2.11 Evidence of Debt.

The Term Loans made by each Lender shall be evidenced by one or more accounts or records maintained by the Agent (the "Loan Account") in the ordinary course of business. In addition, each Lender may record in such Lender's internal records, an appropriate notation evidencing the date and amount of each Term Loan from such Lender, each payment and prepayment of principal of any such Term Loan, and each payment of interest, fees and other amounts due in connection with the Obligations due to such Lender. The accounts or records maintained by the Agent and each Lender acting solely as a non-fiduciary agent for the Borrower, shall be prima facie evidence of the amount of the Term Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error

in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Agent in respect of such matters, the accounts and records of the Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Agent, the Borrower shall execute and deliver to such Lender (through the Agent) a Note, which shall evidence such Lender's Term Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, amount and maturity of its Term Loans and payments with respect thereto. Upon receipt of an affidavit of a Lender as to the loss, theft, destruction or mutilation of such Lender's Note and upon cancellation of such Note, the Borrower will issue, in lieu thereof, a replacement Note in favor of such Lender, in the same principal amount thereof and otherwise of like tenor.

SECTION 2.12 Payments Generally; Agent's Clawback.

(i) General. All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made, as applicable, to the Agent, for the account of the respective Lenders to which such payment is owed, at the Agent's Office in Dollars in immediately available funds not later than 2:00 p.m. on the date specified herein. All payments received by the Agent after 2:00 p.m. at the option of the Agent be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment (other than with respect to payment of a LIBOR Rate Loan) to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(ii) [Reserved].

(iii) [Reserved].

(iv) Obligations of Lenders Several. The obligations of the Lenders hereunder to make the Term Loans to the Borrower are several and not joint. The failure of any Lender to make any Term Loan, to fund any participation or to make any payment hereunder on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Term Loan, to purchase its participation or to make its payment hereunder.

(v) Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Term Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Term Loan in any particular place or manner.

SECTION 2.13 Sharing of Payments by Lenders.

If, other than as expressly provided elsewhere herein, any Credit Party shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of, interest on, or other amounts with respect to the Obligations resulting in such Credit Party's receiving payment of a proportion of the aggregate amount of such Obligations, greater than its pro rata share thereof as provided herein (including as in contravention of the priorities of payment set forth in Section 8.03), then the Credit Party receiving such greater proportion shall (a) notify the Agent of such fact, and (b) purchase (for cash at face value) participations in the Obligations of the other Credit Parties, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Credit Parties ratably and in the priorities set forth in Section 8.03, provided that:

(1) 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, without interest; and

(2) the provisions of this Section 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 this Agreement or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Term Loans to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable Requirement of Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.

SECTION 2.14 Settlement Amongst Lenders.

(i) The amount of each Lender's Applicable Percentage of outstanding Term Loans shall be computed weekly (or more frequently in the Agent's discretion) and shall be adjusted upward or downward based on all Term Loans and repayments of Term Loans received by the Agent as of 3:00 p.m. on the first Business Day (such date, the "Settlement Date") following the end of the period specified by the Agent.

(ii) The Agent shall deliver to each of the Lenders promptly after a Settlement Date a summary statement of the amount of outstanding Term Loans for the period and the amount of repayments received for the period. As reflected on the summary statement, (i) the Agent shall transfer to each applicable Lender its Applicable Percentage of repayments, and (ii) each Lender shall transfer to the Agent, or the Agent shall transfer to each Lender, such amounts as are necessary to insure that, after giving effect to all such transfers, the amount of Term Loans made by each Lender to the Borrower shall be equal to such Lender's Applicable Percentage of all Term Loans outstanding to the Borrower as of such Settlement Date. If the summary statement requires transfers to be made to the Agent by the Lenders and is received prior to 1:00 p.m. on a Business Day, such transfers shall be made in immediately available funds no later than 3:00 p.m. that day; and, if received after 1:00 p.m., then no later than 3:00 p.m. on the next Business Day. The obligation of each Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by the Agent. If and to the extent any Lender shall not have so made its transfer to the Agent, such Lender agrees to pay to the Agent forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Agent equal to a rate determined by the Agent in accordance with banking industry rules on interbank compensation plus any administrative, processing, or similar fees customarily charged by the Agent in connection with the foregoing.

ARTICLE III
TAXES, YIELD PROTECTION AND ILLEGALITY

SECTION 3.1 Taxes.

(i) All payments made by or on account of the Borrower under any Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes

unless required by applicable Requirement of Law. If any Taxes are required to be withheld by any applicable withholding agent from any amounts payable hereunder or under any other Loan Document, (i) the applicable withholding agent shall make such deductions, (ii) the applicable withholding agent shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable Requirement of Law, and (iii) to the extent the deduction is on account of Non-Excluded Taxes or Other Taxes, the amounts so payable to the Agent or such Lender shall be increased to the extent necessary to yield to the Agent or such Lender (after deduction or withholding of all Non-Excluded Taxes and Other Taxes) interest or any such other amounts payable hereunder at the rates or in the amounts specified in this Agreement.

(ii) Without limiting the provisions of paragraph (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable Requirement of Law.

(iii) Whenever any Non-Excluded Taxes or Other Taxes are payable by the Borrower, as promptly as possible thereafter the Borrower shall send to the Agent for the account of the Agent or Lender, as the case may be, a certified copy of an original official receipt received by the Borrower showing payment thereof if such receipt is obtainable, or, if not, other reasonable evidence of payment. The Borrower shall indemnify the Agent and the Lenders for any Non-Excluded Taxes payable in connection with any payments made by the Borrower under any Loan Document and any Other Taxes (including Non-Excluded Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.01), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Non-Excluded Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; provided, however, that if an indemnitee does not notify the Borrower of any indemnification claim under this Section 3.01(c) within 180 days after such indemnitee has received written notice of the claim of a taxing authority giving rise to such indemnification claim, the Borrower shall not be required to indemnify such indemnitee for any incremental interest or penalties resulting from the such indemnitee's failure to notify the Borrower within such 180 day period. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Agent), or by the Agent on its own behalf, shall be conclusive absent manifest error.

(iv) If the Agent or any Lender determines, in good faith, that it has received a refund of any Non-Excluded Taxes or Other Taxes as to which it has been indemnified by any Borrower or with respect to which any Borrower has paid additional amounts pursuant to Section 3.01 or Section 3.02, it shall promptly pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Non-Excluded Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Borrower, upon the request of the Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent or such Lender in the event the Agent or such Lender is required to repay such refund to such Governmental Authority; provided, further, that no Borrower shall be required to repay to the Agent or such Lender an amount in excess of the amount paid over by such party to the Borrower pursuant to this Section. This paragraph shall not be construed to require the Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to any Borrower or any other Person. The agreements in this Section shall survive the termination of this Agreement and the payment of the Obligations.

(v) Status of Lenders; Tax Documentation.

(1) Any Recipient 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 Agent, at the time or times reasonably requested by the Borrower or the Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Recipient, if reasonably requested by the Borrower or the Agent, shall deliver such other documentation prescribed by applicable Requirement of Law or reasonably requested by the Borrower or the Agent as will enable the Borrower or the Agent to determine whether or not such Recipient 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 3.01(e)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Recipient's reasonable judgment such completion, execution or submission would subject such Recipient to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Recipient.

(2) Without limiting the generality of the foregoing, in the event that the Borrower is a U.S. Person,

a. any Recipient that is a U.S. Person shall deliver to the Borrower and the Agent on or prior to the date on which such Recipient becomes a Recipient under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Agent), executed copies of IRS Form W-9 certifying that such Recipient 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 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 Recipient under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the 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 copies of IRS Form W-8BEN or W-8BENE, as applicable, 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 or W-8BENE, as applicable, 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 copies 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 E-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" described

in Section 881(c)(3)(C) of the Code (a "U.S. Tax Compliance Certificate") and (y) executed copies of IRS Form W-8BEN or W-8BENE, as applicable; or

iv. to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BENE, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit E-2 or Exhibit E-3, 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 E-4 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 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 Recipient under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Agent), executed copies of any other form prescribed by applicable Requirement of 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 Requirement of Law to permit the Borrower or the Agent to determine the withholding or deduction required to be made;

d. on or before the date the Agent becomes a party to this Agreement, the Agent shall provide to the Borrower two accurate and complete original, signed copies of IRS Form W-9 or the applicable IRS Form W-8, as the case may be; and

e. if a payment made to a Recipient under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Recipient 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 Recipient shall deliver to the Borrower and the Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Agent such documentation prescribed by applicable Requirement of 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 Agent as may be necessary for the Borrower and the Agent to comply with their obligations under FATCA and to determine that such Recipient has complied with such Recipient'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.

(3) Each Recipient agrees that if any form or certification it previously delivered pursuant to this Section 3.01 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Agent in writing of its legal inability to do so.

(vi) Survival. Each party's obligations under this Section 3.01 shall survive the resignation or replacement of the Agent or any assignment of rights by, or the replacement of, a Lender and the repayment, satisfaction or discharge of all other Obligations.

(vii) Evidence of Payments. Upon request by the Borrower or the Agent, as the case may be, after any payment of Taxes by the Borrower or by the Agent to a Governmental Authority as provided in this Section 3.01, the Borrower shall deliver to the Agent or the Agent shall deliver to the Borrower, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return required by Laws to report such payment or other evidence of such payment reasonably satisfactory to the Borrower or the Agent, as the case may be.

SECTION 3.2 [Reserved].

SECTION 3.3 Inability to Determine Rates; Illegality; Replacement of LIBOR Rate.

If the Agent determines (which determination shall be conclusive absent manifest error) that for any reason that (a) Dollar deposits are not being offered to banks in the London interbank market for the applicable amount and Interest Period of such LIBOR Rate Loan, (b) adequate and reasonable means do not exist for determining the LIBOR Rate for any Interest Period with respect to a LIBOR Rate Loan (including, without limitation, because the LIBOR screen page is not available or published on a current basis or the administrator of the LIBOR screen page or a Governmental Authority has made a public statement identifying a specific date after which LIBOR shall no longer be made available, or used for determining the interest rate of loans), (c) the LIBOR Rate for any Interest Period with respect to a LIBOR Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Term Loan, (d) any Requirement of Law or Change in Law has made it, or that any Governmental Authority has asserted that it is, unlawful for any Lender to make, maintain or fund LIBOR Rate Loans or to determine or charge interest rates based upon the LIBOR Rate or (e) a specific date after which the LIBOR Rate shall no longer be used for determining interest rates for loans, then the Agent and the Borrower shall endeavor to establish an alternate rate of interest to the LIBOR Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for loans similar to the Term Loans in the United States at such time, and shall enter into an amendment to this Agreement to reflect such alternate rate of interest and such other related changes to this Agreement as may be applicable. Notwithstanding anything to the contrary in Section 10.01, such amendment shall become effective without any further action or consent of any other party to this Agreement so long as the Agent shall not have received, within five Business Days of the date notice of such alternate rate of interest is provided to the Lenders, a written notice from the Required Lenders stating that such Required Lenders object to such amendment.

SECTION 3.4 Increased Costs; Reserves on LIBOR Rate Loans.

(i) Increased Costs Generally. If any Change in Law shall:

(1) 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 requirements reflected in the LIBOR Rate);

(2) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) 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

(3) impose on any Lender or the London interbank market any other condition, cost or expense affecting this Agreement or LIBOR Rate Loans made by such

Lender, in each case that is not otherwise accounted for in the definition of LIBOR Rate or this clause (a);

and the result of any of the foregoing shall be to increase the cost to such Lender of maintaining any LIBOR Rate Loan, or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or any other amount) then, within fifteen (15) days after demand therefor by such Lender setting forth in reasonable detail such increased costs, the Loan Parties will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(ii) Capital Requirements. If any Lender reasonably determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital or liquidity of such Lender's holding company, if any, as a consequence of this Agreement, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time upon demand of such Lender setting forth in reasonable detail the charge and calculation of such reduced rate of return the Loan Parties will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(iii) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Loan Parties shall pay such Lender, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(iv) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of such Lender's right to demand such compensation, provided that the Loan Parties shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than 180 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such 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 180 day period referred to above shall be extended to include the period of retroactive effect thereof).

(v) Reserves on LIBOR Rate Loans. Without duplication of any reserves specified in the definition of "LIBOR Rate", the Borrower shall pay to each Lender, as long as such Lender shall be required to maintain LIBOR liabilities, additional interest on the unpaid principal amount of each LIBOR Rate Loan equal to the actual costs of such reserves allocated to such Term Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), which shall be due and payable on each date on which interest is payable on such Term Loan, provided the Borrower shall have received at least 15 days' prior notice (with a copy to the Agent) of such additional interest from such Lender. If a Lender fails to give notice 15 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 15 days from receipt of such notice.

SECTION 3.5 Compensation for Losses.

Upon written demand of any Lender (with a copy to the Agent) from time to time, which such demand shall set forth in reasonable detail the basis for requesting such amount, the Borrower shall promptly

compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(i) any payment or prepayment of any Term Loan on a day other than the last day of the Interest Period for such Term Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(ii) any failure by the Borrower (for a reason other than the failure of such Lender to make a Term Loan) to prepay, borrow or continue any Term Loan on the date or in the amount notified by the Borrower;

(iii) any assignment of a Term Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 10.13;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Term Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each LIBOR Rate Loan made by it at the LIBOR Rate for such Term Loan by a matching deposit or other borrowing in the London interbank market for a comparable amount and for a comparable period, whether or not such LIBOR Rate Loan was in fact so funded.

SECTION 3.6 Mitigation Obligations.

If any Lender requests compensation under Section 3.04, or the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Term Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

SECTION 3.7 Survival.

All of the Borrower's obligations under this Article III shall survive repayment of all Obligations hereunder and resignation of the Agent.

ARTICLE IV
CONDITIONS PRECEDENT TO BORROWING

SECTION 4.1 Conditions to Borrowing.

The agreement of each Lender to make the Term Loans on the Closing Date is subject to the satisfaction (or waiver), prior to or concurrently with the making of such Term Loans, of the following conditions precedent:

(i) Credit Agreement; Security Documents. The Agent shall have received (i) this Agreement, executed and delivered by the Agent, each Loan Party and each Lender whose name appears on the signature pages hereof, (ii) the Security Documents specified on the Closing Checklist attached hereto as Exhibit K required to be delivered on the Closing Date (except to the extent set forth in Sections 6.12(a) and 6.16 hereof), executed and delivered by the Loan Parties and the Agent, (iii) an Acknowledgement and Consent in the form attached to the Security Agreement executed and delivered by each Issuer (as defined therein), if any, that is not a Loan Party, (iv) a Note executed by the Borrower in favor of each Lender requesting a Note, and (v) a Representations and Warranties Certificate executed by each Loan Party, and (vi) all other Loan Documents specified on the Closing Checklist attached hereto as Exhibit K and required to be delivered on the Closing Date (except to the extent set forth in Section 6.16 hereof), each duly executed by the applicable Loan Parties and all other Persons party thereto.

(ii) Payoff Indebtedness. (i) The Parent, Holdings, the Borrower and its Restricted Subsidiaries shall have no Indebtedness for borrowed money outstanding as of the Closing Date other than under the ABL Credit Agreement, this Agreement and the other Indebtedness permitted by Section 7.03 and (ii) the Borrower shall be released from its obligations under the Payoff Indebtedness, which releases shall be in form and substance reasonably satisfactory to the Agent, including, without limiting the foregoing, if applicable, (a) proper termination statements (Form UCC-3 or the appropriate equivalent) for filing under the Uniform Commercial Code or equivalent statute or regulation of each jurisdiction where a financing statement or application for registration (Form UCC-1 or the appropriate equivalent) was filed with respect to the Borrower in connection with the security interests created with respect to the Payoff Indebtedness and (b) terminations of any security interest in, or Lien on, any patents, trademarks, copyrights, or similar interests of the Borrower and (iii) other than with respect to the letters of credit covered by a back to back letter of credit issued hereunder on the Closing Date, the Parent and its Subsidiaries shall have made arrangements reasonably satisfactory to the Agent for the cancellation of any letters of credit issued for the account of the Parent, Holdings or the Borrower and outstanding thereunder.

(iii) ABL Credit Agreement. Substantially concurrently with the satisfaction of the other conditions precedent set forth in this Section 4.01(c), the Parent, Holdings, and the Borrower shall have entered into the ABL Credit Agreement and the Agent shall have received (i) a counterpart of the Intercreditor Agreement, signed by the ABL Agent and acknowledged by the Loan Parties party thereto and (ii) a certificate signed by a Responsible Officer attaching true, correct and complete copies of the material documents relating to the ABL Credit Agreement and certifying that all of such documents are in full force and effect.

(iv) Fees. The Agent and the Lenders shall have received (i) all fees required to be paid under the Fee Letter, and (ii) all reasonable out-of-pocket expenses for which reasonably detailed invoices have been presented (including reasonable and documented out-of-pocket fees, disbursements and other charges of counsel to the Agent), in each case under this clause (ii) required to be paid pursuant to Section 10.04 on or before the Closing Date.

(v) Closing and Solvency Certificate. The Agent shall have received a certification (after giving effect to the transactions contemplated hereby) of the Loan Parties and their Restricted Subsidiaries signed by a Responsible Officer of the Borrower that such Loan Parties and their Restricted Subsidiaries are Solvent, substantially in the form of Exhibit F hereto.

(vi) Lien Searches. The Agent shall have received the results of a recent lien search in each of the jurisdictions in which Uniform Commercial Code financing statements or other filings or recordations should be made to evidence or perfect security interests in all assets of the Loan Parties, and

such search shall reveal no liens on any of the assets of the Loan Party, except for Liens permitted by Section 7.01 or liens to be discharged (or requiring estoppel letters) on or prior to the Closing Date.

(vii) Legal Opinions. The Agent shall have received an executed legal opinion of Kirkland & Ellis LLP, counsel to the Loan Parties, in form and substance reasonably satisfactory to the Agent.

(viii) Pledged Stock; Stock Powers; Pledged Notes. The Agent shall have received (i) the original certificates representing the shares, if any, of Equity Interests of Holdings and the Borrower and (to the extent required by the terms of the Security Documents) each of the Borrower's Subsidiaries pledged to the Agent pursuant to (and, in the case of the Equity Interests of any Foreign Subsidiary (other than Excluded Subsidiaries), subject to the limitations of) the Security Documents, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) each promissory note (if any) required to be pledged to the Agent pursuant to the Security Documents endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(ix) Filings, Registrations and Recordings. Each document (including, without limitation, any Uniform Commercial Code financing statement) required by the Security Documents to be filed, registered or recorded in order to create in favor of the Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein with the priority provided for in the Security Documents, shall have been delivered to the Agent in proper form for filing, registration or recordation and the Agent shall have received evidence reasonably satisfactory to it that such filings have been made or have been provided for.

(x) Insurance. Except as otherwise provided in Section 6.16 hereof, the Agent shall have received insurance certificates satisfying the requirements of Section 6.07.

(xi) Pro Forma Balance Sheet; Financial Statements; Financial Plan; Financial Performance Projections. The Lenders shall have received (i) the unaudited pro forma consolidated balance sheet of the Parent and its consolidated Subsidiaries (the "Pro Forma Balance Sheet"), certified by the Parent as having been prepared giving effect (as if such events had occurred on such date) to (A) the Term Loans to be made hereunder on the Closing Date and the use of the proceeds thereof, and (B) the payment of fees and expenses in connection with the foregoing; (ii) the financial statements of the Parent and its Subsidiaries referred to in Section 5.01, and (iii) Financial Performance Projections for the first year following the Closing Date and for each year thereafter through Fiscal Year ending February 4, 2023. The Pro Forma Balance Sheet shall have been prepared based upon the best information available to the Parent as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis the estimated financial position of the Parent and its consolidated Subsidiaries as at the end of the fiscal quarter ending August 4, 2018, assuming that the events specified in the preceding sentence had actually occurred at such date, and shall be so certified by the Parent. The Agent shall have received and be reasonably satisfied with the business plan and capital structure of the Borrower and the Guarantors.

(xii) Certificate of Representations and Warranties. The Agent shall have received a certificate of representations and warranties covering all of the Loan Parties, executed by a financial officer of the Borrower, substantially in the form attached hereto as Exhibit G.

(xiii) ABL Excess Availability. After giving effect to all Letters of Credit (as defined under the ABL Credit Agreement) to be issued at, or immediately subsequent to, the establishment of the ABL Credit Agreement, and to the making of the Term Loans hereunder, ABL Excess Availability (as defined under the ABL Credit Agreement) shall be no less than $20,000,000.

(xiv) Borrowing Base Certificate. The Agent shall have received a Borrowing Base Certificate dated the Closing Date, relating to the Fiscal Month ended on August 4, 2018, with respect to the Borrower's provisional calculation of the Borrowing Base, to be prepared in good faith by the Borrower based on the information and good faith estimates available as of such date, and executed by a Responsible Officer, subject to the delivery of an updated Borrowing Base Certificate within seven (7) Business Days of the Closing Date.

(xv) No Material Adverse Effect. There shall have been no Material Adverse Effect since February 3, 2018.

(xvi) No Litigation. There shall exist no action, suit, investigation or proceeding pending or, to the knowledge of the Loan Parties, threatened in writing in any court or before any arbitrator or governmental authority in which there is a reasonable possibility of a decision which would reasonably be expected to have a Material Adverse Effect.

(xvii) Consents. Any consents or approvals required in connection with the effectiveness of the ABL Credit Agreement, this Agreement and the other Loan Documents shall have been obtained and shall be in full force and effect.

(xviii) Officer's Certificate. The Agent shall have received an officer's certificate, dated as of the Closing Date, certifying as to and (as applicable) attaching the organization documents of each Loan Party (which, to the extent filed with a Governmental Authority, shall be certified as of a recent date by such Governmental Authority), the resolutions of the governing body of each Loan Party, the good standing, existence or its equivalent of each Loan Party and of the incumbency (including specimen signatures) of the Responsible Officers of each Loan Party.

(xix) Due Diligence. Agent shall have completed its business, financial, and legal due diligence of the Loan Parties, including (i) a completed commercial finance examination of the Loan Parties' assets, liabilities, cash management systems, books and records and (ii) all inventory appraisals reasonably requested by Agent, and the results of such commercial finance examination and inventory appraisals shall be reasonably satisfactory to Agent in all respects.

(xx) USA PATRIOT Act; KYC. At least three (3) Business Days prior to the Closing Date, the Lenders shall have received all documentation and other information requested by them and required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act.

(xxi) Minimum Consolidated EBITDA. Consolidated EBITDA for the most recently ended Measurement Period prior to the Closing Date shall be no less than $12,000,000.

ARTICLE V
REPRESENTATIONS AND WARRANTIES

To induce the Credit Parties to enter into this Agreement and to make the Term Loans hereunder, each Loan Party represents and warrants to the Agent and the other Credit Parties that:

SECTION 5.1 Financial Condition.

(i) The (i) audited income statement of Parent for the fiscal years ending as at January 30, 2016, January 28, 2017 and February 3, 2018, reported on by and accompanied by an

unqualified report from PricewaterhouseCoopers LLP, and (ii) unaudited consolidated balance sheet of Parent as of April 29, 2017 and May 5, 2018, and related consolidated statements of income and of cash flows for the fiscal quarters ended on such dates present fairly in all material respects the financial condition of Parent as at such dates, and the results of its operations and its cash flows (as applicable) for the respective periods then ended. All such financial statements, including the related schedules and notes thereto and normal year-end adjustments, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as approved by the aforementioned firm of accountants and disclosed therein and, in the case of such unaudited financial statements, subject to normal year-end adjustments and the absence of footnotes). Except as set forth on Schedule 5.01(a), as of the Closing Date, none of Parent or its Subsidiaries (i) has any material Guarantee Obligations, contingent liabilities or material liabilities for taxes, or any long-term leases or unusual forward or long-term commitments, including, without limitation, any interest rate or foreign currency swap or exchange transaction or other obligation in respect of derivatives, which are not reflected in the most recent financial statements referred to in this paragraph but which would in accordance with GAAP be so reflected in a consolidated balance sheet of the Parent its Subsidiaries as of the Closing Date and (ii) is party to any arrangement to pay principal or interest with respect to any Indebtedness of any Person which is not reflected in the most recent financial statements referred to in this paragraph, (x) which was incurred by the Parent or any of its Subsidiaries or guaranteed by the Parent or any of its Subsidiaries at any time or the proceeds of which are or were transferred to or used by the Parent or any of its Subsidiaries and (y) the payments in respect of which are intended to be made with the proceeds of payments to such Person by the Parent or any of its consolidated Subsidiaries or with any Indebtedness or Equity Interests issued by the Parent or any such Subsidiary.

(ii) As of the Closing Date, the Financial Performance Projections delivered to the Agent and attached hereto as Schedule 5.01(b) represent the Loan Parties' good faith estimate of future financial performance and are based on assumptions believed by the Loan Parties to be fair and reasonable in light of current market conditions, it being acknowledged and agreed by Agent and Lenders that projections as to future events are not to be viewed as facts and that the actual results during the period or periods covered by the Financial Performance Projections may materially differ from the projected results set forth therein.

SECTION 5.2 No Change.

There has been no event, circumstance, development, change or effect since the date of the Audited Financial Statement that has had a Material Adverse Effect.

SECTION 5.3 Existence, Compliance with Requirements of Law.

Each of the Parent, Holdings, the Borrower and its Restricted Subsidiaries (a) (i) is duly organized (or incorporated), validly existing and in good standing (or, only where if applicable, the equivalent status in any foreign jurisdiction) under the laws of the jurisdiction of its organization or incorporation, (ii) has the corporate or organizational power and authority, and the legal right, to own and operate its Property, to lease the Property it operates as lessee and to conduct the business in which it is currently engaged except, in each case, to the extent that any such failure to have such power, authority or right would not reasonably be expected to have a Material Adverse Effect and (iii) is duly qualified as a foreign corporation or limited liability company and in good standing (where such concept is relevant) under the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification except, in each case, to the extent that the failure to be so qualified or in good standing (where such concept is relevant) would not reasonably be expected to have a Material Adverse Effect and (b) is in compliance with all applicable Requirements of Law except to the extent that any such failure to comply therewith would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.4 Corporate Power; Authorization; Enforceable Obligations.

Each Loan Party has the corporate power and authority to make, deliver and perform the Loan Documents to which it is a party and, in the case of the Borrower, to borrow hereunder. Each Loan Party has taken all necessary corporate or other action to authorize the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrower, to authorize the extensions of credit on the terms and conditions of this Agreement. Except as would not reasonably be expected to have a Material Adverse Effect, no consent or authorization of, filing with, notice to or other act by or in respect of, any Governmental Authority is required in connection with the extensions of credit hereunder or the execution, delivery, performance, validity or enforceability of this Agreement or any of the other Loan Documents, except (i) consents, authorizations, filings and notices, which consents, authorizations, filings and notices have been obtained or, within any period set forth in the relevant Security Document, will be obtained or made and are or will be in full force and effect or the failure to obtain which would not reasonably be expected to have a Material Adverse Effect, (ii) filings to perfect the Liens created by the Security Documents, (iii) filings pursuant to the Assignment of Claims Act of 1940, as amended (31 U.S.C. § 3727 et seq.), in respect of Accounts of the Parent and its Subsidiaries the obligor in respect of which is the United States of America or any department, agency or instrumentality thereof, and (iv) the filings referred to in Section 5.17. Each Loan Document has been duly executed and delivered on behalf of each Loan Party that is a party thereto. This Agreement constitutes, and each other Loan Document upon execution will constitute, a legal, valid and binding obligation of each Loan Party that is a party thereto, enforceable against each such Loan Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law) and the implied covenants of good faith and fair dealing.

SECTION 5.5 No Legal Bar.

The execution, delivery and performance of this Agreement and the other Loan Documents, the borrowings hereunder and the use of the proceeds thereof will not (a) violate the organizational or governing documents of any of the Loan Parties, (b) violate, in any material respect, any applicable Requirement of Law or any material Contractual Obligation of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, or (c) result in, or require, the creation or imposition of any Lien on any of their respective properties or revenues pursuant to any applicable Requirement of Law or any such Contractual Obligation (other than Liens required to be granted in favor of the Agent and the ABL Agent pursuant to the Loan Documents).

SECTION 5.6 No Material Litigation.

No litigation, proceeding or, to the knowledge of the Parent and the Borrower, investigation of or before any arbitrator or Governmental Authority is pending or, to the knowledge of the Parent and the Borrower, likely to be commenced within a reasonable time period against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries or against any of their Properties or revenues which, taken as a whole, (a) are material and adverse with respect to any of the Loan Documents or (b) would reasonably be expected to have a Material Adverse Effect.

SECTION 5.7 No Default.

No Default or Event of Default has occurred and is continuing.

SECTION 5.8 Ownership of Property; Liens.

Except as set forth in Schedule 5.08(a), each of the Parent, Holdings, the Borrower and their respective Restricted Subsidiaries has good and marketable title in fee simple to, or a valid leasehold interest in or in the case of real property subject to a license, a right to use, all its real property, and good title to, or a valid leasehold interest in or right to use, all its other Property (other than Intellectual Property), in each case, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and none of such Property is subject to any Lien other than Liens permitted by Section 7.01. Schedule 5.08(b) lists all real property which is owned, leased or licensed to use by any Loan Party as of the Closing Date.

SECTION 5.9 Intellectual Property.

Each of the Parent, Holdings, the Borrower and its respective Restricted Subsidiaries owns, or has a valid license to use, all Intellectual Property necessary for the conduct of its business as currently conducted free and clear of all Liens, except for Liens permitted by Section 7.01 and except where the failure to so own or have a license to use would not reasonably be expected to have a Material Adverse Effect. To the Parent's, Holdings', and the Borrower's knowledge, no holding, injunction, decision or judgment has been rendered by any Governmental Authority and none of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries has entered into any settlement stipulation or other agreement (except license agreements in the ordinary course of business) which would cancel the validity of the Parent's, Holdings', the Borrower's or any Restricted Subsidiary's rights in any Intellectual Property owned by the Parent, Holdings, the Borrower or any Restricted Subsidiary (the "Borrower Intellectual Property") in any respect that would reasonably be expected to have a Material Adverse Effect. To the Parent's, Holdings' and the Borrower's knowledge, no pending claim has been asserted or threatened in writing by any Person challenging the use by the Parent, Holdings, the Borrower or any Restricted Subsidiaries of any Borrower Intellectual Property or the validity of any Borrower Intellectual Property , except in each case as would not reasonably be expected to have a Material Adverse Effect. To the Parent's, Holdings' and the Borrower's knowledge, the use of any Borrower Intellectual Property by the Parent, Holdings, the Borrower or its Restricted Subsidiaries does not infringe on the rights of any other Person in a manner that would reasonably be expected to have a Material Adverse Effect. The Parent, Holdings, the Borrower and its Restricted Subsidiaries have taken all commercially reasonable actions that in the exercise of their reasonable business judgment should be taken to protect the Borrower Intellectual Property, including Borrower Intellectual Property that is confidential in nature, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.10 Taxes.

Each of the Parent, Holdings, the Borrower and each of its Restricted Subsidiaries (i) has timely filed or caused to be filed all federal, state, provincial, territorial and other Tax returns that are required to be filed by it, and (ii) has duly and timely paid all Taxes due and payable and all other Taxes, fees or other charges imposed on it or any of its Property, assets, income, businesses and franchises by any Governmental Authority responsible for administering Taxes (other than any the amount or validity of which are currently being contested in good faith by appropriate proceedings and with respect to which any reserves required in conformity with GAAP have been provided on the books of the Parent, Holdings, the Borrower or such Restricted Subsidiary, as the case may be), except in each case where the failure to do so would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. There are no current, proposed or, to the knowledge of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, pending Tax assessments, deficiencies or audits against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, as the case may be, except those that are currently being contested in good faith by appropriate proceedings and with respect to which any reserves

required in conformity with GAAP have been provided on the books of the Parent, Holdings, the Borrower or such Restricted Subsidiary, as the case may be, or that would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

SECTION 5.11 Federal Regulations.

No part of the proceeds of any Term Loans, and no other extensions of credit hereunder, will be used for "buying" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U as now and from time to time hereafter in effect or for any purpose that violates the provisions of the regulations of the Federal Reserve Board. If requested by any Lender (through the Agent) or the Agent, the Borrower will furnish to the Agent and each Lender a statement to the foregoing effect in conformity with the requirements of FR Form G-3 or FR Form U-1 referred to in Regulation U.

SECTION 5.12 ERISA.

(i) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) no Reportable Event has occurred with respect to any Single Employer Plan; (ii) no Single Employer Plan has failed to satisfy the minimum funding standard (within the meaning of Section 412 of the Code or Section 302 of ERISA), nor applied for or received a waiver of the minimum funding standard or an extension of an amortization period within the meaning of Section 412 of the Code or Section 303 or 304 of ERISA during the five-year period prior to the date on which this representation is made; (iii) each Plan has complied with its terms and with all applicable laws, including without limitation the applicable provisions of ERISA and the Code; (iv) all contributions required to be made with respect to a Single Employer Plan have been made; (v) no termination of a Single Employer Plan has occurred, and no Lien in favor of the PBGC or a Single Employer Plan has arisen, during such five-year period; (vi) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Single Employer Plans) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Single Employer Plan allocable to such accrued benefits; (vi) none of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries has incurred any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan; and (viii) none of the Parent, Holdings, the Borrower nor any of its Restricted Subsidiaries has had (or reasonably expects to have) a complete or partial withdrawal from any Multiemployer Plan that has resulted or would reasonably be expected to result in a liability under ERISA and, to the knowledge of the Parent and the Borrower, no Multiemployer Plan is Insolvent.

(ii) the Parent, Holdings, the Borrower and its Restricted Subsidiaries have not incurred, and do not reasonably expect to incur, any liability under ERISA or the Code with respect to any plan within the meaning of Section 3(3) of ERISA which is subject to Title IV of ERISA that is maintained by a Commonly Controlled Entity (other than the Parent, Holdings, the Borrower and its Restricted Subsidiaries) (a "Commonly Controlled Plan") merely by virtue of being treated as a single employer under Title IV of ERISA with the sponsor of such plan that would reasonably be likely to have a Material Adverse Effect and result in a direct obligation of the Parent, Holdings, the Borrower and its Restricted Subsidiaries to pay money.

(iii) With respect to any Non-U.S. Plan, none of the following events or conditions exists and is continuing that, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect: (a) substantial non-compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders; (b) failure to be maintained, where required, in good standing with applicable regulatory authorities; (c) any obligation of the Parent or its Subsidiaries in connection with the termination or partial termination of, or withdrawal from, any such

Non-U.S. Plan; (d) any Lien on the property of the Parent or its Subsidiaries in favor of a Governmental Authority as a result of any action or inaction regarding such a Non-U.S. Plan; (e) for each such Non-U.S. Plan which is a funded or insured plan, failure to be funded or insured on an ongoing basis to the extent required by applicable non-U.S. law (using actuarial methods and assumptions which are consistent with the valuations last filed with the applicable Governmental Authorities); (f) any facts that, to the best knowledge of the Parent or any of its Subsidiaries, exist that would reasonably be expected to give rise to a dispute and any pending or threatened disputes that, to the best knowledge of the Parent or any of its Subsidiaries, would reasonably be expected to result in a material liability to the Parent or any of its Subsidiaries concerning the assets of any such Non-U.S. Plan (other than individual claims for the payment of benefits); and (g) failure to make all contributions in a timely manner to the extent required by applicable non-U.S. law.

SECTION 5.13 Investment Company Act.

No Loan Party or any Subsidiary thereof is an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

SECTION 5.14 Subsidiaries.

(i) The Subsidiaries listed on Schedule 5.14 constitute all the Subsidiaries of the Parent or Holdings at the Closing Date. Schedule 5.14 sets forth as of the Closing Date the name and jurisdiction of incorporation of each Subsidiary and, as to each Subsidiary, the percentage of each class of Equity Interests owned by any Loan Party and the designation of such Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary. There are no Excluded Subsidiaries as of the Closing Date.

(ii) As of the Closing Date, except as set forth on Schedule 5.14, there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments of any nature relating to any Equity Interests of the Borrower or any of its Restricted Subsidiaries.

SECTION 5.15 Environmental Compliance.

Other than exceptions to any of the following that would not reasonably be expected to have a Material Adverse Effect: none of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law for the operation of the business or (ii) has become subject to any Environmental Liability.

SECTION 5.16 Accuracy of Information, etc.

No statement or information (excluding the projections and pro forma financial information referred to below and information of a general economic or general industry nature) contained in this Agreement, any other Loan Document or any report or certificate furnished to the Agent or the Lenders or any of them, by or on behalf of any Loan Party for use in connection with the transactions contemplated by this Agreement or the other Loan Documents when taken as a whole, contained as of the date such statement, information, or certificate was so furnished, any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements contained herein or therein not materially misleading in light of the circumstances under which such statements contained therein. The projections and pro forma financial information contained in the materials referenced above are based upon good faith estimates and assumptions believed by management of the Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events, including the Financial Performance Projections, is not to be viewed as fact, that such financial

information is subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties, that no assurance can be given that the projected results will be realized, and that actual results during the period or periods covered by such projections and financial information may differ significantly from the projected results set forth therein by a material amount. There is no fact known to any Loan Party that could reasonably be expected to have a Material Adverse Effect that has not been expressly disclosed herein, in the other Loan Documents or in any other documents, certificates and statements furnished to the Agent and the Lenders for use in connection with the transactions contemplated hereby and by the other Loan Documents.

SECTION 5.17 Security Documents.

(i) The Security Documents are effective to create in favor of the Agent for the benefit of the Secured Parties referred to therein, a legal, valid and enforceable security interest (except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law) and the implied covenants of good faith and fair dealing) in the Collateral described therein (including any proceeds of any item of Collateral) to the extent required by the Security Documents. In the case of (i) the Pledged Securities described in the Security Agreement, when any stock certificates or notes, as applicable, representing such Pledged Securities are delivered to the Agent and (ii) the other Collateral described in the Security Documents, when financing statements in appropriate form are filed, within the time periods (if any) required by applicable law, in the offices specified on Schedule 5.17 (which financing statements have been duly completed and executed (as applicable) and delivered to the Agent) and such other filings as are specified on Schedule 5.17 are made, the Agent shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such Collateral (including any proceeds of any item of Collateral) (to the extent a security interest in such Collateral can be perfected through the filing of financing statements in the offices specified on Schedule 5.17 and the filings specified on Schedule 5.17, and through the delivery of the Pledged Securities required to be delivered on the Closing Date), as security for the Obligations, in each case prior and superior in right to any other Person (except (i) Liens in favor of the ABL Agent, (ii) in the case of Collateral other than Pledged Securities, Liens permitted by Section 7.01 and (iii) Liens permitted by Section 7.01 which otherwise, by operation of law or contract, have priority over the Liens securing the Obligations) to the extent required by the Security Documents.

(ii) Upon the execution and delivery of any Mortgage to be executed and delivered pursuant to Section 4.01(m) and Section 6.11(c), such Mortgage shall be effective to create in favor of the Agent for the benefit of the Secured Parties a legal, valid and enforceable Lien on the mortgaged property described therein and proceeds thereof; and when such Mortgage is filed in the recording office designated by the Borrower, such Mortgage shall constitute a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties in such mortgaged property and the proceeds thereof, as security for the Obligations (as defined in the relevant Mortgage), in each case prior and superior in right to any other Person (subject to the Intercreditor Agreement), Liens permitted by Section 7.01 or other encumbrances or rights permitted by the relevant Mortgage).

SECTION 5.18 Solvency.

After giving effect to the transactions contemplated by this Agreement, and before and after giving effect to each Borrowing, the Loan Parties, on a Consolidated basis, are and will be Solvent.

SECTION 5.19 Senior Indebtedness.

All Borrowings permitted under this Agreement are, and when incurred or issued will be, permitted under (and shall give rise to no breach or violation of) the ABL Credit Agreement any other Junior Indebtedness or any Permitted Amendment or Refinancing of any of the foregoing (or under the definitive documentation relating thereto).

SECTION 5.20 Labor Matters.

There are no strikes or other labor disputes against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries pending or, to the knowledge of the Parent, Holdings or the Borrower, threatened that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect. Hours worked by and payment made to employees of the Parent, Holdings, the Borrower and its Restricted Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable Requirement of Law dealing with such matters that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect. All payments due from the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries on account of employee health and welfare insurance that (individually or in the aggregate) could reasonably be expected to have a Material Adverse Effect if not paid have been paid or accrued as a liability on the books of the Parent, Holdings, the Borrower or the relevant Restricted Subsidiary.

SECTION 5.21 Regulation H

. No Mortgage encumbers improved real property that is located in an area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968.

SECTION 5.22 Anti-Money Laundering and Economic Sanctions Laws.

(i) No Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or, to the knowledge of senior management of each Loan Party, Affiliate (i) has violated or is in violation of any applicable Anti-Money Laundering Law or (ii) has engaged or engages in any transaction, investment, undertaking or activity that conceals the identity, source or destination of the proceeds of the Term Loans from any category of offenses designated in any applicable law, regulation or other binding measure implementing the "Forty Recommendations" and "Nine Special Recommendations" published by the Organization for Economic Co-operation and Development's Financial Action Task Force on Money Laundering.

(ii) No Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or, to the knowledge of senior management of each Loan Party, such Affiliate that is acting or benefiting in any capacity in connection with the Term Loans is an Embargoed Person.

(iii) Except as otherwise authorized by OFAC, to the extent applicable to such Person, no Loan Party, none of its Subsidiaries and, to the knowledge of senior management of each Loan Party, none of its Affiliates and none of the respective officers, directors, brokers or agents of such Loan Party, such Subsidiary or, to the knowledge of senior management of each Loan Party, such Affiliate acting or benefiting in any capacity in connection with the Term Loans (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Embargoed Person, (ii) deals in, or otherwise engages in any transaction related to, any property or

interests in property blocked pursuant to any applicable Economic Sanctions Laws or (iii) engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the applicable prohibitions set forth in any Economic Sanctions Laws.

SECTION 5.23 Insurance.

The properties of the Loan Parties and the Restricted Subsidiaries are insured with financially sound and reputable insurance companies (after giving effect to any self-insurance compatible with the following standards) which are not Affiliates of the Loan Parties, in such amounts, with such deductibles and covering such risks (including, without limitation, workmen's compensation, public liability, business interruption, property damage and directors and officers liability insurance) as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Loan Parties or the applicable Restricted Subsidiary operates. Schedule 5.23 sets forth a description of all insurance maintained by or on behalf of the Loan Parties and the Restricted Subsidiaries as of the Closing Date. As of the Closing Date, each insurance policy listed on Schedule 5.23 is in full force and effect and all premiums in respect thereof that are due and payable have been paid.

SECTION 5.24 Deposit Accounts; Credit Card Arrangements.

(i) Annexed hereto as Schedule 5.24(a) is a list of all DDAs, Securities Accounts, collections accounts, concentration accounts, checking accounts, and lockboxes maintained by the Loan Parties as of the Closing Date, which Schedule includes, with respect to each DDA and Securities Account (i) the name and address of the depository or intermediary; (ii) the account number(s) maintained with such depository or intermediary; (iii) a contact person at such depository or intermediary, (iv) the identification of each Blocked Account Bank, and (v) whether such DDA is an Excluded DDA or a Retail DDA, if applicable.

(ii) Annexed hereto as Schedule 5.24(b) is a list of all agreements as of the Closing Date to which any Loan Party is a party with respect to the processing and/or payment to such Loan Party of the proceeds of any credit card charges and debit card charges for sales made by such Loan Party.

SECTION 5.25 EEA Financial Institution.

No Loan Party is an EEA Financial Institution.

SECTION 5.26 Casualty, Etc.

Neither the business nor the properties of any Loan Party or any of its Subsidiaries are affected by any fire, explosion, accident, strike, drought, storm, hail, earthquake, embargo or other casualty (whether or not covered by insurance) that, either individually or in the aggregate, has had a Material Adverse Effect.

ARTICLE VI
AFFIRMATIVE COVENANTS

Until the Payment in Full of the Obligations, each Loan Party shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02 and 6.03) cause each Restricted Subsidiary to:

SECTION 6.1 Financial Statements.

Furnish to the Agent for delivery to each Lender (which may be electronically delivered):

(i) within 120 days (or, in the case of the Fiscal year ending on or around February 1, 2020, by no later than June 15, 2020) after the end of each Fiscal Year of the Parent, commencing with the Fiscal Year ending on or around February 1, 2019, (x) a copy of the audited consolidated balance sheet of Parent, Holdings, the Borrower and its Subsidiaries as at the end of such Fiscal Year and the related audited consolidated statements of income, stockholders' equity and cash flows as of the end of and for such Fiscal Year, setting forth in each case in comparative form the figures as of the end of and for the previous Fiscal Year, reported on by from independently certified public accountants of nationally recognized standing (without a "going concern" or like qualification or exception as to the scope of such audit, other than any such qualification or exception resulting from (i) an upcoming maturity date of the ABL Debt or of the Obligations or (ii) the inability or potential inability to satisfy the Financial Covenant or the financial covenant set forth in Section 7.18 of the ABL Credit Agreement on a future date or in a future period) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Parent, Holdings, the Borrower and its Subsidiaries on a Consolidated basis in accordance with GAAP, and (y) to the extent required under SEC reporting requirements, an opinion of such Registered Public Accounting Firm independently assessing Loan Parties' internal controls over financial reporting in accordance with Item 308 of SEC Regulation S-K, PCAOB Auditing Standard No. 2, and Section 404 of Sarbanes-Oxley expressing a conclusion that contains no statement that there is a material weakness in such internal controls;

(ii) not later than 60 days after the end of each of the first three Fiscal Quarters of each Fiscal Year of the Parent (or, in the case of the Fiscal Quarter ending on or around (x) May 2, 2020, by no later than July 31, 2020 and (y) August 1, 2020, by no later than October 29, 2020), commencing with the Fiscal Quarter ending on or around November 4, 2018 (provided, that for the Fiscal Quarter ending on or around November 4, 2018, such financial statements shall be due within the time period prescribed by the SEC reporting requirements), the unaudited consolidated balance sheet of the Parent, Holdings, the Borrower and its Subsidiaries as at the end of such Fiscal Quarter and the related unaudited consolidated statements of income, stockholders' equity and cash flows for such Fiscal Quarter and the then elapsed portion of the current Fiscal Year, setting forth in each case in comparative form (i) the figures as of the end of and for the corresponding period in the previous Fiscal Year, and (ii) the figures for such period set forth in the projections delivered pursuant to Section 6.02(d) hereof, in each case, certified by a Responsible Officer as being fairly stated in all material respects (subject only to normal year-end audit adjustments and the lack of notes);

(iii) not later than 30 days (or in the case of a Fiscal Month that is also a Fiscal Quarter end, 45 days, and in the case of the last Fiscal Month of each Fiscal Year, 60 days) after the end of each Fiscal Month of each Fiscal Year of the Parent, the unaudited consolidated balance sheet of the Parent, Holdings, the Borrower and its Subsidiaries as at the end of such Fiscal Month and the related unaudited consolidated statements of income and cash flows as of the end of and for such Fiscal Month and the portion of the Fiscal Year through the end of such Fiscal Month, setting forth in each case in comparative form (i) the figures as of the end of and for the corresponding period in the previous Fiscal Year, and (ii) the figures for such period set forth in the projections delivered pursuant to Section 6.02(d) hereof, in each case, certified by a Responsible Officer as being fairly stated in all material respects (subject only to normal year-end audit adjustments and the lack of notes); and

(iv) all such financial statements to be complete and correct in all material respects and to be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein and with prior periods (except as approved by such accountants or officer, as the case may be, and disclosed therein and except, in the case of the financial statements referred to in clauses (b) and (c), for customary year-end adjustments and the absence of footnotes);

If the Parent has filed (within the time period required above) a Form 10-Q or 10-K, as applicable, with the SEC for any fiscal quarter or fiscal year described above, then to the extent that such quarterly or annual report on Form 10-Q or 10-K contains any of the foregoing items, the Lenders will accept such Form 10-Q or 10-K in lieu of such items; provided that such filings shall be delivered to the Agent and each Lender in the same manner as set forth below. Documents required to be delivered pursuant to this Section 6.01 may be delivered by posting such documents electronically with notice of such posting to the Agent and each Lender and if so posted, such documents shall be deemed to have been delivered on the date on which the Borrower posts such documents or provides a link thereto on the Borrower's website listed on Schedule 10.02 or another public website (including EDGAR or any successor system thereto) to which the Borrower may so direct.

SECTION 6.2 Certificates; Other Information.

Furnish to the Agent, in form and detail reasonably, satisfactory to the Agent, for delivery to each Lender, or, in the case of clause (i), to the relevant Lender:

(i) concurrently with the delivery of the financial statements referred to in Section 6.01(a), a certificate of the independent certified public accountants of the Parent in customary form reporting on such financial statements stating that in making the examination necessary therefor no knowledge was obtained of any Default or Event of Default, except as specified in such certificate (which certificate may be limited to the extent required by accounting rules or guidelines and will not be required if such accountants no longer provide such certificates to its customers (or their lenders) generally);

(ii) concurrently with the delivery of any financial statements pursuant to Section 6.01 or immediately upon the occurrence of an Extended Accommodation Period Compliance Event, (i) a Compliance Certificate executed by a Responsible Officer on behalf of the Borrower stating that such Responsible Officer has obtained no knowledge of any Default or Event of Default except as specified in such certificate and (ii) (x) all information and calculations necessary for determining compliance by the Parent, Holdings, the Borrower and its Restricted Subsidiaries with the provisions of Section 7.18, including a calculation of the Consolidated Fixed Charge Coverage Ratio as of the last day of the Fiscal Month most recently ended, regardless of whether or not the financial covenants contained in Section 7.18 are required to be complied with in such Fiscal Month, and (y) to the extent not previously disclosed to the Agent, a description of any new Subsidiary and a listing of any new registrations, and applications for registration, of Intellectual Property acquired or made by any Loan Party since the date of the most recent list delivered pursuant to this clause (y) (or, in the case of the first such list so delivered, since the Closing Date);

(iii) on the fifteenth (15th) Business Day after the end of each Fiscal Month (or, if such day is not a Business Day, on the next succeeding Business Day), or weekly at the Borrower's discretion (provided that if the Borrower elects to provide weekly Borrowing Base Certificates the Borrower must do so for a period of at least eight consecutive weeks), (x) (i) an ABL Borrowing Base Certificate showing the "Borrowing Base" (as defined under the ABL Credit Agreement) and (ii) a Term Borrowing Base Certificate showing the Borrowing Base hereunder, in each case, as of the close of business as of the last day of the immediately preceding Fiscal Month, each Borrowing Base Certificate to be certified as complete and correct in all material respects by a Responsible Officer of the Borrower; provided that at any time that an Accelerated Borrowing Base Delivery Event has occurred and is continuing, such Borrowing Base Certificates shall be delivered on Wednesday of each week (or, if Wednesday is not a Business Day, on the next succeeding Business Day), as of the close of business on the immediately preceding Saturday (it being understood and agreed that any Borrowing Base Certificate delivered in accordance with this proviso shall be understood to have been delivered subject to Borrower's knowledge at the date of issuance, and without performing customary monthly accounting procedures) ,

(y) together with each delivery of a Borrowing Base Certificate, in a form reasonably acceptable to Agent, (1) reconciliations of the Accounts and Inventory as shown on the month-end Borrowing Base Certificate for the immediately preceding month detailing the ineligibles and Reserves calculations and (2) such other collateral reports and information as the Agent may reasonably request, all with supporting materials as Agent shall reasonably request and (z) together with each delivery of a Term Borrowing Base Certificate, an ABL Borrowing Base Certificate and all supporting information in respect thereof delivered to the ABL Agent;

(iv) as soon as available, but in any event not later than 45 days after the end of each Fiscal Year of the Parent (commencing with the Fiscal Year ending on or nearest to February 1, 2019), a detailed consolidated budget for the following fiscal year (including a projected consolidated balance sheet of the Parent, Holdings, the Borrower and its Subsidiaries and the related consolidated statements of projected cash flow and projected income, together with a projection of the Borrowing Base hereunder, the Borrowing Base under the ABL Credit Agreement and ABL Excess Availability, in each case prepared on a month by month basis);

(v) promptly upon delivery thereof to the Parent, Holdings or the Borrower and to the extent permitted, copies of any accountants' letters addressed to its Board of Directors (or any committee thereof);

(vi) promptly after the same are sent, copies of all financial statements and reports that the Parent, Holdings or the Borrower sends to the holders of any class of its debt securities or public equity securities (except for materials sent solely to Permitted Investors) and, promptly after the same are filed, copies of all financial statements and reports that the Parent, Holdings or the Borrower may make to, or file with, the SEC, in each case to the extent not already provided pursuant to Section 6.01 or any other clause of this Section 6.02;

(vii) the financial and collateral reports described on Schedule 6.02 hereto, at the times set forth in such Schedule;

(viii) promptly, such additional financial and other information as the Agent (for its own account or upon the reasonable request from any Lender) may from time to time reasonably request;

(ix) concurrently with the delivery of any financial statements pursuant to Section 6.01, a copy of management's discussion and analysis with respect to such financial statements in the form included with the Parent's financial reporting to the SEC;

(x) promptly following receipt, copies of any amendments, modifications, consents, waivers and forbearances under the ABL Loan Documents and any material notices received from any lender or agent of, under or with respect to the ABL Debt not otherwise provided to the Agent under this Agreement and the other Loan Documents; and

(xi) promptly following receipt, copies of any amendments, modifications, consents, waivers and forbearances under the Third Lien Loan Documents and any material notices received from any lender or agent of, under or with respect to the Subordinated Indebtedness incurred thereunder not otherwise provided to the Agent under this Agreement and the other Loan Documents.

Documents required to be delivered pursuant to Section 6.01(a), (b), or (c) or Section 6.02(d) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at

the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Agent have access (whether a commercial, third-party website or whether sponsored by the Agent).

SECTION 6.3 Notices.

Promptly upon a Responsible Officer of the Parent or any Loan Party obtaining knowledge thereof, give notice to the Agent of:

(i) of the occurrence of any Default or Event of Default;

(ii) any litigation, investigation or proceeding which may exist at any time between the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries and any other Person, that in either case, could reasonably be expected to have a Material Adverse Effect;

(iii) the following events, that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, as soon as possible and in any event within 30 days after the Parent, the Borrower or any of its Restricted Subsidiaries knows thereof, as applicable: (i) the occurrence of any Reportable Event with respect to any Single Employer Plan, (ii) that a Single Employer Plan has failed to satisfy the minimum funding standards within the meaning of Section 412 of the Code or Section 302 of ERISA, or an application may be or has been made for a waiver or modification of the minimum funding standard (including any required installment payments) or an extension of any amortization period under Section 412 of the Code or Section 303 or 304 with respect to a Single Employer Plan, (iii) a failure to make any required contribution to a Single Employer Plan or Non-U.S. Plan, (iv) Parent, Holdings, the Borrower or any of its Restricted Subsidiaries incurs any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (v) the creation of any Lien in favor of the PBGC or a Single Employer Plan, (vi) or any withdrawal from, or the termination or partial termination or Insolvency of any Multiemployer Plan, (vii) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Single Employer Plans), as of any applicable annual valuation date, exceeds the value of the assets of such Single Employer Plan allocable to such accrued benefits, (viii) the institution of proceedings or the taking of any other action by the PBGC or the Parent or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination or partial termination or Insolvency of, any Plan, (ix) any Non-U.S. Plan fails to obtain or retain (as applicable) registered status under and as required by applicable law and/or be administered in a timely manner in all respects in compliance with all applicable laws, or (x) the occurrence of any similar events with respect to a Commonly Controlled Plan, that would reasonably be likely to result in a direct obligation of the Parent, the Borrower or any of its Restricted Subsidiaries to pay money;

(iv) the occurrence of any default under the Tax Receivable Agreement;

(v) any development or event that has had or could reasonably be expected to have a Material Adverse Effect;

(vi) the acquisition of any Property after the Closing Date in which the Agent does not already have a perfected security interest and in which a security interest is required to be created or perfected pursuant to Section 6.11;

(vii) of any casualty or other insured damage to any material portion of the Term Priority Collateral or the commencement of any action or proceeding for the taking of any interest in a

material portion of the Term Priority Collateral under power of eminent domain or by condemnation or similar proceeding or if any material portion of the Term Priority Collateral is damaged or destroyed;

(viii) the occurrence of any default or event of default under the ABL Credit Agreement or the Third Lien Credit Agreement;

(ix) of any material change in accounting policies or financial reporting practices by any Loan Party or any Subsidiary thereof;

(x) of the filing of any Lien for unpaid Taxes against any Loan Party in excess of $2,500,000;

(xi) of any failure by any Loan Party to pay rent (which failure continues for more than ten (10) days following the day on which such rent first came due) at (i) any of the Loan Parties' distribution centers, fulfillment centers or warehouses; (ii) ten percent (10%) or more of such Loan Party's store locations or any of such Loan Party's other locations if such failure would be reasonably likely to result in a Material Adverse Effect;

(xii) of any change in: (i) any Loan Party's legal name; (ii) the location of any Loan Party's chief executive office or its principal place of business or any office in which it maintains books or records relating to Collateral; (iii) any Loan Party's organizational form (e.g., corporation, limited liability company, partnership, etc.) or jurisdiction of incorporation or formation; or (iv) any Loan Party's Federal Taxpayer Identification Number, in each case no later than 10 days before the occurrence of such change (or such lesser period as agreed to by the Agent in its Permitted Discretion); and

(xiii) of the movement of Collateral with a value in excess of $500,000 in the aggregate to a location not previously disclosed to the Agent (including the establishment of any new office or facility but excluding Collateral out for repair and, for the avoidance of doubt, Collateral in transit between locations previously disclosed to the Agent) no later than 30 days after taking such action (or such later time as agreed to by the Agent in its Permitted Discretion).

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer setting forth details of the occurrence referred to therein and stating what action the Parent, Holdings, the Borrower or the relevant Restricted Subsidiary has taken or proposes to take with respect thereto.

SECTION 6.4 Payment of Obligations.

Pay, discharge or otherwise satisfy at or before maturity or before they become delinquent, as the case may be, all its material obligations and liabilities, including Taxes, governmental assessments and governmental charges, except (i) where the amount or validity thereof is currently being contested in good faith by appropriate proceedings and reserves required in conformity with GAAP with respect thereto have been provided on the books of the Parent, Holdings, the Borrower or its Subsidiaries, as the case may be, and such contest effectively suspends collection of the contested obligation and enforcement of any Lien securing such obligation, (ii) to the extent that failure to pay or satisfy such obligations could not, in the aggregate, reasonably be expected to have a Material Adverse Effect or (iii) in connection with any rental payments or other obligations in respect to Leases to which any Loan Party or any of its Restricted Subsidiaries is a party during the months ended June 30, 2020, July 31, 2020, August 31, 2020 and September 30, 2020 (the "COVID Lease Exception Period"), so long as (x) no more than twenty-five percent (25%) of Leases for stores in the aggregate are terminated by the owners of such stores during such months and (y) no Leases related to the Borrower's Headquarters are terminated by the owners of

such headquarters. Nothing contained herein shall be deemed to limit the rights of the ABL Agent with respect to determining Reserves pursuant to this Agreement.

SECTION 6.5 Preservation of Existence, Etc.

(i) (i) Preserve, renew and keep in full force and effect its corporate or other existence and (ii) take all reasonable action to maintain all rights (other than Intellectual Property rights, the maintenance of which is addressed in Section 6.06(c)), privileges and franchises necessary or desirable in the normal conduct of its business, except, in each case, as otherwise permitted by Section 7.04 or except, in the case of clause (ii) above, to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (b) comply with all applicable Requirements of Law except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect.

SECTION 6.6 Maintenance of Properties.

(i) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in reasonably good working order and condition, ordinary wear and tear excepted; and

(ii) Take all commercially reasonable and necessary steps, including, in any proceeding before the United States Patent and Trademark Office or the United States Copyright Office to maintain and pursue each application (and to obtain the relevant registration) and to maintain each registration of the Borrower Intellectual Property, including, filing of applications for renewal, affidavits of use and affidavits of incontestability, except in each case to the extent that failure to do so would not reasonably be expected to have a Material Adverse Effect.

SECTION 6.7 Maintenance of Insurance.

(i) Maintain, with financially sound and reputable insurance companies, insurance on all its material Property in at least such amounts and against at least such risks (but including in any event public liability, product liability and business interruption) as are usually insured against in the same general area by companies engaged in the same or a similar business. All such insurance shall, to the extent customary (but in any event, not including business interruption insurance and personal injury insurance) (i) provide that no cancellation thereof shall be effective until at least 10 days after receipt by the Agent of written notice thereof and (ii) name the Agent as insured party or lender's loss payee.

(ii) If any portion of any Property subject to a Mortgage is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then the Borrower shall, or shall cause each Loan Party to (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Agent evidence of such compliance in form and substance reasonably acceptable to the Agent.

(iii) (i) Cause fire and extended coverage policies maintained with respect to any Collateral to be endorsed or otherwise amended to include (A) a non-contributing mortgage clause (regarding improvements to real estate) and lenders' loss payable clause (regarding personal property), in form and substance reasonably satisfactory to the Agent, which endorsements or amendments shall provide that the insurer shall pay all proceeds otherwise payable to the Loan Parties under the policies

directly to the Agent, (B) a provision to the effect that none of the Loan Parties, Credit Parties or any other Person shall be a co-insurer and (C) such other provisions as the Agent may reasonably require from time to time to protect the interests of the Credit Parties, (ii) cause commercial general liability policies to be endorsed to name the Agent as an additional insured, (iii) cause business interruption policies to name the Agent as a loss payee, and (iv) cause each such policy referred to in this Section 6.07 to also provide that it shall not be canceled, modified or not renewed (A) by reason of nonpayment of premium except upon not less than ten (10) days' prior written notice thereof by the insurer to the Agent (giving the Agent the right to cure defaults in the payment of premiums) or (B) for any other reason except upon not less than thirty (30) days' prior written notice thereof by the insurer to the Agent.

(iv) Deliver to the Agent, prior to the cancellation, modification materially adverse to the Lenders or non-renewal of any such policy of insurance, notice of such cancellation, modification or non-renewal and, if requested by the Agent, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Agent, including an insurance binder) together with evidence reasonably satisfactory to the Agent of payment of the premium therefor.

SECTION 6.8 Compliance with Requirements of Laws.

Comply in all material respects with the Requirements of Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except if the failure to comply therewith could not reasonably be expected individually or in the aggregate to have a Material Adverse Effect.

SECTION 6.9 Designation as Senior Indebtedness.

Designate all Obligations as "Designated Senior Indebtedness" (or such similar term) under, and defined in, any documents, agreements, or indentures relating to or evidencing any Junior Indebtedness that is Subordinated Indebtedness and all supplements thereto.

SECTION 6.10 Inspection Rights.

(i) (i) Keep proper books of records and account in which full, true and correct entries in conformity with GAAP and all applicable Requirement of Law shall be made of all material dealings and transactions in relation to its business and activities, (ii) permit representatives of any Lender to visit and inspect any of its properties (in the case of any real property lease, to the extent permitted in the relevant lease agreement) and examine and make abstracts from any of its books and records upon reasonable prior notice and during normal business hours (provided that such visits shall be coordinated by the Agent), (iii) permit representatives of any Lender to have reasonable discussions regarding the business, operations, properties and financial and other condition of the Parent, Holdings, the Borrower and its Restricted Subsidiaries with officers and employees of the Parent, Holdings, the Borrower and its Restricted Subsidiaries, and (provided that any Lender shall coordinate any request for such discussions through the Agent), (iv) permit representatives of the Agent to have reasonable discussions regarding the business, operations, properties and financial and other condition of the Parent, Holdings, the Borrower and its Restricted Subsidiaries with its independent certified public accountants; provided that a Responsible Officer of the Parent or the Borrower shall be present during such discussion and any such discussions with the Parent's independent certified public accountants at the Parent's expense shall, except while an Event of Default has occurred and is continuing, be limited to one meeting per calendar year; provided, however, that when an Event of Default exists the Agent (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Loan Parties at any time during normal business hours with reasonable prior notice.

(ii) Upon the request of the Agent after reasonable prior written notice, permit the Agent or professionals (including investment bankers, consultants, accountants, lawyers and appraisers) retained by the Agent to conduct commercial finance examinations and inventory appraisals, including, without limitation, of (i) the Borrower's practices in the computation of the Borrowing Base and (ii) the assets included in the Borrowing Base and related financial information such as, but not limited to, sales, gross margins, payables, accruals and reserves. Subject to the immediately succeeding sentence, the Loan Parties shall pay the reasonable and documented out-of-pocket fees and expenses of the Agent and such professionals with respect to such examinations and inventory appraisals including, for the avoidance of doubt in connection with the Updated 2020 Appraisals. The Agent may conduct (A) one (1) commercial finance examinations and one (1) inventory appraisals in any twelve month period at the Borrower's expense, provided that, in the event that ABL Excess Availability is less than 20% of the ABL Loan Cap for longer than three (3) consecutive Business Days, the Agent may undertake two (2) commercial finance examinations and two (2) inventory appraisals in any twelve month period (inclusive of any commercial finance examinations or inventory appraisals already conducted during such period) at the Borrower's expense and (B) additional commercial finance examinations and inventory appraisals as the Agent may require in its reasonable discretion if an Event of Default has occurred and is continuing, at the expense of the Borrower; provided, further, so long as (i) no Event of Default has occurred and is continuing and (ii) the ABL Agent and/or Borrower furnish any commercial finance examinations and inventory appraisals conducted by the ABL Agent or its retained professionals in accordance with the Revolving Credit Agreement, the Agent and Lenders shall rely on such commercial finance examinations or inventory appraisals of the ABL Priority Collateral conducted by the ABL Agent or its retained professionals in lieu of conducting independent commercial finance examinations or inventory appraisals pursuant to the terms of this Section 6.10(b).

(iii) Upon the request of the Agent after reasonable prior written notice, permit the Agent or professionals (including investment bankers, consultants, accountants, lawyers and appraisers) retained by the Agent to conduct appraisals of the Borrower Intellectual Property. Subject to the immediately succeeding sentence, the Loan Parties shall pay the reasonable and documented out-of-pocket fees and expenses of the Agent and such professionals with respect to such appraisals, for the avoidance of doubt in connection with the Updated 2020 Appraisals. The Agent may conduct one (1) appraisal of the Borrower Intellectual Property in any twelve month period at the Borrower's expense, provided that, in the event that an Event of Default shall have occurred and be continuing, the Agent may undertake two (2) such appraisals in any twelve month period (inclusive of any appraisals already conducted) at the Borrower's expense. No Borrowing Base calculation shall include Collateral obtained in a Permitted Acquisition or otherwise outside the ordinary course of business until completion of applicable appraisals (which shall not be included in the limits provided above, but such appraisal shall only be conducted with the consent of the Borrower) satisfactory to Agent.

SECTION 6.11 Additional Collateral and Additional Loan Parties.

(i) With respect to any Property (other than Excluded Property (as defined in the Security Documents)) located in the United States acquired after the Closing Date by any Loan Party (other than (x) any interests in real property and any Property described in paragraph (b) of this Section 6.11, (y) any Property subject to a Lien expressly permitted by Section 7.01(g) and (z) Instruments, Certificated Securities, Securities and Chattel Paper (each as defined under the Security Agreement), which are referred to in the last sentence of this paragraph (a)) as to which the Agent for the benefit of the Secured Parties does not have a perfected Lien, promptly (i) give notice of such Property to the Agent and execute and deliver to the Agent such amendments to the Security Documents or such other documents as the Agent reasonably requests to grant to the Agent for the benefit of the Secured Parties a security interest in such Property and (ii) take all actions reasonably requested by the Agent to grant to the Agent for the benefit of the Secured Parties a perfected security interest (to the extent required

by the Security Documents and with the priority required hereunder) in such Property (with respect to Property of a type owned by a Loan Party as of the Closing Date to the extent the Agent for the benefit of the Secured Parties, has a perfected security interest in such Property as of the Closing Date), including, without limitation, if applicable, the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Security Documents or by law or as may be reasonably requested by the Agent. Any Instrument, Certificated Security (other than in respect of the Equity Interests of any Subsidiary to the extent that the delivery of certificates representing such Equity Interests are not otherwise required to be delivered pursuant to clause (c) or (d) below), Security or Chattel Paper in excess of $500,000 shall be promptly delivered to the Agent indorsed in a manner reasonably satisfactory to the Agent to be held as Collateral pursuant to the relevant Security Document.

(ii) With respect to any fee interest in any real property located in the United States having a value (together with improvements thereof) of at least $2,000,000 acquired after the Closing Date by any Loan Party (other than any such real property subject to a Lien expressly permitted by Section 7.01(g)), (i) give notice of such acquisition to the Agent and execute and deliver a first priority Mortgage (subject to Liens permitted by Section 7.01) in favor of the Agent for the benefit of the Secured Parties, covering such real property (provided that no Mortgage nor survey shall be obtained if the Agent determines in consultation with the Borrower that the costs of obtaining such Mortgage or survey are excessive in relation to the value of the security to be afforded thereby), (ii) provide the Lenders with (1) a lenders' title insurance policy with extended coverage covering such real property in an amount at least equal to the purchase price of such real property (or such other amount as shall be reasonably specified by the Agent) as well as (2) "Life-of-Loan" flood hazard determination (together with an executed notice to the Borrower) and evidence of flood insurance, if applicable and (3) a current ALTA survey thereof, together with a surveyor's certificate unless the title insurance policy referred to above shall not contain an exception for any matter shown by a survey (except to the extent an existing survey has been provided and specifically incorporated into such title insurance policy) and shall include all reasonably requested survey-related endorsements, each in form and substance reasonably satisfactory to the Agent, and (iii) deliver to the Agent legal opinions relating to the matters described above, which opinions shall be in form and substance, and from counsel, reasonably satisfactory to the Agent.

(iii) With respect to any new Domestic Subsidiary that is a Material Subsidiary (and is not an Unrestricted Subsidiary) created or acquired after the Closing Date (which, for the purposes of this paragraph, shall include (x) any previously non-wholly owned Domestic Subsidiary that becomes wholly owned and is a Material Subsidiary (and is not an Unrestricted Subsidiary) and (y) any Domestic Subsidiary that was previously an Immaterial Subsidiary or an Unrestricted Subsidiary and becomes a Material Subsidiary (and is not an Unrestricted Subsidiary) or a Restricted Subsidiary, as applicable) by any Loan Party, promptly (i) give notice of such acquisition or creation or becoming a Material Subsidiary to the Agent and, if requested by the Agent, execute and deliver to the Agent such amendments to the Security Documents or such other documents as the Agent reasonably deems necessary to grant to the Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents and with the priority required hereby) in the Equity Interests of such new Subsidiary that is owned by such Loan Party, (ii) deliver to the Agent the original certificates, if any, representing such Equity Interests, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of such Loan Party, and (iii) if such new Subsidiary is a wholly owned Domestic Subsidiary (and is not an Unrestricted Subsidiary or an Immaterial Subsidiary), cause such new Subsidiary (A) to provide a Facility Guaranty and become a party to the Security Documents and (B) to take such actions necessary or advisable to grant to the Agent for the benefit of the Secured Parties a perfected security interest (to the extent required by the Security Documents and with the priority required hereby) in the Collateral described in the Security Documents with respect to such new Subsidiary (to the extent the Agent, for the benefit of the Secured Parties, has a perfected security interest in the same type of Collateral as of the Closing Date), including, without limitation, if applicable,

the filing of Uniform Commercial Code financing statements in such jurisdictions as may be required by the Security Documents or by law or as may be reasonably requested by the Agent.

(iv) With respect to any new first tier Foreign Subsidiary that is a Material Subsidiary (and is not an Unrestricted Subsidiary) created or acquired after the Closing Date (which, for the purposes of this paragraph, shall include any first-tier Foreign Subsidiary that previously was an Immaterial Subsidiary or an Unrestricted Subsidiary and becomes a Material Subsidiary or a Restricted Subsidiary, as applicable) by any Loan Party, promptly (i) give notice of such acquisition or creation to the Agent and, if requested by the Agent, execute and deliver to the Agent such amendments to the Security Documents or such other documents as the Agent deems necessary or reasonably advisable in order to grant to the Agent, for the benefit of the Secured Parties, a perfected security interest (to the extent required by the Security Documents and with the priority required hereby) in the Equity Interests of such new Subsidiary that is owned by such Loan Party (provided that in no event shall more than 65% of the total outstanding voting Equity Interests of any Foreign Subsidiary be required to be so pledged except to the extent such Foreign Subsidiary is a Loan Party hereunder), and, if applicable, (ii) to the extent permitted by applicable law, deliver to the Agent the original certificates, if any, representing such Equity Interests, together with undated stock powers, in blank, executed and delivered by a duly authorized officer of such Loan Party, and take such other action as may be necessary or, in the reasonable opinion of the Agent, necessary to perfect or ensure appropriate priority the Lien of the Agent thereon.

Notwithstanding any provision set forth herein or in any other Loan Documents to the contrary, in no event shall (x) any Foreign Subsidiary be required to guarantee the obligations of the Borrower or any Domestic Subsidiary, (y) the assets of any Foreign Subsidiary constitute security or secure, or such assets or the proceeds of such assets be required to be available for, payment of the obligations of the Borrower or any Domestic Subsidiary, or (z) more than 65% of the voting stock of any Foreign Subsidiary directly held by the Borrower and its Domestic Subsidiaries be required to be pledged to secure the obligations of the Borrower or any Domestic Subsidiary.

In no event shall compliance with this Section 6.11 waive or be deemed a waiver or Consent to any transaction giving rise to the need to comply with this Section 6.11 if such transaction was not otherwise expressly permitted by this Agreement or constitute or be deemed to constitute, with respect to any Subsidiary, an approval of such Person as the Borrower or permit the inclusion of any acquired assets in the computation of the Borrowing Base.

SECTION 6.12 Cash Management.

(a) On the date which is 30 days after the Closing Date (or such later date as the Agent may reasonably agree, such agreement not to be unreasonably withheld, delayed, conditioned or denied), the Loan Parties shall, at all times, maintain cash management arrangements and procedures reasonably satisfactory to Agent; provided that from and after the Closing Date, the Borrower and the other Loan Parties will maintain their primary concentration and collection accounts and their primary disbursement and operating accounts with the ABL Agent or its affiliates and maintain all (to the extent practicable to do so) depository accounts (including local store depository accounts, except for local store deposit accounts in locations where the ABL Agent and its Affiliates do not have branches) and other cash management relationships (including controlled disbursement accounts and ACH transactions) with the ABL Agent or its Affiliates.

(b) On or prior to the Closing Date, each of the Loan Parties shall:

(i) deliver to the Agent copies of notifications (each, a "Credit Card Notification") substantially in the form attached hereto as Exhibit H which have been

executed on behalf of such Loan Party and delivered to each of such Loan Party's Credit Card Processors which Credit Card Processors are listed on Schedule 5.24(b); and

(ii) enter into a Blocked Account Agreement in form and substance reasonably satisfactory to the Agent with each bank at which one or more Blocked Accounts or Securities Accounts are maintained (each, a "Blocked Account Bank") covering such Blocked Accounts and Securities Accounts; provided that, such Blocked Account Agreements may be put in place within sixty (60) days following the Closing Date (or such longer period as the Agent may agree in its Permitted Discretion).

(c) The Loan Parties shall ACH or wire transfer no less frequently than daily (and whether or not there are then any outstanding Obligations) to a Blocked Account subject to a Blocked Account Agreement all of the following (other than, in each case, amounts maintained in any Excluded DDA or proceeds from the sale of Inventory in the Loan Parties' retail stores on deposit in one or more Retail DDAs):

(1) all proceeds of collections of Accounts;

(2) all net proceeds, and all other cash payments received by a Loan Party from any Person or from any source or on account of any sale or other transaction or event;

(3) all available cash receipts from the sale of Inventory (including without limitation, proceeds of credit card charges) and other assets (whether or not constituting Collateral); and

(4) the then contents of each DDA (other than any Excluded DDA or Retail DDA) (net of any minimum balance, not to exceed $300,000 in the aggregate for all DDAs (other than any Excluded DDA or Retail DDA) at any time).

(d) The Loan Parties shall promptly (and, in any event, within two (2) Business Days) ACH or wire transfer (and whether or not there are then any outstanding Obligations) to a Blocked Account subject to a Blocked Account Agreement all amounts on deposit in each of the Retail DDAs to the extent that those amounts exceed: (i) $50,000 on deposit in any individual Retail DDA, or (ii) $3,000,000 on deposit in all Retail DDAs in the aggregate.

(e) Upon the reasonable request of the Agent, the Loan Parties shall cause bank statements and/or other reports to be delivered to the Agent not less often than monthly, accurately setting forth all amounts deposited in each Blocked Account to ensure the proper transfer of funds as set forth above.

(f) At least three (3) Business Days prior to the receipt of Net Cash Proceeds in connection with any Disposition of, or Recovery Event with respect to, any Term Priority Collateral, in each case to the extent the proceeds of such Disposition are required to be retained in the Term Loan Priority Account pursuant to Section 2.06(a) or (e), the Loan Parties shall have established the Term Loan Priority Account.

SECTION 6.13 Cycle Counts; Physical Count.

Cause cycle counts to be undertaken, at the expense of the Loan Parties, consistent with past practices, following such methodology as is consistent with the past business practices of the Loan Parties. Cause a

physical count of the Inventory to be undertaken, at the expense of the Loan Parties, no less than one time per Fiscal Year. Upon the Agent's reasonable request therefor, the Borrower shall provide the Agent with the results of any such cycle count and/or physical count.

SECTION 6.14 Environmental Laws.

Except, in each case, to the extent that the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (a) comply, and take all reasonable actions to cause any lessees and other Persons operating or occupying its properties to comply with all applicable Environmental Laws and environmental permits; (b) obtain and renew all environmental permits necessary for its operations and properties; and, (c) in each case to the extent required by applicable Environmental Laws, conduct any investigation, study, sampling and testing, and undertake any cleanup, removal, remedial or other action necessary to remove and clean up all Materials of Environmental Concern from any of its properties, in accordance with the requirements of all applicable Environmental Laws.

SECTION 6.15 Further Assurances.

Maintain the security interest created by the Security Documents as a perfected security interest having at least the priority described herein (if applicable, to the extent such security interest can be perfected through the filing of UCC-1, financing statements and other filings required under applicable Requirement of Law, the Intellectual Property filings to be made pursuant to the Security Documents or the delivery of Pledged Securities required to be delivered under the Security Documents), subject to the rights of the Loan Parties under the Loan Documents to dispose of the Collateral. From time to time the Loan Parties shall execute and deliver, or cause to be executed and delivered, such additional instruments, certificates or documents, and take all such actions, as the Agent may reasonably request for the purposes of implementing or effectuating the provisions of this Agreement and the other Loan Documents, or of renewing the rights of the Secured Parties with respect to the Collateral as to which the Agent, for the ratable benefit of the Secured Parties, has a perfected Lien pursuant hereto or thereto, including, without limitation, filing any financing or continuation statements or financing change statements under the Uniform Commercial Code or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby.

SECTION 6.16 Post-Closing Obligations.

Perform all actions identified on Schedule 6.16 by the deadlines set forth therein as such deadlines may be extended by the Agent in its reasonable discretion.

SECTION 6.17 Use of Proceeds.

(i) The proceeds of the Term Loans will be used only for the repayment of Payoff Indebtedness and the Loan Parties' and their Restricted Subsidiaries' working capital and general corporate purposes not inconsistent with the terms hereof, or to pay fees and expenses in connection therewith.

(ii) No part of the proceeds of any Term Loan will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, (a) to purchase, acquire or carry any "margin stock" or (b) for any purpose that entails a violation of any of the regulations of the Federal Reserve Board, including Regulations T, U and X. The Borrower will not request any Borrowing, and the Borrower shall not use, and shall take reasonable efforts to ensure that each Loan Party, their respective Subsidiaries and their respective directors, officers, employees and agents shall not use, the proceeds of

any Borrowing (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Money Laundering Laws or Economic Sanctions Laws or (ii) in any manner that would result in the violation of any applicable Sanctions, Economic Sanctions Laws, or any Anti-Money Laundering Laws by any Credit Party.

SECTION 6.18 Compliance with Terms of Leaseholds.

Except (x) during the COVID Lease Exception Period, so long as (1) no more than twenty-five percent (25%) of Leases for stores in the aggregate are terminated by the owners of such stores during such months and (2) no Leases related to the Borrower's Headquarters are terminated by the owners of such headquarters, and (y) as otherwise expressly permitted hereunder, (a) make all rental payments and otherwise perform all related obligations in respect of all material Leases to which any Loan Party or any of its Restricted Subsidiaries is a party, keep such material Leases in full force and effect, except to the extent such would not reasonably be expected to result in a Material Adverse Effect, (b) not allow such Leases to lapse or be terminated or any rights to renew such Leases to be forfeited or cancelled except (i) pursuant to their terms or (ii) to the extent such Lease is no longer used or useful in the conduct of the business of the Loan Parties in the ordinary course of business, (c) notify the Agent of any default by any Loan Party with respect to such Leases and cooperate with the Agent in all commercially reasonable respects to cure any such default, in each case to the extent such default would constitute a violation of the proceeding clause (a), and (d) cause each of its Subsidiaries to do the foregoing.

SECTION 6.19 Compliance with Material Contracts.

Each Loan Party shall perform and observe in all material respects the terms and provisions of each Material Contract to be performed or observed by it, maintain each such Material Contract in full force and effect and cause each of its Subsidiaries to do so. A list of Material Contracts of the Loan Parties as of the Closing Date is set forth on Schedule 6.19.

SECTION 6.20 Extended Accommodation Period Reporting Obligations.

For the period commencing March 30, 2020 and ending upon the last day of the Extended Accommodation Period, as soon as available and in any event no later than the third Business Day of each week, the Credit Parties shall furnish to the Agent, for delivery to the Lender, weekly flash reporting consisting of a 13-week cash flow report (which shall also include weekly Borrowing Base details) regarding the 13-week period ended with the previous Friday in form and substance reasonably acceptable to the Agent and prepared by, or under the review of, the Financial Advisor.

SECTION 6.21 Cash Hoarding.

During the Extended Accommodation Period, if, as of the final Business Day of each weekly period from the first complete calendar week after the Third Amendment Effective Date, the Outstanding Amount (as defined in the ABL Credit Agreement) of ABL Loans is greater than $0 and the balance of the Loan Parties' aggregate cash and Cash Equivalents exceeds $5,000,000, then the Borrower shall, on the next Business Day thereafter, prepay the ABL Loans until (x) the balance of the Loan Parties' aggregate cash and Cash Equivalents is less than or equal to $5,000,000 or (y) the Outstanding Amount (as defined in the ABL Credit Agreement) of ABL Loans is $0.

SECTION 6.22 Financial Advisor.

From and after February 1, 2021, the Borrowers shall retain a financial advisor proposed by the Borrower and reasonably acceptable to the Agent in its discretion (the "Financial Advisor"), and such retention shall be pursuant to an engagement letter and on terms (including scope of engagement) and conditions (including preparation of the reports described in Section 6.20) reasonably satisfactory to the Agent; provided, that the fees and rates payable to the Financial Advisor shall, in the reasonable judgment of the Borrower and the Agent, be market for services of such type. The Loan Parties covenant and agree to cooperate fully with the Financial Advisor including, without limitation, in connection with the preparation of the reports described in Section 6.20. The Loan Parties shall cause, and hereby authorize, the Financial Advisor to communicate directly with the Agent and/or the Lenders (or their respective agents and advisors) regarding any and all matters related to the Loan Parties, including, without limitation, all financial reports and projections developed, reviewed or reasonably requested by the Agent or the Lenders, and at such times as shall be required by the Agent, including, without limitation, pursuant to weekly updates via a weekly conference call with the Financial Advisor if requested by the Agent. Prior to the later of (a) March 31, 2021 or (b) the date that Average Daily Excess Availability (as defined in the ABL Credit Agreement) has been equal to at least 25% of the ABL Loan Cap (without giving effect to the Term Loan Reserve) for a period of at least thirty (30) consecutive calendar days, the Borrowers shall not terminate the engagement of the Financial Advisor unless a replacement Financial Advisor has been expressly approved by the Agent in writing in its discretion. The retention of the Financial Advisor shall be at the sole cost and expense of the Borrowers at all times.

ARTICLE VII
NEGATIVE COVENANTS

Until the Payment in Full of the Obligations, no Loan Party shall, nor shall it permit any Restricted Subsidiary to, directly or indirectly:

SECTION 7.1 Liens

. Create, incur, assume or suffer to exist any Lien upon any of its Property, whether now owned or hereafter acquired, except the following (collective, "Permitted Encumbrances"):

(i) Liens for taxes, assessments or other governmental charges or levies not yet due or which are being contested in good faith by appropriate proceedings; provided that adequate reserves with respect thereto are maintained on the books of the Borrower or its Restricted Subsidiaries, as the case may be, to the extent required by GAAP;

(ii) landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 90 days, that are being contested in good faith by appropriate proceedings or the existence of which, individually or in the aggregate would not reasonably be expected to have a Material Adverse Effect;

(iii) Liens securing Indebtedness incurred pursuant to Section 7.03(n); provided, that such Liens shall be subordinated to the Lien of the Agent pursuant to the Third Lien Subordination Agreement;

(iv) deposits and other Liens to secure the performance of bids, trade contracts (other than for borrowed money), leases, subleases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(v) easements, zoning restrictions, rights-of-way, restrictions and other similar encumbrances incurred in the ordinary course of business that, in the aggregate, do not materially detract from the value of the Property subject thereto or materially interfere with the ordinary conduct of the business of the Borrower or any of its Restricted Subsidiaries;

(vi) Liens in existence on the date hereof listed on Schedule 7.01(f);

(vii) Liens securing Indebtedness of the Borrower or any Restricted Subsidiary incurred pursuant to Section 7.03(c), 7.03(f), 7.03(j) or 7.03(o); provided that (i) in the case of any such Liens securing Indebtedness incurred pursuant to Section 7.03(c) or 7.03(j) to the extent incurred to finance Permitted Acquisitions or Investments permitted under Section 7.02, such Liens shall be created substantially concurrently with the acquisition of the assets financed by such Indebtedness, such Liens do not at any time encumber any Property of the Borrower or any Restricted Subsidiary other than the Property financed by such Indebtedness (which shall not include Term Priority Collateral) and the proceeds thereof and after-acquired property subjected to a Lien securing Indebtedness and other obligations incurred prior to such time (and which Indebtedness and other obligations are permitted hereunder) that require, pursuant to their terms at such time, a pledge of after-acquired property, it being understood that such requirement shall not be permitted to apply to any property which such requirement would not have applied but for such acquisition and (ii) in the case of any such Liens securing Indebtedness incurred pursuant to Section 7.03(o), (x) such Liens are not created or incurred in connection with, or in contemplation of, such Permitted Acquisition or Investment permitted under Section 7.02, (y) such Liens do not apply to Term Loan Priority Collateral and (iii) such Liens are limited to all or part of the same property or assets that secured the Indebtedness to which such Liens relate under Section 7.03(o) (and no other Property of the Loan Parties);

(viii) Liens created pursuant to the Security Documents;

(ix) any interest or title of a lessor or licensor under any leases or subleases, licenses or sublicenses entered into by the Borrower or any Restricted Subsidiary in the ordinary course of its business and covering only the assets so leased or licensed, which shall be on a non-exclusive basis (or an exclusive basis within a specific or defined field of use) with respect to any Borrower Intellectual Property, and any financing statement filed in connection with any such lease or license;

(x) Liens arising from judgments in circumstances not constituting an Event of Default under Section 8.01(g);

(xi) Liens on Property (other than Term Priority Collateral) acquired pursuant to a Permitted Acquisition under Section 7.02(f) (and the proceeds thereof) or Property (other than Term Priority Collateral) of a Subsidiary Guarantor in existence at the time such Subsidiary Guarantor is acquired pursuant to a Permitted Acquisition under Section 7.02(f) and not created in contemplation thereof;

(xii) Liens on Property of Non-Guarantor Subsidiaries securing Indebtedness or other obligations not prohibited by this Agreement to be incurred by such Non-Guarantor Subsidiaries;

(xiii) with respect to any Non-Guarantor Subsidiaries, receipt of progress payments and advances from customers in the ordinary course of business to the extent same creates a Lien on the related inventory and proceeds thereof;

(xiv) Liens in favor of customs and revenue authorities arising as a matter of law to secure the payment of customs duties in connection with the importation of goods;

(xv) Liens arising out of consignment or similar arrangements for the sale by the Borrower and its Restricted Subsidiaries of goods through third parties in the ordinary course of business;

(xvi) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with an Investment permitted by Section 7.02;

(xvii) Liens deemed to exist in connection with Investments permitted by Section 7.02(b) that constitute repurchase obligations;

(xviii) Liens upon specific items of inventory or other goods (and the proceeds thereof) of any Non-Guarantor Subsidiaries arising in the ordinary course of business securing such Person's obligations in respect of bankers' acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(xix) Liens on cash or cash equivalents securing any Hedge Agreement permitted hereunder;

(xx) other Liens covering Property (other than Term Priority Collateral) with respect to obligations (other than for borrowed money) that do not exceed $5,000,000 in the aggregate at any one time outstanding;

(xxi) the rights reserved or vested in any Person by the terms of any lease, license, franchise, grant or permit held by the Borrower or any of its Restricted Subsidiaries or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(xxii) banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a depositary institution;

(xxiii) Liens arising from Uniform Commercial Code financing statement regarding operating leases or consignments entered into by the Borrower and its Restricted Subsidiaries in the ordinary course of business;

(xxiv) Liens (i) of a collection bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business; and (iii) in favor of a banking institution arising as a matter of law encumbering deposits, securities and movables) and which are within the general parameters customary in the banking industry;

(xxv) Liens encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(xxvi) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and its

Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into by the Borrower or any Restricted Subsidiary in the ordinary course of business;

(xxvii) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement not prohibited hereunder;

(xxviii) Liens arising by operation of law under Article 2 of the Uniform Commercial Code in favor of a reclaiming seller of goods or buyer of goods;

(xxix) security given to a public or private utility or any governmental authority as required in the ordinary course of business;

(xxx) Liens on securities which are the subject of repurchase agreements incurred in the ordinary course of business; and

(xxxi) so long as the same is subject to the Intercreditor Agreement, Liens on Collateral securing Indebtedness incurred pursuant to Section 7.03(u) and any other "Obligations" as defined in the ABL Credit Agreement.

SECTION 7.2 Investments

. Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Equity Interests, bonds, notes, debentures or other debt securities of, or all or substantially all of the assets constituting an ongoing business (including pursuant to any merger or Division) from, or make any other investment in, any other Person, other than guarantees of operating leases in the ordinary course of business (all of the foregoing, "Investments"), except:

(i) extensions of trade credit in the ordinary course of business;

(ii) Investments in Cash Equivalents;

(iii) Investments arising in connection with the incurrence of Indebtedness permitted by Sections 7.03(b), (e) and (h);

(iv) loans and advances to employees of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries in the ordinary course of business in an aggregate amount (for the Parent, Holdings, the Borrower and all such Restricted Subsidiaries) not to exceed $2,000,000 (excluding (for purposes of such cap) travel and entertainment expenses, but including relocation expenses) at any one time outstanding;

(v) Investments (other than those relating to the incurrence of Indebtedness permitted by Section 7.03(c)) by the Borrower or any of its Restricted Subsidiaries in the Borrower or any Person that, prior to such Investment, is a Subsidiary Guarantor or is a Subsidiary that becomes a Subsidiary Guarantor at the time of such Investment;

(vi) except during the Extended Accommodation Period, Permitted Acquisitions by the Borrower;

(vii) loans by the Borrower or any of its Restricted Subsidiaries to the officers or directors of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries in connection with

management incentive plans; provided that such loans represent cashless transactions pursuant to which such officers or directors directly invest the proceeds of such loans in the Equity Interests of the Parent;

(viii) except during the Extended Accommodation Period, as long as no Event of Default has occurred and is continuing, Investments by the Borrower and its Restricted Subsidiaries in joint ventures or similar arrangements in an aggregate amount (for the Borrower and all Restricted Subsidiaries) not to exceed $5,000,000 at any one time outstanding;

(ix) Investments (including debt obligations) received in the ordinary course of business by the Borrower or any Restricted Subsidiary in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising out of the ordinary course of business;

(x) Investments by any Non-Guarantor Subsidiary in any other Non-Guarantor Subsidiary;

(xi) Investments in existence on the Closing Date and listed on Schedule 7.02;

(xii) Investments of the Borrower or any Restricted Subsidiary under Hedge Agreements permitted hereunder;

(xiii) Investments of any Person in existence at the time such Person becomes a Restricted Subsidiary; provided that such Investment was not made in connection with or anticipation of such Person becoming a Restricted Subsidiary; provided, that Investments in Non-Guarantor Subsidiaries and joint ventures permitted under this clause (m) shall be subject to the baskets applicable thereto in Sections 7.02(h) and 7.02(o);

(xiv) Subsidiaries of the Borrower may be established or created, if (i) to the extent such new Subsidiary is a Domestic Subsidiary, the Borrower and such Subsidiary comply with the provisions of Section 6.11(c) and (ii) to the extent such new Subsidiary is a Foreign Subsidiary, the Borrower complies with the provisions of Section 6.11(d); provided that, in each case, to the extent such new Subsidiary is created solely for the purpose of consummating a merger transaction pursuant to an acquisition or Investment permitted by Section 7.02(f), or 7.02(p), and such new Subsidiary at no time holds any assets or liabilities other than any merger consideration contributed to it contemporaneously with the closing of such merger transactions, such new Subsidiary shall not be required to take the actions set forth in Section 6.11(c) or 6.11(d), as applicable, until the respective acquisition is consummated (at which time the surviving entity of the respective merger transaction shall be required to so comply within ten Business Days);

(xv) except during the Extended Accommodation Period, (i) as long as no Event of Default has occurred and is continuing, Investments by the Borrower or any Subsidiary Guarantor in any Non-Guarantor Subsidiary in an aggregate amount (for the Borrower and all Subsidiary Guarantors) not to exceed $5,000,000 less the amount of Indebtedness incurred pursuant to Section 7.03(h) at any time outstanding and (ii) Investments in Non-Guarantor Subsidiaries pursuant to Section 7.05(k)(ii);

(xvi) Investments arising directly out of the receipt by the Borrower or any Restricted Subsidiary of non-cash consideration for any sale of assets (other than assets of the type included in the Borrowing Base) permitted under Section 7.05; provided that such non-cash consideration shall in no event exceed 25% of the total consideration received for such sale;

(xvii) Investments resulting from pledges and deposits referred to in Sections 7.01(d), (p), (s), (y), (aa);

(xviii) the forgiveness or conversion to equity of any Indebtedness permitted by Section 7.03(b), (e) or (h);

(xix) any Investment in a Foreign Subsidiary to the extent such Investment is substantially contemporaneously repaid in full with a dividend or other distribution from such Foreign Subsidiary;

(xx) Guarantee Obligations permitted by Section 7.03(e) and any payments made in respect of such Guarantee Obligations; and

(xxi) Except during the Extended Accommodation Period, other Investments of the types not described above, provided that the ABL Payment Conditions are satisfied at the time of making any such Investment.

It is further understood and agreed that for purposes of determining the value of any Investment outstanding for purposes of this Section 7.02, such amount shall deemed to be the amount of such Investment when made, purchased or acquired less any returns on such Investment (not to exceed the original amount invested). Notwithstanding anything to the contrary contained in this Section 7.02 (other than any Investment otherwise permitted as a Disposition pursuant to Section 7.05(a), clause (ii) of Section 7.05(b) or Section 7.05(k)), no Borrower Intellectual Property that is Term Priority Collateral shall be the subject of any Investment in any non-Loan Party.

SECTION 7.3 Indebtedness

. Create, issue, incur, assume, or suffer to exist any Indebtedness, except:

(i) Indebtedness of the Parent, Holdings, the Borrower or any Subsidiary Guarantor pursuant to any Loan Document or Hedge Agreements;

(ii) Indebtedness (i) of the Borrower to any of its Restricted Subsidiaries, (ii) of any Subsidiary Guarantor to the Borrower or any Restricted Subsidiary, and (iii) of any Non-Guarantor Subsidiary to any other Non-Guarantor Subsidiary; provided that (x) in the case of Indebtedness owing to a Loan Party, such Indebtedness shall be evidenced by one or more promissory notes that are pledged to the Agent for the benefit of the Secured Parties pursuant to the Guarantee and Collateral Agreement and (y) in the case of any Indebtedness owing by a Loan Party to a Restricted Subsidiary that is not a Subsidiary Guarantor, (A) such Indebtedness shall be on subordination terms reasonably satisfactory to the Agent and (B) such Indebtedness shall be otherwise permitted under the provisions of Section 7.02;

(iii) (i) Indebtedness (including, without limitation, Capital Lease Obligations) secured by Liens permitted by Section 7.01(g) in an aggregate principal amount not to exceed, together with any Permitted Amendment or Refinancing referred to in the following clause (iii) hereof, $5,000,000 at any one time outstanding; (ii) Indebtedness arising out of sale and leaseback transactions permitted by Section 7.15; and (iii) any Permitted Amendment or Refinancing of any of the foregoing;

(iv) Indebtedness outstanding on the date hereof and listed on Schedule 7.03(d) and any Permitted Amendment or Refinancing thereof;

(v) Guarantee Obligations (i) by the Borrower or any of its Restricted Subsidiaries of obligations of the Borrower or any Subsidiary Guarantor, (ii) by any Non-Guarantor Subsidiary of obligations of any Non-Guarantor Subsidiary or (iii) by the Parent of lease obligations of Borrower or a Restricted Subsidiary;

(vi) Indebtedness of Non-Guarantor Subsidiaries in respect of local lines of credit, letters of credit, bank guarantees, factoring arrangements, sale/leaseback transactions and similar extensions of credit in the ordinary course of business not to exceed at any one time outstanding an aggregate principal amount equal to $5,000,000;

(vii) Indebtedness of the Borrower or any of its Restricted Subsidiaries arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn by the Borrower or such Restricted Subsidiary in the ordinary course of business against insufficient funds, so long as such Indebtedness is promptly repaid;

(viii) (1) Indebtedness of any Non-Guarantor Subsidiary to the Borrower or any Subsidiary Guarantor and (ii) Guarantee Obligations of the Borrower or any Subsidiary Guarantor of Indebtedness of any Non-Guarantor Subsidiaries, in an aggregate principal amount for all such Indebtedness and, without duplication, Guarantee Obligations not to exceed, together with any Investments under Section 7.02(o), $5,000,000 at any one time outstanding;

(ix) additional Indebtedness of the Borrower or any of its Restricted Subsidiaries in an aggregate principal amount (for the Borrower and all Restricted Subsidiaries) not to exceed $10,000,000 at any one time outstanding; provided that up to $5,000,000 of such indebtedness may be secured by Liens permitted by Section 7.01(t);

(x) Indebtedness under a Permitted Seller Note issued as consideration in connection with an acquisition permitted under Section 7.02(f), in an aggregate principal amount not to exceed, together with any Permitted Amendment or Refinancing referred to in this clause (j) $10,000,000 at any one time outstanding together with any Permitted Amendment or Refinancing thereof; provided that any such Indebtedness shall be subordinated to the Obligations in a manner reasonably satisfactory to the Agent;

(xi) Indebtedness of the Borrower or any of its Restricted Subsidiaries in respect of workers' compensation claims, health, disability or other employee benefits, property casualty or liability insurance, take-or-pay obligations in supply arrangements, self-insurance obligations, performance, bid and surety bonds and completion guaranties, in each case in the ordinary course of business;

(xii) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries arising from agreements providing for indemnification or adjustment of purchase price or similar obligations in any case incurred in connection with an acquisition or other Investment permitted by Section 7.02(f) or the disposition of any business, assets or Restricted Subsidiary;

(xiii) unsecured, senior, senior subordinated or subordinated Indebtedness of the Parent, Holdings, the Borrower (including guarantees thereof by any Subsidiary Guarantor) (such Indebtedness and/or guarantees incurred under this clause (m) or any Permitted Amendment or Refinancing thereof being collectively referred to as the "Junior Indebtedness") in an aggregate principal amount not to exceed (1) $10,000,000 at any one time outstanding plus (2) Subordinated Indebtedness incurred pursuant to Section 8.04 or Section 8.04 of the ABL Credit Agreement; provided that (i) no scheduled principal payments, prepayments, redemptions or sinking fund or like payments of any Junior

Indebtedness shall be required prior to the date at least 180 days after the Maturity Date), (ii) [reserved], (iii) no Default or Event of Default shall have occurred and be continuing at the time of incurrence of such Indebtedness (solely with respect to clause (1) above) or would result therefrom, (iv) in the case of Junior Indebtedness that is subordinated to the Obligations in respect of payment and/or lien priority, (A) the terms of subordination applicable to any Junior Indebtedness shall be reasonably satisfactory to the Agent and shall, in any event, define "senior indebtedness" or a similar phrase for purposes thereof to include all of the Obligations of the Loan Parties and (B) after giving effect to the incurrence of such Junior Indebtedness, the Parent shall be in compliance with Section 7.18, calculated on a pro forma basis for the period as if such Junior Indebtedness had been incurred on the first day of such period ending on or prior to such date) (or, with respect to clause (2) above, on the relevant Cure Date, after giving effect to Section 8.04) and (v) in the case of Junior Indebtedness that is unsecured senior Indebtedness, after giving effect to the incurrence of such Junior Indebtedness, the Parent shall be in compliance with Section 7.18, calculated on a pro forma basis as if such Junior Indebtedness had been incurred on the first day of such period ending on or prior to such date);

(xiv) Subordinated Indebtedness of the Loan Parties incurred pursuant to the Third Lien Credit Agreement in an aggregate principal amount not to exceed $20,000,000, together with any fees and interest thereon, whether accrued and unpaid or paid in kind; provided, that such Indebtedness shall be subordinated to the Obligations pursuant to the Third Lien Subordination Agreement;

(xv) Indebtedness of any Person that becomes a Restricted Subsidiary as part of a Permitted Acquisition or any Investment permitted by Section 7.02 after the Closing Date and any Permitted Amendment or Refinancing thereof; provided that (A) such acquired Indebtedness exists at the time such Person becomes a Restricted Subsidiary and is not created in contemplation of or in connection with such Person becoming a Restricted Subsidiary (except to the extent such acquired Indebtedness refinanced (and did not increase principal (except for accrued interest and premium (including tender premiums and make whole amounts) thereon plus other reasonable and customary fees and expenses including upfront fees, original issue discount and defeasance costs) or shorten maturity during the term of this Agreement) other Indebtedness to facilitate such entity becoming a Restricted Subsidiary), (B) the aggregate principal amount of Indebtedness permitted by this clause (o) (i) shall not at any one time outstanding exceed together with any Permitted Amendment or Refinancing referred to in the following clause (ii) hereof, $5,000,000 and (ii) any Permitted Amendment or Refinancing;

(xvi) [reserved];

(xvii) [reserved];

(xviii) Indebtedness consisting of promissory notes issued by the Borrower or any Guarantor to current or former officers, consultants and directors or employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of the Parent or Holdings issued in lieu of cash payment; provided that such purchase or redemption is permitted under Section 7.06;

(xix) Indebtedness of the Borrower or any Restricted Subsidiary consisting of the financing of insurance premiums in the ordinary course of business;

(xx) guaranties in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of the Borrower and its Restricted Subsidiaries;

(xxi) Indebtedness of a Borrower or a Guarantor in respect of the ABL Credit Agreement (and any Permitted Amendment or Refinancing thereof) in an aggregate principal amount not to exceed the amount permitted under the Intercreditor Agreement; and

(xxii) Indebtedness consisting of earn-outs and similar deferred consideration in consideration in connection with a Permitted Acquisition or other Investment permitted by Section 7.02 in an aggregate amount outstanding at any one time not to exceed $7,500,000.

SECTION 7.4 Fundamental Changes.

Consummate any merger, consolidation or amalgamation, or Division (or similar transaction), or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or substantially all of its Property or business, or division or similar transaction except that:

(i) (i) any Restricted Subsidiary may be merged, amalgamated, liquidated or consolidated with or into the Borrower (provided that the Borrower shall be the continuing or surviving corporation) or (ii) any Restricted Subsidiary may be merged, amalgamated, liquidated or consolidated with or into any Subsidiary Guarantor (provided that (x) a Subsidiary Guarantor shall be the continuing or surviving corporation or (y) simultaneously with such transaction, the continuing or surviving corporation shall become a Subsidiary Guarantor and the Borrower shall comply with Section 6.11 in connection therewith);

(ii) any Non-Guarantor Subsidiary may be merged or consolidated with or into, or be liquidated into, any other Non-Guarantor Subsidiary;

(iii) any Non-Guarantor Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution, winding-up or otherwise) to any Restricted Subsidiary;

(iv) Dispositions permitted by Section 7.05 may be consummated;

(v) any Investment expressly permitted by Section 7.02 may be structured as a merger, consolidation or amalgamation;

(vi) any Excluded Subsidiary may be dissolved or liquidated; and

(vii) So long as no Default or Event of Default is continuing or would result therefrom, Holdings may be merged with and into Parent, with Parent being the surviving entity in such merger.

SECTION 7.5 Dispositions

. Dispose of any of its owned Property (including, without limitation, receivables) whether now owned or hereafter acquired, or, in the case of any Restricted Subsidiary, issue or sell any shares of such Restricted Subsidiary's Equity Interests to any Person, except:

(i) the Disposition of surplus, obsolete or worn out property in the ordinary course of business or Intellectual Property that is not Term Loan Priority Collateral or that is not material to the business of any Loan Party;

(ii) (i) the sale of inventory in the ordinary course of business, (ii) the non-exclusive (or exclusive within a specific or defined field of use) cross-licensing or licensing of Intellectual Property, in the ordinary course of business and (iii) the contemporaneous exchange, in the ordinary course of

business, of Property for Property of a like kind (other than as set forth in clause (ii)), to the extent that the Property received in such exchange is of a value equivalent to the value of the Property exchanged (provided that after giving effect to such exchange, the value of the Property of the Borrower or any Subsidiary Guarantor subject to perfected first priority Liens in favor of the Agent under the Security Documents is not materially reduced, and provided, other than with respect to any such exclusivity within a specific or defined field of use, that the terms of such licenses shall not restrict the right of the Agent to use and/or dispose of such Intellectual Property owned by a Loan Party in connection with the conduct of a Liquidation or other exercise of creditor remedies);

(iii) Dispositions permitted by Section 7.04;

(iv) (i) the Disposition of other assets not constituting Term Priority Collateral, so long as at least (x) 75% of the consideration received by the disposing Person is cash or Cash Equivalents and (y) any such Disposition is made for fair market value, as determined in good faith and approved by the Board of Directors or similar governing body of the disposing Person, and (ii) any Recovery Event;

(v) the sale or issuance of any Subsidiary's Equity Interests to the Borrower or any Subsidiary Guarantor; provided that the sale or issuance of Equity Interests of an Unrestricted Subsidiary to the Borrower or any Subsidiary Guarantor is otherwise permitted by Section 7.02;

(vi) bulk sales or other dispositions of Inventory of a Loan Party not in the ordinary course of business, at arms' length, in connection with Permitted Store Closings;

(vii) the leasing, occupancy agreements or sub-leasing of Property that would not materially interfere with the required use (if any) of such Property by the Borrower or their respective Restricted Subsidiaries;

(viii) the sale or discount, in each case without recourse and in the ordinary course of business, of overdue accounts receivable arising in the ordinary course of business, but only (i) in connection with the compromise or collection thereof consistent with the Borrower's commercially reasonable business judgment (and not as part of any bulk sale or financing of receivables), and (ii) provided that, if such overdue accounts constitute Eligible Credit Card Receivables or Eligible Trade Receivables, the Borrower receives not less than the amounts borrowed or available to be borrowed under the Borrowing Base therefor;

(ix) transfers of condemned property as a result of the exercise of "eminent domain" or other similar policies to the respective Governmental Authority or agency that has condemned same (whether by deed in lieu of condemnation or otherwise), and transfers of properties that have been subject to a casualty to the respective insurer of such property as part of an insurance settlement;

(x) the Disposition of any Immaterial Subsidiary or any Unrestricted Subsidiary or their respective assets;

(xi) the transfer of Property (i) by the Borrower or any Subsidiary Guarantor to the Borrower or any other Subsidiary Guarantor; provided that any such transfer made by any Loan Party in a Foreign Subsidiary shall be subject to satisfaction of the ABL Payment Conditions but shall not be permitted during the Extended Accommodation Period; (ii) by a Borrower or any Subsidiary Guarantor to a Non-Guarantor Subsidiary that is a Restricted Subsidiary to the extent such Property consists of (A) showroom leases, employees, showroom fixtures, signage, samples, or contracts relating to the foregoing, or intellectual property, in each case that is specific to the operations of such Non-Guarantor Subsidiary (and, with respect to any such transferred intellectual property, is not used by any Loan Party in the

operation of its business) or (B) other Property (excluding cash and Cash Equivalents) with a fair market value not to exceed $100,000 in the aggregate, or (iii) from a Non-Guarantor Subsidiary to (A) the Borrower or any Subsidiary Guarantor for no more than fair market value or (B) any other Non-Guarantor Subsidiary that is a Restricted Subsidiary; provided that any sale or issuance of Equity Interests of an Unrestricted Subsidiary to the Borrower or any Subsidiary Guarantor is otherwise permitted by Section 7.02;

(xii) the Disposition of Cash Equivalents in the ordinary course of business;

(xiii) sale and leaseback transactions permitted by Section 7.15;

(xiv) Liens permitted by Section 7.01;

(xv) Restricted Payments permitted by Section 7.06;

(xvi) the cancellation of intercompany Indebtedness among the Borrower and any Subsidiary Guarantor;

(xvii) Investments permitted by Section 7.02; and

(xviii) the sale or issuance of the Equity Interests of (i) any Foreign Subsidiary that is a Restricted Subsidiary to any other Foreign Subsidiary that is a Restricted Subsidiary or (ii) any Foreign Subsidiary that is an Unrestricted Subsidiary to any other Foreign Subsidiary that is an Unrestricted Subsidiary, in each case, including, without limitation, in connection with any tax restructuring activities not otherwise prohibited hereunder.

Notwithstanding anything to the contrary contained in this Section 7.05 (other than Section 7.05(a), clause (ii) of Section 7.05(b) or Section 7.05(k)), no Borrower Intellectual Property that is Term Priority Collateral shall be the subject of any Disposition to any non-Loan Party.

SECTION 7.6 Restricted Payments.

Declare or pay any dividend on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, the purchase, redemption, defeasance, retirement, cancellation, termination or other acquisition of, any Equity Interests of the Parent, Holdings, the Borrower or any Subsidiary, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or property or in obligations of the Parent, Holdings, the Borrower or any Restricted Subsidiary, or enter into any derivatives or other transaction with any financial institution, commodities or stock exchange or clearinghouse (a "Derivatives Counterparty"), obligating the Parent, Holdings the Borrower or any Restricted Subsidiary to make payments to such Derivatives Counterparty as a result of any change in market value of any such Equity Interests (collectively, "Restricted Payments"), except that:

(i) any Subsidiary may make Restricted Payments, directly or indirectly, to the Borrower;

(ii) Non-Guarantor Subsidiaries may make Restricted Payments to other Non-Guarantor Subsidiaries or to any Loan Party;

(iii) the Loan Parties and each Subsidiary may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(iv) the Borrower and its Subsidiaries may declare and make dividend or distribution payments, directly or indirectly, to Holdings (and Holdings may pay to any direct or indirect parent company of Holdings) to permit Holdings (or any such direct or indirect parent company of Holdings) to pay for any taxable period for which Holdings, the Borrower or such applicable Subsidiary, as applicable, was a member of a consolidated, combined or similar income tax group for federal and/or applicable state or local income tax purposes or are entities treated as disregarded from any member of such a group for U.S. federal income and, if applicable, state income Tax purposes (a "Tax Group") of which Holdings (or any direct or indirect parent company of Holdings, as applicable) is the common parent, any consolidated, combined or similar income Taxes of such Tax Group that are due and payable by Holdings (or such direct or indirect parent company of Holdings) for such taxable period, but only to the extent such income Taxes are attributable to the Borrower and its Subsidiaries, provided that (x) the amount of such dividends or distributions for any taxable period shall not exceed the amount of such income Taxes that the Borrower and its relevant Subsidiaries would have paid had the Borrower and such Subsidiaries been a stand-alone corporate taxpayer (or a stand-alone corporate Tax Group) and (y) dividends or distributions in respect of an Unrestricted Subsidiary shall be permitted only to the extent that dividends or distributions were made by such Unrestricted Subsidiary to a member of the Tax Group or any of its Subsidiaries for such purpose;

(v) the Borrower may make other Restricted Payments to Holdings who, in turn, may make other Restricted Payments to the Parent to permit the Parent to make payments required under the Tax Receivable Agreement;

(vi) except during the Extended Accommodation Period, the Borrower may make other Restricted Payments to Holdings who, in turn, may make other Restricted Payments to the Parent who, in turn, may make other Restricted Payments to its stockholders so long as the ABL Payment Conditions are satisfied;

(vii) the Borrower may declare and pay cash dividends to Holdings, and Holdings may declare and pay cash dividends to the Parent, not to exceed an amount necessary to permit Holdings or the Parent, as applicable, to pay its proportionate share of (i) reasonable and customary corporate and operating expenses (including reasonable out-of-pocket expenses for legal, administrative and accounting services provided by third parties, and compensation, benefits and other amounts payable to officers and employees in connection with their employment in the ordinary course of business and to board of director observers), and (ii) franchise fees or similar taxes and fees required to maintain its corporate existence;

(viii) Investments constituting Restricted Payments and permitted by Section 7.02;

(ix) the Parent may make Restricted Payments in the form of common stock of the Parent or preferred stock of the Parent; and

(x) so long as no Default or Event of Default shall have occurred and be continuing, the Borrower may make Restricted Payments to Holdings and Holdings may make Restricted Payments to Parent, to permit Holdings or the Parent to purchase its common stock or common stock options from present or former officers, consultants and directors or employees (and their heirs, estates and assigns) of Parent, Holdings, the Borrower or any Subsidiary upon the death, disability or termination of employment

of such officer or employee; provided that the aggregate amount of payments under this clause (k) in any fiscal year of the Parent shall not exceed the sum of (i) $2,000,000 plus any proceeds received from key man life insurance policies and (ii) any Restricted Payments permitted (but not made) pursuant to this clause (k) in the immediately prior fiscal year.

SECTION 7.7 Prepayments of Indebtedness.

Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner any Indebtedness, or make any payment in violation of any subordination terms of any Indebtedness, except:

(i) (i) mandatory or scheduled payments of principal, interest and fees as and when due in respect of any Indebtedness (other than Subordinated Indebtedness) permitted under Section 7.03 hereof, (ii) all voluntary prepayments of the ABL Debt and (iii) all prepayments of the ABL Debt in connection with Section 8.04 of the ABL Credit Agreement;

(ii) the Borrower may prepay, redeem, repurchase or defease any Indebtedness with the proceeds of any Permitted Amendment or Refinancing or pursuant to any asset sale tender offers required by the terms of such Indebtedness;

(iii) except during the Extended Accommodation Period, voluntary prepayments, repurchases, redemptions or defeasances of (i) Indebtedness permitted under Section 7.03 hereof and not described in clause (b), above, and not constituting Subordinated Indebtedness or intercompany Indebtedness, as long as the ABL Payment Conditions are satisfied, (ii) Subordinated Indebtedness (including Indebtedness permitted under Section 7.03(n)) in accordance with the applicable subordination terms thereof and as long as the ABL Payment Conditions are satisfied, and (iii) intercompany Indebtedness in accordance with the applicable subordination terms thereof and as long as the ABL Payment Conditions are satisfied; and

(iv) any Permitted Amendment or Refinancing of any such Indebtedness.

SECTION 7.8 Change in Nature of Business.

(i) In the case of the Parent and Holdings, notwithstanding anything to the contrary in this Agreement or any other Loan Document:

(1) conduct, transact or otherwise engage in, or commit to conduct, transact or otherwise engage in, any business or operations other than (i) those incidental to its ownership of the Equity Interests of Holdings, the Borrower and (indirectly) the Subsidiaries of the Borrower and those incidental to Investments by or in the Parent or Holdings, as applicable, permitted hereunder, (ii) those incidental to the issuance of and performance under the ABL Credit Agreement (or any other Indebtedness permitted under Section 7.03(p), (q) or (u)) or any Permitted Amendment or Refinancing of the foregoing, (iii) activities incidental to the maintenance of its existence and compliance with applicable laws and legal, tax and accounting matters related thereto and activities relating to its employees (including but not limited to payment or reimbursement of indemnification obligations to its directors or officers and payment of Board of Directors fees), (iv) activities relating to the performance of obligations under the Loan Documents to which it is a party or expressly permitted thereunder, (v) engaging in activities incidental to being a public company, (vi) the receipt and payment of Restricted

Payments permitted under Section 7.06 and (vii) the other transactions expressly permitted under this Section 7.08;

(2) incur, create, assume or suffer to exist any Indebtedness or other liabilities or financial obligations, except (i) Indebtedness permitted by Section 7.03(m), (ii) nonconsensual obligations imposed by operation of law, (iii) pursuant to the Loan Documents to which it is a party, (iv) obligations with respect to its Equity Interests and options in respect thereof, (v) in respect of the ABL Credit Agreement (or any other Indebtedness permitted under Section 7.03(p), (q) or (u)) or any Permitted Amendment or Refinancing of the foregoing, (vi) obligations to its employees, officers and directors not prohibited hereunder; and (vii) guarantees permitted by Section 7.03(v).

(ii) In the case of each of the Loan Parties, engage in any business, services, or activities substantially different from the business, services, or activities conducted by the Loan Parties and their Subsidiaries on the Closing Date or any business, service or activity incidental or directly related or similar to any business activity that is a reasonable extension, development or expansion thereof or ancillary thereto.

SECTION 7.9 Transactions with Affiliates.

Enter into any transaction, including, without limitation, any purchase, sale, lease or exchange of Property (including pursuant to a Division), the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate (other than the Parent, Holdings the Borrower or any Restricted Subsidiary) unless such transaction is (a) otherwise not prohibited under this Agreement and (b) upon fair and reasonable terms no less favorable to the Parent, Holdings the Borrower or such Restricted Subsidiary, as the case may be, than it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate. Notwithstanding the foregoing, the Borrower and its Restricted Subsidiaries may without being subject to the terms of this Section 7.09, (i) enter into any transaction with any Person which is an Affiliate of the Parent only by reason of such Person and the Parent having common directors; (ii) enter into and perform its or their obligations under the agreements set forth on Schedule 7.09, as in effect on the Closing Date or as the same may be amended, supplemented, replaced or otherwise modified from time to time in a manner that does not materially increase the obligations of the Loan Parties thereunder, and (iii) enter into transactions with Affiliates permitted by Sections 7.02(c), 7.02(o), 7.02(s), 7.03(h), 7.03(i), 7.03(r), 7.04(c), 7.05(e), 7.05(k)(ii) and 7.06 hereof. For the avoidance of doubt, this Section 7.09 shall not apply to employment arrangements with, and payments of compensation, indemnification payments, expense reimbursement or benefits to or for the benefit of, current or former employees, officers or directors of the Parent, Holdings the Borrower or any of its Restricted Subsidiaries.

SECTION 7.10 Burdensome Agreements.

Enter into any agreement that prohibits or limits the ability of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries to create, incur, assume or suffer to exist any Lien upon any of its Property or revenues, whether now owned or hereafter acquired, to secure the Obligations or, in the case of any Guarantor, its obligations under the Security Documents, other than (a) this Agreement and the other Loan Documents, the ABL Loan Documents and any agreement related to any Junior Indebtedness, and any Permitted Amendment or Refinancing thereof (b) any agreements governing any secured Indebtedness otherwise permitted hereby (in which case, any prohibition or limitation shall only be effective against the assets financed thereby and the proceeds thereof), (c) software and other Intellectual Property licenses expressly permitted hereunder pursuant to which the Parent, Holdings, the Borrower or such Restricted Subsidiary is the licensee or licensor of the relevant software or Intellectual Property, as

the case may be, (in which case, any prohibition or limitation shall relate only to the assets subject of the applicable license), (d) Contractual Obligations incurred in the ordinary course of business and on customary terms which limit Liens on the assets subject of the applicable Contractual Obligation or impose restrictions on cash or other deposits with respect thereto, (e) any agreements regarding Indebtedness of any Non-Guarantor Subsidiary not prohibited under Section 7.02 (in which case, any prohibition or limitation shall only be effective against the assets of such Non-Guarantor Subsidiary and its Subsidiaries), (f) prohibitions and limitations in effect on the date hereof and listed on Schedule 7.10, (g) customary provisions contained in joint venture agreements and other similar agreements applicable to joint ventures entered into in the ordinary course of business, (h) customary provisions restricting the subletting or assignment of any lease governing a leasehold interest, (i) customary restrictions and conditions contained in any agreement relating to an asset sale permitted by Section 7.04 or 7.05, (j) any agreement in effect at the time any Person becomes a Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Subsidiary, and (k) any restrictions on Liens imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (f) and (j) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive with respect to such encumbrance and other restrictions than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

SECTION 7.11 Use of Proceeds.

Use the proceeds of any Borrowing, whether directly or indirectly, and whether immediately, incidentally or ultimately, (a) to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund Indebtedness originally incurred for such purpose, or (b) for any purposes other than the repayment of Payoff Indebtedness, for general corporate purposes, and to pay fees and expenses in connection therewith.

SECTION 7.12 Amendment of Material Documents.

(i) Amend, modify or otherwise change, or consent or agree to any amendment, modification, waiver or other change to (i) any agreement or instrument governing or evidencing Junior Indebtedness in any manner that is materially adverse to the Lenders without the prior consent of the Agent (which shall not be unreasonably withheld, conditioned or delayed), or (ii) any of its organizational documents, other than amendments, modifications or waivers that could not reasonably be expected to adversely affect the Lenders or Agent, (b) amend, supplement or otherwise modify the ABL Loan Documents, if such modification is in violation of the terms of the Intercreditor Agreement or (c) amend, supplement or otherwise modify the Third Lien Loan Documents, if such modification is in violation of the terms of the Third Lien Subordination Agreement; provided that the Borrower shall deliver or cause to be delivered to the Agent a copy of all such amendments, modifications or waivers promptly after the execution and delivery thereof to the extent not filed publicly.

SECTION 7.13 Fiscal Year.

Change the Fiscal Year of any Loan Party, or, other than as permitted pursuant to Section 1.03, the accounting policies or reporting practices of the Loan Parties, except as required by GAAP.

SECTION 7.14 Deposit Accounts; Credit Card Processors.

Open new DDAs (other than Excluded DDAs and Retail DDAs) unless the Loan Parties shall have delivered to the Agent appropriate Blocked Account Agreements consistent with the provisions of

Section 6.12 and otherwise satisfactory to the Agent. No Loan Party shall maintain any bank accounts or enter into any agreements with Credit Card Issuers or Credit Card Processors other than the ones expressly contemplated herein or in Section 6.12 hereof.

SECTION 7.15 Sales and Leasebacks.

Enter into any arrangement with any Person providing for the leasing by the Borrower or any Restricted Subsidiary of real or personal property which is to be sold or transferred by the Borrower or such Restricted Subsidiary (a) to such Person or (b) to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of the Borrower or such Restricted Subsidiary, except for (i) sales or transfers that do not exceed $5,000,000 in the aggregate at any one time outstanding, (ii) sales or transfers by the Borrower or any Subsidiary Guarantor to the Borrower or any other Subsidiary Guarantor and (iii) sales or transfers by any Non-Guarantor Subsidiary to any other Non-Guarantor Subsidiary that is a Restricted Subsidiary.

SECTION 7.16 Clauses Restricting Subsidiary Distributions.

Enter into any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (a) make Restricted Payments in respect of any Equity Interests of such Restricted Subsidiary held by, or pay any Indebtedness owed to, the Borrower or any Restricted Subsidiary or (b) make Investments in the Borrower or any Restricted Subsidiary, except for such encumbrances or restrictions existing under or by reason of (i) any restrictions existing under the Loan Documents, (ii) any restrictions with respect to such Restricted Subsidiary imposed pursuant to an agreement that has been entered into in connection with the Disposition of all or substantially all of the Equity Interests or assets of such Restricted Subsidiary to the extent permitted hereunder, (iii) any restrictions set forth in the documentation for the ABL Credit Agreement or any Junior Indebtedness or any Permitted Amendment or Refinancing of any of the foregoing, (iv) any restrictions contained in agreements related to Indebtedness of (A) the Borrower or any Subsidiary Guarantor with respect to the disposition of assets securing such Indebtedness (in which case, any prohibition or limitation shall only be effective against the assets financed thereby and the proceeds thereof) and (B) any Non-Guarantor Subsidiary not prohibited under Section 7.02 (in which case such restriction shall relate only to such Non-Guarantor Subsidiary and its Subsidiaries), (v) any restrictions regarding non-exclusive licenses (or exclusive licenses within a specific or defined field of use) or sublicenses by the Borrower and its respective Restricted Subsidiaries of Intellectual Property in the ordinary course of business (in which case such restriction shall relate only to such Intellectual Property), (vi) Contractual Obligations incurred in the ordinary course of business which include customary provisions restricting the assignment of any agreement relating thereto, (vii) customary provisions contained in joint venture agreements and other similar agreements applicable to joint ventures entered into in the ordinary course of business, (viii) customary provisions restricting the subletting or assignment of any lease governing a leasehold interest, (ix) customary restrictions and conditions contained in any agreement relating to an asset sale permitted by Section 7.04 or 7.05, (x) any agreement in effect at the time any Person becomes a Restricted Subsidiary, so long as such agreement was not entered into in contemplation of such Person becoming a Restricted Subsidiary and (xi) such restrictions in effect on the Closing Date and listed on Schedule 7.16, (xii) negative pledges and restrictions on Liens and asset dispositions in favor of any holder of Indebtedness for borrowed money permitted under Section 7.03 but only if such negative pledge or restriction expressly permits Liens for the benefit of the Agent and the Lenders with respect to the credit facilities established hereunder and the Obligations under the Loan Documents on a senior basis and without a requirement that such holders of such Indebtedness be secured by such Liens equally and ratably or on a junior basis and (xiii) negative pledges and restrictions on Liens and asset dispositions imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (x) and (xi) above; provided that such amendments, modifications,

restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive with respect to such encumbrance and other restrictions than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

SECTION 7.17 Limitation on Hedge Agreements.

Enter into any Hedge Agreement other than Hedge Agreements entered into in the ordinary course of business or as required hereby, and not for speculative purposes, to protect against changes in interest rates or foreign exchange rates or commodity, raw material, energy or utility prices.

SECTION 7.18 Financial Covenant.

(i) Fixed Charge Coverage Ratio. Except for any Fiscal Quarter ended during the Extended Accommodation Period (other than the Fiscal Quarter ended January 28, 2023 (and, for the avoidance of doubt, compliance with this Section 7.18(a) for the Fiscal Quarter ended January 28, 2023 shall be reported in the Compliance Certificate delivered concurrently with the financial statements delivered for the Fiscal Month ended January 28, 2023)), permit the Consolidated Fixed Charge Coverage Ratio of the Parent, Holdings, the Borrower and its Restricted Subsidiaries as of the end of any Fiscal Quarter of the Borrower, calculated for the Measurement Period ending on the last day of the Fiscal Quarter most recently ended for which financial statements and a Compliance Certificate have been delivered, to be less than 1.25:1.00

(ii) Extended Accommodation Period Fixed Charge Coverage Ratio. Solely during the Extended Accommodation Period, during the continuance of an Extended Accommodation Period Compliance Event, permit the Consolidated Fixed Charge Coverage Ratio, calculated for the Measurement Period ending on the last day of the Fiscal Month most recently ended for which financial statements and a Compliance Certificate have been delivered prior to the occurrence of the Extended Accommodation Period Compliance Event and each Measurement Period ended thereafter, to be less than 1.00:1.00.

SECTION 7.19 Tax Receivable Agreement.

Terminate, or agree to the termination of, the Tax Receivable Agreement.

SECTION 7.20 Sanctions.

Directly or, knowingly, indirectly, use the proceeds of any Borrowing, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other individual or entity, to fund any activities of or business with any individual or entity, or in any Designated Jurisdiction, that, at the time of such funding, is the target of Sanctions, that will result in a violation by any individual or entity (including any individual or entity participating in the transaction, whether as Lender, Agent, or otherwise) of Sanctions.

ARTICLE VIII
EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1 Events of Default.

Any one or more of the following events shall constitute an event of default (each, an "Event of Default"):

(i) Non-Payment. The Borrower or any other Loan Party fails to pay (i) any amount of principal of any Term Loan, or (ii) any interest, fee or any other amount payable hereunder or under any other Loan Document, in each case of this clause (ii) within three Business Days after any such interest or other amount becomes due; or

(ii) Specific Covenants. Any Loan Party fails to perform or observe any term, covenant or agreement contained in any of (i) Sections 6.01(a), 6.01(b), 6.01(c) (in each case after a five (5) Business Day grace period), 6.02(a), 6.02(b), 6.03(a), 6.05(a)(i), 6.21 or Article VII, (ii) Section 6.02(c) (after a two (2) Business Day grace period if an Accelerated Borrowing Base Delivery Event described in clause (ii) of the definition thereof has occurred and is continuing; provided that, if no such Accelerated Borrowing Base Delivery Event has occurred and is continuing, the applicable grace period shall be five (5) Business Days) or Section 6.20 (after a two (2) Business Day grace period), or (iii) Sections 6.07, 6.10(b), 6.12 or 6.22, provided that, if (A) any such Default described in this clause (b)(iii) is of a type that can be cured within five (5) Business Days and (B) such Default could not materially adversely impact the Agent's Liens on the Collateral, such Default shall not constitute an Event of Default for five (5) Business Days after the occurrence of such Default so long as the Loan Parties are diligently pursuing the cure of such Default; or

(iii) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after the date that such Loan Party receives from the Agent or any Lender notice of the existence of such default; or

(iv) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by any Loan Party herein, in any other Loan Document, or that is contained in any certificate, document or financial or other statement furnished by it at any time under or in connection with this Agreement or any such other Loan Document (including, without limitation, any Borrowing Base Certificate) shall prove to have been inaccurate in any material respect when made or deemed made; or

(v) Cross-Default. The Parent, Holdings, the Borrower or any of their respective Restricted Subsidiaries shall (i) default in making any payment of any principal of any Material Indebtedness (excluding the Term Loans) on the scheduled or original due date with respect thereto; or (ii) default in making any payment of any interest on any such Indebtedness beyond the period of grace, if any, provided in the instrument or agreement under which such Indebtedness was created; or (iii) default in the observance or performance of any other agreement or condition relating to any such Indebtedness or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event of default shall occur, the effect of which payment or other default or other event of default described in clauses (i), (ii) or (iii) of this paragraph (e) is to cause, or to permit the holder or beneficiary of such Material Indebtedness (or a trustee or agent on behalf of such holder or beneficiary) to cause, with the giving of notice if required, such Indebtedness to become due prior to its stated maturity or to become subject to a mandatory offer to purchase by the obligor thereunder or to become payable; provided that this paragraph (e) shall not apply to (A) secured Indebtedness that becomes due as a result of the sale, transfer, destruction or other disposition of the Property or assets securing such Indebtedness if such sale, transfer, destruction or other disposition is not prohibited hereunder or (B) any Guarantee Obligations except to the extent such Guarantee Obligations shall become due and payable by any Loan Party and remain unpaid after any applicable grace period or period permitted following demand for the payment thereof; provided, further, that no "Event of Default" (as defined in the ABL Credit Agreement) arising from a failure to comply with Section 7.18(a) (Fixed Charge Coverage Ratio) of the ABL Credit Agreement shall constitute an Event of Default under this paragraph (e) until the earliest to occur of (w) the date that is ten (10) Business Days after the day on which financial statements for the applicable

Fiscal Month are required to have been delivered under the ABL Credit Agreement, in connection with which such "Event of Default" (as defined in the ABL Credit Agreement) has occurred, to the extent such "Event of Default" has not been waived or cured prior to such date, (x) the acceleration of the ABL Debt, (y) a Collateral Enforcement Action (as defined in the Intercreditor Agreement) by the ABL Agent with respect to any Collateral and (z) the ABL Agent's delivery to the Agent of a written notice commencing the "Standstill Period" under and as defined in the Intercreditor Agreement; or

(vi) Insolvency Proceedings, Etc. (i) The Parent, any Loan Party or any of their respective Restricted Subsidiaries which are not Immaterial Subsidiaries shall commence any case, proceeding or other action (A) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) any case, proceeding, or other action of a nature referred to in clause (i) above that (A) results in the entry of an order for relief or any such adjudication or appointment or (B) remains undismissed, undischarged or unbonded for a period of 60 days; or (iii) there shall be commenced against the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) any case, proceeding, or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against substantially all of its assets that results in the entry of an order for any such relief that shall not have been vacated, discharged, or stayed or bonded pending appeal within 60 days from the entry thereof; or (iv) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall consent to or approve of, or acquiescence in, any of the acts set forth in clause (i), (ii), or (iii) above; or (v) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries (other than any Immaterial Subsidiary) shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due; or

(vii) Judgments. There is entered against the Parent, any Loan Party or any of their respective Restricted Subsidiaries which are not Immaterial Subsidiaries (i) one or more judgments or orders for the payment of money in an aggregate amount (as to all such judgments and orders) exceeding $10,000,000 (to the extent not paid or covered by independent third-party insurance as to which the insurer is rated at least "A" by A.M. Best Company, has been notified of the potential claim and does not dispute coverage), or (ii) any one or more non-monetary judgments that have, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) all such judgments or decrees shall not have been vacated, discharged, stayed or bonded pending appeal within 45 days from the entry thereof; or

(viii) ERISA. (i) The Parent, Holdings, the Borrower or any of its Restricted Subsidiaries shall incur any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (ii) any Single Employer Plan shall fail to satisfy the minimum funding standard required for any plan year or part thereof under Section 412 of the Code or Section 302 of ERISA), whether or not waived, or any Lien in favor of the PBGC or a Single Employer Plan shall arise on the assets of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries, (iii) a Reportable Event shall occur with respect to, or proceedings shall commence to have a trustee appointed, or a trustee shall be appointed, to administer or to terminate, any Single Employer Plan, which commencement of proceedings or appointment of a trustee

is reasonably likely to result in the termination of such Single Employer Plan for purposes of Title IV of ERISA, (iv) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries incurs any liability in connection with any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan, (v) any Non-U.S. Plan fails to obtain or retain (as applicable) registered status under and as required by applicable law and/or be administered in a timely manner in all respects in compliance with all applicable laws, (vi) any Single Employer Plan shall terminate for purposes of Title IV of ERISA, (vii) the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries shall, or is reasonably likely to, incur any liability as a result of a withdrawal from, or the Insolvency of, a Multiemployer Plan (including the withdrawal by an ERISA Affiliate), (viii) the institution of proceedings or the taking of any other action by the PBGC or the Parent or any Commonly Controlled Entity or any Multiemployer Plan with respect to the withdrawal from, or the termination or partial termination, or Insolvency of, any Plan, (ix) a contribution required to be made with respect to a Plan or a Non-U.S. Plan has not been timely made, (x) the present value of all accrued benefits under each Single Employer Plan (based on those assumptions used to fund such Single Employer Plans), as of any applicable annual valuation date, exceeds the value of the assets of such Single Employer Plan allocable to such accrued benefits, (xi) the occurrence of any similar events with respect to a Commonly Controlled Plan, that would reasonably be likely to result in a direct obligation of the Parent, the Borrower or any of its Restricted Subsidiaries to pay money, or (xii) any other event or condition (other than one which could not reasonably be expected to result in a violation of any applicable law or of the qualification requirements of the Code) shall occur or exist with respect to a Plan, Non-U.S. Plan, or a Commonly Controlled Plan; and in each case in clauses (i) through (xii) above, such event or condition, together with all other such events or conditions, if any, could reasonably be expected to result in a direct obligation of the Parent, Holdings, the Borrower or any of its Restricted Subsidiaries to pay money that would have a Material Adverse Effect; or

(ix) Invalidity of Loan Documents. (i) Any provision of any Loan Document, at any time after its execution and delivery and for any reason, other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 7.04 or 7.05) or as a result of acts or omissions by any Agent or any Lender or the Payment in Full of the Obligations, ceases to be in full force and effect in any material respect, or any Loan Party contests in writing the validity or enforceability of any provision of any Loan Document; or any Loan Party denies in writing that it has any or further liability or obligation under any provision of any Loan Document (other than as a result of Payment in Full of the Obligations), or purports in writing to revoke, terminate or rescind any Loan Document; or (ii) any Lien purported to be created under any Security Document shall cease to be, or shall be asserted in writing by any Loan Party not to be, a valid and perfected Lien on any material portion of the Collateral, with the priority required by (but subject to the limitations set forth in) the applicable Security Document and this Agreement except (i) as a result of the sale, release or other disposition of the applicable Collateral in a Disposition permitted by Section 7.05 or other transaction permitted under the Loan Documents, or (ii) relating to an immaterial amount of Collateral not constituting ABL Priority Collateral, or (iii) as a result of the failure of the Agent, through its acts or omissions and through no fault of the Loan Parties, to maintain the perfection of its Liens in accordance with applicable Requirement of Law; or

(x) Change of Control. There occurs any Change of Control; or

(xi) Cessation of Business. Except as otherwise expressly permitted hereunder, the determination of the Loan Parties, whether by vote of the Loan Parties' Board of Directors or otherwise to: suspend the operation of the Loan Parties' business in the ordinary course, liquidate all or substantially all of their assets or store locations, or employ an agent or other third party to conduct any so-called store closing, store liquidation or "Going-Out-Of-Business" sales for all or substantially all of the Loan Parties' stores;

(xii) Subordination. (i) The subordination provisions of the documents evidencing any Subordinated Indebtedness (or subordinated Junior Indebtedness) (collectively, the "Subordination Provisions") shall, in whole or in part, terminate, cease to be effective or cease to be legally valid, binding and enforceable against any holder of the applicable Subordinated Indebtedness; or (ii) the Borrower or any other Loan Party shall, directly or indirectly, disavow or contest in any manner (A) the effectiveness, validity or enforceability of any of the Subordination Provisions, (B) that the Subordination Provisions exist for the benefit of the Credit Parties, or (C) that all payments of principal of or premium and interest on the applicable Subordinated Indebtedness, or realized from the liquidation of any property of any Loan Party, shall be subject to any of the Subordination Provisions; or

(xiii) Intercreditor Agreement. The Intercreditor Agreement shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect, or any party to such Intercreditor Agreement shall contest in writing, the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Liens securing the Obligations, for any reason shall not have the priority contemplated by the Intercreditor Agreement.

SECTION 8.2 Remedies Upon Event of Default.

If any Event of Default occurs and is continuing, the Agent may, or, at the request of the Required Lenders shall, take any or all of the following actions:

(i) [reserved];

(ii) declare the unpaid principal amount of all outstanding Term Loans, all interest accrued and unpaid thereon, and all other Obligations to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Loan Parties;

(iii) [reserved]; and

(iv) whether or not the maturity of the Obligations shall have been accelerated pursuant hereto, proceed to protect, enforce and exercise all rights and remedies of the Credit Parties under this Agreement, any of the other Loan Documents or Requirement of Law, including, but not limited to, by suit in equity, action at law or other appropriate proceeding, whether for the specific performance of any covenant or agreement contained in this Agreement and the other Loan Documents or any instrument pursuant to which the Obligations are evidenced, and, if such amount shall have become due, by declaration or otherwise, proceed to enforce the payment thereof or any other legal or equitable right of the Credit Parties;

provided, however, that upon the occurrence of any Default or Event of Default with respect to any Loan Party or any Subsidiary thereof under Section 8.01(f), the obligation of each Lender to make Term Loans shall automatically terminate, the unpaid principal amount of all outstanding Term Loans, all interest accrued thereon and all other Obligations shall automatically become due and payable as aforesaid shall automatically become effective, in each case without further act of the Agent or any Lender.

No remedy herein is intended to be exclusive of any other remedy and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or any other Requirement of Law.

SECTION 8.3 Application of Funds

After the exercise of remedies provided for in Section 8.02 (or after the Term Loans have automatically become immediately due and payable), any amounts received from any Loan Party, from the liquidation of any Collateral of any Loan Party, or on account of the Obligations, shall be applied by the Agent against the Obligations in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Agent and amounts payable under Article III) payable to the Agent, in its capacity as such;

Second, to payment of that portion of the Obligations constituting indemnities, expenses, and other amounts (other than principal, interest and fees) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Term Loans and other Obligations, and fees (including any Early Termination Fee), ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Term Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to payment of all other Obligations, ratably among the Lenders in proportion to the respective amounts described in this clause Fifth held by them;

Last, the balance, if any, after Payment in Full of all of the Obligations, to the Loan Parties or as otherwise required by Requirement of Law.

SECTION 8.4 Right to Cure.

(i) Except for any breach that occurs during the Extended Accommodation Period (which, for the avoidance of doubt, shall be governed by the terms of clause (b) below), for purposes of determining compliance with the Financial Covenant, any cash equity contribution to the Parent or Holdings (funded with proceeds of common equity or other preferred equity (other than Disqualified Stock)) or to any Loan Party as Subordinated Indebtedness incurred on terms (including subordination terms) to be acceptable to Agent, in each case the proceeds of which shall be substantially concurrently contributed to the capital of the Borrower (if such contribution is not in the form of Subordinated Indebtedness of the Borrower), on or prior to the day that is ten (10) Business Days after the day on which financial statements are required to be delivered for such Fiscal Quarter or Fiscal Year pursuant to Section 6.01 (the "Cure Date") will, at the irrevocable election of the Borrower, be included in the calculation of Consolidated EBITDA for such Fiscal Quarter solely for the purposes of determining compliance with the Financial Covenant at the end of such Fiscal Quarter and any subsequent period that includes such Fiscal Quarter (any such equity or debt contribution so included in the calculation of Consolidated EBITDA, a "Specified Contribution"); provided that (a) (i) in each consecutive four fiscal quarter period there will be at least two fiscal quarters in which no Specified Contribution is made and (ii) there shall be no more than five (5) Specified Contributions made in the aggregate after the Closing Date, (b) the amount of any Specified Contribution will be no greater than the amount required to cause the Parent and its Subsidiaries to be in compliance with the Financial Covenant, (c) all Specified Contributions (i) will be disregarded for all other purposes, including the calculation of Consolidated EBITDA for the purpose of calculating

basket levels, pricing and other items governed by reference to Consolidated EBITDA and (ii) will be in readily available funds, (d) the proceeds of each Specified Contribution shall be contributed to the Borrower as (i) an equity contribution in the form of common Equity Interests or preferred Equity Interests (other than Disqualified Stock) or (ii) Subordinated Indebtedness and (e) the proceeds received by the Parent or Holdings from all Specified Contributions shall be promptly contributed to the Borrower and promptly used by the Borrower to prepay the Term Loans, subject to Section 2.06(h) hereof; provided, that any portion of the Term Loan prepaid with the proceeds of Specified Contributions shall be deemed outstanding for purposes of determining compliance with the Financial Covenant for such Fiscal Quarter and the next three Fiscal Quarters thereafter; provided, further, that until the day that is ten (10) Business Days after the day on which financial statements are required to be delivered for the period ending on the last day of the applicable Fiscal Quarter, notwithstanding any other provision of this Agreement or any other Loan Document, no Event of Default resulting solely from a breach of the Financial Covenant shall be deemed to have occurred and neither the Agent nor any Lender shall have any right to declare all or a portion of the unpaid principal amount of any outstanding Term Loans, interest accrued and unpaid thereon, and all amounts owing or payable hereunder or under any other Loan Document to be due and payable and/or exercise any rights and remedies available under the Loan Documents or applicable law (including, without limitation, any right to foreclose on or take possession of Collateral) in each case prior to the Cure Date solely on the basis of an allegation of an Event of Default having occurred and be continuing under Section 8.01(b) due to a failure by the Loan Parties to comply with the Financial Covenant. Upon Holdings' receipt of such Specified Contribution, the Financial Covenant shall be deemed to be satisfied and complied with as of the end of the relevant Fiscal Quarter with the same effect as though there had been no failure to comply with the Financial Covenant and any Default or Event of Default under such Financial Covenant shall be deemed not to have occurred for purposes of the Loan Documents.

(ii) For any breach that occurs during the Extended Accommodation Period, for purposes of curing an Event of Default arising from the Loan Parties' failure to comply with the Financial Covenant contained in Section 7.18(b) upon and during the continuation of an Extended Accommodation Period Compliance Event, upon prior written notice to the Agent, any cash equity contribution to the Parent or Holdings (funded with proceeds of common equity or other preferred equity (other than Disqualified Stock)) or to any Loan Party as Subordinated Indebtedness incurred on terms (including subordination terms) to be acceptable to Agent, in each case the proceeds of which shall be substantially concurrently contributed to the capital of the Borrower (if such contribution is not in the form of Subordinated Indebtedness of the Borrower), on or prior to the day that is ten (10) Business Days after the day on which a Compliance Certificate is required to be delivered pursuant to Section 6.02(b) (the "Extended Accommodation Period Cure Date") will, at the irrevocable election of the Borrower, be included in the calculation of ABL Excess Availability in an amount sufficient to cause ABL Excess Availability to be equal to or in excess of (i) at any time from the Third Amendment Effective Date through and including September 5, 2020, $15,000,000, (ii) at any time during the period beginning September 6, 2020 through the day immediately prior to the Fifth Amendment Effective Date, $10,000,000, (iii) at any time during the period beginning on the Fifth Amendment Effective Date through July 31, 2021, $7,500,000 and (iv) at any time during the period beginning on August 1, 2021 through the end of the Extended Accommodation Period, $10,000,000 (an "Extended Accommodation Period Specified Contribution"); provided that (a) during each fiscal quarter, no more than one (1) Extended Accommodation Period Specified Contribution shall be permitted to be made, (b) such Extended Accommodation Period Specified Contribution shall be in an amount of not less than $1,000,000 and in a minimum amount that is sufficient to cause ABL Excess Availability to be equal to or in excess of (i) at any time from the Third Amendment Effective Date through and including September 5, 2020, $15,000,000, (ii) at any time during the period beginning September 6, 2020 through the day immediately prior to the Fifth Amendment Effective Date, $10,000,000, (iii) at any time during the period beginning on the Fifth Amendment Effective Date through July 31, 2021, $7,500,000 and (iv)

at any time during the period beginning on August 1, 2021 through the end of the Extended Accommodation Period, $10,000,000, (c) the Extended Accommodation Period Specified Contribution (i) will be disregarded for the purposes of calculation of Consolidated EBITDA for the purpose of calculating the Financial Covenant, basket levels, pricing, and other items governed by reference to Consolidated EBITDA and (ii) shall be in readily available funds, (d) the proceeds of the Extended Accommodation Period Specified Contribution shall be contributed to the Borrower as (i) an equity contribution in the form of common Equity Interests or preferred Equity Interests (other than Disqualified Stock) or (ii) Subordinated Indebtedness and (e) the proceeds received by the Parent or Holdings from the Extended Accommodation Period Specified Contribution shall be promptly contributed to the Borrower and promptly used by the Borrower to prepay the ABL Loans and Cash Collateralize the L/C Obligations in accordance with Section 2.05(e) of the ABL Credit Agreement; provided that prior to receipt by the Borrower of the Extended Accommodation Period Specified Contribution and the application of such amounts as provided in this Section 8.04(b), any Event of Default that has occurred as a result of a breach of the Financial Covenant in Section 7.18(b) shall be deemed to be continuing. Upon the Borrower's receipt of such Extended Accommodation Period Specified Contribution and the application of the amounts as provided above, the Extended Accommodation Period Compliance Event that has occurred shall be deemed to no longer be continuing (and shall cease) (with the same effect as though no Extended Accommodation Period Compliance Event shall have occurred for the Fiscal Month for which the applicable Compliance Certificate was delivered) and any Default or Event of Default arising from the Loan Parties' failure to comply with the Financial Covenant contained in Section 7.18(b) for such Fiscal Month during the continuance of such Extended Accommodation Period Compliance Event shall be deemed not to have occurred for purposes of the Loan Documents. The termination of an Extended Accommodation Period Compliance Event as provided in this Section 8.04(b) shall in no way limit, waive or delay the occurrence of a subsequent Extended Accommodation Period Compliance Event in the event that the conditions for an Extended Accommodation Period Compliance Event again arise. For the avoidance of doubt, in no event shall any Subordinated Indebtedness incurred under the Third Lien Credit Agreement be deemed to be a Specified Contribution or Extended Accommodation Period Specified Contribution and the proceeds thereof shall not be included in the calculation of Consolidated EBITDA for any purpose under this Agreement.

ARTICLE IX
THE AGENT

SECTION 9.1 Appointment.

(i) Each of the Lenders hereby irrevocably designates and appoints the Agent as the agent of such Lender under the Loan Documents and each such Lender irrevocably authorizes the Agent, in such capacity, to take such action on its behalf under the provisions of the applicable Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Agent by the terms of the applicable Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Agent shall not have any duties or responsibilities, except those expressly set forth herein or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Agent. The provisions of this Article are solely for the benefit of the Agent and the other Credit Parties, and no Loan Party or any Subsidiary thereof shall have rights as a third party beneficiary of any of such provisions.

(ii) The Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders hereby irrevocably appoints and authorizes the Agent to act as the agent of such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are

reasonably incidental thereto. In this connection, the Agent, as "collateral agent," and any agents or attorneys-in-fact appointed by the Agent for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Security Documents, or for exercising any rights and remedies thereunder at the direction of the Agent, shall be entitled to the benefits of all provisions of this Section 9 (including Section 9.09) and Section 10.04, as though such agents and attorneys-in-fact were the "collateral agent" under the Loan Documents as if set forth in full herein with respect thereto.

(iii) The provisions of this Section 9.01 are for the benefit of the Agent and the Lenders, and no Loan Party or any Subsidiary thereof shall have rights as a third party beneficiary of any of such provisions (other than the provisions of Section 9.06).

SECTION 9.2 [Reserved]

SECTION 9.3 [Reserved].

SECTION 9.4 Delegation of Duties.

The Agent may execute any of its duties under the applicable Loan Documents by or through sub-agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the 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 the Agent. The Agent shall not be responsible for the negligence or misconduct of any sub-agents or attorneys in-fact selected by it with reasonable care.

SECTION 9.5 Exculpatory Provisions.

The 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, neither the Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates shall:

(i) be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(ii) 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 Agent is required to exercise as directed in writing by the Applicable Lenders, provided that the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or Requirement of Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law; and

(iii) 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 Loan Parties or any of its Affiliates that is communicated to or obtained by the Person serving as the Agent or any of its Affiliates in any capacity.

The Agent shall not be liable for any action taken or not taken by it (i) with the Consent or at the request of the Applicable Lenders (as the Agent shall believe in good faith shall be necessary under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or

willful misconduct as determined by a final and non-appealable judgment of a court of competent jurisdiction.

The 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 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 the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

SECTION 9.6 Reliance by Agent.

The Agent shall be entitled to rely, and shall not incur any liability for relying, upon any instrument, writing, resolution, notice, consent, certificate, affidavit, letter, telecopy, telex or teletype message, statement, order or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to the Parent, Holdings and the Borrower), independent accountants and other experts selected by the Agent. In determining compliance with any condition hereunder to the making of a Term Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Agent may presume that such condition is satisfactory to such Lender unless the Agent shall have received written notice to the contrary from such Lender prior to the making of such Term Loan. The Agent may consult with legal counsel (who may be counsel for any Loan Party), 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.

SECTION 9.7 Notice of Default

. The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Agent has received notice from a Lender, the Parent, Holdings or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Agent receives such a notice, the Agent shall give notice thereof to the Lenders. The Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders; provided that unless and until the Agent shall have received such directions, the Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Credit Parties. In no event shall the Agent be required to comply with any such directions to the extent that the Agent believes that its compliance with such directions would be unlawful.

SECTION 9.8 Non-Reliance on Agent and Other Lenders.

Each Lender expressly acknowledges that neither the Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates have made any representations or warranties to it and that no act by the Agent hereafter taken, including any review of the affairs of a Loan Party or any affiliate of a Loan Party, shall be deemed to constitute any representation or warranty by the Agent to any Lender. Each Lender represents to the Agent that it has, independently and without reliance upon the Agent or any other Lender, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates and made its own decision to make its Term

Loans hereunder and enter into this Agreement. Each Lender also represents that it will, independently and without reliance upon the Agent or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under the applicable Loan Documents, and to make such investigation as it deems necessary to inform itself as to the business, operations, property, financial and other condition and creditworthiness of the Loan Parties and their affiliates. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Agent hereunder, the Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, operations, property, condition (financial or otherwise), prospects or creditworthiness of any Loan Party or any affiliate of a Loan Party that may come into the possession of the Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

SECTION 9.9 Indemnification

. The Lenders agree to indemnify the Agent in its capacity as such, any sub-agent thereof, and any Related Party, as the case may be (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective Applicable Percentages in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Term Loans of such Lender shall have been assigned (but which indemnified claims relate to actions or inactions prior to such assignment) or the date upon which the Obligations shall have been Paid in Full, ratably in accordance with such Applicable Percentages immediately prior to such date), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time be imposed on, incurred by or asserted against the Agent, any sub-agent thereof, and their Related Parties in any way relating to or arising out of, the Commitments, the Term Loans, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by the Agent, any sub-agent thereof, and their Related Parties under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from the Agent's, any sub-agent's, and their Related Parties' gross negligence or willful misconduct. The agreements in this Section shall survive the payment of the Obligations and all other amounts payable hereunder.

SECTION 9.10 Rights as a Lender

. The Person serving as the 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 Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the 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 Loan Parties or any Subsidiary or other Affiliate thereof as if such Person were not the Agent hereunder and without any duty to account therefor to the Lenders.

SECTION 9.11 Successor Agent; Removal of Agent.

(i) The Agent may resign upon 30 days' notice to the Lenders and the Borrower effective upon appointment of a successor Agent. Upon receipt of any such notice of resignation, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall (unless a Specified Event of Default shall have occurred and be continuing) be subject to approval by the Borrower (which approval shall not be unreasonably withheld or delayed), whereupon such successor agent shall succeed to the rights, powers and duties of the retiring Agent, and the retiring Agent's rights, powers and duties as Agent shall be terminated, without any other or further

act or deed on the part of the retiring Agent or any of the parties to this Agreement or any holders of the Term Loans. If no successor Agent shall have been so appointed by the Required Lenders with such consent of the Borrower and shall have accepted such appointment within 30 days after the retiring Agent's giving of notice of resignation, then the retiring Agent may, on behalf of the Lenders and with the consent of the Borrower (such consent not to be unreasonably withheld or delayed), appoint a successor Agent, that shall be a bank that has an office in New York, New York with a combined capital and surplus of at least $500,000,000. After any retiring Agent's resignation as Agent, the provisions of this Article and Section 10.04 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement and the other Loan Documents. The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor.

SECTION 9.12 Collateral and Guaranty Matters.

The Credit Parties irrevocably authorize the Agent, at its option and in its discretion,

(i) to release any Lien on any property granted to or held by the Agent under any Loan Document (i) upon Payment in Full of all Obligations, (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing by the Applicable Lenders in accordance with Section 10.01;

(ii) to subordinate any Lien on any property granted to or held by the Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(g); and

(iii) to release any Guarantor from its obligations under its Facility Guaranty if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder.

Upon request by the Agent at any time, the Applicable Lenders will confirm in writing the Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under its Facility Guaranty pursuant to this Section 9.12. In each case as specified in this Section 9.12, the Agent will, at the Loan Parties' expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Security Documents or to subordinate its interest in such item, or to release such Guarantor from its obligations under its Facility Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.12.

SECTION 9.13 [Reserved].

SECTION 9.14 Agent May File Proofs of Claim.

In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Agent (irrespective of whether the principal of any Term Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise,

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Term Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Agent and the other Credit Parties (including any claim for the reasonable compensation, expenses,

disbursements and advances of the Lenders, the Agent and the other Credit Parties and their respective agents and counsel and all other amounts due the Lenders and the Agent under Sections 2.03(i), 2.03(j), 2.09 and 10.04) allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, interim receiver, assignee, trustee, monitor, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Agent and if the Agent shall consent to the making of such payments directly to the Lenders, to pay to the Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent under Sections 2.09 and 10.04.

Nothing contained herein shall be deemed to authorize the Agent to authorize or consent to or accept or adopt on behalf of any Credit Party any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Credit Party or to authorize the Agent to vote in respect of the claim of any Credit Party or in any such proceeding.

SECTION 9.15 Notice of Transfer.

The Agent may deem and treat a Lender party to this Agreement as the owner of such Lender's portion of the Obligations for all purposes, unless and until, and except to the extent, an Assignment and Acceptance shall have become effective as set forth in Section 10.06.

SECTION 9.16 Reports and Financial Statements.

By signing this Agreement, each Lender:

(i) [reserved];

(ii) is deemed to have requested that the Agent furnish, and the Agent agrees to furnish, such Lender, promptly after they become available, copies of all Borrowing Base Certificates and financial statements required to be delivered by the Borrower hereunder

(iii) is deemed to have requested that the Agent furnish, and the Agent agrees to furnish, such Lender, promptly after they become available, copies of all commercial finance examinations and appraisals of the Collateral received by the Agent (collectively, the "Reports");

(iv) expressly agrees and acknowledges that the Agent makes no representation or warranty as to the accuracy of the Borrowing Base Certificates, financial statements or Reports, and shall not be liable for any information contained in any Borrowing Base Certificate, financial statement or Report;

(v) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that the Agent or any other party performing any audit or examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel;

(vi) agrees to keep all Borrowing Base Certificates, financial statements and Reports confidential in accordance with the provisions of Section 10.07 hereof; and

(vii) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (i) to hold the Agent and any such other Lender preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any Borrowing that the indemnifying Lender has made or may make to the Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Term Loan or Term Loans; and (ii) to pay and protect, and indemnify, defend, and hold the Agent and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including attorney costs) incurred by the Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

SECTION 9.17 Agency for Perfection.

Each Credit Party hereby appoints each other Credit Party as agent for the purpose of perfecting Liens for the benefit of the Credit Parties, in assets which, in accordance with Article 9 of the UCC or any other applicable Requirement of Law can be perfected only by possession or control. Should any Credit Party (other than the Agent) obtain possession or control of any such Collateral, such Credit Party shall notify the Agent thereof, and, promptly upon the Agent's request therefor shall deliver such Collateral to the Agent or otherwise deal with such Collateral in accordance with the Agent's instructions.

SECTION 9.18 Relation Among Lenders.

The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of, or (except as otherwise set forth herein in case of the Agent) authorized to act for, any other Lender.

ARTICLE X
MISCELLANEOUS

SECTION 10.1 Amendments and Waivers.

(i) Neither this Agreement, any other Loan Document, nor any terms hereof or thereof may be amended, supplemented or modified except in accordance with the provisions of this Section 10.01. The Required Lenders and each Loan Party party to the relevant Loan Document may, or, with the written consent of the Required Lenders, the Agent and each Loan Party party to the relevant Loan Document may, from time to time, (a) enter into written amendments, supplements or modifications hereto and to the other Loan Documents for the purpose of adding any provisions to this Agreement or the other Loan Documents or changing in any manner the rights or obligations of the Agent, the Lenders or of the Loan Parties hereunder or thereunder or (b) waive, on such terms and conditions as the Required Lenders or the Agent may specify in such instrument, any of the requirements of this Agreement or the other Loan Documents or any Default or Event of Default and its consequences; provided, however, that no such waiver and no such amendment, supplement or modification shall:

(1) increase the Term Loan of any Lender without the written Consent of such Lender;

(2) as to any Lender, postpone any date fixed by this Agreement or any other Loan Document for any scheduled payment (including the Maturity Date) or mandatory prepayment of principal, interest, fees or other amounts due hereunder or under any of the other Loan Documents without the written Consent of such Lender;

(3) as to any Lender, reduce the principal of, or the rate of interest specified herein on, any Term Loan held by such Lender, or (subject to clause (iv) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document to or for the account of such Lender, without the written Consent of such Lender; provided, however, that only the Consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate;

(4) as to any Lender, change Section 2.13 or Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written Consent of such Lender;

(5) change any provision of this Section or the definition of "Required Lenders", or any other provision hereof or of any Loan Document specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or under any other Loan Document or make any determination or grant any consent hereunder or thereunder, without the written Consent of each Lender;

(6) except as expressly permitted hereunder or under any other Loan Document, release, or limit the liability of, any Loan Party without the written Consent of each Lender;

(7) except for Dispositions permitted under Section 7.04 or Section 7.05 or as provided in Section 9.10, release all or substantially all of the Collateral from the Liens of the Security Documents without the written Consent of each Lender;

(8) increase any advance rate percentage set forth in the definition of "Borrowing Base" or otherwise change the definition of the term "Borrowing Base" or any component definition thereof if as a result thereof the amounts available to be borrowed by the Borrower would be increased, without the written Consent of all Lenders, *provided that* the foregoing shall not limit the discretion of the Agent to change, establish or eliminate any Reserves; and

(9) except as expressly permitted herein or in any other Loan Document, subordinate the Obligations hereunder or the Liens granted hereunder or under the other Loan Documents, to any other Indebtedness or Lien, as the case may be without the written Consent of each Lender;

and, provided further, that (i) no amendment, waiver or Consent shall, unless in writing and signed by the Agent in addition to the Lenders required above, affect the rights or duties of any Agent under this Agreement or any other Loan Document; (ii) the Fee Letter, Third Amendment Fee Letter and Fifth Amendment Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto, and (iii) no Consent is required to effect any amendment or supplement to the Intercreditor Agreement, (A) that is solely for the purpose of adding the holders of Indebtedness incurred or issued pursuant to an Amendment or Refinancing of the ABL Credit Agreement (or any agent or trustee of such holders) as parties thereto, as contemplated by the terms of the Intercreditor Agreement and permitted under Section 7.03(n) (it being understood that any such amendment or supplement may make such other changes to the Intercreditor Agreement as, in the good faith determination of the Agent, are required to effectuate the foregoing and provided that such other changes are not adverse to the interests of the Lenders) or (B) that is expressly contemplated by the Intercreditor Agreement with respect to an Amendment or Refinancing of the ABL Credit Agreement permitted under Section 7.03(n) (or the

comparable provisions, if any, of any successor intercreditor agreement with respect to an Amendment or Refinancing of the ABL Credit Agreement permitted under Section 7.03(n); provided further that no such agreement shall, pursuant to this clause (v), amend, modify or otherwise affect the rights or duties of the Agent hereunder or under any other Loan Document without the prior written consent of the Agent.

(ii) Notwithstanding anything to the contrary in this Agreement or any other Loan Document, any Loan Document may be amended, supplemented and waived with the consent of the Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment, supplement or waiver is delivered in order (i) to comply with local Requirement of Law or advice of local counsel, (ii) to cure ambiguities, mistakes or defects or (iii) to cause any Loan Document to be consistent with this Agreement and the other Loan Documents.

(iii) If any Lender (other than Crystal) does not Consent (a "Non-Consenting Lender") to a proposed amendment, waiver, consent or release with respect to any Loan Document that requires the Consent of each Lender and that has been approved by the Required Lenders, the Borrower may replace such Non-Consenting Lender in accordance with Section 10.13; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

SECTION 10.2 Notices; Effectiveness; Electronic Communications.

(i) Notices Generally. All notices, requests and demands to or upon the respective parties hereto to be effective shall be in writing (including by telecopy), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when delivered, or three Business Days after being deposited in the mail, postage prepaid, or, in the case of telecopy notice, when received, to the address, telecopier number, electronic email address or telephone number specified on Schedule 10.02 in the case of the Loan Parties or the Agent, and as set forth in an administrative questionnaire delivered to the Agent in the case of the Lenders, or to such other address as may be hereafter notified by the respective parties hereto; provided that any notice, request or demand to or upon the Agent, the Lenders, the Parent, Holdings or the Borrower shall not be effective until received.

Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Agent; provided that the foregoing shall not apply to notices pursuant to Section 2 unless otherwise agreed by the Agent and the applicable Lender, as the case may be. The Agent, the Parent, Holdings 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.

(ii) Electronic Communications. Notices and other communications to the Lenders and hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Agent that it is incapable of receiving notices under such Article by electronic communication. The 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 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), 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; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

(iii) [Reserved].

(iv) Change of Address, Etc. Each of the Loan Parties and the Agent may change its address, telecopier or telephone number or email address for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier or telephone number or email address for notices and other communications hereunder by notice to the Borrower and the Agent. In addition, each Lender agrees to notify the Agent from time to time to ensure that the Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(v) Reliance by Agent and Lenders. The Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Term Loan Notices) purportedly given by or on behalf of the Loan Parties even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify the Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Loan Parties. All telephonic notices to and other telephonic communications with the Agent may be recorded by the Agent, and each of the parties hereto hereby consents to such recording.

SECTION 10.3 No Waiver; Cumulative Remedies.

No failure to exercise and no delay in exercising, on the part of the Agent or any Credit Party, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law. Without limiting the generality of the foregoing, the making of a Term Loan shall not be construed as a waiver of any Default or Event of Default, regardless of whether any Credit Party may have had notice or knowledge of such Default or Event of Default at the time.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Agent in accordance with Section 8.02 for the benefit of all the Lenders and the other Credit Parties; provided, however, that the foregoing shall not prohibit (a) the Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents or (b) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13); and provided, further, that if at any time there is no Person acting as Agent hereunder and under the other

Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b) and (c) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

SECTION 10.4 Expenses; Indemnity; Damage Waiver.

(i) Costs and Expenses. The Borrower shall (a) pay or reimburse the Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the development, preparation, execution and delivery of this Agreement and the other Loan Documents and any other documents prepared in connection herewith or therewith and any amendment, supplement or modification thereto (whether or not the transactions contemplated thereby shall be consummated), and (b) pay or reimburse the Agent for all its reasonable and documented out-of-pocket costs and expenses incurred in connection with the administration of the transactions contemplated hereby and thereby, including, without limitation, the reasonable and documented fees and disbursements and other charges of counsel to the Agent (including one primary counsel and such local counsel as the Agent may reasonably require in connection with collateral matters), outside consultants, appraisers, and commercial finance examiners in connection with all of the foregoing, all customary fees and charges (as adjusted from time to time) of the Agent with respect to the disbursement of funds (or the receipt of funds) to or for the account of the Borrower (whether by wire transfer or otherwise), (c) pay or reimburse each Lender and the Agent for all their out-of-pocket costs and expenses incurred in connection with the enforcement of any rights under this Agreement, the other Loan Documents and any such other documents and in connection with the Term Loans made under this Agreement, including all such expenses incurred during any workout, restructuring or negotiations in respect of such Term Loans, including, without limitation, the fees and disbursements of counsel (including the allocated fees and expenses of in-house counsel) to each Lender and the Agent, and (d) to pay, indemnify, or reimburse each Lender and the Agent for, and hold each Lender and the Agent harmless from, any and all recording and filing fees and any and all liabilities with respect to, or resulting from any delay in paying, stamp, excise and similar other taxes, if any, which may be payable or determined to be payable in connection with the execution and delivery of, or consummation or administration of any of the transactions contemplated by, or any amendment, supplement or modification of, or any waiver or consent under or in respect of this Agreement the other Loan Documents and any such other documents.

(ii) Indemnification. The Borrower shall pay, indemnify or reimburse each Lender, the Agent, and their respective affiliates, and their respective officers, directors, trustees, employees, advisors, agents and controlling Persons (each, an "Indemnitee") for, and hold each Indemnitee harmless from and against any and all other liabilities, obligations, claims, losses, damages, penalties, costs, expenses or disbursements incurred or asserted against any such Indemnitee by any Loan Party, any of the directors, officers, shareholders or creditors of any Loan Party or any other Person arising out of any actions, judgments or suits of any kind or nature whatsoever, arising out of or in connection with any claim, action or proceeding relating to or otherwise with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the other Loan Documents and any such other documents, including, without limitation, any of the foregoing relating to the use of proceeds of the Term Loans or the violation of, noncompliance with or liability under, any Environmental Law applicable to the operations of the Parent, Holdings, the Borrower, any of their respective Subsidiaries or any of the Properties, or to any Blocked Account Agreement or other Person who has entered into a control agreement with any Credit Party, and the fees and disbursements and other charges of legal counsel in connection with claims, actions or proceedings by any Indemnitee against the Parent, Holdings or the Borrower hereunder (all the foregoing in this clause (d), collectively, the "Indemnified Liabilities"); provided that neither the Parent, Holdings nor the Borrower shall have any obligation hereunder to any Indemnitee with respect to Indemnified Liabilities to the extent such Indemnified Liabilities are found by

a final and nonappealable decision of a court of competent jurisdiction to have resulted from the bad faith, gross negligence or willful misconduct of, such Indemnitee or its affiliates, officers, directors, trustees, employees, advisors, agents or controlling Persons. All amounts due under this Section 10.04 shall be payable promptly after receipt of a reasonably detailed invoice therefor. Statements payable by the Borrower pursuant to this Section 10.04 shall be submitted to the Borrower at the address thereof set forth in Section 10.02, or to such other Person or address as may be hereafter designated by the Borrower in a written notice to the Agent.

(iii) Waiver of Consequential Damages, Etc. To the fullest extent permitted by Requirements of Law, each party hereto shall not assert, and hereby waive, any claim against any other party hereto, 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 Term Loan or the use of the proceeds thereof.

(iv) Limitation of Liability. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee 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 other than for direct or actual damages resulting from the bad faith, gross negligence or willful misconduct of such Indemnitee as determined by a final and nonappealable judgment of a court of competent jurisdiction.

(v) Survival. The agreements in this Section shall survive the resignation of any Agent, the assignment of any Commitment or Term Loan by any Lender, the replacement of any Lender and the repayment, satisfaction or discharge of all the other Obligations.

SECTION 10.5 Payments Set Aside.

To the extent that any payment by or on behalf of the Loan Parties is made to any Credit Party, or any Credit Party exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Credit Party in its discretion) to be repaid to a receiver, interim receiver, trustee, monitor, custodian, conservator, liquidator, rehabilitator or similar officer, or any other party in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Credit Party severally agrees to pay to the Agent upon demand its Applicable Percentage (without duplication) of any amount so recovered from or repaid by the Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal rate determined by the Agent in accordance with banking industry rules on interbank compensation plus any administrative, processing, or similar fees customarily charged by the Agent in connection with the foregoing. The obligations of the Credit Parties under clause (b) of the preceding sentence shall survive the Payment in Full of the Obligations.

SECTION 10.6 Successors and Assigns.

(i) 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 no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder or under any other Loan Document without the prior written Consent of the Agent

and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of Section 10.06(b), (ii) by way of participation in accordance with the provisions of Section 10.06(d), or (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.06(f) (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 subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Credit Parties) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(ii) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Term Loan at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(1) Minimum Amounts.

a. in the case of an assignment of the entire remaining amount of the assigning Lender's Term Loan at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, no minimum amount need be assigned; and

b. in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the principal outstanding balance of the Term Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000 unless each of the Agent and, so long as no Specified Event of Default has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed); provided, however, that concurrent assignments to members of an Assignee Group and concurrent assignments from members of an Assignee Group to a single Eligible Assignee (or to an Eligible Assignee and members of its Assignee Group) will be treated as a single assignment for purposes of determining whether such minimum amount has been met;

(2) 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 all of its the Term Loans;

(3) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

a. the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (1) a Specified Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund with respect to such Lender, provided that after the passage of seven (7) Business Days of receipt of written notice of an assignment from the Agent by the Borrower without the Borrower giving the Agent written notice of the Borrower's objection to such assignment, the Borrower shall be deemed to have consented to such assignment; and

b. the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Term Loan if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(4) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500, provided, however, that the Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it shall not be a Lender, shall deliver to the Agent an Administrative Questionnaire.

(5) No Assignment to Certain Persons. No such assignment shall be made (A) to the Loan Parties or any of the Loan Parties' Subsidiaries or Affiliates, (B) to a natural Person, or (C) to Sponsor or any Sponsor Affiliate.

Subject to acceptance and recording thereof by the Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement (including, for the avoidance of doubt, any rights and obligations pursuant to Section 3.01), and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption 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 3.01, 3.04, 3.05, and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment. Upon request, the Borrower (at their expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection 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 10.06(d).

(iii) Register. The Agent, acting solely for this purpose as an agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the Agent's Office a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and principal amounts (and stated interest) of the Term Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Loan Parties, the Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register is intended to cause each Term Loan and other obligation hereunder to be in registered form within the meaning of Section 5f.103-1(c) of the United States Treasury Regulations and within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code. The 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.

(iv) Participations. (i) Any Lender may at any time, without the consent of, or notice to, the Loan Parties or the Agent, sell participations to any Person (other than a natural person, the Loan Parties or any of the Loan Parties' 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 the Term 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 Loan Parties, the Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any Participant shall agree in writing to comply with all confidentiality obligations set forth in Section 10.07 as if such Participant was a Lender hereunder.

(1) 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 the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Documents; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in clauses (i) through (iv) of the first proviso to Section 10.01 that affects such Participant. Subject to subsection (e) of this Section, the Loan Parties agree that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 (subject to the limitations and requirements of Section 3.01 and Section 3.06) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.06(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.02 as though it were a Lender.

(2) 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 Term 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 in connection with a Tax audit or other proceeding 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 and within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code. 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 Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(v) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant shall not be entitled to the benefits of Section 3.01 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Loan Parties, to comply and in fact complies with Section 3.01(e) as though it were a Lender.

(vi) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) 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.

(vii) Matters Specific to Crystal. Notwithstanding anything to the contrary in this Agreement or the other Loan Documents (other than any restrictions herein with respect to Disqualified Institutions, including the assignment or sale thereto or participation thereof), (i) neither Crystal nor any of its Affiliates shall be required to comply with this Section 10.06 in connection with any transaction involving any other Affiliate of Crystal or any of its lenders or funding or financing sources, and neither Crystal nor any of its Affiliates shall have an obligation to disclose any such transaction to any Person and (ii) there shall be no limitation or restriction on (A) the ability of Crystal or its Affiliates to assign or otherwise transfer its rights and/or obligations under this Agreement or any other Loan Document, any Commitment, any Term Loan or any Obligation to any other Affiliate of Crystal or any lender or financing or funding source of Crystal or any of its Affiliates or (B) any such lender's or funding or financing source's ability to assign or otherwise transfer its rights and/or obligations under this Agreement or any other Loan Document, any Commitment, any Term Loan or any Obligation; provided, however, that Crystal shall continue to be liable as a "Lender" under this Agreement and the other Loan Documents unless such other Person complies with the provisions of this Agreement to become a "Lender."

SECTION 10.7 Treatment of Certain Information; Confidentiality.

Each of the Credit Parties agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates, Approved Funds, and to its and its Affiliates' and Approved Funds' respective partners, directors, officers, employees, agents, funding sources, attorneys, advisors and 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), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority), (c) to the extent required by Requirement of Laws or regulations or by any subpoena or similar legal process, provided that the Agent or such Lender, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation; (d) to any other party hereto, (e) 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, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement; or (ii) any actual or prospective counterparty (or its advisors) to any Hedge Agreement relating to any Loan Party and its obligations, (g) with the consent of the Borrower, (h) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender) or (i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to any Credit Party or any of their respective Affiliates on a non-confidential basis from a source other than the Loan Parties and which source is not known by such Agent or Lender to be subject to a confidentiality restriction in respect thereof in favor of any of the Credit Parties or any Affiliate of the Credit Parties.

For purposes of this Section, "Information" means all information received from the Loan Parties or any Subsidiary thereof relating to the Loan Parties or any Subsidiary thereof or their respective businesses, other than any such information that is available to any Credit Party on a non-confidential basis prior to disclosure by the Loan Parties or any Subsidiary thereof, provided that, in the case of information received from any Loan Party or any Subsidiary after the Closing Date, such information is clearly identified at the time of delivery as confidential. 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.

Each of the Credit Parties acknowledges that (a) the Information may include material non-public information concerning the Loan Parties or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with Requirement of Law, including the Securities Laws.

SECTION 10.8 Right of Setoff.

If an Event of Default shall have occurred and be continuing or if any Lender shall have been served with a trustee process or similar attachment relating to property of a Loan Party, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, after obtaining the prior written consent of the Agent or the Required Lenders, to the fullest extent permitted by Requirement of Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) or other property at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the Obligations now or hereafter existing under this Agreement or any other Loan Document to such Lender, regardless of the adequacy of the Collateral, and irrespective of whether or not such Lender 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 of such Lender different from the branch or office holding such deposit or obligated on such indebtedness. The rights of each Lender and its respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or its respective Affiliates may have. Each Lender agrees to notify the Borrower and the 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.

SECTION 10.9 Interest Rate Limitation.

Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by Requirement of Law (the "Maximum Rate"). If the Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Term Loans and other Obligations or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by the Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by Requirement of Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

SECTION 10.10 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 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. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Agent and when the 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, pdf

or other electronic transmission shall be as effective as delivery of a manually executed counterpart of this Agreement.

SECTION 10.11 Survival.

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Credit Parties, regardless of any investigation made by any Credit Party or on their behalf and notwithstanding that any Credit Party may have had notice or knowledge of any Default or Event of Default at the time of any Borrowing, and shall continue in full force and effect as long as any Term Loan or any other Obligation hereunder shall remain unpaid or unsatisfied. Further, the provisions of Sections 3.01, 3.04, 3.05 and 10.04 and Article IX shall survive and remain in full force and effect regardless of the repayment of the Obligations or the termination of this Agreement or any provision hereof.

SECTION 10.12 Severability.

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

SECTION 10.13 Replacement of Lenders.

If any Lender requests compensation under Section 3.04, or ceases to make LIBOR Rate Loans as a result of any condition described in Section 3.02 or 3.04, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02 or if any Lender is a Non-Consenting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Agent, require such Lender (other than Crystal) to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Section 3.01 and 3.05) 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 Agent the assignment fee specified in Section 10.06(b);

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Term Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter; and

(iv) such assignment does not conflict with Requirement of Laws; and

(v) in the case of an assignment resulting from a Lender being a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

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.

SECTION 10.14 GOVERNING LAW

. THIS AGREEMENT AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

SECTION 10.15 SUBMISSION TO JURISDICTION; WAIVERS

. Each Loan Party hereby irrevocably and unconditionally:

(i) submits for itself and its Property in any legal action or proceeding relating to this Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of New York, the courts of the United States for the Southern District of New York, and appellate courts from any thereof;

(ii) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same. Nothing herein shall limit the right of the Agent or any Lender to bring proceedings against any Loan Party in any other court;

(iii) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to it at its address set forth in Schedule 10.02 or at such other address of which the Agent shall have been notified pursuant thereto;

(iv) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

(v) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

SECTION 10.16 Waivers of Jury Trial.

EACH OF THE PARENT, HOLDINGS, THE BORROWER, THE AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

SECTION 10.17 No Advisory or Fiduciary Responsibility.

In connection with all aspects of each transaction contemplated hereby, the Loan Parties each acknowledge and agree that: (i) the credit facility provided for hereunder and any related arranging or other services in connection therewith (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) are an arm's-length commercial transaction between the Loan Parties, on the one hand, and the Credit Parties, on the other hand, and each of the Loan Parties is capable of evaluating and understanding and understands and accepts the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents (including any amendment, waiver or other modification hereof or thereof); (ii) in connection with the process leading to such transaction, each Credit Party is and has been acting solely as a principal and is not the financial advisor, agent or fiduciary, for the Loan Parties or any of their respective Affiliates, stockholders, creditors or employees or any other Person; (iii) none of the Credit Parties has assumed or will assume an advisory, agency or fiduciary responsibility in favor of the Loan Parties with respect to any of the transactions contemplated hereby or the process leading thereto, including with respect to any amendment, waiver or other modification hereof or of any other Loan Document (irrespective of whether any of the Credit Parties has advised or is currently advising any Loan Party or any of its Affiliates on other matters) and none of the Credit Parties has any obligation to any Loan Party or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; (iv) the Credit Parties and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Loan Parties and their respective Affiliates, and none of the Credit Parties has any obligation to disclose any of such interests by virtue of any advisory, agency or fiduciary relationship; and (v) the Credit Parties have not provided and will not provide any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby (including any amendment, waiver or other modification hereof or of any other Loan Document) and each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate. Each of the Loan Parties hereby waives and releases, to the fullest extent permitted by law, any claims that it may have against each of the Credit Parties with respect to any breach or alleged breach of agency or fiduciary duty.

SECTION 10.18 USA PATRIOT Act; Proceeds of Crime Act.

Each Lender that is subject to the Patriot Act and the Agent (for itself and not on behalf of any Lender) hereby notifies the Loan Parties that pursuant to the requirements of the Patriot Act), it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Agent, as applicable, to identify each Loan Party in accordance with the Act. Each Loan Party is in compliance, in all material respects, with the Patriot Act. No part of the proceeds of the Term Loans will be used by the Loan Parties, directly or indirectly, for any purpose which would contravene or breach the Proceeds of Crime Act or for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

SECTION 10.19 Foreign Asset Control Regulations.

Neither of the advance of the Term Loans nor the use of the proceeds of any thereof will violate the Trading With the Enemy Act (50 U.S.C. § 1 et seq., as amended) (the "Trading With the Enemy Act") or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) (the "Foreign Assets Control Regulations") or any enabling legislation or executive order relating thereto (which for the avoidance of doubt shall include, but shall not be limited to

(a) Executive Order 13224 of September 21, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) (the "Executive Order") and (b) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56)). Furthermore, none of the Borrower or its Affiliates (a) is or will become a "blocked person" as described in the Executive Order, the Trading With the Enemy Act or the Foreign Assets Control Regulations or (b) engages or will engage in any dealings or transactions, or be otherwise associated, with any such "blocked person" or in any manner violative of any such order.

SECTION 10.20 Time of the Essence.

Time is of the essence of the Loan Documents.

SECTION 10.21 [Reserved].

SECTION 10.22 Press Releases.

(i) Each Credit Party executing this Agreement agrees that neither it nor its Affiliates will in the future issue any press releases or other public disclosure using the name of the Agent or its Affiliates or referring to this Agreement or the other Loan Documents without at least two (2) Business Days' prior notice to the Agent and without the prior written consent of the Agent unless (and only to the extent that) such Credit Party or Affiliate is required to do so under Requirement of Law and then, in any event, such Credit Party or Affiliate will consult with the Agent before issuing such press release or other public disclosure.

(ii) Each Loan Party consents to the publication by the Agent or any Lender of advertising material relating to the financing transactions contemplated by this Agreement using any Loan Party's name, product photographs, logo or trademark. The Agent or such Lender shall provide a draft reasonably in advance of any advertising material to the Borrower prior to the publication thereof for review and comment by the Borrower. The Agent reserves the right to provide to industry trade organizations information necessary and customary for inclusion in league table measurements.

SECTION 10.23 Additional Waivers.

(i) The Obligations are the joint and several obligations of each Loan Party. To the fullest extent permitted by applicable Requirement of Law, the obligations of each Loan Party shall not be affected by (i) the failure of any Credit Party to assert any claim or demand or to enforce or exercise any right or remedy against any other Loan Party under the provisions of this Agreement, any other Loan Document or otherwise, (ii) any release of any other Loan Party from any of the terms or provisions of, this Agreement or any other Loan Document, or (iii) the failure to perfect any security interest in, or the release of, any of the Collateral or other security held by or on behalf of any Agent, the Collateral Agent or any other Credit Party.

(ii) Except as provided herein or in any other Loan Document or pursuant to any amendment or waiver executed pursuant to Section 10.01, the Obligations of each Loan Party shall not be subject to any reduction, limitation, impairment or termination for any reason (other than the Payment in Full of the Obligations), including any claim of waiver, release, surrender, alteration or compromise of any of the Obligations, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Obligations or otherwise. Without limiting the generality of the foregoing, the Obligations of each Loan Party shall not be discharged or impaired or otherwise affected by the failure of any Agent or any other Credit Party

to assert any claim or demand or to enforce any remedy under this Agreement, any other Loan Document or any other agreement, by any waiver or modification of any provision of any thereof, any default, failure or delay, willful or otherwise, in the performance of any of the Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of any Loan Party or that would otherwise operate as a discharge of any Loan Party as a matter of law or equity (other than the Payment in Full of all of the Obligations).

(iii) To the fullest extent permitted by Requirement of Law, each Loan Party waives any defense based on or arising out of any defense of any other Loan Party or the unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any other Loan Party, other than the Payment in Full of all the Obligations. The Agent and the other Credit Parties may, at their election, foreclose on any security held by one or more of them by one or more judicial or non-judicial sales, accept an assignment of any such security in lieu of foreclosure, compromise or adjust any part of the Obligations, make any other accommodation with any other Loan Party, or exercise any other right or remedy available to them against any other Loan Party, without affecting or impairing in any way the liability of any Loan Party hereunder except to the extent that all of the Obligations have been Paid in Full. To the fullest extent permitted by Requirement of Law, each Loan Party waives any defense arising out of any such election even though such election operates, pursuant to Requirement of Law, to impair or to extinguish any right of reimbursement or subrogation or other right or remedy of such Loan Party against any other Loan Party.

(iv) Upon payment by any Loan Party of any Obligations, all rights of such Loan Party against any other Loan Party arising as a result thereof by way of right of subrogation, contribution, reimbursement, indemnity or otherwise shall in all respects be subordinate and junior in right of payment to the prior Payment in Full of all of the Obligations. In addition, any indebtedness of any Loan Party now or hereafter held by any other Loan Party is hereby subordinated in right of payment to the prior Payment in Full of the Obligations and no Loan Party will demand, sue for or otherwise attempt to collect any such indebtedness until Payment in Full of the Obligations. If any amount shall erroneously be paid to any Loan Party on account of (i) such subrogation, contribution, reimbursement, indemnity or similar right or (ii) any such indebtedness of any Loan Party, such amount shall be held in trust for the benefit of the Credit Parties and shall forthwith be paid to the Agent to be credited against the payment of the Obligations, whether matured or unmatured, in accordance with the terms of this Agreement and the other Loan Documents.

SECTION 10.24 Judgment Currency.

If, for the purposes of obtaining judgment in any court in any jurisdiction with respect to this Agreement or any other Loan Document, it becomes necessary to convert into a particular currency (the "Judgment Currency") any amount due under this Agreement or under any other Loan Document in any currency other than the Judgment Currency (the "Currency Due"), then conversion shall be made at the rate of exchange prevailing on the Business Day before the day on which judgment is given. For this purpose "rate of exchange" means the rate at which the Agent is able, on the relevant date, to purchase the Currency Due with the Judgment Currency in accordance with its normal practice for the applicable currency conversion in the wholesale market. In the event that there is a change in the rate of exchange prevailing there is a change in the rate of exchange prevailing between the conversion date and the date of actual payment of the amount due, the Loan Parties will pay such additional amount (if any, but in any event not a lesser amount) as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of Currency Due which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the conversion date. If the amount of the Currency Due which the applicable Agent is so able to purchase is less than the amount of the Currency

Due originally due to it, the applicable Loan Party shall indemnify and save the Agent and the Lenders harmless from and against all loss or damage arising as a result of such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Agreement and the other Loan Documents, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any Agent from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Agreement or any other Loan Document or under any judgment or order.

SECTION 10.25 No Strict Construction.

The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

SECTION 10.26 Attachments.

The exhibits, schedules and annexes attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail.

SECTION 10.27 Electronic Execution of Assignments and Certain Other Documents.

The words "execute," "execution," "signed," "signature," and words of like import in any Assignment and Assumption or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 10.28 Acknowledgement and Consent to Bail-In of EEA Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(i) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an EEA Financial Institution; and

(ii) the effects of any Bail-in Action on any such liability, including, if applicable:

(1) a reduction in full or in part or cancellation of any such liability;

(2) conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document;

(3) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

SECTION 10.29 Acknowledgement Regarding Any Supported QFCs.

To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(i) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(ii) As used in this Section 10.29, the following terms have the following meanings:

"BHC Act Affiliate" of a party means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date first above written.

VINCE, LLC, as Borrower

By: _____
Name:
Title:

VINCE INTERMEDIATE HOLDINGS, LLC, as a Loan Party

By: _____
Name:
Title:

VINCE HOLDING CORP., as a Loan Party

By: _____
Name:
Title:

CRYSTAL FINANCIAL LLC, as Agent and a Lender

By: _____
Name:
Title:

CRYSTAL FINANCIAL SPV LLC, as a Lender,

_____
Name:
Title:

Schedule 1.01(c)
Consolidated Fixed Charge Coverage Ratio

		Clause (b)(i)
Testing Period	**Plug Value**	***Plus*** **actual Consolidated Net Interest Expense for the**
November 3, 2018	$3,744,688	N/A
February 2, 2019	$3,744,688	N/A
May 4, 2019	$3,744,688	N/A
August 3, 2019	$3,396,090	Month ended August 3, 2019
November 2, 2019	$2,346,060	Months ended August 3, 2019 through November 2, 2019
February 1, 2020	$1,490,928	Months ended August 3, 2019 through February 1, 2020
May 2, 2020	$608,973	Months ended August 3, 2019 through May 2, 2020

		Clause (b)(ii)
Testing Period	**Plug Value**	***Plus*** **actual scheduled payments of principal on Indebtedness during such period (after giving effect to any reduction thereof due to mandatory or permitted prepayments on such Indebtedness)**
November 3, 2018	$2,750,000	N/A
February 2, 2019	$2,750,000	N/A
May 4, 2019	$2,062,500	Fiscal Quarter ended February 2, 2019
August 3, 2019	$1,375,000	Fiscal Quarters ended February 2, 2019 and May 4, 2019
November 2, 2019	$687,500	Fiscal Quarters ended February 2, 2019, May 4, 2019 and August 3, 2019

Exhibit 21.1

LIST OF SUBSIDIARIES OF VINCE HOLDING CORP.

Vince Intermediate Holding, LLC	Delaware
Vince, LLC	Delaware
Vince SARL	France
Vince Group UK LTD	England & Wales
Parker Holding, LLC	Delaware
Parker Lifestyle, LLC	Delaware
Rebecca Taylor, Inc	New York
Rebecca Taylor Retail Store, LLC	New York
Rebecca Taylor Design Limited	England & Wales

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (Nos. 333-192500 and 333-225036) of Vince Holding Corp. of our report dated April 30, 2021 relating to the financial statements and financial statement schedule, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP
New York, New York
April 30, 2021

Exhibit 31.1

CEO CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002
(15 U.S.C. SECTION 1350)

I, Jonathan Schwefel, certify that:

1. I have reviewed this annual report on Form 10-K of Vince Holding Corp.;

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 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;

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 and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Jonathan Schwefel
Jonathan Schwefel
Chief Executive Officer
(principal executive officer)

April 30, 2021

Exhibit 31.2

CFO CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002
(15 U.S.C. SECTION 1350)

I, David Stefko, certify that:

1. I have reviewed this annual report on Form 10-K of Vince Holding Corp.;

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 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;

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 and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ David Stefko
David Stefko
Chief Financial Officer
(principal financial and accounting officer)

April 30, 2021

Exhibit 32.1

CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 (18 U.S.C. SECTION 1350)

In connection with the Annual Report of Vince Holding Corp. (the "Company"), on Form 10-K for the year ended January 30, 2021 as filed with the Securities and Exchange Commission (the "Report"), Jonathan Schwefel, Chief Executive Officer of the Company, does hereby certify, pursuant to § 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. § 1350), that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company at the dates and for the periods indicated in the Report.

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

The undersigned expressly disclaims any obligation to update the foregoing certification except as required by law.

/s/ Jonathan Schwefel
Jonathan Schwefel
Chief Executive Officer
(principal executive officer)

April 30, 2021

Exhibit 32.2

CERTIFICATIONS OF CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002 (18 U.S.C. SECTION 1350)

In connection with the Annual Report of Vince Holding Corp. (the "Company"), on Form 10-K for the year ended January 30, 2021 as filed with the Securities and Exchange Commission (the "Report"), David Stefko, Chief Financial Officer of the Company, does hereby certify, pursuant to § 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. § 1350), that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company at the dates and for the periods indicated in the Report.

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

The undersigned expressly disclaims any obligation to update the foregoing certification except as required by law.

/s/ David Stefko
David Stefko
Chief Financial Officer
(principal financial and accounting officer)

April 30, 2021