UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

Form 10-K

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

For the fiscal year ended September 30, 2022
Commission File Number 1-14173

MarineMax, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Florida	**59-3496957**
(State of Incorporation)	**(I.R.S. Employer Identification No.)**

2600 McCormick Drive Suite 200, Clearwater, Florida 33759
(727) 531-1700
(Address, including zip code, and telephone number, including area code, of principal executive offices)

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

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
Common Stock, par value $.001 per share	**HZO**	**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 an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

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

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

Indicate by check mark whether 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 Act). Yes ☐ No ☑

The aggregate market value of common stock held by non-affiliates of the registrant (21,095,025 shares) based on the closing price of the registrant's common stock as reported on the New York Stock Exchange on March 31, 2022, which was the last business day of the registrant's most recently completed second fiscal quarter, was $849,285,707. For purposes of this computation, all officers and directors of the registrant are deemed to be affiliates. Such determination should not be deemed to be an admission that such officers and directors are, in fact, affiliates of the registrant.

As of November 14, 2022, there were outstanding 21,718,893 shares of the registrant's common stock, par value $.001 per share.

Documents Incorporated by Reference

Portions of the registrant's definitive proxy statement for the 2023 Annual Meeting of Shareholders are incorporated by reference into Part III of this report.

Auditor Firm Id: 185 Auditor Name: KPMG LLP Auditor Location: Tampa, Florida

MARINEMAX, INC.

ANNUAL REPORT ON FORM 10-K
Fiscal Year Ended September 30, 2022

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Statement Regarding Forward-Looking Information

The statements contained in this report on Form 10-K that are not purely historical are forward-looking statements within the meaning of applicable securities laws. Forward-looking statements include statements regarding our "expectations," "anticipations," "intentions," "plans," "beliefs," or "strategies" regarding the future. Forward-looking statements also include statements regarding revenue, margins, expenses, and earnings for fiscal 2023 and thereafter; our belief that our practices enhance our ability to attract more customers, foster an overall enjoyable boating experience, and offer boat manufacturers stable and professional retail distribution and a broad geographic presence; our assessment of our competitive advantages, including our hassle-free sales approach, prime retail locations, premium product offerings, extensive facilities, strong management and team members, and emphasis on customer service and satisfaction before and after a boat sale; our belief that our core values of customer service and satisfaction and our strategies for growth and enhancing our business, including without limitation, our acquisition strategies and pursuit of contract manufacturing and vertical integration, will enable us to achieve success and long-term growth as economic conditions continue to recover; our belief that our retailing strategies are aligned with the desires of consumers; and the scope and duration of the COVID-19 pandemic and its impact on global economic systems, our employees, sites, operations, customers, suppliers and supply chain, managing growth effectively. All forward-looking statements included in this report are based on information available to us as of the filing date of this report, and we assume no obligation to update any such forward-looking statements. Our actual results could differ materially from the forward-looking statements. Among the factors that could cause actual results to differ materially are the factors discussed under Item 1A, "Risk Factors."

Unless expressly indicated or the context requires otherwise, the terms "MarineMax," "Company," "we," "us," and "our" in this document refer to MarineMax, Inc. and its subsidiaries.

PART I

Item 1. ***Business***

Introduction

Our Company

MarineMax is the world's largest recreational boat and yacht retailer, selling new and used recreational boats, yachts, and related marine products and services. MarineMax has over 120 locations worldwide, including 78 retail dealership locations, some of which include marinas. Collectively, with the IGY acquisition, MarineMax owns or operates 57 marinas worldwide. Through Fraser Yachts and Northrop & Johnson, the Company also is the largest superyacht services provider, operating locations across the globe. Cruisers Yachts manufactures boats and yachts with sales through our select retail dealership locations and through independent dealers. Intrepid Powerboats manufactures powerboats and sells through a direct-to-consumer model. MarineMax provides finance and insurance services through wholly owned subsidiaries and operates MarineMax Vacations in Tortola, British Virgin Islands. The Company also owns Boatyard, an industry-leading customer experience digital product company.

As of September 30, 2022, the Retail Operations segment included the activity of 78 retail locations in Alabama, California, Connecticut, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Texas, Washington and Wisconsin, where we sell new and used recreational boats, including pleasure and fishing boats, with a focus on premium brands in each segment. We also sell related marine products, including engines, trailers, parts, and accessories. In addition, we provide repair, maintenance, and slip and storage services; we arrange related boat financing, insurance, and extended service contracts; we offer boat and yacht brokerage sales and yacht charter services. In the British Virgin Islands we offer the charter of power catamarans, through MarineMax Vacations. Fraser Yachts Group and Northrop & Johnson, leading superyacht brokerage and luxury yacht services companies with operations in multiple countries, are also included in this segment.

As of September 30, 2022, the Product Manufacturing segment included activity of Cruisers Yachts, a wholly-owned MarineMax subsidiary, manufacturing sport yacht and yachts with sales through our select retail dealership locations and through independent dealers, and Intrepid Powerboats. Cruisers Yachts is recognized as one of the world's premier manufacturers of premium sport yacht and yachts, producing models from 33' to 60' feet. Intrepid Powerboats, also a wholly-owned MarineMax subsidiary, is a producer of customized boats, which incorporate the desires of each individual owner. Intrepid Powerboats follows a direct-to-consumer distribution model and has received many awards and accolades for its innovations and high-quality craftsmanship that create industry leading products in their categories.

In October 2022, we completed the acquisition of IGY Marinas. IGY Marinas maintains a network of strategically positioned luxury marinas situated in yachting and sport fishing destinations around the world. IGY Marinas has created standards for service and quality in nautical tourism around the world. It offers a global network of marinas in the Americas, the Caribbean, and Europe, delivering year-round accommodations. IGY Marinas caters to a wide variety of luxury yachts, while also being exclusive home ports for some of the world's largest megayachts.

We are the largest retailer of Sea Ray and Boston Whaler recreational boats which are manufactured by Brunswick Corporation ("Brunswick"). Sales of new Brunswick boats accounted for approximately 23% of our revenue in fiscal 2022. Sales of new Sea Ray and Boston Whaler boats, both divisions of Brunswick, accounted for approximately 11% and 9%, respectively, of our revenue in fiscal 2022. Brunswick is a world leading manufacturer of marine products and marine engines. We have agreements with Brunswick covering Sea Ray products and Boston Whaler products and are the exclusive dealer of Sea Ray and Boston Whaler boats in almost all of our geographic markets. Additionally, we are the exclusive dealer for Harris aluminum boats, a division of Brunswick, in many of our geographic markets. We also are the exclusive dealer for Italy-based Azimut-Benetti Group, or Azimut, for Azimut and Benetti mega-yachts, yachts, and other recreational boats for the United States. Sales of new Azimut boats and yachts accounted for approximately 8% of our revenue in fiscal 2022. Additionally, we are the exclusive dealer for certain other premium brands that serve certain industry segments in our markets as shown by the table on page three.

We also are involved in other boating-related activities. We sell used boats at our retail locations, online, and at various third-party marinas and other offsite locations; we sell marine engines and propellers, primarily to our retail customers as replacements for their existing engines and propellers; we sell a broad variety of parts and accessories at our retail locations and at various offsite locations, and through our print catalog; we offer maintenance, repair, and slip and storage services at most of our retail locations; we offer finance and insurance products at most of our retail locations and at various offsite locations and to our customers and independent boat dealers and brokers; we offer boat and yacht brokerage sales at most of our retail locations and at various offsite locations; and we conduct a charter business, which is based in the British Virgin Islands, in which we offer customers the opportunity to charter third-party and Company owned power catamarans.

MarineMax commenced operations as a result of the March 1, 1998 acquisition of five previously independent recreational boat dealers. Since that time, we have acquired 32 additional previously independent recreational boat dealers, multiple marinas, five boat brokerage operations, two superyacht service companies, two full-service yacht repair operations, and two boat and yacht manufacturers. We attempt to capitalize on the experience and success of the acquired companies in order to establish a high standard of customer service and responsiveness in the highly fragmented retail boating industry. As a result of our emphasis on premium brand boats, our average selling price for a new boat in fiscal 2022 was approximately $256,000, an increase from approximately $227,000 in fiscal 2021, compared with the industry average selling price for calendar 2021 of approximately $71,000 based on industry data published by the National Marine Manufacturers Association. We consider a store to be one or more retail locations that are adjacent or operate as one entity or a superyacht services region. Same-store sales include all stores that were open and operated throughout both the current and comparative prior period. Our same-store sales increased 25% in fiscal 2020, increased 13% in fiscal 2021, and increased 5% in fiscal 2022.

The U.S. recreational boating industry generated approximately $56.7 billion in retail sales in calendar 2021, which is above the former peak of $49.4 billion in calendar 2020. The retail sales include sales of new and used boats; marine products, such as engines, trailers, equipment, and accessories; and related expenditures, such as fuel, insurance, docking, storage, and repairs. Retail sales of new and used boats, engines, trailers, and accessories accounted for approximately $45.7 billion of these sales in 2021 based on industry data from the National Marine Manufacturers Association. The highly-fragmented retail boating industry generally consists of small dealers that operate in a single market and provide varying degrees of merchandising, professional management, and customer service. We believe that many small dealers find it increasingly difficult to make the managerial and capital commitments necessary to achieve higher customer service levels and upgrade systems and facilities as required by boat manufacturers and often demanded by customers. We also believe that many dealers lack an exit strategy for their owners. We believe these factors contribute to our opportunity to gain a competitive advantage in current and future markets, through market expansions and acquisitions.

Material Updates to Our Strategy

Since the last discussion of our strategy in our Form 10-K for our fiscal year ended September 30, 2021, our primary goal remains to enhance our position as the leading recreational boat and yacht retailer and preeminent superyacht services company. Pursuant to this strategy, we have completed recent acquisitions including Fraser Yachts Group, Northrop & Johnson, Skipper Marine Holdings, Inc. and certain affiliates (collectively, "SkipperBud's"), KCS International Holdings, Inc. and certain affiliates ("Cruisers Yachts"), Intrepid Powerboats, Texas MasterCraft, and IGY Marinas. Our acquisitions of Fraser Yachts Group, Northrop & Johnson, SkipperBud's, and IGY Marinas increases our superyacht brokerage and luxury yacht services and marina/storage services. Additionally, IGY Marinas' scale and strategic geographic footprint enables it to provide vertically integrated services to superyacht customers as they travel to popular destinations. Our acquisition of IGY Marinas offers a global network of marinas in the Americas, the Caribbean, and Europe, delivering year-round accommodations. IGY Marinas caters to a wide variety of luxury yachts, while also being exclusive home ports for some of the world's largest megayachts.

In addition, we continue to broaden and strengthen our digital initiatives. Our digital services are always available and offer our full selection of boats, yachts and charters, as well as our expert team to answer customers' questions and help them find a boat virtually. Additionally, our Boatyard digital platform allows marine businesses effective and customized digital solutions delivering great customer experiences by enabling customers to interact through a personalized experience tailored to their needs.

Development of the Company; Expansion of Business

Since our initial acquisitions in March 1998, we have acquired 32 additional previously independent recreational boat dealers, multiple marinas, five boat brokerage operations, two superyacht service companies, two full-service yacht repair operations, and two boat and yacht manufacturers. Acquired dealers operate under the MarineMax name.

We continually attempt to enhance our business by providing a full range of services, offering extensive and high-quality product lines, maintaining prime retail locations, pursuing the MarineMax One Price hassle-free sales approach, and emphasizing a high level of customer service and satisfaction.

We also from time to time evaluate opportunities to expand our operations by potentially acquiring recreational boat dealers to expand our geographic scope, expanding our product lines, opening new retail locations within or outside our existing territories, and offering new products and services for our customers and by potentially acquiring companies to pursue contract manufacturing or vertical integration strategies.

Apart from acquisitions and our superyacht service locations, we have opened 35 new retail locations in existing territories, excluding those opened on a temporary basis for a specific purpose. We also monitor the performance of our retail locations and close retail locations that do not meet our expectations. Based on these factors and previous depressed economic conditions, we have closed 76 retail locations since March 1998 which includes the 2008 financial crisis, excluding those opened on a temporary basis for a specific purpose and including 4 during the last three fiscal years.

The following table sets forth information regarding the businesses that we have acquired and their geographic regions since fiscal year 2011.

Acquired Companies	Acquisition Date	Geographic Region
Treasure Island Marina, LLC	February 2011	Florida Panhandle
Bassett Marine, LLC	September 2012	Connecticut, Rhode Island and Western Massachusetts
Parker Boat Company	March 2013	Central Florida
Ocean Alexander Yachts	April 2014	Eastern United States
Bahia Mar Marina	January 2016	Florida Panhandle
Russo Marine	April 2016	Eastern Massachusetts and Rhode Island
Hall Marine Group	January 2017	North Carolina, South Carolina and Georgia
Island Marine Center	January 2018	New Jersey
Tera Miranda	April 2018	Oklahoma
Bay Pointe Marina	September 2018	Massachusetts
Sail & Ski Center	April 2019	Texas
Fraser Yachts Group	July 2019	Worldwide
Boatyard, Inc.	February 2020	Worldwide
Northrop & Johnson	July 2020	Worldwide
Private Insurance Services	July 2020	Worldwide
SkipperBud's & Silver Seas Yachts	October 2020	Great Lakes region and West Coast United States
Cruisers Yachts	May 2021	Worldwide
Nisswa Marine	July 2021	Minnesota
Intrepid Powerboats	November 2021	Worldwide
Texas MasterCraft	November 2021	Texas
Superyacht Management, S.A.R.L.	April 2022	France
Endeavour Marina	August 2022	Texas
IGY Marinas	October 2022	Worldwide

In addition to acquiring recreational boat dealers, superyacht service companies, boat manufacturers, marinas, and opening new retail locations, we also add new product lines to expand our operations. The following table sets forth certain of our current product lines that we have added to our existing locations during the years indicated.

Product Line	Fiscal Year	Current Geographic Regions
Boston Whaler	1998	West Central Florida, Stuart, Florida, and Dallas, Texas
Grady-White	2002	Houston, Texas
Boston Whaler	2004-2005	North and South Carolina (2004), Houston, Texas (2005)
Azimut	2006	Northeast United States from Maryland to Maine
Boston Whaler	2006	New York
Grady-White	2006-2010	Pensacola, Florida (2006), Jacksonville, Florida (2010)
Azimut	2008	Florida
Boston Whaler	2009-2012	Southwest Florida (2009), Pompano Beach, Florida (2012)
Harris	2010	Missouri, Minnesota, and New Jersey
Nautique by Correct Craft	2010	West Central Florida and Minnesota
Harris	2011-2012	West Central Florida (2011), Alabama (2012), North and Southwest Florida (2012), and Texas (2012)
Crest	2011-2018	Georgia (2011), Oklahoma (2012), North Carolina and South Carolina (2012), New Jersey (2015), Florida (2018)
Azimut	2012	United States other than where previously held
Scout	2012	Southeast Florida, Maryland, and New Jersey
Sailfish	2013	Connecticut, New Jersey, North Carolina, Ohio, and Rhode Island
Ocean Alexander Yachts	2014	Eastern United States
Scout	2014	Texas, New York
Aquila	2014	Worldwide, excluding China
Galeon	2015	North America, Central America, and South America
Grady-White	2016	Miami, Florida
Boston Whaler	2016	Parts of Massachusetts, Connecticut, and Rhode Island
Yamaha Jet Boats	2017	Georgia, North Carolina, and South Carolina
Bennington	2017	South Carolina
Mastercraft	2018-2021	South Carolina (2018), Wisconsin and Illinois (2021)
NauticStar	2018	Panama City, Florida, Oklahoma, Missouri, Minnesota, North Carolina and South Carolina
Tigé	2018-2019	Orlando, Florida, Oklahoma, Georgia, and North Carolina
Benetti	2019	United States and Canada
Aviara	2019	United States
MJM Yachts	2019	Florida
ATX Surf Boats	2020	Orlando, Florida, Oklahoma, Georgia, and North Carolina
Barletta	2021	Wisconsin, Illinois, Detroit, and Michigan
Four Winns	2021	Wisconsin, Illinois, Ohio and Detroit, Michigan
Harris	2021	Wisconsin, Illinois, Grand Rapids, Michigan and Ohio
Sea Ray	2021	Wisconsin, Illinois, Michigan, and Ohio
Starcraft	2021	Wisconsin, Illinois & Michigan
Sylvan	2021	Wisconsin, Illinois, & Eastern Michigan
Tiara	2021	Wisconsin, Illinois, Michigan, California & Ohio
Princess	2021	California and Seattle, Washington
Cruisers Yachts (1)	2021	Worldwide
Chapparral, Chris-Craft, Moomba	2021	Minnesota
Premier, Robalo, Supra	2021	Minnesota
Boston Whaler	2022	Minnesota
Intrepid Powerboats (1)	2022	Worldwide
Mastercraft	2022	North Texas
Wider Yachts	2022	North America

(1) Product line owned by MarineMax

We add brands with the intent to either offer a migration path for our existing customer base or fill a gap in our product offerings. As a result, we believe that new brands we offer are generally complementary and do not negatively impact the business generated from our other prominent brands. We also discontinue offering product lines from time to time, primarily based upon customer preferences.

We strive to maintain our core values of high customer service and satisfaction and plan to continue to pursue strategies that we believe will enable us to achieve long-term success and growth. We believe our expanded product offerings have strengthened our same-store sales growth. We plan to further expand our business through both acquisitions in new territories and new store openings in existing territories. In addition, we plan to continue to expand our other traditional services, including conducting used boat sales at our retail locations, at offsite locations, and digitally; selling related marine products, including engines, trailers, parts, and accessories at our retail locations and at various offsite locations; providing maintenance, repair, and storage services at most of our retail locations; offering our customers the ability to finance new or used boat purchases and to purchase extended service contracts and arrange insurance coverage, including boat property, disability, undercoating, gel sealant, fabric protection, trailer tire and wheel protection, and casualty insurance coverage; offering boat and yacht brokerage sales at most of our retail locations and at various offsite locations; offering boat storage; conducting our yacht charter business; and manufacturing sport yacht and yachts. Our expansion plans will depend, in large part, upon economic and industry conditions.

U.S. Recreational Boating Industry

The U.S. recreational boating industry generated approximately $56.7 billion in retail sales in calendar 2021, which is above the former peak of $49.4 billion in calendar 2020. The retail sales include sales of new and used recreational boats; marine products, such as engines, trailers, parts, and accessories; and related boating expenditures, such as fuel, insurance, docking, storage, and repairs. Retail sales of new and used boats, engines, trailers, equipment, and accessories accounted for approximately $45.7 billion of such sales in calendar 2021. To provide historical perspective, annual retail recreational boating sales were $17.9 billion in 1988, but declined to a low of $10.3 billion in 1992 based on industry data published by the National Marine Manufacturers Association. We believe this decline was attributable to several factors, including a recession, the Gulf War, and the imposition throughout 1991 and 1992 of a luxury tax on boats sold at prices in excess of $100,000. The luxury tax was repealed in 1993, and retail boating sales increased each year thereafter except for 1998, 2003, and 2007 through 2010. We believe recreational boating has a natural appeal to consumers, along with other outdoor activities, and will continue to grow in favorable economic conditions absent any unusual industry headwinds (see Risk Factors).

The recreational boat retail market remains highly fragmented with little consolidation having occurred to date and consists of numerous boat retailers, most of which are small companies owned by individuals that operate in a single market and provide varying degrees of merchandising, professional management, and customer service. We believe that many boat retailers are encountering increased pressure from boat manufacturers to improve their levels of service and systems, increased competition from larger national retailers in certain product lines, and, in certain cases, business succession issues.

Products and Services

We offer new and used recreational boats and related marine products, including engines, trailers, parts, and accessories. While we sell a broad range of new and used boats, we focus on premium brand products. In addition, we assist in arranging related boat financing, insurance, and extended service contracts; provide boat maintenance and repair services; offer slip and storage accommodations; provide boat and yacht brokerage sales; and conduct a yacht charter business.

New Boat Sales

We primarily sell recreational boats, including pleasure boats and fishing boats. A number of the products we offer are manufactured by Brunswick, a leading worldwide manufacturer of recreational boats and yachts, including Sea Ray pleasure boats, Boston Whaler fishing boats, and Harris aluminum boats. Sales of new Brunswick boats accounted for approximately 23% of our revenue in fiscal 2022. Sales of new Sea Ray and Boston Whaler boats accounted for approximately 11% and 9%, respectively, of our revenue in fiscal 2022. Certain of our dealerships also sell luxury yachts, fishing boats, and pontoon boats provided by other manufacturers, including Italy-based Azimut. Sales of new Azimut boats and yachts accounted for approximately 8% of our revenue in fiscal 2022. Cruisers Yachts, a wholly-owned MarineMax subsidiary, manufactures sport yacht and yachts with sales through our select retail dealership locations and through independent dealers. Intrepid Powerboats, a MarineMax company, manufactures powerboats and sells through a direct-to-consumer model. During fiscal 2022, new boat sales, including sales of Cruisers Yachts and Intrepid Powerboats, accounted for approximately 73.2% or $1.689 billion of our revenue.

We offer recreational boats in most market segments, but have a particular focus on premium quality pleasure boats and yachts as reflected by our fiscal 2022 average new boat sales price of approximately $256,000 an increase from approximately $227,000 in fiscal 2021, compared with an estimated industry average selling price for calendar 2021 of approximately $71,000 based on industry data published by the National Marine Manufacturers Association. Given our locations in some of the more affluent, offshore-oriented boating areas in the United States and emphasis on high levels of customer service, we sell a relatively higher percentage of large recreational boats, such as mega-yachts, yachts, and sport cruisers. We believe that the product lines we offer are among the highest quality within their respective market segments, with well-established trade-name recognition and reputations for quality, performance, and style.

The following table is illustrative of the range and approximate manufacturer suggested retail price range of new boats that we currently offer, but is not all inclusive.

Product Line and Trade Name	Overall Length	Manufacturer Suggested Retail Price Range
E-Power Yachts		
Wider Yachts	40’ to 120’+	12,000,000 to 35,000,000+
Motor Yachts		
Azimut	40’ to 120’+	$800,000 to $16,000,000+
Ocean Alexander Yachts	45’ to 155’+	1,500,000 to 35,000,000+
Benetti	30M to 145M	12,000,000 to 24,000,000+
Princess	35' to 95'	700,000 to 10,000,000
Pleasure Boats		
Sea Ray	19’ to 40’	50,000 to 1,100,000
Aquila	28’ to 72’	290,000 to 6,500,000+
Galeon	32’ to 80’	750,000 to 6,000,000+
NauticStar	19’ to 28’	30,000 to 300,000
MJM Yachts	35’ to 50’+	800,000 to 2,000,000+
Aviara	32’ to 40’	400,000 to 800,000+
Cruisers Yachts (1)	33’ to 60’	300,000 to 2,500,000+
Tiara	34' to 53'	400,000 to 2,500,000
Four Winns	19' to 35'	45,000 to 550,000
Intrepid Powerboats (1)	25' to 48'	200,000 to 1,500,000
Pontoon Boats		
Harris	19’ to 27’	30,000 to 250,000
Crest	20’ to 27’	40,000 to 175,000
Bennington	17’ to 30’	30,000 to 300,000
Barletta	20' to 28'	60,000 to 250,000
Starcraft	18' to 25'	25,000 to 100,000
Sylvan	18' to 25'	25,000 to 100,000
Fishing Boats		
Boston Whaler	13’ to 42’	20,000 to 2,000,000
Grady White	18’ to 45’	70,000 to 1,800,000
Scout	17’ to 53’	20,000 to 2,700,000
Sailfish	19’ to 36’	100,000 to 500,000
Ski Boats		
Nautique by Correct Craft	20’ to 25’	100,000 to 400,000
Tigé	20’ to 25’	150,000 to 220,000
ATX Surf Boats	20’ to 24’	120,000 to 140,000
Mastercraft	20’ to 26’	110,000 to 260,000
Jet Boats		
Yamaha Jet Boats	19’ to 24’	40,000 to 100,000
Scarab	16' to 28'	40,000 to 150,000

(1) Product line owned by MarineMax

E-Power Yachts. Italian-made Wider Yachts manufactures electric yachts with performance and exceptional quality in mind. From its line of superyachts to express cruisers, electric catamarans, and new builds, Wider Yachts offers a number of features.

Motor Yachts. Ocean Alexander Yachts, Azimut, Benetti, and Princess are four of the world’s premier yacht builders. The motor yacht product lines typically include state-of-the-art designs with live-aboard luxuries. Azimut yachts are known for their Americanized

open layout with Italian design and powerful performance. The luxurious interiors of Azimut yachts are accented by windows and multiple accommodations that have been designed for comfort. Ocean Alexander Yachts are known for their excellent engineering, performance, and functionality combined with luxuries typically found on larger mega yachts. Benetti yachts and mega yachts are known for maintaining high quality standards with excellent aesthetic and functional results as well as combining fine Italian tradition and craftsmanship with technology. Princess yachts are a leading British luxury yacht manufacturer with attention to detail, design, and performance.

Pleasure Boats. Sea Ray pleasure boats target both the luxury and the family recreational boating markets and come in a variety of configurations designed to suit each customer's particular recreational boating style. Sea Ray pleasure boats feature custom instrumentation that may include an electronics package; various hull, deck, and cockpit designs that can include a swim platform; bow pulpit and raised bridge; and various amenities, such as swivel bucket helm seats, lounge seats, sun pads, wet bars, built-in ice chests, and refreshment centers. Most Sea Ray pleasure boats feature Mercury or MerCruiser engines. Galeon specializes in luxury yacht and motorboats with over thirty years of experience. Galeon is one of Europe's leading and premier boat manufacturers. We believe Galeon yachts combine the latest technology, hand crafted excellence, attention to detail, superb performance, and great innovative designs with modern styling and convenience. Aquila power catamarans provide form, function, and offer practicality and comfort with innovation. We believe NauticStar provides sport deck boats that combine comfort, features, economy, and versatility that make NauticStar a popular choice among experienced boaters. MJM Yachts combine speed, performance, greater stability, innovative designs and layouts, along with comforts and space for entertaining in addition to a patent protected MJM signature look. Aviara is the newest brand manufactured by MasterCraft focused on the production of vessels 30-feet and over with the goal of creating an elevated open water experience by fusing progressive style, comfort, and luxury. Cruisers Yachts is owned by MarineMax and is continuously building innovative, quality, hand-crafted, American made sport yacht and yachts with the stylish and luxurious Cantius series of boats as well as sleek and powerful outboard models. Tiara Yachts manufactures handcrafted, American-made luxury yachts designed for performance and comfort. Four Winns manufactures quality runabouts, bowriders, yachts and tow sport boats. Intrepid Powerboats uses advanced composite construction to make each boat unique to its owner as well as stronger, faster and more fuel-efficient to deliver a safe, smooth, dry ride on the water.

Pontoon Boats. Harris is a pontoon industry leader and offers a variety of some of the most innovative, luxurious, and premium pontoon models to fit boaters' needs. Harris is known for exceptional performance combined with a stable and safe platform. Crest provides a variety of pontoon models that are designed to provide extreme levels of quality, safety, style and comfort to meet family recreational needs. Bennington offers what we believe to be industry leading design, craftsmanship, and a quiet, smooth, ride. Barletta offers quality construction, simple yet refined models, and customer focused amenities. Starcraft is a leading boat manufacturer with a long history of continuous improvements to fiberglass hull design and a dedication to providing pontoon, runabouts, and deck boat models for families and watersport enthusiasts. Sylvan builds quality, innovative, high performance pontoon boats. With a variety of designs and options, the pontoon boats we offer appeal to a broad audience of pontoon boat enthusiasts and existing customers.

Fishing Boats. The fishing boats we offer, such as Boston Whaler, Grady-White, Scout, and Sailfish, range from entry level models to advanced models designed for fishing and water sports in lakes, bays, and off-shore waters, with cabins with limited live-aboard capability. The fishing boats typically feature livewells, in-deck fishboxes, rodholders, rigging stations, cockpit coaming pads, and fresh and saltwater washdowns.

Ski Boats. The ski boats we offer are Nautique by Correct Craft, Tigé, ATX Surf Boats, and Mastercraft, which range from entry level models to advanced models and all of which are designed to achieve an ultimate wake for increased skiing, surfing, and wakeboarding performance and safety. With a variety of designs and options, Nautique, Tigé, ATX Surf Boats, and Mastercraft ski boats appeal to the competitive and recreational user alike.

Jet Boats. Yamaha jet boats are designed to offer a reliable, high performing, internal propulsion system with superior handling. Yamaha is a worldwide leader in jet boats. The Scarab jet boats we offer range from entry level models to advanced models, all of which are designed for performance and with exclusive design elements to meet family recreational needs. With a variety of designs and options, the jet boats we offer appeal to a broad audience of jet boat enthusiasts and existing customers.

Used Boat Sales

We sell used versions of the new makes and models we offer and, to a lesser extent, used boats of other makes and models generally taken as trade-ins. During fiscal 2022, used boat sales accounted for 7.3% or approximately $169.0 million of our revenue.

Our used boat sales depend on our ability to source a supply of high-quality used boats at attractive prices. We acquire substantially all of our used boat inventory through customer trade-ins. We strive to increase our used boat business through the availability of quality used boat trade-ins generated from our new boat sales efforts, which are well-maintained through our service initiatives. Additionally, substantially all of our used boat inventory is posted on our digital properties, which expands the awareness and availability of our products to a large audience of boating enthusiasts. We also sell used boats at various marinas and other offsite locations throughout the country.

To further enhance our used boat sales, we offer extended warranty plans generally available for used boats less than nine years old. The extended warranty plans apply to each qualifying used boat, which has passed a 48-point inspection, and provides protection against failure of most mechanical parts for up to three years. We believe this type of program enhances our sales of used boats by motivating purchasers of used boats to complete their purchases through our dealerships.

Marine Engines, Related Marine Equipment, and Boating Parts and Accessories

We offer marine engines and equipment, predominantly manufactured by Mercury Marine, a division of Brunswick, and Yamaha. We sell marine engines and propellers primarily to retail customers as replacements for their existing engines or propellers. Mercury Marine and Yamaha have introduced various new engine models that are designed to reduce engine emissions to comply with current United States Environmental Protection Agency ("EPA") requirements. See "Business — Governmental Regulations, including Environmental Regulations." Industry leaders, Mercury Marine and Yamaha, specialize in state-of-the-art marine propulsion systems and accessories. Many of our dealerships have been recognized by Mercury Marine as "Premier Service Dealers". This designation is generally awarded based on meeting certain standards and qualifications.

We also sell a broad variety of marine parts and accessories at our retail locations, at various offsite locations, and through our print catalog. These marine parts and accessories include marine electronics; dock and anchoring products, such as boat fenders, lines, and anchors; boat covers; trailer parts; water sport accessories, such as tubes, lines, wakeboards, and skis; engine parts; oils; lubricants; steering and control systems; corrosion control products and service products; high-performance accessories, such as propellers and instruments; and a complete line of boating accessories, including life jackets, inflatables, and water sports equipment. We also offer novelty items, such as shirts, caps, and license plates bearing the manufacturer's or dealer's logos. In all of our parts and accessories business, we utilize our industry knowledge and experience to offer boating enthusiasts high-quality products with which we have experience.

The sale of marine engines, related marine equipment, and boating parts and accessories, which are all tangible products, accounted for approximately 3.3% or $76.7 million of our fiscal 2022 revenue.

Maintenance, Repair, and Storage Services

Providing customers with professional, prompt maintenance and repair services is critical to our sales efforts and contributes to our success. We provide maintenance and repair services at most of our retail locations, with extended service hours at certain of our locations. In addition, in many of our markets, we provide mobile maintenance and repair services at the location of the customer's boat. We believe that this service commitment is a competitive advantage in the markets in which we compete and is critical to our efforts to provide a trouble-free boating experience. To further this commitment, in certain of our markets, we have opened stand-alone maintenance and repair facilities in locations that are more convenient for our customers and that increase the availability of such services. We also believe that our maintenance and repair services contribute to strong customer relationships and that our emphasis on preventative maintenance and quality service increases the potential supply of well-maintained boats for our used boat sales.

We perform both warranty and non-warranty repair services, with the cost of warranty work reimbursed by the manufacturer in accordance with the manufacturer's warranty reimbursement program. For warranty work, most manufacturers, including Brunswick, reimburse a percentage of the dealer's posted service labor rates, with the percentage varying depending on the dealer's customer satisfaction index rating and attendance at service training courses. We derive the majority of our warranty revenue from Brunswick products, as Brunswick products comprise the largest percentage of our products sold. Certain other manufacturers reimburse warranty work at a fixed amount per repair. Because boat manufacturers permit warranty work to be performed only at authorized dealerships, we receive substantially all of the warranted maintenance and repair work required for the new boats we sell. The third-party extended warranty contracts we offer also result in an ongoing demand for our maintenance and repair services for the duration of the term of the extended warranty contract.

Our maintenance and repair services are performed by manufacturer-trained and certified service technicians. In charging for our mechanics' labor, many of our dealerships use a variable rate structure designed to reflect the difficulty and sophistication of different types of repairs. The percentage markups on parts are similarly based on manufacturer suggested prices and market conditions for different parts.

At many of our locations, we offer boat storage services, including in-water slip storage and inside and outside land storage. These storage services are offered at competitive market rates and include both in-season and out-of-season storage. In October 2022, we completed the acquisition of IGY Marinas. IGY Marinas maintains a network of luxury marinas situated in yachting and sport fishing destinations around the world. IGY Marinas has high standards for service and quality in nautical tourism around the world. It offers a global network of marinas in the Americas, the Caribbean, and Europe, delivering year-round accommodations. IGY Marinas caters to a wide variety of luxury yachts, while also being exclusive home ports for some of the world's largest megayachts.

Maintenance, repair, rent, and storage services accounted for approximately 5.7% or $130.5 million of our revenue during fiscal 2022 of which, approximately 3.3% or $77.1 million related to repair services, approximately 0.8% or $17.6 million related to parts and accessories for repairs, and approximately 1.6% or $35.8 million related to income from rent and storage service rentals.

F&I Products

At each of our retail locations and at various offsite locations where applicable, we offer our customers the ability to finance new or used boat purchases and to purchase extended service contracts and arrange insurance coverage, including boat property, disability, undercoating, gel sealant, fabric protection, trailer tire and wheel protection, and casualty insurance coverage (collectively, "F&I"). We have relationships with various national marine product lenders under which the lenders purchase retail installment contracts evidencing retail sales of boats and other marine products that are originated by us in accordance with existing pre-sale agreements between us and the lenders. These arrangements permit us to receive a portion of the finance charges expected to be earned on the retail installment contract based on a variety of factors, including the credit standing of the buyer, the annual percentage rate of the contract charged to the buyer, and the lender's then current minimum required annual percentage rate charged to the buyer on the contract. This participation is subject to repayment by us if the buyer prepays the contract or defaults within a designated time period, usually 0 to 180 days. To the extent required by applicable state law, our dealerships are licensed to originate and sell retail installment contracts financing the sale of boats and other marine products.

We also offer third-party extended service contracts under which, for a predetermined price, we provide all designated services pursuant to the service contract guidelines during the contract term at no additional charge to the customer above a deductible. While we sell all new boats with the boat manufacturer's standard hull and engine warranty, extended service contracts provide additional coverage beyond the time frame or scope of the manufacturer's warranty. Purchasers of used boats generally are able to purchase an extended service contract, even if the selected boat is no longer covered by the manufacturer's warranty. Generally, we receive a fee for arranging an extended service contract. Most required services under the contracts are provided by us and paid for by the third-party contract holder. Beginning in fiscal 2021, we have partnered with a third-party F&I product provider to offer prepaid maintenance plans for select, new models.

We also are able to assist our customers with obtaining property and casualty insurance which covers loss or damage to the vessel. We provide worldwide yacht insurance programs for brokerage houses, yacht management groups, and maritime attorneys. We utilize expertise in complex underwriting, including understanding the exposure of an owner, captain, crew, guests, tenders and navigation to provide clients with uniquely designed protection so customers can cruise confidently.

During fiscal 2022, fee income generated from F&I products accounted for approximately 3.0% or $69.0 million of our revenue. We believe that our customers' ability to obtain competitive financing quickly and easily at our dealerships complements our ability to sell new and used boats. We also believe our ability to provide customer-tailored financing on a "same-day" basis gives us an advantage over many of our competitors, particularly smaller competitors that lack the resources to arrange boat financing at their dealerships or that do not generate sufficient volume to attract the diversity of financing sources that are available to us.

Brokerage Sales

Through employees or subcontractors that are licensed boat or yacht brokers where applicable, we offer boat or yacht brokerage sales at most of our retail locations. For a commission, we offer for sale brokered boats or yachts, listing them digitally on various sites, advising our other retail locations of their availability through our integrated computer system, and posting them on our website, *www.MarineMax.com*. Often sales are co-brokered, with the commission split between the buying and selling brokers. We believe that our access to potential used boat customers and methods of listing and advertising customers' brokered boats or yachts is more extensive than is typical among brokers. In addition to generating revenue from brokerage commissions, our brokerage sales also enable us to offer a broad array of used boats or yachts without increasing related inventory costs. Also, through Fraser Yachts Group and Northrop & Johnson, we offer yacht and superyacht brokerage. During fiscal 2022, brokerage sales commissions accounted for approximately 5.8% or $133.1 million of our revenue.

Our brokerage customers generally receive the same high level of customer service as our new and used boat customers. Our waterfront retail locations enable in-water demonstrations of an on-site brokered boat. Our maintenance and repair services, including mobile service, also are generally available to our brokerage customers. Generally, the purchaser of a boat brokered through us also can take advantage of MarineMax Getaways!® weekend and day trips and other rendezvous gatherings and in-water events, as well as boat operation and safety seminars. We believe that the array of services we offer are unique in the brokerage business.

Yacht Charter

In 2011 we launched a yacht charter business in which we offer customers the opportunity to charter catamarans in exotic destinations, starting with our initial location in the British Virgin Islands. In this business, we sell specifically designed yachts to third parties for inclusion in our yacht charter fleet; enter into yacht management agreements under which yacht owners enable us to put their

yachts in our yacht charter program for a period of several years for a fixed monthly fee payable by us; provide our services in storing, insuring, and maintaining their yachts; and charter these yachts to vacation customers at agreed fees payable to us. The yacht owners will be able to utilize the yachts for personal use for a designated number of weeks during the terms of the management agreement and take possession of their yachts following the expiration of the yacht management agreements.

In addition to the specific business we launched in the British Virgin Islands, we also offer yacht charter services. For a fee, we assist yacht owners in the charter of their vessel by third-parties. Additionally, through Fraser Yachts Group and Northrop & Johnson we offer yacht and superyacht chartering, charter management, yacht management, crew placement, new boat build oversight services and other luxury yacht services. During fiscal 2022, the income from rentals of chartering power yachts, yacht charter fees, and other charter services accounted for approximately 1.7% or $40.7 million of our revenue. Our facilities in the British Virgin Islands and yacht charter fleet suffered damage from Hurricane Irma in September of 2017. Beginning in March 2020, we temporarily closed our facilities in the British Virgin Islands and yacht charters based on guidance from local government and health officials as a result of the COVID-19 pandemic. Yacht charters resumed during fiscal 2021, but the impact of the COVID-19 pandemic and the duration for which it may have an impact cannot be determined at this time.

Offsite Sales

We sell used boats, offer F&I products, and sell parts and accessories at various third-party offsite locations, including marinas.

Product Manufacturing

Cruisers Yachts, a wholly-owned MarineMax subsidiary, manufactures sport yacht and yachts with sales through our select retail dealership locations and through independent dealers. Cruisers Yachts is recognized as one of the world's premier manufacturers of premium sport yacht and yachts, producing models from 33' to 60' feet. Intrepid Powerboats, also a wholly-owned MarineMax subsidiary, is recognized as a world class producer of customized boats, reflecting the unique desires of each individual owner. Intrepid Powerboats follows a direct-to-consumer distribution model.

Retail Locations

We sell our recreational boats and other marine products and offer our related boat services through 78 retail locations in Alabama, California, Connecticut, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Texas, Washington and Wisconsin. Each retail location generally includes an indoor showroom (including some of the industry's largest indoor boat showrooms) and an outside area for displaying boat inventories, a business office to assist customers in arranging financing and insurance, maintenance and repair facilities, and at certain retail locations boat storage services, including in-water slip storage and inside and outside land storage.

Many of our retail locations are waterfront properties on some of the nation's most popular boating locations. Our waterfront retail locations, most of which include marina-type facilities and docks at which we display our yachts and boats, are easily accessible to the boating populace, serve as in-water showrooms, and enable the sales force to give customers immediate in-water demonstrations of various boat models. Most of our other locations are in close proximity to water. The following table sets forth certain of our waterfront properties.

State	Waterfront properties	
California	Newport Bay	San Diego Bay
	Richardson Bay	
Connecticut	Norwalk Harbor	Westbrook Harbor
Florida	Intracoastal Waterway	Atlantic Ocean
	Boca Ciega Bay	Caloosahatchee River
	Naples Bay	Tampa Bay
	Pensacola Bay	Saint Andrews Bay
Georgia	Lake Lanier	Wilmington River
Illinois	Lake Michigan	Lake Marie
Maryland	Chesapeake Bay	
Massachusetts	Town River	
Michigan	Saginaw River	Lake St. Clair
	Cass Lake	Spring Lake
	Lake Fenton	
Minnesota	Lake Minnetonka	St. Croix River
Missouri	Lake of the Ozarks	
New Jersey	Barnegat Bay	Little Egg Harbor Bay
	Little Egg Harbor Bay	Manasquan River
New York	Huntington Harbor	
North Carolina	Masonboro Inlet	
Ohio	Lake Erie	
Oklahoma	Grand Lake	
Rhode Island	Newport Harbor	
South Carolina	Lake Wylie	
Texas	Clear Lake	Lake Lewisville
Washington	Lake Union	
Wisconsin	Sturgeon Bay	Lake Mendota
	Kinnickinnic River	Lake Butte Des Mortes

Additionally, through IGY Marinas we own and manage luxury marinas situated around the world. The following table sets forth certain of our owned and managed luxury marinas.

Location	Luxury Marinas	
Colombia	Marina Santa Marta	
Costa Rica	Marina Bahia Golfito	
England	St. Katharine Docks	
France	IGY Sète Marina	IGY Vieux – Port de Cannes
Italy, Sardinia	IGY Portisco Marina	Marina Di Porto Cervo
Mexico	Marina Cabo San Lucas	
Panama	Red Frog Beach Island Marina	
Providenciales, Turks & Caicos	Blue Haven Marina	
Spain	IGY Málaga Marina	Málaga Marina San Andres
St. Maarten	Simpson Bay Marina	Yacht Club Isle de Sol
St. Lucia	Rodney Bay Marina	
United States, Florida	Yacht Haven Grande Miami at Island Gardens, Miami	Maximo Marina, St. Petersburg
	One Island Park Miami Beach	
United States, New York & Maine	North Cove Marina at Brookfield Place, New York	Fore Points Marina, Maine
United States Virgin Islands, Saint Thomas	Yacht Haven Grande USVI	American Yacht Harbor

Operations

Dealership Operations and Management

We have adopted a generally decentralized approach to the operational management of our dealerships. While certain administrative functions are centralized at the corporate level, local management is primarily responsible for the day-to-day operations of the retail locations. Each retail location is managed by a general manager, who oversees the day-to-day operations, personnel, and

financial performance of the individual store, subject to the direction of a regional president or district president, who generally has responsibility for the retail locations within a specified geographic region. Typically, each retail location also has a staff consisting of an F&I manager, a parts manager, a service manager, sales representatives, maintenance and repair technicians, and various support personnel.

Sales and Marketing

Our sales philosophy focuses on selling the pleasures of the boating lifestyle and creating memories of a lifetime with family and friends. We believe that the critical elements of our sales philosophy include our appealing retail locations, no-hassle sales approach, highly trained sales representatives, high level of customer service, emphasis on educating the customer and the customer's family on boating, and providing our customers with opportunities for boating through our MarineMax Getaways!®. We strive to provide exceptional customer experiences through the best services, products, and technology before, during, and after the sale. Our team and customers are United by Water®.

Each retail location offers the customer the opportunity to evaluate a variety of new and used boats in a comfortable and convenient setting. Our full-service retail locations facilitate a turn-key purchasing process that includes attractive lender financing packages, extended service agreements, and insurance. Many of our retail locations are located on waterfronts and marinas, which attract boating enthusiasts and enable customers to operate various boats prior to making a purchase decision.

The brands we offer are diverse in size and use and are spread across our customer activities of leisure, fishing, watersports, luxury, and vacations. We believe the transformative qualities of the water should be shared by everyone, so we created our boat lineup accordingly. Our promise gives our brands meaning and reason to exist next to one another on our showroom floor.

We sell our boats at posted MarineMax "One Price" that generally represent a discount from the manufacturer's suggested retail price. Our sales approach focuses on the customer experience by minimizing customer anxiety associated with price negotiation.

As a part of our sales and marketing efforts, our digital marketing capabilities are a competitive advantage, with the majority of leads originating through our digital properties, including MarineMax.com. Social media is a growing venue for customer engagement and communication and has become a strong medium for connecting with new customers. Additionally, we hold online experience events including immersive boat tours that allow participants to explore boats and yachts from multiple manufactures, segments, and models from nearly any electronic device including their phone, tablet, or computer.

We participate in boat shows and in-the-water sales events at area boating locations, typically held in January, February, March, and toward the end of the boating season, in each of our markets. Boat shows and other offsite promotions are an important venue for generating customer engagement. The boat shows also generate a significant amount of interest in our products resulting in boat sales after the show. Online we are always available and can offer our full selection of boats, yachts and charters, as well as our expert team to answer customers' questions and help them find a boat virtually.

We emphasize customer education through one-on-one education by our sales representatives and, at some locations, our delivery captains, before and after a sale, and through in-house seminars for the entire family on boating safety, the use and operation of boats, and product demonstrations. Typically, one of our delivery captains or the sales representative delivers the customer's boat to an area boating location and thoroughly instructs the customer about the operation of the boat, including hands-on instructions for docking and trailering the boat. To enhance our customer relationships after the sale, we lead and sponsor MarineMax Getaways!® group boating trips to various destinations, rendezvous gatherings, and on-the-water organized events that promote the boating lifestyle and memories of a lifetime. Each Company-sponsored event, planned and led by a Company employee, also provides a favorable medium for acclimating new customers to boating, sharing exciting boating destinations, creating friendships with other boaters, and enabling us to promote new product offerings to boating enthusiasts.

As a result of our relative size, we believe we have a competitive advantage within the industry by being able to conduct an organized and systematic advertising and marketing effort. Part of our marketing capabilities include a customer relationship management system that tracks all customer engagements, evaluates the customers propensity to buy, automatically generates follow-up activities, and facilitates Company-wide availability of a particular boat or other marine products and services desired by a customer.

Suppliers and Inventory Management

We purchase a substantial portion of our new boat inventory directly from manufacturers, which allocate new boats to dealerships based on the amount of boats sold by the dealership and their market share. We manufacture a portion of our new boat inventory from our Product Manufacturing segment. We also exchange new boats with other dealers to accommodate customer demand and to balance inventory.

In fiscal 2022, sales of new Brunswick and Azimut boats and yachts accounted for approximately 23% and 8% of our revenue, respectively. Sales of new Sea Ray and Boston Whaler boats accounted for approximately 11% and 9%, respectively, of our revenue in

fiscal 2022. No purchases of new boats and other marine related products from any other manufacturer accounted for more than 10% of our revenue in fiscal 2022.

We have entered into multi-year agreements with Brunswick covering Sea Ray and Boston Whaler. We also have a multi-year agreement with Azimut-Benetti Group for its Azimut product line. We typically deal with each of our manufacturers, other than Brunswick and Azimut-Benetti Group, under an annually renewable, non-exclusive dealer agreement.

The dealer agreements do not restrict our right to sell any product lines or competing products provided that we are in compliance with the material obligations of our dealer agreements. The terms of each dealer agreement appoints a designated geographical territory for the dealer, which is exclusive to the dealer provided that the dealer is able to meet the material obligations of its dealer agreement.

Manufacturers generally establish prices on an annual basis, but may change prices at their sole discretion. Manufacturers typically discount the cost of inventory and offer inventory financing assistance during the manufacturers' slow seasons, generally October through March. To obtain lower cost of inventory, we strive to capitalize on these manufacturer incentives to take product delivery during the manufacturers' slow seasons. This permits us to gain pricing advantages and better product availability during the selling season. Arrangements with certain other manufacturers may restrict our right to offer some product lines in certain markets.

We transfer individual boats among our retail locations to fill customer orders that otherwise might take substantially longer to fill from the manufacturer. This reduces delays in delivery, helps us maximize inventory turnover, and assists in minimizing potential overstock or out-of-stock situations. We actively monitor our inventory levels to maintain levels appropriate to meet current anticipated market demands. We are not bound by contractual agreements governing the amount of inventory that we must purchase in any year from any manufacturer, but the failure to purchase at agreed upon levels may result in the loss of certain manufacturer incentives or dealership rights.

Inventory Financing

Marine manufacturers customarily provide interest assistance programs to retailers. The interest assistance varies by manufacturer and may include periods of free financing or reduced interest rate programs. The interest assistance may be paid directly to the retailer or the financial institution depending on the arrangements the manufacturer has established. We believe that our financing arrangements with manufacturers are standard within the industry.

We account for consideration received from our vendors in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") 606, "Revenue from Contracts with Customers" ("ASC 606"). ASC 606 requires us to classify interest assistance received from manufacturers as a reduction of inventory cost and related cost of sales as opposed to netting the assistance against our interest expense incurred with our lenders. Pursuant to ASC 606, amounts received by us under our co-op assistance programs from our manufacturers are netted against related advertising expenses.

We are party to a Credit Agreement with Manufacturers and Traders Trust Company as Administrative Agent, Swingline Lender, and Issuing Bank, Wells Fargo Commercial Distribution Finance, LLC, as Floor Plan Agent, and the lenders party thereto (the "New Credit Agreement"). The New Credit Agreement provides the Company a line of credit with asset based borrowing availability of up to $750 million and establishes a revolving credit facility in the maximum amount of $100 million (including a $20 million swingline facility and a $20 million letter of credit sublimit), a delayed draw term loan facility to finance the acquisition of IGY Marinas in the maximum amount of $400 million, and a $100 million delayed draw mortgage loan facility. The maturity of each of the facilities is August 2027. The New Credit Agreement is further discussed in the "Management's Discussion and Analysis of Financial Condition and Results of Operations" section of this Annual Report on Form 10-K.

Technology Platform

We believe that our technology platform, which is utilized by our companies and dealerships and that is continually developed with the latest capabilities, strategically enhances our ability to integrate successfully the operations of our companies and future acquisitions, facilitates the interchange of information, and enhances cross-selling opportunities throughout our company. The platform integrates each level of operations on a Company-wide basis, including but not limited to inventory, financial reporting, budgeting, and sales management. We manage each company's operations with the platform to execute at the highest level, continually grow, and deliver exceptional customers experiences. Sales representatives use the platform to gain strategic competitive insights, automatically generate follow-up activities, facilitate the availability of Company-wide products and services and monitor the maintenance and service needs of customers' boats. Company representatives also utilize the platform to provide financing and insurance products, proactively schedule services and continually communicate with customers. We mitigate cybersecurity risks by employing extensive measures, including but not limited to employee training, protective technologies, monitoring and testing, external assessment services and maintenance of protective systems and contingency plans.

Human Capital Resources

As of September 30, 2022, we had 3,410 employees, 2,301 (67%) of whom were in store-level operations, 933 (28%) of whom were in the yacht manufacturing operations, and 176 (5%) of whom were in corporate administration and management. We are not a party to any collective bargaining agreements. We consider our relations with our employees to be excellent.

In managing the business, we devote substantial efforts to recruit employees that we believe to be exceptionally well qualified for their position. We also train our employees to understand our core retail philosophies, which focus on making the purchase of a boat and its subsequent use as hassle-free and enjoyable as possible. Through our MarineMax University, or MMU, we teach our retail philosophies to existing and new employees at various locations and online, through MMU-online. MMU is a modularized and instructor-led educational program that focuses on our retailing philosophies and provides instruction on such matters as the sales process, customer service, F&I, accounting, leadership, and human resources. We also have a specialized service training center and program in Clearwater, Florida where we train our service technicians in best practices.

Sales representatives receive compensation primarily on a commission basis. Each general manager is a salaried employee with incentive bonuses based on the performance of the managed dealership. Maintenance and repair service managers receive compensation on a salary basis with bonuses based on the performance of their departments. Our technology platform provides each store and department manager with daily financial and operational information, enabling them to monitor the performance of their personnel on a daily, weekly, and monthly basis. We have a uniform, fully integrated technology platform serving each of our dealerships.

Our philosophy is to pay competitive base salaries to team members at levels that help us to attract, motivate, and retain highly qualified team members and reduce turnover. Cash incentive bonuses are designed to reward individuals based on our Company's financial results as well as the achievement of personal and corporate objectives designed to contribute to our long-term success in building shareholder value. Grants of stock-based awards under our 2011 Stock-Based Compensation Plan are intended to align compensation with the price performance of our common stock. Total compensation levels reflect corporate positions, responsibilities, and achievement of goals. As a result of our performance-based compensation philosophy, pay levels may vary significantly from year to year and among our various team members. Performance metrics utilized by our cash compensation plans include pretax income performance bonus, aged inventory, district and regional financial performance targets, and net promoter score (customer satisfaction).

Intellectual Property

We have registered tradenames and trademarks, including among other marks, "MarineMax" and "United by Water" in over 20 countries and territories. Pursuant to agreements with manufacturers and subject to restrictions in those agreements, we have the right to use and display the trademarks and logos of our manufacturer's brands at our retail stores as well as in our advertising and promotional materials. The current registrations of our tradenames and trademarks are effective for varying periods of time, which we may renew periodically, provided that we comply with all statutory maintenance requirements, including continued use of each trademark in each country.

Seasonality and Weather Conditions

Our business, as well as the entire recreational boating industry, is highly seasonal, with seasonality varying in different geographic markets. Over the three-year period ended September 30, 2022, the average revenue for the quarters ended December 31, March 31, June 30 and September 30 represented approximately 20%, 24%, 32%, and 24%, respectively, of our average annual revenues. With the exception of Florida, we generally realize significantly lower sales and higher levels of inventories and related short-term borrowings, in the quarterly periods ending December 31 and March 31. The onset of the public boat and recreation shows in January generally stimulates boat sales and typically allows us to reduce our inventory levels and related short-term borrowings throughout the remainder of the fiscal year. Our expansion into boat storage may act to reduce our seasonality and cyclicality.

Our business is also subject to weather patterns, which may adversely affect our results of operations. For example, prolonged winter conditions, drought conditions (or merely reduced rainfall levels) or excessive rain, may limit access to area boating locations or render boating dangerous or inconvenient, thereby curtailing customer demand for our products. In addition, unseasonably cool weather and prolonged winter conditions may lead to a shorter selling season in certain locations. Hurricanes and other storms could result in disruptions of our operations or damage to our boat inventories and facilities, as has been the case when Florida and other markets were affected by hurricanes, such as Hurricane Ian in 2022. Although our geographic diversity is likely to reduce the overall impact to us of adverse weather conditions in any one market area, these conditions will continue to represent potential, material adverse risks to us and our future financial performance.

Governmental Regulations, including Environmental Regulations

Our operations are subject to extensive regulation, supervision, and licensing under various foreign, federal, state, and local statutes, ordinances, and regulations. While we believe that we maintain all requisite licenses and permits and are in compliance with

all applicable federal, state, and local regulations, there can be no assurance that we will be able to maintain all requisite licenses and permits. The failure to satisfy those and other regulatory requirements could have a material adverse effect on our business, financial condition, and results of operations. The adoption of additional laws, rules, and regulations could also have a material adverse effect on our business. Various foreign, federal, state, and local regulatory agencies, including the Occupational Safety and Health Administration ("OSHA"), the EPA, and similar foreign, federal, state, and local agencies, have jurisdiction over the operation of our dealerships, repair facilities, and other operations with respect to matters such as consumer protection and privacy, workers' safety, and laws regarding protection of the environment, including air, water, and soil.

The EPA has various air emissions regulations for outboard marine engines that impose more strict emissions standards for two-cycle, gasoline outboard marine engines. The majority of the outboard marine engines we sell are manufactured by Mercury Marine. Mercury Marine's product line of low-emission engines, including the Verado, SeaPro, Pro XS, and other four-stroke outboards, have achieved the EPA's mandated 2006 emission levels. While we remain committed to supporting sustainable manufacturing and a sustainable environment for all boaters, any increased costs of producing engines resulting from EPA standards, or the inability of our manufacturers to comply with EPA requirements, could have a material adverse effect on our business.

Certain of our facilities own and operate underground storage tanks ("USTs") and above ground storage tanks ("ASTs") for the storage of various petroleum products. The USTs and ASTs are generally subject to federal, state, and local laws and regulations that require testing and upgrading of tanks and remediation of contaminated soils and groundwater resulting from leaking tanks. In addition, if leakage from Company-owned or operated tanks migrates onto the property of others, we may be subject to civil liability to third parties for remediation costs or other damages. Based on historical experience, we believe that our liabilities associated with tank testing, upgrades, and remediation are unlikely to have a material adverse effect on our financial condition or operating results.

As with boat dealerships generally, and parts and service operations in particular, our business involves the use, handling, storage, and contracting for recycling or disposal of hazardous or toxic substances or wastes, including environmentally sensitive materials, such as motor oil, waste motor oil and filters, transmission fluid, antifreeze, freon, waste paint and lacquer thinner, batteries, solvents, lubricants, degreasing agents, gasoline, and diesel fuels. Accordingly, we are subject to regulation by federal, state, and local authorities establishing requirements for the use, management, handling, and disposal of these materials and health and environmental quality standards, and liability related thereto, and providing penalties for violations of those standards. We are also subject to laws, ordinances, and regulations governing investigation and remediation of contamination at facilities we operate to which we send hazardous or toxic substances or wastes for treatment, recycling, or disposal.

We do not believe we have any material environmental liabilities or that compliance with environmental laws, ordinances, and regulations will, individually or in the aggregate, have a material adverse effect on our business, financial condition, or results of operations. However, soil and groundwater contamination has been known to exist at certain properties owned or leased by us. We have also been required and may in the future be required to remove USTs and ASTs containing hazardous substances or wastes. As to certain of our properties, specific releases of petroleum have been or are in the process of being remedied in accordance with state and federal guidelines. We are monitoring the soil and groundwater as required by applicable state and federal guidelines. In addition, the shareholders of certain of the acquired dealers have indemnified us (and such indemnification is continuing) for specific environmental issues identified on environmental site assessments performed by us as part of the acquisitions. We maintain insurance for pollutant cleanup and removal. The coverage pays for the expenses to extract pollutants from land or water at the insured property, if the discharge, dispersal, seepage, migration, release, or escape of the pollutants is caused by or results from a covered cause of loss. We also have additional storage tank liability insurance and Superfund coverage where applicable. In addition, certain of our retail locations are located on waterways that are subject to federal or state laws regulating navigable waters (including oil pollution prevention), fish and wildlife, and other matters.

Three of the properties we own were historically used as gasoline service stations. Remedial action with respect to prior historical site activities on these properties has been completed or is being completed in accordance with federal and state law. We do not believe that any of these environmental issues will result in any material liabilities to us.

Additionally, certain states have required or are considering requiring a license in order to operate a recreational boat. While such licensing requirements are not expected to be unduly restrictive, regulations may discourage potential first-time buyers, thereby limiting future sales, which could adversely affect our business, financial condition, and results of operations.

Environmental Responsibility

We operate many retail locations near or on bodies of water that are acutely susceptible to the risks associated with climate change. Such risks include those related to the physical impacts of climate change, such as possibly more frequent and severe weather events, rising sea levels, and/or long term shifts in climate patterns, and risks related to the transition to a lower-carbon economy, such as reputational, market and/or regulatory risks. Our commitment to environmental responsibility and initiatives to reduce our environmental footprint are outlined in our "Environmental Policy." Our Environmental Policy can be found on the Investor Relations section of our website at *www.MarineMax.com* under Governance Documents (for the avoidance of doubt, our Environmental Policy and other information contained on or accessible through our website is not incorporated into, and does not form a part of, this Annual Report or

any other report or document we file with the Securities and Exchange Commission). Our Environmental Policy and associated climate related risks and opportunities are reviewed by our Board of Directors on an annual basis or more frequently as needed.

We have engaged in many efforts to mitigate and adapt to climate change. For example, we seek out, to the extent feasible, manufacturers committed to the highest levels of sustainability, environmental stewardship, and low-emissions as demonstrated by Mercury Marine. Mercury Marine's commitment to sustainability and successes are detailed in its 2021 Sustainability Report. Mercury Marine's accomplishments include winning the 2020 Energy Efficiency Excellence Award from Wisconsin's Focus on Energy program, 2019 Sustainable Process Award from the Wisconsin Sustainable Business Council for its sustainable use of aluminum, winning the 2018 Sustainable Product of the Year from the Wisconsin Sustainable Business Council for its Active Trim technology, and winning the 2018 Business Friend of the Environment Award for their new V6 and V8 outboard engines. For the 11th consecutive year, the Wisconsin Sustainable Business Council awarded Mercury Marine a "Green Masters" designation, a program measuring a broad range of sustainability issues including energy and water conservation, waste management, community outreach, and education. Mercury Marine has improved energy efficiency by implementing energy-reducing projects, promoting best practices in energy management and employing new energy technologies, such as using the latest and most energy efficient HVAC systems, LED lighting, top-rated insulation, passive (natural) lighting, weather-stripping around windows and doors, double-door vestibules, automatic and timer-activated doors, and plans to build roof-mounted solar arrays where applicable.

Additionally, Azimut Yachts was awarded ISO 14001 certification, for its consistent and effective management system aimed at reducing the environmental impact of its operations. In addition, to maximize the eco-compatible standards of their yachts, Azimut Yachts adopted RINA (an organization specializing in classification, certification, testing, and inspection) principles to achieve RINA Green Plus notation. Also, MasterCraft's manufacturing facilities operate in alignment with the ISO 14001 Environmental Management Systems Standard, the ISO 9001 Quality Management Systems standard, and the OHSAS 18001 International Occupational Health and Safety Management System standard. MasterCraft's largest facility, the MasterCraft brand facility, is certified in all three standards. MasterCraft believes it is the only boat manufacturer to achieve all three of these prestigious ISO certifications across production and product development systems.

Further, as opportunities arise we have made targeted investments to support new technology, innovations, and research in the marine industry to reduce emissions, provide environmental stewardship, and support a sustainable environment for all boaters. The Fraser Yachts Group has become the first yacht company to sign the Pact for Energy Transition with the Monaco Government. The energy transition pact was created by the Monaco government to improve energy efficiency and promote renewable energy sources, with the target to reducing greenhouse gas emissions, by allowing residents, workers, businesses, institutions and associations to contribute to the energy transition effort.

We take pride in maintaining our retail locations and marinas for the benefit of the local communities and boaters we serve. We strive to execute a proactive strategy related to environmental, health, and safety laws and regulations, and environmental stewardship, which includes investing significant resources in maintaining and developing our retail locations and marinas for the long term. Additionally, several of our marinas have been designated as Clean Marinas. The Clean Marina Program recognizes facilities engaging in environmental best practices and exceeding regulatory requirements in and around waterways.

Corporate Social Responsibility

Our commitment to social responsibility is outlined in our "Human Rights Policy." Our Human Rights Policy can be found on the Investor Relations section of our website at *www.MarineMax.com* under Governance Documents (for the avoidance of doubt, our Environmental Policy and other information contained on or accessible through our website is not incorporated into, and does not form a part of, this Annual Report or any other report or document we file with the Securities and Exchange Commission). Our Human Rights Policy is reviewed by our Board of Directors on an annual basis or more frequently as needed. We strive to conduct our business in an ethical and socially responsible way, and are sensitive to the needs of the environment, our customers, our shareholders, our team members and our communities. Our ethical and social responsibility is guided by our MarineMax culture and values which are honesty, trust, loyalty, professionalism, consistency, always do what is right, treat others as we want to be treated, and always consider the long term. Our culture, values, and mission are shared and reinforced with our team members through daily stand up meetings, team events, and online communications. We pride ourselves in supporting our local communities both on and off the water. One way in which our presence is felt within the local community is by providing our team members time to volunteer and assist with Habitat for Humanity housing projects in addition to making charitable donations to Habitat for Humanity. In addition, we support humanitarian aid to countries in need through organizations such as the Red Cross. We also partner with the American Cancer Society to support Breast Cancer Awareness Month across all of our retail operations.

Product Liability

The products we sell or service may expose us to potential liabilities for personal injury or property damage claims relating to the use of those products. Historically, the resolution of product liability claims has not materially affected our business. Manufacturers of the products we sell generally maintain product liability insurance. We also maintain third-party product liability insurance that we

believe to be adequate. We may experience claims that are not covered by, or that are in excess of, our insurance coverage. The institution of any significant claims against us could subject us to damages, result in higher insurance costs, and harm our business reputation with potential customers.

Executive Officers

The following table sets forth information concerning each of our executive officers as of November 15, 2022:

Name	Age	Position
William H. McGill Jr.	78	Executive Chairman of the Board and Director
William Brett McGill	54	Chief Executive Officer, President and Director
Michael H. McLamb	57	Executive Vice President, Chief Financial Officer, Secretary, and Director
Charles A. Cashman	59	Executive Vice President and Chief Revenue Officer
Anthony E. Cassella, Jr	53	Vice President and Chief Accounting Officer
Shawn Berg	52	Executive Vice President and Chief Digital Officer
Kyle G. Langbehn	48	Executive Vice President and President of Retail Operations

William H. McGill Jr. has served as the Executive Chairman of the Board since October 2018. Mr. McGill served as Chief Executive Officer of MarineMax from January 23, 1998 to September 30, 2018 and as the Chairman of the Board and as a Director of the Company since March 6, 1998. Mr. McGill served as the President of the Company from January 23, 1988 until September 8, 2000 and re-assumed the position from July 1, 2002 to October 1, 2017. Mr. McGill was the principal owner and president of Gulfwind USA, Inc., one of our operating subsidiaries, from 1973 until its merger with us in 1998.

William Brett McGill has served as Chief Executive Officer since October 2018, as President since October 2017, and as a Director since February 21, 2019. Mr. McGill served as President and Chief Operating Officer of MarineMax from October 2017 to October 2018. Mr. McGill served as Executive Vice President and Chief Operating Officer from October 2016 to October 2017, Executive Vice President Operations of the Company from October 2015 to September 2016, as Vice President of West Operations of the Company from May 2012 to September 2015, and was appointed as an executive officer by our Board of Directors in November 2012. Mr. McGill served as one of our Regional Presidents from March 2006 to May 2012, as Vice President of Information Technology, Service and Parts of the Company from October 2004 to March 2006, and as Director of Information Services from March 1998. Mr. McGill began his professional career with a software development firm, Integrated Dealer Systems, prior to joining MarineMax in 1996. William Brett McGill is the son of William H. McGill, Jr.

Michael H. McLamb has served as Executive Vice President of MarineMax since October 2002, as Chief Financial Officer since January 23, 1998, as Secretary since April 5, 1998, and as a Director since November 1, 2003. Mr. McLamb served as Vice President and Treasurer of the Company from January 23, 1998 until October 22, 2002. Mr. McLamb, a certified public accountant, was employed by Arthur Andersen LLP from December 1987 to December 1997, serving most recently as a Senior Manager.

Charles A. Cashman has served as Executive Vice President and Chief Revenue Officer of MarineMax since October 2016. Mr. Cashman served as Executive Vice President Sales, Marketing, and Manufacturer Relations of the Company from October 2015 to September 2016, served as Vice President of East Operations from May 2012 to September 2015, and was appointed as an executive officer by our Board of Directors in November 2012. Mr. Cashman served as Regional President of East Florida from October 2008 to May 2012, and as District Manager of the East Coast of Florida from March 2007 to October 2008. Mr. Cashman served several other positions of increasing responsibility, including Sales Consultant, Sales Manager, and General Manager, since joining MarineMax in 1992.

Anthony E. Cassella, Jr. has served as Vice President of MarineMax since February 2016, Chief Accounting Officer since October 2014, and Vice President of Accounting and Shared Services since February 2011. Mr. Cassella served as Director of Shared Services from October 2007 until February 2011 and Regional Controller from March 1999 until October 2007. Mr. Cassella was the Controller of Merit Marine which the Company acquired in March 1999. Mr. Cassella, a certified public accountant, worked in public accounting from June 1991 to February 1998, serving most recently as Manager.

Shawn Berg has served as Chief Digital Officer since April 2019 overseeing the Company's Technology, Marketing, and Digital Business operations. Mr. Berg was appointed as an executive officer of MarineMax by our Board of Directors in October 2022. Previously he served as Vice President of Technology after joining MarineMax in 2017. Mr. Berg has over 30 years of experience, including multiple officer-level positions, delivering strategic business growth to companies across the marine, auto, and retail industries. In addition, Mr. Berg has extensive experience in finance, insurance, distribution, servicing, and supply chain operations.

Kyle G. Langbehn has served as President of Retail Operations since July 2020, responsible for MarineMax's retail operations. Mr. Langbehn was appointed as an executive officer of MarineMax by our Board of Directors in October 2022. Previously he served as

Vice President of Operations beginning in October of 2018. Mr. Langbehn has excelled in numerous positions of increasing responsibility including Sales Consultant, Sales Manager, General Sales Manager, General Manager, and Regional President since joining MarineMax in 2002.

Item 1A. Risk Factors

Risks Related to Competition, Economic, and Industry Conditions

Our success depends to a significant extent on the well-being, as well as the continued popularity and reputation for quality of the boating products, of our manufacturers, particularly Brunswick's Sea Ray and Boston Whaler boat lines and Azimut-Benetti Group's Azimut products. The failure to obtain a high quality and desirable mix of competitively priced products that our customers demand could have a material adverse effect on our business, financial condition, and results of operations.

Approximately 23% of our revenue in fiscal 2022 resulted from sales of new boats manufactured by Brunswick, including approximately 11% from Brunswick's Sea Ray division, 9% from Brunswick's Boston Whaler division, and approximately 3% from Brunswick's other divisions. Additionally, approximately 8% of our revenue in fiscal 2022 resulted from sales of new boats manufactured by Azimut-Benetti Group. The remainder of our fiscal 2022 revenue from new boat sales resulted from sales of products from a limited number of other manufacturers, none of which accounted for more than 10% of our revenue.

We depend on our manufacturers to provide us with products that compare favorably with competing products in terms of quality, performance, safety, and advanced features, including the latest advances in propulsion and navigation systems. Any adverse change in the production efficiency, product development efforts, technological advancement, expansion of manufacturing footprint, supply chain and third-party suppliers, marketplace acceptance, marketing capabilities, ability to secure adequate access to capital, and financial condition of our manufacturers, particularly Brunswick (including Mercury Marine, a division of Brunswick) and Azimut-Benetti Group, given our reliance on Sea Ray, Boston Whaler, Mercury Marine engines, and Azimut, would have a substantial adverse impact on our business. Any difficulties encountered by any of our manufacturers, particularly Brunswick and Azimut-Benetti Group, resulting from economic, financial, supply chain, or other factors, such as the COVID-19 pandemic, could adversely affect the quality and amount of products that they are able to supply to us and the services and support they provide to us.

Any interruption or discontinuance of the operations of Brunswick, Azimut-Benetti Group or other manufacturers could cause us to experience shortfalls, disruptions or delays with respect to needed inventory. Although we believe in our brand, our product diversification and that adequate alternate sources would be available that could replace any manufacturer other than Brunswick and Azimut-Benetti Group as a product source, those alternate sources may not be available at the time of any interruption, and alternative products may not be available at comparable quality and price.

Boat manufacturers exercise substantial control over our business.

We depend on our dealer agreements. We have dealer agreements with Brunswick covering Sea Ray and Boston Whaler products. Most of our retail locations have a multi-year dealer agreement which provides for the lowest product prices charged by the Sea Ray division of Brunswick or Boston Whaler, as applicable, from time to time to other domestic Sea Ray or Boston Whaler dealers, as applicable. These terms are subject to:

- the dealer meeting all the requirements and conditions of the manufacturer's applicable programs; and
- the right of Brunswick in good faith to charge lesser prices to other dealers
    - to meet existing competitive circumstances;
    - for unusual and non-ordinary business circumstances; or
    - for limited duration promotional programs.

Each dealer agreement designates a specific geographical territory for the dealer, which is exclusive to the dealer provided that the dealer is able to meet the material obligations of its dealer agreement.

We are the exclusive dealer for Azimut-Benetti Group's Azimut product line for the United States. The Azimut dealer agreement provides a geographic territory to promote the product line and to network with the appropriate clientele through various independent locations designated for Azimut retail sales. Our dealer agreement is a multi-year term but requires us to be in compliance with its terms and conditions.

As is typical in the industry, we generally deal with manufacturers, other than Sea Ray, Boston Whaler, and Azimut, under renewable annual dealer agreements. These agreements do not contain any contractual provisions concerning product pricing or required

purchasing levels. Pricing is generally established on a model year basis, but is subject to change in the manufacturer's sole discretion. Any change or termination of these arrangements for any reason could adversely affect product availability and cost and our financial performance.

Through these dealer agreements, boat manufacturers (particularly Brunswick and Azimut) exercise significant control over their dealers, restrict them to specified locations, and retain approval rights over changes in management and ownership, among other things. Failure to meet the customer satisfaction, market share goals, and other conditions set forth in any dealer agreement could have various consequences, including the following:

- the termination of the dealer agreement;
- the imposition of additional conditions in subsequent dealer agreements;
- limitations on boat inventory allocations;
- reductions in reimbursement rates for warranty work performed by the dealer;
- loss of certain manufacturer to dealer incentives;
- denial of approval of future acquisitions; or
- the loss of exclusive rights to sell in the geographic territory.

These events could have a material adverse effect on our competitive position and financial performance.

Our business, as well as the entire recreational boating industry, is highly seasonal, with seasonality varying in different geographic markets.

Over the three-year period ended September 30, 2022, the average revenue for the quarterly periods ended December 31, March 31, June 30 and September 30 represented approximately 20%, 24%, 32%, and 24%, respectively, of our average annual revenue. With the exception of Florida, we generally realize significantly lower sales and higher levels of inventories and related short-term borrowings in the quarterly periods ending December 31 and March 31. The onset of the public boat and recreation shows in January typically stimulates boat sales and allows us to reduce our inventory levels and related short-term borrowings throughout the remainder of the fiscal year. Our business could become substantially more seasonal if we acquire dealers that operate in colder regions of the United States, which are generally closed or experience lower volume in the winter months.

The failure to receive rebates and other dealer incentives (interest assistance and co-op assistance) on inventory purchases or retail sales could substantially reduce our margins.

We rely on manufacturers' programs that provide incentives for dealers to purchase and sell particular boat makes and models or for consumers to buy particular boat makes or models. Any eliminations, reductions, limitations, or other changes relating to rebate or incentive programs that have the effect of reducing the benefits we receive, whether relating to the ability of manufacturers to pay or our ability to qualify for such incentive programs, could increase the effective cost of our boat purchases, reduce our margins and competitive position, and have a material adverse effect on our financial performance.

Other recreational activities, poor industry perception, and potential health risks from environmental conditions can adversely affect the levels of boat purchases.

Demand for our products can be adversely affected by competition from other activities that occupy consumers' time, including other forms of recreation as well as religious, cultural and community activities. In addition, real or perceived health risks from engaging in outdoor activities and local environmental conditions in the areas in which we operate dealerships could adversely affect the levels of boat purchases. Further, as a seller of high-end consumer products, we must compete for discretionary spending with a wide variety of other recreational activities and consumer purchases. In addition, perceived hassles of boat ownership and customer service and lack of customer education throughout the retail boat industry, which has traditionally been perceived to be relatively poor, represent impediments to boat purchases.

We face intense competition.

We operate in a highly competitive environment. In addition to facing competition generally from recreation businesses seeking to attract consumers' leisure time and discretionary spending dollars, the recreational boat industry itself is highly fragmented, resulting in intense competition for customers, quality products, boat show space, and suitable retail locations. We rely to a certain extent on boat shows to generate sales.

We compete primarily with single-location boat dealers and, with respect to sales of marine parts, accessories, and equipment, with national specialty marine parts and accessories stores, online catalog retailers, sporting goods stores, and mass merchants. Competition among boat dealers is based on the quality of available products, the price and value of the products, and attention to customer service. There is significant competition both within markets we currently serve and in new markets that we may enter. We compete in each of our markets with retailers of brands of boats and engines we do not sell in that market. In addition, several of our competitors, especially those selling marine equipment and accessories, are large national or regional chains that have substantial financial, marketing and other resources. Private sales of used boats represent an additional source of competition.

Due to various matters, including environmental concerns, permitting and zoning requirements, and competition for waterfront real estate, some markets in the United States have experienced an increased waiting list for marina and storage availability. In general, the markets in which we currently operate are not experiencing any unusual difficulties. However, marine retail activity could be adversely affected in markets that do not have sufficient marine and storage availability to satisfy demand.

Timing of large boat and yacht sales and failure to adequately anticipate consumer preference and demand may have an adverse impact on our business.

Forecasting optimal inventory levels is difficult to predict based on, among other things, changes in economic conditions, consumer preferences, delivery of new models from manufacturers, and timing of large boat and yacht sales. Failure to adequately anticipate consumer demand and preferences could negatively impact our inventory management strategies, inventory carrying costs, and our operating margins.

Economic conditions and consumer spending patterns can have a material adverse effect on our business, financial condition, and results of operations.

General economic conditions and consumer spending patterns can negatively impact our operating results. Unfavorable local, regional, national, or global economic developments or uncertainties regarding future economic prospects could reduce consumer spending in the markets we serve and adversely affect our business. Economic conditions in areas in which we operate dealerships, such as corporate downsizing, military base closings, and inclement weather such as hurricanes or other storms, environmental conditions, and specific events, such as the BP oil spill in the Gulf of Mexico in 2010, or Hurricane Ian in 2022, also could adversely affect, and in certain instances have adversely affected, our operations in certain markets.

In an economic downturn, consumer discretionary spending levels generally decline, at times resulting in disproportionately large reductions in the sale of luxury goods. Consumer spending on luxury goods also may decline as a result of lower consumer confidence levels, even if prevailing economic conditions are favorable. As a result, an economic downturn could impact us more than certain of our competitors due to our strategic focus on a higher end of our market.

Unfavorable economic conditions can cause us to reduce our acquisition program, delay new store openings, reduce our inventory purchases, engage in inventory reduction efforts, close a number of our retail locations, reduce our headcount, and amend and replace our credit facility, and could also interfere with our supply of certain brands by manufacturers, reduce marketing and other support by manufacturers, decrease revenue, put additional pressures on margins, and result in our failure to satisfy covenants under our credit agreement.

More recently, inflation has increased in the United States and throughout the world. This has affected the prices manufacturers charge us, as well as the prices that we charge our customers. To the extent such inflation continues, increases, or both, it may reduce our margins and have a material adverse effect on our financial performance.

Our sales have been, and may further be adversely impacted by recent increases, and likely future increases, in interest rates and adverse changes in fiscal policy or credit market conditions.

Fiscal and monetary policy have had a material adverse impact on worldwide economic conditions, the financial markets, and availability of credit and, consequently, have negatively affected, and may further negatively affect, our industries, businesses, and overall financial condition. Recent changes by the Federal Reserve to raise its benchmark interest rate has resulted in significantly higher long-term interest rates, which has negatively impacted, and may further negatively impact, our customers' willingness or desire to purchase our products. While credit availability is currently adequate to support demand, if credit conditions worsen and adversely affect the ability of customers to finance potential purchases at acceptable terms and interest rates, it could result in a decrease in sales and materially impact our financial condition or results of operations.

Risks Related to Our Strategies

Failure to implement strategies to enhance our performance or our strategies could have a material adverse effect on our business and financial condition.

We are increasing our efforts to grow our financing and insurance, parts and accessories, service, yacht charter, brokerage, and boat storage businesses to better serve our customers and thereby increase revenue and improve profitability as a result of these higher margin businesses. In addition, we have implemented programs to increase the lead capture and digital sales of used boats, parts, accessories, and a wide range of boating supplies and products. These efforts and programs are designed to increase our revenue and reduce our dependence on the sale of new boats. We are also pursuing certain acquisitions as discussed in the immediately following Risk Factors. These business initiatives have required, and will continue to require, us to add personnel, invest capital, enter businesses in which we do not have extensive experience, and encounter substantial competition. As a result, our strategies to enhance our performance may not be successful and we may increase our expenses or write off such investments if not successful.

Our success depends, in part, on our ability to continue to make successful acquisitions at attractive or fair prices and to integrate the operations of acquired dealers and each dealer we acquire in the future.

Since March 1, 1998, we have acquired 32 additional previously independent recreational boat dealers, multiple marinas, five boat brokerage operations, two superyacht service companies, two full-service yacht repair operations, and two boat and yacht manufacturers. Each acquired dealer and entity operated independently prior to its acquisition by us. Our success depends, in part, on our ability to continue to make successful acquisitions at attractive or fair prices that align with our culture and focus on customer service and to integrate the operations of acquired dealers, including centralizing certain functions to achieve cost savings and pursuing programs and processes that promote cooperation and the sharing of opportunities and resources among our dealerships. We may not be able to oversee the combined entity efficiently, realize anticipated synergies, or implement effectively our growth and operating strategies. To the extent that we successfully pursue our acquisition strategy, our resulting growth will place significant additional demands on our management and infrastructure. Our failure to pursue successfully our acquisition strategies or operate effectively the combined entity could have a material adverse effect on our rate of growth and operating performance.

We may pursue acquisition strategies in new lines of business.

We have historically pursued strategic acquisitions to capitalize upon the consolidation opportunities in the highly fragmented recreational boat dealer industry by acquiring additional dealers and related operations and improving their performance and profitability through the implementation of our operating strategies. We have also recently pursued, and may continue to pursue, potential contract manufacturing, vertical integration strategies, yacht charter and brokerage, marinas, boat storage, or other acquisitions as opportunities arise. To the extent we are successful in pursuing one or more of these strategies, we will face certain risks in addition to those that exist with acquisitions more closely related to our historical business, including potential inexperience in a line of business that is either new to us or that has become materially more significant to us as a result of a transaction, the potential difficulty of presenting a unified corporate image, greater uncertainties in the financial benefits and potential liabilities associated with this expanded base of acquisitions, different types of legal and operational risks, and different types of applicable financial metrics and goals. Our failure to pursue successfully our acquisition strategies in new lines of business, operate effectively the combined entity, and/or mitigate any potential new risks, could have a material adverse effect on our rate of growth and operating performance.

Unforeseen expenses, difficulties, and delays frequently encountered in connection with expansion through acquisitions could inhibit our growth and negatively impact our profitability.

The acquisition of additional recreational boat dealers, boat storage facilities, yacht brokerage operations, and marinas, which is one of our growth strategies, and vertical integration strategies, all involve significant risks. This strategy entails reviewing and potentially reorganizing acquired business operations, corporate infrastructure and systems, and financial controls. Unforeseen expenses, difficulties and delays frequently encountered in connection with expansion through acquisitions could inhibit our growth and negatively impact our profitability. We may be unable to identify suitable acquisition candidates or to complete the acquisitions of candidates that we identify. Increased competition for acquisition candidates or increased asking prices by acquisition candidates may increase purchase prices for acquisitions to levels beyond our financial capability or to levels that would not result in expected returns required by our acquisition criteria to be in the best interest of shareholders. Acquisitions also may become more difficult or less attractive in the future as we acquire more of the most attractive dealers that best align with our culture and focus on customer service. In addition, we may encounter difficulties in integrating the operations of acquired dealers with our own operations, difficulties in retaining employees, potential risks of losing customers, suppliers, or other business relationships, and difficulties in managing acquired dealers profitably without substantial costs, delays, or other operational or financial problems.

Our ability to continue to grow through acquisitions depends upon various factors, including the following:

- the availability of suitable acquisition candidates at attractive purchase prices;
- the ability to compete effectively for available acquisition opportunities;
- the availability of cash on hand, borrowed funds or stock with a sufficient value to complete the acquisitions;
- the ability to obtain any requisite manufacturer or governmental approvals;
- the ability to obtain approval of our lenders under our current credit agreement; and
- the absence of one or more manufacturers attempting to impose unsatisfactory restrictions on us in connection with their approval of acquisitions.

If we finance future acquisitions in whole or in part through the issuance of common stock or securities convertible into or exercisable for common stock, existing shareholders will experience dilution in the voting power of their common stock and earnings per share could be negatively impacted. Any borrowings made to finance future acquisitions or for operations could make us more vulnerable to a downturn in our operating results, a downturn in economic conditions, or increases in interest rates on borrowings that are subject to interest rate fluctuations.

We may be required to obtain the consent of Brunswick and various other manufacturers prior to the acquisition of other dealers.

In determining whether to approve acquisitions, manufacturers may consider many factors, including our financial condition and ownership structure. Manufacturers also may impose conditions on granting their approvals for acquisitions, including a limitation on the number of their dealers that we may acquire. Our ability to meet manufacturers' requirements for approving future acquisitions will have a direct bearing on our ability to complete acquisitions and effect our growth strategy. There can be no assurance that a manufacturer will not terminate its dealer agreement, refuse to renew its dealer agreement, refuse to approve future acquisitions, or take other action that could have a material adverse effect on our acquisition program.

Our internal growth and operating strategies of opening new locations and offering new products involve risk.

In addition to pursuing growth by acquiring boat dealers, we intend to continue to pursue a strategy of growth through opening new retail locations and offering new products in our existing and new territories. This strategy may entail obtaining additional distribution rights from our existing and new manufacturers. We may not be able to secure additional distribution rights or obtain suitable alternative sources of supply if we are unable to obtain such distribution rights. The inability to expand our product lines and geographic scope by obtaining additional distribution rights could have a material adverse effect on the growth and profitability of our business.

Accomplishing these goals for expansion will depend upon a number of factors, including the following:

- our ability to identify new markets in which we can obtain distribution rights to sell our existing or additional product lines;
- our ability to lease or construct suitable facilities at a reasonable cost in existing or new markets;
- our ability to hire, train, and retain qualified personnel;
- the timely and effective integration of new retail locations into existing operations;
- our ability to achieve adequate market penetration at favorable operating margins without the acquisition of existing dealers; and
- our financial resources.

Our dealer agreements with Brunswick require Brunswick's consent to open, close, or change retail locations that sell Sea Ray or Boston Whaler products as applicable, and other dealer agreements generally contain similar provisions. We may not be able to open and operate new retail locations or introduce new product lines on a timely or profitable basis. Moreover, the costs associated with opening new retail locations or introducing new product lines may adversely affect our profitability.

As a result of these growth strategies, we expect to continue to expend significant time and effort in opening and acquiring new retail locations, improving existing retail locations in our current markets, and introducing new products. Our systems, procedures, controls, financial resources, and management and staffing levels may not be adequate to support expanding operations. The inability to manage our growth effectively could have a material adverse effect on our business, financial condition, and results of operations.

In addition to our traditional repeat and referral business in our physical locations, digital channels are increasingly significant in serving our existing customer base and reaching new customers. Our continued expansion and success will be negatively impacted if we are not able to fully exploit these channels.

Our digital channels are subject to a number of risks and uncertainties that are beyond our control, including the following:

- changes in technology;
- cybersecurity risk;
- changes in consumer willingness to conduct business electronically, including increasing concerns with consumer privacy and risk and changing laws, rules, and regulations, such as the imposition of or increase in taxes;
- technology or security impediments that may inhibit our ability to electronically market our products and services;
- changes in applicable international, federal, state and commercial regulation;
- failure of our service providers, suppliers or service partners to perform their services properly and in a timely and efficient manner;
- failure to adequately respond to customers, process orders or deliver services;
- our failure to assess and evaluate our digital product and service offerings to ensure that our products and services are desired by boating enthusiasts; and
- the potential exposure to liability with respect to third-party information, including but not limited to copyright, trademark infringement, or other wrongful acts of third parties; false or erroneous information provided by third parties; or illegal activities by third parties, such as the sale of stolen boats or other goods.

Further, we may also be vulnerable to competitive pressures from the growing electronic commerce activity in our market, both as they may impact our own on-line business, and as they may impact the operating results and investment values of our existing physical locations.

Various operations in multiple countries around the world expose us to international political, economic, foreign currency, and other risks.

Our operations involve certain international activities, including our sales of yachts produced by the Azimut-Benetti Group in Italy, yachts produced by Galeon in Poland, and power catamarans for our charter fleet produced by Sino Eagle in China, as well as our Fraser Yachts Group and Northrop & Johnson operations. These activities in multiple countries around the world expose us to international political, economic, foreign currency, and other risks. Some of our sales and purchases of inventory are denominated in a currency other than the U.S. dollar. Consequently, a strong or weak U.S. dollar may adversely affect reported revenues and our profitability. We may hedge certain foreign currency exposures to lessen and delay, but not to completely eliminate, the effects of foreign currency fluctuations on our financial results. Our future financial results could be significantly affected by the value of the U.S. dollar in relation to the foreign currencies in which we conduct business. The degree to which our financial results are affected for any given time period will depend in part upon the success and extent of our hedging activities.

Furthermore, the geopolitical and economic uncertainty and/or instability that may result from changes in the relationship among the United States, Taiwan and China, may, directly or indirectly, materially harm our business, financial condition and financial performance. For example, certain of our suppliers are dependent on products sourced from Taiwan. Greater restrictions and/or disruptions of our suppliers' ability to operate facilities and/or do business in and with Taiwan may increase the cost of certain materials and/or limit the supply of products sourced from Taiwan. This may result in deterioration of our profit margins, a potential need to increase our pricing and, in so doing, may decrease demand for our products and thereby adversely impact our financial performance.

Additionally, protectionist trade legislation in the United States, the European Union, Poland, or China, such as a change in current tariff structures, export or import compliance laws, or other trade policies could adversely affect our ability to import yachts from these foreign suppliers under economically favorable terms and conditions. There have been recent changes and additional changes may occur in the future, to United States and foreign trade and tax policies, including heightened import restrictions, import and export licenses, new tariffs, trade embargoes, government sanctions, and trade barriers. Any of these restrictions could prevent or make it difficult or more costly for us to import yachts from foreign suppliers under economically favorable terms and conditions. Increased tariffs could require us to increase our prices which likely could decrease demand for our products. In addition, other countries may limit their trade with the United States or retaliate through their own restrictions and/or increased tariffs which would affect our ability to export products and therefore adversely affect our sales. Many of these challenges, particularly tariffs, are present in commerce with China, a market from which we purchase products. While such tariffs may be delayed or cancelled before coming into effect and we believe we have taken steps to mitigate their potential effects, such tariffs would likely increase our costs for our Chinese suppliers.

Our international operations create a number of logistical and communications challenges. The economic, political and other risks we face resulting from these operations include the following:

- compliance with U.S. and local laws and regulatory requirements, including labor, tax, and environmental, health and safety, as well as changes in those laws and requirements;
- transportation delays or interruptions and other effects of less developed infrastructures;
- effects from the voter-approved exit of the United Kingdom from the European Union (often referred to as Brexit), including any resulting deterioration in economic conditions, volatility in currency exchange rates, or adverse regulatory changes;
- limitations on imports and exports;
- adverse foreign exchange rate fluctuations;
- imposition of restrictions on currency conversion or the transfer of funds;
- withdrawal from or revision to international trade agreements;
- national and international conflicts, including foreign policy changes, political or economic instability, or terrorist acts;
- the effects of issued or threatened government sanctions, tariffs and duties, trade barriers or economic restrictions;
- maintenance of quality standards; and/or
- possible employee turnover or labor unrest.

The intended benefits of the IGY Marinas acquisition may not be realized.

The IGY Marinas acquisition poses risks for our ongoing operations, including, among others:

- the possibility that we will incur unexpected costs and liabilities;
- the possibility that expected synergies and value creation will not be realized or will not be realized within the expected time period;
- difficulties recruiting and retaining team members
- the financing for the acquisition of IGY Marinas may limit our ability to finance future acquisitions or obtain favorable terms on future credit agreements;
- IGY Marinas may not perform as well as anticipated; and
- unforeseen difficulties may arise in integrating operations in various countries into our company.

As a result of the foregoing, we cannot assure you that the IGY Marinas acquisition will be accretive to us in the near term or at all. Furthermore, if we fail to realize the intended benefits of the IGY Marinas acquisition, the market price of our common stock could decline to the extent that the market price reflects those benefits.

The Ukraine crisis could have a significant adverse effect on our business, results of operations, financial condition, and cash flow in the future.

The Ukraine crisis raises a host of potential threats and risk factors to consider even though we do not conduct significant business directly in Ukraine or Russia. Sanctions brought against Russia will impact the import, export, sale, and supply of goods and services with companies located in the U.S. and other regions. Many companies have ceased all operations in Russia with significant expected short-term and long-term losses. This has had, will likely continue to have, a negative impact on the global economy and has affected, and will likely continue to affect, economic and capital markets. A downturn in the economy could adversely affect our financial performance.

The ongoing conflict between Russia and Ukraine has impacted global energy markets, particularly in Europe, leading to high volatility and increasing prices for crude oil, natural gas and other energy supplies. Higher energy costs result in increases in operating expenses at our manufacturing facilities, in the expense of shipping raw materials to our facilities, and in the expense of shipping products to our customers. In addition, increases in energy costs may adversely affect the pricing and availability of petroleum-based raw materials, such as resins and foams that are used in manufacturing.

Risks Related to Our Operations

The availability and costs of borrowed funds can adversely affect our ability to obtain adequate boat inventory and the ability and willingness of our customers to finance boat purchases.

The availability and costs of borrowed funds can adversely affect our ability to obtain and maintain adequate boat inventory and the holding costs of that inventory as well as the ability and willingness of our customers to finance boat purchases. We rely on the New Credit Agreement to purchase and maintain our inventory of boats. The New Credit Agreement provides the Company a line of credit with asset based borrowing availability of up to $750 million and establishes a revolving credit facility in the maximum amount of $100 million, a delayed draw term loan facility to finance the acquisition of IGY Marinas in the maximum amount of $400 million, and a $100 million delayed draw mortgage loan facility. None of our real estate has been pledged for collateral for the New Credit Agreement. As of September 30, 2022, we were in compliance with all of the covenants under the New Credit Agreement and our additional available borrowings under the New Credit Agreement was approximately $65.8 million based upon the outstanding borrowing base availability.

Our ability to borrow under the New Credit Agreement depends on our ability to continue to satisfy our covenants and other obligations under the New Credit Agreement and the ability for our manufacturers to be approved vendors under our New Credit Agreement. The variable interest rate under our New Credit Agreement will fluctuate with changing market conditions and, accordingly, our interest expense will increase as interest rates rise. A significant increase in interest rates could have a material adverse effect on our operating results. The aging of our inventory limits our borrowing capacity as defined provisions in the New Credit Agreement reduce the allowable advance rate as our inventory ages. Depressed economic conditions, weak consumer spending, turmoil in the credit markets, and lender difficulties, among other potential reasons, could interfere with our ability to maintain compliance with our debt covenants and to utilize the New Credit Agreement to fund our operations. Any inability to utilize the New Credit Agreement or the acceleration of amounts owed, resulting from a covenant violation, insufficient collateral, or lender difficulties, could require us to seek other sources of funding to repay amounts outstanding under the New Credit Agreement or replace or supplement the New Credit Agreement, which may not be possible at all or under commercially reasonable terms.

Similarly, decreases in the availability of credit and increases in the cost of credit adversely affect the ability of our customers to purchase boats from us and thereby adversely affect our ability to sell our products and impact the profitability of our finance and insurance activities.

Higher energy, costs and availability of raw materials, parts, components, and fuel costs along with adequate supply may adversely affect our business.

All of the recreational boats we sell are powered by diesel or gasoline engines. Consequently, an interruption in the supply, or a significant increase in the price or tax on the sale of fuel on a regional or national basis could have a material adverse effect on our sales and operating results. Increases in fuel prices negatively impact boat sales. The supply of fuels may be interrupted, rationing may be imposed, or the price of or tax on fuels may significantly increase in the future, adversely impacting our business. Also, increases in energy costs can adversely affect the pricing and availability of petroleum-based raw materials such as resins and foam that are used in many of the marine products produced by boat manufacturers, including Cruisers Yachts and Intrepid Powerboats, increasing our cost of inventory. Additionally, higher fuel prices may also have an adverse effect on demand for our parts and accessories business because higher fuel prices increase the cost of boat ownership and possibly affect product use.

Boat manufacturers, including Cruisers Yachts and Intrepid Powerboats, rely on third parties to supply raw materials used in the manufacturing process, including oil, aluminum, copper, steel, and resins, as well as product parts and components. The prices for these raw materials, parts, and components fluctuate depending on market conditions and, in some instances, commodity prices or trade policies, including tariffs. Substantial increases in the prices of raw materials, parts, and components would increase our product and operating costs, and could reduce our profitability if we are unable to recoup the increased costs through higher product prices or improved operating efficiencies. Similarly, if a critical supplier were to close its operations, cease manufacturing, or otherwise fail to deliver an essential component necessary to our manufacturing operations, that could detrimentally affect our ability to purchase or manufacture and sell products, resulting in an interruption in business operations and/or a loss of sales.

In addition, some components used in the boat manufacturing processes, including certain engine components, furniture, upholstery, and boat windshields, are available from a sole supplier or a limited number of suppliers. Operational and financial difficulties that these or other suppliers may face in the future could adversely affect their ability to supply us with the parts and components we and our boat manufacturers need, which could significantly disrupt our operations. It may be difficult to find a replacement supplier for a limited or sole source raw material, part, or component without significant delay or on commercially reasonable terms. In addition, an uncorrected defect or supplier's variation in a raw material, part, or component, either unknown to us or incompatible with our manufacturing process, could jeopardize our ability to manufacture products.

Some additional supply risks that could disrupt our operations, impair our ability to deliver products to customers, and negatively affect our financial results include:

- an outbreak of disease or facility closures due to the COVID-19 pandemic, or similar public health threat;
- a deterioration of our relationships with suppliers;
- events such as natural disasters, power outages, or labor strikes;
- financial pressures on our suppliers due to a weakening economy or unfavorable conditions in other end markets;
- supplier manufacturing constraints and investment requirements; or
- disruption at major global ports and shipping hubs.

These risks are exacerbated in the case of single-source suppliers, and the exclusive supplier of a key component could potentially exert significant bargaining power over price, quality, warranty claims, or other terms.

Substantially all of our products are powered with outboard engines from Mercury Marine, Yamaha, and inboard engines from Volvo, which makes us reliant on these companies for the supply of engines.

The availability and cost of engines for our boats and yachts is critical. If we are required to replace Mercury Marine, Yamaha, or Volvo as our engine suppliers for any reason, it could cause a decrease in products available for sale or an increase in our cost of sales, either of which could adversely affect our business, financial condition and results of operations. If we experience an interruption to our engine supply, then this could cause a decrease in products available for sale or an increase in our cost of sales, either of which could adversely affect our business, financial condition and results of operations.

The availability of boat insurance is critical to our success.

The ability of our customers to secure reasonably affordable boat insurance that is satisfactory to lenders that finance our customers' purchases is critical to our success. Any difficulty of customers to obtain affordable boat insurance could impede boat sales and adversely affect our business.

Elements of our yacht charter and charter brokerage businesses expose us to certain risks.

Our yacht charter business entails the sale of specifically designed yachts to third parties for inclusion in our yacht charter fleet; a yacht management agreement under which yacht owners enable us to put their yachts in our yacht charter program for a period of several years for a fixed monthly fee payable by us; our services in storing, insuring, and maintaining their yachts; and the charter by us of these yachts to vacation customers at agreed fees payable to us. Our failure to find purchasers for yachts intended for our charter fleet will increase our boat inventory and related operating costs; lack of sales into our charter fleet may result in increased losses due to market adjustments of our yacht charter inventory; and our failure to generate a sufficient number of vacation charter customers will require us to absorb all the costs of the monthly fees to the yacht owners as well as other operating costs.

Customers consider safety and reliability a primary concern in selecting a yacht charter provider. The yacht charter business may present a number of safety risks including, but not limited to, catastrophic disaster, adverse weather and marine conditions, such as Hurricane Ian in 2022, mechanical failure and collision, and health issues such as the COVID-19 pandemic. If we are unable to maintain acceptable records for safety and reliability, our ability to retain current customers and attract new customers may be adversely affected. Additionally, any safety issue encountered during a yacht charter may result in claims against us as well as negative publicity. These events could have a material adverse effect on the competitive position and financial performance of both our yacht charter business and our core retail sales business.

The yacht charter business is also highly fragmented, consisting primarily of local operators and franchisees. Competition among charter operators is based on location, the type and size of yachts offered, charter rates, destinations serviced, and attention to customer service. Yacht charters also face competition from other travel and leisure options, including, but not limited to, cruises, hotels, resorts, theme parks, organized tours, land-based casino operators, and vacation ownership properties. We therefore risk losing business not only to other charter operators, but also to vacation operators that provide such alternatives.

We depend on income from financing, insurance and extended service contracts.

A portion of our income results from referral fees derived from the placement or marketing of various finance and insurance products, consisting of customer financing, insurance products, and extended service contracts, the most significant component of which is the participation and other fees resulting from our sale of customer financing contracts.

The availability of financing for our boat purchasers and the level of participation and other fees we receive in connection with such financing depend on the particular agreement between us and the lender and the current rate environment. Lenders may impose terms in their boat financing arrangements with us that may be unfavorable to us or our customers. Laws or regulations may be enacted

nationally or locally which could result in fees from lenders being eliminated or reduced, materially impacting our operating results. If customer financing becomes more difficult to secure, it may adversely impact our business.

Changes, including the lengthening of manufacturer warranties, may reduce our ability to offer and sell extended service contracts which may have a material adverse impact on our ability to sell F&I products.

The reduction of profit margins on sales of F&I products or the lack of demand for or the unavailability of these products could have a material adverse effect on our operating margins.

Our continued success is dependent on positive perceptions of our MarineMax brand which, if impaired, could adversely affect our sales.

We believe that our MarineMax brand is one of the reasons our customers choose to come to us for their boating needs. To be successful, we must preserve our reputation. Reputational value is based in large part on perceptions, and broad access to social media makes it easy for anyone to provide public feedback that can influence perceptions of us. It may be difficult to control negative publicity, regardless of whether it is accurate. While reputations may take decades to build, any negative incidents can quickly erode trust and confidence, particularly if they result in significant negative mainstream and/or social media publicity, governmental investigations, or litigation. Additionally, an isolated business incident at a single retail location could materially adversely affect our other stores, retail brands, reputation and sales channels, particularly if such incident results in significant adverse publicity, governmental investigations or litigation. Negative incidents, such as quality and safety concerns or incidents related to our manufacturers' products, could lead to tangible adverse effects on our business, including lost sales or team member retention and recruiting difficulties. In addition, vendors and others with whom we choose to do business may affect our reputation.

Our operations are dependent upon key personnel and team members.

Our success depends, in large part, upon our ability to attract, train and retain, qualified team members and executive officers, as well as the continuing efforts and abilities of team members and executive officers. Although we have employment agreements with certain of our executive officers and management succession plans, we cannot ensure that these or other executive personnel and team members will remain with us, or that our succession planning will adequately mitigate the risk associated with key personnel transitions. As a result of our decentralized operating strategy, we also rely on the management teams of our businesses. In addition, we likely will depend on the senior management of any significant businesses we acquire in the future.

The products we sell, or services we provide, may expose us to potential liabilities for personal injury or property damage claims relating to the use of those products.

Manufacturers of the products we sell generally maintain product liability insurance. We also maintain third-party product liability insurance that we believe to be adequate. We may experience claims that are not covered by, or that are in excess of, our insurance coverage. The institution of any significant claims against us could subject us to damages, result in higher insurance costs, and harm our business reputation with potential customers.

We manufacture and sell products that create exposure to potential claims and litigation.

Our manufacturing operations and the products we produce could result in product quality, warranty, personal injury, property damage, and other issues, thereby increasing the risk of litigation and potential liability, as well as regulatory fines. Historically, the resolution of such claims has not had a materially adverse effect on our business, and we maintain what we believe to be adequate insurance coverage to mitigate a portion of these risks. However, we may experience material losses in the future, incur significant costs to defend claims or issue product recalls, experience claims in excess of our insurance coverage or that are not covered by insurance, or be subjected to fines or penalties. Our reputation may be adversely affected by such claims, whether or not successful, including potential negative publicity about our products. We record accruals for known potential liabilities, but there is the possibility that actual losses may exceed these accruals and therefore negatively impact earnings.

We have a fixed cost base that can affect our profitability if demand decreases.

The fixed cost levels of operating a boat and yacht manufacturer can put pressure on profit margins when sales and production decline. Our profitability depends, in part, on our ability to spread fixed costs over a sufficiently large number of products sold and shipped, and if we make a decision to reduce our rate of production, gross or net margins could be negatively affected. Consequently, decreased demand or the need to reduce production can lower our ability to absorb fixed costs and materially impact our financial condition or results of operations.

Adverse federal or state tax policies can have a negative effect on us.

Changes in federal and state tax laws, such as an imposition of luxury taxes on new boat purchases, increases in prevailing federal or state tax rates, and removal of certain interest deductions, also influence consumers' decisions to purchase products we offer and could have a negative effect on our sales. For example, during 1991 and 1992, the federal government imposed a luxury tax on new recreational boats with sales prices in excess of $100,000, which coincided with a sharp decline in boating industry sales from a high of more than $17.9 billion in 1988 to a low of $10.3 billion in 1992.

In addition, increases in the United States corporate income tax rates (as currently being contemplated by the legislative and federal branches) would have an adverse effect on our financial performance and financial condition. Further, related increases in capital gains rates, personal income tax rates or both could have an adverse effect on the buying power of potential customers and therefore an adverse effect on our financial performance and financial condition.

Marinas may not be readily adaptable to other uses.

Marinas are specific-use properties and may contain features or assets that have limited alternative uses. These properties may also have distinct operational functions that involve specific procedures and training. If the operations of any of our marinas become unprofitable due to industry competition, operational execution or otherwise, then it may not be feasible to operate the property for another use, and the value of certain features or assets used at the property, or the property itself, may be impaired, this would have a material adverse effect on our financial performance.

We may be unable to obtain, renew or maintain permits, licenses and approvals necessary for the operation of our marinas.

Governmental bodies control much of the land located beneath and surrounding many of our marinas and lease such land to MarineMax and IGY Marinas under leases that typically range from five to 50 years. As a result, it is unlikely that we can obtain fee-simple title to the land on or near these marinas. If these governmental authorities terminate, fail to renew, or interpret in ways that are materially less favorable any of the permits, licenses and approvals necessary for operation of these properties, this would have a material adverse effect on our financial performance.

Some marinas must be dredged from time to time to remove silt and mud that collect in harbor-areas in order to assure that boat traffic can safely enter the harbor. Dredging and disposing of the dredged material can be very costly and require permits from various governmental authorities. If the permits necessary to dredge marinas or dispose of the dredged material cannot be timely obtained after the acquisition of a marina, or if dredging is not practical or is exceedingly expensive, this would have a material adverse effect on our financial performance.

Risks Related to the Environment and Geography

Weather and environmental conditions may adversely impact our business.

Weather and environmental conditions may adversely impact our operating results. For example, drought conditions, reduced rainfall levels, excessive rain and environmental conditions, and hurricanes may force boating areas to close or render boating dangerous or inconvenient, thereby curtailing customer demand for our products. While we traditionally maintain a full range of insurance coverage for any such events, there can be no assurance that such insurance coverage is adequate to cover losses that we sustain as a result of such disasters. In addition, unseasonably cool weather and prolonged winter conditions may lead to shorter selling seasons in certain locations. Many of our dealerships sell boats to customers for use on reservoirs, thereby subjecting our business to the continued viability of these reservoirs for boating use. Although our geographic diversity and any future geographic expansion should reduce the overall impact on us of adverse weather and environmental conditions in any one market area, weather and environmental conditions will continue to represent potential material adverse risks to us and our future operating performance.

Demand for wet slip storage increases during the summer months in our northern markets as customers contract for the summer boating season. Demand for dry storage increases during the winter season as seasonal weather patterns in certain geographies require boat owners to store their vessels on dry docks and within covered racks. Our results on a quarterly basis can fluctuate due to this cyclicality and seasonality.

Additionally, to the extent unfavorable weather conditions are exacerbated by global climate change, regardless of the cause, resulting in environmental changes including, but not limited to, severe weather, changing sea levels, poor water conditions, or reduced access to water, which could disrupt or negatively affect our business.

Environmental and climate changes could affect our business.

We operate many retail locations near or on bodies of water that are acutely susceptible to the risks associated with climate change. Such risks include those related to the physical impacts of climate change, such as more frequent and severe weather events, rising sea levels, and/or long term shifts in climate patterns, and risks related to the transition to a lower-carbon economy, such as reputational, market and/or regulatory risks. Climate change and climate events could result in social, cultural and economic disruptions in these areas, including supply chain disruptions, the disruption of local infrastructure and transportation systems that could limit the ability of our team members and our customers to access our retail locations. These events could also compound adverse economic conditions and impact consumer confidence and discretionary spending.

A significant amount of our boat sales are from the State of Florida.

Economic conditions, weather and environmental conditions, competition, market conditions, and any other adverse conditions impacting the State of Florida in which we generated approximately 54%, 50% and 51% of our dealership revenue during fiscal 2020, 2021, and 2022, respectively, could have a major impact on our operations.

Environmental and other regulatory issues may impact our operations.

Our operations are subject to extensive regulation, supervision, and licensing under various federal, state and local statutes, ordinances and regulations, such as those relating to finance and insurance, consumer protection, consumer privacy, escheatment, anti-money laundering, environmental, emissions, health or safety, U.S. trade sanctions, the U.S. Foreign Corrupt Practices Act and employment practices. With respect to employment practices, we are subject to various laws and regulations, including complex federal, state and local wage and hour and anti-discrimination laws. The failure to satisfy those and other regulatory requirements could have a material adverse effect on our business, financial condition, and results of operations, as well as potentially the assessment of damages, the imposition of penalties, changes to our processes, or a cessation of our operations, and/or damage to our image and reputation.

Various federal, state, and local regulatory agencies, including OSHA, EPA, and similar federal and local agencies, have jurisdiction over the operation of our dealerships, repair facilities, and other operations, with respect to matters such as consumer protection, workers' safety, and laws regarding protection of the environment, including air, water, and soil. The EPA promulgated emissions regulations for outboard marine engines that impose stricter emissions standards for two-cycle, gasoline outboard marine engines. It is possible that environmental regulatory bodies (including state regulatory bodies) may impose higher emissions standards in the future for these and other marine engines. Any increased costs of producing engines resulting from current or potentially higher EPA or state standards in the future could be passed on to our company, or could result in the inability or potential unforeseen delays of our manufacturers to comply with current and future EPA or state requirements, and these potential consequences could have a material adverse effect on our business.

Certain of our facilities own and operate USTs, and ASTs for the storage of various petroleum products. USTs and ASTs are generally subject to federal, state and local laws and regulations that require testing and upgrading of tanks and remediation of contaminated soils and groundwater resulting from leaking tanks. In addition, we may be subject to civil liability to third parties for remediation costs or other damages if leakage from our owned or operated tanks migrates onto the property of others.

Our business involves the use, handling, storage, and contracting for recycling or disposal of hazardous or toxic substances or wastes, including environmentally sensitive materials, such as motor oil, waste motor oil and filters, transmission fluid, antifreeze, freon, waste paint and lacquer thinner, batteries, solvents, lubricants, degreasing agents, gasoline and diesel fuels. Accordingly, we are subject to regulation by federal, state and local authorities establishing investigation and health and environmental quality standards, and liability related thereto, and providing penalties for violations of those standards.

Our Product Manufacturing segment is regulated by federal, state and local environmental laws governing our use, transport and disposal of substances and control of emissions. While we are unaware of any failure to comply with these laws or any contamination at our facilities, the costs of compliance, including remediations of any discovered issues and any changes to our operations mandated by new or amended laws, may be significant, and any failures to comply could result in material expenses, delays or fines.

We also are subject to laws, ordinances, and regulations governing investigation and remediation of contamination at facilities we operate or to which we send hazardous or toxic substances or wastes for treatment, recycling or disposal. In particular, the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA" or "Superfund") imposes joint, strict, and several liability on:

- owners or operators of facilities at, from, or to which a release of hazardous substances has occurred;
- parties that generated hazardous substances that were released at such facilities; and
- parties that transported or arranged for the transportation of hazardous substances to such facilities.

A majority of states have adopted Superfund statutes comparable to and, in some cases, more stringent than CERCLA. If we were to be found to be a responsible party under CERCLA or a similar state statute, we could be held liable for all investigative and remedial costs associated with addressing such contamination. In addition, claims alleging personal injury or property damage may be brought against us as a result of alleged exposure to hazardous substances resulting from our operations. In addition, certain of our retail locations are located on waterways that are subject to federal or state laws regulating navigable waters (including oil pollution prevention), fish and wildlife, and other matters.

Soil and groundwater contamination has been known to exist at certain properties owned or leased by us. We have also been required and may in the future be required to remove USTs and ASTs containing hazardous substances or wastes. As to certain of our properties, specific releases of petroleum have been or are in the process of being remediated in accordance with state and federal guidelines. We are monitoring the soil and groundwater as required by applicable state and federal guidelines. We also may have additional storage tank liability insurance and Superfund coverage where applicable. Environmental laws and regulations are complex and subject to frequent change. Compliance with amended, new or more stringent laws or regulations, more strict interpretations of existing laws, or the future discovery of environmental conditions may require additional expenditures by us, and such expenditures may be material.

Additionally, certain states have required or are considering requiring a license in order to operate a recreational boat. These regulations could discourage potential buyers, thereby limiting future sales and adversely affecting our business, financial condition, and results of operations.

Risks Related to Cybersecurity

Increased cybersecurity requirements, vulnerabilities, threats and more sophisticated and targeted computer crime could pose a risk to our systems, networks, data and our third-party service providers. Our business operations could be negatively impacted by an outage or breach of our informational technology systems or a cybersecurity event.

Our business is dependent upon the efficient operation of our technology platform. The platform facilitates the interchange of information and enhances cross-selling opportunities throughout our company. The platform integrates each level of operations on a Company-wide basis, including but not limited to inventory, financial reporting, budgeting, marketing, sales management, as well as to prepare our consolidated financial and operating data. The failure of our technology platform to perform as designed or the failure to maintain and enhance or protect the integrity of our technology platform and those of our third-party service providers, could disrupt our business operations, impact sales and the results of operations, expose us to customer or third-party claims, or result in adverse publicity.

Increased global cybersecurity vulnerabilities, threats and more sophisticated and targeted cyber-related attacks (including ransomware) pose a risk to the security of our and our customers', suppliers' and third-party service providers' products, systems and networks and the confidentiality, availability and integrity of our data. Unauthorized parties may also attempt to gain access to our systems or facilities, or those of third parties with whom we do business, through fraud, trickery or other forms of deceiving our team members, contractors, vendors, and temporary staff. While we attempt to mitigate these risks by employing extensive measures, including employee training, systems, monitoring and testing, and maintenance of protective systems and contingency plans, we remain potentially vulnerable to additional known or unknown threats.

We may also have access to sensitive, confidential or personal data or information that is subject to privacy, security laws, and regulations. Despite our efforts to protect sensitive, confidential or personal data or information, we and our third-party service providers may be vulnerable to security breaches, theft, misplaced or lost data, programming errors, employee errors and/or malfeasance that could potentially lead to the compromising of sensitive, confidential or personal data or information, improper use of our systems, unauthorized access, use, disclosure, modification or destruction of information, and operational disruptions.

It is possible that we or our third-party service providers might not be aware of a successful cyber-related attack on our systems until well after the incident. In addition, a cyber-related attack could result in other negative consequences, including damage to our reputation or competitiveness, remediation or increased protection costs, litigation or regulatory action, and could adversely affect our business, financial condition, and results of operations. Depending on the nature of the information compromised, we may have obligations to notify customers and/or employees about the incident, and we may need to provide some form of remedy, such as a subscription to a credit monitoring service, for the individuals affected by the incident, which could result in material reputational damage to us. While we traditionally maintain a full range of insurance coverage for any such events, there can be no assurance that such insurance coverage is adequate to cover losses that we sustain as a result of an outage or breach of our technology platform or a cybersecurity event.

We are also subject to laws and regulations in the United States and other countries concerning the handling of personal information, including laws that require us to notify governmental authorities and/or affected individuals of data breaches involving certain personal information. These laws and regulations include, for example, the European General Data Protection Regulation,

effective May 2018, and the California Consumer Privacy Act, effective January 2020. Regulatory actions or litigation seeking to impose significant penalties could be brought against us in the event of a data breach or alleged non-compliance with such laws and regulations.

Risks Related to Our Common Stock

The timing and amount of our share repurchases are subject to a number of uncertainties.

The Company maintains a stock repurchase plan authorizing the Company to purchase up to 10 million shares of its commons stock through March 2024. There is no guarantee that our stock repurchase plans will be able to successfully mitigate the dilutive effect of stock options and stock-based grants. The success of our stock repurchase plans is based upon a number of factors, including the price and availability of the Company's stock, general market conditions, the nature of other investment opportunities available to us from time to time, and the availability of cash.

We do not pay cash dividends.

We have never paid cash dividends on our common stock and we have no current intention to do so for the foreseeable future.

If securities analysts do not publish research or reports about our company, or if they issue unfavorable commentary about us or our industry or downgrade our common stock, the price of our common stock could decline.

The trading market for our common stock depends in part on the research and reports that third-party securities analysts publish about our company and our industry. We may be unable or slow to attract research coverage and if one or more analysts cease coverage of our company, we could lose visibility in the market. In addition, one or more of these analysts could downgrade our common stock or issue other negative commentary about our company or our industry. As a result of one or more of these factors, the trading price of our common stock could decline.

Certain activist shareholder actions could cause us to incur expense and hinder execution of our strategies.

We actively engage in discussions with our shareholders regarding further strengthening our Company and creating long-term shareholder value. This ongoing dialogue can include certain divisive activist tactics, which can take many forms. Some shareholder activism, including potential proxy contests, could result in substantial costs, such as legal fees and expenses, and divert management's and our Board's attention and resources from our business and strategic plans. Additionally, public shareholder activism could give rise to perceived uncertainties as to our future, adversely affect our relationships with suppliers or customers, make it more difficult to attract and retain qualified personnel, and cause our stock price to fluctuate based on temporary or speculative market perceptions or other factors that do not necessarily reflect the underlying fundamentals and prospects of our businesses. These risks could adversely affect our financial performance.

Item 1B. **U*nresolved Staff Comments***

None.

Item 2. ***Properties***

The Retail Operations segment includes our leased corporate offices in Clearwater, Florida. We also lease 48 properties under leases in the United States and British Virgin Islands, many of which contain multi-year renewal options and some of which grant us right of first refusal to purchase the property at fair value. In most cases, we pay a fixed rent at negotiated rates. In substantially all of the leased locations, we are responsible for taxes, utilities, insurance, and routine repairs and maintenance. We own 36 properties associated with the retail locations we operate. Additionally, we own four retail locations that are currently leased to a third-party or available for lease as noted below. A store is considered one or more retail locations that are adjacent or operate as one entity. Fraser Yachts Group and Northrop & Johnson lease offices in the United States and Europe.

The following table reflects the status, approximate size, and facilities of the various retail locations in the United States and British Virgin Islands we operate as of the date of this report.

Location	Location Type	Square Footage(1)	Facilities at Property	Operated Since(2)	Waterfront
Alabama					
Gulf Shores	Company owned	4,000	Retail and service	1998	—
California					
Newport Beach	Third-party lease	1,000	Retail only, 4 wet slips	2020	Newport Bay
San Diego	Third-party lease	1,400	Retail only, 12 wet slips	2020	San Diego Bay
Sausalito	Third-party lease	2,000	Retail and service; 6 wet slips	2020	Richardson Bay
Connecticut					
Norwalk	Third-party lease	9,000	Retail and service; 56 wet slips	1994	Norwalk Harbor
Westbrook	Third-party lease	4,200	Retail and service	1998	Westbrook Harbor
Florida					
Cape Haze	Company owned	18,000	Retail only, 8 wet slips	—	Intracoastal Waterway
Clearwater	Company owned	42,000	Retail and service; 20 wet slips	1973	Tampa Bay
Cocoa	Company owned	15,000	Retail and service	1968	—
Dania	Company owned	32,000	Repair and service; 16 wet slips	1991	Port Everglades
Fort Walton Beach	Company owned	3,000	Repair and service; 83 wet slips	2019	Choctawhatchee Bay
Fort Myers	Company owned	60,000	Retail, service, and storage; 64 wet slips	1983	Caloosahatchee River
Jacksonville	Third-party lease	9,000	Retail and service	2016	Intracoastal Waterway
Key Largo	Third-party lease	8,900	Retail and service; 6 wet slips	2002	Card Sound
Miami	Company owned	7,200	Retail and service; 15 wet slips	1980	Little River
Miami	Company owned	5,000	Service only; 11 wet slips	2005	Little River
Naples	Company owned	19,600	Retail and service; 14 wet slips	1997	Naples Bay
North Palm Beach	Third-party lease	1,000	Retail only	2016	Intracoastal Waterway
Orlando	Third-party lease	18,400	Retail and service	1984	—
Panama City	Third-party lease	10,500	Retail only; 8 wet slips	2011	Saint Andrews Bay
Pensacola	Company owned	52,800	Retail, service, and storage; 60 wet slips	2016	Pensacola Bay
Pompano Beach	Company owned	23,000	Retail and service; 16 wet slips	1990	Intracoastal Waterway
Pompano Beach	Company owned	5,400	Retail and service; 24 wet slips	2005	Intracoastal Waterway
Sarasota	Third-party lease	26,500	Retail, service, and storage; 15 wet slips	1972	Sarasota Bay
St. Petersburg	Company owned	15,000	Retail and service; 20 wet slips	2006	Boca Ciega Bay
Stuart	Company owned	29,100	Retail and service; 66 wet slips	2002	Intracoastal Waterway
Venice	Company owned	62,000	Retail, service, and storage; 90 wet slips	1972	Intracoastal Waterway
Georgia					
Buford (Atlanta) (3)	Company owned	13,500	Retail and service	2001	—
Cumming (Atlanta)	Third-party lease	13,000	Retail and service; 50 wet slips	1981	Lake Lanier
Savannah	Third-party lease	50,600	Retail, marina, service and storage; 36 wet slips	2017	Wilmington River
Illinois					
Praire Harbor	Third-party lease	3,500	Marina, 140 wet slips	2020	Lake Michigan

Sequoit Harbor Antioch	Third-party lease	85,300	Retail, marina, service and storage; 208 wet slips	2020	Lake Marie
Winthrop Harbor	Third-party lease	319,100	Retail, marina, service and storage; 53 wet slips	2020	Lake Michigan
Maryland					
Baltimore	Third-party lease	7,600	Retail and service; 17 wet slips	2005	Baltimore Inner Harbor
Kent Island	Third-party lease	30,500	Retail, service, and storage	2021	Kent Narrows
Joppa (3)	Company owned	28,400	Retail, service, and storage; 294 wet slips	1966	Gunpowder River
Massachusetts					
Danvers	Third-party lease	32,000	Retail and service	2016	—
Quincy	Company owned	14,700	Retail, service, and storage; 247 wet slips	2018	Town River
Michigan					
Bay City	Third-party lease	195,800	Retail, marina, service and storage; 59 wet slips	2020	Saginaw River
Bele Mear Harbor	Third-party lease	8,500	Retail and service, 4 wet slips	2020	Lake St. Clair
Cass Lake	Third-party lease	31,600	Retail, marina, service and storage; 124 wet slips	2020	Cass Lake
Grand Haven	Third-party lease	32,000	Retail, service, and storage; 6 wet slips	2020	Spring Lake
Lake Fenton	Third-party lease	57,900	Retail, marina, service and storage; 123 wet slips	2020	Lake Fenton
Mac Ray Harbor	Third-party lease	300	Retail only, 4 wet slips	2020	Lake St. Clair
Minnesota					
Bayport	Third-party lease	500	Retail only; 10 wet slips	1996	St. Croix River
Excelsior	Third-party lease	2,500	Retail only; 14 wet slips	2013	Lake Minnetonka
Rogers	Company owned	70,000	Retail, service, and storage	1991	—
Nisswa	Company owned	108,400	Retail, service, and storage	2021	Nisswa Lake
Missouri					
Lake Ozark	Company owned	60,300	Retail, service, and storage; 300 wet slips	1987	Lake of the Ozarks
Laurie (3)	Company owned	700	Retail and service	—	—
Osage Beach	Company owned	2,000	Retail and service	1987	—
New Jersey					
Brant Beach	Company owned	3,800	Retail, service, and storage; 36 wet slips	1965	Barnegat Bay
Brick	Company owned	20,000	Retail, service, and storage; 225 wet slips	1977	Manasquan River
Lake Hopatcong	Company owned	4,600	Retail and service; 80 wet slips	1998	Lake Hopatcong
Ship Bottom	Company owned	19,300	Retail and service	1972	—
Somers Point	Company owned	31,000	Retail, service, and storage; 33 wet slips	1987	Little Egg Harbor Bay
Ocean View	Company owned	13,800	Retail, service, and storage	2018	—
New York					
Huntington	Third-party lease	1,200	Retail and service	1995	Huntington Harbor and Long Island Sound
North Carolina					
Lake Norman	Third-party lease	10,300	Retail only	2017	—
Southport	Third-party lease	1,600	Retail only	2008	Cape Fear River
Wrightsville Beach	Third-party lease	34,500	Retail, service, and storage	1996	Masonboro Inlet
Ohio					
Marina Del Isle	Third-party lease	163,800	Retail, marina, service and storage; 189 wet slips	2020	Lake Erie
Port Clinton	Company owned	80,000	Retail, service and storage; 8 wet slips	1997	Lake Erie

Oklahoma						
Grand Lake	Company owned	3,500	Retail and service; 23 wet slips	2019	Grand Lake	
Rhode Island						
Newport	Third-party lease	700	Retail only	2011	Newport Harbor	
South Carolina						
Charleston	Third-party lease	14,800	Retail, service, and storage	2017		—
Greenville	Third-party lease	24,500	Retail, service, and storage	2017		—
Lake Wylie	Third-party lease	76,400	Retail, marina, service and storage; 82 wet slips	2017	Lake Wylie	
Texas						
Austin	Third-party lease	26,000	Retail and service	2019		—
San Antonio	Third-party lease	14,100	Retail and service	2019		—
Lakeway	Third-party lease	10,000	Retail only	2019		—
Lewisville (Dallas)	Company owned	22,000	Retail and service	2002		—
Seabrook	Company owned	88,480	Retail, service, and storage; 30 wet slips	2002	Clear Lake	
Aubrey (3)	Company owned	15,000	Retail and service	—		—
Fort Worth	Company owned	30,000	Retail and service	2021		—
Washington						
Seattle	Third-party lease	400	Retail only, 6 wet slips	2020	Lake Union	
Wisconsin						
Harbor Club Marina	Third-party lease	1,000	Marina, 140 wet slips	2020	Sturgeon Bay	
Lake Geneva	Third-party lease	114,900	Retail, service and storage; 2 wet slips	2020		—
Madison	Third-party lease	138,300	Retail, marina, service and storage; 135 wet slips	2020	Lake Mendota	
Milwaukee	Third-party lease	68,100	Retail, service and storage; 11 wet slips	2020	Kinnickinnic River	
Oshkosh	Third-party lease	98,300	Retail, marina, service and storage; 98 wet slips	2020	Lake Butte Des Mortes	
Pewaukee	Third-party lease	157,200	Retail, service and storage;	2020		—
Sturgeon Bay	Third-party lease	222,200	Retail, marina, service and storage; 260 wet slips	2020	Sturgeon Bay	
British Virgin Islands						
Tortola	Third-party lease	2,600	Vacation charters; 45 wet slips	2011	Caribbean Sea	

(1) Square footage is approximate and does not include outside sales space or dock or marina facilities.
(2) Operated since date is the date the facility was opened by us or opened prior to its acquisition by us.
(3) Owned location that is leased to a third-party or available for lease.

IGY Marinas offers a global network of marinas in the Americas, the Caribbean, and Europe. The following table reflects the location and status of the various IGY Marinas.

Location	Location Type
Colombia	
Marina Santa Marta	Marketed (1)
Costa Rica	
Marina Bahia Golfito	Marketed (1)
England	
St. Katharine Docks	Managed (2)
France	
IGY Sète Marina	Third-party lease
IGY Vieux – Port de Cannes	Joint venture
Italy, Sardinia	
IGY Portisco Marina	Company owned and third-party lease (3)
Marina Di Porto Cervo (Marina & Shipyard)	Managed (2)
Mexico	
Marina Cabo San Lucas	Company owned and third-party lease (3)
Panama	
Red Frog Beach Island Marina	Third-party lease
Providenciales, Turks & Caicos	
Blue Haven Marina	Marketed (1)
Spain	
IGY Málaga Marina	Joint venture
Málaga Marina San Andres	Managed (2)
St. Maarten	
Simpson Bay Marina	Third-party lease
Yacht Club Isle de Sol	Third-party lease
St. Lucia	
Rodney Bay Marina	Company owned
United States, Florida	
Yacht Haven Grande Miami at Island Gardens, Miami	Third-party lease
Maximo Marina, St. Petersburg	Managed (2)
One Island Park Miami Beach	Managed (2)
United States, New York & Maine	
North Cove Marina at Brookfield Place, New York	Managed (2)
Fore Points Marina, Maine	Managed (2)
United States Virgin Islands, Saint Thomas	
Yacht Haven Grande USVI	Company owned and third-party lease (3)
American Yacht Harbor	Company owned and third-party lease (3)

(1) Marinas are marketed under the IGY Marinas brand.
(2) Marinas are managed by IGY Marinas.
(3) Owned or controlled through third-party leases or concession agreements.

We have leased offices in the United States through the Fraser Yachts Group and Northrop & Johnson in Ft. Lauderdale, Florida and San Diego, California as well as leased offices outside the United States in Monaco, France, Italy, Spain, Qatar, Greece and the United Kingdom.

The Product Manufacturing segment operates out of four owned manufacturing properties, three in the Green Bay, Wisconsin metropolitan area, and one in Largo, Florida. We also own a manufacturing property in Swansboro, North Carolina that is currently being leased to third-parties. Additionally, we have one leased office in Dania, Florida.

We believe that our properties are suitable and adequate for our current needs. We believe that our manufacturing facilities have adequate capacity to meet our current and anticipated demand. We believe that our properties are well maintained and in good operating condition.

Item 3. ***Legal Proceedings***

We are party to various legal actions arising in the ordinary course of business. While it is not feasible to determine the actual outcome of these actions as of September 30, 2022, we do not believe that these matters will have a material adverse effect on our consolidated financial condition, results of operations or cash flows.

Item 4. ***Mine Safety Disclosures***

Not applicable.

PART II

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

Market Information, Holders

Our common stock is listed on the New York Stock Exchange under the symbol "HZO". The following table sets forth high and low sale prices of the common stock for each calendar quarter indicated as reported on the New York Stock Exchange.

	High	Low
2020		
Fourth quarter	$ 39.96	$ 25.54
2021		
First quarter	$ 63.99	$ 34.14
Second quarter	$ 70.89	$ 44.06
Third quarter	$ 56.00	$ 43.75
Fourth quarter	$ 59.58	$ 46.10
2022		
First quarter	$ 61.06	$ 40.06
Second quarter	$ 45.84	$ 35.10
Third quarter	$ 44.03	$ 28.86
Fourth quarter (through November 14, 2022)	$ 35.33	$ 27.40

On November 14, 2022, the closing sale price of our common stock was $33.85 per share. On November 14, 2022, there were approximately 50 record holders and approximately 22,000 beneficial owners of our common stock.

Dividends

We have never declared or paid cash dividends on our common stock. We currently plan to retain any earnings to finance the growth of our business rather than to pay cash dividends. Payments of any cash dividends in the future will depend on our financial condition, results of operations, statutory restrictions, loan covenants and capital requirements as well as other factors deemed relevant by our Board of Directors (such as market expectations).

Purchases of Equity Securities by the Issuer

The following table presents information with respect to our repurchases of our common stock during the three months ended September 30, 2022.

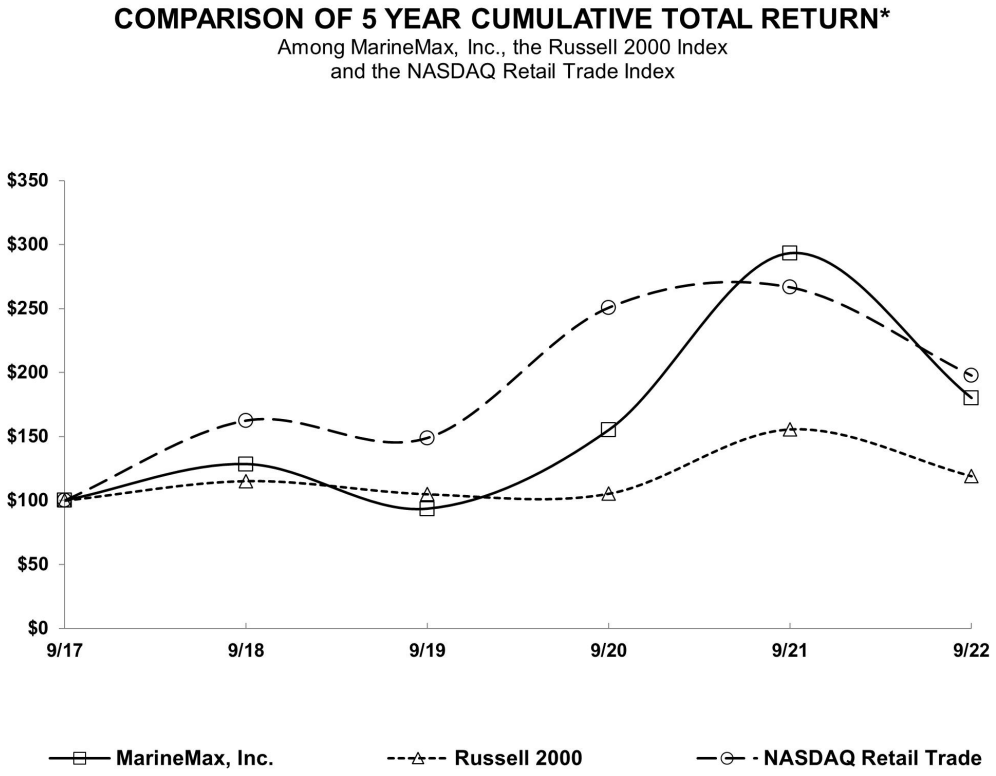
Period	Total Number of Shares Purchased (1)(2)	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares that may be Purchased Under the Plans or Programs
July 1, 2022 to July 31, 2022	—	$ —	—	8,919,764
August 1, 2022 to August 31, 2022	—	—	—	8,919,764
September 1, 2022 to September 30, 2022	63,884	29.79	—	8,919,764
Total	63,884	$ 29.79	—	8,919,764

(1) Under the terms of the share repurchase program announced on March 16, 2020 and subsequently extended on March 1, 2022, the Company is authorized to purchase up to 10 million shares of its common stock through March 31, 2024.

(2) 63,884 shares reported in September 2022 are attributable to shares tendered by employees for the payment of applicable withholding taxes in connection with the vesting of restricted stock or restricted stock unit awards.

Performance Graph

The following line graph compares cumulative total shareholder returns for the five years ended September 30, 2022 for (i) our common stock, (ii) the Russell 2000 Index, and (iii) the Nasdaq Retail Trade Index. The graph assumes an investment of $100 on September 30, 2017. The calculations of cumulative shareholder return on the Russell 2000 Index and the Nasdaq Retail Trade Index include reinvestment of dividends. The calculation of cumulative shareholder return on our common stock does not include reinvestment of dividends because we did not pay any dividends during the measurement period. The historical performance shown is not necessarily indicative of future performance.



*$100 invested on 9/30/17 in stock or index, including reinvestment of dividends.
Fiscal year ending September 30.

The performance graph above shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or Exchange Act, or otherwise subject to the liability of that section. The performance graph above will not be deemed incorporated by reference into any filing of our company under the Exchange Act or the Securities Act of 1933, as amended.

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

Not applicable.

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

The following should be read in conjunction with Part I, including the matters set forth in the "Risk Factors" section of this report, and our consolidated financial statements and notes thereto included elsewhere in this report. This section of this Form 10-K generally discusses fiscal 2022 and 2021 items and year-to-year comparisons between fiscal 2022 and 2021. Discussions of fiscal 2020 items and year-to-year comparisons between fiscal 2021 and 2020 that are not included in this Form 10-K can be found in the "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Part II, Item 7 of the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 2021.

Overview

We believe we are the largest recreational boat and yacht retailer and superyacht services company in the world. Through our current 78 retail locations in 21 states, we sell new and used recreational boats and related marine products, including engines, trailers, parts, and accessories. We also arrange related boat financing, insurance, and extended service contracts; provide boat repair and maintenance services; offer yacht and boat brokerage sales; and, where available, offer slip and storage accommodations. In the British Virgin Islands we offer the charter of catamarans, through MarineMax Vacations. We also own Fraser Yachts Group, a leading superyacht brokerage and luxury yacht services company with operations in multiple countries, Northrop & Johnson, another leading superyacht brokerage and services company with operations in multiple countries, SkipperBud's, one of the largest boat sales, brokerage, service and marina/storage groups in the United States, Cruisers Yachts, a manufacturer of sport yacht and yachts with sales through our select retail dealership locations and through independent dealers. In November 2021, we acquired Intrepid Powerboats, a manufacturer of powerboats, and Texas MasterCraft, a watersports dealer in Northern Texas. In April 2022, through Northrop & Johnson, we acquired Superyacht Management, S.A.R.L., better known as SYM, a superyacht management company based in Golfe-Juan, France. In August 2022, we expanded our presence in Texas by acquiring Endeavour Marina in Seabrook. In October 2022, we completed the acquisition of IGY Marinas.

MarineMax was incorporated in January 1998 (and reincorporated in Florida in March 2015). We commenced operations with the acquisition of five independent recreational boat dealers on March 1, 1998. Since the initial acquisitions in March 1998, we have, as of the filing of this Annual Report on Form 10-K, acquired 32 recreational boat dealers, five boat brokerage operations, two full-service yacht repair operations, and two boat and yacht manufacturers. As a part of our acquisition strategy, we frequently engage in discussions with various recreational boat dealers regarding their potential acquisition by us. Potential acquisition discussions frequently take place over a long period of time and involve difficult business integration and other issues, including, in some cases, management succession and related matters. As a result of these and other factors, a number of potential acquisitions that from time to time appear likely to occur do not result in binding legal agreements and are not consummated. We completed two acquisitions in the fiscal year ended September 30, 2020, three acquisitions in the fiscal year ended September 30, 2021, and four acquisitions in the fiscal year ending September 30, 2022.

General economic conditions and consumer spending patterns can negatively impact our operating results. Unfavorable local, regional, national or global economic developments or uncertainties regarding future economic prospects could reduce consumer spending in the markets we serve and adversely affect our business. Economic conditions in areas in which we operate dealerships, particularly Florida in which we generated approximately 54%, 50%, and 51% of our dealership revenue during fiscal 2020, 2021, and 2022, respectively, can have a major impact on our operations. Local influences, such as corporate downsizing, military base closings, and inclement weather such as hurricanes and other storms, environmental conditions, and specific events, such as the BP oil spill in the Gulf of Mexico in 2010, also could adversely affect, and in certain instances have adversely affected, our operations in certain markets.

In an economic downturn, consumer discretionary spending levels generally decline, at times resulting in disproportionately large reductions in the sale of luxury goods. Consumer spending on luxury goods also may decline as a result of lower consumer confidence levels, even if prevailing economic conditions are favorable. Additionally, the Federal Reserve's increases of its benchmark interest rate, along with potential future increases and/or market expectations of such increases, has resulted in, and may further result in significantly higher long-term interest rates, which may negatively impact our customers' willingness or desire to purchase our products. As a result, an economic downturn or inflation could impact us more than certain of our competitors due to our strategic focus on a higher end of our market. Although we have expanded our operations during periods of stagnant or modestly declining industry trends, the cyclical nature of the recreational boating industry or the lack of industry growth may adversely affect our business, financial condition, and results of operations. Any period of adverse economic conditions, low consumer confidence or inflation is likely to have a negative effect on our business.

Historically, in periods of lower consumer spending and depressed economic conditions, we have, among other things, substantially reduced our acquisition program, delayed new store openings, reduced our inventory purchases, engaged in inventory reduction efforts, closed a number of our retail locations, reduced our headcount, and amended and replaced our credit facility.

Although past economic conditions have adversely affected our operating results, we believe during and after such conditions we have capitalized on our core strengths to substantially outperform the industry, resulting in market share gains. Our ability to capture such market share supports the alignment of our retailing strategies with the desires of consumers. We believe the steps we have taken

to address weak market conditions in the past have yielded, and we believe are likely to yield in the future, an increase in revenue. Acquisitions remain an important strategy for us, and, subject to a number of conditions, including macro-economic conditions and finding attractive acquisition targets, we plan to explore opportunities through this strategy. We expect our core strengths and retailing strategies including our digital platform, will position us to capitalize on growth opportunities as they occur and will allow us to emerge with greater earnings potential.

Effective May 2, 2021, our reportable segments changed as a result of the Company's acquisition of Cruisers Yachts, which changed management's reporting structure and operating activities. We now report our operations through two new reportable segments: Retail Operations and Product Manufacturing. See Note 21 of the Notes to Consolidated Financial Statements.

As of September 30, 2022, the Retail Operations segment includes the activity of 78 retail locations in Alabama, California, Connecticut, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Carolina, Texas, Washington and Wisconsin, where we sell new and used recreational boats, including pleasure and fishing boats, with a focus on premium brands in each segment. We also sell related marine products, including engines, trailers, parts, and accessories. In addition, we provide repair, maintenance, and slip and storage services; we arrange related boat financing, insurance, and extended service contracts; and we offer boat and yacht brokerage sales, and yacht charter services. In the British Virgin Islands, we offer the charter of catamarans, through MarineMax Vacations. Fraser Yachts Group and Northrop & Johnson, leading superyacht brokerage and luxury yacht services companies with operations in multiple countries, are also included in this segment.

As of September 30, 2022, the Product Manufacturing segment includes activity of Cruisers Yachts and Intrepid Powerboats. Cruisers Yachts, a wholly-owned MarineMax subsidiary, manufacturing sport yacht and yachts with sales through our select retail dealership locations and through independent dealers. Cruisers Yachts is recognized as one of the world's premier manufacturers of premium sport yacht and yachts, producing models from 33' to 60' feet. Intrepid Powerboats, also a wholly-owned MarineMax subsidiary, is a producer of customized boats. Intrepid Powerboats follows a direct-to-consumer distribution model and has received many awards and accolades for its innovations and high-quality craftsmanship that create industry leading products in their categories.

Application of Critical Accounting Policies

We have identified the policies below as critical to our business operations and the understanding of our results of operations. The impact and risks related to these policies on our business operations are discussed throughout "Management's Discussion and Analysis of Financial Condition and Results of Operations" when such policies affect our reported and expected financial results.

In the ordinary course of business, we make a number of estimates and assumptions relating to the reporting of results of operations and financial condition in the preparation of our consolidated financial statements in conformity with accounting principles generally accepted in the United States. We base our estimates on historical experiences and on various other assumptions (including future earnings) that we believe are reasonable under the circumstances. The results of these assumptions form the basis for making judgments about the carrying values of assets and liabilities, including contingent assets and liabilities such as contingent consideration liabilities from acquisitions, which are not readily apparent from other sources. Actual results could differ significantly from those estimates under different assumptions and conditions. We believe that the following discussion addresses our most critical accounting policies, which are those that are most important to the portrayal of our financial condition and results of operations and require our most difficult, subjective, and complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain.

Revenue Recognition

We recognize revenue from boat, motor, and trailer sales upon transfer of control of the boat, motor, or trailer to the customer, which is generally upon acceptance of the boat, motor, and trailer by the customer and the satisfaction of our performance obligations. The transaction price is determined with the customer at the time of sale. Customers may trade in a used boat to apply toward the purchase of a new or used boat. The trade-in is a type of noncash consideration measured at fair value, based on external and internal observable and unobservable market data and applied as payment to the contract price for the purchased boat. At the time of acceptance, the customer is able to direct the use of, and obtain substantially all of the benefits of the boat, motor, or trailer. We recognize commissions earned from a brokerage sale when the related brokerage transaction closes upon transfer of control of the boat, motor, or trailer to the customer, which is generally upon acceptance by the customer.

We do not directly finance our customers' boat, motor, or trailer purchases. In many cases, we assist with third-party financing for boat, motor, and trailer sales. We recognize commissions earned by us for placing notes with financial institutions in connection with customer boat financing when we recognize the related boat sales. Pursuant to negotiated agreements with financial institutions, we are charged back for a portion of these fees should the customer terminate or default on the related finance contract before it is outstanding for a stipulated minimum period of time. We base the chargeback allowance, which was not material to the consolidated financial statements taken as a whole as of September 30, 2021 and 2022, on our experience with repayments or defaults on the related finance contracts. We recognize variable consideration from commissions earned on extended warranty service contracts sold on behalf of third-party insurance companies at generally the later of customer acceptance of the service contract terms as evidenced by contract execution or recognition of the related boat sale. We also recognize marketing fees earned on insurance products sold on behalf of third-party insurance companies at the later of customer acceptance of the insurance product as evidenced by contract execution or when the related boat sale is recognized.

We recognize revenue from parts and service operations (boat maintenance and repairs) over time as services are performed. Each boat maintenance and repair service is a single performance obligation that includes both the parts and labor associated with the service. Payment for boat maintenance and repairs is typically due upon the completion of the service, which is generally completed within a short period of time from contract inception. We satisfy our performance obligations, transfer control, and recognize revenue over time for parts and service operations because we are creating a contract asset with no alternative use and we have an enforceable right to payment for performance completed to date. Contract assets primarily relate to our right to consideration for work in process not yet billed at the reporting date associated with maintenance and repair services. Contract assets, recorded in prepaid expenses and other current assets, totaled approximately $5.7 million and $5.9 million as of September 30, 2021 and September 30, 2022, respectively.

We recognize revenue from service operations and slip and storage services over time on a straight-line basis over the term of the contract as our performance obligations are met. We recognize revenue from the rentals of chartering power yachts over time on a straight-line basis over the term of the contract as our performance obligations are met.

Inventories

Inventories are stated at the lower of cost or net realizable value. The cost of inventories purchased from our vendors consist of the amount paid to acquire the inventory, net of vendor consideration and purchase discounts, the cost of equipment added, reconditioning costs, inventory deposits, and transportation costs relating to acquiring inventory for sale. Trade-in used boats are initially recorded at fair value and adjusted for reconditioning and other costs. The cost of inventories that are manufactured by the Company consist of material, labor, and manufacturing overhead. Unallocated overhead and abnormal costs are expensed as incurred. New and used boats, motors, and trailers inventories are accounted for on a specific identification basis. Raw materials and parts, accessories, and other inventories are accounted for on an average cost basis. We utilize our historical experience, the aging of the inventories, and our consideration of current market trends as the basis for determining a lower of cost or net realizable value. We do not believe there is a reasonable likelihood that there will be a change in the future estimates or assumptions we use to calculate the lower of cost or net realizable value. If events occur and market conditions change, the net realizable value of our inventories could change.

Goodwill

We account for acquisitions in accordance with FASB ASC 805, "Business Combinations" ("ASC 805"), and goodwill in accordance with ASC 350, "Intangibles — Goodwill and Other" ("ASC 350"). For business combinations, the excess of the purchase price over the estimated fair value of net assets acquired in a business combination is recorded as goodwill. In accordance with ASC 350, we test goodwill for impairment at least annually and whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Our annual impairment test is performed during the third fiscal quarter. If the carrying amount of a reporting unit's goodwill exceeds its fair value we recognize an impairment loss in accordance with ASC 350. Based upon our most recent analysis, we determined through our qualitative assessment that it is not "more likely than not" that the fair values of our reporting units are less than their carrying values. As a result, we did not perform a quantitative goodwill impairment test. The qualitative assessment requires us to make judgments and assumptions regarding macroeconomic and industry conditions, our financial performance, and other factors. We do not believe there is a reasonable likelihood that there will be a change in the judgments and assumptions used in our qualitative assessment which would result in a material effect on our operating results.

Recent Accounting Pronouncements

See Note 3 of the Notes to Consolidated Financial Statements.

Results of Operations

The following table sets forth certain financial data as a percentage of revenue for the periods indicated:

	Fiscal Year Ended September 30,					
	2020		2021		2022	
	(Amounts in thousands)					
Revenue	$ 1,509,713	100.0%	$ 2,063,257	100.0%	$ 2,308,098	100.0%
Cost of sales	1,111,000	73.6%	1,403,824	68.0%	1,502,344	65.1%
Gross profit	398,713	26.4%	659,433	32.0%	805,754	34.9%
Selling, general and administrative expenses	291,998	19.3%	449,974	21.8%	540,550	23.4%
Income from operations	106,715	7.1%	209,459	10.2%	265,204	11.5%
Interest expense	9,275	0.6%	3,665	0.2%	3,283	0.2%
Income before income taxes	97,440	6.5%	205,794	10.0%	261,921	11.3%
Income tax provision	22,806	1.5%	50,815	2.5%	63,932	2.7%
Net income	$ 74,634	5.0%	$ 154,979	7.5%	$ 197,989	8.6%

Fiscal Year Ended September 30, 2022, Compared with Fiscal Year Ended September 30, 2021

Revenue. Revenue increased $244.8 million, or 11.9%, to approximately $2.308 billion for the fiscal year ended September 30, 2022 from $2.063 billion for the fiscal year ended September 30, 2021. Of this increase, $94.7 million was attributable to a 5% increase in comparable-store sales and an approximate $150.1 million net increase was related to stores opened, including acquired, or closed that were not eligible for inclusion in the comparable-store base, as well as Intrepid Powerboats and Cruisers Yachts manufacturing revenue which are not included in comparable retail store sales. The increase in our comparable-store sales was primarily due to demand driven increases in new boat revenue and our higher margin finance and insurance products, brokerage, parts, service, and storage services.

Gross Profit. Gross profit increased $146.3 million, or 22.2%, to $805.8 million for the fiscal year ended September 30, 2022 from $659.4 million for the fiscal year ended September 30, 2021. Gross profit as a percentage of revenue increased to 34.9% for the fiscal year ended September 30, 2022 from 32.0% for the fiscal year ended September 30, 2021. The increase in gross profit as a percentage of revenue was primarily the result of demand driven price increases resulting in greater new and used boat margins and increases in our higher margin businesses, including our superyacht-services companies, as a percentage of sales. The increase in gross profit dollars was primarily attributable to increased new boat sales.

Selling, General and Administrative Expenses. Selling, general and administrative expenses increased $90.6 million, or 20.1%, to $540.6 million for the fiscal year ended September 30, 2022 from $450.0 million for the fiscal year ended September 30, 2021. Selling, general and administrative expenses for the fiscal year ended September 30, 2022, included $4.8 million of hurricane expenses. Excluding hurricane expenses, selling, general and administrative expenses increased as a percentage of revenue to 23.2% for the fiscal year ended September 30, 2022 from 21.8% for the fiscal year ended September 30, 2022. The increase in selling, general, and administrative expenses was driven by an increase in mix to our higher margin businesses, which typically carry a higher expense structure, and acquisitions.

Interest Expense. Interest expense decreased $0.4 million, or 10.8%, to $3.3 million for the fiscal year ended September 30, 2022, from $3.7 million for the fiscal year ended September 30, 2021. Interest expense as a percentage of revenue remained consistent at 0.2% for the fiscal year ended September 30, 2022 and for the fiscal year ended September 30, 2021. The decrease in interest expense was primarily the result of decreased borrowings on average throughout the fiscal year.

Income Taxes. Income tax expense increased $13.1 million, or 25.8%, to $63.9 million for the fiscal year ended September 30, 2022 from $50.8 million for the fiscal year ended September 30, 2021. Our effective income tax rate decreased to 24.4% for fiscal year ended September 30, 2022, from 24.7% for fiscal year ended September 30, 2021. The decrease in the effective income tax rate was primarily attributed to benefits from stock-based compensation.

Quarterly Data and Seasonality

Our business, as well as the entire recreational boating industry, is highly seasonal, with seasonality varying in different geographic markets. With the exception of Florida, we generally realize significantly lower sales and higher levels of inventories, and related short-term borrowings, in the quarterly periods ending December 31 and March 31. The onset of the public boat and recreation shows in January generally stimulates boat sales and typically allows us to reduce our inventory levels and related short-term borrowings throughout the remainder of the fiscal year. Our business could become substantially more seasonal if we acquire additional dealers that operate in colder regions of the United States or close retail locations in warm climates.

Our business is also subject to weather patterns, which may adversely affect our results of operations. For example, prolonged winter conditions, drought conditions (or merely reduced rainfall levels) or excessive rain, may limit access to area boating locations or render boating dangerous or inconvenient, thereby curtailing customer demand for our products. In addition, unseasonably cool weather and prolonged winter conditions may lead to a shorter selling season in certain locations. Hurricanes and other storms could result in disruptions of our operations or damage to our boat inventories and facilities, as has been the case when Florida and other markets were affected by hurricanes, such as Hurricanes Harvey and Irma in 2017 and Hurricane Ian in 2022. Although we believe our geographic diversity is likely to reduce the overall impact to us of adverse weather conditions in any one market area, these conditions will continue to represent potential, material adverse risks to us and our future financial performance.

Liquidity and Capital Resources

Our cash needs are primarily for working capital to support operations, including new and used boat and related parts inventories, off-season liquidity, and growth through acquisitions. Acquisitions remain an important strategy for us, and we plan to continue our growth through this strategy in appropriate circumstances. However, we cannot predict the length of favorable economic or financial conditions. We regularly monitor the aging of our inventories and current market trends to evaluate our current and future inventory needs. We also use this evaluation in conjunction with our review of our current and expected operating performance and expected business levels to determine the adequacy of our financing needs.

These cash needs historically have been financed with cash generated from operations and borrowings under the New Credit Agreement (described below). Our ability to utilize the New Credit Agreement to fund operations depends upon the collateral levels and compliance with the covenants of the New Credit Agreement. Any turmoil in the credit markets and weakness in the retail markets may interfere with our ability to remain in compliance with the covenants of the New Credit Agreement and therefore our ability to utilize the New Credit Agreement to fund operations. As of September 30, 2022, we were in compliance with all covenants under the New Credit Agreement. We currently depend upon cash flows from operations, dividends and other payments from our dealerships, and the New Credit Agreement to fund our current operations and meet our cash needs. As 100% owner of each of our dealerships, we determine the amounts of such distributions subject to applicable law, and currently, no agreements exist that restrict this flow of funds from our dealerships.

For the fiscal years ended September 30, 2022, 2021 and 2020, cash provided by operating activities was approximately $76.6 million, $373.9 million, and $304.7 million, respectively. For the fiscal year ended September 30, 2022, cash provided by operating activities was primarily related to increases in contract liabilities (customer deposits), accounts payable, accrued expenses and other liabilities, and our net income adjusted for non-cash expenses and gains such as depreciation and amortization expense, deferred income tax provision, and stock-based compensation expense, partially offset by increases in inventory. For the fiscal year ended September 30, 2021, cash provided by operating activities was primarily related to decreases in inventory, increases in contract liabilities (customer deposits), accrued expenses and other liabilities, and our net income adjusted for non-cash expenses and gains such as depreciation and amortization expense, deferred income tax provision, and stock-based compensation expense. For the fiscal year ended September 30, 2020, cash provided by operating activities was primarily related to decreases in inventory, accounts receivable, increases in accrued expenses and other liabilities, increases in accounts payable, and our net income adjusted for non-cash expenses and gains such as depreciation and amortization expense, deferred income tax provision, stock-based compensation expense, and insurance proceeds received.

For the fiscal years ended September 30, 2022, 2021, and 2020, cash used in investing activities was approximately $140.5 million, $161.1 million, and $30.1 million, respectively. For the fiscal year ended September 30, 2022, cash used in investing activities was primarily used for acquisitions, to purchase property and equipment associated with improving existing retail facilities, and to purchase investments, partially offset by proceeds from the sale of investments and property and equipment. For the fiscal year ended September 30, 2021, cash used in investing activities was primarily used for acquisitions, to purchase property and equipment associated with improving existing retail facilities, and to purchase investments, partially offset by proceeds from insurance settlements. For the fiscal year ended September 30, 2020, cash used in investing activities was primarily used to purchase property and equipment associated with improving existing retail facilities and purchase property and equipment and other assets associated with business acquisitions.

For the fiscal year ended September 30, 2022, cash provided by financing activities was approximately $73.1 million. For the fiscal years ended September 30, 2021 and 2020, cash used in financing activities was approximately $145.7 million and $158.1 million, respectively. For the fiscal year ended September 30, 2022, cash provided by financing activities was primarily attributable to increased short-term borrowings and net proceeds from issuance of common stock under incentive compensation and employee purchase plans, partially offset by purchase of treasury stock, payments on tax withholdings for equity awards, payments for long-term debt, payments for debt issuance costs, and contingent acquisition consideration payments. For the fiscal year ended September 30, 2021, cash used in financing activities was primarily attributable to net payments for short-term borrowings, purchase of treasury stock, payments on tax withholdings for equity awards, payments for long-term debt, and contingent acquisition consideration payments, partially offset by proceeds from long-term debt and net proceeds from issuance of common stock under incentive compensation and employee purchase plans. For the fiscal year ended September 30, 2020, cash used in financing activities was primarily attributable to a decrease in net short-term borrowings as a result of decreased inventory levels, repurchase of common stock under the share repurchase program,

payments on tax withholdings for equity awards, partially offset by proceeds from the issuance of common stock from our stock-based compensation plans and proceeds from long- term debt.

In August 2022, we entered into to a Credit Agreement with Manufacturers and Traders Trust Company as Administrative Agent, Swingline Lender, and Issuing Bank, Wells Fargo Commercial Distribution Finance, LLC, as Floor Plan Agent, and the lenders party thereto (the "New Credit Agreement"). The New Credit Agreement provides the Company a line of credit with asset based borrowing availability of up to $750 million and establishes a revolving credit facility in the maximum amount of $100 million (including a $20 million swingline facility and a $20 million letter of credit sublimit), a delayed draw term loan facility to finance the acquisition of IGY Marinas in the maximum amount of $400 million, and a $100 million delayed draw mortgage loan facility. The maturity of each of the facilities is August 2027.

The interest rate is (a) for amounts outstanding under the floor plan facility, 3.45% above the one month secured term rate as administered by the CME Group Benchmark Administration Limited (CBA) ("SOFR"), (b) for amounts outstanding under the revolving credit facility or the term loan facility, a range of 1.50% to 2.0%, depending on the total net leverage ratio, above the one month, three month, or six month term SOFR rate, and (c) for amounts outstanding under the mortgage loan facility, 2.20% above the one month, three month, or six month term SOFR rate. The alternate base rate with a margin is available for amounts outstanding under the revolving credit, term, and mortgage loan facilities and the Euro Interbank Offered Rate plus a margin is available for borrowings in Euro or other currencies other than dollars under the revolving credit facility.

As of September 30, 2022, our indebtedness associated with our short-term borrowings and our long-term debt totaled approximately $135.1 million and $48.7 million, respectively. As of September 30, 2022, short-term borrowings and long-term debt recorded on the Consolidated Balance Sheets included unamortized debt issuance costs of approximately $3.1 million and $0.5 million, respectively. Refer to Note 11 and 22 of the Notes to Consolidated Financial Statements for disclosure of borrowing availability, interest rates, terms of our short-term borrowings and long-term debt, and closing of the IGY Marinas transaction in October 2022.

Except as specified in this "Management's Discussion and Analysis of Financial Condition and Results of Operations" and in the attached consolidated financial statements, we have no material commitments for capital for the next 12 months. Based on the information currently available to us, the COVID-19 pandemic's impact on consumer demand is uncertain, however, we believe that the cash generated from sales and our existing capital resources will be adequate to meet our liquidity and capital requirements for at least the next 12 months, except for possible significant acquisitions.

Commitments and Commercial Commitments

The following table sets forth a summary of our material contractual obligations and commercial commitments as of September 30, 2022:

	Payments Due by Period Ending September 30,				
	Total	Less Than 1 Year (2023)	1-3 Years (2024 and 2025)	3-5 Years (2026 and 2027)	More Than 5 Years (2028 and thereafter)
	(Amounts in thousands)				
Short-term borrowings (1)	$ 135,066	$ 135,066	$ —	$ —	$ —
Long-term debt (2)	48,693	2,882	5,764	9,764	30,283
Other liabilities (3)	16,156	9,300	6,416	440	—
Operating leases (4)	138,764	14,715	24,916	20,216	78,917
Total	$ 338,679	$ 161,963	$ 37,096	$ 30,420	$ 109,200

(1) Estimates of future interest payments for short-term borrowings have been excluded in the tabular presentation. Amounts due are contingent upon the outstanding balances and the variable interest rates. Refer to Note 11 of the Notes to Consolidated Financial Statements for disclosure of borrowing availability, interest rates, and terms of our short-term borrowings.

(2) The amounts included in long-term debt refers to future cash principal payments. Refer to Note 11 of the Notes to Consolidated Financial Statements for disclosure of borrowing availability, interest rates, and terms of our long-term debt.

(3) The amounts included in other liabilities consist primarily of our estimated liability for claims on certain workers' compensation insurance policies and estimated future contingent consideration payments.

(4) Amounts for operating lease commitments do not include certain operating expenses such as maintenance, insurance, and real estate taxes. These amounts are not a material component of operating expenses.

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

Interest Rate Risk

We are exposed to risk from changes in interest rates on our outstanding indebtedness. Changes in the underlying interest rates on our short-term borrowings and long-term debt, which have variable interest rates, could affect our earnings. For example, a hypothetical 100 basis point, 200 basis point, or 300 basis point increase in the interest rate would result in an increase of approximately $1.7 million, $3.4 million, or $5.1 million in annual pre-tax interest expense. These estimated increases are based upon the outstanding balance of our short-term borrowings and long-term debt as of September 30, 2022 and assumes no mitigating changes by us to reduce the outstanding balances and no additional interest assistance that could be received from vendors due to the interest rate increase.

Foreign Currency Exchange Rate Risk

Products purchased from European-based and Chinese-based manufacturers are transacted in U.S. dollars. Fluctuations in the U.S. dollar exchange rate may impact the retail price at which we can sell foreign products. Accordingly, fluctuations in the value of other currencies compared with the U.S. dollar may impact the price points at which we can profitably sell such foreign products, and such price points may not be competitive with other products in the United States. Thus, such fluctuations in exchange rates ultimately may impact the amount of revenue, cost of goods sold, cash flows and earnings we recognize for such foreign products. We cannot predict the effects of exchange rate fluctuations on our operating results. In certain cases, we may enter into foreign currency cash flow hedges to reduce the variability of cash flows associated with forecasted purchases of boats and yachts from European-based and Chinese-based manufacturers. We are not currently engaged in foreign currency exchange hedging transactions to manage our foreign currency exposure. If and when we do engage in foreign currency exchange hedging transactions, there can be no assurance that our strategies will adequately protect our operating results from the effects of exchange rate fluctuations.

Additionally, the Fraser Yachts Group and Northrop & Johnson have transactions and balances denominated in currencies other than the U.S dollar. Most of the transactions or balances for Fraser Yachts Group are denominated in euros. Net revenues recognized whose functional currency was not the U.S. dollar were less than 2% of our total revenues in fiscal 2022.

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

Reference is made to the financial statements, the notes thereto, and the report thereon, commencing on page F-1 of this report, which financial statements, notes, and report are incorporated herein by reference.

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

None.

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

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures that are designed to ensure that material information required to be disclosed by us in Securities Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to our management, including the Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

Our Chief Executive Officer and Chief Financial Officer have 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) under the Securities Exchange Act of 1934) as of the end of the period covered by this report. Based on such evaluation, such officers have concluded that, as of the end of the period covered by this report, our disclosure controls and procedures were effective at the reasonable assurance level.

Changes in Internal Controls

During the quarter ended September 30, 2022, there were no changes in our internal control over financial reporting that materially affected, or were reasonably likely to materially affect, our internal control over financial reporting, except as described in the following sentence. On November 1, 2021, we acquired Intrepid Powerboats. As we proceed with integration, we are implementing various accounting processes and internal controls over financial reporting for this reporting subsidiary.

Limitations on the Effectiveness of Controls

Our management, including our Chief Executive Officer and Chief Financial Officer, does not expect that our disclosure controls and procedures and internal control over financial reporting will prevent all errors and all fraud. 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. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Although our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of a simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by management override of the control. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, a control may become inadequate because of changes in conditions, or the degree of compliance with the policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

CEO and CFO Certifications

Exhibits 31.1 and 31.2 are the Certifications of the Chief Executive Officer and Chief Financial Officer, respectively. The Certifications are required in accordance with Section 302 of the Sarbanes-Oxley Act of 2002 (the “Section 302 Certifications”). This Item of this report, which you are currently reading is the information concerning the Evaluation referred to in the Section 302 Certifications and this information should be read in conjunction with the Section 302 Certifications for a more complete understanding of the topics presented.

Management’s Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Rule 13a-15(f) of the Securities Exchange Act of 1934. Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we conducted an evaluation of the effectiveness of the Company’s internal control over financial reporting as of September 30, 2022 as required by the Securities Exchange Act of 1934 Rule 13a-15(c). In making this assessment, we used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control — Integrated Framework (2013). Based on its evaluation, our management concluded that its internal control over financial reporting was effective as of September 30, 2022. The Company acquired JDG Undaunted, LLC ("Intrepid Powerboats"), during 2022. Management excluded from its assessment of the effectiveness of the Company’s internal control over financial reporting as of September 30, 2022 Intrepid Powerboats' internal control over financial reporting, which represented approximately 2% of total assets and 3% of total revenues included in the Company’s consolidated financial statements as of and for the year ended September 30, 2022.

Our internal control over financial reporting as of September 30, 2022, has been audited by KPMG LLP, an independent registered public accounting firm, as stated in their report which appears herein.

Report of Independent Registered Public Accounting Firm

To the Shareholders and Board of Directors
MarineMax, Inc.:

Opinion on Internal Control Over Financial Reporting
We have audited MarineMax, Inc. and subsidiaries' (the Company) internal control over financial reporting as of September 30, 2022, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission. In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of September 30, 2022, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of September 30, 2022 and 2021, the related consolidated statements of operations, comprehensive income, shareholders' equity, and cash flows for each of the years in the three-year period ended September 30, 2022, and the related notes (collectively, the consolidated financial statements), and our report dated November 18, 2022 expressed an unqualified opinion on those consolidated financial statements.

The Company acquired JDG Undaunted, LLC (Intrepid Powerboats) during 2022. Management excluded from its assessment of the effectiveness of the Company's internal control over financial reporting as of September 30, 2022, Intrepid Powerboats' internal control over financial reporting associated with 2% of total assets and 3% of total revenues included in the consolidated financial statements of the Company as of and for the year ended September 30, 2022. Our audit of internal control over financial reporting of the Company also excluded an evaluation of the internal control over financial reporting of Intrepid Powerboats.

Basis for Opinion
The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the 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 audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control Over Financial Reporting

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

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

/s/ KPMG LLP

Tampa, Florida
November 18, 2022

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

None.

Item 9C. ***Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.***

Not applicable.

PART III

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

The information required by this Item relating to our directors and corporate governance is incorporated herein by reference to the definitive Proxy Statement (particularly under the caption "Corporate Governance") to be filed pursuant to Regulation 14A of the Exchange Act for our 2023 Annual Meeting of Shareholders (the "2023 Proxy Statement"). The information required by this Item relating to our executive officers is included in "Business — Executive Officers."

We have adopted a code of ethics that applies to our principal executive officer, principal financial officer, and other senior accounting personnel. The "Code of Ethics for the CEO and Senior Financial Officers" is located on our website at *www.MarineMax.com* in the Investor Relations section under Corporate Governance.

We intend to satisfy the disclosure requirement under Item 5.05(c) of Form 8-K regarding any amendment to, or waiver from, a provision of this code of ethics by posting such information on our website, at the address and location specified above.

Item 11. ***Executive Compensation***

The information required by this Item is incorporated herein by reference to the 2023 Proxy Statement (particularly under the caption "Executive Compensation").

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

The information required by this Item is incorporated herein by reference to the 2023 Proxy Statement (particularly under the caption "Security Ownership of Principal Shareholders, Directors, and Officers").

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

The information required by this Item is incorporated herein by reference to the 2023 Proxy Statement (particularly under the caption "Certain Relationships and Related Transactions").

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

The information required by this Item is incorporated herein by reference to the 2023 Proxy Statement (particularly under the caption "Ratification of Appointment of Independent Auditor").

PART IV

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

(a) Financial Statements and Financial Statement Schedules

(1) **Financial Statements.** Financial Statements are listed in the Index to Consolidated Financial Statements on page F-1 of this report.

(2) **Financial Statement Schedules.** No financial statement schedules are included because such schedules are not applicable, are not required, or because required information is included in the consolidated financial statements or notes thereto.

(3) **Exhibits.** See Item 15(b) below.

(b) Exhibits

Exhibit Number	Exhibit
2.1	Agreement and Plan of Merger, dated February 25, 2015, by and between MarineMax, Inc. and MarineMax Reincorporation, Inc. (1)
3.1	Articles of Incorporation of the Registrant. (2)
3.2	Bylaws of the Registrant. (2)
4.1	Specimen of Common Stock Certificate. (2)
4.2	Description of Securities. (3)
10.1*	Employment Agreement, dated November 29, 2018, between Registrant and William H. McGill Jr., as amended. (4)
10.1(b)*	Employment Agreement, dated November 29, 2018, between Registrant and Michael H. McLamb, as amended. (4)
10.1(c)*	Employment Agreement, dated November 29, 2018, between Registrant and William Brett McGill. (4)
10.1(d)*	Key Executive Retention Agreement, dated February 25, 2021, by and between MarineMax, Inc. and Anthony Cassella. (5)
10.1(e)*	Key Executive Retention Agreement, dated February 25, 2021, by and between MarineMax, Inc. and Charles Cashman. (5)
10.2*	Amended 2008 Employee Stock Purchase Plan. (6)
10.3*	2011 Stock-Based Compensation Plan. (7)
10.3(a)*	Form Stock Option Agreement for 2011 Stock-Based Compensation Plan. (8)
10.3(b)*	Form Restricted Stock Unit Award Agreement for 2011 Stock-Based Compensation Plan. (9)
10.4*	2021 Stock-Based Compensation Plan. (10)
10.5	Sales and Service Agreement, dated October 30, 2020, between Registrant and Boston Whaler, Inc. (18)
10.6	Sales and Service Agreement, dated October 30, 2020, between Registrant and Sea Ray Division of Brunswick Corporation. (15)
10.7	Agreement Relating to Acquisitions between Registrant and Brunswick Corporation, dated December 7, 2005. (11)
10.7(a)	Amendment, executed October 17, 2014, to Agreement Relating to Acquisitions between Registrant and Brunswick Corporation, dated December 7, 2005. (12)
10.7(b)	Sea Ray Sales and Service Agreement. (9)
10.7(c)†	Sea Ray Sales and Service Agreement, executed October 17, 2014, by and between MarineMax East, Inc. and Sea Ray, a Division of Brunswick Corporation. (11)
10.7(d)†	Sea Ray Sales and Service Agreement, executed October 17, 2014, by and between MarineMax Northeast, LLC, and Sea Ray, a Division of Brunswick Corporation. (11)
10.7(e)†	Sea Ray Sales and Service Agreement, executed October 17, 2014, by and between MarineMax, Inc. and Sea Ray, a Division of Brunswick Corporation. (11)
10.7(f)†	Boston Whaler Sales and Service Agreement, executed December 5, 2014, by and between MarineMax East, Inc. and Boston Whaler, a Division of Brunswick Corporation. (12)
10.7(g)†	Boston Whaler Sales and Service Agreement, executed December 5, 2014, by and between MarineMax Northeast, LLC, and Boston Whaler, a Division of Brunswick Corporation. (12)
10.7(h)†	Boston Whaler Sales and Service Agreement, executed December 5, 2014, by and between MarineMax, Inc. and Boston Whaler, a Division of Brunswick Corporation. (12)
10.8 †	Loan and Security Agreement, dated May 20, 2020, by and among MarineMax, Inc. and its subsidiaries, Wells Fargo Commercial Distribution Finance, LLC, M&T Bank, Bank of the West, and Truist Bank. (13)
10.8(a) †	Amended and Restated Loan and Security Agreement, dated July 9, 2021, by and among MarineMax, Inc. and its subsidiaries, Wells Fargo Commercial Distribution Finance, LLC, M&T Bank, Bank of the West, and Truist Bank. (3)
10.8(b) †	Sixth Amended and Restated Program Terms Letter, dated May 20, 2020, by and among MarineMax, Inc. and its subsidiaries, as Borrowers, and Wells Fargo Commercial Distribution Finance, LLC. (13)
10.8(c) †	Seventh Amended and Restated Program Terms Letter, dated July 9, 2021, by and among MarineMax, Inc. and its subsidiaries, as Borrowers, Wells Fargo Commercial Distribution Finance, LLC, Bank of America, N.A., PNC Bank, and New York Community Bank. (3)
10.8(d)	First Omnibus Amendment to Amended and Restated Loan and Security Agreement and Seventh Amended and Restated Program Terms Letter, effective as of October 1, 2021, by and among MarineMax, Inc. and its subsidiaries, and Wells Fargo Commercial Distribution Finance, LLC., M&T Bank, Bank of the West, Inc., and Truist Bank. (14)
10.8(e)	Second Omnibus Amendment to Amended and Restated Loan and Security Agreement, Seventh Amended and Restated Program Terms Letter, Joinder, and Consent Agreement, dated November 1, 2021, by and among MarineMax, Inc. and its subsidiaries, and Wells Fargo Commercial Distribution Finance, LLC. (14)
10.9	Director Fee Share Purchase Program. (15)

10.10*	Severance Policy for Key Executives. (16)
10.11†	Dealership Agreement dated September 1, 2008 by and between MarineMax Northeast, LLC and Azimut Benetti S.p.A. (17)
10.11(a)	First Amendment dated June 22, 2010 to Dealership Agreement dated September 1, 2008, by and between MarineMax Northeast, LLC and Azimut Benetti S.p.A. (17)
10.11(b)	Second Amendment dated February 29, 2012 to Dealership Agreement dated September 1, 2008, by and between MarineMax Northeast, LLC and Azimut Benetti S.p.A. (17)
10.11(c)	Third Amendment dated July 21, 2012 to Dealership Agreement dated September 1, 2008, by and between MarineMax Northeast, LLC and Azimut Benetti S.p.A. (17)
10.12†	Dealership Agreement dated September 1, 2008 by and between MarineMax East, LLC and Azimut Benetti S.p.A. (14)
10.12(a)	First Amendment dated June 22, 2010 to Dealership Agreement dated September 1, 2008, by and between MarineMax East, Inc. and Azimut Benetti S.p.A. (17)
10.12(b)	Second Amendment dated February 29, 2012 to Dealership Agreement dated September 1, 2008, by and between MarineMax East, Inc. and Azimut Benetti S.p.A. (17)
10.12(c)	Third Amendment dated July 21, 2012 to Dealership Agreement dated September 1, 2008, by and between MarineMax East, Inc. and Azimut Benetti S.p.A. (17)
10.12(d)	Fourth Amendment dated August 21, 2013 to Dealership Agreement dated September 1, 2008, by and between MarineMax East, Inc. and Azimut Benetti S.p.A. (17)
10.13 †	Equity Purchase Agreement dated October 1, 2020, by and among Skipper Marine Holdings, Inc., SSY Holdings, Inc., Michael J. Pretasky, Sr., Michael John Pretasky, Jr. 2014 Trust, Mark Ellerbrock, and Robert Ross Tefft, Jr., Michael J. Pretasky, Jr., and MarineMax, Inc. (18)
10.14 †	Stock Purchase Agreement, dated May 2, 2021, by and between Kenneth C. Stock, Georgia Stock and the Kenneth C. Stock and Georgia Stock 2020 Trust; Kenneth C. Stock, as the representative of the Sellers; and MarineMax Products, Inc. (19)
10.15 †	Securities Purchase Agreement, dated August 8, 2022, among MarineMax, Inc., MarineMax East, Inc., Island Global Yachting LLC, Island Marina Holdings LLC, Island Marinas Subsidiary Corp.
10.16 †	Credit Agreement, dated August 8, 2022, among MarineMax, Inc., Manufacturers and Traders Trust Company as Administrative Agent, Swingline Lender, and Issuing Bank, Wells Fargo Commercial Distribution Finance, LLC, as Floor Plan Agent, and the lenders party thereto.
21	List of Subsidiaries.
23.1	Consent of KPMG LLP.
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a), promulgated under the Securities Exchange Act of 1934, as amended.
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a), promulgated under the Securities Exchange Act of 1934, as amended.
32.1	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	Inline XBRL Instance Document - The instance document does not appear in the interactive data file because its XBRL tags are embedded within the inline XBRL document.
101.SCH	Inline XBRL Taxonomy Extension Schema Document.
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document.
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

† Certain information in this exhibit has been omitted and filed separately with the Securities and Exchange Commission. Confidential treatment has been requested with respect to the omitted portions where applicable.
* Management contract or compensatory plan or arrangement.

(1) Incorporated by reference to Registrant's Form 8-K as filed February 26, 2015.

(2) Incorporated by reference to Registrant's Form 8-K as filed March 20, 2015.

(3) Incorporated by reference to Registrant's Form 10-K for the year ended September 30, 2021, as filed on November 19, 2021.

(4) Incorporated by reference to Registrant's Form 10-K for the year ended September 30, 2019, as filed on November 29, 2018.

(5) Incorporated by reference to Registrant's Form 10-Q for the quarterly period ended March 31, 2021, as filed on April 27,

2021.

(6) Incorporated by reference to Registrant's Form S-8 (File No. 333-236618) as filed February 25, 2020.

(7) Incorporated by reference to Registrant's Form S-8 (File No. 333-236617) as filed February 25, 2020.

(8) Incorporated by reference to Registrant's Form 8-K as filed on January 25, 2011.

(9) Incorporated by reference to Registrant's Form 8-K as filed on December 9, 2005.

(10) Incorporated by reference to Registrant's Form S-8 (File No. 333-264637) as filed May 3, 2022.

(11) Incorporated by reference to Registrant's Form 10-K for the year ended September 30, 2014, as filed on December 11, 2014.

(12) Incorporated by reference to Registrant's Form 10-Q for the quarterly period ended December 31, 2014, as filed on February 5, 2015.

(13) Incorporated by reference to Registrant's Form 10-Q for the quarterly period ended June 30, 2020, as filed on July 28, 2020.

(14) Incorporated by reference to Registrant's Form 10-Q for the quarterly period ended December 31, 2021, as filed on February 1, 2022.

(15) Incorporated by reference to Registrant's Form S-8 (File No. 333-141657) as filed March 29, 2007.

(16) Incorporated by reference to Registrant's Form 8-K as filed on November 27, 2012.

(17) Incorporated by reference to Registrant's Form 10-K for the year ended September 30, 2013, as filed on December 6, 2013.

(18) Incorporated by reference to Registrant's Form 10-K for the year ended September 30, 2020, as filed on December 2, 2020.

(19) Incorporated by reference to Registrant's Form 10-Q for the quarterly period ended June 30, 2021, as filed on July 27, 2021.

(c) Financial Statement Schedules

(1) See Item 15(a) above.

SIGNATURES

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

MARINEMAX, INC.

/s/ W. Brett McGill
W. Brett McGill
Chief Executive Officer and President

Date: November 18, 2022

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

Signature	Capacity	Date
/s/ W. Brett McGill W. Brett McGill	Chief Executive Officer and President (Principal Executive Officer)	November 18, 2022
/s/ Michael H. McLamb Michael H. McLamb	Executive Vice President, Chief Financial Officer, Secretary and Director (Principal Accounting and Financial Officer)	November 18, 2022
/s/ William H. McGill Jr. William H. McGill Jr.	Executive Chairman of the Board, Director	November 18, 2022
/s/ Clint Moore Clint Moore	Lead Independent Director	November 18, 2022
/s/ George E. Borst George E. Borst	Director	November 18, 2022
/s/ Hilliard M. Eure III Hilliard M. Eure III	Director	November 18, 2022
/s/ Evelyn Follit Evelyn Follit	Director	November 18, 2022
/s/ Adam M. Johnson Adam M. Johnson	Director	November 18, 2022
/s/ Charles R. Oglesby Charles R. Oglesby	Director	November 18, 2022
/s/ Joseph A. Watters Joseph A. Watters	Director	November 18, 2022
/s/ Rebecca White Rebecca White	Director	November 18, 2022
/s/ Mercedes Romero Mercedes Romero	Director	November 18, 2022

MARINEMAX, INC. AND SUBSIDIARIES

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm

To the Shareholders and Board of Directors
MarineMax, Inc.:

Opinion on the Consolidated Financial Statements
We have audited the accompanying consolidated balance sheets of MarineMax, Inc. and subsidiaries (the Company) as of September 30, 2022 and 2021, the related consolidated statements of operations, comprehensive income, shareholders' equity, and cash flows for each of the years in the three-year period ended September 30, 2022, and the related notes (collectively, 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 September 30, 2022 and 2021, and the results of its operations and its cash flows for each of the years in the three-year period ended September 30, 2022, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of September 30, 2022, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission, and our report dated November 18, 2022 expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

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

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. 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 Matter
The critical audit matter communicated below is a matter arising from the current period audit of the consolidated financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of a critical audit matter 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 matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Fair Value of Trade-in Used Boats
As discussed in Note 2 to the consolidated financial statements, trade-in used boat inventory is initially measured at fair value and represents a form of noncash consideration applied to the contract price of a purchased boat. Management estimates the initial fair value of the trade-in used boat considering industry data sources; internal transactional data; and other external market data for comparable boats.

We identified the assessment of the initial fair value of the trade-in used boat inventory as a critical audit matter because a high degree of subjective auditor judgment was required to evaluate the external market data and internal transactional data. The external market data used in the estimation of the initial fair value is based on limited publicly available transactional and market data.

The following are the primary procedures we performed to address this critical audit matter. We evaluated the design and tested the operating effectiveness of certain internal controls related to the Company's measurement of the initial fair value of trade-in used boats, including controls over the determination of the appropriate external market data and internal transactional data for comparable used boat sales. We compared publicly available external market data and internal transactional data to management's determination of the fair value of trade-in used boats. We assessed management's fair value estimation process by evaluating the relevance and reliability of the publicly available external market data and internal transactional data. We also performed an analysis of subsequent sales proceeds and margins from the third-party sale of the trade-in used boats.

/s/ KPMG LLP

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

Tampa, Florida
November 18, 2022

MARINEMAX, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS
(Amounts in thousands except share and per share data)

	September 30, 2021	September 30, 2022
ASSETS		
CURRENT ASSETS:		
Cash and cash equivalents	$ 222,192	$ 228,274
Accounts receivable, net	47,651	50,287
Inventories, net	230,984	454,359
Prepaid expenses and other current assets	16,692	21,077
Total current assets	517,519	753,997
Property and equipment, net	175,463	246,011
Operating lease right-of-use assets, net	104,901	96,837
Goodwill	195,563	235,585
Other intangible assets, net	5,559	10,886
Other long-term assets	8,818	9,455
Total assets	$ 1,007,823	$ 1,352,771
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Accounts payable	$ 25,739	$ 34,342
Contract liabilities (customer deposits)	100,660	144,427
Accrued expenses	86,594	89,402
Short-term borrowings	23,943	132,026
Current maturities on long-term debt	3,587	2,882
Current operating lease liabilities	10,570	9,693
Total current liabilities	251,093	412,772
Long-term debt, net of current maturities	47,498	45,301
Noncurrent operating lease liabilities	96,956	89,657
Deferred tax liabilities, net	9,268	15,401
Other long-term liabilities	8,116	6,974
Total liabilities	412,931	570,105
COMMITMENTS AND CONTINGENCIES (Note 19)		
SHAREHOLDERS' EQUITY:		
Preferred stock, $.001 par value, 1,000,000 shares authorized, none issued or outstanding as of September 30, 2021 and 2022	—	—
Common stock, $.001 par value; 40,000,000 shares authorized, 28,588,863 and 28,939,846 shares issued and 21,821,842 and 21,672,825 shares outstanding as of September 30, 2021 and 2022, respectively	29	29
Additional paid-in capital	288,901	303,432
Accumulated other comprehensive income (loss)	648	(2,806)
Retained earnings	432,678	630,667
Treasury stock, at cost, 6,767,021 and 7,267,021 shares held as of September 30, 2021 and 2022, respectively	(127,364)	(148,656)
Total shareholders' equity	594,892	782,666
Total liabilities and shareholders' equity	$ 1,007,823	$ 1,352,771

See accompanying notes to consolidated financial statements.

MARINEMAX, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS
(Amounts in thousands except share and per share data)

	For the Year Ended September 30,		
	2020	2021	2022
Revenue	$ 1,509,713	$ 2,063,257	$ 2,308,098
Cost of sales	1,111,000	1,403,824	1,502,344
Gross profit	398,713	659,433	805,754
Selling, general and administrative expenses	291,998	449,974	540,550
Income from operations	106,715	209,459	265,204
Interest expense	9,275	3,665	3,283
Income before income tax provision	97,440	205,794	261,921
Income tax provision	22,806	50,815	63,932
Net income	$ 74,634	$ 154,979	$ 197,989
Basic net income per common share	$ 3.46	$ 7.04	$ 9.12
Diluted net income per common share	$ 3.37	$ 6.78	$ 8.84
Weighted average number of common shares used in computing net income per common share:			
Basic	21,547,665	22,010,130	21,706,225
Diluted	22,125,338	22,859,498	22,399,209

See accompanying notes to consolidated financial statements.

MARINEMAX, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(Amounts in thousands)

	For the Year Ended September 30,		
	2020	2021	2022
Net income	$ 74,634	$ 154,979	$ 197,989
Other comprehensive income (loss), net of tax:			
Foreign currency translation adjustments	1,498	(300)	(4,476)
Interest rate swap contract	—	119	1,022
Total other comprehensive income (loss), net of tax	1,498	(181)	(3,454)
Comprehensive income	$ 76,132	$ 154,798	$ 194,535

See accompanying notes to consolidated financial statements.

MARINEMAX, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
(Amounts in thousands except share data)

	Common Stock Issued		Additional Paid-in Capital	Accumulated Other Comprehensive (Loss) Income	Retained Earnings	Treasury Stock	Total Shareholders' Equity
	Shares	Amount					
BALANCE, September 30, 2019	27,508,473	$ 28	$ 269,969	$ (669)	$ 202,455	$ (102,964)	$ 368,819
Net income	—	—	—	—	74,634	—	74,634
Purchase of treasury stock	—	—	—	—	—	(631)	(631)
Shares issued pursuant to employee stock purchase plan	94,741	—	1,004	—	—	—	1,004
Shares issued upon vesting of equity awards, net of minimum tax withholding	228,304	—	(1,659)	—	—	—	(1,659)
Shares issued upon exercise of stock options	286,702	—	3,625	—	—	—	3,625
Stock-based compensation	12,092	—	7,497	—	—	—	7,497
Other comprehensive income	—	—	—	1,498	—	—	1,498
Cumulative effect of change in accounting principle - leases, net of tax	—	—	—	—	610	—	610
BALANCE, September 30, 2020	28,130,312	$ 28	$ 280,436	$ 829	$ 277,699	$ (103,595)	$ 455,397
Net income	—	—	—	—	154,979	—	154,979
Purchase of treasury stock	—	—	—	—	—	(23,769)	(23,769)
Shares issued pursuant to employee stock purchase plan	121,984	—	1,578	—	—	—	1,578
Shares issued upon vesting of equity awards, net of minimum tax withholding	254,521	1	(3,910)	—	—	—	(3,909)
Shares issued upon exercise of stock options	77,079	—	1,048	—	—	—	1,048
Stock-based compensation	4,967	—	9,749	—	—	—	9,749
Other comprehensive loss	—	—	—	(181)	—	—	(181)
BALANCE, September 30, 2021	28,588,863	$ 29	$ 288,901	$ 648	$ 432,678	$ (127,364)	$ 594,892
Net income	—	—	—	—	197,989	—	197,989
Purchase of treasury stock	—	—	—	—	—	(21,292)	(21,292)
Shares issued pursuant to employee stock purchase plan	52,232	—	1,945	—	—	—	1,945
Shares issued upon vesting of equity awards, net of minimum tax withholding	262,449	—	(3,681)	—	—	—	(3,681)
Shares issued upon exercise of stock options	32,500	—	254	—	—	—	254
Stock-based compensation	3,802	—	16,013	—	—	—	16,013
Other comprehensive loss	—	—	—	(3,454)	—	—	(3,454)
BALANCE, September 30, 2022	28,939,846	$ 29	$ 303,432	$ (2,806)	$ 630,667	$ (148,656)	$ 782,666

See accompanying notes to consolidated financial statements.

MARINEMAX, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS
(Amounts in thousands)

	For the Year Ended September 30,		
	2020	**2021**	**2022**
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income	$ 74,634	$ 154,979	$ 197,989
Adjustments to reconcile net income to net cash (used in) provided by operating activities:			
Depreciation and amortization	12,772	15,606	19,418
Deferred income tax provision, net of effects of acquisitions	3,157	4,759	2,149
Loss from hurricane	—	—	4,800
Loss (gain) on sale of property and equipment	366	—	(108)
Proceeds from insurance settlements	703	941	—
Stock-based compensation expense	7,497	9,749	16,013
(Increase) decrease in, net of effects of acquisitions —			
Accounts receivable, net	2,584	(627)	(563)
Inventories, net	179,466	139,833	(198,018)
Prepaid expenses and other assets	101	(1,862)	(4,259)
(Decrease) increase in, net of effects of acquisitions —			
Accounts payable	2,887	(16,128)	7,358
Contract liabilities (customer deposits)	7,411	60,960	26,273
Accrued expenses and other liabilities	13,097	5,671	5,543
Net cash provided by operating activities	304,675	373,881	76,595
CASH FLOWS FROM INVESTING ACTIVITIES:			
Purchases of property and equipment	(12,807)	(26,125)	(58,456)
Proceeds from insurance settlements	—	1,099	—
Cash used in acquisition of businesses, net of cash acquired	(19,766)	(134,205)	(83,198)
Proceeds from investments	—	—	2,250
Purchases of investments	—	(2,250)	(1,750)
Proceeds from sale of property and equipment	2,464	350	703
Net cash used in investing activities	(30,109)	(161,131)	(140,451)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Net borrowings (payments) on short-term borrowings	(167,672)	(162,655)	107,798
Proceeds from long-term debt	7,437	46,375	—
Payments for long-term debt	(41)	(2,404)	(2,902)
Payments for debt issuance costs	—	(1,081)	(3,145)
Net proceeds from issuance of common stock under incentive compensation, and employee purchase plans	4,629	2,626	2,199
Contingent acquisition consideration payments	(148)	(2,640)	(4,950)
Payments on tax withholdings for equity awards	(1,703)	(2,196)	(4,644)
Purchase of treasury stock	(631)	(23,769)	(21,292)
Net cash (used in) provided by financing activities	(158,129)	(145,744)	73,064
Effect of exchange rate changes on cash	545	(307)	(3,126)
NET INCREASE IN CASH AND CASH EQUIVALENTS:	116,982	66,699	6,082
CASH AND CASH EQUIVALENTS, beginning of year	38,511	155,493	222,192
CASH AND CASH EQUIVALENTS, end of year	$ 155,493	$ 222,192	$ 228,274
Supplemental disclosures of cash flow information:			
Cash paid for:			
Interest	$ 13,082	$ 4,452	$ 2,592
Income taxes	18,930	53,356	64,843
Non-cash items:			
Initial operating lease right-of-use assets for adoption of ASU 2016-02	42,070	—	—
Initial current and noncurrent operating lease liabilities for adoption of ASU 2016-02	43,953	—	—
Accrued tax withholdings upon vesting of equity awards	1,153	2,866	1,903
Contingent consideration liabilities from acquisitions	2,270	10,640	7,350
Accrued acquisition of property and equipment	491	—	—

See accompanying notes to consolidated financial statements

1. COMPANY BACKGROUND AND BASIS OF PRESENTATION:

We believe we are the world's largest recreational boat and yacht retailer, selling new and used recreational boats, yachts, and related marine products and services. As of September 30, 2022, we have over 100 locations worldwide, including 78 retail dealership locations, some of which include marinas. Also, as of September 30, 2022, we own or operate 34 marinas worldwide. Through Fraser Yachts and Northrop & Johnson, we believe we are the largest superyacht services provider, operating locations across the globe. Cruisers Yachts, a MarineMax company, manufactures boats and yachts with sales through our select retail dealership locations and through independent dealers. Intrepid Powerboats, a MarineMax company, manufactures powerboats and sells through a direct-to-consumer model. MarineMax provides finance and insurance services through wholly owned subsidiaries and operates MarineMax Vacations in Tortola, British Virgin Islands. We also own Boatyard, an industry-leading customer experience digital product company.

We are the largest retailer of Sea Ray and Boston Whaler recreational boats which are manufactured by Brunswick Corporation ("Brunswick"). Sales of new Brunswick boats accounted for approximately 23% of our revenue in fiscal 2022. Sales of new Sea Ray and Boston Whaler boats, both divisions of Brunswick, accounted for approximately 11% and 9%, respectively, of our revenue in fiscal 2022. Brunswick is a world leading manufacturer of marine products and marine engines.

We have dealership agreements with Sea Ray, Boston Whaler, Harris, and Mercury Marine, all subsidiaries or divisions of Brunswick. We also have dealer agreements with Italy-based Azimut-Benetti Group's product line for Azimut and Benetti yachts and mega yachts. These agreements allow us to purchase, stock, sell, and service these manufacturers' boats and products. These agreements also allow us to use these manufacturers' names, trade symbols, and intellectual properties in our operations. The agreements for Sea Ray and Boston Whaler products, respectively, appoint us as the exclusive dealer of Sea Ray and Boston Whaler boats, respectively, in our geographic markets. In addition, we are the exclusive dealer for Azimut Yachts for the entire United States. Sales of new Azimut yachts accounted for approximately 8% of our revenue in fiscal 2022. We believe non-Brunswick brands offer a migration for our existing customer base or fill a void in our product offerings, and accordingly, do not compete with the business generated from our other prominent brands.

As is typical in the industry, we deal with most of our manufacturers, other than Sea Ray, Boston Whaler, and Azimut Yachts, under renewable annual dealer agreements, each of which gives us the right to sell various makes and models of boats within a given geographic region. Any change or termination of these agreements, or the agreements discussed above, for any reason, or changes in competitive, regulatory or marketing practices, including rebate or incentive programs, could adversely affect our results of operations. Although there are a limited number of manufacturers of the type of boats and products that we sell, we believe that adequate alternative sources would be available to replace any manufacturer other than Sea Ray, Boston Whaler, and Azimut as a product source. These alternative sources may not be available at the time of any interruption, and alternative products may not be available at comparable terms, which could affect operating results adversely.

General economic conditions and consumer spending patterns can negatively impact our operating results. Unfavorable local, regional, national, or global economic developments or uncertainties regarding future economic prospects could reduce consumer spending in the markets we serve and adversely affect our business. Economic conditions in areas in which we operate dealerships, particularly Florida in which we generated approximately 54%, 50% and 51% of our dealership revenue during fiscal 2020, 2021, and 2022, respectively, can have a major impact on our operations. Local influences, such as corporate downsizing, military base closings, inclement weather such as Hurricanes Harvey and Irma in 2017 and Hurricane Ian in 2022, environmental conditions, and specific events, such as the BP oil spill in the Gulf of Mexico in 2010, also could adversely affect, and in certain instances have adversely affected, our operations in certain markets.

In an economic downturn, consumer discretionary spending levels generally decline, at times resulting in disproportionately large reductions in the sale of luxury goods. Consumer spending on luxury goods also may decline as a result of lower consumer confidence levels, even if prevailing economic conditions are favorable. As a result, an economic downturn would likely impact us more than certain of our competitors due to our strategic focus on a higher end of our market. Although we have expanded our operations during periods of stagnant or modestly declining industry trends, the cyclical nature of the recreational boating industry or the lack of industry growth may adversely affect our business, financial condition, and results of operations. Any period of adverse economic conditions or low consumer confidence is likely to have a negative effect on our business.

Historically, in periods of lower consumer spending and depressed economic conditions, we have, among other things, substantially reduced our acquisition program, delayed new store openings, reduced our inventory purchases, engaged in inventory reduction efforts, closed a number of our retail locations, reduced our headcount, and amended and replaced our credit facility. Acquisitions remain an important strategy for us, and, subject to a number of conditions, including macro-economic conditions and finding attractive acquisition targets, we plan to continue to explore opportunities through this strategy.

In order to provide comparability between periods presented, certain amounts have been reclassified from the previously reported consolidated financial statements to conform to the consolidated financial statement presentation of the current period. The consolidated financial statements include our accounts and the accounts of our subsidiaries, all of which are wholly owned. All significant intercompany transactions and accounts have been eliminated.

2. SIGNIFICANT ACCOUNTING POLICIES:

Cash and Cash Equivalents

We consider all highly liquid investments with an original maturity of three months or less to be cash equivalents.

Vendor Consideration Received

We classify interest assistance received from manufacturers as a reduction of inventory cost and related cost of sales. Amounts received by us under our co-op assistance programs from our manufacturers are netted against related advertising expenses. Our consideration received from our vendors contains uncertainties because the calculation requires management to make assumptions and to apply judgment regarding a number of factors, including our ability to collect amounts due from vendors and the ability to meet certain criteria stipulated by our vendors. We do not believe there is a reasonable likelihood that there will be a change in the future estimates or assumptions we use to calculate our vendor considerations which would result in a material effect on our operating results.

Inventories

Inventories are stated at the lower of cost or net realizable value. The cost of inventories purchased from our vendors consist of the amount paid to acquire the inventory, net of vendor consideration and purchase discounts, the cost of equipment added, reconditioning costs, inventory deposits, and transportation costs relating to acquiring inventory for sale. Trade-in used boats are initially recorded at fair value and adjusted for reconditioning and other costs. The cost of inventories that are manufactured by the Company consist of material, labor, and manufacturing overhead. Unallocated overhead and abnormal costs are expensed as incurred. New and used boats, motors, and trailers inventories are accounted for on a specific identification basis. Raw materials and parts, accessories, and other inventories are accounted for on an average cost basis. We utilize our historical experience, the aging of the inventories, and our consideration of current market trends as the basis for determining a lower of cost or net realizable value. We do not believe there is a reasonable likelihood that there will be a change in the future estimates or assumptions we use to calculate the lower of cost or net realizable value. If events occur and market conditions change, the net realizable value of our inventories could change.

Property and Equipment

We record property and equipment at cost, net of accumulated depreciation, and depreciate property and equipment over their estimated useful lives using the straight-line method. We capitalize and amortize leasehold improvements over the lesser of the life of the lease or the estimated useful life of the asset. Useful lives for purposes of computing depreciation are as follows:

	Years
Buildings and improvements	5-40
Machinery and equipment	3-10
Furniture and fixtures	5-10
Vehicles	3-5

We remove the cost of property and equipment sold or retired and the related accumulated depreciation from the accounts at the time of disposition and include any resulting gain or loss in the accompanying Consolidated Statements of Operations. We charge maintenance, repairs, and minor replacements to operations as incurred, and we capitalize and amortize major replacements and improvements over their useful lives.

Goodwill

We account for acquisitions in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") 805, "Business Combinations" ("ASC 805"), and goodwill in accordance with ASC 350, "Intangibles — Goodwill and Other" ("ASC 350"). For business combinations, the excess of the purchase price over the estimated fair value of net assets acquired in a business combination is recorded as goodwill. In accordance with ASC 350, we test goodwill for impairment at least annually and whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Our annual impairment test is performed during the third fiscal quarter. If the carrying amount of a reporting unit's goodwill exceeds its fair value we recognize an impairment loss in accordance with ASC 350. Based upon our most recent analysis, we determined through our qualitative assessment that it is not "more likely than not" that the fair values of our reporting units are less than their carrying values. As a result, we were not required to perform a quantitative goodwill impairment test.

Impairment of Long-Lived Assets

FASB ASC 360-10-40, "Property, Plant, and Equipment — Impairment or Disposal of Long-Lived Assets" ("ASC 360-10-40"), requires that long-lived assets, such as property and equipment and purchased intangibles subject to amortization, be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of the asset (or asset group) is measured by comparison of its carrying amount to undiscounted future net cash flows the asset (or asset group) is expected to generate over the remaining life of the asset (or asset group). If such assets are considered to be impaired, the impairment to be recognized is measured as the amount by which the carrying amount of the asset (or asset group) exceeds its fair market value. Estimates of expected future cash flows represent our best estimate based on currently available information and reasonable and supportable assumptions. Our impairment loss calculations contain uncertainties because they require us to make assumptions and to apply judgment in order to estimate expected future cash flows. Any impairment recognized in accordance with ASC 360-10-40 is permanent and may not be restored. Based upon our most recent analysis, we believe no impairment of long-lived assets existed as of September 30, 2022.

Insurance

We retain varying levels of risk relating to the insurance policies we maintain, most significantly, workers' compensation insurance and employee medical benefits. We are responsible for the claims and losses incurred under these programs, limited by per occurrence deductibles and paid claims or losses up to pre-determined maximum exposure limits. Our third-party insurance carriers pay any losses above the pre-determined exposure limits. We estimate our liability for incurred but not reported losses using our historical loss experience, our judgment, and industry information.

Revenue Recognition

The majority of our revenue is from contracts with customers for the sale of boats, motors, and trailers. We recognize revenue from boat, motor, and trailer sales upon transfer of control of the boat, motor, or trailer to the customer, which is generally upon acceptance of the boat, motor, and trailer by the customer and the satisfaction of our performance obligations. The transaction price is determined with the customer at the time of sale. Customers may trade in a used boat to apply toward the purchase of a new or used boat. The trade-in is a type of noncash consideration measured at fair value, based on external and internal observable and unobservable market data and applied as payment to the contract price for the purchased boat. At the time of acceptance, the customer is able to direct the use of, and obtain substantially all of the benefits of the boat, motor, or trailer. We recognize commissions earned from a brokerage sale when the related brokerage transaction closes upon transfer of control of the boat, motor, or trailer to the customer, which is generally upon acceptance by the customer.

We do not directly finance our customers' boat, motor, or trailer purchases. In many cases, we assist with third-party financing for boat, motor, and trailer sales. We recognize commissions earned by us for placing notes with financial institutions in connection with customer boat financing when we recognize the related boat sales. Pursuant to negotiated agreements with financial institutions, we are charged back for a portion of these fees should the customer terminate or default on the related finance contract before it is outstanding for a stipulated minimum period of time. We base the chargeback allowance, which was not material to the consolidated financial statements taken as a whole as of September 30, 2021 and 2022, on our experience with repayments or defaults on the related finance contracts. We recognize variable consideration from commissions earned on extended warranty service contracts sold on behalf of third-party insurance companies at generally the later of customer acceptance of the service contract terms as evidenced by contract execution or recognition of the related boat sale. We also recognize marketing fees earned on insurance products sold on behalf of third-party insurance companies at the later of customer acceptance of the insurance product as evidenced by contract execution or when the related boat sale is recognized.

We recognize revenue from parts and service operations (boat maintenance and repairs) over time as services are performed. Each boat maintenance and repair service is a single performance obligation that includes both the parts and labor associated with the service. Payment for boat maintenance and repairs is typically due upon the completion of the service, which is generally completed within a short period of time from contract inception. We satisfy our performance obligations, transfer control, and recognize revenue over time for parts and service operations because we are creating a contract asset with no alternative use and we have an enforceable right to payment for performance completed to date. Contract assets primarily relate to our right to consideration for work in process not yet billed at the reporting date associated with maintenance and repair services. We use an input method to recognize revenue and measure progress based on labor hours expended to satisfy the performance obligation at average labor rates. We have determined labor hours expended to be the relevant measure of work performed to complete the maintenance and repair service for the customer. As a practical expedient, because repair and maintenance service contracts have an original duration of one year or less, we do not consider the time value of money, and we do not disclose estimated revenue expected to be recognized in the future for performance obligations that are unsatisfied (or partially unsatisfied) at the end of the reporting period or when we expect to recognize such revenue. Contract assets, recorded in prepaid expenses and other current assets, totaled approximately $5.7 million and $5.9 million as of September 30, 2021 and September 30, 2022, respectively.

We recognize revenue from the sale of our manufactured boats and yachts when control of the boat or yacht is transferred to the dealer or customer which is generally upon acceptance by the dealer or customer. At the time of acceptance, the dealer or customer is able to direct the use of, and obtain substantially all of the benefits of the boat or yacht. We have elected to record shipping and handling activities that occur after the dealer or customer has obtained control of the boat or yacht as a fulfillment activity.

Contract liabilities primarily consist of customer deposits. We recognize contract liabilities (customer deposits) as revenue at the time of acceptance and the transfer of control to the customers. Total contract liabilities of approximately $31.8 million recorded as of September 30, 2020 were recognized in revenue during the fiscal year ended September 30, 2021. Total contract liabilities of approximately $94.9 million recorded as of September 30, 2021 were recognized in revenue during the fiscal year ended September 30, 2022.

We recognize revenue from service operations and slip and storage services over time on a straight-line basis over the term of the contract as our performance obligations are met. We recognize revenue from the rentals of chartering power yachts over time on a straight-line basis over the term of the contract as our performance obligations are met.

The following table sets forth percentages on the timing of revenue recognition by reportable segment for the fiscal years ended September 30,

	Retail Operations			Product Manufacturing		
	2020	2021	2022	2020	2021	2022
Goods and services transferred at a point in time	92.7%	91.6%	90.9%	—	100.0%	100.0%
Goods and services transferred over time	7.3%	8.4%	9.1%	—	—	—
Revenue	100.0%	100.0%	100.0%	—	100.0%	100.0%

The following tables set forth our revenue disaggregated into categories that depict the nature, amount, timing, and uncertainty of revenue and cash flows affected by economic factors for the fiscal years ended September 30,

	2022		
	Retail Operations	Product Manufacturing	Total
New boat sales	71.9%	100.0%	73.2%
Used boat sales	7.7%	—	7.3%
Maintenance, repair, storage, rental, and charter services	7.7%	—	7.4%
Finance and insurance products	3.1%	—	3.0%
Parts and accessories	3.5%	—	3.3%
Brokerage sales	6.1%	—	5.8%
Revenue	100.0%	100.0%	100.0%

	2021		
	Retail Operations	Product Manufacturing	Total
New boat sales	70.3%	100.0%	70.5%
Used boat sales	11.0%	—	10.9%
Maintenance, repair, storage, rental, and charter services	7.1%	—	7.1%
Finance and insurance products	2.7%	—	2.7%
Parts and accessories	3.2%	—	3.2%
Brokerage sales	5.7%	—	5.6%
Revenue	100.0%	100.0%	100.0%

	2020		
	Retail Operations	Product Manufacturing	Total
New boat sales	70.2%	—	70.2%
Used boat sales	15.1%	—	15.1%
Maintenance, repair, storage, rental, and charter services	6.4%	—	6.4%
Finance and insurance products	2.7%	—	2.7%
Parts and accessories	3.0%	—	3.0%
Brokerage sales	2.6%	—	2.6%
Revenue	100.0%	—	100.0%

Cost of Sales

Cost of sales primarily includes cost of products sold, transportation costs from manufacturers to our retail stores, and vendor consideration. Cost of sales includes depreciation of property and equipment from our product manufacturing segment (manufacturing overhead).

Selling, General, and Administrative expenses

Selling, general, and administrative expenses primarily include salaries and incentive-based compensation, sales commissions, brokerage commissions, advertising, insurance, utilities, depreciation and amortization, and other customary operating expenses.

Stock-Based Compensation

We account for our stock-based compensation plans following the provisions of FASB ASC 718, “Compensation — Stock Compensation” (“ASC 718”). In accordance with ASC 718, we use the Black-Scholes valuation model for estimating the fair value of stock option grants and shares purchased under our Employee Stock Purchase Plan. We measure compensation for restricted stock awards and restricted stock units at fair value on the grant date based on the number of shares expected to vest and the quoted market

price of our common stock on the grant date. We recognize compensation cost for all awards in operations, net of estimated forfeitures, on a straight-line basis over the requisite service period for each separately vesting portion of the award.

Foreign Currency Transactions

For the Company's foreign subsidiaries that use a currency other than the U.S. dollar as their functional currency, the assets and liabilities are translated at exchange rates in effect at the balance sheet date, and revenues and expenses are translated at the weighted average exchange rate for the period. The effects of these translation adjustments are reported in accumulated other comprehensive income. Gains and losses arising from transactions denominated in a currency other than the functional currency of the entity involved are included in operating income. No amounts were reclassified out of accumulated other comprehensive income in fiscal 2022.

Advertising and Promotional Cost

We expense advertising and promotional costs as incurred and include them in selling, general and administrative expenses in the accompanying Consolidated Statements of Operations. We net amounts received by us under our co-op assistance programs from our manufacturers against the related advertising expenses. Total advertising and promotional expenses approximated $14.0 million, $14.8 million and $25.8 million, net of related co-op assistance, which was not material to the consolidated financial statements, for the fiscal years ended September 30, 2020, 2021, and 2022, respectively.

Income Taxes

We account for income taxes in accordance with FASB ASC 740, "Income Taxes" ("ASC 740"). Under ASC 740, we recognize deferred tax assets and liabilities for the future tax consequences attributable to temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. We measure deferred tax assets and liabilities using enacted tax rates expected to apply to taxable income in the years in which we expect those temporary differences to be recovered or settled. We record valuation allowances to reduce our deferred tax assets to the amount expected to be realized by considering all available positive and negative evidence.

Concentrations of Credit Risk

Financial instruments, which potentially subject us to concentrations of credit risk, consist principally of cash and cash equivalents and accounts receivable. Concentrations of credit risk with respect to our cash and cash equivalents are limited primarily to amounts held with financial institutions. Concentrations of credit risk arising from our receivables are limited primarily to amounts due from manufacturers and financial institutions.

Use of Estimates and Assumptions

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States requires us to 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 consolidated financial statements and the reported amounts of revenues and expenses during the reporting periods. Significant estimates made by us in the accompanying consolidated financial statements include valuation allowances, valuation of goodwill and intangible assets, valuation of long-lived assets, and valuation of contingent consideration liabilities. Actual results could differ materially from those estimates.

Segment Reporting

Effective May 2, 2021, our reportable segments changed as a result of the Company's acquisition of Cruisers Yachts, which changed management's reporting structure and operating activities. We now report our operations through two reportable segments: Retail Operations and Product Manufacturing. The change in reportable segments had no impact on the Company's previously reported historical consolidated financial statements. Where applicable, all prior periods presented have been revised to conform to the change in reportable segments. See Note 21.

3. NEW ACCOUNTING PRONOUNCEMENTS:

We adopted Accounting Standards Update ("ASU") 2016-02, "Leases (Topic 842)" ("ASU 2016-02") effective October 1, 2019 the first day of fiscal 2020. We elected the package of practical expedients available under the transition guidance within the new standard, which among other things, allowed us to carry forward the historical lease classification of our existing leases. Consequently, on adoption, we recognized additional operating lease liabilities of $44.0 million and right-of-use ("ROU") assets of $42.1 million. The new standard also provides practical expedients for an entity's ongoing accounting. We elected the short-term lease recognition exemption for all leases that qualify. As a result, for those leases that qualify, we will not recognize ROU assets or lease liabilities, and we did not recognize ROU assets or lease liabilities for existing short-term leases of those assets in transition. We also elected the practical expedient to not separate lease and non-lease components. We recognized a net after-tax cumulative effect adjustment to retained earnings of $0.6 million as of the date of adoption. See Note 8 for additional information on our leases.

In October 2021, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update 2021-08, "Business Combinations (Topic 805): Accounting for Contract Assets and Contract Liabilities from Contracts with Customers", which requires contract assets and contract liabilities (i.e., unearned revenue) acquired in a business combination to be recognized and measured in accordance with Accounting Standards Codification ("ASC") 606, Revenue from Contracts with Customers. The Company has early adopted ASU 2021-08 as of October 1, 2021, on a prospective basis. The impact of the adoption of ASU 2021-08 had an immaterial impact on the Company's consolidated financial statements.

4. FAIR VALUE MEASUREMENTS:

The Company uses valuation approaches that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible. The Company determines fair value based on assumptions that market participants would use in pricing an asset or liability in the principal or most advantageous market. When considering market participant assumptions in fair value measurements, the following fair value hierarchy distinguishes between observable and unobservable inputs, which are categorized in one of the following levels:

Level 1 - Unadjusted quoted prices in active markets for identical assets or liabilities accessible to the reporting entity at the measurement date.

Level 2 - Other than quoted prices included in Level 1 inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the asset or liability.

Level 3 - Unobservable inputs for the asset or liability used to measure fair value to the extent that observable inputs are not available, thereby allowing for situations in which there is little, if any, market activity for the asset or liability at measurement date.

The following tables summarize the Company's financial assets and liabilities measured at fair value in the accompanying Consolidated Balance Sheets as of September 30,

	2022			
	Level 1	Level 2	Level 3	Total
	(Amounts in thousands)			
Assets:				
Interest rate swap contract	$ —	$ 1,528	$ —	$ 1,528
Liabilities:				
Contingent consideration liabilities	$ —	$ —	$ 15,207	$ 15,207

	2021			
	Level 1	Level 2	Level 3	Total
	(Amounts in thousands)			
Assets:				
Interest rate swap contract	$ —	$ 150	$ —	$ 150
Liabilities:				
Contingent consideration liabilities	$ —	$ —	$ 12,364	$ 12,364

There were no transfers between the valuation hierarchy Levels 1, 2, and 3 for the fiscal years ended September 30, 2021, and 2022.

The fair value of the Company's interest rate swap contract is calculated as the present value of expected future cash flows, determined on the basis of forward interest rates and present value factors. The inputs to the fair value measurements reflect Level 2 inputs. The interest rate swap contract balance is included in other long-term assets in the accompanying Consolidated Balance Sheets. The interest rate swap contract is designated as a cash flow hedge with changes in fair value reported in other comprehensive income in the accompanying Consolidated Statements of Comprehensive Income.

We estimate the fair value of our contingent consideration liabilities using a probability-weighted discounted cash flow model. The contingent consideration liabilities are estimated based on forecasted pre-tax earnings as a base scenario (among other assumptions) subject to a Monte Carlo simulation. The fair value of the contingent consideration liabilities, which reflect Level 3 inputs, is reassessed on a quarterly basis. The contingent consideration liabilities balance is included in accrued expenses and other long-term liabilities in the accompanying Consolidated Balance Sheets. Changes in fair value and net present value of the contingent consideration liabilities are included in selling, general and administrative expenses in the accompanying Consolidated Statements of Operations.

The following table sets forth the changes in fair value of our contingent consideration liabilities, which reflect Level 3 inputs, for the fiscal the years ended September 30, 2021 and 2022:

	Contingent Consideration Liabilities (Amounts in thousands)
Balance as of September 30, 2020	$ 2,960
Additions from business acquisitions	10,640
Settlement of contingent consideration liabilities	(3,000)
Change in fair value and net present value of contingency	1,764
Balance as of September 30, 2021	$ 12,364
Additions from business acquisitions	7,350
Settlement of contingent consideration liabilities	(5,500)
Change in fair value and net present value of contingency	993
Balance as of September 30, 2022	$ 15,207

We determined the carrying value of cash and cash equivalents, accounts receivable, accounts payable, accrued expenses, short-term borrowings, and the revolving mortgage facility approximate their fair values because of the nature of their terms and current market rates of these instruments. The fair value of our mortgage facilities, which are not carried at fair value in the accompanying Consolidated Balance Sheets, was determined using Level 2 inputs based on the discounted cash flow method. We estimate the fair value of our mortgage facilities using a present value technique based on current market interest rates for similar types of financial instruments that reflect Level 2 inputs. The following table summarizes the carrying value and fair value of our mortgage facilities as of September 30,

	2021		2022	
	Fair Value	Carrying Value	Fair Value	Carrying Value
	(Amounts in thousands)			
Mortgage facility payable to Flagship Bank	$ 6,872	$ 6,899	$ 6,355	$ 6,403
Mortgage facility payable to Seacoast National Bank	17,529	17,675	16,681	17,098
Mortgage facility payable to Hancock Whitney Bank	27,089	27,106	24,977	25,192

5. ACCOUNTS RECEIVABLE:

Trade receivables consist primarily of receivables from financial institutions, which provide funding for customer boat financing and amounts due from financial institutions earned from arranging financing with our customers. We normally collect these receivables within 30 days of the sale. Trade receivables also include amounts due from customers on the sale of boats, parts, service, and storage. Amounts due from manufacturers represent receivables for various manufacturer programs and parts and service work performed pursuant to the manufacturers' warranties.

Accounts receivable are presented net of an allowance for expected credit losses. The allowance for expected credit losses, which was not material to the consolidated financial statements as of September 30, 2021 or 2022, was based on our consideration of past collection experience, current information, and reasonable and supportable forecasts.

Accounts receivable, net consisted of the following as of September 30,

	2021	2022
	(Amounts in thousands)	
Trade receivables, net	$ 38,953	$ 41,215
Amounts due from manufacturers	7,344	7,826
Other receivables	1,354	1,246
Accounts receivable, net	$ 47,651	$ 50,287

6. INVENTORIES:

Inventories consisted of the following as of September 30,

	2021	2022
	(Amounts in thousands)	
New and used boats, motors, and trailers	$ 143,267	$ 272,422
In transit inventory and deposits	50,621	117,268
Parts, accessories, and other	13,779	17,143
Work-in-process	11,358	21,691
Raw materials	11,959	25,835
Inventories	$ 230,984	$ 454,359

7. PROPERTY AND EQUIPMENT:

Property and equipment, net consisted of the following as of September 30,

	2021	2022
	(Amounts in thousands)	
Land	$ 57,330	$ 80,312
Buildings and improvements	137,271	179,162
Machinery and equipment	54,510	70,445
Furniture and fixtures	5,897	6,523
Vehicles	18,269	20,843
Gross property and equipment	273,277	357,285
Less: accumulated depreciation and amortization	(97,814)	(111,274)
Property and equipment, net	$ 175,463	$ 246,011

Depreciation and amortization expense on property and equipment totaled approximately $12.8 million, $13.9 million, and $16.7 million, for the fiscal years ended September 30, 2020, 2021, and 2022, respectively.

8. LEASES:

Substantially all of the leases that we enter into are real estate leases. We lease numerous facilities relating to our operations, including showrooms, display lots, marinas, service facilities, slips, offices, equipment and our corporate headquarters. Leases for real property have terms, including renewal options, ranging from one to in excess of twenty-five years. In addition, we lease certain charter boats for our yacht charter business. As of September 30, 2022, the weighted-average remaining lease term for our leases was approximately 12 years. All of our leases are classified as operating leases, which are included as right-of-use ("ROU") assets and operating lease liabilities in the accompanying Consolidated Balance Sheets. For the fiscal years ended September 30, 2020, 2021, and 2022, operating lease expenses recorded in selling, general, and administrative expenses were approximately $13.9 million, $24.1 million, and $23.5 million, of which approximately $0.5 million, $0.7 million, and $0.6 million, related to variable lease expenses, respectively. Our lease agreements do not contain any material residual value guarantees or material restrictive covenants. We do not have any significant leases that have not yet commenced but that create significant rights and obligations for us. We have elected the practical expedient under ASC Topic 842 to not separate lease and nonlease components.

Our real estate and equipment leases often require that we pay maintenance in addition to rent. Additionally, our real estate leases generally require payment of real estate taxes and insurance. Maintenance, real estate taxes, and insurance payments are generally variable and based on actual costs incurred by the lessor. Therefore, these amounts are not included in the consideration of the contract when determining the ROU asset and lease liability, but are reflected as variable lease expenses.

Substantially all of our lease agreements include fixed rental payments. Certain of our lease agreements include fixed rental payments that are adjusted periodically by a fixed rate or changes in an index. The fixed payments, including the effects of changes in the fixed rate or amount, and renewal options reasonably certain to be exercised, are included in the measurement of the related lease liability. Most of our real estate leases include one or more options to renew, with renewal terms that can extend the lease term from one to five years or more. The exercise of lease renewal options is at our sole discretion. If it is reasonably certain that we will exercise such options, the periods covered by such options are included in the lease term and are recognized as part of our right of use assets and lease liabilities. The depreciable life of assets and leasehold improvements are limited by the expected lease term, which includes renewal options reasonably certain to be exercised.

For our incremental borrowing rate, we generally use a portfolio approach to determine the discount rate for leases with similar characteristics. We determine discount rates based upon our hypothetical credit rating, taking into consideration our short-term borrowing rates, and then adjusting as necessary for the appropriate lease term. As of September 30, 2022, the weighted-average discount rate used was approximately 5.5%.

As of September 30, 2022, maturities of lease liabilities by fiscal year are summarized as follows:

	(Amounts in thousands)
2023	$ 14,715
2024	13,744
2025	11,172
2026	10,311
2027	9,905
Thereafter	78,917
Total lease payments	138,764
Less: interest	(39,414)
Present value of lease liabilities	$ 99,350

The following table sets forth supplemental cash flow information related to leases for the fiscal years ended September 30,

	2020	2021	2022
		(Amounts in thousands)	
Cash paid for amounts included in the measurement of lease liabilities:			
Operating cash flows from operating leases	$ 10,209	$ 16,917	$ 16,039
Right-of-use assets obtained in exchange for lease obligations:			
Operating leases	$ 3,811	$ 74,097	$ 4,588

The Company reports the amortization of ROU assets and the change in operating lease liabilities on a net basis in accrued expenses and other liabilities in the accompanying Consolidated Statements of Cash Flows.

9. GOODWILL, OTHER INTANGIBLE ASSETS, AND OTHER LONG-TERM ASSETS:

In August 2022, we expanded our presence in Texas by acquiring Endeavour Marina in Seabrook. In April 2022, through Northrop & Johnson, we acquired Superyacht Management, S.A.R.L., better known as SYM, a superyacht management company based in Golfe-Juan, France.

In November 2021, we completed acquisitions for Intrepid Powerboats, a premier manufacturer of powerboats, and Texas MasterCraft, a watersports dealer in Northern Texas, for aggregate consideration of approximately $67.2 million (net of cash acquired of $9.4 million), including estimated contingent consideration of $6.0 million. Tangible assets acquired, net of liabilities assumed and cash acquired, totaled approximately $20.3 million; intangible assets acquired totaled $7.3 million; and total goodwill recognized was approximately $39.6 million. The goodwill represents the assembled workforce, acquired capabilities, and future economic benefits resulting from the acquisitions. Approximately $10.7 million of goodwill related to the acquisitions, wholly attributable to Texas MasterCraft, is deductible for tax purposes.

In July 2021 we purchased Nisswa Marine, Inc. a full-service dealer located in Nisswa, Minnesota. Goodwill and other intangible assets associated with the Nisswa Marine acquisition was approximately $15.3 million.

In May 2021, we purchased all of the outstanding equity of KCS International Holdings, Inc., and certain affiliates ("Cruisers Yachts") for an aggregate purchase price of $62.7 million, subject to certain customary closing and post-closing adjustments, and net working capital adjustments including certain holdbacks. The former owners of Cruisers Yachts are subject to certain customary post-closing covenants and indemnities.

The following table summarizes the consideration paid for Cruisers Yachts and the allocation of the purchase consideration to the estimated fair value of the assets acquired and liabilities assumed at the acquisition date.

	(Amounts in thousands)
Consideration:	
Cash purchase price and net working capital adjustments, net of cash acquired of $5,993	$ 61,448
Recognized amounts of identifiable assets acquired and liabilities assumed:	
Current assets, net of cash acquired of $5,993	$ 29,869
Property and equipment	12,126
Intangible assets	4,602
Current liabilities	(25,283)
Total identifiable net assets acquired:	21,314
Goodwill	$ 40,134
Total	$ 61,448

The fair value of current assets acquired includes accounts receivable and inventory of approximately $3.1 million and $26.2 million, respectively. The fair value of current liabilities assumed includes short-term borrowings of approximately $11.7 million, accrued expenses of approximately $10.3 million, and accounts payable of approximately $3.0 million. The intangible assets acquired include the trade name and customer relationships. The goodwill represents the assembled workforce, acquired capabilities, and future economic benefits resulting from the acquisition. The majority of the goodwill is expected to be deductible for tax purposes. The customer relationships have a weighted average useful life of approximately 2.0 years. The tradename has an indefinite life. Our results for fiscal 2021 include results from Cruisers Yachts between May 2, 2021 and September 30, 2021. Refer to Note 21 for disclosure of the revenues and income from operations. We have not disclosed the pro forma effect of Cruisers Yachts' financial information for fiscal 2020 and prior to acquisition on May 2, 2021, because Cruisers Yachts' historical monthly internal accounting and reporting processes and practices would not provide complete information sufficient for the purposes of this pro forma disclosure.

In October 2020, we purchased all of the outstanding equity of Skipper Marine Holdings, Inc., and certain affiliates ("SkipperBud's") for an aggregate purchase price of $55.0 million, subject to certain customary closing and post-closing adjustments, and net working capital adjustments including certain holdbacks. In addition, the former equity owners of SkipperBud's ("Skippers Sellers"), have the opportunity to earn additional consideration as part of an contingent consideration liability subject to the achievement of certain pre-tax earnings levels. The maximum amount of consideration that can be paid under the contingent consideration liability is approximately $9.3 million. The fair value of $8.2 million of the contingent consideration liability arrangement was estimated by a third party valuation expert by applying an income valuation approach. The contingent consideration liability was estimated based on forecasted pre-tax earnings as a base scenario (among other assumptions) subject to a Monte Carlo simulation. The Skippers Sellers are subject to certain customary post-closing covenants and indemnities. The acquisition of SkipperBud's enhances our sales, brokerage, service and marina/storage presence in the Great Lakes region and West Coast of the Unites States.

The following table summarizes the consideration paid for SkipperBud's and the allocation of the purchase consideration to the estimated fair value of the assets acquired and liabilities assumed at the acquisition date.

	(Amounts in thousands)
Consideration:	
Cash purchase price and net working capital adjustments, net of cash acquired of $30,615	$ 50,261
Contingent consideration liability	8,200
Fair value of total consideration transferred	$ 58,461
Recognized amounts of identifiable assets acquired and liabilities assumed:	
Current assets, net of cash acquired of $30,615	$ 50,688
Property and equipment	4,859
Intangible assets	1,978
Current liabilities	(55,427)
Total identifiable net assets acquired:	2,098
Goodwill	$ 56,363
Total	$ 58,461

The fair value of current assets acquired includes accounts receivable and inventory of approximately $5.4 million and $42.3 million, respectively. The fair value of current liabilities assumed includes short-term borrowings of approximately $30.5 million, accrued expenses of approximately $14.6 million, and customer deposits of approximately $7.5 million. We recorded approximately $56.4 million in goodwill and approximately $2.0 million of other identifiable intangibles (trade name and customer relationships) in connection with the SkipperBud's acquisition. The goodwill represents our enhanced geographic reach and brand infrastructure in the Great Lakes region and West Coast of the Unites States. The majority of the goodwill is expected to be deductible for tax purposes. The intangible assets have a weighted average useful life of approximately 3.3 years. For fiscal 2021, SkipperBud's revenue was approximately $302.6 million and income before taxes was approximately $31.3 million. We have not disclosed the pro forma effect of SkipperBud's financial information for fiscal 2020 because it is not practical to obtain for comparative purposes and as such is not presented because SkipperBud's historical monthly internal accounting and reporting processes and practices would not provide complete information sufficient for the purposes of this pro forma disclosure.

In total, goodwill and other intangible assets increased, primarily due to acquisitions, by $116.8 million and $45.3 million, for the fiscal years ended September 30, 2021 and 2022, respectively. These acquisitions have resulted in the recording of goodwill for tax purposes of $110.8 million and $10.5 million, for the fiscal years ended September 30, 2021 and 2022, respectively. Current and previous acquisitions have resulted in the recording of $195.6 million and $235.6 million in goodwill and $5.6 million and $10.9 million in other intangible assets as of September 30, 2021 and 2022, respectively.

Effective May 2, 2021, our reportable segments changed as a result of the Company's acquisition of Cruisers Yachts, which changed management's reporting structure and operating activities. We now report our operations through two new reportable segments: Retail Operations and Product Manufacturing. As a result, the Company allocated goodwill to its reporting units within the Company's two reportable segments.

The following table sets forth the changes in carrying amount of goodwill by reportable segment for the fiscal years ended September 30, 2021 and 2022:

	Retail Operations	Product Manufacturing	Total
	(Amounts in thousands)		
Balance as of September 30, 2020	$ 84,240	$ —	$ 84,240
Goodwill acquired	71,306	40,134	111,440
Foreign currency translation	(117)	—	(117)
Balance as of September 30, 2021	$ 155,429	$ 40,134	$ 195,563
Goodwill acquired	14,035	28,900	42,935
Foreign currency translation	(2,913)	—	(2,913)
Balance as of September 30, 2022	$ 166,551	$ 69,034	$ 235,585

Other intangible assets, net, at September 30, consisted of the following:

	2021	2022
	(Amounts in thousands)	
Trade names - indefinite-lived	$ 3,051	$ 7,736
Other intangible assets, primarily customer relationships	3,970	5,948
	7,021	13,684
Less: accumulated amortization	(1,462)	(2,798)
Intangible assets, net	$ 5,559	$ 10,886

10. ACCRUED EXPENSES:

Accrued expenses consisted of the following as of September 30,

	2021	2022
	(Amounts in thousands)	
Payroll accruals	$ 42,138	$ 41,413
Customer and storage accruals	17,390	18,095
Sales and other taxes payable	8,462	5,930
Other accruals	18,604	23,964
Accrued expenses	$ 86,594	$ 89,402

11. SHORT-TERM BORROWINGS AND LONG-TERM DEBT:

In August 2022, we entered into a Credit Agreement with Manufacturers and Traders Trust Company as Administrative Agent, Swingline Lender, and Issuing Bank, Wells Fargo Commercial Distribution Finance, LLC, as Floor Plan Agent, and the lenders party thereto (the "New Credit Agreement"). The New Credit Agreement provides the Company short-term borrowing in the form of a line of credit with asset based borrowing availability of up to $750 million and establishes a revolving credit facility in the maximum amount of $100 million (including a $20 million swingline facility and a $20 million letter of credit sublimit). The New Credit Agreement also provides long-term debt in the form of a delayed draw term loan facility to finance the acquisition of IGY Marinas in the maximum amount of $400 million, and a $100 million delayed draw mortgage loan facility. The maturity of each of the facilities is August 2027.

The interest rate is (a) for amounts outstanding under the floor plan facility, 3.45% above the one month secured term rate as administered by the CME Group Benchmark Administration Limited (CBA) ("SOFR"), (b) for amounts outstanding under the revolving credit facility or the term loan facility, a range of 1.50% to 2.0%, depending on the total net leverage ratio, above the one month, three month, or six month term SOFR rate, and (c) for amounts outstanding under the mortgage loan facility, 2.20% above the one month, three month, or six month term SOFR rate. The alternate base rate with a margin is available for amounts outstanding under the revolving credit, term, and mortgage loan facilities and the Euro Interbank Offered Rate plus a margin is available for borrowings in Euro or other currencies other than dollars under the revolving credit facility.

The New Credit Agreement has certain financial covenants as specified in the agreement. The covenants include provisions that our leverage ratio must not exceed 3.35 to 1.0 and that our consolidated fixed charge coverage ratio must be greater than 1.10 to 1.0. As of September 30, 2022, we were in compliance with all covenants under the New Credit Agreement. The New Credit Agreement is secured by the Company's personal property assets, including inventory and related accounts receivable. The mortgage loans will also be secured by the real estate pledged as collateral for such loans.

In May 2020, we entered into a Loan and Security Agreement (the "Credit Facility"), with Wells Fargo Commercial Distribution Finance LLC, M&T Bank, Bank of the West, and Truist Bank. In July 2021, we amended the Credit Facility to increase the borrowing availability to $500 million, extend the term to expire by one year to July 2024, with two one-year options to renew, subject to lender approval, and modify certain provisions to provide additional liquidity to the Company. The Credit Facility provided the Company a line of credit with asset based borrowing availability of up to $500 million for working capital and inventory financing, with the amount permissible pursuant to a borrowing base formula. The Credit Facility was set to expire in July 2024, subject to extension for two one-year periods, with lender approval. The Credit Facility was replaced by the New Credit Agreement.

As of September 30, 2022, our indebtedness associated with financing our inventory and working capital needs totaled approximately $135.1 million. As of September 30, 2022, short-term borrowings included unamortized debt issuance costs of

approximately $3.1 million. As of September 30, 2021, our indebtedness associated with financing our inventory and working capital needs totaled approximately $24.1 million, and included unamortized debt issuance costs of approximately $0.2 million.

As of September 30, 2021 and 2022, the interest rate on the outstanding short-term borrowings was approximately 4.20% and 6.0%, respectively. As of September 30, 2022, our additional available borrowings under our Credit Facility were approximately $65.8 million based upon the outstanding borrowing base availability. As of September 30, 2022, no amounts were withdrawn on the delayed draw term loan facility to finance the acquisition of IGY Marinas or the delayed draw mortgage loan facility. Refer to Note 22 for the closing of the IGY Marinas acquisition in October 2022.

As is common in our industry, we receive interest assistance directly from boat manufacturers, including Brunswick. The interest assistance programs vary by manufacturer, but generally include periods of free financing or reduced interest rate programs. The interest assistance may be paid directly to us or our lender depending on the arrangements the manufacturer has established. We classify interest assistance received from manufacturers as a reduction of inventory cost and related cost of sales.

The availability and costs of borrowed funds can adversely affect our ability to obtain adequate boat inventory and the holding costs of that inventory as well as the ability and willingness of our customers to finance boat purchases. However, we rely on our New Credit Agreement to purchase our inventory of boats. The aging of our inventory limits our borrowing capacity as defined curtailments reduce the allowable advance rate as our inventory ages. Our access to funds under our New Credit Agreement also depends upon the ability of our lenders to meet their funding commitments, particularly if they experience shortages of capital or experience excessive volumes of borrowing requests from others during a short period of time. Unfavorable economic conditions, weak consumer spending, turmoil in the credit markets, and lender difficulties, among other potential reasons, could interfere with our ability to utilize our New Credit Agreement to fund our operations. Any inability to utilize our New Credit Agreement could require us to seek other sources of funding to repay amounts outstanding under the credit agreements or replace or supplement our credit agreements, which may not be possible at all or under commercially reasonable terms.

Similarly, decreases in the availability of credit and increases in the cost of credit adversely affect the ability of our customers to purchase boats from us and thereby adversely affect our ability to sell our products and impact the profitability of our finance and insurance activities.

Long-term Debt

The below table summarizes the Company's long-term debt.

	September 30, 2022 (Amounts in thousands)
Mortgage facility payable to Flagship Bank bearing interest at 5.25% (prime minus 100 basis points with a floor of 2.00%). Requires monthly principal and interest payments with a balloon payment of approximately $4.0 million due August 2027.	$ 6,403
Mortgage facility payable to Seacoast National Bank bearing interest at 5.63% (greater of 3.00% or prime minus 62.5 basis points). Requires monthly interest payments for the first year and then monthly principal and interest payments with a balloon payment of approximately $6.0 million due September 2031.	17,098
Mortgage facility payable to Hancock Whitney Bank bearing interest at 5.63% (prime minus 62.5 basis points with a floor of 2.25%). Requires monthly principal and interest payments with a balloon payment of approximately $15.5 million due November 2027. 50% of the outstanding borrowings are hedged with an interest rate swap contract with a fixed rate of 3.20%.	25,192
Revolving mortgage facility with FineMark National Bank & Trust bearing interest at 6.00% (prime minus 25 basis points with a floor of 3.00%). Facility matures in October 2027. Current available borrowings under the facility were approximately $24.5 million at September 30, 2022.	—
Total long-term debt	48,693
Less: current portion	(2,882)
Less: unamortized portion of debt issuance costs	(510)
Long-term debt, net current portion and unamortized debt issuance costs	$ 45,301

	September 30, 2021 (Amounts in thousands)
Mortgage facility payable to Flagship Bank bearing interest at 2.25% (prime minus 100 basis points with a floor of 2.00%). Requires monthly principal and interest payments with a balloon payment of approximately $4.0 million due August 2027.	$ 6,899
Mortgage facility payable to Seacoast National Bank bearing interest at 3.00% (greater of 3.00% or prime minus 62.5 basis points). Requires monthly interest payments for the first year and then monthly principal and interest payments with a balloon payment of approximately $6.0 million due September 2031.	17,675
Mortgage facility payable to Hancock Whitney Bank bearing interest at 2.63% (prime minus 62.5 basis points with a floor of 2.25%). Requires monthly principal and interest payments with a balloon payment of approximately $15.5 million due November 2027. 50% of the outstanding borrowings are hedged with an interest rate swap contract with a fixed rate of 3.20%.	27,106
Revolving mortgage facility with FineMark National Bank & Trust bearing interest at 3.00% (prime minus 25 basis points with a floor of 3.00%). Facility matures in October 2027. Current available borrowings under the facility were approximately $26.1 million at September 30, 2021.	—
Total long-term debt	51,680
Less: current portion	(3,587)
Less: unamortized portion of debt issuance costs	(595)
Long-term debt, net current portion and unamortized debt issuance costs	$ 47,498

As of September 30, 2022, the aggregate maturities of long-term debt by fiscal year are summarized as follows:

	(Amounts in thousands)
2023	$ 2,882
2024	2,882
2025	2,882
2026	2,882
2027	6,882
Thereafter	30,283
Total long-term debt	$ 48,693

12. INCOME TAXES:

Income before income tax provision consisted of the following components for the fiscal years ended September 30,

	2020	2021	2022
	(Amounts in thousands)		
Income before income tax provision:			
United States	$ 94,854	$ 202,643	$ 254,052
Other	2,586	3,151	7,869
Total	$ 97,440	$ 205,794	$ 261,921

The components of our provision from income taxes consisted of the following for the fiscal years ended September 30,

	2020	2021	2022
		(Amounts in thousands)	
Current provision:			
Federal	$ 17,654	$ 38,028	$ 49,380
Foreign	654	1,516	1,739
State	1,365	6,527	11,004
Total current provision	$ 19,673	$ 46,071	$ 62,123
Deferred provision:			
Federal	$ 2,262	$ 4,201	$ 1,650
Foreign	—	—	—
State	871	543	159
Total deferred provision	3,133	4,744	1,809
Total income tax provision	$ 22,806	$ 50,815	$ 63,932

Below is a reconciliation of the statutory federal income tax rate to our effective tax rate for the fiscal years ended September 30,

	2020	2021	2022
Federal tax provision	21.0%	21.0%	21.0%
State taxes, net of federal benefit	3.1%	3.7%	3.4%
Stock-based compensation	(0.5)%	(0.7)%	(0.6)%
Valuation allowance	(0.2)%	—	—
Foreign rate differential	0.1%	0.1%	—
Other	(0.1)%	0.6%	0.6%
Effective tax rate	23.4%	24.7%	24.4%

Deferred income taxes reflect the impact of temporary differences between the amount of assets and liabilities recognized for financial reporting purposes and such amounts recognized for income tax purposes. The tax effects of these temporary differences representing the components of deferred tax assets as of September 30,

	2021	2022
	(Amounts in thousands)	
Deferred tax assets:		
Inventories	$ 771	$ 831
Operating lease liabilities	25,924	23,323
Accrued expenses	1,225	889
Stock-based compensation	2,810	4,147
Tax loss carryforwards	667	599
Other	852	1,154
Total long-term deferred tax assets	$ 32,249	$ 30,943
Deferred tax liabilities:		
Depreciation and amortization	(16,226)	(22,369)
Operating lease right-of-use assets	(25,291)	(22,733)
Other	—	(1,242)
Total long-term deferred tax liabilities	$ (41,517)	$ (46,344)
Net deferred tax liabilities	$ (9,268)	$ (15,401)

Pursuant to ASC 740, we must consider all positive and negative evidence regarding the realization of deferred tax assets. ASC 740 provides four possible sources of taxable income to realize deferred tax assets: 1) taxable income in prior carryback years, 2) reversals of existing deferred tax liabilities, 3) tax planning strategies and 4) projected future taxable income. As of September 30, 2022, we have no available taxable income in prior carryback years and have not identified prudent and feasible tax planning strategies. Therefore, the recoverability of our deferred tax assets is dependent upon the reversal of existing deferred tax liabilities and generating

future taxable income. It is more likely than not that we will generate sufficient taxable income to realize the deferred tax asset not offset by reversing deferred tax liabilities.

As of September 30, 2022, the Company has NOL carryforwards of approximately $9.5 million for state income tax purposes, which resulted in a deferred tax asset of $0.6 million, and expire at various dates from 2029 through 2032.

Significant judgment is required in evaluating our uncertain tax positions. Although we believe our tax return positions are sustainable, we recognize tax benefits from uncertain tax positions in the consolidated financial statements only when it is more likely than not that the positions will be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits and a consideration of the relevant taxing authority's administrative practices and precedents. To the extent that the final tax outcome of these matters is different than the amounts recorded, such differences will impact the provision for income taxes in the period in which such determination is made. The provision for income taxes includes the impact of reserve provisions and changes to reserves that are considered appropriate, as well as the related net interest and penalties.

We are subject to tax by federal, state, and foreign taxing authorities. Until the respective statutes of limitations expire, we are subject to income tax audits in the jurisdictions in which we operate. We are no longer subject to U.S. federal tax assessments for fiscal years prior to 2019, we are not subject to assessments prior to the 2016 fiscal year for the majority of the State jurisdictions and we are not subject to assessments prior to the 2017 calendar year for the majority of the foreign jurisdictions.

13. SHAREHOLDERS' EQUITY:

In March 2020, our Board of Directors approved a new share repurchase plan allowing the Company to repurchase up to 10 million shares of our common stock through March 2022. The share repurchase plan was subsequently extended in March 2022 through March 2024. Under the plan, we may buy back common stock from time to time in the open market or in privately negotiated blocks, dependent upon various factors, including price and availability of the shares, and general market conditions. Through September 30, 2022 we had purchased an aggregate of 7,267,021 shares of common stock under the current and historical share repurchase plans for an aggregate purchase price of approximately $148.7 million. As of September 30, 2022, approximately 8.9 million shares remained available for future purchases under the share repurchase program.

14. STOCK-BASED COMPENSATION:

We account for our stock-based compensation plans following the provisions of FASB ASC 718, "Compensation — Stock Compensation" ("ASC 718"). In accordance with ASC 718, we use the Black-Scholes valuation model for valuing all options granted (Note 16) and shares purchased under our Amended 2008 Employee Stock Purchase Plan ("Stock Purchase Plan"). We measure compensation for restricted stock awards and restricted stock units (Note 17) at fair value on the grant date based on the number of shares expected to vest and the quoted market price of our common stock. We recognize compensation cost for all awards in operations on a straight-line basis over the requisite service period for each separately vesting portion of the award.

Stock-based compensation expense recorded in selling, general, and administrative expenses was approximately $7.5 million, $9.7 million, and $16.0 million, for the fiscal years ended September 30, 2020, 2021, and 2022, respectively.

Cash received from option exercises under all share-based compensation arrangements for the fiscal years ended September 30, 2020, 2021 and 2022 was approximately $4.6 million, $2.6 million, and $2.2 million, respectively. We currently expect to satisfy share-based awards with registered shares available to be issued from the Stock Purchase Plan.

15. THE INCENTIVE STOCK PLANS:

In February 2022, our shareholders approved a proposal to authorize our 2021 Stock-Based Compensation Plan ("2021 Plan"), which replaced our 2011 Stock-Based Compensation Plan ("2011 Plan"). Our 2021 Plan provides for the grant of stock options, stock appreciation rights, restricted stock, stock units, bonus stock, dividend equivalents, other stock related awards, and performance awards (collectively "awards"), that may be settled in cash, stock, or other property. Our 2021 Plan is designed to attract, motivate, retain, and reward our executives, employees, officers, directors, and independent contractors by providing such persons with annual and long-term performance incentives to expend their maximum efforts in the creation of shareholder value. The total number of shares of our common stock that may be subject to awards under the 2021 Plan is equal to 1,000,000 shares, plus: (i) any shares available for issuance and not subject to an award under the 2007 Plan or the 2011 Plan, which was 545,729 in aggregate at the time of the approval of the 2021 Plan; (ii) the number of shares with respect to which awards granted under the 2021 Plan, the 2011 Plan or the 2007 Plan terminate without the issuance of the shares or where the shares are forfeited or repurchased; (iii) with respect to awards granted under the 2021 Plan, the 2011 Plan and the 2007 Plan, the number of shares that are not issued as a result of the award being settled for cash or otherwise not issued in connection with the exercise or payment of the award; and (iv) the number of shares that are surrendered or withheld in payment

of the exercise price of any award or any tax withholding requirements in connection with any award granted under the 2021 Plan, the 2011 Plan or the 2007 Plan. The 2021 Plan terminates in February 2032, and awards may be granted at any time during the life of the 2021 Plan. The dates on which awards vest are determined by the Board of Directors or the Plan Administrator. The Board of Directors has appointed the Compensation Committee as the Plan Administrator. The exercise prices of options are determined by the Board of Directors or the Plan Administrator and are at least equal to the fair market value of shares of common stock on the date of grant. The term of options under the 2021 Plan may not exceed ten years. The options granted have varying vesting periods. To date, we have not settled or been under any obligation to settle any awards in cash.

The following table summarizes activity from our incentive stock plans from September 30, 2021 through September 30, 2022:

	Shares Available for Grant	Options Outstanding	Aggregate Intrinsic Value (Amounts in thousands)	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life
Balance as of September 30, 2021	918,061	115,250	$ 4,085	$ 13.08	1.9
Shares authorized	1,000,000				
Options granted	-	—		—	
Options cancelled/forfeited/expired	20,000	(20,000)		7.39	
Options exercised	-	(32,500)		7.81	
Restricted stock awards granted	(391,208)	—		—	
Restricted stock awards forfeited	13,684	—		—	
Additional shares of stock issued	(24,443)	—		—	
Balance as of September 30, 2022	1,536,094	62,750	$ 893	$ 17.62	2.3
Exercisable as of September 30, 2022		60,083	$ 870	$ 16.93	2.2

No options were granted during the fiscal years ended September 30, 2020, and 2022. The weighted-average grant date fair value of options granted during the fiscal year ended September 30, 2021 was $25.29. The total intrinsic value of options exercised during the fiscal years ended September 30, 2020, 2021 and 2022 was approximately $3.8 million, $1.8 million, and $1.4 million, respectively.

We used the Black-Scholes model to estimate the fair value of options granted. The expected term of options granted is estimated based on historical experience. Volatility is based on the historical volatility of our common stock. The risk-free rate for periods within the contractual term of the options is based on the U.S. Treasury yield curve in effect at the time of grant.

16. EMPLOYEE STOCK PURCHASE PLAN:

In February 2019, our shareholders approved a proposal to amend our Stock Purchase Plan to increase the number of shares available under that plan by 500,000 shares. The Stock Purchase Plan as amended provides for up to 1,500,000 shares of common stock to be available for purchase by our regular employees who have completed at least one year of continuous service. In addition, there were 52,837 shares of common stock available under our 1998 Employee Stock Purchase Plan, which have been made available for issuance under our Stock Purchase Plan. The Stock Purchase Plan provides for implementation of annual offerings beginning on the first day of October in each of the years 2008 through 2027, with each offering terminating on September 30 of the following year. Each annual offering may be divided into two six-month offerings. For each offering, the purchase price per share will be the lower of: (i) 85% of the closing price of the common stock on the first day of the offering or (ii) 85% of the closing price of the common stock on the last day of the offering. The purchase price is paid through periodic payroll deductions not to exceed 10% of the participant's earnings during each offering period. However, no participant may purchase more than $25,000 worth of common stock annually.

We used the Black-Scholes model to estimate the fair value of options granted to purchase shares issued pursuant to the Stock Purchase Plan. Volatility is based on the historical volatility of our common stock. The risk-free rate for periods within the contractual term of the options is based on the U.S. Treasury yield curve in effect at the time of grant.

The following are the weighted-average assumptions used for the fiscal years ended September 30,

	2020	2021	2022
Dividend yield	0.0%	0.0%	0.0%
Risk-free interest rate	0.8%	0.1%	0.7%
Volatility	69.7%	69.6%	49.0%
Expected life	Six months	Six months	Six months

As of September 30, 2022, we had issued 1,191,779 shares of common stock under our Stock Purchase Plan.

17. RESTRICTED STOCK AWARDS:

We have granted non-vested (restricted) stock awards ("restricted stock") and restricted stock units ("RSUs") to employees, directors, and officers pursuant to the 2021 Plan, 2011 Plan, and the 2007 Plan. The restricted stock awards and RSUs have varying vesting periods, but generally become fully vested between two and four years after the grant date, depending on the specific award, performance targets met for performance-based awards granted to officers, and vesting period for time-based awards. Officer performance-based awards are granted at the target amount of shares that may be earned and the actual amount of the award earned generally could range from 0% to 175% of the target number of shares based on the actual specified performance target met. We accounted for the restricted stock awards granted using the measurement and recognition provisions of ASC 718. Accordingly, the fair value of the restricted stock awards, including performance-based awards, is measured on the grant date and recognized in earnings over the requisite service period for each separately vesting portion of the award.

The following table summarizes restricted stock award activity from September 30, 2021 through September 30, 2022:

	Shares/ Units	Weighted Average Grant Date Fair Value
Non-vested balance as of September 30, 2021	911,429	$ 22.33
Changes during the period:		
Awards granted	391,208	$ 52.52
Awards vested	(354,436)	$ 21.49
Awards forfeited	(13,684)	$ 26.05
Non-vested balance as of September 30, 2022	934,517	$ 35.23

As of September 30, 2022, we had approximately $19.4 million of total unrecognized compensation cost, assuming applicable performance conditions are met, related to non-vested restricted stock awards. We expect to recognize that cost over a weighted-average period of 2.1 years.

18. NET INCOME PER SHARE:

The following table presents shares used in the calculation of basic and diluted net income per share for the fiscal years ended September 30,

	2020	2021	2022
Weighted average common shares outstanding used in calculating basic net income per share	21,547,665	22,010,130	21,706,225
Effect of dilutive options and non-vested restricted stock awards	577,673	849,368	692,984
Weighted average common and common equivalent shares used in calculating diluted net income per share	22,125,338	22,859,498	22,399,209

For the fiscal years ended September 30, 2020, 2021, and 2022 there were 9,650, 1,619, and 71,976 weighted average shares of options outstanding and non-vested restricted stock outstanding, respectively, that were not included in the computation of diluted net income per share because the options' exercise prices or non-vested restricted stock prices were greater than the average market price of our common stock, and therefore, their effect would be anti-dilutive.

19. COMMITMENTS AND CONTINGENCIES:

We are party to various legal actions arising in the ordinary course of business. While it is not feasible to determine the actual outcome of these actions as of September 30, 2022, we believe that these matters should not have a material adverse effect on our consolidated financial condition, results of operations or cash flows.

During the fiscal year ended September 30, 2020, we incurred costs associated with store closings and lease terminations of approximately $1.7 million. During the fiscal years ended September 30, 2021, and 2022, we incurred no costs associated with store closings and lease terminations. The store closing costs have been included in selling, general, and administrative expenses in the accompanying Consolidated Statements of Operations.

In connection with certain of our workers' compensation insurance policies, we maintain standby letters of credit and surety bonds for our insurance carriers in the amount of $2.0 million relating primarily to retained risk on our workers compensation claims.

We are subject to federal and state environmental regulations, including rules relating to air and water pollution and the storage and disposal of gasoline, oil, other chemicals and waste. We believe that we are in compliance with such regulations.

20. EMPLOYEE 401(k) PROFIT SHARING PLANS:

Employees are eligible to participate in our 401(k) Profit Sharing Plan (the "Plan") following their 90-day introductory period starting either April 1 or October 1, provided that they are 21 years of age. Under the Plan, we matched 50% of participants' contributions, up to a maximum of 6% of each participant's compensation. We contributed, under the Plan, or pursuant to previous similar plans, approximately $2.7 million, $5.0 million, and $6.1 million for the fiscal years ended September 30, 2020, 2021 and 2022, respectively.

21. SEGMENT INFORMATION:

Change in Reportable Segments

Effective May 2, 2021, our reportable segments changed as a result of the Company's acquisition of Cruisers Yachts, which changed management's reporting structure and operating activities. We now report our operations through two operating segments, which are also reportable segments: Retail Operations and Product Manufacturing.

Reportable Segments

The Company's segments are defined by management's reporting structure and operating activities. Our chief operating decision maker ("CODM") is our Chief Executive Officer. Our CODM reviews operational income statement information by segment for purposes of making operating decisions, assessing financial performance, and allocating resources. The CODM is not provided asset information by segment. The Company's reportable segments are the following:

Retail Operations. The Retail Operations segment includes the sale of new and used recreational boats, including pleasure and fishing boats, with a focus on premium brands in each segment. We also sell related marine products, including engines, trailers, parts, and accessories. In addition, we provide repair, maintenance, and slip and storage services; we arrange related boat financing, insurance, and extended service contracts; we offer boat and yacht brokerage sales; and we offer yacht charter services. In the British Virgin Islands we offer the charter of catamarans, through MarineMax Vacations. Fraser Yachts Group and Northrop & Johnson, leading superyacht brokerage and luxury yacht services companies with operations in multiple countries, are also included in this segment. The Retail Operations segment includes the majority of all corporate costs.

Product Manufacturing. The Product Manufacturing segment includes activity of Cruisers Yachts and Intrepid Powerboats. Cruisers Yachts, a wholly-owned MarineMax subsidiary, manufacturing sport yacht and yachts with sales through our select retail dealership locations and through independent dealers. Cruisers Yachts is recognized as one of the world's premier manufacturers of premium sport yacht and yachts, producing models from 33' to 60' feet. Intrepid Powerboats, also a wholly-owned MarineMax subsidiary, produces customized boats. Intrepid Powerboats follows a direct-to-consumer distribution model.

Intersegment revenue represents yachts that were manufactured in our Product Manufacturing segment and were sold to our Retail Operations segment. The Product Manufacturing segment supplies our Retail Operations segment along with various independent dealers.

The following table sets forth depreciation and amortization for each of the Company's reportable segments for the fiscal years ended September 30,

	2020	2021	2022
		(Amounts in thousands)	
Depreciation:			
Retail Operations	$ 12,756	$ 13,821	$ 16,577
Product Manufacturing	—	32	131
Depreciation	$ 12,756	$ 13,853	$ 16,708
Amortization:			
Retail Operations	$ 16	$ 1,429	$ 857
Product Manufacturing	—	324	1,853
Amortization	$ 16	$ 1,753	$ 2,710

The following table sets forth revenue and income from operations for each of the Company's reportable segments for the fiscal years ended September 30,

	2020	2021	2022
		(Amounts in thousands)	
Revenue:			
Retail Operations	$ 1,509,713	$ 2,043,613	$ 2,199,026
Product Manufacturing	—	44,000	176,273
Elimination of intersegment revenue	—	(24,356)	(67,201)
Revenue	$ 1,509,713	$ 2,063,257	$ 2,308,098
Income from operations:			
Retail Operations	$ 106,715	$ 207,034	$ 249,186
Product Manufacturing	—	6,940	20,258
Elimination of intersegment income from operations	—	(4,515)	(4,240)
Income from operations	$ 106,715	$ 209,459	$ 265,204

22. SUBSEQUENT EVENTS:

On October 3, 2022, the Company and its wholly-owned subsidiary, MarineMax East, Inc., a Delaware corporation, completed the purchase of all of the outstanding membership interest units of Island Global Yachting LLC, a Delaware limited liability company, pursuant to the terms of a Securities Purchase Agreement (the "Purchase Agreement") with Island Marina Holdings LLC, a Delaware limited liability company, and Island Marinas Subsidiary Corp., a Delaware corporation, dated August 8, 2022 (the "Transaction"). The Transaction was consummated for an aggregate cash purchase price of $480 million in cash, subject to customary purchase price adjustments set forth in the Purchase Agreement, with an additional potential payment of up to $100 million in cash two years after closing, subject to the achievement of certain performance metrics set forth in the Purchase Agreement. The Transaction was financed through MarineMax's New Credit Agreement which included drawing $400 million from the term loan facility and cash on hand.

NOTE: PORTIONS OF THIS EXHIBIT INDICATED BY "[****]" HAVE BEEN OMITTED FROM THIS EXHIBIT AS THESE PORTIONS ARE NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM IF PUBLICLY DISCLOSED.

Exhibit 10.15

SECURITIES PURCHASE AGREEMENT

BY AND BETWEEN

ISLAND MARINA HOLDINGS LLC

AND

ISLAND MARINAS SUBSIDIARY CORP.
as Sellers,

IG HOLDINGS LLC

AND

MOF SIMPSON BAY L.P.,
as Single Asset Sellers,

MARINEMAX EAST, INC.,
as Buyer

AND

MARINEMAX, INC.,
as Guarantor
Solely for purposes of ARTICLE 10

DATED AS OF AUGUST 8, 2022

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SECURITIES PURCHASE AGREEMENT

This SECURITIES PURCHASE AGREEMENT (this "Agreement"), dated as of August 8, 2022, is entered into by and among: (i) Island Marina Holdings LLC, a Delaware limited liability company ("Marina Holdings"), and Island Marinas Subsidiary Corp., a Delaware corporation ("IGY Corp."), as sellers (together, the "Sellers" and each, a "Seller"); (ii) IG Holdings LLC, a Delaware limited liability company ("IG Holdings"), and MOF Simpson Bay L.P., a Texas limited partnership ("MOF Simpson Bay"), as single asset sellers (together, the "Single Asset Sellers" and each, a "Single Asset Seller"); (iii) MarineMax East, Inc., a Delaware corporation, as buyer ("Buyer" and together with Sellers, the "Parties" and each a "Party"); and (iv) solely for purposes of ARTICLE 10, MarineMax, Inc., a Florida corporation, as guarantor ("Guarantor"). Capitalized terms used but not otherwise defined shall have the meaning set forth in Article 1.

RECITALS

WHEREAS, Island Global Yachting LLC, a Delaware limited liability company (the "Company"), was formerly known as Island Global Yachting Ltd., an exempted company incorporated with limited liability formed under the laws of Cayman Islands on October 18, 2005 (the "Predecessor Entity");

WHEREAS the Predecessor Entity's capital stock consisted of Class A Shares, Class B Shares and Series A Preferred Convertible Shares (the "Predecessor Shares");

WHEREAS on August 7, 2020, the Predecessor Entity was converted into a Delaware limited liability company, and accordingly (i) each holder of the Predecessor Shares was issued an equivalent number of units representing fractional parts of the membership interests of the Company, and (ii) all Predecessor Shares were cancelled;

WHEREAS as of the date hereof, Sellers collectively own 100% of the outstanding membership interest units of the Company (other than the Options which shall be cashed out at Closing) (the "Purchased Units");

WHEREAS, Marina Holdings owns 100% of the issued and outstanding shares of the outstanding capital stock of IGY Corp.;

WHEREAS, Marina Holdings owns the single issued and outstanding Class A Unit of the Company, and IGY Corp. owns the single issued and outstanding Series B Perpetual Preferred Unit of the Company and, other than the Options, there are no other equity securities of the Company of any kind and description issued and outstanding;

WHEREAS, IG Holdings owns 80% of the issued and outstanding membership interest in Island Gardens Deep Harbour, LLC ("IGDH" and, IG Holdings' 80% interest, the "Miami Interests");

WHEREAS, MOF Simpson Bay owns 100% of the issued and outstanding membership interest in Pentagon Management, N.V. (Netherlands Antilles LLC) ("Pentagon" and, MOF Simpson Bay's interest, the "Simpson Bay Interests");

WHEREAS the Acquired Companies, an organizational chart of which entities as of the date hereof is set forth in Section A of the Sellers Disclosure Schedules, are principally engaged in the ownership, operation and management of yacht marinas and their surrounding upland real estate properties throughout the United States, Europe, the Caribbean, Latin America, and the Middle East/North Africa;

WHEREAS, on the Closing Date but immediately prior to Closing, Sellers intend to cause their interests indirectly held in IGDH and Pentagon to be distributed out to Marina Holdings;

WHEREAS, IG Holdings wishes to sell to Buyer, and Buyer wishes to purchase from IG Holdings, the Miami Interests, on the terms and subject to the conditions set forth herein;

WHEREAS, MOF Simpson Bay wishes to sell to Buyer, and Buyer wishes to purchase from MOF Simpson Bay, the Simpson Bay Interests, on the terms and subject to the conditions set forth herein;

WHEREAS, Sellers wish to sell to Buyer, and Buyer wishes to purchase from Sellers, the Purchased Units, on the terms and subject to the conditions set forth herein; and

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties and the Single Asset Sellers, intending to be legally bound, agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1 **Definitions**. As used in this Agreement, the following terms have the respective meanings set forth below.

"Accounting Firm" means Ernst & Young LLP; provided, however, that if Ernst & Young LLP shall decline such appointment or otherwise be unable to serve, "Accounting Firm" shall mean such other independent public accounting firm that will accept such appointment and that is mutually agreed to by Buyer and Sellers; provided, further, that if Buyer and Sellers are unable to agree on an independent public accounting firm that will accept such appointment within five (5) Business Days after notice that Ernst & Young LLP has declined such appointment or is otherwise unable to serve, either Party may request that an internationally recognized public accounting firm that has not had a material relationship with either of the Parties in the preceding two (2) years be appointed by the American Arbitration Association and, upon such appointment, "Accounting Firm" shall mean such firm.

"Accounting Firm's Report" has the meaning set forth in Section 2.4(b)(iii).

"Accounting Rules" means GAAP, applied in a manner consistent with the accounting principles, asset recognition bases, categorizations, policies, rules, methods, techniques and practices used in the preparation of the Audited Financial Statements (including in respect of the exercise of management judgment).

"Acquired Companies" means (i) as of the date hereof, the Company, each Company Subsidiary as of the date hereof and each Company Joint Venture, and (ii) as of the Closing Date, the Company, each Company Subsidiary as of the Closing Date, each Company Joint Venture, IGDH and Pentagon.

"Action" has the meaning set forth in Section 11.9(c).

"Additional Payment Amount" means (A) Final Closing Net Working Capital *minus* Estimated Closing Net Working Capital, *plus* (B) Final Closing Cash *minus* Estimated Closing Cash, *minus* (C) Final Closing Indebtedness *minus* Estimated Closing Indebtedness, *minus* (D) Final Transaction Expenses *minus* Estimated Transaction Expenses, *plus* (E) Final Reimbursable Prepaid Lease Payments *minus* Estimated Reimbursable Prepaid Lease Payments (for the avoidance of doubt, the amount resulting from the calculation of (A) through (E) may be a negative number).

"Adverse Operational Impact" means any Encumbrance or Effect that, individually or in the aggregate with all other Encumbrances or Effects, has interfered or would reasonably be expected to interfere in any material and adverse manner with the business, financial condition, assets, or operations of any Acquired Company.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, including through one or more intermediaries, controls, is controlled by or is under common control with such Person. As used in this definition, the term "controls" (including the terms "controlled by" and "under common control with") means possession, directly or indirectly, including through one or more intermediaries, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by Contract or otherwise.

"Agreement" has the meaning set forth in the introductory paragraph to this Agreement.

"Allocable Amount" has the meaning set forth in Section 6.5.

"Allocation Schedule" has the meaning set forth in Section 6.5.

"Alternative Transaction" means any (i) acquisition, merger, consolidation, reorganization, liquidation, recapitalization, share exchange or other business combination transaction involving the Company, (ii) issuance or sale of shares of capital stock or other equity securities of the Company, or (iii) sale of any significant portion of the properties or assets of the Acquired Companies, taken as a whole, in the case of each of clause (i)-(iii), other than the transactions contemplated by this Agreement.

"Ancillary Agreements" means the Escrow Agreement, the Option Cancellation Agreement, the Unit Assignment Agreement, any transition services agreement on the terms set forth in Exhibit E hereto, and any other documents delivered in connection with this Agreement.

"Anti-corruption Laws" means the U.S. Foreign Corrupt Practices Act, as amended, and any other applicable anti-bribery or anticorruption Laws (including those of the European Union).

"Antitrust Laws" means all antitrust, competition or trade regulation Laws of any Governmental Body or Laws issued by any Governmental Body that are otherwise designed or intended to prohibit, restrict or regulate actions or transactions having the purpose or effect of monopolization, restraint of trade or harm to competition.

"Applicable Privacy Requirements" shall have the meaning set forth in Section 3.13(g).

"Applicable Rate" means, for any payment made on a date following the fifth (5^{th}) Business Day after the Final Earnout Determination Date, the U.S. Prime Rate as published by the Federal Reserve Board on the Business Day prior to such date plus 500 basis points.

"Audited Balance Sheet" means the audited consolidated balance sheet of the Acquired Companies as of December 31, 2021.

"Audited Balance Sheet Date" means the date of the Audited Balance Sheet.

"Audited Financial Statements" means the audited consolidated financial statements consisting of the balance sheets and related statements of income, cash flows and stockholders' equity of the Company as of and for the fiscal year ended December 31, 2021 (including any related notes thereto and the related reports of the independent public accountants).

"Award Agreement" means an award agreement pursuant to which Options are granted by the Company.

"Beneficiary" has the meaning set forth in Section 10.1(a).

"Benefit Plan" means each written or unwritten employment, consulting, independent contractor, executive compensation, bonus, deferred compensation, incentive compensation, stock purchase, stock option or other equity-based, retention, change-in-control, severance or termination pay, vacation, paid time off, retiree welfare, hospitalization or other medical, life, disability, or other insurance, supplemental unemployment benefits, profit-sharing, pension or retirement plan, program, agreement or arrangement, and each other material fringe or other material employee benefit plan, program, agreement or arrangement (including any "employee benefit plan", within the meaning of Section 3(3) of ERISA), in each case, that is sponsored, maintained, contributed by or required to be contributed to by an Acquired Company for the benefit of any current or former employee, officer, director or independent contractor of an Acquired Company or the beneficiaries or dependents of any such individual or with respect to which any Acquired Company currently has any material Liability, but excluding (i) any benefit or compensation plan, program, agreement or arrangement required by a Governmental Body or applicable Law and (ii) any employment agreement or letter required by applicable Law and which does not contain severance entitlements in excess of those required by Law.

"Business" means, collectively, the business of the Acquired Companies substantially as it is conducted immediately prior to the Closing, consisting of (i) the ownership, operation, marketing, development, marina development consulting and management of marinas and their surrounding upland real estate properties throughout the United States, Europe, Caribbean, Latin America, and the Middle East/North Africa, and ancillary business related thereto (including the

yacht management business) and (ii) any incremental or ancillary business conducted by the Acquired Companies following the Closing, including the yacht management business.

"Business Day" means any day except Saturday, Sunday or any other day on which commercial banks in Clearwater, Florida or New York, New York, are authorized or required by Law to be closed, excluding as a result of COVID-19 Measures or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any Governmental Body so long as the electronic funds transfer systems, including for wire transfers, of commercially banking institutions in Clearwater, Florida and New York, New York are generally open for use by customers on such day. Any event the scheduled occurrence of which would fall on a day that is not a Business Day shall be deferred until the next succeeding Business Day.

"Business Interruption Claim Payment" has the meaning set forth in Section 2.5(d)(iii).

"Business Interruption True-Up" has the meaning set forth in Section 2.5(d)(iii).

"Buyer" has the meaning set forth in the introductory paragraph to this Agreement.

"Buyer Adjustment Report" has the meaning set forth in Section 2.4(a).

"Buyer Material Adverse Effect" means any material adverse effect on the ability of Buyer to timely perform its obligations under, and consummate the transactions contemplated by, this Agreement.

"Buyer's Knowledge" means, as to a particular matter, the actual knowledge as of the date hereof of Michael McLamb (Executive Vice President and Chief Financial Officer), which is known after reasonable inquiry by such individual of the Buyer's executives with primary responsibility for the relevant subject matter.

"CAA" means the Consolidated Appropriations Act, 2021, Pub. L. 116-260 (116th Cong.) (Dec. 27, 2020).

[****]

"CAM Charges" means the utility, maintenance and security charges or any other common area maintenance charges payable by tenants to a landlord under its lease or by any user to an owners association or declaration.

"Cannes Entity" means Marina du Vieux-Port de Cannes SAS.

"Cannes Project" means the joint venture and related agreements that certain Acquired Companies are in the process of negotiating and entering into in connection with the modernization and operation of the old port of Cannes in France, including the design, construction and operation of a multi-level car park on the site known as the Laubeuf Car Park.

"CARES Act" means (i) the Coronavirus Aid, Relief, and Economic Security Act (Pub. L. 116-136) and any administrative or other guidance published with respect thereto by any Governmental Body (including IRS Notices 2020-22 and 2020-65), or any other Law or executive

order or executive memorandum (including the Memorandum on Deferring Payroll Tax Obligations in Light of the Ongoing COVID-19 Disaster, dated August 8, 2020) intended to address the consequences of COVID-19 (in each case, including any comparable provisions of state, local or non-U.S. Law and including any related or similar orders or declarations from any Governmental Body) and (ii) any extension of, amendment, supplement, correction, revision or similar treatment to any provision of the CARES Act contained in the CAA.

"Cash" means all cash and cash equivalents (including deposits in connection with any Concession Agreements and key money listed on Exhibit A) in accordance with GAAP of the Acquired Companies.

"Casualty Experts" has the meaning set forth in Section 11.15(a)(ii).

"Chosen Courts" has the meaning set forth in Section 11.9(b).

"Claims" means any charge, claim, adverse interest, community property interest, pledge, hypothecation, condition, equitable interest, lien (statutory or other), option, security interest, mortgage, deed of trust, encumbrance, easement, encroachment, license, sublicense, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership, whether arising by agreement, operation of law or otherwise.

"Class A Units" means the Class A voting units of the Company.

"Class B Units" means the Class B non-voting units of the Company.

"Cleary Gottlieb" has the meaning set forth in Section 11.16.

"Closing" has the meaning set forth in Section 2.3(a).

"Closing Cash" means the aggregate Cash of the Acquired Companies calculated on a consolidated basis as of the Determination Time.

"Closing Date" has the meaning set forth in Section 2.3(a).

"Closing Date Report" has the meaning set forth in Section 2.3(c).

"Closing Indebtedness" means the aggregate Indebtedness of the Acquired Companies calculated on a consolidated basis as of the Determination Time; provided that to the extent any Indebtedness relates to a joint venture, the Closing Indebtedness amount shall only include the portion of such Indebtedness attributable to the Company's direct or indirect equity interest in such joint venture.

"Closing Net Working Capital" means the aggregate amount (which may be a positive or a negative number) of (i) the Current Assets of the Acquired Companies over (ii) the Current Liabilities of the Acquired Companies, in each case determined: (A) on a consolidated basis in accordance with GAAP and the accounting principles and policies utilized in the Net Working Capital Principles and Example attached hereto as Exhibit A, (B) as of the Determination Time,

and (C) in accordance with Section 2.3(c); provided that in the event of any inconsistency between GAAP and the principles, policies, practices and methods set forth in the Net Working Capital Principles and Example, the Net Working Capital Principles and Example shall take precedence over GAAP. The Cabo Entity, the Cannes Entity and the Malaga Entity shall not be a part of the Closing Net Working Capital calculation, except to the extent there are Taxes related to such entities that are current liabilities under GAAP.

"Closing Payment" has the meaning set forth in Section 2.3(c).

"Code" means the Internal Revenue Code of 1986, as amended.

"Company" has the meaning set forth in the recitals to this Agreement.

"Company Joint Venture" means each Joint Venture of the Company and its Subsidiaries.

"Company LLCA" means the Second Amended and Restated Limited Liability Agreement of the Company dated August 8, 2022, as may be amended from time to time.

"Company Material Adverse Effect" means any event, occurrence, fact, condition, circumstance, development, effect or change that is, or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on the business, financial condition, assets or results of operations of the Acquired Companies, taken as a whole, or the ability of Sellers to consummate the transactions contemplated by this Agreement on a timely basis; provided, however, that in no event shall any state of facts, circumstance, condition, event, change, development, occurrence or effect (each, an "Effect"), individually or in the aggregate, constitute or be taken into account in determining the occurrence of, a Company Material Adverse Effect if such Effect relates to, arises out of or results from: (i) general economic or business conditions in the United States or elsewhere in the world; (ii) the credit, debt, financial or capital markets or interest or exchange rates, in each case, in the United States or elsewhere in the world; (iii) conditions generally affecting the industry in which any of the Acquired Companies operate; (iv) any outbreak or escalation of any military conflict, declared or undeclared war, armed hostilities, including the recent military action in Ukraine, or acts of foreign or domestic terrorism, including any cyber-terrorism or cyber-attack, or any changes in political conditions; (v) any computer hacking, ransom-ware affecting or impacting, or outage of or termination by a web hosting platform providing service to an Acquired Company (but excluding any effect relating to a data breach); (vi) any hurricane, flood, tornado, earthquake, epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic) or other natural disasters, acts of God or force majeure events; (vii) changes or proposed changes in applicable law or GAAP or in the interpretation or enforcement thereof; (viii) any failure by the Acquired Companies to meet any internal or external estimates, expectations, budgets, projections or forecasts (but not the underlying causes of such failure unless such underlying causes would otherwise be excepted from this definition); (ix) the public announcement of this Agreement, the identity of (or any actions taken by) Buyer or Guarantor or the pendency or consummation of the transactions contemplated hereby, including any Effect arising out of actions of competitors, customers, suppliers, distributors, current or former joint venture partners of any Acquired Company, any actual or threatened Legal Proceeding related to former joint venture partners (including any former joint venture partners' heirs, executors, successors or assigns) of any Acquired Company, employees (including losses of

employees) or labor unions in connection therewith, and including any litigation arising in connection with this Agreement or the transactions contemplated hereby; (x)(A) any action taken by Sellers or any Acquired Company (1) pursuant to and in accordance with this Agreement or (2) at the request or with the consent of Buyer or (B) the failure by Sellers or any Acquired Company to take any action prohibited by this Agreement; (xi) the termination of any Concession Agreement or any ground lease provided that the Acquired Company party thereto is otherwise in material compliance with such Concession Agreement or ground lease; (xii) any adverse ruling related to an existing Legal Proceeding listed in Section 3.11(a) of the Sellers Disclosure Schedules; or (xiii) any matter expressly set forth in the Sellers Disclosure Schedules; provided, further, that any Effect arising out of or resulting from any change or event referred to in clause (i), (ii), (iii), (iv) or (v) above may constitute a Company Material Adverse Effect to the extent that such change or event has a materially disproportionate adverse impact on the Acquired Companies compared to other companies that operate in the marina and related business in the same regions in which the Acquired Companies operate.

"Company Subsidiary" means each Subsidiary of the Company.

"Concession Agreement" means any lease, concession title, occupancy agreement, or other agreement with a Governmental Body, an instrumentality thereof, the West Indian Company Limited or [****]., providing one or more of the Acquired Companies with the right to occupy, use and/or operate any real property as a marina or ancillary use.

"Confidentiality Agreement" means the non-disclosure agreement, dated as of December 8, 2021, between Buyer and the Company.

"Consent" means any (i) approval, authorization, consent, ratification, permission, exemption or waiver or (ii) the expiration, lapse or termination of any waiting period (including any extension thereof) under any applicable Antitrust Law.

"Contract" means any written or oral contract, agreement or other legally binding instrument, including any written note, bond, mortgage, deed, indenture, commitment, undertaking, promise, lease, sublease, license or sublicense or joint venture.

"COVID-19 Measures" means any quarantine, "shelter in place," "stay at home," social distancing, curfew, shut down, closure, sequester, safety or similar Law, official directive or official pronouncement promulgated by any Governmental Body, in each case, directly in response to the COVID-19 Pandemic.

"COVID-19 Pandemic" means the novel coronavirus (SARS-CoV-2 or COVID-19) and any evolutions or mutations thereof and any associated public health emergency, epidemic, pandemic or outbreak occurring on and prior to the Closing Date.

"Current Assets" means, as of any time of determination and calculated in accordance with the Accounting Rules, the consolidated current assets of the Acquired Companies as of such time solely to the extent of the line items set forth in the Net Working Capital Principles and Example attached hereto as Exhibit A, excluding all Cash. For the avoidance of doubt, Current Assets shall exclude deferred Tax assets and Closing Cash.

"Current Liabilities" means, as of any time of determination and, except as otherwise provided herein, calculated in accordance with the Accounting Rules, the consolidated current liabilities of the Acquired Companies as of such time solely to the extent of the line items set forth in the Net Working Capital Principles and Example attached hereto as Exhibit A (which, regardless of whether determined in accordance with the Accounting Rules, shall include all Taxes that are current liabilities under GAAP and all Deferred Payroll Taxes), excluding all: (i) Indebtedness included in the Closing Indebtedness, and (ii) Transaction Expenses. For the avoidance of doubt, Current Liabilities shall exclude deferred Tax liabilities, all liabilities related to Transaction Expenses and Closing Indebtedness.

"Data Room" means the electronic data site established for Project Holiday by SS&C Intralinks on behalf of Sellers and to which Buyer and its Representatives have been given access in connection with the transactions contemplated hereby.

"Deferred Payroll Taxes" means any payroll Taxes payable by the Company or its Subsidiaries after the Closing that would not have been payable by the Company or its Subsidiaries after the Closing but for the deferral of such Taxes pursuant to the relevant provisions of the CARES Act (or any other similar federal, state, local or non-U.S. Law or other Law implemented as a response to COVID-19 that provides for the deferment of any payroll Taxes).

"Debt Financing" has the meaning set forth in Section 5.24(a).

"Debt Payments" has the meaning set forth in Section 2.3(b)(i).

"Determination Time" means 12:00:01 a.m. Eastern Time on the Closing Date.

"Disputed Items" has the meaning set forth in Section 2.4(b)(iii).

"DOJ" means the U.S. Department of Justice.

"D&O Insurance" has the meaning set forth in 0Section 5.12.

"Earnout Adjustment Notice" has the meaning set forth in Section 2.5(e)(iv).

"Earnout Calculation Items" has the meaning set forth in Section 2.5(e)(ii).

"Earnout Objection Deadline" has the meaning set forth in Section 2.5(e)(iv).

"Earnout Payment" has the meaning set forth in Section 2.5(a).

"Earnout Payment Date" has the meaning set forth in Section 2.5(d).

"Earnout Statement" has the meaning set forth in Section 2.5(e)(ii).

"Edbor" has the meaning set forth in Section 7.2(k).

"Effect" has the meaning set forth in the definition of "Company Material Adverse Effect."

"Encumbrance" means any lien, pledge, mortgage, security interest or similar encumbrance.

"Enforceability Limitations" has the meaning set forth in Section 3.1(c).

"Environmental Contamination" means the presence of Hazardous Materials in such concentrations or quantities that require remediation under applicable Environmental, Health and Safety Law.

"Environmental, Health and Safety Law" shall mean any Law, common law, any judicial or administrative orders, decrees or judgments thereunder, and any permits, approvals, licenses, registrations, filings or authorizations, relating to worker health and safety (solely to the extent related to exposure to Hazardous Materials), and pollution or protection of the environment, including the Release of any Hazardous Materials, and including, as now or hereafter amended, the following: the Solid Waste Disposal Act and the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq. (formerly 49 U.S.C. 1801 et seq.); the Toxic Substances Control Act 15 U.S.C. § 2601 et seq.; the National Environmental Policy Act, 42 U.S.C. § 4321 et seq.; and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq.; Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. § 11001 et seq.; Clean Water Act, 33 U.S.C. § 1251 et seq.

"Equity Incentive Plan" means the Predecessor Entity 2018 Share Option Plan, as may be amended from time to time.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" means any trade or business, whether or not incorporated, that, together with the Acquired Companies, is treated as a single employer within the meaning of Code §414.

"Escrow Agent" has the meaning set forth in Section 2.3(b)(iii).

"Escrow Agreement" has the meaning set forth in Section 2.3(b)(iii).

"Estimated Closing Cash" has the meaning set forth in Section 2.3(c)(ii).

"Estimated Closing Indebtedness" has the meaning set forth in Section 2.3(c)(iii).

"Estimated Closing Net Working Capital" has the meaning set forth in Section 2.3(c)(i).

"Estimated Reimbursable Prepaid Lease Payments" has the meaning set forth in Section 2.3(c)(v).

"Estimated Transaction Expenses" has the meaning set forth in Section 2.3(c)(iv).

"FFCRA" means the Families First Coronavirus Response Act 2021, Pub. L. 116-127 (116th Cong.) (March 18, 2020).

"Final Adjustment Report" has the meaning set forth in Section 2.4(b)(ii).

"Final Closing Cash" has the meaning set forth in Section 2.4(b)(iii).

"Final Closing Indebtedness" has the meaning set forth in Section 2.4(b)(iii).

"Final Closing Net Working Capital" has the meaning set forth in Section 2.4(b)(iii).

"Final Earnout Determination Date" has the meaning set forth in Section 2.5(e)(vi).

"Final Earnout Report" has the meaning set forth in Section 2.5(e)(v).

"Final Reimbursable Prepaid Lease Payments" has the meaning set forth in Section 2.4(b)(iii).

"Final Transaction Expenses" has the meaning set forth in Section 2.4(b)(iii).

"Financial Statements" means the Audited Financial Statements and the Unaudited Financial Statements.

"Financing Parties" has the meaning set forth in Section 5.24(a).

"Flagstone" has the meaning set forth in Section 7.2(g).

"Flow-Through Return" means any Tax Return filed or required to be filed by a Person (or with respect to an arrangement) that reflects items of income, gain, deduction, loss or credit that are required to be reported on the Tax Return(s) of the direct or indirect owner(s) of such Person (or participants in such arrangement), including IRS Form 1065 and any Schedule K-1s attached thereto and any similar Tax Return filed or required to be filed under any applicable state, local or foreign Tax Law.

"Flow-Through Tax Contest" has the meaning set forth in Section 6.2(b).

"Foreign Benefit Plan" means each Benefit Plan that is maintained outside of the United States.

"Fraud" means, with respect to any of the Parties, an actual and intentional fraud solely with respect to the making of representations and warranties contained in this Agreement; provided, however, that such actual and intentional fraud shall only be deemed to exist if (i) such Party had actual knowledge that the representations and warranties made by such Party were actually breached when made, (ii) that such representations and warranties were made with the express intent to induce another Party to rely thereon and take action or refrain from taking action to such other Party's detriment, and (iii) such action or inaction resulted in Losses to such other Party.

"FTC" means the U.S. Federal Trade Commission.

"GAAP" means United States generally accepted accounting principles.

"GDPR" has the meaning set forth in Section 5.2(a).

"Governmental Body" means any foreign, federal, state, provincial, local or other court or governmental authority.

"Guaranteed Obligations" has the meaning set forth in Section 10.1(a).

"Guaranteed Person" has the meaning set forth in Section 10.1(a).

"Guarantor" has the meaning set forth in the introductory paragraph to this Agreement.

"Guaranty" has the meaning set forth in Section 10.1(a).

"Hazardous Materials" shall mean any pollutant, contaminant, waste, petroleum or any fraction thereof, asbestos or asbestos-containing material, and polychlorinated biphenyls, including all substances defined or regulated as "hazardous substances," "pollutants," or "contaminants" pursuant to any Environmental, Health and Safety Law.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and any rules and regulations promulgated thereunder.

[****]

"ICG" has the meaning set forth in Section 7.2(j).

"IGDH" has the meaning set forth in the recitals to this Agreement.

"IG Holdings" has the meaning set forth in the introductory paragraph to this Agreement.

"IGY Acquisition" means Island Global Yachting Acquisition Ltd., a Cayman Islands company.

"IGY Corp." has the meaning set forth in the introductory paragraph to this Agreement.

"IGY NB FB" means IGY NB FB LLC, a Delaware limited liability company.

"Improvements" has the meaning set forth in Section 3.18(e).

"Indebtedness" of any Person at any date means, without duplication, all obligations of such Person under the applicable governing documentation to pay principal, interest, and any actually incurred penalties, fees, expenses, breakage or other costs, guarantees, reimbursements, damages, costs of unwinding and other liabilities with respect to: (i) indebtedness for borrowed money, whether current or funded, fixed or contingent, secured or unsecured, including any such indebtedness owed to an Acquired Company that is not wholly-owned by the Company but solely to the extent of that portion of such indebtedness as represents third-party ownership in such Acquired Company; (ii) indebtedness evidenced by bonds, debentures, notes, mortgages or similar instruments or debt securities; (iii) the deferred purchase price of goods or services (other than trade payables or accruals in the Ordinary Course of Business); (iv) obligations under interest rate swap, hedging or similar agreements, provided such obligations are being unwound in connection

with the Transaction; (v) letters of credit, bankers' acceptances, bank guaranties, surety bonds or similar instruments that, in each case, have been drawn as of the Closing Date; (vii) obligations under capital leases; (vi) unfunded obligations for defined benefit pension arrangements; or (viii) guarantees of obligations described in clauses (i) through (vii) above of any Person; provided, however, that Indebtedness shall not include any amounts that would otherwise constitute indebtedness hereunder but (x) are included in the calculations of Closing Net Working Capital or Transaction Expenses, (y) are indebtedness incurred between or among the Acquired Companies except to the extent of that portion of indebtedness of the type described in clause (i) above as represents third-party ownership in an Acquired Company and (z) any obligations, liabilities and amounts owed settled pursuant to or in accordance with Section 5.15.

"Insurance Expert" has the meaning set forth in Section 2.5(e)(vii).

"Intellectual Property" means all worldwide intellectual property rights, whether registered or unregistered, including all such rights in: (i) trademarks, trade names, service marks and trade dress (whether registered or unregistered) and all applications and registrations therefor, and all goodwill symbolized thereby; (ii) domain names; (iii) original works of authorship and the copyrights therein (whether registered or unregistered or copyrightable or not), including copyrights in software, together with registrations and applications for registrations thereof; (iv) trade secrets and confidential information and know-how; and (v) any patents, patent applications and inventions, whether or not patentable, together with renewals, foreign counterparts, extensions, provisionals, continuations, continuations-in-part, re-examinations, reissues, and divisionals of the foregoing.

"Intended Tax Treatment" has the meaning set forth in Section 6.5.

"IRS" means the United States Internal Revenue Service.

"IT Assets" means computer and other information technology systems or assets, including hardware, software, firmware, servers, workstations, computers, tablets, phones, peripheral devices and data centers (including development, test, quality assurance and customer delivery equipment and infrastructure related to the foregoing).

"Joint Ventures" means any Person jointly formed or owned by two or more Persons.

"Joint Venture Shares" has the meaning set forth in Section 3.4(a).

"Landlord Leases" has the meaning set forth in Section 3.18(c).

"Law" means any U.S. or non-U.S. federal, state or local law, statute, code, rule or regulation enacted by any Governmental Body.

"Leased Real Property" has the meaning set forth in Section 3.18(b)(i).

"Leased Real Property Subleases" means all subleases, licenses, or other agreements pursuant to which any of the Acquired Companies conveys or grants to any Person a subleasehold estate in, or the right to use or occupy, any Leased Real Property or portion thereof.

"Legal Proceeding" means any civil, administrative, investigative, criminal, labor, Tax, judicial or other type of demand, claim, complaint, litigation, suit, action, hearing, proceeding, audit, investigation, alternative dispute resolution mechanism, and any appeals, before any Governmental Body, arbitrator or mediator.

"Liability" means any liability, Indebtedness, claim, cause of action, loss, damage, deficiency, responsibility, commitment or obligation of whatever kind or nature (whether known or unknown, asserted or unasserted, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, due or to become due, joint or several, vested or unvested, choate or inchoate), including any Indebtedness, liability for Taxes, other governmental charges or lawsuits brought, whether or not of a kind required by GAAP to be set forth in the Financial Statements and regardless of whether such liability, Indebtedness or duty is immediately due and payable, and including all related costs and expenses; provided, however, that any Indebtedness for the purposes of this definition shall not include any amounts that would otherwise constitute indebtedness hereunder but are included in the calculations of the Purchase Price.

"Loss Claim" has the meaning set forth in Section 11.15(a)(i).

"Loss Report" has the meaning set forth in Section 11.15(a)(ii).

"Losses" means all Legal Proceedings, charges, causes of action, injunctions, judgements, Orders, decrees, rulings, damages of any nature, including any deficiency, dues, penalties, fines, charges, awards, assessments, amounts paid in settlement, liabilities, obligations, Taxes, liens, controversies, losses, costs and expenses (including reasonable attorneys' fees and expenses); provided, however, that "Losses" shall not include any losses, damages or costs that are punitive, except to the extent actually awarded to a Governmental Body or other third party.

"Major Loss" has the meaning set forth in Section 11.15(c)(i).

"Major Loss Escrow Account" has the meaning set forth in Section 11.15(c)(ii)(A).

"Major Loss Threshold" has the meaning set forth in Section 11.15(a)(ii).

"Major Representations" means, solely for the purposes of the R&W Insurance Policy, the representations and warranties of Sellers set forth in Section 3.5 (*No Conflicts; Consents*), Section 3.6 (*Financial Statements; Internal Controls*), Section 3.7 (*No Undisclosed Liabilities; Indebtedness*), Section 3.9 (*Title, Condition and Sufficiency of Assets*), Section 3.14 (*Employee Benefit Plans*), Section 3.16 (*Taxes*), and Section 3.17 (*Environmental, Health and Safety Matters*).

"Malaga Entity" means Cabo Marina, Sociedad de Responsabilidad Limitada de Capital Variable y Puerto Picasso Málaga, S.L., Unión Temporal de Empresas Ley 18/1982.

"Marina Holdings" has the meaning set forth in the introductory paragraph to this Agreement.

"Material Contracts" has the meaning set forth in Section 3.12(a).

"Miami Interests" has the meaning set forth in the recitals to this Agreement.

"Minor Loss" has the meaning set forth in Section 11.15(b)(i).

"MOF Simpson Bay" has the meaning set forth in the introductory paragraph to this Agreement.

"Name" has the meaning set forth in Section 5.14.

"Net Working Capital Principles and Example" means the sample calculation, made in accordance with the Accounting Rules, of the Net Working Capital Principles and Example in the form attached hereto as Exhibit A.

"New Benefit Plans" has the meaning set forth in Section 5.13(b).

"Non-Employee Payment Schedule" has the meaning set forth in Section 2.3(c)(iv).

"Notice of Disagreement" has the meaning set forth in Section 2.4(b)(ii).

"Ongoing Business Interruption Claim" has the meaning set forth in Section 2.5(d)(iii).

"Option Cancellation Agreement" means an agreement signed by an Optionholder acknowledging cancellation of all Options held by such holder in a form reasonably satisfactory to the Parties.

"Optionholders" means each Person who is a holder of Options.

"Options" means options to purchase Class B Units granted under the Equity Incentive Plan and pursuant to an Award Agreement.

"Order" means any judgment, order, writ, injunction, decree, stipulation, determination or award (other than any determination in connection with, or award of, any permit) entered by or with any Governmental Body.

"Ordinary Course of Business" means the ordinary course of business consistent with past custom and practice (including with respect to quantity and frequency).

"Organizational Documents" means, with respect to any Person, the articles of incorporation, certificate of incorporation, charter, by-laws, articles of formation, certificate of formation, regulations, operating agreement, partnership agreement, certificate of limited partnership and all other similar documents, instruments or certificates executed, adopted or filed in connection with the creation, formation or organization of such Person, including any amendments thereto or restatements thereof.

"Other Court" has the meaning set forth in Section 11.9(b).

"Owned Intellectual Property" means Intellectual Property owned or purported to be owned by an Acquired Company.

"Owned Real Property" has the meaning set forth in Section 3.18(a)(i).

"Owned Real Property Lease" means all leases, licenses, or other agreements (written or oral) pursuant to which any of the Acquired Companies conveys or grants to any Person a leasehold estate in, or the right to use or occupy, any Owned Real Property or portion thereof.

"Pandemic Response Law" means the provisions of the FFCRA, the CARES Act, the CAA and any other Law (including any federal, state, local or non-U.S. Law), or administrative guidance that addresses or is intended to benefit taxpayers in response to the COVID-19 pandemic and associated economic downturn.

"Partial Earnout Payment" has the meaning set forth in Section 2.5(d)(iii).

"Party" and "Parties" has the meaning set forth in the introductory paragraph to this Agreement.

"Payoff Letters" has the meaning set forth in Section 2.3(b)(vi)(G).

"Pentagon" has the meaning set forth in the recitals to this Agreement.

"Permits" means all permits, licenses, franchises, authorizations, registrations, certificates, variances, and approvals obtained from Governmental Bodies.

"Permitted Encumbrances" means: (i) Encumbrances for Taxes not yet due and payable or for Taxes that are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established to the extent required by GAAP; (ii) Encumbrances of carriers, warehousemen, mechanics, materialmen, repairmen and other similar common law or statutory Encumbrances arising or incurred in the Ordinary Course of Business; (iii) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the Ordinary Course of Business for amounts that are not due and payable as of the Closing Date; (iv) the effect of zoning, entitlement, building and land use ordinances, codes and regulations imposed by any Governmental Body that are (x) not violated by the current use or occupancy of such Real Property or the continued conduct of the business of the Acquired Companies in substantially the same manner in all material respects as conducted prior to the Closing or (y) legal nonconformities based on ordinance, rules or regulations imposed subsequent to the construction of any structural nonconformity or otherwise and which do not require enforced removal of any buildings or cessation of current use; (v) declarations of "covenants, conditions and restrictions", condominium or reciprocal easement agreements or similar encumbrances and any customary covenants, defects of title, easements, rights of way, restrictions and non-monetary Encumbrances affecting real property that are disclosed in publicly recorded documents or that are disclosed on the face of the title reports and land surveys made available by Sellers to Buyer and that, individually or in the aggregate, do not interfere in any material respect with or otherwise impair in any material respect the use, occupancy, value or marketability of title of the property subject thereto; (vi) those items set forth in Section 1.1(b) of the Sellers Disclosure Schedules; (vii) non-exclusive licenses to Owned Intellectual Property entered into in the Ordinary Course of Business or ancillary to commercial agreements (including supply, manufacturing, distribution or reseller arrangements or other similar agreements); (viii) Encumbrances in connection with any Indebtedness existing on the date of this Agreement that is

not being paid off at, or in connection with, Closing as set forth on Section 3.7(b) of the Sellers Disclosure Schedules or as otherwise consented to by Buyer pursuant to Section 5.1(b); and (ix) any other Encumbrances that are *de minimis* in nature or would not have an Adverse Operational Impact or will otherwise be released on or prior to, or in connection with, the Closing Date.

"Person" means any individual, general or limited partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated organization, joint venture, firm, association or other entity or organization (whether or not a legal entity), including any Governmental Body (or any department, agency, or political subdivision thereof).

"Personal Information" means information that identifies a natural person, including name, mailing address, email address, social security number, license number, financial account information, credit/debit cardholder information, and information that permits or facilitates identity theft.

"Post-Closing Payments" has the meaning set forth in Section 6.5.

"Pre-Closing Period" has the meaning set forth in Section 5.1(a).

"Pre-Closing Tax Period" means any Tax period ending on or before the Closing Date, and, with respect to a Straddle Period, the portion of such Tax period ending on the Closing Date.

"Predecessor Entity" has the meaning set forth in the recitals to this Agreement.

"Predecessor Shares" has the meaning set forth in the recitals to this Agreement.

"Purchase Price" has the meaning set forth in Section 2.2.

"Purchase Price Adjustment Escrow Amount" has the meaning set forth in Section 2.3(b)(iii).

"Purchased Units" has the meaning set forth in the Recitals of this Agreement.

"Real Property" means Leased Real Property and Owned Real Property.

"Real Property Laws" has the meaning set forth in Section 3.18(g).

"Real Property Leases" has the meaning set forth in Section 3.18(b)(i).

"Real Property Permits" has the meaning set forth in Section 3.18(j).

"Reimbursable Prepaid Lease Payments" means that portion of any prepayments made by Sellers or the Acquired Companies that is attributable to the period from and after the Closing Date in connection with any lease payments in respect of any Concession Agreement, to the extent such prepayments are not included in Closing Net Working Capital.

"Release" shall mean any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal or leaching of any Hazardous Materials into the environment.

"Released Buyer Person" has the meaning set forth in Section 11.13.

"Released Seller Person" has the meaning set forth in Section 11.13.

"Releasing Buyer Person" has the meaning set forth in Section 11.13.

"Releasing Seller Person" has the meaning set forth in Section 11.13.

"Representatives" means the directors, officers, employees, investment bankers, consultants, attorneys, accountants and other advisors and representatives of a Person.

"Resolution Period" has the meaning set forth in Section 2.4(b)(ii).

"Review Period" has the meaning set forth in Section 2.4(b)(i).

"R&W Insurance Policy" has the meaning set forth in Section 5.19.

"Sanctioned Country" means any country or territory with which dealings are broadly and comprehensively prohibited by any country-wide or territory-wide Sanctions (currently, the Crimea and the so-called Donetsk and Luhansk People's Republics regions of Ukraine, Cuba, Iran, North Korea, and Syria).

"Sanctioned Person" means any Person with whom any transactions or dealings are restricted, prohibited, or sanctionable under any Sanctions, including as a result of (i) being named on any list of Persons subject to Sanctions, (ii) being located, organized, or resident in, or directly or indirectly owned or controlled by the government of, any Sanctioned Country, or (iii) any direct or indirect relationship of ownership or control with a Person described in (i) or (ii).

"Sanctions" means all national and supranational laws, regulations, decrees, orders, or other acts with force of law of the United States, the United Kingdom, the European Union, or United Nations Security concerning trade and economic sanctions including embargoes; the freezing or blocking of assets of targeted Persons; or other restrictions on exports, imports, investment, payments, or other transactions targeted at particular Persons or countries, including any Laws threatening to impose such trade and economic sanctions on any Person for engaging in proscribed or targeted behavior.

"Securities Act" means the Securities Act of 1933, as amended.

"Sellers" has the meaning set forth in the introductory paragraph to this Agreement.

"Sellers Disclosure Schedules" means the disclosure schedules delivered by Sellers to Buyer concurrently with the execution and delivery of this Agreement dated as of the date hereof.

"Sellers' Knowledge" means, as to a particular matter, the actual knowledge as of the date hereof of Thomas Mukamal, Jennifer Doelling, Janice Cole, Kenny Jones, Eric Simonton, and Steven English, in each case which is known after reasonable inquiry by each such individual of the Acquired Companies' executives with primary responsibility for the relevant subject matter.

"Series A Preferred Convertible Unit" means a Series A Preferred Convertible Unit of the Company.

"Series A-2 Preferred Convertible Unit" means a Series A-2 Preferred Convertible Unit of the Company.

"Series B Perpetual Preferred Unit" means a Series B Perpetual Preferred Unit of the Company.

"Significant Representations" means the representations and warranties of Sellers set forth in Section 3.1 (*Organization and Authority of Sellers*), Section 3.2(a) (subclause (a) of *Organization, Authority and Qualification of the Acquired Companies*), Section 3.3(a), Section 3.3(b), Section 3.3(c) (subclauses (a), (b) and (c) of *Capitalization; Organizational Documents*), Section 3.4 (*Subsidiaries and Joint Ventures*) and Section 3.20 (Brokers).

"Simpson Bay Interests" has the meaning set forth in the recitals to this Agreement.

"Specific Retention Bonuses" means the specific retention bonuses to be granted by the Company prior to the Closing, with the aggregate amount of such specific retention bonuses to be disclosed to Buyer no later than three (3) days prior to the Closing Date.

"Specified IGY Financial Statements" has the meaning set forth in Section 5.21.

"Specified Representations" means, solely for the purposes of the R&W Insurance Policy, the Significant Representations and the Major Representations.

"Straddle Period" means any Tax period that begins on or before, and ends after, the Closing Date.

"Subsequent Earnout Payment Date" has the meaning set forth in Section 2.5(e)(vii).

"Subsidiary" means, with respect to any Person, any other Person with respect to which such first Person (alone or in combination with any of such first Person's other Subsidiaries) owns (i) capital stock or other equity interests having the ordinary voting power to elect a majority of the board of directors or other governing body of such Person, or (ii) if no such governing body exists, a majority of the outstanding voting securities of such Person.

"Subsidiary Shares" has the meaning set forth in Section 3.4(a).

"Supporting Property" has the meaning set forth in Section 3.18(h).

"Tax" or "Taxes" means: any and all U.S. federal, state, local and non-U.S. taxes, withholdings, including, any income, excise, property, sales, use, occupation, transfer, conveyance, payroll or other employment related tax, recapture, escheat, license, registration, ad valorem, valued added, social charges, social security, national insurance (or other similar contributions or payments), franchise, estimated severance, stamp taxes, taxes based upon or measured by capital stock, capital gains, net worth or gross receipts, custom duties and other taxes),

together with all interest, fines, penalties and additions attributable to or imposed with respect to such amounts.

"Tax Contest" means any audit, court or administrative proceeding, action, suit, investigation or other dispute or similar claim by a Governmental Body with respect to any Tax matter.

"Tax Return" or "Return" means any report, return, information return, form, declaration, statement, or other document required to be filed with any Governmental Body with respect to Taxes, including any amendment thereof.

"Target Net Working Capital" means negative U.S.$4,000,000.

"Termination Date" has the meaning set forth in Section 8.1(b).

"The City of Miami" has the meaning set forth in Section 7.2(h).

"Transaction Expenses" means, without duplication: (i) transaction or retention bonuses (including the Specific Retention Bonuses) or change in control payments payable or reimbursable by the Acquired Companies in connection with the transactions contemplated by this Agreement and not paid prior to Closing (including the employer portion of any payroll Taxes payable with respect to the foregoing items); (ii) all fees, costs and expenses of accountants, lawyers, investment banks and other advisors of Sellers or the Acquired Companies in connection with the transaction contemplated by this Agreement that are payable by any Acquired Company and not paid prior to Closing; (iii) fees and expenses payable by the Company to any general partner of Sellers or their Affiliates and not paid prior to Closing; (iv) 50% of the fees and expenses payable to the Escrow Agent; (v) 50% of any Transfer Taxes; (vi) 50% of the cost of the R&W Insurance Policy set forth in Section 5.19,[****]; and (vii) 50% of all fees, costs and expenses related to the filing fees payable in connection with the notifications, filings, registrations, submissions or other materials as set forth in Section 5.7(a).

"Transaction Tax Deduction" means any and all deductions related to (i) any bonuses paid or accrued in connection with the transactions contemplated by this Agreement, (ii) expenses with respect to Indebtedness being paid in connection with the Closing, and (iii) all transaction expenses and payments paid or accrued in connection with the transactions contemplated by this Agreement that are deductible for Tax purposes, including Transaction Expenses and other fees and expenses of accountants, lawyers, investment banks and other advisors of Sellers, but only to the extent that these deductions relate to expenditures made prior to the Determination Time or to expenditures to be made after the Determination Time that reduce the Purchase Price.

"Transfer Taxes" means all excise, sales, use, value-added, transfer (including real property transfer), stamp, documentary, filing, recordation, registration and other similar taxes, together with any interest, additions, fines, costs or penalties thereon and any interest in respect of any additions, fines, costs or penalties, incurred in connection with this Agreement and the transaction contemplated hereby.

"Treasury Regulations" means the Treasury regulations promulgated under the Code.

"Trident Program" means the Trident yearly subscription membership program for yacht owners that allows customers to receive preferred access and pricing on certain of the Company's products (including dockage), exclusive access and a variety of other benefits at Company locations, including additional third party benefits for fuel, insurance, training for yacht crew, provisioning, health and wellness, events and experiences, among others.

"UK GDPR" has the meaning set forth in Section 5.2(a).

"Unaudited Balance Sheet" means the unaudited consolidated balance sheet of the Company as of December 31, 2021 with the title "*Consolidated IGY BS 12.31.21_v5.11.22*" located in the Data Room.

"Unaudited Balance Sheet Date" means the date of the Unaudited Balance Sheet.

"Unaudited Financial Statements" means the unaudited consolidated financial statements of the Company consisting of the Unaudited Balance Sheet and all of the related statements of income, cash flows and stockholders' equity of the Acquired Companies for the twelve (12) months ended December 31, 2021 (including, in each case, any related notes thereto) with the titles "*Consolidated IGY BS 12.31.21_v5.11.22*", "*Consolidated IGY PL 12.31.21_v5.11.22*" and "*IGY Pro Forma 12.31.22 Balance Sheet and Income Statement_v5.11.22*" located in the Data Room.

"unit" means a "Unit" having the rights and obligations as set forth in the Company LLCA.

"Unit Assignment Agreement" means an agreement signed by Sellers assigning all of its units (including any fractional units) held by such holder to Buyer in a form reasonably satisfactory to the Parties.

"VAT" means any value-added Tax.

"Whenwe" has the meaning set forth in Section 5.27.

"WICO" has the meaning set forth in Section 5.26.

"YHG Lender" has the meaning set forth in Section 7.2(j).

Section 1.2 Interpretation; Construction.

(a) The table of contents, articles, titles and headings to sections herein are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement. Except as otherwise indicated, all references in this Agreement to "Articles", "Sections", "Disclosure Schedules" and "Exhibits" are intended to refer to Articles and Sections of this Agreement and Schedules and Exhibits to this Agreement. The Sellers Disclosure Schedules, and Exhibits referred to herein shall be construed with and as an integral part of this Agreement to the same extent as if they were set forth verbatim herein. Any capitalized terms used in the Sellers Disclosure Schedules, any Exhibit or any Ancillary Agreement but not otherwise defined therein shall be defined as set forth in this Agreement unless the context otherwise requires. Notwithstanding any other provision in this Agreement to the contrary, in the event and to the extent that there shall be a conflict between the provisions of this

Agreement and the provisions of any Ancillary Agreement, the provisions of this Agreement shall control (unless the Ancillary Agreement explicitly provides otherwise).

(b) For purposes of this Agreement: (i) "include," "includes" or "including" shall be deemed to be followed by "without limitation"; (ii) "hereof," "herein", "hereby", "hereto" and "hereunder" shall refer to this Agreement as a whole and not to any particular provision of this Agreement; (iii) "extent" in the phrase "to the extent" shall mean the degree to which a subject or other item extends and shall not simply mean "if"; (iv) "Dollars" and "U.S.$" shall mean United States Dollars; (v) the singular includes the plural and vice versa; (vi) reference to a gender includes the other gender; (vii) "any" shall mean "any and all"; (viii) "or" is used in the inclusive sense of "and/or"; (ix) reference to any agreement, document or instrument means such agreement, document or instrument as amended, supplemented and modified in effect from time to time in accordance with its terms; (x) any reference to "days" means calendar days unless Business Days are expressly specified; (xi) when calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded and if the last day of such period is not a Business Day, the period shall end on the next succeeding Business Day; and (xii) reference to any Law means such Law as amended from time to time and includes any successor legislation thereto and any rules and regulations promulgated thereunder.

(c) Neither the specification of any dollar amount in any representation or warranty contained in this Agreement nor the inclusion of any specific item in the Sellers Disclosure Schedules is intended to imply that such amount, or higher or lower amounts, or the item so included or other items, are or are not material, and no Party shall use the fact of the setting forth of any such amount or the inclusion of any such item in any dispute or controversy between the Parties as to whether any obligation, item or matter not described herein or included in the Sellers Disclosure Schedules is or is not material for purposes of this Agreement. Unless this Agreement specifically provides otherwise, neither the specification of any item or matter in any representation or warranty contained in this Agreement nor the inclusion of any specific item in the Sellers Disclosure Schedules is intended to imply that such item or matter, or other items or matters, are or are not in the Ordinary Course of Business, and no Party shall use the fact of the setting forth or the inclusion of any such item or matter in any dispute or controversy between the Parties as to whether any obligation, item or matter not described herein or included in the Sellers Disclosure Schedules is or is not in the Ordinary Course of Business for purposes of this Agreement.

(d) The Parties have participated jointly in the negotiation and drafting of this Agreement with the benefit of competent legal representation, and the language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent. In the event that an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring either Party by virtue of the authorship of any provisions hereof.

(e) References to any document or information having been "made available" by Sellers to Buyer shall mean Sellers or their Representatives having posted any such document or information to the Data Room prior to the execution hereof (subject to any redaction reasonably

deemed necessary or appropriate by Sellers of information contained therein and reasonably agreed to by Buyer).

(f) The Sellers Disclosure Schedules shall be arranged in sections that correspond to the Sections of this Agreement to which such sections of the Sellers Disclosure Schedules relate; provided, however, that the disclosure of any information in any section of the Sellers Disclosure Schedules shall also constitute disclosure for purposes of all other Sections of this Agreement with respect to which such disclosure is reasonably apparent on its face.

ARTICLE 2
PURCHASE AND SALE

Section 2.1 Purchase and Sale of the Purchased Units, the Miami Interests and the Simpson Bay Interests. On the terms and subject to the conditions set forth in this Agreement, at the Closing: (i) Sellers shall sell, assign, transfer and convey to Buyer, and Buyer shall purchase, acquire and accept from Sellers, the Purchased Units; (ii) IG Holdings shall sell, assign, transfer and convey to Buyer, and Buyer shall purchase, acquire and accept from IG Holdings, the Miami Interests; and (iii) MOF Simpson Bay shall sell, assign, transfer and convey to Buyer, and Buyer shall purchase, acquire and accept from MOF Simpson Bay, the Simpson Bay Interests, in the case of each of clauses (i), (ii), and (iii), free and clear of all Encumbrances (other than Permitted Encumbrances), in consideration for payment of the Purchase Price.

Section 2.2 Purchase Price. The aggregate purchase price payable by Buyer to Sellers (as distributed pursuant to pro rata allocations agreed by Marina Holdings and Buyer) for the Purchased Units, the Miami Interests and the Simpson Bay Interests (the "Purchase Price") shall be an amount equal to (a) the Closing Payment (as determined in accordance with Section 2.3(c)), (b) *plus* the amount, if any, released to Marina Holdings from the Purchase Price Adjustment Escrow Amount the [****], and (c) (i) *plus* the amount, if any, payable by Buyer to Marina Holdings pursuant to Section 2.4(d) or (ii) *minus* the amount, if any, payable by Marina Holdings to Buyer pursuant to Section 2.4(d)Section 2.4(c).

Section 2.3 Closing.

(a) Subject to the terms and conditions of this Agreement, the closing of the transactions contemplated hereby (the "Closing") shall take place at 10:00 a.m., Eastern time by videoconference or via electronic exchange of documents and related counterparts on a date to be agreed upon by Buyer and Sellers, provided that: (i) the Closing shall occur on the first Business Day of a calendar month after all of the conditions to Closing set forth in Article 7 have been satisfied or waived in writing (other than any conditions that by their nature are to be satisfied at the Closing, it being understood that the occurrence of the Closing shall remain subject to the satisfaction or waiver of such conditions at the Closing); and (ii) in no event shall the Closing occur prior to October 1, 2022; provided that, if all conditions to the Closing have been satisfied by October 1, 2022 (other than any conditions that by their nature are to be satisfied at the Closing, it being understood that the occurrence of the Closing shall remain subject to the satisfaction or waiver of such conditions at the Closing) but the Specified IGY Financial Statements have not been prepared by such date, then Buyer may postpone the Closing by thirty (30) days; provided further that, if all conditions to the Closing have been satisfied by November 1, 2022 (other than

any conditions that by their nature are to be satisfied at the Closing, it being understood that the occurrence of the Closing shall remain subject to the satisfaction or waiver of such conditions at the Closing) but the Specified IGY Financial Statements have not been prepared by such date, then Buyer may postpone the Closing by an additional thirty (30) days. The date on which the Closing is actually held is referred to herein as the "Closing Date".

(b) At the Closing:

(i) Buyer shall deliver, by wire transfer of immediately available funds, to the Person(s) identified in the Payoff Letters the amounts payable to such Persons set forth in the Payoff Letters (the "Debt Payments"), as directed by the Payoff Letters;

(ii) Buyer shall pay, by wire transfer of immediately available funds, the Transaction Expenses to the Persons and in the amounts set forth on the Closing Date Report; provided, however, that Buyer shall pay the aggregate amount of those transaction bonuses, change in control payments, and similar payments payable by the Acquired Companies at the Closing that Sellers determine shall be made through payroll (as such shall be indicated on the Closing Date Report), to the applicable Acquired Companies, and the Acquired Companies shall, no later than three (3) Business Days following the Closing Date, make the applicable payment to the applicable recipient (subject to applicable withholding Taxes) through one of the Acquired Companies' payroll;

(iii) Buyer shall deliver, by wire transfer of immediately available funds, U.S.$6,500,000 (the "Purchase Price Adjustment Escrow Amount") to TMI Trust Company (together with its successors and permitted assigns, the "Escrow Agent"), to be held, invested and distributed in and from one or more escrow accounts maintained by the Escrow Agent pursuant to the terms and conditions of the escrow agreement to be entered into by and among Buyer, Marina Holdings and the Escrow Agent as of the Closing Date (as amended, modified or supplemented from time to time in accordance with the terms thereof, the "Escrow Agreement");

(iv) [****]

(v) Buyer shall deliver to Sellers:

(A) the Closing Payment, as determined pursuant to Section 2.3(c), by wire transfer of immediately available funds to an account of Sellers (as distributed pursuant to pro rata allocations agreed by Marina Holdings and Buyer), which shall be designated in writing by Sellers at least two (2) Business Days prior to the Closing Date;

(B) the certificate contemplated by Section 7.3(c);

(C) a counterpart of each Ancillary Agreement to which Buyer or any of its Affiliates is a party, duly executed on behalf of Buyer or such Affiliates; and

(D) such other documents or instruments as Sellers reasonably requests and are reasonably necessary or advisable to consummate the transactions contemplated by this Agreement.

(vi) Sellers shall deliver to Buyer:

(A) an assignment of each Seller's Purchased Units, in a form reasonably satisfactory to Buyer, duly executed by such Seller, together with certificate(s), if any, evidencing the Purchased Units, free and clear of all Encumbrances, duly endorsed in blank or accompanied by unit transfer powers or other instruments of transfer duly executed in blank and otherwise in proper form for transfer;

(B) an assignment of IG Holdings' Miami Interests, in a form reasonably satisfactory to Buyer, duly executed by IG Holdings, together with certificate(s), if any, evidencing the Miami Interests, free and clear of all Encumbrances, duly endorsed in blank or accompanied by unit transfer powers or other instruments of transfer duly executed in blank and otherwise in proper form for transfer;

(C) an assignment of MOF Simpson Bay's Simpson Bay Interests, in a form reasonably satisfactory to Buyer, duly executed by MOF Simpson Bay, together with certificate(s), if any, evidencing the Simpson Bay Interests, free and clear of all Encumbrances, duly endorsed in blank or accompanied by unit transfer powers or other instruments of transfer duly executed in blank and otherwise in proper form for transfer;

(D) the certificate contemplated by Section 7.2(d);

(E) a counterpart of each Ancillary Agreement to which Sellers or any of their Affiliates are a party, duly executed by Sellers or such Affiliates;

(F) the resignation letters referred to in Section 5.8;

(G) payoff and release letters (the "Payoff Letters") from the holders of the Indebtedness set forth on Section 2.3(b) of the Sellers Disclosure Schedules that (i) reflect the amounts required in order to pay in full all such Indebtedness outstanding as of the Closing Date and (ii) provide that, upon payment in full of the amounts indicated, all Claims (other than Permitted Encumbrances) with respect to the assets of the Acquired Companies shall be terminated and of no further force and effect, together with UCC-3 termination statements with respect to the financing statements filed against the assets of the Acquired Companies by the holders of such liens;

(H) with respect to each Seller and each Single Asset Seller, an IRS Form W-9;

(I) (i) a copy of the Organizational Documents of each of the Acquired Companies incorporated or formed in the U.S. certified by the Secretary of State of the relevant state of incorporation or formation and (ii) a certificate of good standing or active status for each of the Acquired Companies incorporated or formed in the U.S. issued by the Secretary of State of the relevant state of incorporation or formation, in each case, dated within ten (10) days prior to the Closing Date;

(J) a certificate signed by the secretary, manager or equivalent officer of each of the Acquired Companies certifying as to the Organizational Documents of such

Acquired Company and that such Organizational Documents have not been rescinded or modified and remain in full force and effect as of the Closing Date;

(K) a certificate signed by the secretary or manager of each Seller certifying: (i) the resolutions of the board of directors or manager or other authorizing body of such Seller authorizing the execution, delivery and performance of this Agreement and the transactions contemplated by this Agreement and that such resolutions have not been rescinded or modified and remain in full force and effect as of the Closing Date; and (ii) incumbency and signatures of the officers of such Seller executing this Agreement or any other agreement contemplated by this Agreement;

(L) two copies of a USB or similar electronic storage containing all of the information uploaded to the Data Room and made available to Buyer by Sellers; and

(M) such other documents or instruments as Buyer reasonably request and are reasonably necessary or advisable to consummate the transactions contemplated by this Agreement.

(c) For purposes of determining the amount of Cash to be paid by Buyer to Sellers (as distributed pursuant to pro rata allocations agreed by Marina Holdings and Buyer) at the Closing pursuant to Section 2.3(b)(v)(A) (the "Closing Payment"), at least two (2) Business Days prior to the Closing Date, Sellers shall prepare and deliver to Buyer a written report (the "Closing Date Report") setting forth in reasonable detail Sellers' good-faith estimate of:

(i) Closing Net Working Capital (without giving effect to the transactions contemplated hereby) ("Estimated Closing Net Working Capital");

(ii) the Closing Cash ("Estimated Closing Cash");

(iii) the Closing Indebtedness ("Estimated Closing Indebtedness");

(iv) the Transaction Expenses ("Estimated Transaction Expenses") separately enumerating each of the Transaction Expense payments, and a schedule delivered by way of a side letter listing each transaction or retention bonus or change in control payment payable to a Person that is not an employee of the Acquired Companies, and the wire instructions for the account designated to receive such payments (the "Non-Employee Payment Schedule"); and

(v) the Reimbursable Prepaid Lease Payments (the "Estimated Reimbursable Prepaid Lease Payments").

(d) The Closing Payment shall be an amount equal to

(i) U.S.$480,000,000;

(ii) *plus* the amount, if any, by which Estimated Closing Net Working Capital exceeds Target Net Working Capital or *minus* the amount, if any, by which Target Net Working Capital exceeds Estimated Closing Net Working Capital;

(iii) *plus* Estimated Closing Cash;

(iv) *minus* Estimated Closing Indebtedness;

(v) *minus* Estimated Transaction Expenses;

(vi) *minus* the Purchase Price Adjustment Escrow Amount;

(vii) *minus* the [****]; and

(viii) *plus* the Estimated Reimbursable Prepaid Lease Payments.

Section 2.4 Determination of Final Purchase Price.

(a) As soon as reasonably practicable following the Closing Date (but no later than one hundred twenty (120) days after the Closing Date), Buyer shall deliver to Marina Holdings a statement (the "Buyer Adjustment Report") setting forth in reasonable detail Buyer's good-faith calculation of (i) Closing Net Working Capital (without giving effect to the transactions contemplated hereby), (ii) the Closing Cash, (iii) the Closing Indebtedness, (iv) the Transaction Expenses separately enumerating each of the Transaction Expense payments and (v) the Reimbursable Prepaid Lease Payments. If Buyer fails to deliver a Buyer Adjustment Report within one hundred twenty (120) days of the Closing Date, then Buyer shall be deemed to have irrevocably accepted the amounts in the Closing Date Report, and there shall be no adjustment to the Purchase Price pursuant to this Section 2.4.

(b) The following procedures shall apply with respect to the review of the Buyer Adjustment Report:

(i) Marina Holdings shall have a period of ninety (90) days after receipt by Marina Holdings of the Buyer Adjustment Report to review such report (the "Review Period"). During the Review Period, Buyer shall make available to Marina Holdings and its Representatives reasonable access during normal business hours to all relevant personnel, Representatives of Buyer, books and records of the Acquired Companies and other items reasonably requested by Marina Holdings in connection with Marina Holdings' review of the Buyer Adjustment Report and any dispute with respect thereto as contemplated by this Section 2.4.

(ii) If Marina Holdings does not deliver to Buyer a written statement describing any objections Marina Holdings has to the Buyer Adjustment Report (a "Notice of Disagreement") on or before the final day of the Review Period, then Marina Holdings shall be deemed to have irrevocably accepted such Buyer Adjustment Report, and such Buyer Adjustment Report shall be deemed to be the "Final Adjustment Report" for purposes of the payment (if any) contemplated by Section 2.4(d). If Marina Holdings delivers to Buyer a Notice of Disagreement on or before the final day of the Review Period, then Buyer and Marina Holdings shall attempt to resolve in good faith the matters contained in the Notice of Disagreement within thirty (30) days after Buyer's receipt of the Notice of Disagreement (the "Resolution Period"). If Buyer and Marina Holdings reach a resolution with respect to such matters on or before the final day of the Resolution Period, then the Buyer Adjustment Report, as modified by such resolution, shall be

deemed to be the "Final Adjustment Report" for purposes of the payment (if any) contemplated by Section 2.4(d).

(iii) If such a resolution is not reached on or before the final day of the Resolution Period, then Buyer and Marina Holdings shall promptly (and in any event no later than five (5) Business Days after the last day of the Resolution Period) retain the Accounting Firm (including by executing a customary agreement with the Accounting Firm in connection with its engagement) and submit any unresolved objections covered by the Notice of Disagreement (the "Disputed Items") to the Accounting Firm for resolution in accordance with this Section 2.4(b)(iii). The Accounting Firm shall be instructed to: (A) make a final determination on an expedited basis (and in any event within sixty (60) days after submission of the Disputed Items) with respect to each of the Disputed Items (and only the Disputed Items) that is within the range of the respective positions taken by each of Buyer and Marina Holdings; and (B) prepare and deliver to Buyer and Marina Holdings a written statement setting forth its final determination (and a reasonably detailed description of the basis therefor) with respect to each Disputed Item (the "Accounting Firm's Report"). During the ten (10) days after submission of the Disputed Items to the Accounting Firm, each of Buyer and Marina Holdings may provide the Accounting Firm with a definitive statement in writing of its positions with respect to the Disputed Items (and only the Disputed Items). The Accounting Firm shall be provided with access to the books and records of Buyer, the Acquired Companies and Marina Holdings for purposes of making its final determination with respect to the Disputed Items, and Buyer, Marina Holdings and the Acquired Companies shall otherwise reasonably cooperate with the Accounting Firm in connection therewith. Each of Buyer and Marina Holdings agree that: (1) the Accounting Firm's determination with respect to each Disputed Item as reflected in the Accounting Firm's Report shall be deemed to be final, conclusive, binding and non-appealable, absent Fraud or manifest error; (2) the Buyer Adjustment Report, as modified by any changes thereto in accordance with the Accounting Firm's Report, shall be deemed to be the "Final Adjustment Report" for purposes of the payment (if any) contemplated by Section 2.4(c); (3) the procedures set forth in this Section 2.4 shall be the sole and exclusive remedy with respect to the final determination of the Final Adjustment Report; and (4) the Accounting Firm's determination under this Section 2.4(b)(iii) shall be enforceable as an arbitral award, and judgment may be entered thereupon in any Chosen Court. Closing Net Working Capital as set forth in the Final Adjustment Report shall be deemed to be the "Final Closing Net Working Capital"; Closing Cash as set forth in the Final Adjustment Report shall be deemed to be the "Final Closing Cash"; Closing Indebtedness as set forth in the Final Adjustment Report shall be deemed to be the "Final Closing Indebtedness"; Transaction Expenses as set forth in the Final Adjustment Report shall be deemed to be the "Final Transaction Expenses"; and the Reimbursable Prepaid Lease Payments as set forth in the Final Adjustment Report shall be deemed to be the "Final Reimbursable Prepaid Lease Payments".

(iv) Each of Buyer and Marina Holdings shall (A) pay its own respective costs and expenses incurred in connection with this Section 2.4, and (B) be responsible for the fees and expenses of the Accounting Firm on a pro rata basis based upon the degree to which the Accounting Firm has accepted the respective positions of Buyer and Marina Holdings, which shall be determined by the Accounting Firm and set forth in the Accounting Firm's Report.

(c) Any estimates, determinations and calculations contained herein or based hereon shall be prepared and calculated on a consolidated basis for the Acquired Companies in

accordance with the Accounting Rules, except that such estimates, determinations and calculations (i) shall not include any purchase accounting or other adjustment arising out of the consummation of the transactions contemplated by this Agreement, (ii) shall be based on facts and circumstances as they exist immediately prior to the Closing and shall exclude the effect of any act, decision or event occurring on or after the Closing, (iii) shall follow the defined terms contained in this Agreement and the Accounting Rules regardless of whether such terms or the Accounting Rules are consistent with GAAP, and (iv) shall be set forth in US Dollars.

(d) Within five (5) Business Days after the determination of the Final Adjustment Report in accordance with this Section 2.4 (including by failure to timely deliver a Notice of Disagreement):

(i) if the Additional Payment Amount is a positive number, then (A) Buyer shall pay an amount in cash equal to the Additional Payment Amount to Marina Holdings by wire transfer of immediately available funds to accounts designated in writing by Marina Holdings to Buyer and (B) Buyer and Marina Holdings shall jointly instruct the Escrow Agent to release to Marina Holdings the funds in the Purchase Price Adjustment Escrow Amount; or

(ii) if the Additional Payment Amount is a negative number, then Marina Holdings and Buyer shall instruct the Escrow Agent to release to Buyer from the Purchase Price Adjustment Escrow Amount an amount in cash equal to the absolute value of the Additional Payment Amount, provided, however, that if the Additional Payment Amount is less than the Purchase Price Adjustment Escrow Amount, Marina Holdings and Buyer shall instruct the Escrow Agent to release to Marina Holdings the remaining portion of the Purchase Price Adjustment Escrow Amount. Release of the Purchase Price Adjustment Escrow Amount shall be Buyer's sole and exclusive remedy with respect to the Additional Payment Amount, and none of Sellers shall have any liability or obligation for any amount by which the Additional Payment Amount exceeds the amount of the Purchase Price Adjustment Escrow Amount.

Section 2.5 Earnout Payment.

[****]

Section 2.6 Treatment of Options. Immediately prior to the Closing, the Company shall cause each Option to be cancelled and each Optionholder holding Options shall have no further rights with respect thereto other than the rights set forth in the applicable Option Cancellation Agreement, subject to such Optionholder's execution and compliance with the terms of the applicable Option Cancellation Agreement. Sellers shall deliver to Buyer a fully executed Option Cancellation Agreement for each Optionholder at Closing. Pursuant to the terms of the Option Cancellation Agreement, Sellers shall be responsible for determining and making the payments to the Optionholders.

Section 2.7 Withholding. Buyer and any other applicable withholding agent shall be entitled to deduct and withhold from any amounts otherwise payable pursuant to this Agreement such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code, and the rules and regulations promulgated thereunder or any provision of state, local or foreign Tax Law, provided, however, that (i) as of the date hereof, each of Buyer and

Sellers represent that it is not aware of any such obligation to withhold and (ii) prior to making any deduction or withholding, other than with respect to compensatory payments, the party intending to deduct or withhold shall notify Sellers and shall reasonably cooperate to establish an applicable exemption from such deduction or withholding, if available. To the extent that amounts are so withheld by Buyer or other applicable withholding agent and paid to the applicable Governmental Body, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the Sellers Disclosure Schedules (which shall be interpreted in accordance with Section 1.2(f)), Sellers represent and warrant to Buyer as follows:

Section 3.1 Organization and Authority of Sellers and Single Asset Sellers.

(a) Each of Sellers and IG Holdings is a legal entity duly organized, validly existing and in good standing under the Laws of the state of Delaware. MOF Simpson Bay is a legal entity duly organized, validly existing and in good standing under the Laws of the state of Texas. Each of Sellers and Single Asset Sellers has all requisite corporate power and authority to enter into this Agreement and each of the Ancillary Agreements to which it is or will be a party, carry out their obligations hereunder and thereunder and consummate the transactions contemplated hereby and thereby (including all power and authority to sell, assign, transfer and convey the Purchased Units, the Miami Interests and the Simpson Bay Interests as provided by this Agreement).

(b) The execution and delivery by Sellers and Single Asset Sellers of this Agreement and any Ancillary Agreements to which they are or will be a party, the performance by Sellers and Single Asset Sellers of their obligations hereunder and thereunder and the consummation by Sellers and Single Asset Sellers of the transactions contemplated hereby and thereby have been duly and validly authorized and approved by all requisite corporate or other similar action on the part of Sellers and Single Asset Sellers.

(c) This Agreement has been duly and validly executed and delivered by Sellers and Single Asset Sellers, and (assuming due authorization, execution and delivery by Buyer) this Agreement constitutes a legal, valid and binding obligation of Sellers and Single Asset Sellers enforceable against Sellers and Single Asset Sellers in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, moratorium or similar Laws affecting creditors' rights generally and by general equity principles (the "Enforceability Limitations").

(d) Each of the Ancillary Agreements to which Sellers are or will be a party has been or will be duly and validly executed and delivered by Sellers, and (assuming due authorization, execution and delivery by the other party or parties thereto) constitutes or will constitute a legal, valid and binding obligation of Sellers enforceable against Sellers in accordance with its terms, except as such enforceability may be limited by the Enforceability Limitations.

Section 3.2 Organization, Authority and Qualification of the Acquired Companies.

(a) Each Acquired Company is a duly organized legal entity, validly existing and in good standing or with active status, if applicable, under the Laws of the jurisdiction in which it is organized and has all requisite power and authority to own, lease and operate its respective properties and assets and to conduct its business as it is now being conducted. The ownership of each Acquired Company, as of the date hereof and as of the Closing, is set forth in Section 3.2(a) of the Sellers Disclosure Schedule.

(b) Except as set forth in Section 3.2(b) of the Sellers Disclosure Schedules, each Acquired Company is qualified to do business and is in good standing or with active status, if applicable, in each jurisdiction in which the operation of its business as currently conducted makes such qualification necessary, except where the failure to be so qualified, in good standing or with active status has not had a material adverse effect on such Acquired Company.

Section 3.3 Capitalization; Organizational Documents.

(a) As of the date of this Agreement, the authorized ownership interests of the Company consist of 2 units, of which (i) 1 Class A Unit and (ii) 1 Series B Perpetual Preferred Unit are issued and outstanding, and which collectively constitute the Purchased Units. All of the Purchased Units have been duly authorized and validly issued and are fully paid and non-assessable. All of the Purchased Units have been issued and granted in compliance with all applicable Law or pursuant to valid exemptions therefrom. None of the Purchased Units were issued in violation of any Contract or any preemptive or similar rights of any Person. Prior to the date hereof, (i) the Company issued a single Series B Perpetual Preferred Unit to IGY Corp. and (ii) its Members (other than IGY Corp.) subsequently contributed all of the Company's outstanding Units (other than the Series B Perpetual Preferred Unit) to Marina Holdings, and such units were exchanged into a single Class A Unit. No Series A Preferred Convertible Units or Series A-2 Preferred Convertible Units remain outstanding as of the date hereof.

(b) Sellers are the beneficial and record owner of, and have good, valid and marketable title to, all of the Purchased Units, free and clear of all Encumbrances or any other restrictions on transfer (other than any restrictions on transfer under the Securities Act and any state securities Laws).

(c) Except for the Purchased Units and as set forth on Section 3.3(c) of the Sellers Disclosure Schedules, as of the Closing Date, there are no equity securities of any class of the Company or any securities convertible into or exchangeable or exercisable for any such equity securities issued, reserved for issuance or outstanding. Except for the Purchased Units and as set forth on Section 3.3(c) of the Sellers Disclosure Schedules there are no outstanding or authorized options, warrants, convertible securities, subscriptions, call rights, redemption rights, repurchase rights or any other rights, agreements, arrangements or commitments of any kind relating to the issued or unissued capital stock of the Company or obligating Sellers or the Company to issue or sell any Purchased Units of, or any other interest in, the Company. There are no outstanding or authorized stock appreciation rights, phantom stock, performance-based rights or profit participation or similar rights or obligations of the Company. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or sale or transfer of any of the Purchased Units or any other equity interests of the Company.

(d) Section 3.3(d) of the Sellers Disclosure Schedules lists the managers, directors and officers (or their equivalents) of each of the Acquired Companies. Sellers have delivered to Buyer correct and complete copies of the Organizational Documents for each of the Acquired Companies (as amended to date). The minute books (containing the records of meetings of the equityholders, the managers, the board of directors, and any committees of the board of directors), the stock certificate books and the stock record books of each of the Acquired Companies (as applicable for each Acquired Company under the relevant jurisdiction) are correct and complete in all material respects. None of the Acquired Companies is in default under or in violation of any provision of its Organizational Documents.

(e) As of the date of this Agreement, IG Holdings owns 80% of the issued and outstanding membership interests of IGDH. All of the Miami Interests have been duly authorized and validly issued and are fully paid and non-assessable. All of the Miami Interests have been issued and granted in compliance with all applicable Law or pursuant to valid exemptions therefrom. None of the Miami Interests were issued in violation of any Contract or any preemptive or similar rights of any Person.

(f) IG Holdings is the beneficial and record owner of, and has good, valid and marketable title to, all of the Miami Interests, free and clear of all Encumbrances or any other restrictions on transfer (other than any restrictions on transfer under the Securities Act and any state securities Laws).

(g) Except for the Miami Interests and as set forth on Section 3.3(g) of the Sellers Disclosure Schedules, as of the Closing Date, there are no equity securities of any class of IGDH or any securities convertible into or exchangeable or exercisable for any such equity securities issued, reserved for issuance or outstanding. Except for the Miami Interests and as set forth on Section 3.3(g) of the Sellers Disclosure Schedules there are no outstanding or authorized options, warrants, convertible securities, subscriptions, call rights, redemption rights, repurchase rights or any other rights, agreements, arrangements or commitments of any kind relating to the issued or unissued capital stock of IGDH or obligating IG Holdings or IGDH to issue or sell any Miami Interests of, or any other interest in, IGDH. There are no outstanding or authorized stock appreciation rights, phantom stock, performance-based rights or profit participation or similar rights or obligations of IGDH. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or sale or transfer of any of the Miami Interests or any other equity interests of IGDH.

(h) As of the date of this Agreement, MOF Simpson Bay owns 100% of the membership interests of Pentagon, which represent all of the issued and outstanding membership interests of Pentagon. All of the Simpson Bay Interests have been duly authorized and validly issued and are fully paid and non-assessable. All of the Simpson Bay Interests have been issued and granted in compliance with all applicable Law or pursuant to valid exemptions therefrom. None of the Simpson Bay Interests were issued in violation of any Contract or any preemptive or similar rights of any Person.

(i) MOF Simpson Bay is the beneficial and record owner of, and has good, valid and marketable title to, all of the Simpson Bay Interests, free and clear of all Encumbrances or any

other restrictions on transfer (other than any restrictions on transfer under the Securities Act and any state securities Laws).

(j) Except for the Simpson Bay Interests and as set forth on Section 3.3(j) of the Sellers Disclosure Schedules, as of the Closing Date, there are no equity securities of any class of Pentagon or any securities convertible into or exchangeable or exercisable for any such equity securities issued, reserved for issuance or outstanding. Except for the Simpson Bay Interests and as set forth on Section 3.3(j) of the Sellers Disclosure Schedules there are no outstanding or authorized options, warrants, convertible securities, subscriptions, call rights, redemption rights, repurchase rights or any other rights, agreements, arrangements or commitments of any kind relating to the issued or unissued capital stock of Pentagon or obligating MOF Simpson Bay or Pentagon to issue or sell any Simpson Bay Interests of, or any other interest in, Pentagon. There are no outstanding or authorized stock appreciation rights, phantom stock, performance-based rights or profit participation or similar rights or obligations of Pentagon. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or sale or transfer of any of the Simpson Bay Interests or any other equity interests of Pentagon.

Section 3.4 Subsidiaries and Joint Ventures.

(a) Section 3.4(a) of the Sellers Disclosure Schedules contains a correct and complete list as of the date hereof of each of the Company Subsidiaries and Company Joint Ventures and for each such Subsidiary and Joint Venture: (i) the jurisdiction of organization, (ii) the name of each stockholder thereof, and (iii) the number of shares of capital stock or other equity or voting interests owned by each such stockholder. All of the issued and outstanding shares of capital stock of, or other equity or voting interests in, the Company Subsidiaries (the "Subsidiary Shares") and the Company Joint Ventures (the "Joint Venture Shares") have been duly authorized and validly issued and are fully paid and non-assessable. All of the Subsidiary Shares are owned, directly or indirectly, of record and beneficially by an Acquired Company wholly-owned (directly or indirectly) by the Company, free and clear of all Encumbrances, other than Permitted Encumbrances.

(b) Except for the Subsidiary Shares and the Joint Venture Shares, there are no equity securities of any class of any Company Subsidiary or Company Joint Venture or any securities convertible into or exchangeable or exercisable for any such equity securities issued, reserved for issuance or outstanding. Except as set forth in Section 3.4(b) of the Sellers Disclosure Schedules, there are no outstanding or authorized options, warrants, convertible securities, subscriptions, call rights, redemption rights, repurchase rights or any other rights, agreements, arrangements or commitments of any kind relating to the issued or unissued capital stock of any Company Subsidiary or Company Joint Venture or obligating Sellers or any Acquired Company to issue or sell any shares of capital stock of, or any other interest in, any Company Subsidiary or Company Joint Venture. Except as set forth on Section 3.4(b) of the Sellers Disclosure Schedules, there are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or sale or transfer of any of the Subsidiary Shares, Joint Venture Shares or any other equity interests of any Company Subsidiary or Company Joint Venture.

(c) Except for the Subsidiary Shares and Joint Venture Shares, no Acquired Company has any direct or indirect equity interest or similar interest by stock ownership or otherwise in any Person.

Section 3.5 No Conflicts; Consents.

(a) Subject to the receipt of the Consents and Permits, and the making of the declarations, filings and notices, referred to in Section 3.5(b)(i) and Section 3.5(b)(ii) of the Sellers Disclosure Schedules, none of the execution, delivery or performance by Sellers of this Agreement, nor the consummation of the transactions contemplated hereby, shall:

(i) result in a violation or breach of, or default under, any provision of the Organizational Documents of Sellers or any Acquired Company;

(ii) result in a violation of, or give any Governmental Body the right to challenge any of the transactions contemplated hereby under, any Law or Order applicable to Sellers or any Acquired Company, except where such violation or other result described in this clause (ii) would not reasonably be expected to have a material adverse effect on any Acquired Company; or

(iii) (A) result in a violation or breach of, (B) constitute a default under, (C) result in the acceleration of or create in any party the right to accelerate, terminate or cancel, or (D) require the Consent of any other Person under, any Material Contract.

(b) Except as set forth in Section 3.5(b)(i) and Section 3.5(b)(ii) of the Sellers Disclosure Schedules, no Consent, Permit, declaration or filing with, or notice to, any Governmental Body is required by or with respect to Sellers or any Acquired Company in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, except for compliance with and filings under the HSR Act and Consents required pursuant to any other Antitrust Laws.

Section 3.6 Financial Statements; Internal Controls.

(a) Correct and complete copies of the Financial Statements have been made available to Buyer. The Financial Statements fairly present, the consolidated financial condition of the Acquired Companies as of the dates indicated therein and the results of the operations of the Acquired Companies for the periods covered thereby, all in accordance with GAAP. The Financial Statements have been prepared in accordance with GAAP applied on a consistent basis throughout the periods involved, except, in the case of the Audited Financial Statements, as set forth in the notes thereto and subject, in the case of the Unaudited Financial Statements, to normal and recurring year-end adjustments and the absence of notes.

(b) The Company maintains books and records in accordance with GAAP which accurately and fairly reflect in all material respects its assets and liabilities. The Company maintains a system of accounting established and administered in all material respects in accordance with GAAP that is sufficient to provide reasonable assurances that: (i) transactions are executed with management's authorization; (ii) transactions are recorded as necessary to permit the preparation of financial statements and disclosures in conformity with GAAP; (iii) access to

the Company's assets is permitted only in accordance with management's authorization; and (iv) the recorded accountability for items is compared with the actual levels at reasonable intervals and appropriate action is taken with respect to any differences.

Section 3.7 No Undisclosed Liabilities; Indebtedness.

(a) Except as set forth in Section 3.7(a) of the Sellers Disclosure Schedules, the Acquired Companies do not have any liabilities required to be reflected on a balance sheet prepared in accordance with GAAP except for liabilities (i) that are reserved against in the Unaudited Balance Sheet, (ii) that have been incurred in the Ordinary Course of Business since the Unaudited Balance Sheet Date, or (iii) for future performance under existing Contracts.

(b) Section 3.7(b) of the Sellers Disclosure Schedules sets forth a complete list of all of the outstanding Indebtedness of each Acquired Company as of the date of this Agreement.

Section 3.8 Absence of Certain Developments.

(a) Except for the transactions contemplated by this Agreement, since the Audited Balance Sheet Date until the date of this Agreement:

(i) the Acquired Companies have operated in the Ordinary Course of Business consistent in all material respects with past practice, including actions that in Sellers' reasonable judgment have been necessary to protect the health and safety of the employees of any of the Acquired Companies in response to the COVID-19 Pandemic or any COVID-19 Measures; and

(ii) there has not been any Company Material Adverse Effect.

(b) Except for the transactions contemplated by this Agreement, since the Audited Balance Sheet Date until the date of this Agreement, there has not been any action or event that would have required Buyer's consent pursuant to Section 5.1(b) had such action or event occurred after the date hereof.

Section 3.9 Title, Condition and Sufficiency of Assets.

(a) An Acquired Company has good, valid and marketable title to, or a valid leasehold interest in, all property and other assets (other than Intellectual Property) used by it in connection with its business, including the property and assets reflected in the Unaudited Balance Sheet or acquired after the Unaudited Balance Sheet Date, free and clear of all Encumbrances other than Permitted Encumbrances, except for properties and assets sold or otherwise disposed of in the Ordinary Course of Business consistent with past practice since the Audited Balance Sheet Date or that are *de minimis* in nature or would not have an Adverse Operational Impact.

(b) The properties, assets and rights of the Acquired Companies include all properties, assets and rights (other than Intellectual Property) and the management and employees of the Acquired Companies and the services to be provided pursuant to any Ancillary Agreement necessary for the continued conduct of the business of the Acquired Companies after the Closing in substantially the same manner in all material respects as conducted prior to the Closing in all

material respects. None of the material assets used in the business of any of the Acquired Companies shall, as of the Closing Date, be owned by, or in any way shall be licensed or leased from, any Affiliate of the Acquired Companies (other than the Acquired Companies).

Section 3.10 Compliance with Laws; Permits.

(a) Except as set forth in Section 3.10(a) of the Sellers Disclosure Schedules, (i) the Acquired Companies are and have been in compliance in all material respects with all Laws applicable to the Acquired Companies, including applicable COVID-19 Measures enacted in response to the COVID-19 pandemic, and (ii) no Legal Proceeding has been filed or commenced against any of the Acquired Companies alleging any failure to so comply.

(b) Section 3.10(b) of the Sellers Disclosure Schedules lists each material Permit that is held by each of the Acquired Companies. Each Permit listed in Section 3.10(b) of the Sellers Disclosure Schedules is valid and in full force and effect. None of the Acquired Companies are in breach or default in any material respect with the terms of any Permit listed in Section 3.10(b) of the Sellers Disclosure Schedules. None of the Acquired Companies has received any notice or other communication from any Governmental Body regarding: (i) any actual, alleged or potential violation of, or failure to comply, with any Permit; or (ii) any actual, proposed or potential revocation, suspension, cancellation, termination or modification of any Permit. All fees and charges due and payable with respect to such Permits listed in Section 3.10(b) of the Sellers Disclosure Schedules, unless otherwise set forth in Section 3.10(b) of the Sellers Disclosure Schedule, have been duly filed on a timely basis with the appropriate Governmental Body and all other filings required to have been made with respect to such Permits have been duly made on a timely basis with the appropriate Governmental Body. The Permits listed in Section 3.10(b) of the Sellers Disclosure Schedules constitute all Permits necessary to permit each of the Acquired Companies to lawfully continue to conduct its business in the manner in which it currently conducts such business.

(c) In the past five (5) years, neither any Acquired Company nor any director, officer or manager, or, to Sellers' Knowledge, any employee (when such director, officer, manager or employee is acting for or on behalf of any Acquired Company) of any Acquired Company has offered, paid, promised to pay or authorized the payment, directly or indirectly through any other Person, of anything of value to any Person acting on behalf of any Governmental Body (including employees of state-owned entities) or political party or candidate for public office, for the purpose of influencing any act or decision of such Person or of the Governmental Body to obtain or retain business and that: (i) is for the purpose of corruptly obtaining or retaining business or obtaining an improper advance; (ii) would reasonably be expected to subject any of the Acquired Companies to any damage or penalty in any civil, criminal or governmental litigation or proceeding; or (iii) otherwise violated the U.S. Foreign Corrupt Practices Act or made a material violation of any other Anti-corruption Laws. There is no charge, Legal Proceeding or to Sellers' Knowledge, investigation, by any Governmental Body with respect to a violation or alleged violation of any Anti-Corruption Law that is now pending or, to Sellers' Knowledge, has been asserted or threatened with respect to any of the Acquired Companies, and no Acquired Company has made any voluntary disclosure with respect to a possible violation of any Anti-Corruption Law.

(d) No Acquired Company or their respective directors or officers is a Sanctioned Person, nor is any Acquired Company located, organized or resident in a Sanctioned Country.

Section 3.11 Legal Proceedings; Governmental Orders.

(a) Except as set forth in Section 3.11(a) of the Sellers Disclosure Schedules, there is no Legal Proceeding pending or, to Sellers' Knowledge, threatened against or by any Acquired Company or affecting any of their properties or assets (or by or against Sellers or any Affiliate thereof and relating to an Acquired Company).

(b) Section 3.11(b) of the Sellers Disclosure Schedules sets forth a correct and complete list of all outstanding Orders applicable to the Acquired Companies.

(c) Except as set forth in Section 3.11(c) of the Sellers Disclosure Schedules: (i) each of the Acquired Companies has been in compliance with each Order to which it, or any assets owned or used by it, is or has been subject; (ii) no event has occurred or circumstance exists that could reasonably constitute or result in (with or without notice or lapse of time) a violation of, or failure to comply with, any Order to which any of the Acquired Companies is subject; (iii) none of the Acquired Companies has received any notice or other communication from any Governmental Body or any other Person regarding any actual, alleged or potential violation of, or failure to comply with, any Order to which any of the Acquired Companies or any assets owned or used by any of the Acquired Companies is subject; and (iv) to Sellers' Knowledge, there is no Order threatened against any of the Acquired Companies.

Section 3.12 Material Contracts.

(a) Section 3.12(a) of the Sellers Disclosure Schedules sets forth a correct and complete list as of the date hereof of the following Contracts to which an Acquired Company is party (other than any Contract that is a Benefit Plan, a slip agreement, an agreement with a customer to purchase fuel from an Acquired Company, an insurance contract, a parking license agreement, or any agreement between two or more Acquired Companies) (collectively, the "Material Contracts"):

(i) any Contract (or group of related Contracts) pursuant to which the Acquired Companies may be entitled to receive or obligated to pay more than U.S.$300,000 in any calendar year that cannot be cancelled by an Acquired Company without material penalty upon no more than ninety (90) days' notice;

(ii) any Contract relating to Havenstar (Marina IT Program), yacht charter shows, security Contracts, third-party management agreements, and the F1 Contract;

(iii) any Contract that requires any Person to purchase its total requirements of any product or service from any other Person or contains "take or pay" or similar provisions;

(iv) any Contract (or group of related Contracts) requiring or otherwise relating to any future capital expenditures by an Acquired Company in excess of U.S.$300,000;

(v) any Contract (or group of related Contracts) relating to the creation, incurrence, assumption or guarantee of any Indebtedness (other than intercompany Indebtedness solely among the Acquired Companies and endorsements for the purpose of collection in the Ordinary Course of Business) having a principal amount in excess of U.S.$300,000 or imposing an Encumbrance (other than a Permitted Encumbrance) on any of the assets or properties of any Acquired Company;

(vi) any Contract since January 1, 2017 that relates to the acquisition or disposition of any business, stock or assets of any Person or any Real Property (whether by merger, sale of stock, sale of assets or otherwise) (other than any issuance by Island Global Yachting LLC to any Seller);

(vii) any Contract pursuant to which an Acquired Company (A) is granted by any Person any license with respect to Intellectual Property that is material to the Acquired Companies, other than (1) licenses for commercially available "off-the-shelf" software or hardware or software-as-a-service agreements having one-time or annual costs less than U.S.$10,000; and (2) non-exclusive licenses incidental to commercial agreements (including customer, supply, manufacturing, distribution or reseller arrangements or other similar agreements) or (B) grants to a third party any license with respect to material Owned Intellectual Property, other than non-exclusive licenses incidental to commercial agreements (including customer supply, manufacturing, distribution or reseller arrangements or other similar agreements);

(viii) any Contract (or group of related Contracts) relating to the development or construction of, or additions or expansions to, the Real Property, under which any Acquired Company has, or expects to incur, an obligation in excess of U.S.$300,000 per property, following the Closing Date;

(ix) any Contract concerning a partnership, joint venture or limited liability company involving the sharing of profits, losses, costs, Taxes or other Liabilities by any of the Acquired Companies with any other Person;

(x) any Contract containing covenants that in any way purport to restrict the right or freedom of any of the Acquired Companies to: (A) engage in any business activity other than a specific development; (B) engage in any line of business or compete with any Person; or (C) solicit any Person to enter into a material business or employment relationship, or enter into such a material relationship with any Person;

(xi) any Contract under which any of the Acquired Companies has advanced or loaned any amount to any of its directors, officers, employees or other Person;

(xii) any Contract with any Governmental Body (other than Concession Agreements and Real Property Leases with any Governmental Body); or

(xiii) any Contract (not otherwise disclosed under clauses Section 3.12(a)(i) through Section 3.12(a)(xii)) under which the consequences of a default or termination would reasonably be expected to have a Company Material Adverse Effect.

(b) Except as set forth in Section 3.12(b): of the Sellers Disclosure Schedule: (i) Sellers have made available to Buyer copies of each Material Contract that are correct and complete in all material respects (subject to any redaction reasonably deemed necessary or appropriate by Sellers of information contained therein and reasonably agreed to by Buyer) and a description of any oral Material Contract; (ii) each Material Contract is in full force and effect and is a valid and binding agreement of an Acquired Company enforceable against an Acquired Company in accordance with its terms, except as such enforceability may be limited by the Enforceability Limitations; (iii) no Acquired Company nor, to Sellers' Knowledge, any other party to any Material Contract is in material breach of or material default under, or has, during the one (1) year prior to the date hereof provided or received any written notice of any intention to terminate, any Material Contract; (iv) to Sellers' Knowledge, no event or circumstance has occurred (that has not been waived or cured) during the one (1) year prior to the date hereof that would (x) constitute a material breach of or material event of default by, (y) result in a right of termination for, or (z) cause or permit the acceleration of or other changes to any material right or obligation or the loss of any material benefit for, in each case, any party under any Material Contract; and (v) no party to any Material Contract has repudiated any provision of such Material Contract.

Section 3.13 Intellectual Property.

(a) Section 3.13(a) of the Sellers Disclosure Schedules sets forth a true and complete list of, as of the date hereof, all registrations and applications for registration of Owned Intellectual Property (indicating for each item the applicable jurisdiction, registration number or application number and date issued or, if not issued, date filed, and any deadlines related thereto coming up in the ninety (90) days after the date hereof). All material registered Owned Intellectual Property is valid and enforceable.

(b) The Acquired Companies exclusively own all Owned Intellectual Property, except as would be *de minimis* in nature or would not have an Adverse Operational Impact, and such ownership is free and clear of any Encumbrances other than Permitted Encumbrances. Each Acquired Company exclusively owns or holds a valid and enforceable (subject to the Enforceability Limitations) license to or other right to use all Intellectual Property used by it in or otherwise necessary to the conduct of its business as currently conducted except as would be *de minimis* in nature or would not have an Adverse Operational Impact. Each Acquired Company has taken commercially reasonable actions and paid all fees and Taxes (to the extent applicable) required to maintain in full force and effect the material registered Owned Intellectual Property. In the past six (6) years, no Acquired Company has received claims or demands asserted in writing by any other Person pertaining to any material Owned Intellectual Property (including any cease-and-desist letters or demands or offers to license any Intellectual Property from any other Person); and no Legal Proceeding is pending or, to Sellers' Knowledge, threatened, against an Acquired Company which challenges the validity or enforceability of, or any Acquired Company's rights to use or ownership of any Owned Intellectual Property.

(c) Each Acquired Company and the conduct of its business does not materially infringe, misappropriate or violate and, in the past six (6) years, has not materially infringed, misappropriated or violated any Intellectual Property of any other Person. Except as set forth on Section 3.13(c) of the Sellers Disclosure Schedules, in the past six (6) years preceding the date

hereof, no Acquired Company has received any written notice from any Person: (i) alleging that the conduct of the business of the Acquired Companies as currently conducted infringes, constitutes a misappropriation or violates any Intellectual Property of any Person, or (ii) challenging the ownership by any Acquired Company of or the validity or enforceability of any Owned Intellectual Property.

(d) To Sellers' Knowledge, no other Person has infringed any Owned Intellectual Property in the past six (6) years.

(e) Each Acquired Company has used commercially reasonable efforts to protect the confidentiality of all material trade secrets and know-how included in the Owned Intellectual Property. All Owned Intellectual Property which each Acquired Company purports to own was developed by employees, agents, consultants, contractors or other Persons who have executed written agreements assigning to the relevant Acquired Company, to the extent that such rights do not vest in such Acquired Company by operation of law, ownership of all such Intellectual Property developed by such Persons for or on behalf of such Acquired Company. No current or former shareholder, member, officer, director, manager, employee, agent, consultant, or contractor of any Acquired Company has (i) any right (whether or not currently exercisable) or interest or, to Sellers' Knowledge, any claim to or in any Owned Intellectual Property or (ii) any ownership interest in Intellectual Property used by the Acquired Companies in the conduct of their business.

(f) All of the IT Assets used by each Acquired Company in connection with the operation of such Acquired Company's business are sufficient for the current needs of the Acquired Companies and their businesses, including as to capacity and ability to process current peak volumes in a timely manner, and in the past twelve (12) months, there have been no bugs in, or failures, breakdowns, or continued substandard performance of, any such IT Assets that has caused the substantial disruption or interruption in or to the use of such IT Assets. No Acquired Company owns any material proprietary software.

(g) Each Acquired Company maintains policies and procedures regarding data security, privacy, and Personal Information that are commercially reasonable for such Acquired Company and, in any event, comply in all material respects with all applicable Laws pertaining to Personal Information and all of the Acquired Companies' obligations under applicable Contracts ("Applicable Privacy Requirements"). The use and dissemination of any and all Personal Information by each Acquired Company is in compliance in all material respects with all Applicable Privacy Requirements. The Transaction shall not violate any Applicable Privacy Requirements relating to the transfer of any Personal Information. Within the last three (3) years, there has been no security breach of and no unauthorized access to or unauthorized use, disclosure or acquisition of, any Personal Information stored by any of the Acquired Companies. Each Acquired Company has safeguarded the IT Assets owned or controlled by it with information security controls, system and data backup practices, and disaster recovery and business-continuity practices that, in each case, are commercially reasonable and comply in all material respects with all Applicable Privacy Requirements. There are no material information security vulnerabilities in the IT Assets owned or controlled by the Acquired Companies that have not been remediated in full.

Section 3.14 Employee Benefit Plans.

(a) Section 3.14(a) of the Sellers Disclosure Schedules sets forth a complete list of each material Benefit Plan, indicating which material Benefit Plans are (x) Foreign Benefit Plans or (y) employment contracts (that are not on an at-will basis), severance or change of control agreements. With respect to each Benefit Plan, copies of the following have been made available to Buyer (if applicable): (i) the current plan document, or a description of any unwritten Benefit Plan, (ii) the most recent summary plan description, including any summary of material modifications required under ERISA with respect thereto, or, in the case of a Foreign Benefit Plan, any summary or description of the Benefit Plan that is required to be furnished to employees, (iii) the three (3) most recent annual reports on Form 5500 (and all schedules thereto) or for Foreign Benefit Plans, any customary similar report required to be filed, (iv) the most recently received determination letter from the Internal Revenue Service (v) all material (written or unwritten) communications received from or sent to the IRS or the Department of Labor or any equivalent foreign Governmental Body within the past three (3) years, (vii) any insurance contract, trust agreement or other funding arrangements, (viii) all current employee handbooks or manuals; and (ix) the Forms 1094C and 1095C filed under the ACA since 2018.

(b) Each Benefit Plan that is intended to meet the requirements of a "qualified plan" under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service. Each Foreign Benefit Plan, if intended to qualify for tax-favorable treatment under any applicable Law of any non-U.S. jurisdiction, so qualifies, and its trusts (if any) are exempt from taxation under the provisions of any applicable Law. The Benefit Plans comply in form and in operation in all material respects with their terms and applicable Laws, including the requirements of the Code and ERISA or similar foreign statutes.

(c) Except as set forth in this Section 3.14(c) of the Sellers Disclosure Schedules, all contributions and premiums required to have been paid by the Acquired Companies to or with respect to any Benefit Plan under the terms of any such Benefit Plan or their related funding arrangement, or pursuant to any applicable Law for all periods prior to the date hereof and the Closing Date have been or will be, as the case may be, paid within the time prescribed by any such Benefit Plan, or applicable Law or properly accrued.

(d) With respect to the Benefit Plans, there are no actions, suits or Claims, complaints or investigations pending or, to Sellers' Knowledge, threatened in writing, other than routine claims for benefits.

(e) No Benefit Plan is, and, within the last five (5) years, no Acquired Company nor any ERISA Affiliate has sponsored, contributed to or been obligated to contribute to, (i) a "plan maintained by more than one employer" within the meaning of Section 413(c) of the Code, (ii) a "multiemployer plan" within the meaning of §3(37) or §4001(a)(3) of ERISA, (iii) a plan subject to Code §412 or §302 or Title IV of ERISA, or (iv) a "multiple employer welfare arrangement" as defined in §3(40) of ERISA. Within the last five (5) years, neither any Acquired Company nor any ERISA Affiliate has incurred any Liability (including as a result of any indemnification obligation) under Title I or Title IV of ERISA for which any Acquired Company could be liable. No asset of any Acquired Company is subject to any Encumbrance under ERISA or Section 401(a) of the Code. There has been no prohibited transaction described in §406 of ERISA or Code §4975 for which an exemption is not available with respect to any Benefit Plan. Neither any Acquired Company, nor to Sellers' Knowledge, any other fiduciary, as described in

ERISA §3(21), of any Benefit Plan has any Liability for breach of fiduciary duty or any other failure to act or comply in connection with the administration or investment of the assets of any Benefit Plan.

(f) No Benefit Plan provides material health, life, insurance or other welfare benefits to former directors, employees or other service providers to any of the Acquired Companies, other than health continuation coverage pursuant to Section 4980(b) of the Code or similar non-U.S. Law.

(g) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement shall (either alone or in combination with another event) result in the acceleration or creation of any rights of any employee of the Acquired Companies to payments or benefits or increases in any payments or benefits, in each case, from any Acquired Company. No Person is entitled to receive a Tax gross-up payment or indemnification from the any of the Acquired Companies as a result of any Tax imposed by Sections 4999, 409A or 457A of the Code. Each Benefit Plan that provides for deferred compensation within the meaning of Code §409A complies with Code §409A in form and operation.

(h) The consummation of the transactions contemplated by this Agreement (either alone or in combination with any other event or events) shall not give rise to any payment (or acceleration of vesting of any amounts or benefits) that has resulted or could result in the payment of any "excess parachute payment" as defined in Code §280G. No Acquired Company has any legally binding plan or commitment to create any additional Benefit Plan or to modify or change any existing Benefit Plan, except as may be required by applicable Law.

(i) The cancellation of the Options shall be conducted in compliance with the terms of the Equity Incentive Plan and applicable Laws and shall not result in Liability to Buyer or the Acquired Companies.

Section 3.15 Labor Matters.

(a) Section 3.15(a) of the Sellers Disclosure Schedules lists the following information for each current employee of the Acquired Companies, other than any property level employees: name, job title, date of hiring, date of commencement of employment, whether the employee is classified as exempt or non-exempt, details of leave of absence or layoff, rate of compensation, bonus arrangement (to the extent contractually obligated), leave of absence or layoff status, and service credited for purposes of vesting and eligibility to participate under any Benefit Plan.

(b) Except as set forth in Section 3.15(b) of the Sellers Disclosure Schedules: (i) none of the Acquired Companies is a party to any collective bargaining agreement or other labor union agreement applicable to persons employed by any of the Acquired Companies, (ii) no labor organization or group of employees has filed any representation petition or made any demand for recognition since January 1, 2019, and (iii) no union organizing or decertification efforts are currently underway or, to Sellers' Knowledge, threatened and no other question concerning representation exists. Since January 1, 2019, no Acquired Company has experienced any strikes,

concerted work stoppage, slowdowns, picketing, employee grievance process or other material labor disputes, and to Sellers' Knowledge, none is presently underway or threatened.

(c) Except as set forth on Section 3.15(c) of the Sellers Disclosure Schedules: (i) as of the date of this Agreement, neither the Company nor any of its Subsidiaries have received notice of any unfair labor practice complaint against it pending before the National Labor Relations Board (or its equivalent in the relevant jurisdiction) that remains unresolved and (ii) neither the Company nor any of its Subsidiaries has or is engaged in any unfair labor practice that would result in material liability to the Company or any of its Subsidiaries.

(d) Each of the Acquired Companies has been and is in compliance in all material respects with all applicable Laws regarding employment and employment practices, terms and conditions of employment, including all applicable Laws relating to wages, pay equity, hours of work, overtime, human rights, collective bargaining, employment discrimination, occupational health and safety, workers' compensation, classification of employees and independent contractors, and the collection and payment of withholding and/or social security Taxes. None of the Acquired Companies is currently liable for the payment of any Taxes, fines or penalties for failure to comply with any of the above applicable Laws. The Acquired Companies have taken reasonable steps to properly classify and treat all of their employees and independent contractors as such, and have taken reasonable steps to properly classify and treat their employees as "exempt" or "nonexempt" from overtime requirements under applicable Laws. The Acquired Companies are not delinquent in payments to any of their employees or consultants for any wages, salaries, overtime, pay, commissions, bonuses, accrued and unused vacation or other compensation, if any, for any services. None of the Acquired Companies' employment policies or practices is currently being audited or to Sellers' Knowledge, investigated by any Governmental Body. The Acquired Companies have not been charged with, received any notice of or, to Sellers' Knowledge, been under investigation with respect to, any alleged default under, violation of or nonconformity with any applicable Laws concerning unemployment compensation, worker's compensation, wages and hours, discrimination in employment or unfair labor practices under the National Labor Relations Act and the employment of workers under the Immigration Reform and Control Act of 1986 and all state and local immigration applicable Laws. Except as set forth in Section 3.15(d) of the Sellers Disclosure Schedules, since January 1, 2019 no Acquired Company has discharged, demoted, suspended or otherwise taken any adverse employment action against any employee who had previously submitted to his or her supervisor or anyone else in a position of authority with any of the Acquired Companies any written complaint, concern or allegations regarding any alleged unlawful or unethical conduct by any of the Acquired Companies or its employees.

(e) Except as set forth in Section 3.15(e) of the Sellers Disclosure Schedules, with respect to the business of the Acquired Companies:

(i) To Sellers' Knowledge, no officer of any of the Acquired Companies is currently a party to any confidentiality, non-competition or proprietary rights agreement between such employee and any Person other than the Acquired Companies that would be material to the performance of such employee's employment duties or the ability of such entity or Buyer to conduct the business of such entity;

(ii) There is no current workmen's compensation Liability, experience or matter outside the Ordinary Course of Business; and

(iii) There is no current employment-related charge, complaint, grievance, investigation or inquiry that is pending or, to Sellers' Knowledge, threatened in any forum, relating to an alleged violation or breach by any of the Acquired Companies (or its or their officers or directors) of any applicable Laws, regulations or Contracts.

(f) There are no Contracts under which a leasing, staffing or temporary services company provides workers to any of the Acquired Companies.

(g) With respect to the transactions contemplated by this Agreement, any notice required under any Law or collective bargaining agreement has been given and all bargaining obligations with any employee representative have been satisfied.

(h) Except as set forth in Section 3.15(h) of the Sellers Disclosure Schedules, since January 1, 2019 there have been no claims, complaints or assertions of sexual harassment engaged in by any current or former employee, whether or not such claims, complaints or assertions of sexual harassment have resulted in the filing of a lawsuit, an arbitration demand or a charge of discrimination with any Governmental Body.

Section 3.16 Taxes. Except as set forth in Section 3.16 of the Sellers Disclosure Schedules:

(a) All material Tax Returns required to be filed under applicable Law by the Acquired Companies have been timely filed, taking into account all available extensions. Such Tax Returns are true, correct, and complete in all material respects. All material Taxes whether or not shown on such Tax Returns have been timely paid, taking into account all available extensions.

(b) No written claim, which remains unresolved, has ever been made by a Governmental Body in any jurisdiction that an Acquired Company was required to file a Tax Return in such jurisdiction which such Acquired Company had not filed. There are no Encumbrances on the assets of the Acquired Companies relating or attributable to Taxes, except for Permitted Encumbrances.

(d) No Governmental Body has issued a deficiency or asserted any other material claim for Taxes in writing against any Acquired Company that has not been fully resolved.

(e) No audit or other examination by any Tax authority of any Tax Return filed by any Acquired Company is currently in progress or pending to commence based upon written notification received by an Acquired Company from a Governmental Body.

(f) No written agreement or consents waiving or extending the statute of limitations or the period of assessment or collection of any material Taxes of any of the Acquired Companies are currently in effect and no written requests from any Governmental Body for any such waivers or extensions are currently pending.

(g) No Acquired Company: (i) has been a member of an affiliated group filing a consolidated federal income Tax Return or any affiliated, consolidated, combined or similar group

for Tax purposes under state, local or non-U.S. Law; (ii) has any Liability for the Taxes of any Person under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or non-U.S. Law), as a transferee or successor, by Contract (other than commercial contracts not primarily related to Taxes), by assumption or, otherwise by operation of Law; or (iii) is a party to or bound by and has no obligation under any Tax allocation agreement, Tax indemnity agreement, Tax sharing agreement or any other obligation to indemnify any other Person with respect to Taxes (other than pursuant to commercial agreements not primarily related to Taxes).

(h) No Acquired Company has participated in any listed transaction within the meaning of Treasury Regulation Section 1.6011-4(b)(2).

(i) No Acquired Company is subject to any private letter ruling of the IRS or comparable ruling of any other Governmental Body.

(j) Each Acquired Company has, in accordance with all Tax withholding, employment, social security, and other similar provisions of applicable U.S. federal, state, local and foreign laws, (i) timely and properly withheld and paid all material Taxes required to be withheld and paid and (ii) complied with all material reporting requirements (including maintenance of required records with respect thereto) with respect to such payments.

(k) Each Acquired Company has timely collected all material sales, use, value added, goods and services, and similar Taxes required to be collected and has timely remitted such amounts required to be remitted to the appropriate Governmental Bodies, and has maintained (and submitted to the appropriate Governmental Bodies, if necessary) all applicable material records and supporting documents (including any applicable exemption certificates or other proof of exemption) in the manner required by applicable Tax Law.

(l) No Acquired Company shall be required (including as a result of the transactions contemplated hereby) to include any material item of income in, or exclude any material item of deduction from, taxable income for any Tax period (or portion thereof) ending after the Closing Date or pay any Tax for any Tax period (or portion thereof) ending after the Closing Date as a result of any: (i) change in method of accounting for a Tax period (or portion thereof) ending on or prior to the Closing Date under Section 481 of the Code (or any corresponding or similar provision of state, local, or foreign Tax Law); (ii) use prior to Closing of an improper method of accounting for a Tax period (or portion thereof) ending on or prior to the Closing Date; (iii) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local, or foreign Tax Law) executed on or prior to the Closing Date; (iv) prepaid amount or deferred revenue received or accrued on or prior to the Closing Date; (v) intercompany transaction or excess loss account described in the Treasury Regulations under Code Section 1502 (or any corresponding provision of state, local or non-U.S. Tax Law); or (vi) loan made to it pursuant to any Pandemic Response Law or deferral of any payment of Taxes (including payroll Taxes) otherwise due (including through any automatic extension or other grant of relief provided by a Pandemic Response Law) made on or prior to the Closing Date.

(m) The Company is, and at all times since its formation has been, properly classified as a partnership, for U.S. federal income Tax purposes, and each of its Subsidiaries is

properly classified for U.S. federal income Tax purposes in the manner set forth in Section 3.16(m) of the Sellers Disclosure Schedules.

(n) Except as set forth on Section 3.16(n) of the Sellers Disclosure Schedules, no power of attorney has been granted by or with respect to an Acquired Company with respect to any matter relating to material Taxes that shall remain in effect after the Closing.

(o) Section 3.16(o) of the Sellers Disclosure Schedules sets forth all jurisdictions in which an Acquired Company is or has been subject to income Tax for Tax periods ending on or after December 31, 2017.

(p) No Governmental Body treats any Acquired Company for any material Tax purpose as resident in a country (or as having a permanent establishment) other than in the countries in which such Acquired Company files Tax returns.

(q) Each Acquired Company that does business outside of the United States is duly registered for VAT purposes in each applicable non-U.S. country in which it does business and has complied with all material and relevant statutory provisions, regulations, and any other rules or conditions pursuant thereto relating to VAT, and has duly paid or provided for all amounts of VAT for which it is liable.

Section 3.17 Environmental, Health and Safety Matters. Except as set forth in Section 3.17 of the Sellers Disclosure Schedules:

(a) The Acquired Companies are in material compliance, and for the past five (5) years have complied in all material respects, with all applicable Environmental, Health and Safety Laws (which compliance includes, but is not limited to, the possession of all material Permits and other material governmental authorizations required under applicable Environmental, Health and Safety Laws, and compliance with the terms and conditions thereof). All such Permits and governmental authorization have been made available to Buyer.

(b) In the past five (5) years, neither the Acquired Companies nor, to the extent applicable to the Acquired Companies, their predecessors or Affiliates have received any Order or written notice, in each case regarding any actual or alleged material violation of Environmental, Health and Safety Law from any Governmental Body.

(c) (i) There is no Legal Proceeding pursuant to any Environmental, Health and Safety Law pending or, to Sellers' Knowledge, threatened against any Acquired Company and (ii) no Acquired Company is a party to any material Order issued pursuant to an Environmental, Health and Safety Law.

(d) No Acquired Company has received any written notice of potential material Liability under the Comprehensive Environmental Response, Compensation and Liability Act or any similar Environmental, Health and Safety Law.

(e) There has been no Release by an Acquired Company of Hazardous Materials at the Real Property or formerly owned or operated facilities that requires remedial investigation or action by an Acquired Company pursuant to any applicable Environmental, Health and Safety

Law; and no facts, events, or conditions relating to the ownership or operations of an Acquired Company or its predecessors or Affiliates could reasonably be expected to give rise to any other material liabilities pursuant to Environmental, Health and Safety Law.

(f) Sellers and each Acquired Company have made available to Buyer all material written environmental regulatory compliance audits, environmental site assessments, risk assessment reports, corrective action reports, and other similar material environmental documents in the possession of Sellers and each Acquired Company, including, but not limited to any Phase I and Phase II environmental assessments, relating to environmental matters at its current properties and facilities.

(g) None of the following is present at the Real Property: (i) underground storage tanks, except as set forth in Section 3.17 of the Sellers Disclosure Schedules; (ii) landfills or surface impoundments; or (iii) Environmental Contamination for which an Acquired Company would incur material liability.

(h) Other than pursuant to third party management agreements (true and correct copies of which have been made available to Buyer), neither Sellers nor any Acquired Company has assumed or undertaken by Contract any material Liability of any other Person pursuant to Environmental, Health and Safety Law.

Section 3.18 Real Property.

(a) Owned Real Property.

(i) Section 3.18(a)(i) of the Sellers Disclosure Schedules sets forth a true, correct and complete list of all primary addresses for the real property owned by the Acquired Companies and constituting a marina asset and for the other real property owned by the Acquired Companies, (each owned real property, individually, or collectively, the "Owned Real Property"). With respect to each parcel of Owned Real Property:

(A) The applicable Acquired Company has good, valid and (with respect to Owned Real Property located within the United States) marketable title to such Owned Real Property, free and clear of all Encumbrances except for Permitted Encumbrances;

(B) Except as set forth in the rent rolls provided to Buyer pursuant to Section 3.18(c), and expressly excluding licenses of marina slips and any other licenses granted in the ordinary course of business, none of the Acquired Companies has leased or otherwise granted to any Person the exclusive right to occupy such Owned Real Property or any material portion thereof, unless such lease or right of occupancy shall expire on its own terms within six (6) months of the Closing or is freely terminable by an Acquired Company on no more than ninety (90) days' notice; and

(C) There are no outstanding options, rights of first offer or rights of first refusal to purchase such Owned Real Property or any portion thereof or interest therein.

(b) Leased Real Property.

(i) Section 3.18(b) of the Sellers Disclosure Schedules sets forth a true, correct and complete list of all leases and subleases (including ground leases) as of the date hereof pursuant to which any Acquired Company is a lessee, including any Concession Agreements (the "Real Property Leases," and the leasehold interest, "Leased Real Property") and the primary addresses for each Leased Real Property. The Acquired Companies have delivered or made available to Buyer a true and complete copy of each such Real Property Lease or amendment thereto, and in the case of any oral Real Property Lease, a written summary of the material terms of such Real Property Lease. Except as set forth in Section 3.18(b) of the Sellers Disclosure Schedules, with respect to each of the Real Property Leases:

(A) Except as may be limited by the Enforceability Limitations, the applicable Acquired Company has a valid, binding and enforceable leasehold interest in or license to operate on each of the Leased Real Properties which is leased from a third party, free and clear of all Encumbrances (other than Permitted Encumbrances);

(B) Sellers have not received any notice of any material disputes with respect to such Real Property Lease;

(C) None of the Acquired Companies have received or sent any written notice of, and the Acquired Companies are not otherwise aware of, any material default or event that (with due notice or lapse of time or both) would constitute a material default by any of the Acquired Companies or by the other party under any Real Property Lease, other than defaults that have been cured or waived in writing or that would otherwise be satisfied at, before or in connection with the Closing;

(D) The other party to such Real Property Lease is not an Affiliate of, and, except as may be set forth under such Real Property Lease, otherwise does not have any economic interest in, any of the Acquired Companies; and

(E) None of the Acquired Companies has collaterally assigned such Real Property Lease or any interest therein, and there are no Encumbrances on the estate or interest created by such Real Property Lease, other than Permitted Encumbrances.

(c) On or prior to the date hereof, Sellers have provided to Buyer a rent roll setting forth all material Owned Real Property Leases and material Leased Real Property Subleases (collectively, the "Landlord Leases"), including the date and name of the parties to each Landlord Leases. Sellers shall make available to Buyer, promptly upon request, a true and complete copy of any Landlord Lease, including all written amendments and modifications thereto. Except as set forth in Section 3.18(c) of the Sellers Disclosure Schedules, with respect to each Landlord Lease for which annual rent exceeds **[****]** per annum: (i) such Landlord Lease is legal, valid, binding, enforceable and in full force and effect, subject to the Enforceability Limitations; (ii) neither the applicable Acquired Company nor any other party to such Landlord Lease is in material breach of or default thereunder, and no event has occurred or circumstance exists that (with due notice or lapse of time or both) would constitute such a material breach of or default under such Landlord Lease; (iii) the other party to such Landlord Lease is not an Affiliate of, and otherwise does not have any economic interest in, any of the Acquired Companies; and (vi) there are no Encumbrances on the estate or interest created by such Landlord Lease, other than Permitted Encumbrances.

(d) The Real Property comprises all of the real property currently used in the conduct of the business of the Acquired Companies, and is sufficient to permit the continued conduct of the business of the Acquired Companies after the Closing in substantially the same manner in all material respects as conducted prior to the Closing.

(e) Except as otherwise identified in any property condition assessment reports made available to Buyer, and subject to repair and maintenance requirements in the ordinary course of business: (i) there are no material defects to any buildings, structures, fixtures, building systems and equipment, and all components thereof included in the Real Property (the "Improvements") that would materially impede or impair the conduct of the business of the Acquired Companies after the Closing in substantially the same manner in all material respects as conducted prior to the Closing; and (ii) there are no material structural deficiencies or latent defects affecting any of the Improvements and there are no facts or conditions affecting any of the Improvements that would, individually or in the aggregate, materially impair the continued conduct of the business of the Acquired Companies after the Closing in substantially the same manner in all material respects as conducted prior to the Closing.

(f) Except as set forth in Section 3.18(f) of the Sellers Disclosure Schedules: (i) there is no condemnation, expropriation or other proceeding in eminent domain, pending or threatened in writing, affecting any parcel of Real Property or any portion thereof or interest therein; and (ii) there is no injunction, decree, order, writ or judgment outstanding, or any claim, litigation, administrative action or similar proceeding, pending or threatened in writing, relating to the ownership, lease, use or occupancy of the Real Property or any portion thereof, which would impair the continued conduct of the business of the Acquired Companies after the Closing in substantially the same manner in all material respects as conducted prior to the Closing.

(g) Except as set forth in Section 3.18(g) of the Sellers Disclosure Schedule: (i) the Real Property is in material compliance with all material building, zoning, subdivision, health and safety and other land use laws affecting the Real Property (collectively, the "Real Property Laws") (other than any Permitted Encumbrances), and the current use and occupancy of the Real Property by the applicable Acquired Company and the continued conduct of the business of the Acquired Companies in substantially the same manner in as conducted prior to the Closing does not materially violate any material Real Property Laws (other than any Permitted Encumbrances); and (ii) none of the Acquired Companies has received any notice of violation of any Real Property Law.

(h) No parcel of Real Property is lacking (i) vehicular and pedestrian access to a public street adjoining the Real Property, or (ii) in connection with the Real Property located in the United States, vehicular and pedestrian access to a public street via an appurtenant easement benefitting such parcel of Real Property; and such access is not dependent on any land or other real property interest that is not included in the Real Property. To the extent any of the Improvements or any portion thereof is dependent for its access, use or operations on any land, building, or improvement that is not included in the Real Property ("Supporting Property"), the applicable Acquired Company has a valid, legal, and enforceable right in or with respect to such Supporting Property sufficient to provide such access, use, or operation of the Improvements or portion thereof in question.

(i) Except as set forth in Section 3.18(i) of the Sellers Disclosure Schedules, all utilities services used in the current conduct of the business of the Acquired Company, including water, gas, electrical, telecommunications, sewer, storm and waste water systems for the Real Property have been installed and are operational.

(j) Sellers have made available to Buyer all certificates of occupancy, permits, licenses, franchises, approvals and authorizations of all governmental and quasi-governmental authorities in Sellers' possession (collectively, the "Real Property Permits") required to use or occupy the Real Property and conduct of the business of the Acquired Companies without Adverse Operational Impact. Section 3.18(j) of the Sellers Disclosure Schedules list all material Real Property Permits held by any of the Acquired Companies with respect to each parcel of Real Property. Except as set forth in Section 3.18(j) of the Sellers Disclosure Schedules: (i) all material Real Property Permits required to use or occupy the Real Property and conduct the business of the Acquired Companies have been issued and are in full force and effect, except where the failure to have such Real Property Permits would not have an Adverse Operational Impact; and (ii) none of the Acquired Companies has received any notice from any governmental authority or other entity having jurisdiction over the Real Property threatening a suspension, revocation, modification or cancellation of any Real Property Permit.

(k) Except as set forth in Section 3.18(k) of the Sellers Disclosure Schedules, there are no "permitted non-conforming uses" or "permitted non-conforming structures" or similar variances, exemptions or approvals from any governmental authority that would materially affect or prohibit rebuildability or restoration of use in the event of a casualty.

(l) Except for Permitted Encumbrances, there exists no Encumbrances on the title record or unrecorded agreement that materially impairs the use and operation of any Real Property in the conduct of the business of the Acquired Companies.

(m) Except as set forth in Section 3.18(m) of the Sellers Disclosure Schedule or otherwise indicated on any land survey made available by Sellers to Buyer, none of the Improvements encroaches on any land that is not included in the Real Property or on any easement affecting such Real Property, or violates any building lines or set-back lines, and there are no material encroachments onto the Real Property, or any portion thereof, that impair the conduct of the business of the Acquired Companies.

(n) Except as set forth in Section 3.18(n) of the Sellers Disclosure Schedules: (i) each parcel of Real Property is a separate lot for real estate tax and assessment purposes, and no other real property is included in such tax parcel; (ii) Sellers have received no written notice of delinquent Taxes, assessments, fees, charges or similar costs or expenses imposed by any governmental authority, association or other entity having jurisdiction over the Real Property with respect to any Real Property.

Section 3.19 Insurance. Section 3.19 of the Sellers Disclosure Schedules sets forth material insurance policies maintained by an Acquired Company as of the date hereof. Except as otherwise indicated in Section 3.19 of the Sellers Disclosure Schedules, such policies are in full force and effect, and all premiums due on such policies have either been paid or will be paid when due, except, in each case, as has not had a Company Material Adverse Effect. Sellers have made

available to Buyer accurate and complete copies of all insurance policies maintained by the Acquired Companies.

Section 3.20 **Brokers**. Except for Moelis & Company and the counterparty to the consultation agreement in connection with IGY-Red Frog LLC, no broker, finder, investment banker, agent or other similar Person is or shall be entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Sellers or any Acquired Company.

Section 3.21 **Tangible Assets**. The tangible assets material to the business of the Acquired Companies, taken as a whole, whether owned or leased by the Acquired Companies are free from material defects (patent and latent), have been maintained in accordance with normal industry practice, are in good operating condition and repair (subject to normal wear and tear), and are suitable for the purposes for which they are presently used.

Section 3.22 **Notes and Accounts Receivable**. All notes and receivables of each of the Acquired Companies are reflected properly on its books and records and in the Financial Statements, represent valid obligations arising from sales actually made or services actually performed in the Ordinary Course of Business, are valid receivables subject to no setoffs, expenses, counterclaims or other reduction, and are current and collectible. To Sellers' Knowledge, there is no reason or grounds to believe that such notes and receivables will not be collected in accordance with their terms at their recorded amounts, subject only to the reserve for bad debts (which reserve is adequate and calculated consistent with past practice in the preparation of the Financials Statements) set forth on the face of the Unaudited Balance Sheet as adjusted for the passage of time through the Closing Date in accordance with the past custom and practice of the Acquired Companies.

Section 3.23 **Powers of Attorney**. Except as set forth in Section 3.23 of the Sellers Disclosure Schedules, there are no outstanding powers of attorney executed on behalf of any of the Acquired Companies.

Section 3.24 **Guaranties**. Except as set forth in Section 3.24 of the Sellers Disclosure Schedules, no Acquired Company is a guarantor, surety or otherwise is liable for any performance guarantees of any other Person.

Section 3.25 **Certain Business Relationships with the Acquired Companies**. None of Sellers, their Affiliates or the Acquired Companies' directors, officers or employees: (i) have been involved in any business arrangement or relationship with any of the Acquired Companies within the past twelve (12) months (other than employment arrangements entered into with any of the Acquired Companies in the Ordinary Course of Business and management fee agreements to be terminated as of Closing) or (ii) is a party to any Contract with any of the Acquired Companies. None of Sellers, their Affiliates or the Acquired Companies' directors, officers or employees owns any asset that is used in the business of any of the Acquired Companies.

Section 3.26 **IGY NB FB and IGY Acquisition**. As of the Closing, none of the Acquired Companies (nor the Buyer post-Closing), shall have any Liability arising out of, relating to or

otherwise in respect to the operation of IGY NB FB and IGY Acquisition, or any of their respective Subsidiaries (other than the Acquired Companies).

Section 3.27 Exclusivity of Representations and Warranties. None of Sellers or any of their Affiliates or their respective Representatives is making any representation or warranty of any kind or nature whatsoever, oral or written, express or implied, statutory or otherwise, except for the representations and warranties of such Seller as expressly set forth in this Article 3, any Ancillary Agreement or any certificate or other instrument delivered pursuant hereto or thereto and each Seller hereby disclaims any such other representations or warranties; provided, however, that for the avoidance of doubt the foregoing shall not limit the Liability of any Seller in the case of Fraud with respect to the representations and warranties in this Article 3, any Ancillary Agreement or any certificate or other instrument delivered pursuant hereto or thereto.

ARTICLE 4
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer represents and warrants to Sellers as follows:

Section 4.1 Organization and Authority of Buyer. Buyer is a corporation duly organized, validly existing and in good standing under the Laws of Delaware. Buyer has all requisite power and authority to enter into this Agreement and each of the Ancillary Agreements to which it is or will be a party, carry out its obligations hereunder and thereunder and consummate the transactions contemplated hereby and thereby. The execution and delivery by Buyer of this Agreement and any Ancillary Agreements to which it is or will be a party, the performance by Buyer of its obligations hereunder and thereunder and the consummation by Buyer of the transactions contemplated hereby and thereby have been duly and validly authorized and approved by all requisite corporate or other similar action on the part of Buyer. This Agreement has been duly and validly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by Sellers) this Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by the Enforceability Limitations. Each of the Ancillary Agreements to which Buyer is or will be a party has been or will be duly and validly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by the other party or parties thereto) constitutes or will constitute a legal, valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforceability may be limited by the Enforceability Limitations.

Section 4.2 No Conflicts; Consents.

(a) Subject to receipt of the Consents and Permits, and making of the declarations, filings and notices, referred to in Section 4.2(b), none of the execution, delivery or performance by Buyer of this Agreement, nor the consummation of the transactions contemplated hereby, shall:

(i) result in a violation or breach of, or default under, any provision of the Organizational Documents of Buyer;

(ii) result in a violation of, or give any Governmental Body the right to challenge any of the transactions contemplated hereby under, any Law or Order applicable to Buyer; or

(iii) (A) result in a violation or breach of, (B) constitute a default under, (C) result in the acceleration of or create in any party the right to accelerate, terminate or cancel or (D) require the Consent of any other Person under, any material Contract to which Buyer is a party or is bound or to which any of the properties or assets of Buyer are subject; except in the case of clauses Section 4.2(a)(ii) and Section 4.2(a)(iii) where such conflict, violation, breach, event of default or other result described in such clauses would not reasonably be expected to have a Buyer Material Adverse Effect.

(b) No Consent, Permit, declaration or filing with, or notice to, any Governmental Body is required by or with respect to Buyer in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, except for (i) compliance with and filings under the HSR Act and Consents required pursuant to any other Antitrust Laws and (ii) such Consents, Permits, declarations, filings or notices the failure of which to make or obtain would not reasonably be expected to have a Buyer Material Adverse Effect.

Section 4.3 Legal Proceedings; Governmental Orders. (a) There is no pending Legal Proceeding and, to Buyer's Knowledge, no Person has threatened to commence any Legal Proceeding against Buyer that challenges, or that could have the effect of preventing, delaying, making illegal or otherwise interfering with, any of the transactions contemplated by this Agreement, and (b) there is no Order applicable to Buyer that could have the effect of preventing, delaying, making illegal or otherwise interfering with any of the transactions contemplated by this Agreement.

Section 4.4 Sufficiency of Funds; Solvency.

(a) Buyer currently has and will have on the Closing Date sufficient funds available to consummate the transactions contemplated hereby, including to pay the Purchase Price and the fees and expenses of Buyer related to the transactions contemplated hereby.

(b) Immediately after giving effect to the transactions contemplated by this Agreement, Buyer shall be solvent and shall (i) be able to pay its debts as they become due, (ii) own property that has a fair saleable value greater than the amounts required to pay its debts (including a reasonable estimate of the amount of all contingent liabilities), and (iii) have adequate capital to carry on its businesses. Buyer acknowledges that, in connection with the transactions contemplated by this Agreement, (A) no transfer of property is being made and no obligation is being incurred with the intent to hinder, delay or defraud either present or future creditors of Buyer, Sellers or any of the Acquired Companies, and (B) Buyer has not incurred, and does not plan to incur, debts beyond its ability to pay as they become absolute and matured.

Section 4.5 Brokers. Except for Raymond James & Associates, no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Buyer.

Section 4.6 Investment Purpose. Buyer is acquiring the units for its own account for investment only and not with a view to (or for) resale in connection with any public sale or distribution thereof. Buyer acknowledges that the Purchased Units are not registered under the

Securities Act or any state securities laws, and that the Purchased Units may not be transferred or sold except pursuant to the registration provisions of the Securities Act or pursuant to an applicable exemption therefrom and subject to state securities laws and regulations, as applicable. Buyer acknowledges that it is a sophisticated party and has sufficient experience and expertise to evaluate, and is fully informed as to, the risks of the transactions contemplated by this Agreement and ownership of the Purchased Units, and that Buyer has been adequately represented by counsel. Buyer acknowledges that Sellers have given Buyer and its Representatives the opportunity to ask questions of Sellers and the Acquired Companies and to acquire such additional information regarding the business and financial condition of the Acquired Companies as Buyer has requested.

Section 4.7 Independent Investigation; No Other Representations and Warranties.

(a) Buyer has conducted its own independent investigation, review and analysis of, and reached its own independent conclusions regarding, the business, operations, assets, condition (financial or otherwise) and prospects of the Acquired Companies. Buyer acknowledges that it and its Representatives have been provided adequate access to the personnel, properties, premises, records and other documents and information of and relating to the Acquired Companies for such purpose. In entering into this Agreement, Buyer acknowledges that it has relied solely upon its own investigation, review and analysis and has not relied on and is not relying on any representation, warranty or other statement (whether written or oral) made by, on behalf of or relating to Sellers or any Acquired Company except for the representations and warranties expressly set forth in Article 3 or in the certificate contemplated by Section 7.2(d) (and, with respect to such representations and warranties, subject to any limitations included in this Agreement).

(b) Buyer acknowledges and agrees that: (i) other than the representations and warranties expressly set forth in Article 3, none of Sellers, any Acquired Company or any other Person has made or makes any other representation or warranty, written or oral, express or implied, at law or in equity, with respect to the Acquired Companies, including any representation or warranty as to (A) value, merchantability or fitness for a particular use or purpose or for ordinary purposes, (B) the operation or probable success or profitability of the Acquired Companies following the Closing, or (C) the accuracy or completeness of any information regarding the Acquired Companies made available or otherwise provided to Buyer and its Representatives in connection with this Agreement or their investigation of the Acquired Companies (including any estimates, forecasts, budgets, projections or other financial information with respect to the Acquired Companies); and (ii) Buyer shall have no right or remedy (and Sellers shall have no Liability whatsoever) arising out of, and Buyer expressly disclaims any reliance upon, any representation, warranty or other statement (whether written or oral) made by, on behalf of or relating to Sellers or any Acquired Company, including in any information regarding the Acquired Companies made available or otherwise provided to Buyer and its Representatives in connection with this Agreement or their investigation of the Acquired Companies (including any estimates, forecasts, budgets, projections or other financial information with respect to the Acquired Companies), or any errors therein or omissions therefrom, other than the representations and warranties expressly set forth in Article 3.

ARTICLE 5
COVENANTS

Section 5.1 Conduct of Business of the Company.

(a) During the period commencing on the date hereof and ending on the earlier of the termination of this Agreement in accordance with its terms and the Closing (the "Pre-Closing Period"), except as: (i) otherwise provided in or permitted by this Agreement, (ii) set forth in Section 5.1(a) of the Sellers Disclosure Schedules, (iii) required by any Law or Order (including any COVID-19 Measures) applicable to Sellers or any Acquired Company or the assets, or operation of the business, of Sellers or any Acquired Company or any Contract to which an Acquired Company is party or by which any of the Acquired Companies' assets or properties are bound (with prompt notice of any material action taken in connection therewith made to Buyer to the extent practicable), (iv) for actions taken in Sellers' reasonable judgment that are necessary to protect the health and safety of the employees, customers and suppliers of any Acquired Company in response to the COVID-19 Pandemic or any COVID-19 Measures (with prompt notice of any material action taken in connection therewith made to Buyer to the extent practicable), or (v) consented to in writing (including via email) by Buyer's Chief Executive Officer, Chief Financial Officer or Vice President of Legal Affairs (which consent shall not be unreasonably withheld, conditioned or delayed, and provided that the failure of Buyer to respond to such a request for consent within five (5) Business Days thereafter shall be deemed to constitute consent) (provided that, with respect to clauses (ii), (iii) and (iv) above, Sellers shall consult (via email or otherwise) with any of the Buyer's Chief Executive Officer, Chief Financial Officer or Vice President of Legal Affairs and consider reasonable requests by Buyer prior to taking any such action), Sellers shall, and shall cause the Acquired Companies to, use commercially reasonable efforts to (A) operate the business of the Acquired Companies in the Ordinary Course of Business, and (B) maintain and preserve the Acquired Companies' present business organizations, assets and technology, subject to ordinary wear and tear; provided, however, that (1) no action or inaction by Sellers or any of the Acquired Companies with respect to any matters specifically addressed by any clause of Section 5.1(b) shall be deemed a breach of this Section 5.1(a) unless such action or inaction would constitute a breach of such clause of Section 5.1(b), and (2) Buyer's consent with respect to any action or matter pursuant to Section 5.1(b) shall be deemed to constitute consent for all purposes under this Agreement, including for purposes of this Section 5.1(a). Any request for consent pursuant to this Section 5.1(a) shall be sent to each of Buyer's Chief Executive Officer, Chief Financial Officer and Vice President of Legal Affairs in accordance with Section 11.2. For the avoidance of doubt, the consent of any one of the Chief Executive Officer, Chief Financial Officer or Vice President of Legal Affairs shall be sufficient for purposes of this Section 5.1(a).

(b) Without limiting the generality of the foregoing Section 5.1(a), during the Pre-Closing Period, except as (x) otherwise provided in or permitted under this Agreement, (y) set forth in Section 5.1(b) of the Sellers Disclosure Schedules, or (z) as required by any Law or Order (including any COVID-19 Measures) applicable to Sellers or any Acquired Company or the assets, or operation of the business, of Sellers or any Acquired Company or any Contract to which an Acquired Company is party or by which any of the Acquired Companies' assets or properties are bound (provided that, with respect to clause (y) and (z), Sellers shall consult with Buyer and consider reasonable requests by Buyer prior to taking any such action), Sellers shall not, and shall cause the Acquired Companies not to, take any of the following actions without the prior written

consent (including via email) of any of Buyer's Chief Executive Officer, Chief Financial Officer or Vice President of Legal Affairs (which consent shall not be unreasonably withheld, conditioned or delayed and provided that the failure of Buyer to respond to such a request for consent within five (5) Business Days thereafter shall be deemed to constitute consent) (for the avoidance of doubt, any request for consent pursuant to this Section 5.1(b) shall be sent to each of Buyer's Chief Executive Officer, Chief Financial Officer and Vice President of Legal Affairs):

(i) make any amendment to the Organizational Documents of the Acquired Companies;

(ii) issue, sell, grant, pledge or otherwise dispose of or grant or suffer to exist any Encumbrance with respect to any of the Acquired Companies' capital stock, or grant any options, warrants or other rights to acquire any such capital stock or other interest or any instrument convertible into or exchangeable or exercisable for any such capital stock or other interest;

(iii) adopt any plan of merger, consolidation, reorganization, liquidation or dissolution of any Acquired Company, file a petition in bankruptcy under any provisions of federal or state bankruptcy Law on behalf of any Acquired Company or consent to the filing of any bankruptcy petition against any Acquired Companies under any similar Law;

(iv) create any Subsidiary of an Acquired Company;

(v) redeem, repurchase or otherwise reacquire, split, combine or reclassify any capital stock of any Acquired Company or otherwise change the capital structure of any Acquired Company;

(vi) make any changes in any accounting methods, principles or practices except as required by GAAP or as disclosed in the notes to any of the Financial Statements;

(vii) terminate, materially amend, materially modify, accelerate, renew, grant a waiver of any material rights or material obligation under, any Material Contract or Real Property Lease or enter into any Contract that would be a Material Contract or Real Property Lease if such Contract was in effect on the date hereof, in each case, other than: (A) in connection with any Indebtedness that will be repaid on the Closing Date; (B) in connection with the Cannes Project in France to the extent that (x) any such action is taken in accordance with the Cannes Project budget or the Concession Agreement for the Cannes Project, or (y) such action relates to any non-recourse debt in connection with the Cannes Project; (C) [****] (D) in connection with the Trident Program to the extent any such action is taken in accordance with the Trident Program budget set forth in Exhibit C hereto; (E) in connection with the Ibiza project in Spain; and (F) any Contract for professional services from accounting firms, investment bankers and legal advisors terminable by its terms within thirty (30) days;

(viii) commit to make any capital expenditures that would be required to be paid post-Closing (A) other than expressly provided for in the budget set forth on Section 5.1(b)(viii) of the Sellers Disclosure Schedules (even if the cost of such expenditure exceeds the

budgeted amount by no more than 15%) or in an amount not exceeding U.S.$1,000,000 in the aggregate, and (B) except (1) to remediate any condition which in the reasonable judgement of Sellers is a threat to life or safety, or (2) in the judgement of Sellers, as is covered by an insurance policy;

(ix) incur, assume or guarantee any Indebtedness for borrowed money other than Indebtedness that will be repaid on, prior to or in connection with the Closing Date;

(x) grant or suffer to exist any material Encumbrance, other than Permitted Encumbrances, on any properties or assets, tangible or intangible, of the Acquired Companies;

(xi) sell, lease, pledge, abandon, assign or otherwise dispose of any of the material assets, properties or rights of any Acquired Company except pursuant to existing Contracts set forth in Section 5.1(b)(xi) of the Sellers Disclosure Schedules or in the Ordinary Course of Business;

(xii) purchase or acquire, directly or indirectly (including by merger, consolidation, or acquisition of stock or assets or any other business combination), any corporation, partnership, other business organization or division thereof;

(xiii) make any capital contributions or any loan to any other Person (other than Acquired Companies) (or series of related capital contributions and loans);

(xiv) delay or postpone the payments of accounts payable or other liabilities outside the Ordinary Course of Business;

(xv) extend credit to customers outside the Ordinary Course of Business;

(xvi) except (A) as otherwise required by Law, (B) as required pursuant to existing Benefit Plans in effect on the date of this Agreement, or (C) for in the Ordinary Course of Business: (1) grant any material increase in compensation, benefits or severance other than in connection with the Closing to any employee, director or service provider of the Company or any of its Subsidiaries, or (2) adopt, terminate or materially amend any Benefit Plan or any collective bargaining agreement, union contract or similar labor arrangement, other than in each of (1) and (2), grants or commitments to grant transaction bonuses, change in control payments and similar payments payable by the Acquired Companies at the Closing;

(xvii) settle any Legal Proceeding set forth on Section 5.1(b)(xvii) of the Sellers Disclosure Schedules or where such settlement would impose any material restrictions or limitations upon the operations or business of the Acquired Companies following the Closing;

(xviii) make or change any material Tax election, file any material amended Tax Return, change any Tax accounting period, settle any material Tax claim, enter into any "closing agreement" with any Governmental Body with respect to any material Tax matter, or request any extension or waiver of the limitations period applicable to any material Tax claim or assessment relating to the Company or its Subsidiaries;

(xix) discourage, advise or take any action that is designed or intended to have the effect of discouraging any employee of the Acquired Companies to postpone or delaying using any vacation time or other paid leave until after the Closing;

[****]

(xxi) agree in writing to take any of the actions in the foregoing clauses (i) through (xx).

(c) Except as specifically set forth herein, nothing contained in this Agreement shall give Buyer, directly or indirectly, the right to control or direct the business and operations of the Acquired Companies prior to the Closing. Prior to the Closing, Sellers and the Acquired Companies shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over the business and operations of the Acquired Companies.

Section 5.2 Access to Information.

(a) During the Pre-Closing Period, Sellers shall, and shall cause the Acquired Companies to, use commercially reasonable efforts to provide Buyer and its Representatives with reasonable access to: (i) all of the Acquired Companies' properties and assets; (ii) all senior management of the Acquired Companies, or any person set forth on Section 5.2(a) of the Sellers Disclosure Schedules; and (iii) any other information relating solely to the business, properties, assets and personnel of the Acquired Companies as Buyer or any of its Representatives may reasonably request, including (x) any material Legal Proceeding commenced or threatened against, relating to or involving or otherwise affecting the Acquired Companies or (y) any occurrence that materially affects the assets, liabilities, business, financial condition, operations or prospects of the Acquired Companies. All access and investigation pursuant to this Section 5.2(a) shall be (A) conducted during normal business hours upon reasonable advance notice to Sellers, (B) conducted in such a manner as not to interfere with the normal operations of the Acquired Companies, (C) coordinated through the Company's chief executive officer, general counsel or designee thereof, and (D) conducted at Buyer's sole cost and expense, and Sellers shall have the right to have one or more of its Representatives present at all times during any visits, examinations, discussions or contacts contemplated by this Section 5.2(a). Notwithstanding anything to the contrary contained herein, during the Pre-Closing Period, neither Sellers nor any Acquired Company shall be required to provide access or disclose information where such access or disclosure would, in Sellers' reasonable judgment: (1) jeopardize the attorney-client privilege or other immunity or protection from disclosure of Sellers or any Acquired Company, (2) conflict with any (x) Law or Order (including any COVID-19 Measures, competition and/or antitrust Law, the EU General Data Protection Regulation (EU) 2016/679 and its implementing regulation (collectively, the "GDPR"), and the UK GDPR as defined in the Data Protection, Privacy and Electronic Communications (EU Exit) Regulations 2019 ("UK GDPR")) applicable to Sellers or any Acquired Company or the assets, or operation of the business, of Sellers or any Acquired Company, (y) Contract to which an Acquired Company is party or by which any of the Acquired Companies' assets or properties are bound or (z) other obligation of confidentiality, or (3) result in the disclosure of competitively sensitive information; provided, however, that, in such instances, Sellers shall inform Buyer of the general nature of the information being withheld and, upon Buyer's request and at Buyer's sole cost and expense, reasonably cooperate with Buyer to provide such information, in whole or in

part, in a manner that would not result in any of the outcomes described in the foregoing clauses (1), (2) and (3). Notwithstanding any of the foregoing, the Acquired Companies may limit the access provided for in this Section 5.2(a) to the extent such access, as reasonably determined by the Acquired Companies in light of the COVID-19 Pandemic or any COVID-19 Measures, would jeopardize the health and safety of any of the employees or other representatives of the Acquired Companies; provided, that if such access is limited, Sellers shall, and shall cause the Acquired Companies to, use commercially reasonable efforts to provide such access in an alternative manner, including via virtual or electronic means. Notwithstanding anything to the contrary contained herein, during the Pre-Closing Period, without the prior written consent of Sellers (which consent may be withheld for any reason), (x) Buyer shall not, and shall cause its Affiliates and its Representatives not to, contact any Governmental Body, vendor, supplier, customer, lender, counterparty to a Material Contract, or joint venture partner of an Acquired Company regarding the business, operations, or prospects of the Acquired Companies or this Agreement or the transactions contemplated hereby, and (y) Buyer shall have no right to perform invasive or subsurface investigations of the properties or facilities of any Acquired Company.

(b) Buyer shall hold any information obtained pursuant to Section 5.2(a) in confidence in accordance with the Confidentiality Agreement.

Section 5.3 **Exclusivity**. During the Pre-Closing Period, other than with respect to the transactions contemplated hereby, Sellers, the Acquired Companies and their respective Affiliates shall not, and shall use best efforts to cause the Representatives of Sellers not to, directly or indirectly: (a) solicit, initiate or encourage any inquiry, proposal or offer that constitutes, or would reasonably be expected to lead to, an Alternative Transaction, or (b) enter into any discussions or negotiations regarding, or deliver or make available to any Person any non-public information with respect to, any offer that constitutes, or would reasonably be expected to lead to, an Alternative Transaction. Sellers shall notify Buyer immediately if any Person makes a proposal, offer, inquiry or contact with respect to the matters described in this Section 5.3.

Section 5.4 **Notification of Certain Matters**. During the Pre-Closing Period, each Party shall promptly notify the other Party in writing of: (a) any occurrence of which it is aware that results or is reasonably likely to result in any of the conditions set forth in Article 7 becoming incapable of being satisfied; (b) any written notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the transactions contemplated by this Agreement; (c) any written notice or other communication from any Governmental Body in connection with the transactions contemplated by this Agreement; or (d) any material errors in or material omissions from the Sellers Disclosure Schedules. No disclosure pursuant to this Section 5.4 shall be deemed to amend or supplement the Sellers Disclosure Schedules or to prevent or cure any misrepresentation, breach of warranty or breach of covenant. For the avoidance of doubt, either Party's failure to give notice of any such occurrence as required pursuant to this Section 5.4 shall not be (i) deemed to be a breach of the covenant contained in this Section 5.4, but instead shall (if applicable) constitute only a breach of the applicable underlying representation, warranty, covenant or agreement, or (ii) taken into account in determining whether the conditions to Closing set forth in Article 7 have been satisfied.

Section 5.5 **Efforts to Consummate**. Subject to Section 5.6 and Section 5.7, during the Pre-Closing Period, each of Buyer and Sellers shall, and Sellers shall cause the Acquired

Companies to, use reasonable best efforts (unless, with respect to any action, another standard of performance is expressly provided for herein) to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to consummate and make effective the transactions contemplated by this Agreement as promptly as reasonably practicable, including satisfaction (but not waiver) of the conditions to Closing set forth in Article 7. Neither Party nor any of its Affiliates or Representatives shall take any action that could reasonably be expected to have the effect of delaying, impairing or impeding the consummation of the Closing.

Section 5.6 Consents.

(a) During the Pre-Closing Period, each of Buyer and Sellers shall, and Sellers shall cause the Acquired Companies to, use commercially reasonable efforts to give all notices to, and obtain all Consents from, all Persons required pursuant to any Material Contract, provided, however, that Sellers shall not have any obligation to (i) amend or modify any Contract, (ii) pay any consideration to any Person for the purpose of obtaining any such Consent or (iii) pay any costs and expenses of any Person resulting from the process of obtaining such Consent (other than with respect to the fee required to be paid in connection with the Consent listed in Section 7.2(h), which shall be borne 50% by Buyer and 50% by Sellers).

(b) Buyer acknowledges that certain Consents with respect to the transactions contemplated by this Agreement may be required from parties to the Material Contracts and other Contracts to which an Acquired Company is party and that such Consents may not be obtained prior to Closing and are not conditions to the consummation of the transactions contemplated hereby. Sellers shall not have any liability whatsoever to Buyer arising out of or relating to the failure to obtain any such Consents or the termination of any Contract as a result of the transactions contemplated hereby. Buyer acknowledges that no representation, warranty or covenant of Sellers contained herein shall be breached or deemed inaccurate or breached, and no condition shall be deemed not satisfied, as a result of (i) the failure to obtain any such Consent, (ii) any such termination or (iii) any Legal Proceeding commenced or threatened by or on behalf of any Person arising out of or relating to the failure to obtain any such Consent or any such termination.

Section 5.7 Governmental Approvals.

(a) Subject to the other terms and conditions of this Section 5.7, during the Pre-Closing Period, each of Buyer and Sellers shall, and each shall cause its respective Affiliates to, use reasonable best efforts to: (i) obtain, or cause to be obtained, the Consents of Governmental Bodies set forth in Section 5.7(a) of the Sellers Disclosure Schedules, including to cause the waiting periods under the HSR Act to terminate or expire at the earliest possible date after filing, (ii) respond promptly to any requests for information made by any Governmental Body, including the FTC or the DOJ, (iii) cooperate fully with the other Party in promptly seeking to obtain all such Consents, and (iv) not take any action that could reasonably be expected to have the effect of delaying, impairing or impeding the receipt of any such Consents. Buyer and Sellers shall prepare and file (A) as soon as reasonably practicable, the required Notification and Report Forms under the HSR Act with the FTC and the DOJ, (B) within ten (10) Business Days of the date of this Agreement, the filings to obtain the written Consent from the Minister of the Economy of France, and (C) as promptly as practicable, the other notifications, filings, registrations submissions or other materials required or necessary to obtain the other Consents of Governmental Bodies set

forth in Section 5.7(a) of the Sellers Disclosure Schedules. All filings made in connection with the foregoing sentence shall be made in substantial compliance with the requirements of applicable Law, including Antitrust Laws. All filing fees payable in connection with the notifications, filings, registrations, submissions or other materials contemplated by this Section 5.7(a) shall be paid 50% by Buyer and 50% by Sellers.

(b) To the extent not prohibited by applicable Law, each of Buyer and Sellers shall: (i) promptly notify and furnish the other Party copies of any correspondence or communication (including, in the case of any oral correspondence or communication, a summary thereof) between it or any of its Affiliates or any of their respective Representatives, on the one hand, and any Governmental Body, on the other hand, or any filing such Party submits to any Governmental Body, other than any correspondence in the Ordinary Course of Business or relating to any current or potential Concession Agreement; (ii) consult with and permit the other Party to review in advance any proposed filing and any written or oral communication or correspondence by such Party to any Governmental Body; provided, however, that such requirements shall not apply to review of a Party's Notification and Report Form (including attachments thereto) filed pursuant to the HSR Act; and (iii) consider in good faith the views of such other Party in connection with any proposed filing and any written or oral communication or correspondence to any Governmental Body, in each case, to the extent relating to the subject matter of this Section 5.7 or the transactions contemplated by this Agreement. Neither Buyer nor Sellers shall agree to, or permit any of its Affiliates or Representatives to, participate in any meeting or discussion with any Governmental Body in respect of any filings, investigation, inquiry or any other matter contemplated by this Section 5.7 or any transaction contemplated by this Agreement unless it consults with the other Party in advance and, to the extent permitted by such Governmental Body, gives the other Party the opportunity to attend and participate in such meeting or discussion.

(c) Notwithstanding anything in this Agreement to the contrary, Buyer and Sellers shall (and shall cause their respective Affiliates to), take any and all actions reasonably necessary to obtain any Consents required under or in connection with the HSR Act and any other Antitrust Law, and to enable all waiting periods under any Antitrust Law to expire, and to cause the Closing and the other transactions contemplated hereby to occur as promptly as practicable following the date of this Agreement and, in any event, prior to the Termination Date, including complying with or modifying any reasonable requests or inquiries for additional information or documentation (including any second request) by any Governmental Body. However, for the avoidance of doubt, Buyer shall have no obligation to divest, license or dispose of any of its assets or those of the Acquired Companies, or agree to any restriction on its activities. Notwithstanding the foregoing or anything in this Agreement to the contrary, in no event shall Buyer, any Acquired Company or any of their respective Affiliates be obligated to commit to take any action pursuant to this Section 5.7(c), the consummation of which is not conditioned on the consummation of the Closing.

Section 5.8 **Resignations**. At the Closing, Sellers shall deliver to Buyer written resignation and release letters, effective as of the Closing Date, of each of the officers and directors of the Acquired Companies requested by Buyer in writing at least five (5) Business Days prior to the Closing, effectuating his or her resignation from such position as a member of the board of directors (or equivalent governing body) or as officer (although not as an employee unless otherwise so required pursuant to this Agreement), in a form reasonably satisfactory to the Parties

as mutually agreed. Notwithstanding the foregoing, Buyer shall not ask the officers and directors of the Acquired Companies in Cyprus and the Netherlands to resign unless such officers and directors are replaced with officers and directors that would not affect such Acquired Company's Taxes.

Section 5.9 Public Announcements. Except as otherwise expressly contemplated by or necessary to implement the provisions of this Agreement, and except for the press release to be issued by Buyer in the form previously reviewed by Sellers, neither Buyer nor Sellers (nor any of their respective Affiliates) shall issue any press release or otherwise make any public statements or disclosure with respect to the transactions contemplated by this Agreement without the prior written consent of the other Party, except to the extent such disclosure is required by applicable Law or the rules of any stock exchange, provided, however, that a Party seeking to make such disclosure during the Pre-Closing Period shall promptly notify the other Party thereof and the Parties shall use reasonable efforts to cause a mutually agreeable release or announcement to be issued.

Section 5.10 Books and Records. For a period of six (6) years after the Closing, each of Buyer and Marina Holdings shall (and Buyer shall cause the Acquired Companies to) use commercially reasonable efforts to give Buyer or Marina Holdings, as the case may be, and its Representatives reasonable access during normal business hours to its Representatives, including employees, books and records and other information with respect to the Acquired Companies relating to periods prior to the Closing for any reasonable purpose, including as may be necessary for (i) the preparation of Tax returns and financial statements, and (ii) complying with any audit request, subpoena or other investigative demand by any Governmental Body or for any Legal Proceeding, subject in all cases to reasonable restrictions imposed from time to time upon advice of counsel in respect of applicable Laws relating to the confidentiality of information (including any Antitrust Laws). The access provided pursuant to this Section 5.10 shall be conducted in such a manner so as not to interfere unreasonably with the operation of the business of Buyer and the Acquired Companies or Marina Holdings, as the case may be, and in no event shall Buyer, Marina Holdings or the Acquired Companies be required to furnish any documents or information pursuant to this Section 5.10 that are required by any applicable Law or Order to be kept confidential, or if furnishing such documents or information would reasonably be expected to jeopardize the status of such documents or information as privileged. Notwithstanding the foregoing, if the Parties are in an adversarial relationship in any Legal Proceeding, the furnishing of information, documents or records in accordance with this Section 5.10 shall be subject to any applicable rules relating to discovery.

Section 5.11 Confidentiality.

(a) The Confidentiality Agreement shall be deemed incorporated herein by reference as if set forth herein and shall continue in full force and effect until the Closing, unless this Agreement is terminated prior to the Closing, in which case the Confidentiality Agreement shall nonetheless continue in full force and effect in accordance with its terms.

(b) From and after the Closing until the date that is two (2) years after the Closing Date, Marina Holdings shall, and shall cause its Affiliates and Representatives to, keep confidential any and all non-public information relating to the Acquired Companies; provided,

however, that Marina Holdings may disclose any such information to any of its limited partners (and their Representatives) and shall not be liable hereunder with respect to any disclosure to the extent such disclosure is determined by Marina Holdings (with the advice of counsel) to be required by any applicable Law or Order, including applicable rules of any securities exchange. In the event that Marina Holdings or any of its Affiliates or Representatives are required by any applicable Law or Order to disclose any such non-public information, Marina Holdings shall: (i) to the extent permissible by such applicable Law or Order, provide Buyer with prompt written notice of such requirement, (ii) disclose only that information that Marina Holdings determines (with the advice of counsel) is required by such applicable Law or Order to be disclosed, and (iii) use reasonable efforts to preserve the confidentiality of such non-public information, including by, at Buyer's request, reasonably cooperating with Buyer to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded such non-public information (at Buyer's sole cost and expense). Notwithstanding the foregoing, such non-public information shall not include information that: (A) is or becomes available to the public after the Closing other than as a result of a disclosure by Marina Holdings or its Affiliates or Representatives in breach of this Section 5.11(b), or (B) becomes available to Marina Holdings or its Affiliates or Representatives after the Closing from a source other than Buyer or its Affiliates or Representatives if the source of such information is not known by Marina Holdings or its Affiliates or Representatives to be bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of confidentiality to, Buyer or its Affiliates with respect to such information.

(c) From and after the Closing until the date that is two (2) years after the Closing Date, Buyer shall, and shall cause its Affiliates and Representatives to, keep confidential any and all non-public information relating to Sellers and their Affiliates (other than the Acquired Companies), including any information that was furnished to Buyer and its Affiliates or Representatives by Sellers or any of their Affiliates in connection with the transactions contemplated by this Agreement; provided, however, that Buyer shall not be liable hereunder with respect to any disclosure to the extent such disclosure is determined to be required by Buyer (with the advice of counsel) by any applicable Law or Order, including applicable rules of any securities exchange. In the event that Buyer or any of its Affiliates or Representatives are required by any applicable Law or Order to disclose any such non-public information, Buyer shall: (i) to the extent permissible by such applicable Law or Order, provide Marina Holdings with prompt written notice of such requirement, (ii) disclose only that information that Buyer determines (with the advice of counsel) is required by such applicable Law or Order to be disclosed, and (iii) use reasonable efforts to preserve the confidentiality of such non-public information, including by, at Marina Holdings' request, reasonably cooperating with Marina Holdings to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded such non-public information (at Marina Holdings' sole cost and expense). Notwithstanding the foregoing, such non-public information shall not include information that: (A) is or becomes available to the public other than as a result of a disclosure by Buyer or its Affiliates or Representatives in breach of this Section 5.11(c), (B) was in the possession of Buyer or its Affiliates or Representatives prior to its being furnished thereto in connection with this Agreement, (C) becomes available to Buyer or its Affiliates or Representatives from a source other than Marina Holdings or its Affiliates or Representatives if the source of such information is not known by Buyer or its Affiliates or Representatives to be bound by a confidentiality agreement with, or other contractual, legal or fiduciary obligation of confidentiality to, Sellers or their Affiliates with respect to such

information, or (D) is independently developed by Buyer or its Affiliates without breach of this Section 5.11(c).

Section 5.12 Director and Officer Indemnification and Insurance. Sellers may cause the Acquired Companies to obtain and fully pay for, at Sellers' expense, one or more "tail" insurance policies effective as of the Closing Date with claims periods of at least six (6) years from and after the Closing Date, from an insurance carrier with the same or better credit ratings as the Acquired Companies' current insurance carrier(s) with respect to officers' and directors' liability insurance and fiduciary liability insurance (collectively, "D&O Insurance"), for the persons who are covered by the Acquired Companies' existing D&O Insurance, with terms, conditions, retentions and levels of coverage (including as coverage relates to deductibles and exclusions) at least as favorable as the Acquired Companies' existing D&O Insurance with respect to matters arising out of or relating to acts or omissions occurring or existing (or alleged to have occurred or existed) at, prior to or after the Closing Date (including in connection with this Agreement and the transactions contemplated hereby), and Buyer shall cause the Acquired Companies to maintain such D&O Insurance in full force and effect for its full term.

Section 5.13 Employment and Benefits Arrangements.

(a) Compensation and Benefits. For not less than one year following the Closing, Buyer shall, or shall cause its Affiliates to, provide to each employee of the Acquired Companies as of immediately following the Closing (the "Retained Employees"): (i) a base salary or wage rate and incentive compensation opportunities at least equal to the base salary or wage rate and incentive compensation opportunities in effect for such Retained Employee before the Closing; and (ii) all other compensation and benefits that are substantially equivalent in the aggregate to the other compensation and benefits provided to such Retained Employee immediately prior to the Closing.

(b) Employee Service Credit. For all purposes (including vesting, eligibility to participate, level of benefits and calculations of severance) under the employee benefit plans of Buyer and its Affiliates providing benefits to any Retained Employees after the Closing Date (the "New Benefit Plans"), Buyer shall cause each Retained Employee to be credited with his or her years of service with the Acquired Companies and their respective predecessors and Affiliates prior to the Closing. In addition, and without limiting the generality of the foregoing, following the Closing Date, (A) Buyer shall cause each Retained Employee to be immediately eligible to participate, without any waiting time, in any and all corresponding New Benefit Plans, and (B) for purposes of each New Benefit Plan providing medical, dental, prescription drug and/or vision benefits to any Retained Employee, Buyer shall cause (1) all pre-existing condition exclusions and actively-at-work requirements of such New Benefit Plan to be waived for such Retained Employee and his or her covered dependents, and (2) any eligible expenses incurred by such Retained Employee and his or her covered dependents during the portion of the plan year of the Benefit Plan ending on the date such Retained Employee's participation in the corresponding New Benefit Plan begins to be taken into account under such New Benefit Plan for purposes of satisfying all deductible, coinsurance and maximum out-of-pocket requirements applicable to such Retained Employee and his or her covered dependents for the applicable plan year as if such amounts had been paid in accordance with such New Benefit Plan.

(c) WARN Act. For the ninety (90) day period immediately following the Closing, Buyer shall not, or shall cause its Affiliates, the Acquired Companies to not, take any action that would trigger notice obligations under the WARN Act with respect to any of the Retained Employees.

(d) No Third Party Beneficiaries. The provisions contained in this Section 5.13 are for the sole benefit of the Parties to this Agreement and nothing set forth in this Section 5.13 shall: (i) confer any rights or remedies, including any third party beneficiary rights, upon any employee or former employee of the Acquired Companies, any Retained Employee or upon any other Person other than the Parties hereto and their respective successors and assigns, (ii) be construed to establish, amend, or modify any Benefit Plan or any other benefit plan, program, agreement or arrangement, or (iii) subject to compliance with the other provisions of this Section 5.13, alter or limit Buyer's or the Acquired Companies' or any of its Subsidiaries' ability to amend, modify or terminate any specific benefit plan, program, agreement or arrangement at any time.

Section 5.14 Use of "Island Global Yachting". Buyer acknowledges and agrees that certain of Sellers and their Affiliates (other than the Acquired Companies) use "Island Global Yachting" (the "Name") as part of their corporate names and trade names and that such Sellers and Affiliates shall have the right to continue using the Name as part of their corporate names and trade names, provided that (a) such right to use the Name as part of a corporate name or trade name shall cease ninety (90) days following the Closing Date, following which time such Sellers and Affiliates shall change any of their corporate names or trade names to names that do not include the Name and are not confusingly similar to the Name, and (b) the Name is not used for commercial purposes, provided further that nothing in this Agreement shall prevent or restrict Sellers and their Affiliates from using the Name to describe in an accurate manner the historical or ongoing relationship between the Acquired Companies, on the one hand, and Sellers and their Affiliates, on the other hand.

Section 5.15 Termination of Affiliate Arrangements. All Contracts between an Acquired Company, on the one hand, and any of their respective Affiliates, on the other hand, other than any Contracts (a) listed on Section 5.15 of the Sellers Disclosure Schedules or (b) to which only the Affiliates of Acquired Companies (other than the Acquired Companies) are party, shall be terminated as of the Closing Date, and all obligations and liabilities thereunder shall be deemed to have been satisfied.

Section 5.16 Ancillary Agreements. On the Closing Date, each of Buyer and Sellers shall (and, if applicable, each shall cause its Affiliates to) execute and deliver each of the Ancillary Agreements to which it is a party if such Ancillary Agreement has not been executed prior thereto.

Section 5.17 Repayment of Debt.

(a) At least five (5) Business Days prior to the Closing Date, Sellers shall obtain and deliver to Buyer drafts of the Payoff Letters, in a form satisfactory to Buyer, which final payoff and termination letters shall set forth the amount required to be paid on the Closing Date in order to satisfy all related payment obligations of the Acquired Companies in respect of any of such Indebtedness and evidence the full release of any and all guarantees and Encumbrances on the

assets of any Acquired Company utilized to secure any of such Indebtedness contingent only upon payment of the amount set forth in the applicable Payoff Letter at the Closing.

(b) On the Closing Date, pursuant to Section 2.3(b)(i), Buyer shall deliver, by wire transfer of immediately available funds, to the Person(s) identified in the Payoff Letters as directed by the Payoff Letters the amounts payable to such creditors set forth in the Payoff Letters.

Section 5.18 Real Estate Matters. Sellers shall use commercially reasonable efforts, subject to the commercially reasonable cooperation of Buyer, prior to the Closing Date to obtain the written consent or approval from each lessor under those Real Property Leases requiring lessor consent or approval for the consummation of the transactions contemplated by this Agreement.

Section 5.19 R&W Insurance Policy. Buyer shall obtain third party insurance in respect of any inaccuracies or breaches of the representations and warranties made by Sellers or the Company in this Agreement (the "R&W Insurance Policy"). Buyer shall not permit subrogation, claims in contribution, or rights acquired by assignment to be asserted against Sellers or any of their respective direct or indirect past or present shareholders, members, partners, stockholders, employees, directors, officers, managers, employees, attorneys, and agents (or the functional equivalent of any such position), or any of their respective Affiliates, estate, heirs or representatives, except in the event of actual and intentional Fraud of Sellers. Sellers shall at any time have the right to request, and Buyer agrees to provide to Sellers upon written request, a redacted version of any such R&W Insurance Policy evidencing that such policy does not permit subrogation, claims in contribution, or rights acquired by assignment as described in the preceding sentence of this Section 5.19.

Section 5.20 Further Assurances. Following the Closing, and subject to the terms and conditions of this Agreement, each of Buyer and Sellers shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments and assurances and take such other actions as may reasonably be requested to carry out and give effect to the transactions contemplated by this Agreement.

Section 5.21 Specified Financial Statements. Sellers shall use commercially reasonable efforts to cause the Company to prepare the financial statements listed on Section 5.21 of the Sellers Disclosure Schedules (such financial statements, the "Specified IGY Financial Statements") by October 1, 2022. Subject to Section 2.3(a), in the event that the Specified IGY Financial Statements have not been prepared by October 1, 2022, then (i) Buyer shall have the rights described in the provisos to the first sentence of Section 2.3(a) and (ii) Sellers shall continue to use commercially reasonable efforts to cause the Company to prepare the Specified IGY Financial Statements through the Closing. For the avoidance of doubt, the completion of the Specified IGY Financial Statements shall not be a condition to the Closing.

Section 5.22 Transition.

(a) Sellers shall not take any action that is designed or intended to have the effect of disparaging the Acquired Companies to any lessor, licensor, supplier of the Acquired Companies or partners of any Company Joint Venture.

(b) Buyer shall not take any action that is designed or intended to have the effect of disparaging Sellers or any of their Affiliates.

Section 5.23 Non-Solicitation. For a period of three (3) years from and after the Closing Date, none of Sellers, Andrew Farkas, or any of their respective Affiliates shall directly or indirectly, hire any employee or broker of the Acquired Companies, unless such employee or broker has been separated from the Acquired Companies for at least twelve (12) months or was terminated by the Acquired Companies without cause. For a period of three (3) years from and after the Closing Date, none of Sellers, Andrew Farkas, or any of their respective Affiliates shall directly or indirectly: (a) solicit, induce, or encourage any employee, agent or independent contractor retained by any of the Acquired Companies and/or their Affiliates to cease rendering services to the Acquired Companies and/or their Affiliates; or (b) solicit, induce or encourage any employee of any of the Acquired Companies and/or their Affiliates to render services to any business that is similar to any business conducted by any of the Acquired Companies.

Section 5.24 Financing.

(a) Prior to the Closing, each of Sellers shall use its commercially reasonable efforts to cause the Acquired Companies to provide, and shall use its commercially reasonable efforts to cause the Acquired Companies' Representatives to provide, all cooperation reasonably requested by Buyer necessary for the arrangement of debt financing in connection with the transactions contemplated by this Agreement (the "Debt Financing"), including by (a) participant in a reasonable number of meetings, presentations, road shows, due diligence sessions and sessions with rating agencies, at reasonable times and with reasonable advance notice, (b) to the extent required by the Debt Financing, using commercially reasonable efforts to facilitate the pledging of collateral, effective no earlier than the Closing, and (c) furnishing Buyer and the lenders providing such Debt Financing (such lenders, the "Financing Parties") as promptly as reasonably practicable following the delivery of a request to Sellers by Buyer such financial and other information regarding the Acquired Companies as is reasonably available to Sellers at such time and is customarily required in connection with the execution of financings of a type similar to the Debt Financing; provided, however, that (v) the Debt Financing shall not be a condition to Closing; (w) nothing herein shall require such cooperation to the extent it would materially and unreasonably interfere with the ordinary conduct of business of the Company, (x) none of the Company, its equityholders nor its managers or directors shall be required to enter into, approve or file any financing document that would be effective prior to the Closing, (y) no failure of Sellers or the Company to comply with this Section 5.24 shall relieve Buyer of its obligation to consummate the transactions contemplated in this Agreement, nor shall such failure, on its own, permit Buyer to terminate this Agreement, and (z) nothing herein shall grant Sellers, the Acquired Companies or their Affiliates (i) the right to enforce the terms of this Agreement against the Financing Parties or (ii) any other rights or claims against any Financing Party solely in their respective capacities as lenders in connection with the Debt Financing, whether at law or in equity, in tort, contract or otherwise.

(b) None of the Acquired Companies shall be required to bear any cost or expense or to pay any commitment or other similar fee in connection with the debt financing or make any other payment or incur any other liability in connection with the debt financing prior to the Closing. Buyer shall indemnify and hold harmless, the Acquired Companies and their respective officers,

employees and representatives, from and against any and all liabilities or losses suffered or incurred by them in connection with compliance with this Section 5.24 and the arrangement of the debt financing and any information utilized in connection therewith, except to the extent such liabilities or losses arose out of the fraud, bad faith, or willful misconduct of, or material breach of this Agreement by, the Acquired Companies or any of their respective officers, employees and representatives as finally determined by a court of competent jurisdiction. Buyer shall, promptly upon request by the Acquired Companies, reimburse the Company for all reasonable and documented out-of-pocket costs incurred by the Company in connection with this Section 5.24.

Section 5.25 Transition Services. Following the Closing, Sellers shall provide, or cause to be provided, to the Company certain services that are currently provided by Sellers and their Affiliates to the Company, all in accordance with the transition services set forth on Exhibit E hereto and an agreement regarding such transition services to be reasonably agreed upon by Sellers and Buyer as of the Closing

Section 5.26 WICO Information. Buyer shall provide to the Company promptly after the date hereof all such information required of Buyer under the Concession Agreement for the submission to the West Indian Company Limited ("WICO") described in Section 7.2(i).

Section 5.27 Fairport. Prior to the Closing, Sellers shall cause the Company to use commercially reasonable efforts to purchase from Whenwe, Inc., a Delaware corporation ("Whenwe"), the 20% membership interest in Fairport Yacht Support, LLC, a Delaware corporation, owned by Whenwe, on terms and conditions reasonably satisfactory to Buyer.

Section 5.28 Estoppel Certificates. Prior to the Closing, Sellers shall cause the Acquired Companies to use commercially reasonable efforts to obtain and deliver to Buyer a tenant-executed estoppel certificate with respect to no less than 60% of the Landlord Leases identified on Exhibit D-1, from the lessee under such Landlord Lease, in form and of a substance substantially conforming to the form attached hereto as Exhibit D-2 and made a part hereof; provided that for GSA Landlord Leases, the estoppel certificate shall be in the form of the estoppel certificate attached to such Landlord Lease. The addition to an estoppel certificate of a knowledge qualification or a materiality qualification shall not cause such tenant estoppel certificate to fail to satisfy the requirements of this Section 5.28.

ARTICLE 6
TAX MATTERS

Section 6.1 Tax Returns.

(a) Subject to Section 6.1(b), Section 6.1(c), Section 6.1(d) and Section 6.1(e), Buyer shall prepare, or cause to be prepared, and timely file, or cause to be filed, all Returns with respect to the Acquired Companies required to be filed after the Closing. Buyer shall timely make, or cause to be timely made, all payments required with respect to any such Returns.

(b) Marina Holdings shall prepare, or cause to be prepared, all Flow-Through Returns with respect to the Company and IGDH for any Pre-Closing Tax Period ending on or before the Closing Date (to the extent not already filed before the Closing) in a manner consistent

with the past practice of the Company and IGDH (as applicable), except as required by a change in applicable Law.

(c) Any Flow-Through Return of the Company or IGDH to be prepared and filed by Marina Holdings after the Closing Date for the Pre-Closing Tax Period shall be prepared on a basis consistent with the historical past practice of the Company or IGDH (as applicable), except as otherwise required by applicable Law. Marina Holdings shall provide Buyer with a copy of such proposed Returns (and such additional information regarding such Return as may reasonably be requested by Buyer) at least thirty (30) days prior to the filing of such Returns. Marina Holdings shall consider in good-faith any reasonable comments of Buyer to such Returns, unless otherwise required by a change in applicable Law.

(d) Buyer shall prepare, or cause to be prepared, all Returns with respect to the Acquired Companies for any Pre-Closing Tax Period or Straddle Period (to the extent not already filed before the Closing or described in (b)Section 6.1(b)) in a manner consistent with the past practice of the Acquired Companies, except as required by a change in applicable Law.

(e) Any Flow-Through Return of an Acquired Company for a Straddle Period shall be prepared by Buyer on a basis consistent with the historical past practice of the Acquired Company, except as otherwise required by applicable Law. In the case of any Acquired Company that has a Flow-Through Return for a Straddle Period, allocations of items of income, gain, loss or deduction shall be apportioned using the interim closing method under Section 706 of the Code and Treasury Regulation Section 1.706-4. Buyer shall provide Marina Holdings with a copy of such proposed Return (and such additional information regarding such Return as may reasonably be requested by Marina Holdings) at least thirty (30) days prior to the filing of such Return. Buyer shall accept any reasonable comments of Marina Holdings to such Returns, unless otherwise required by a change in applicable Law.

(f) With respect to any Straddle Period of the Company, Sellers and Buyer shall include any income, gain, loss, deduction or other Tax items on their Returns in a manner consistent with the Schedule K-1s furnished by Buyer. Notwithstanding anything herein to the contrary, to the maximum extent permitted by applicable Law, all Transaction Tax Deductions shall to be allocated to the tax period (or portion thereof) that ends on the Closing Date.

Section 6.2 Tax Contest.

(a) In connection with any Tax Contest with respect to the Returns of the Company or IGDH for any Pre-Closing Tax Period or Straddle Period, Buyer, on the one hand, and Sellers, on the other hand, shall cooperate fully with each other, including the furnishing or making available during normal business hours of records, personnel (as reasonably required), books of account, powers of attorney or other materials necessary or helpful for the conduct of any such Tax Contest.

(b) Marina Holdings shall have the right to control, and Buyer shall have the right to participate in (at its own expense), any Tax Contest relating to Flow-Through Returns of an Acquired Company (any such Tax Contest, a "Flow-Through Tax Contest") for a Pre-Closing Tax Period, but Marina Holdings shall not settle or compromise any such Flow-Through Tax Contest

without Buyer's prior written consent (not to be unreasonably withheld, delayed or conditioned) if such settlement or compromise would have the effect of increasing a Tax Liability of an Acquired Company or its direct or indirect owners in a taxable period or portion thereof beginning after the Closing Date. To the extent permitted by applicable Law, the Acquired Company shall make a "push out" election under Section 6226 of the Code (or any similar provision of state and local Tax law) with respect to any Flow-Through Tax Contest for any Tax period beginning on or after January 1, 2018. If Marina Holdings declines (or fails) to assume control of the conduct of any Flow-Through Tax Contest within a reasonable period after being provided with written notice of such Flow-Through Tax Contest by Buyer, Buyer shall have the right to assume control of such Flow-Through Tax Contest, but Buyer shall not settle or compromise any such Flow-Through Tax Contest without Marina Holdings' prior written consent (not to be unreasonably withheld, delayed or conditioned) if such settlement or compromise would reasonably be expected to have the effect of increasing Taxes of any pre-Closing direct or indirect owners of an Acquired Company.

(c) Buyer shall control, and Marina Holdings shall have the right to participate in (at its own expense), any Flow-Through Tax Contest relating to Returns of an Acquired Company for a Straddle Period, but Buyer shall not settle or compromise any such Flow-Through Tax Contest without Marina Holdings' prior written consent (not to be unreasonably withheld, delayed or conditioned) if such settlement or compromise would have the effect of increasing the Taxes of any pre-Closing direct or indirect owner of the Company. To the extent permitted by applicable Law, the Acquired Company shall make a "push out" election under Section 6226 of the Code (or any similar provision of state and local Tax law) with respect to any Flow-Through Tax Contest.

(d) Buyer shall provide Marina Holdings with notice of any written inquiries, audits, examinations or proposed adjustments by the IRS or any other taxing authority, which relate to any Flow-Through Tax Contest within ten (10) days of the receipt of such notice. Buyer shall (and shall cause the Acquired Companies to): (i) retain all books and records with respect to Flow-Through Returns relating to any Pre-Closing Tax Period or Straddle Period until the expiration of the applicable statute of limitations (and any extension thereof), and to abide by all related record retention agreements entered into with any Governmental Body; and (ii) give Marina Holdings reasonable notice prior to transferring, destroying or discarding any such books and records and shall allow Marina Holdings to take possession of such books and records.

Section 6.3 **Tax Cooperation**. Following the Closing, Sellers and Buyer agree to furnish or cause to be furnished to each other, upon request, as promptly as practicable, such information (including access to books and records) and assistance relating to the Acquired Companies, as is reasonably requested for the filing of any Tax Returns, for the preparation of, and for the prosecution or defense of any Tax Contest, including executing and delivering such powers of attorney and other documents as are necessary to carry out the provisions of this Section 6.3. Any information obtained under this Section 6.3 shall be kept confidential, except: (i) as may be otherwise necessary in connection with the filing of Tax Returns or claims for refund or in conducting an audit or other proceeding or defending any Tax claim, or (ii) with the consent of Sellers or Buyer, as the case may be. Buyer agrees (i) to retain all books and records with respect to Tax matters pertinent to the Acquired Companies relating to any taxable period beginning before the Closing Date until expiration of the statute of limitations (and any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any taxing authority and (ii) to give Sellers reasonable written notice prior to transferring, destroying

or discarding any such books and records and, if requested by Sellers, shall allow the requesting party to take possession of such books and records.

Section 6.4 **Pre-Closing Tax Matters**. Without the prior written consent of Marina Holdings (not to be unreasonably withheld, delayed or conditional), Buyer shall not (unless required by applicable Law) (and shall cause its Affiliates, including the Acquired Companies, not to) take any of the following actions: (i) amend or otherwise modify any Flow-Through Return, (ii) extend or waive, or cause to be extended or waived, any statute of limitations or other period for the assessment of any Tax or deficiency related to a Flow-Through Return, (iii) make, change or revoke any Tax election or accounting method or practice with respect to, or that has retroactive effect to, a Flow-Through Return, or (iv) make or initiate any voluntary contact with a Governmental Body regarding any Flow-Through Return.

Section 6.5 **Tax Treatment and Purchase Price Allocation**. The Parties intend for U.S. federal income tax purposes (and for purposes of any applicable state or local Tax that follows the U.S. federal income tax treatment) to treat (i) the purchase of each of the Purchased Units and the Miami Interests in a manner consistent with the holding in Situation 2 of Revenue Ruling 99-6, 1991-1 C.B. 432; (ii) the purchase of the Simpson Bay Interests as a taxable sale by MOF Simpson Bay of the assets of Pentagon and its Subsidiaries; (iii) all amounts paid after the Closing Date to Sellers under this Agreement, including any Earnout Payment and any payments from the Purchase Price Adjustment Escrow Amount or the **[****]** (together, the "Post-Closing Payments"), to the extent permitted by applicable Law, as an adjustment to the Purchase Price for the Purchased Units; and (iv) the purchase of the Purchased Units as an installment sale (on account of the possible Post-Closing Payments) with a stated maximum selling price for purposes of Treasury Regulations Sections 15A.453-1(c)(1) – (2) and, to the extent required by applicable Law, a portion of any Post-Closing Payment paid to Sellers, as imputed interest under the rules of Section 483 (together, the "Intended Tax Treatment"). The Parties agree to allocate the Purchase Price among the Purchased Units, the Miami Interests and the Simpson Bay Interests for U.S. federal income tax purposes (the "Share Allocation") consistent with the designation of the Purchase Price pursuant to Annex A and that any adjustment to the Purchase Price (including pursuant to Section 2.4 or a Post-Closing Payment) shall only adjust the allocation made to the Purchased Units. The Parties agree to allocate the final Purchase Price (together with any other amounts required to be taken into account under Subchapter K of the Code, including any Post-Closing Payments) ("Allocable Amount") to the extent necessary under, and according to the principles of, (i) with respect to the Company and IGDH, Sections 741 and 751 of the Code and Situation 2 of Revenue Ruling 99-6, 1999-1 C.B. 432 and relevant non-U.S. Tax Law and (ii) with respect to Pentagon, Section 1060 of the Code and relevant non-U.S. Tax Law. Such allocations shall be made consistent with the Share Allocation and in accordance with the allocation methodology as set forth on Schedule 6.5. Within ninety (90) days after the Closing. Buyer shall prepare, or caused to be prepared, consistent with the Share Allocation and in accordance with the methodology set forth on Schedule 6.5, a schedule of allocations of the Allocable Amount, among the assets of the Acquired Companies represented by the Purchased Units, the Miami Interests and the Simpson Bay Interests (which, for the avoidance doubt, means the assets of the Company, IGDH and Pentagon and all the Acquired Companies that are treated as disregarded entities of the Company, IGDH or Pentagon or partnerships in which the Company, IGDH or Pentagon is a partner directly or indirectly through another partnership, in each case, as of the Closing and for U.S. federal income tax purposes) being purchased from Sellers (the "Allocation Schedule") and shall deliver such Allocation Schedule to

Marina Holdings. Marina Holdings shall have thirty (30) days following receipt thereof to object to the proposed Allocation Schedule. Should Marina Holdings and Buyer not be able to resolve such objections within the thirty (30) day period described above, either Party may submit the matter to the Accounting Firm for resolution. The process, manner and resolution of such dispute shall be in accordance with Section 2.5(b)(iii)-(iv) (on a *mutatis mutandis* basis). The Accounting Firm shall be directed to resolve such dispute consistent with the terms of this Agreement, including the Share Allocation and the methodology set forth on Schedule 6.5. Any determination by the Accounting Firm with respect to the Allocation Schedule shall be conclusive and binding on the parties with respect thereto. The allocations of the Allocable Amount as finally agreed upon or determined by the Accounting Firm (and as shown on each Allocation Schedule), shall be final and binding upon the Parties. The Parties agree that: (i) they shall file (or shall cause to be filed) all Tax Returns and forms consistent with the Intended Tax Treatment, the Share Allocation and the Allocation Schedule; (ii) in the event that any Governmental Body disputes any of the allocations of the Allocation Schedule, Sellers or Buyer, as the case may be, shall promptly notify the other party of the nature of such dispute, and shall cooperate in good faith to preserve the effectiveness of such allocations, to the extent consistent with the Law and final decisions of such Governmental Body (provided, however, that nothing herein shall require a party to contest the decision of a Governmental Body in court proceedings or to appeal a court ruling to a court of higher instance); and (iii) any subsequent adjustments to the Purchase Price shall be treated as an adjustment to the purchase price paid for the Purchased Units in a manner consistent with the Allocation Schedule (and the methodology set forth on Schedule 6.5) (and the Parties shall notify each other and cooperate in reflecting such adjustment).

ARTICLE 7
CONDITIONS TO CLOSING

Section 7.1 **Conditions to Each Party's Obligations**. The respective obligations of each Party to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction (or waiver in writing by both Buyer and Sellers), at or prior to the Closing, of each of the following conditions:

(a) Any applicable waiting period (and any extension thereof) under the HSR Act shall have expired or been terminated.

(b) Any applicable waiting period (and any extension thereof) or Consent required as set forth in Section 5.1(b) of the Sellers Disclosure Schedules shall have expired or been terminated or obtained, as applicable.

(c) No Governmental Body shall have enacted, issued, promulgated, enforced or entered any Law or Order that is in effect and no Legal Proceeding shall be pending, threatened which or in effect which would make the Closing illegal or prevent consummation of any of the transaction contemplated by this Agreement.

Section 7.2 **Other Conditions to the Obligations of Buyer**. In addition to the conditions listed in Section 7.1, the obligations of Buyer to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction, or waiver in writing by Buyer, of each of the following conditions at or prior to the Closing:

(a) (i) The Significant Representations and the representations and warranties of Sellers set forth in Section 3.8(a)(ii) (Absence of Certain Developments - No Company Material Adverse Effect) shall be true and correct in all respects as of the Closing Date with the same force and effect as if made on and as of the Closing Date (except that any such representations and warranties that are specifically made as of a particular date shall be true and correct in all respects as of such date); and (ii) all other representations and warranties of Sellers contained in Article 3 of this Agreement shall be true and correct as of the Closing Date with the same force and effect as if made on and as of the Closing Date (except that any such representations and warranties that are specifically made as of a particular date shall be true and correct as of such specified date), except where the failure to be true and correct as of such date (without regard to any qualification as to materiality or Company Material Adverse Effect included therein), individually or in the aggregate, has not had and would not reasonably be expected to have a Company Material Adverse Effect.

(b) Sellers shall have performed and complied in all material respects with the agreements and covenants required to be performed or complied with by it on or prior to the Closing Date.

(c) Since the date hereof, no Company Material Adverse Effect shall have occurred and be continuing as of the Closing Date.

(d) Buyer shall have received a certificate, dated the Closing Date and signed by Sellers that each of the conditions set forth in Section 7.2(a) and Section 7.2(b) have been satisfied.

(e) Sellers shall have delivered to Buyer the Payoff Letters from the creditors in respect of the Indebtedness of the Acquired Companies that is paid off at Closing.

(f) Sellers shall have delivered to Buyer a counterpart of each Ancillary Agreement to which Sellers or any of their Affiliates is a party, duly executed by Sellers or such Affiliate.

(g) The Company shall have purchased, with funds which may be drawn from the Closing Payment, from Flagstone Island Gardens LLC, a Delaware limited liability company ("Flagstone"), the 20% membership interest of IGDH, owned by Flagstone, on terms and conditions reasonably satisfactory to Buyer.

(h) Sellers shall have obtained written approval from the City Manager for the assignment of that certain Marina Component Ground Lease dated April 13, 2020 between Flagstone, as tenant, and The City of Miami, a municipal corporation of the State of Florida ("The City of Miami"), as landlord, as assigned to Island Gardens Deep Harbour, LLC, a Delaware limited liability company.

(i) Sellers shall have obtained written Consent from WICO for the transactions contemplated by this Agreement pursuant to that certain Amended and Restated Development and Lease Agreement - Upland, dated August 1, 2012, by and between Yacht Haven USVI LLC, a U.S. Virgin Islands limited liability company, and WICO, and pursuant to that certain Amended and Restated Development and Lease Agreement - Marina, dated August 1, 2012, by and between YHUSVI Marina, LLC, a U.S. Virgin Islands limited liability company, and WICO, substantially

in the form of Exhibit F hereto; provided that if the Consent from WICO is not obtained within 30 days following the date of the submission of the request to WICO (along with all information required to be provided by Buyer for such submission), then Sellers may either (i) extend such 30-day period or (ii) require that Buyer either (x) waive this Section 7.2(i) as a condition for the Closing or (y) terminate this Agreement.

(j) (i) The Company shall have purchased from Island Capital Group LLC, a Delaware limited liability company ("ICG"), the 2% membership interest of YHG Lender LLC, a Delaware limited liability company ("YHG Lender"), owned by ICG, on terms and conditions reasonably satisfactory to Buyer and (ii) either the Company shall have terminated or YH Incentives LLC shall have surrendered the 3% interest in YHG Lender on terms and conditions reasonably satisfactory to Buyer, and shall have otherwise acquired 100% of the equity of YHG Lender.

(k) The Company shall have purchased from Edbor Investments LLC, a New Jersey limited liability company ("Edbor"), the 36.47% membership interest of IGY-Red Frog LLC, a Delaware limited liability company, owned by Edbor, on terms and conditions reasonably satisfactory to Buyer.

(l) Sellers shall have caused the actions described in Annex A with respect to each of the Miami Interests and the Simpson Bay Interests to be consummated on the Closing Date immediately prior to Closing.

Section 7.3 Other Conditions to the Obligations of Sellers. In addition to the conditions set forth in Section 7.1, the obligations of Sellers to consummate the transactions contemplated by this Agreement shall be subject to the satisfaction, or waiver in writing by Sellers, of each of the following conditions at or prior to the Closing:

(a) (i) The representations and warranties of Buyer set forth in Section 4.1, Section 4.2(a)(i), Section 4.4 and Section 4.5 shall be true and correct in all respects as of the Closing Date with the same force and effect as if made on and as of the Closing Date (except that any such representations and warranties that are specifically made as of a particular date shall be true and correct in all respects as of such date); and (ii) the representations and warranties of Buyer contained in Article 4 of this Agreement (other than those set forth in clause (i) of this Section 7.3(a)) shall be true and correct as of the Closing Date with the same force and effect as if made on and as of the Closing Date (except that any such representations and warranties that are specifically made as of a particular date shall be true and correct as of such specified date), except where the failure to be true and correct as of such date (without regard to any qualification as to materiality or Buyer Material Adverse Effect included therein), individually or in the aggregate, has not had and would not reasonably be expected to have a Buyer Material Adverse Effect.

(b) Buyer shall have performed and complied in all material respects with the agreements and covenants required to be performed or complied with by it on or prior to the Closing Date.

(c) Sellers shall have received a certificate, dated the Closing Date and signed by a duly authorized officer of Buyer, stating on behalf of Buyer that each of the conditions set forth in Section 7.3(a) and Section 7.3(b) have been satisfied.

(d) Buyer shall have delivered to Sellers a counterpart of each Ancillary Agreement to which Buyer or any of its Affiliates is a party, duly executed on behalf of Buyer or such Affiliate.

Section 7.4 Frustration of Closing Conditions; Burden of Proof.

(a) Neither Party may rely on the failure of any condition set forth in this Article 7 to be satisfied if such failure was caused by such Party's failure to use the efforts required pursuant to this Agreement to cause the Closing to occur, including as required by Section 5.5 and Section 5.7.

(b) Each of Buyer and Sellers expressly acknowledges and agrees that if either Party wishes to invoke any of the conditions set forth in this Article 7 as a basis to not consummate the Closing, such Party shall have the burden of proof to establish that such condition has not been satisfied in any Legal Proceeding between the Parties in connection therewith.

ARTICLE 8
TERMINATION

Section 8.1 Termination. At any time prior to the Closing, this Agreement may be terminated and the transactions contemplated hereby abandoned as follows (and the Party seeking to terminate this Agreement pursuant to this Section 8.1 (other than Section 8.1(a)) shall give written notice of such termination to the other Party setting forth a brief description of the basis on which it is terminating this Agreement):

(a) by the mutual written consent of Buyer and Sellers;

(b) subject to Section 11.10(c), by either Buyer or Sellers, if the Closing shall not have occurred on or before the first Business Day of a calendar month following 180 days after the date of this Agreement or such other date that Buyer and Sellers may agree upon in writing (the "Termination Date"); provided, however, that the Termination Date shall be automatically extended on one occasion for up to sixty (60) days if the Closing has failed to occur on or prior to the Termination Date solely as a result of the failure of the conditions set forth in Section 7.1(a), Section 7.1(b), and/or Section 7.2(g)Section 7.2(h) and/or Section 7.2(i)**Error! Reference source not found.** to be satisfied, and provided, further that the right to terminate this Agreement pursuant to this Section 8.1(b) shall not be available to Buyer or Sellers, as the case may be, if a material breach of this Agreement by such Party has resulted in the failure of the Closing to occur before the Termination Date;

(c) by either Buyer or Sellers, if: (i) there shall be any Law enacted, promulgated or issued by any Governmental Body that makes consummation of the Closing illegal or otherwise prohibited, or (ii) any Governmental Body shall have issued an Order permanently enjoining the transactions contemplated by this Agreement, and such Order shall have become final and non-appealable;

(d) by Buyer, if: (i) there shall have been a breach by Sellers of any representation, warranty, covenant or agreement contained herein that would result in the failure of any of the conditions set forth in Section 7.1 or Section 7.2 to be satisfied, (ii) Buyer is not then in breach of any provision of this Agreement, and (iii) such breach by Sellers (A) shall not have been cured on or prior to the earlier of (1) the Termination Date and (2) thirty (30) days after receipt by Sellers of written notice of such breach from Buyer, and (B) in the case of the foregoing clause (2), cannot be cured prior to the Termination Date; or

(e) by Sellers, if: (i) there shall have been a breach by Buyer of any representation, warranty, covenant or agreement contained herein that would result in the failure of any of the conditions set forth in Section 7.1 or Section 7.3 to be satisfied, (ii) Sellers are not then in breach of any provision of this Agreement, and (iii) such breach by Buyer (A) shall not have been cured on or prior to the earlier of (1) the Termination Date and (2) thirty (30) days after receipt by Buyer of written notice of such breach from Sellers, and (B) in the case of the foregoing clause (2), cannot be cured prior to the Termination Date.

Section 8.2 **Effect of Termination**. In the event of the termination of this Agreement in accordance with this Article 8:

(a) this Agreement shall forthwith become null and void (except for this Section 8.2, Section 5.9, Section 5.11, and Article 11, each of which shall survive such termination and remain valid and binding obligations of the Parties in accordance with their terms); and

(b) there shall be no Liability of any kind on the part of Buyer or Sellers or any of Buyer's or Sellers' former, current or future Affiliates, Representatives, officers, directors, direct or indirect general or limited partners, equityholders, stockholders, controlling persons, managers or members; provided, however, that termination pursuant to this Article 8 shall not relieve either Party from such Liability (i) pursuant to the sections specified in Section 8.2(a) that survive termination, or (ii) for any breach of this Agreement prior to such termination or for Fraud.

ARTICLE 9
NO SURVIVAL

Section 9.1 **No Survival**. None of the representations and warranties made in this Agreement, any Ancillary Agreement (unless otherwise stated therein) or any certificate or other instrument delivered by or on behalf of a Party pursuant to this Agreement, shall survive the Closing Date (except in respect of Fraud herein or therein). All covenants and agreements of the Parties contained in this Agreement shall survive the Closing Date in accordance with their respective terms, but not to exceed the applicable statute of limitations in the event of a breach of such covenant; provided that all covenants and agreements of the Parties contained in this Agreement which by their terms are to be performed at or prior to the Closing Date shall not survive the Closing Date. Buyer, on behalf of itself and its Affiliates, acknowledges and agrees that the provisions of this Section 9.1 shall apply regardless of whether (a) Buyer obtains or maintains the R&W Insurance Policy, (b) the R&W Insurance Policy is revoked, cancelled or modified in any manner after issuance, or (c) Buyer makes a claim under the R&W Insurance Policy and such claim is denied by the insurer.

ARTICLE 10
GUARANTY

Section 10.1 Guaranty of Payment Performance.

(a) Upon the terms and subject to the conditions set forth in this ARTICLE 10, to induce Sellers to enter into the Agreement, Guarantor irrevocably, absolutely and, except as set forth in Section 10.1(b) and the last paragraph of Section 10.2 (*Absolute and Unconditional Guaranty*), unconditionally guarantees to Sellers the due, prompt and punctual payment and performance, by Buyer of all of its respective payment and performance obligations under this Agreement (the "Guaranty"). With respect to the Guaranty, the person whose payment or performance is covered by such Guaranty is referred to herein as the "Guaranteed Person", the Persons entitled to the benefit of a Guaranty are collectively referred to herein as the "Beneficiary", and the obligations guaranteed by such Guaranty are collectively referred to herein as the "Guaranteed Obligations."

(b) The Guaranty is one of payment, not collection, and a separate action or actions may be brought and prosecuted against Guarantor to enforce the Guaranty, irrespective of whether any action or Legal Proceeding is brought against the Guaranteed Person or whether the Guaranteed Person is joined in any such action or Legal Proceeding. A demand for payment or performance or an action to enforce the Guaranty may be made, brought or prosecuted, as applicable, against Guarantor only if a Guaranteed Obligation remains unpaid or unperformed for any reason ten (10) Business Days after Sellers have made a written demand for payment or performance against a Guaranteed Person with respect to such Guaranteed Obligation.

Section 10.2 Absolute and Unconditional Guaranty. The Guaranteed Obligations shall conclusively be deemed to have been created, contracted or incurred in reliance upon the Guaranty, and all dealings between Sellers, on the one hand, and Buyer or Guarantor, on the other, shall likewise be conclusively presumed to have been had or consummated in reliance upon the Guaranty. The liability of Guarantor under its Guaranty shall, to the fullest extent permitted under applicable law, be absolute and, except as set forth in Section 10.1(b) (*Guaranty of Payment Performance*) and the last paragraph of this Section 10.2, unconditional irrespective of:

(a) the illegality of the Guaranty;

(b) the validity or genuineness of this Agreement with respect to the Guaranteed Person;

(c) the enforceability of this ARTICLE 10 against the Guaranteed Person and/or enforceability of this Agreement against Guarantor;

(d) any release or discharge of any obligation of the Guaranteed Person under this Agreement resulting from any change in the corporate existence, structure or ownership of the Guaranteed Person, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Guaranteed Person or any of its assets;

(e) any change in the corporate existence, structure or ownership of the Guaranteed Person or any other Person interested in the transactions contemplated by this Agreement;

(f) any waiver of any event of default, extension of time or failure to enforce any of the Guaranteed Obligations;

(g) any extension, moratorium or other relief granted to the Guaranteed Person or Guarantor pursuant to any applicable law or statute;

(h) the addition, substitution or release of any Person interested in the transactions contemplated by this Agreement;

(i) any insolvency, bankruptcy, reorganization or other similar proceeding affecting Guarantor, the Guaranteed Person or any other Person interested in the transactions contemplated by this Agreement;

(j) any amendment or modification of this Agreement, or change in the manner, place or terms of payment or performance, or any change or extension of the time of payment or performance of, renewal or alteration of, any Guaranteed Obligation, any escrow arrangement or other security therefor, any liability incurred directly or indirectly in respect thereof, or any amendment or waiver of or any consent to any departure from the terms of this Agreement or the documents entered into in connection herewith;

(k) the existence of any claim, setoff or other right that Guarantor may have at any time against the Guaranteed Person, whether in connection with any Guaranteed Obligation or otherwise; or

(l) any other act or omission relating to the Guaranty that may or might in any manner or to any extent vary the risk of Guarantor. or otherwise operate as a discharge of Guarantor as a matter of applicable Law or equity.

Guarantor agrees, provided that a Guaranteed Obligation remains unpaid or unperformed for any reason ten (10) Business Days after Sellers have made a written demand for payment or performance against a Guaranteed Person with respect to such Guaranteed Obligation, the obligations of Guarantor under this Guaranty shall be unconditional, but subject to all defenses that any Guaranteed Person may have under this Agreement.

Section 10.3 Beneficiaries. No Beneficiary shall be obligated to file any claim relating to any Guaranteed Obligation in the event that the Guaranteed Person becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of the Beneficiary to so file shall not affect Guarantor's obligations hereunder. The Guaranty is a continuing one and the obligations of Guarantor hereunder shall be irrevocably valid and remain in full force and effect until the indefeasible payment and satisfaction in full of the Guaranteed Obligations. In the event that any payment to the Beneficiary in respect of any Guaranteed Obligation is rescinded or must otherwise be returned for any reason whatsoever, Guarantor shall remain liable hereunder with respect to the Guaranteed Obligation as if such payment had not been made.

Section 10.4 Waivers. Guarantor irrevocably waives acceptance, presentment, promptness, diligence, demand, protest and any notice in respect of the Guaranty not provided for herein, including any and all notice of the creation, renewal, extension or accrual of any of the Guaranteed Obligations and notice of or proof of reliance by any Seller upon the Guaranty, all defenses which may be available by virtue of any valuation, stay, moratorium law or other similar law now or hereafter in effect, and any right to require the marshalling of assets of the Guaranteed Person or Guarantor or any other Person interested in the transactions contemplated by this Agreement.

Section 10.5 Consolidation or Merger. Guarantor shall require any successor, continuing entity or surviving entity to Guarantor, whether by merger, consolidation, amalgamation or other business combination, to expressly agree in writing with the Beneficiary to assume and perform the obligations of Guarantor under the Guaranty to the extent that such successor or entity does not succeed to the obligations of Guarantor hereunder by operation of any applicable Law.

Section 10.6 Subrogation. Guarantor may not exercise any rights of subrogation or contribution, whether arising by contract or operation of any applicable Law (including any such right arising under bankruptcy or insolvency laws) or otherwise, by reason of any payment by it in respect of the Guaranty unless and until all of the Guaranteed Obligations have been paid in full.

Section 10.7 Currency. Guarantor shall be obligated to make payment hereunder in United States dollars.

Section 10.8 Assignment. Guarantor shall not assign its obligations hereunder without the express written consent of Sellers. Any attempted assignment by Guarantor without such consent shall be void ab initio.

Section 10.9 Representations and Warranties. Guarantor hereby represents and warrants to the Acquired Companies and Sellers that: (i) the execution, delivery and performance **o**f the Guaranty and this ARTICLE 10 have been duly authorized by all necessary action and do not contravene with any provision of Guarantor's Organizational Documents or any Law, Order, or Contract binding on Guarantor or its assets; (ii) all consents, approvals, authorizations, permits of, filings with and notifications to, any Governmental Body necessary for the due execution, delivery and performance of the Guaranty and this ARTICLE 10 by Guarantor have been obtained or made and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any Governmental Body is required in connection with the execution, delivery or performance of the Guaranty and this ARTICLE 10 by Guarantor; and (iii) the Guaranty and this ARTICLE 10 constitutes a legal, valid and binding obligation of Guarantor enforceable against Guarantor in accordance with its terms.

Section 10.10 Other Provisions. The provisions of Section 1.2 (*Interpretation; Construction*), Section 11.2 (*Notices*), Section 11.4 *(Amendment*), Section 11.5 (*Waivers*), Section 11.6 (*Severability*), Section 11.9 (*Governing Law, Submission to Jurisdiction; Waiver of Jury Trial*), Section 11.10 (*Remedies*), and Section 11.11 (*Counterparts and Electronic Signatures*) shall be applicable to the Guaranty and this ARTICLE 10.

ARTICLE 11
MISCELLANEOUS

Section 11.1 **Fees and Expenses**. Except as otherwise expressly provided in this Agreement, including in any Ancillary Agreements, whether or not the Closing is consummated, all costs and expenses incurred, including fees and disbursements of counsel, financial advisors and accountants, in connection with this Agreement and the transactions contemplated hereby shall be borne by the Party incurring such costs and expenses; provided, however, that, in the event this Agreement is terminated in accordance with its terms, the obligation of each Party to bear its own costs and expenses shall be subject to any rights of such Party arising from a breach of this Agreement by the other Party prior to such termination.

Section 11.2 **Notices**. All notices or other communications to be delivered in connection with this Agreement, including pursuant to Section 5.1, shall be in writing and shall be deemed to have been properly delivered, given and received: (a) on the date of delivery if delivered by hand during normal business hours of the recipient during a Business Day, otherwise on the next Business Day, (b) on the date of successful transmission if an executed copy of such notice is sent via email during normal business hours of the recipient during a Business Day, otherwise on the next Business Day, or (c) on the date of receipt by the addressee if sent by an internationally recognized overnight courier if received on a Business Day, otherwise on the next Business Day. Such notices or other communications shall be sent to each respective Party at the address, email address or facsimile number set forth below (or at such other address, email address or facsimile number as shall be specified by a Party in a notice given in accordance with this Section 11.2):

If to Sellers or
or Single Asset
Sellers: c/o Island Capital Group LLC
717 Fifth Avenue, 18th Floor
New York, NY 10022
Attention: Mark Lande
Email: mlande@islecap.com

with a copy (which shall not constitute notice) to:

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006-1470
United States
Attention: Steven L. Wilner
Chantal E. Kordula
Email : swilner@cgsh.com
Email: ckordula@cgsh.com

If to Buyer or
Guarantor: c/o MarineMax, Inc.
2600 McCormick Drive, Suite 200

Clearwater, Florida 33759
United States
Email: mike.mclamb@marinemax.com
Manny.alvare@marinemax.com
Attention: Michael H. McLamb
Manny A. Alvare, III

with a copy (which shall not constitute notice) to:

Holland & Knight LLP
100 North Tampa Street, Suite 4100
Tampa, Florida 33602
United States
Email: robert.grammig@hklaw.com
alyse.latour@hklaw.com
Attention: Robert J. Grammig
K. Alyse Latour

For purposes of Section 5.1, to all of the following:

Buyer's Chief Executive Officer
Email: brett.mcgill@marinemax.com

Buyer's Chief Financial Officer
Email: mike.mclamb@marinemax.com

Buyer's Vice President of Legal Affairs
Email: manny.alvare@marinemax.com

Section 11.3 **Entire Agreement**. This Agreement, the Sellers Disclosure Schedules, the Confidentiality Agreement, the Ancillary Agreements and any other agreements, instruments or documents being or to be executed and delivered by a Party or any of its Affiliates pursuant to or in connection with this Agreement constitute the sole and entire agreement of the Parties with respect to the subject matter contained herein and therein and all inducements to the making of this Agreement relied upon by the Parties, and they supersede all other prior representations, warranties, understandings and agreements, both written and oral, with respect to such subject matter.

Section 11.4 **Amendment**. This Agreement shall not be amended, modified or supplemented except by an instrument in writing specifically designated as an amendment hereto and executed by each of the Parties, *provided that*, any amendment that would adversely affect the rights or protections of any Financing Party hereunder, including those in each of Section 5.24,

Section 11.7, Section 11.8, Section 11.9, Section 11.10(b), Section 11.14 and this Section 11.4, shall require the prior written consent of such Financing Party, as applicable.

Section 11.5 Waivers. Either Party may, at any time (a) extend the time for the performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of the other Party contained herein, or (c) waive compliance by the other Party with any of the agreements or conditions contained herein. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in a written instrument executed and delivered by the Party so waiving. No waiver by any Party of any breach of this Agreement shall operate or be construed as a waiver of any preceding or subsequent breach, whether of a similar or different character, unless expressly set forth in such written waiver. Neither any course of conduct or failure or delay of any Party in exercising or enforcing any right, remedy or power hereunder shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy or power hereunder, or any abandonment or discontinuance of steps to enforce such right, remedy or power, or any course of conduct, preclude any other or further exercise thereof or the exercise of any other right, remedy or power.

Section 11.6 Severability. If any term or provision of this Agreement is invalid, illegal or incapable of being enforced in any situation or in any jurisdiction, such invalidity, illegality or unenforceability shall not affect the validity, legality or enforceability of any other term or provision hereof or the offending term or provision in any other situation or any other jurisdiction. Upon any such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible, in a mutually acceptable manner, in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

Section 11.7 No Third Party Beneficiaries. Except to the extent provided in Section 5.12 (the provisions of which shall inure to the benefit of the Persons referenced therein as third-party beneficiaries of such provisions), this Agreement shall be binding upon and inure solely to the benefit of each Party and its successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall be construed to confer upon any other Person any legal or equitable rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement. Except to the extent provided in Section 5.12 and Section 11.4, this Agreement may be amended or terminated, and any provision of this Agreement may be waived, in accordance with the terms hereof without the consent of any Person other than the Parties. Notwithstanding the foregoing, the Parties agree that each Financing Party shall be considered, and entitled to enforce all rights associated with, a third-party beneficiary of any Section granting a right to a Financing Party, including without limitation the following Sections: Section 5.24 (*Financing),* Section 11.4 (*Amendment*); Section 11.7 (*No Third Party Beneficiaries*); Section 11.8 (*Assignment*); Section 11.9 (*Governing Law; Submission to Jurisdiction; Waiver of Jury Trial*); Section 11.10(b) (clause (b) of *Remedies*); and Section 11.14 (*Nonrecourse*).

Section 11.8 Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned or delegated, in whole or in part, by either Party without the prior written consent of the other Party, and any purported assignment or delegation in contravention of this Section 11.8 shall be null and void and of no force and effect, provided,

however, that Buyer may, without any consent required from Sellers, assign its respective rights under this Agreement for collateral security purposes to any Financing Party. Buyer and any Financing Party may exercise all of the rights and remedies of Buyer hereunder. Subject to the preceding sentences of this Section 11.8, this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the Parties and their respective successors and permitted assigns.

Section 11.9 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement and all matters, claims, controversies, disputes, suits, actions or proceedings arising out of or relating to this Agreement and the negotiation, execution or performance of this Agreement or any of the transactions contemplated hereby, including all rights of the Parties (whether sounding in contract, tort, common or statutory law, equity or otherwise) in connection therewith, shall be interpreted, construed and governed by and in accordance with, and enforced pursuant to, the internal Laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Law of any jurisdiction other than those of the State of Delaware.

(b) Each of the Parties hereby: (i) agrees and irrevocably consents to submit itself to the exclusive jurisdiction of the (1) the United States District Court for the District of Delaware or, to the extent such court does not have subject matter jurisdiction, (2) any court sitting in New Castle County, Delaware (the "Chosen Courts") in any Legal Proceeding arising out of or relating to this Agreement or the negotiation, execution or performance of this Agreement or any of the transactions contemplated hereby, (ii) agrees that all claims in respect of any such Legal Proceeding shall be heard and determined in any Chosen Court, (iii) agrees that it shall not attempt to deny or defeat such jurisdiction or venue by motion or other request made before a Chosen Court, (iv) agrees not to bring or support any Legal Proceeding arising out of or relating to this Agreement or any of the transactions contemplated by this Agreement (whether in contract, tort, common or statutory law, equity or otherwise) anywhere other than a Chosen Court (an "Other Court"), (v) agrees that each Party shall be liable for, and the Chosen Courts shall award, the other Party its reasonable attorneys' fees and costs incurred (1) defending against any attempt to deny or defeat such jurisdiction or venue by motion or other request made before a Chosen Court and (2) defending any Legal Proceeding in an Other Court, and (vi) agrees that a final and non-appealable judgment of a Chosen Court in any such Legal Proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by applicable Law. For the avoidance of doubt, the preceding sentence (A) shall not limit the jurisdiction of the Accounting Firm as set forth in Section 2.4 and (B) shall include any Legal Proceeding brought for the purpose of enforcing the jurisdiction and judgments of the Accounting Firm. Each of the Parties waives any defense of inconvenient forum to the maintenance of any Legal Proceeding brought in any Chosen Court in accordance with this Section 11.9(b). Each of the Parties agrees that the service of any process, summons, notice or document in connection with any such Legal Proceeding in the manner provided in Section 11.2 or in such other manner as may be permitted by applicable Law, shall be valid and sufficient service thereof.

(c) Notwithstanding the foregoing, if any action or proceeding is commenced or any claim is asserted in any action or proceeding by either party to enforce its rights or remedies

under this Agreement (an "Action"), the prevailing party in such Action, including any bankruptcy, insolvency or appellate proceedings, shall be entitled to recover its reasonable attorneys' fees and court costs incurred therewith. In addition, the prevailing party in any Action shall also be entitled to the payment by the losing party of the prevailing party's reasonable attorneys' fees, court costs and litigation expenses incurred in connection with: (i) any appellate review of the judgment rendered in such Action or of any other ruling in such Action; and (ii) any proceeding to enforce a judgment in such Action. It is the intent of the parties that the provisions of this Section 11.9(c) be distinct and severable from the other rights of the parties under this Agreement, shall survive Closing or termination of this Agreement, shall survive the entry of judgment in any Action and shall not be merged into such judgment.

(d) EACH PARTY (I) ACKNOWLEDGES AND AGREES THAT ANY LEGAL PROCEEDING THAT MAY ARISE UNDER OR RELATE TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT (INCLUDING ANY LEGAL PROCEEDING RELATED TO THE DEBT FINANCING) IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND (II) HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT (INCLUDING ANY LEGAL PROCEEDING RELATED TO THE DEBT FINANCING). EACH PARTY (A) CERTIFIES AND ACKNOWLEDGES THAT NO REPRESENTATIVE OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY LEGAL PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (B) CERTIFIES AND ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION OF THIS AGREEMENT, (C) UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER AND (D) MAKES THIS WAIVER VOLUNTARILY.

(e) Notwithstanding anything in this Section 11.9 to the contrary, each of the Parties agrees that it shall not bring or support any matters, claims, controversies, disputes, suits, actions or proceedings (whether at law, in equity, in contract, in tort or otherwise) arising out of or relating to the Debt Financing against the Financing Parties or any other Persons that have committed to provide or otherwise entered into agreements in connection with the Debt Financing, in any forum other than the Supreme Court of the State of New York, County of New York, or if under applicable Law exclusive jurisdiction is vested in the Federal courts, the United States District Court for the Southern District of New York (and appellate courts thereof).

Section 11.10 Remedies.

(a) Except as otherwise provided in this Agreement, any and all remedies herein expressly conferred upon a Party shall be deemed cumulative with and not exclusive of any other remedy expressly conferred hereby, and the exercise by a Party of any one such remedy shall not preclude the exercise of any other such remedy.

(b) The Parties agree that irreparable damage and harm would occur in the event that any provision of this Agreement were not performed in accordance with its terms and that, although monetary damages may be available for such a breach, monetary damages would be an inadequate remedy therefor. Accordingly, each of the Parties agrees that, in the event of any breach or threatened breach of any provision of this Agreement by such Party, the other Party shall be entitled to an injunction or injunctions, specific performance and other equitable relief to prevent or restrain breaches or threatened breaches hereof and to specifically enforce the terms and provisions hereof. A Party seeking an order or injunction to prevent breaches of this Agreement or to enforce specifically the terms and provisions hereof shall not be required to provide, furnish or post any bond or other security in connection with or as a condition to obtaining any such order or injunction, and each Party hereby irrevocably waives any right it may have to require the provision, furnishing or posting of any such bond or other security. In the event that any Legal Proceeding should be brought in equity to enforce the provisions of this Agreement, each Party agrees that it shall not allege, and each Party hereby waives the defense, that there is an adequate remedy available at law.

(c) If either Party brings a Legal Proceeding to enforce specifically the performance of the terms and provisions of this Agreement (other than a Legal Proceeding to enforce specifically any provision that expressly survives termination of this Agreement) when expressly available to such Party pursuant to the terms of this Agreement, the Termination Date shall automatically be extended to the later of (i) the twentieth (20^{th}) Business Day following the resolution of such Legal Proceeding, or (ii) such other time period established by the court presiding over such Legal Proceeding.

Section 11.11 Counterparts and Electronic Signatures. This Agreement and any Ancillary Agreements may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement or document. A signed copy of this Agreement or any Ancillary Agreement transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such Ancillary Agreement for all purposes.

Section 11.12 Time is of the Essence. Time is of the essence in the performance of the transactions contemplated by this Agreement.

Section 11.13 Releases. As of the Closing: (a) each of Buyer and its Subsidiaries (including, as of immediately following the Closing, the Acquired Companies) (each, a "Releasing Buyer Person"), hereby releases and forever discharges Sellers and each of its Affiliates, successors, assigns, former, current or future direct or indirect stockholders, equity holders, controlling persons, portfolio companies, directors, officers, employees, incorporators, managers, members, trustees, general or limited partners, agents, attorneys or other Representatives (in each case, solely in their capacities as such) (each, a "Released Seller Person") from all debts, demands, causes of action, suits, covenants, torts, damages and any and all claims, defenses, offsets, judgments, demands and liabilities whatsoever, of every name and nature, both at law and in equity, known or unknown, accrued or unaccrued, that have been or could have been asserted against any Released Seller Person, that any Releasing Buyer Person has or ever had, that arises out of or in any way relates to events, circumstances or actions occurring, existing or taken prior

to or as of the Closing Date in respect of matters relating to the Acquired Companies, and (b) each of Sellers and their Subsidiaries (each, a "Releasing Seller Person"), hereby releases and forever discharges Buyer and each of its Affiliates (including, as of immediately following the Closing, the Acquired Companies), successors, assigns, former, current or future direct or indirect stockholders, equity holders, controlling persons, portfolio companies, directors, officers, employees, incorporators, managers, members, trustees, general or limited partners, agents, attorneys or other Representatives (in each case, solely in their capacities as such) (each, a "Released Buyer Person") from all debts, demands, causes of action, suits, covenants, torts, damages and any and all claims, defenses, offsets, judgments, demands and liabilities whatsoever, of every name and nature, both at law and in equity, known or unknown, accrued or unaccrued, that have been or could have been asserted against any Released Buyer Person, that any Releasing Seller Person has or ever had, that arises out of or in any way relates to events, circumstances or actions occurring, existing or taken prior to or as of the Closing Date in respect of matters relating to the Acquired Companies; provided, however, that the Parties acknowledge and agree that this Section 11.13 does not apply to and shall not constitute a release of any rights or obligations to the extent arising under this Agreement, any Ancillary Agreement or any certificate or other instrument delivered by or on behalf of either Party pursuant to this Agreement.

Section 11.14 Nonrecourse.

(a) Notwithstanding anything to the contrary herein and except in the case of Fraud, this Agreement may only be enforced against, and any Legal Proceeding that may be based upon, arise out of, or relate to this Agreement, the negotiation, execution or performance of this Agreement or the transactions contemplated hereby, may only be brought against each Person that is expressly named as a Party in such Person's capacity as such, and only with respect to the specific obligations set forth herein with respect to such Party, and no former, current or future direct or indirect stockholders, equity holders, controlling persons, portfolio companies, directors, officers, employees, incorporators, managers, members, trustees, general or limited partners, Affiliates, agents, attorneys or other Representatives of any Party or of any Affiliate of any Party, or any of their successors or permitted assigns, shall have any Liability for any obligations or liabilities of any Party under this Agreement or for any claim or other Legal Proceeding (whether at law or in equity, in tort, contract or otherwise) based on, in respect of or by reason of the transactions contemplated hereby or in respect of any covenants, representations, warranties or statements (whether written or oral, express or implied) made or alleged to have been made in connection herewith.

(b) For the avoidance of doubt and notwithstanding anything to the contrary herein, Sellers, the Acquired Companies, and each of their Affiliates agree that (i) no Financing Party shall have any liability hereunder (whether at law or in equity, in tort, contract or otherwise, including without limitation for any specific performance) for any claims, causes of action, obligations or losses arising under, out of, in connection with, or related in any manner to the provisions of this Agreement relating to the Debt Financing or the Financing Parties or based on, in respect of or by reason of the provisions in this Agreement relating to the Debt Financing or the Financing Parties or its negotiation, execution, performance or breach of such provisions (*provided that* nothing in this Section 11.14 shall limit the liability or obligations of any Financing Party to Buyer under any definitive, separate and independent agreement between Buyer and such party) and (b) only Buyer shall be permitted to bring any claim against its Financing Party for failing to

satisfy any obligation to fund any of the Debt Financing pursuant to terms of any definitive, separate and independent agreement between such Financing Party and Buyer.

Section 11.15 Risk of Loss.

(a) Loss Claim; Casualty Expert Valuation.

(i) Loss Claim. In the event that prior to the Closing Date any portion of any Real Property shall be taken by condemnation or eminent domain or damaged or destroyed by hurricane, fire or other casualty, at the request of Buyer or Sellers, the insured party under the applicable insurance policy may submit such claim to the insurance company (such claim, the "Loss Claim").

(ii) Casualty Expert Valuation. If a Loss Claim is submitted to the insurance company, Buyer and Sellers shall retain two (2) casualty experts, which shall be selected by Sellers and reasonably approved by Buyer (the "Casualty Experts"), and submit the Loss Claim to such Casualty Experts for valuation. Upon the selection of the Casualty Experts, and in any event within five (5) Business Days following such selection, Buyer and Sellers shall submit to the Casualty Experts documentary materials necessary for the valuation of the Loss Claim. Within twenty (20) Business Days after receipt of all such submissions by Buyer and Sellers, the Casualty Experts shall make a determination in accordance with standards provided herein and deliver to Buyer and Sellers a written report (the "Loss Report") containing each Casualty Expert's valuation of the Loss Claim submitted to it (and only such matter); provided that, if all conditions to the Closing have been satisfied but the Loss Report has not been delivered, then the Closing shall be automatically postponed until the Loss Report is delivered, subject to Section 11.15(c)(ii). The amount of the Loss Claim shall be determined by taking the average of the Casualty Experts' valuations of the Loss Claim. The Casualty Experts shall provide a determination as to whether the Loss Claim amounts would exceed the program limits under the applicable insurance policy (such policy limit, the "Major Loss Threshold"). The fees and expenses of the Casualty Experts shall be borne equally by Buyer and Sellers.

(b) Minor Loss.

(i) Definition of Minor Loss. For the purposes of this Section 11.15, "Minor Loss" shall mean a loss or damage to the Real Property or any portion thereof the cost of which to repair or restore to a condition substantially identical to that of the premises in question prior to the event of damage would equal less than the Major Loss Threshold.

(ii) Notwithstanding any other provision of this Agreement to the contrary but subject to Section 11.15(c), in the event that prior to the Closing Date there shall be a Minor Loss, then (i) neither party shall have the right to cancel this Agreement and the Purchase Price shall not be reduced and (ii) Sellers' rights to any award resulting from such taking or any insurance proceeds resulting from such casualty (less any sums expended by Sellers for repair or restoration through the Closing Date) shall be assigned by Sellers to Buyer at Closing.

(c) Major Loss.

(i) Definition of Major Loss. For the purposes of this Section 11.15, "Major Loss" shall mean a loss or damage to the Real Property or any portion thereof the cost of which to repair or restore to a condition substantially identical to that of the premises in question prior to the event of damage would exceed the Major Loss Threshold.

(ii) Major Loss Escrow Account.

(A) In the event that prior to the Closing Date there shall be a Major Loss, then within five (5) Business Days after receipt by Buyer and Sellers of the Loss Report described in Section 11.15(a), Sellers may elect to deposit 125% of the amount by which such loss exceeds the Major Loss Threshold in an account maintained by a mutually-agreed escrow agent (the "Major Loss Escrow Account"). Such deposit may be made by Marina Holdings prior to or at Closing, by wire transfer of immediately available funds, which may be drawn from the Closing Payment. If Sellers elect to establish such Major Loss Escrow Account, such Major Loss Escrow Account may be drawn on by Buyer post-Closing to pay the documented reasonable out-of-pocket costs incurred post-Closing in excess of any insurance proceeds assigned to Sellers, until the damaged premises are repaired or restored to a condition substantially identical to that of the premises in question prior to the event of damage. Any amounts which remain in the Major Loss Escrow Account upon completion of such restoration shall be promptly returned to Marina Holdings by the Escrow Agent on written confirmation of completion from Buyer.

(B) If Sellers elect not to establish the Major Loss Escrow Account in accordance with Section 11.15(c)(ii)(A), then Sellers shall promptly notify Buyer of such election, after which Buyer may terminate this Agreement by written notice to Sellers by the date that is twenty (20) Business Days following the date of receipt of such notice. If Buyer does not terminate this Agreement by written notice to Sellers within the time frame specified in the immediately preceding sentence, then Sellers' rights to any insurance proceeds resulting from such casualty (less any sums expended by Sellers for repair or restoration through the Closing Date) shall be assigned by Sellers to Buyer at Closing.

(d) Waiver. Buyer and Sellers hereby irrevocably waive the provision of any statute that provides for a different outcome or treatment in the event the Real Property shall be taken or damaged or destroyed by hurricane, fire or other casualty.

Section 11.16 Provision Regarding Legal Representation. Recognizing that Cleary Gottlieb Steen & Hamilton LLP ("Cleary Gottlieb") has acted as legal counsel to Sellers, the Acquired Companies and their Affiliates prior to date hereof, and that Cleary Gottlieb intends to act as legal counsel to Sellers and their Affiliates (which shall no longer include the Acquired Companies) after the Closing, Buyer hereby waives (on its own behalf) and agrees to cause its Affiliates (including, after the Closing, the Acquired Companies) to waive, any conflicts arising under such representation after the Closing as such representation may relate to Buyer and the Acquired Companies or the transactions contemplated hereby. In addition, notwithstanding anything in this Agreement to the contrary, all communications involving attorney-client confidences between Sellers, the Acquired Companies and their respective Affiliates, on the one hand, and Cleary Gottlieb, on the other hand, in the course of or otherwise in connection with the consideration, negotiation, documentation and consummation of the transactions contemplated hereby shall be deemed to be attorney-client confidences that belong solely to Sellers and their

Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not have access to any such communications or to the files of Cleary Gottlieb relating to such engagement from and after the Closing, and no actions taken by Sellers or any of their Affiliates or Representatives to retain, remove or otherwise protect such communications shall be deemed a breach or violation of this Agreement or any Ancillary Agreement. Without limiting the generality of the foregoing, from and after the Closing: (a) Sellers and their Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to such engagement, and no Acquired Company shall be a holder thereof, (b) such privilege shall survive the Closing and remain in full effect and shall not be deemed waived as a result of the Closing or any actions taken or not taken in connection with or following the Closing (and the Parties and their respective Affiliates agree to take all steps necessary to ensure that such privilege shall survive the Closing and remain in full effect), (c) Buyer and its Affiliates (including, after the Closing, the Acquired Companies) shall not use or rely on any such communications in any Legal Proceeding against or involving Sellers or any of their Affiliates or otherwise relating to the transactions contemplated hereby, (d) to the extent that files of Cleary Gottlieb in respect of such engagement constitute property of the client, only Sellers and their Affiliates (and not the Acquired Companies) shall hold such property rights, and (e) Cleary Gottlieb shall have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Cleary Gottlieb and the Acquired Companies or otherwise .

Section 11.17 **Waiver of Third Party Beneficiary Rights**. The Company (on behalf of itself and its Affiliates) hereby validly waives and renounces any and all third party beneficiary rights under (i) that certain non-compete agreement dated April 14, 2005, between Andrew L. Farkas and Island Global Yachting L.P.; (ii) that certain non-compete agreement dated November 30, 2005, between Andrew L. Farkas and Island Global Yachting III L.P.; (iii) that certain non-compete agreement dated May 15, 2006, between Andrew L. Farkas and Island Global Yachting II L.P.; (iv) that certain non-compete agreement dated February 21, 2007, between Andrew L. Farkas and Island Global Yachting Ltd.; (v) that certain non-compete agreement dated February 17, 2018, between Andrew L. Farkas and Island Global Yachting Ltd.; and (vi) that certain non-compete agreement dated September 30, 2021, between Andrew L. Farkas and Island Global Yachting LLC.

[SIGNATURE PAGE FOLLOWS]

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

SELLERS:

ISLAND MARINA HOLDINGS LLC

By: s/Thomas Mukamal
Name: Thomas Mukamal
Title: CEO

ISLAND MARINAS SUBSIDIARY CORP.

By: s/Thomas Mukamal
Name: Thomas Mukamal
Title: CEO

SINGLE ASSET SELLERS:

IG HOLDINGS LLC
By: IG Directives LLC, its Managing Member

By: s/Thomas Mukamal
Name: Thomas Mukamal
Title: CEO

MOF SIMPSON BAY L.P.
By: IGY – Simpson Bay Holdings Ltd., its General Partner

By: s/Thomas Mukamal
Name: Thomas Mukamal
Title: CEO

BUYER:

MARINEMAX EAST, INC.

By: s/Michael H. McLamb
Name: Michael H. McLamb
Title: President, Secretary & Treasurer

Solely for Purposes of ARTICLE 10:

GUARANTOR:

MARINEMAX, INC.

By: s/ Brett McGill
Name: W. Brett McGill
Title: President & CEO

ANNEX A

Pre-Closing Actions related to Miami Interests and Simpson Bay Interests

1. Pre-Closing Actions related to Miami Interests

a. Immediately prior to the Closing and in order to facilitate the third party sale transaction contemplated by the Agreement, the Company will distribute all of its membership interests in (x) IG Holdings LLC and (Y) IG Directives LLC to Island Marina Holdings LLC.

b. A portion of the purchase price as agreed by Buyer and the Company prior to the date of this Agreement will be allocated to the purchase of the Miami Interests. The amount of the purchase price allocated to the Miami Interests shall not be subject to any post-Closing adjustment.

c. Upon closing, IG Directives LLC will distribute to employees the amount they are owed in respect of the promote payable to them under the Organizational Documents of IG Directives LLC.

2. Pre-Closing Actions related to Simpson Bay Interests

a. Immediately prior to the Closing and in order to facilitate the third party sale transaction contemplated by the Agreement, all of the ownership interests of (x) MOF Simpson Bay L.P. and (y) IGY – Simpson Bay Holdings LTD that are owned by Island Global Yachting Facilities LLC will be distributed by Island Global Yachting Facilities LLC to the Company which in turn will distribute such interests to Island Marina Holdings LLC.

b. A portion of the purchase price as agreed by Buyer and the Company prior to the date of this Agreement will be allocated to the purchase of the Simpson Bay Interests. The amount of the purchase price allocated to the Simpson Bay Interests shall not be subject to any post-Closing adjustment.

EXHIBIT A
Net Working Capital Principles and Example

Exhibit A - Net Working Capital Principles and Example	
(excluding [****])	
$'000	**Dec-21**
Current assets	
Accounts receivables, net	[****]
Prepaid expenses	[****]
Inventory	[****]
Unbilled revenue	[****]
Other current assets	[****]
Current assets	[****]
Current liabilities	
Customer deposits	[****]
Accounts payable	[****]
Accrued expenses	[****]
Deferred revenue	[****]
Other current liabilities	[****]
Current liabilities	[****]
Net Working Capital Example (excluding [****])	[****]

Exhibit A - Net Working Capital Principles and Example (incl. [****])	
(excluding [****])	
$'000	**Dec-21**
Net Working Capital Example (excl. [****]	(999)
Bridging items	
YHG: Miami	(1,825)
Net Working Capital Example (excluding [****])	**(2,824)**

EXHIBIT B-1
[****]

EXHIBIT B-2
Reference Base Measurement Amount and Incremental Measurement Amount Calculation for 2021

[****]

EXHIBIT C
Trident Program Budget

[****]

EXHIBIT D-1
List of Landlord Leases

[****]

EXHIBIT D-2
Form of Estoppel Certificate

[IGY Address]

Re: [Identify/describe lease documents, including all amendments] (collectively referred to herein as the "*Lease*"), by and between [_____], as tenant ("*Tenant*"), and [_____], as landlord ("*Landlord*").

Ladies and Gentlemen:

Tenant, the tenant under the above-referenced Lease, hereby certifies and confirms to the following parties (collectively, the "Recipients") Landlord, and its successors and assigns, including any purchaser of any interests in Landlord, any lender providing financing to any such purchaser, and such lender's successors and assigns, and Island Global Yachting LLC, as follows:

1. The leased premises (the "*Premises*") under the Lease comprise that certain space(s) identified in the schedule of lease information attached hereto as Schedule 1 (the "*Information Schedule*"), which Premises are located on the real property identified in the Lease (the "*Property*").

2. The Lease is in full force and effect and, except as expressly described in the "Re" line above, the Lease has not been amended, modified, supplemented, or altered in any respect. The Lease is the sole agreement between Landlord and Tenant relating in any way to the Premises or the Property, and there are no other agreements, oral or written, between Landlord and Tenant relating to the Premises or the Property.

3. Base rent and any additional rent required under the Lease has been paid through the date shown on the *Information Schedule*. Tenant is not entitled to any free rent, abatement of rent, or similar concession after the date of this certificate, except as set forth on the *Information Schedule*. To Tenant's knowledge, Tenant does not presently have any right of offset or any defense against payment of any rent under the Lease. No rent has been paid more than 30 days in advance, and Tenant has no claim against Landlord for any deposits except for a security deposit, if any, given by Tenant to Landlord, the amount of which is set forth on the *Information Schedule*.

4. The Lease has not been assigned by Tenant, and no sublease or other similar agreement covering the Leased Premises has been entered into by Tenant. If the Premises have not been completed, Tenant expects to occupy the Premises upon the Commencement Date set forth on the *Information Schedule*, and as of the date of this Certificate, Tenant has no reason to believe that it would not occupy the Premises on the Commencement Date. If the Premises have been completed, the term of the Lease commenced on the Commencement Date stated on the *Information Schedule*, Tenant has accepted possession and occupies the Premises, and all the improvements contemplated by the Lease have been completed as required therein, unless otherwise provided on the *Information Schedule*.

5. Tenant has no right of first refusal, option or other right to purchase the Property or any portion thereof, including, without limitation, the Premises, except as may be set forth on the *Information Schedule*.

6. The address for notices to be sent to Tenant is set forth on the *Information Schedule*.

Tenant hereby acknowledges and agrees that each Recipient shall be entitled to rely on the truth, accuracy, and completeness of the foregoing certifications made by Tenant including in connection with the transfer of the Property (or any part thereof) or any transfers of the interests in Landlord and any lender's decision to make a loan to any such purchaser secured in whole or in part by the Property. The individual signing below hereby certifies that he or she is duly authorized to sign and deliver this certificate on behalf of Tenant.

Dated this _____ day of _____ 2022.

TENANT:

[_____]

By:
Name:
Title:

Information Schedule

Identification of Lease Documents:	
Leased Premises:	
Landlord:	
Tenant:	
Tenant's Notice Address:	
Commencement Date:	
Expiration Date:	
Current Base Rental Rate:	
Additional Rent:	
Last Date Rent Paid:	
Renewal Options:	
Purchase Options:	
Security Deposit:	
Additional Information:	

EXHIBIT E
Terms of Transition Services Agreement

The table below sets forth the terms of the services to be provided by the individuals listed below, at the rates provided under a separate cover, which shall be payable on a monthly basis:

Party	Scope of Services to be Provided
[To be specified in Transition Services Agreement]	Business matters
[To be specified in Transition Services Agreement]	Accounting and tax matters

EXHIBIT F
Form of Consent Agreement to Deemed Assignment of Lease

CONSENT AGREEMENT TO DEEMED ASSIGNMENT OF LEASE

THIS CONSENT AGREEMENT TO DEEMED ASSIGNMENT OF LEASE (this "*Agreement*") is entered into effective as of this ___ day of July 2022 by and between THE WEST INDIAN COMPANY, LIMITED, a U.S. Virgin Islands corporation ("*Landlord*"), and YACHT HAVEN USVI LLC, a U.S. Virgin Islands limited liability company ("*Upland Tenant*"), and YHUSVI MARINA, LLC, a U.S. Virgin Islands limited liability company ("*Marina Tenant*").

BACKGROUND INFORMATION

Landlord and Upland Tenant are bound under that certain Amended and Restated Development and Lease Agreement — Upland, effective August 1, 2012 (the "*Upland Lease*"), pertaining to certain premises described as Parcel Nos. Remainder 5A-l, Remainder 5C, 5D, 5E, 5F & 5G Estate Thomas, Kings Quarter, Charlotte Amalie, St. Thomas, U.S. Virgin Islands, which constitute approximately 7.078 acres excluding, however, Parcel No. 5A-la Estate Thomas, King's Quarter, St. Thomas, U.S. Virgin Islands and Parcel No. 5A-lc Estate Thomas, King's Quarter, St. Thomas, U.S. Virgin Islands, and excluding Parcel Nos. 5C-la and 5C-lb Estate Thomas from Parcel No. 5C Estate Thomas, King's Quarter, St. Thomas, U.S. Virgin Islands, as described in Exhibit A to the Upland Lease.

Landlord and Marina Tenant are bound under that certain Amended and Restated Development and Lease Agreement — Marina, effective August 1, 2012 (the "*Marina Lease*"), pertaining to certain premises described as Marina Area A4, including approximately 12.2 acres of submerged land in "Long Bay," St. Thomas, U.S. Virgin Islands, as more fully described in Exhibit A to the Marina Lease.

The holder(s) of 100% of the issued and outstanding membership interest of both Upland Tenant and Marina Tenant desire to effect an indirect change in control of both Upland Tenant and Marina Tenant, whereby MarineMax, Inc., or one of its affiliates will acquire 100% of the issued and outstanding membership interest of the Island Global Yachting, LLC, the indirect parent entity of both Upland Tenant and Marina Tenant (the "*Transaction*").

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and promises contained herein and in the Upland Lease and Marina Lease, and for other good and valuable consideration, the mutual receipt and sufficiency of which are hereby acknowledged, Landlord, Upland Tenant, and Marina Tenant hereby agree as follows:

OPERATIVE PROVISIONS

1. Background Information; Defined Terms. The background information set forth above is hereby incorporated into this Agreement as if fully set forth in this Section 1. Except as may be otherwise set forth herein, all terms used herein which are capitalized shall have the meaning as set forth in the Upland Lease.

2. Consent; Condition. Landlord hereby consents to the Transaction, provided that Landlord's consent is subject to the express condition that Landlord's consent to the Transaction shall not be deemed a consent to any other or subsequent transaction in respect of the Upland Lease or the Marina Lease.

3. MISCELLANEOUS. THIS AGREEMENT: (I) IS BINDING UPON AND INURES TO THE BENEFIT OF LANDLORD, UPLAND TENANT, AND MARINA TENANT AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS; AND (II) IS GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE UNITED STATES VIRGIN ISLANDS. THIS AGREEMENT CONTAINS THE ENTIRE AGREEMENT OF THE PARTIES WITH RESPECT TO THE MATTERS SET FORTH HEREIN, AND SUPERSEDES AND REVOKES ANY AND ALL NEGOTIATIONS, ARRANGEMENTS, LETTERS OF INTENT, REPRESENTATIONS, INDUCEMENTS, OR OTHER AGREEMENTS, ORAL OR IN WRITING, WITH RESPECT TO SUCH MATTERS. NO REPRESENTATIONS, INDUCEMENTS, OR AGREEMENTS, ORAL OR IN WRITING,

BETWEEN THE PARTIES WITH RESPECT TO SUCH MATTERS, UNLESS CONTAINED IN THIS AGREEMENT, WILL BE OF ANY FORCE OR EFFECT.

4. COUNTERPART EXECUTION. THIS AGREEMENT MAY BE EXECUTED IN SEVERAL COUNTERPARTS, EACH OF WHICH SHALL BE FULLY EFFECTIVE AS AN ORIGINAL AND ALL OF WHICH TOGETHER SHALL CONSTITUTE ONE AND THE SAME INSTRUMENT. SIGNATURE PAGES MAY BE DETACHED FROM THE COUNTERPARTS AND ATTACHED TO A SINGLE COPY OF THIS DOCUMENT TO PHYSICALLY FORM ONE DOCUMENT. TO FACILITATE EXECUTION OF THIS AGREEMENT, THE PARTIES MAY EXCHANGE EXECUTED COUNTERPARTS OF THE SIGNATURE PAGE(S) HEREOF BY FACSIMILE OR OTHER SIMILAR ELECTRONIC TRANSMISSION, WHICH TRANSMISSION SHALL BE DEEMED THE DELIVERY OF AN ORIGINAL COUNTERPART HEREOF.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties, by and through their undersigned and duly authorized representatives, have executed this Agreement for the purposes herein described.

UPLAND TENANT:

YACHT HAVEN USVI LLC,
a U.S. Virgin Islands limited liability company

By:
Name:
Title:
Date:

MARINA TENANT:

YHUSVI MARINA, LLC,
a U.S. Virgin Islands limited liability company

By:
Name:
Title:
Date:

LANDLORD:

THE WEST INDIAN COMPANY, LIMITED,
a U.S. Virgin Islands corporation

By:
Name:
Title:
Date:

SELLERS DISCLOSURE SCHEDULES

[****]

NOTE: PORTIONS OF THIS EXHIBIT INDICATED BY "[****]" HAVE BEEN OMITTED FROM THIS EXHIBIT AS THESE PORTIONS ARE NOT MATERIAL AND WOULD LIKELY CAUSE COMPETITIVE HARM IF PUBLICLY DISCLOSED.

Exhibit 10.16

Execution Version

CREDIT AGREEMENT

among

MARINEMAX, INC.

and

VARIOUS OTHER AFFILIATED ENTITIES HEREAFTER PARTIES HERETO,

as Borrowers

and

MANUFACTURERS AND TRADERS TRUST COMPANY,
as the Administrative Agent, Swingline Lender and Issuing Bank

WELLS FARGO COMMERCIAL DISTRIBUTION FINANCE, LLC,
as the Floor Plan Agent

and

MANUFACTURERS AND TRADERS TRUST COMPANY,

AND VARIOUS OTHER FINANCIAL INSTITUTIONS
NOW OR HEREAFTER PARTIES HERETO
as Lenders

Dated: August 8, 2022

_____

MANUFACTURERS AND TRADERS TRUST COMPANY,
WELLS FARGO SECURITIES, LLC
and
WELLS FARGO BANK, NATIONAL ASSOCIATION,

as Joint Lead Arrangers

and

BANK OF AMERICA, N.A.,
PNC BANK, NATIONAL ASSOCIATION

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and
NEW YORK COMMUNITY BANK
as Co-Documentation Agents

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SCHEDULES

EXHIBITS

CREDIT AGREEMENT

THIS CREDIT AGREEMENT is dated August 8, 2022, by and among **MARINEMAX, INC.**, a Florida corporation ("*Holdings*"; together with each Subsidiary of Holdings identified on the signature pages hereto as a "*Borrower*", each a "*Borrower*" and, collectively, the "*Borrowers*"), each lender from time to time that is a party hereto (each a "*Lender*" and collectively, the "*Lenders*"), **MANUFACTURERS AND TRADERS TRUST COMPANY**, a New York banking corporation, as Administrative Agent, Swingline Lender and Issuing Bank and **WELLS FARGO COMMERCIAL DISTRIBUTION FINANCE, LLC**, as Floor Plan Agent.

RECITALS:

The Borrowers have requested that the Lenders (a) establish (i) a floor plan line of credit facility in an aggregate amount of up to $**750,000,000**, (ii) a mortgage loan facility in an aggregate amount of up to $**100,000,000** and (iii) a revolving credit facility in an aggregate amount of up to $**100,000,000** in favor of, and (b) make term loans in an aggregate principal amount equal to $**400,000,000** on the Closing Date to, the applicable Borrowers, in each case on the terms and conditions of this Agreement.

Pursuant to that certain Securities Purchase Agreement by and among Island Marina Holdings LLC, a Delaware limited liability company, Island Marinas Subsidiary Corp., a Delaware corporation (collectively, the "*Sellers*"), IG Holdings LLC, a Delaware limited liability company ("*IG Holdings*"), MOF Simpson Bay L.P., a Texas limited partnership ("*MOF Simpson Bay*"), Holdings, and MarineMax East, Inc., a Delaware corporation ("*Buyer*") dated as of August 8, 2022 (the "*IGY Acquisition Agreement*"), Buyer has agreed to acquire (i) 100% of the issued and outstanding membership interest units of Island Global Yachting LLC, a Delaware limited liability company ("*Island Global Yachting*") from the Sellers, (ii) 80% of the issued and outstanding membership interest units of Island Gardens Deep Harbour, LLC ("*Island Gardens Deep*") from IG Holdings, and (iii) 100% of the issued and outstanding membership interest units of Pentagon Management, N.V. ("*Pentagon Management*"; together with Island Global Yachting and Island Gardens Deep, "*IGY*") from MOF Simpson Bay, on a date following the Closing Date (collectively, the "*IGY Acquisition*").

Subject to the terms and conditions of this Agreement, and the Lenders, to the extent of their respective Commitments as defined herein, are willing severally to establish the requested floor plan line of credit facility, mortgage loan facility, and revolving credit facility, in favor of, and severally to make certain term loans to, the applicable Borrowers, in each case on the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and other valuable consideration, and intending to be legally bound hereby, the parties hereby covenant and agree as follows:

ARTICLE 1
CERTAIN DEFINITIONS; RULES OF CONSTRUCTION

Section 1.01. *Certain Definitions* . In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings, respectively, unless the context hereof clearly requires otherwise:

"Account" means any "account" within the meaning of that term under the Uniform Commercial Code.

"Account Debtor" means any "account debtor" within the meaning of that term under the Uniform Commercial Code, including any Person who is obligated to pay an Account.

"Acquisition" means the acquisition of (i) a Controlling Equity Interest or other Controlling ownership interest in another Person (including the purchase of an option, warrant or convertible or similar type security to acquire such a Controlling interest at the time it becomes exercisable by the holder thereof), whether by purchase of such equity or other ownership interest or upon the exercise of an option or warrant for, or conversion of securities into, such Equity Interest or other ownership interest, (ii) all or substantially all of the assets of another Person or (iii) assets of another Person which constitute a business unit or a line or lines of business conducted by such Person, or assets constituting a dealership of another Person.

"*Additional Lender*" means, at any time, any Person that, in any case, is not an existing Lender but, in any event, is an "Eligible Assignee" and agrees to provide any portion of any Facility Increase in accordance with Section 2.22.

"*Adjusted Base Rate*" means that rate of interest equal to the Base Rate plus the Applicable Margin.

"Adjusted Base Rate Borrowing" means each amount of the unpaid principal balance of a Loan which accrues interest at the Adjusted Base Rate.

"*Adjusted Eurocurrency Rate*" means, as to any Loan denominated in Euros for any Interest Period, a rate per annum determined by the Administrative Agent pursuant to the following formula:

$$\text{Adjusted Eurocurrency Rate} = \frac{\text{Eurocurrency Rate for such Currency for such Interest Period}}{\text{1.00-Eurocurrency Reserve Percentage}}$$

"Adjusted SOFR Rate" means (i) for any SOFR Borrowing other than in respect of Floor Plan Loans for any Interest Period, an interest rate per annum that is equal to the sum of Term SOFR for such Interest Period plus the Applicable Margin and (ii) for any SOFR Borrowing in respect of Floor Plan Loans, an interest rate per annum that is equal to the sum of Term SOFR per clause (b) of the definition thereof plus the Applicable Margin.

"Administrative Agent" means M&T Bank (or any of its designated branch offices or affiliates), in its capacity as Administrative Agent for the Lenders in accordance with this Agreement, and its successors and assigns in such capacity as authorized by the terms of this Agreement.

"*Advance Date*" has the meaning provided to such term in Section 2.02.1 of this Agreement.

"Affected Financial Institution" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"*Agent Parties*" has the meaning provided to such term in Section 10.10.4 of this Agreement.

"*Agents*" means, collectively, the Administrative Agent and the Floor Plan Agent.

"Aggregate Mortgaged Property Asset Value" means, at any time, the Mortgaged Property Asset Value of all Mortgaged Properties at such time.

"Agreement" means this Credit Agreement, as it may be amended or modified from time to time, together with all schedules and exhibits hereto.

"*Alternative Currency*" means (a) Euros and (b) each other currency (other than Dollars) that is approved in accordance with Section 1.11, in each case to the extent such currencies are (i) readily available and free transferable and convertible into Dollars, (ii) are dealt with in the London or other applicable offshore interbank deposit market and (iii) for which no central bank or other governmental authorization in the country of issue of such currency is required to give authorization for the use of such currency by any Lender for making Loans unless such authorization has been obtained and remains in full force and effect.

"*Alternative Currency Equivalent*" means, at any time, with respect to any amount denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as determined by the Administrative Agent or the applicable Issuing Bank (with notice thereof to the Administrative Agent), as the case may be, in its sole discretion by reference to the most recent Spot Rate (as determined in respect of the most recent Revaluation Date) for the purchase of such Alternative Currency with Dollars.

"*Anti-Corruption Laws*" means all applicable Laws of any jurisdiction concerning or relating to bribery or corruption, including without limitation, the Foreign Corrupt Practices Act of 1977.

"Anti-Terrorism Laws" means any Laws of the United States relating to terrorism or money laundering (including the U.S. Foreign Corrupt Practices Act of 1977) and any regulation, order (including executive orders), or directive promulgated, issued or enforced pursuant to such Laws.

"*Applicable Agent*" means (a) with respect to Floor Plan Loans, WF Advances or the Floor Plan Facility, the Floor Plan Agent and (b) otherwise, the Administrative Agent.

"*Applicable Agent's Office*" means (a) with respect to Floor Plan Loans, WF Advances or the Floor Plan Facility, the Floor Plan Agent's Office and (b) otherwise, the Administrative Agent's office.

"Applicable Credit Facility" means the Floor Plan Facility, Term Loan Facility, Mortgage Loan Facility and the Revolving Credit Facility, as the context may require.

"Applicable Margin" (a) With respect to the Loans, fees, and other Obligations listed in the pricing grid below, the following percentages corresponding to the Total Net Leverage Ratio in effect as of the most recent Calculation Date:

Tier Level	Total Net Leverage Ratio	Applicable Margin for Adjusted Base Rate Borrowings of Revolving Credit Loans, Term Loans, and Swingline Loans	Applicable Margin for SOFR Borrowings of Revolving Credit Loans and Term Loans and Eurocurrency Rate Loans that are Revolving Credit Loans	Applicable Margin for Letter Of Credit Fees
[****]	[****]	[****]	[****]	[****]
[****]	[****]	[****]	[****]	[****]
[****]	[****]	[****]	[****]	[****]

The initial Applicable Margin shall be based on Tier Level 2. Beginning with the Calculation Date immediately following the Fiscal Quarter of the Borrowers ending on September 30, 2022 and after each consecutive Fiscal Quarter thereafter, the Applicable Margin shall be determined and adjusted by the then current Total Net Leverage Ratio as determined in accordance with the quarterly Compliance Certificates to be provided by the Borrowers in accordance with this Agreement. If the Borrowers fail to timely provide a Compliance Certificate for any Fiscal Quarter of the Borrowers as required by and within the time limitations set forth in this Agreement, the Applicable Margin from the applicable date of such failure shall be based on Tier Level 1 until five (5) Business Days after a Compliance Certificate has been provided, whereupon the applicable Tier Level shall be determined by the Total Net Leverage Ratio set forth in such Compliance Certificate. Except as set forth above, each Applicable Margin shall be effective from a Calculation Date until the next Calculation Date. If, as a result of any restatement of or other adjustment to the financial statements of the Borrowers and their Subsidiaries or for any other reason, the Borrowers or the Lenders determine that (a) the Total Net Leverage Ratio (or any component thereof) as calculated by the Borrowers as of any applicable date was inaccurate, and (b) a proper calculation would have resulted in higher pricing for such period, the Borrowers shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders or the Issuing Bank promptly on demand by Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrowers under the Bankruptcy Code, automatically and without further action by Administrative Agent, any Lender or the Issuing Bank), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. The obligations of the Borrowers to make such payment shall survive the termination of the Commitments and the repayment of all other Obligations hereunder.

(b) With respect to the Mortgage Loans, means 2.20% with respect to SOFR Borrowings and 1.20% with respect to Adjusted Base Rate Borrowings;

(c) With respect to Floor Plan Loans means 3.45% with respect to SOFR Borrowings;

(d) With respect to Floor Plan Unused Commitment Fees, [****]; and

(e) With respect to Revolving Credit Unused Commitment Fees, [****].

"*Applicable Time*" means, with respect to any Loans and Letters of Credit and payments in any Alternative Currency, the local time in the place of settlement for such Alternative Currency as may be

determined by the Administrative Agent or the applicable Issuing Bank (with notice to the Administrative Agent), as the case may be, to be necessary for timely settlement on the relevant date in accordance with normal banking procedures in the place of payment.

"Applicable Percentage" means, with respect to any Lender at any time, the following ratio expressed as a percentage (a) a Lender's aggregate Commitments with respect to an Applicable Credit Facility at such time, to (b) the aggregate Commitments represented by all Lenders' Commitments with respect to such Applicable Credit Facility at such time, in each case subject to adjustment as provided in Section 2.14. If the Commitment of any Lender under an Applicable Credit Facility to make Loans under such Applicable Credit Facility has been terminated, or if the Commitments of such Applicable Credit Facility have expired, then the Applicable Percentage of each Lender under such Applicable Credit Facility shall be determined based on the Applicable Percentage of such Lender under such Applicable Credit Facility most recently in effect, giving effect to any subsequent assignments made pursuant to the terms hereof. The initial Applicable Percentage of each Lender under each Applicable Credit Facility is set forth opposite the name of such Lender on Schedule 1.01 or in the Assignment and Assumption or Incremental Amendment pursuant to which such Lender becomes a party hereto, as applicable.

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

"*Approval*" means Floor Plan Agent's indication to a Manufacturer that the Floor Plan Lenders will provide financing to a Floor Plan Borrower with respect to a particular invoice or invoices for which Wells Fargo has not financed an invoice for the Inventory subject thereto.

"*Approval Date*" has the meaning provided to such term in Section 2.02.1 of this Agreement.

"*Aquila*" means the vessel brand commonly known as Aquila.

"Arrangers" means collectively, M&T Bank and Wells Fargo, each in its capacity as arranger.

"Assignment and Assumption" means an Assignment and Assumption entered into by a Lender and an Eligible Assignee, and accepted by the Administrative Agent, substantially in the form of Exhibit A or any other form approved by the Administrative Agent.

"*Attributable Indebtedness*" means, on any date, (a) in respect of any Capital Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a Capital Lease.

"Authorized Officer" means, with respect to any Person (other than a natural Person), any officer, partner, member, manager or other representative authorized to act on behalf of such Person and shall include, with respect to any Loan Party, those Persons duly designated as such in any incumbency certificates delivered to the Administrative Agent from time to time.

"Available Tenor" means, as of any date of determination and with respect to any then-current Benchmark for any Currency, as applicable, (x) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (y) otherwise, any payment period for interest calculated with reference to

such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case, as of such date.

"*Availability Period*" means:

(a) in the case of the Floor Plan Facility, the period from and including the Closing Date to the earliest of (i) the Floor Plan Line of Credit Termination Date, and (ii) the date of termination of the Floor Plan Loan Commitments pursuant to Section 8.01;

(b) in the case of the Revolving Credit Facility, the period from and including the Closing Date to the earliest of (i) the Revolving Credit Termination Date, (ii) the date of termination of all Revolving Credit Commitments pursuant to Section 2.03.6, and (iii) the date of termination of the Revolving Credit Commitments pursuant to Section 8.01;

(c) in the case of the Mortgage Loan Facility, the period from and including the Closing Date to the earliest of (i) August 8, 2026, (ii) the date of termination of all Mortgage Loan Commitments pursuant to 2.06A.6, and (iii) the date of termination of the Mortgage Loan Commitments pursuant to Section 8.01; or

(d) In the case of the Term Loan Facility, the period from and including the Closing Date to the earliest of (i) August 8, 2023, (ii) the date of termination of all Term Loan Commitments pursuant to Section 2.06 and (iii) the date of termination of the Term Loan Commitments pursuant to Section 8.01.

"*Azimut*" means Azimut-Benetti S.p.A.

"Bail-In Action" means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"Bail-In Legislation" means, (a) 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 and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bank Products" means any one or more of the following types of services or facilities extended to any of the Loan Parties by any Credit Party or Affiliate of a Credit Party: (a) Automated Clearing House (ACH) transactions and other similar money transfer services; (b) cash management, lockbox services, controlled disbursement accounts, treasury management arrangements, and other similar services; (c) the establishment and maintenance of depository accounts; (d) credit cards, debit cards, purchase cards, or stored value cards; (e) merchant services; (f) foreign currency exchange; and (g) other similar or related bank products and services.

"Bankruptcy Code" means the bankruptcy code of the United States of America codified in Title 11 of the United States Code, as from time to time amended or supplemented.

"Base Rate" means, for any day, the fluctuating rate per annum equal to the highest of (a) the Prime Rate for such day, (b) the Federal Funds Rate in effect on such day plus fifty (50) Basis Points, and (c) the applicable Adjusted SOFR Rate for an Interest Period of one-month, determined on a daily basis, plus one hundred (100) Basis Points; provided that to the extent such highest rate as calculated above shall,

at any time, be less than zero percent (0.00%), such rate shall be deemed to be zero percent (0.00%) for all purposes herein. Any change in the Base Rate shall be effective on the opening of business on the day of such change.

"Base Rate Loan" means a Loan that bears interest based on the Base Rate. All Base Rate Loans shall be denominated in Dollars.

"Basis Point" means one one-hundredth (.01) of one percent.

"Benchmark" means, initially, with respect to any (a) Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Dollars, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or then-current Benchmark for Dollars, then "Benchmark" means, with respect to such Obligations, interest, fees, commissions or other amounts, the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.07.9 and (b) Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Euros, EURIBOR; provided that if a Benchmark Transition Event has occurred with respect to EURIBOR or the then-current Benchmark for such Currency, then "Benchmark" means, with respect to such Obligations, interest, fees, commissions or other amounts, the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.07.9.

"Benchmark Replacement" means the first alternative set forth in the order below that is applicable (based on the applicability restrictions below) and can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

(1) the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;

(2) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower Representative as the replacement for the then-current Benchmark 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 for such Benchmark for syndicated credit facilities denominated in the applicable Currency at such time and (b) the related Benchmark Replacement Adjustment;

provided that, if the Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement will be deemed to be the Floor for the purposes hereof.

"Benchmark Replacement Adjustment" means with respect to any replacement of any then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Available Tenor, 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 Administrative Agent in consultation with the Borrower Representative, 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 such Benchmark 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 such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in the applicable Currency at such time.

"Benchmark Replacement Conforming Changes" means with respect to the use or administration of an initial Benchmark or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), the definition of "RFR Business Day,", "Eurocurrency Banking Day", timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions and other technical, administrative or operational matters) that the Administrative Agent decides in its reasonable discretion may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Credit Documents).

"Benchmark Replacement Date" means the earlier to occur of the following events with respect to the then-current Benchmark for any Currency:

(a) in the case of clause (a) of the definition of "Benchmark Transition Event," the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of the Benchmark permanently or indefinitely ceases to provide the Benchmark; or

(b) in the case of clause (b) of the definition of "Benchmark Transition Event," the later of (i) the date of the public statement or publication of information referenced therein, and (ii) the announced or stated date as of which all applicable tenors of such Benchmark will no longer be representative.

"Benchmark Transition Event" means, with respect to any then-current Benchmark for any Currency, the occurrence of a public statement or publication of information by or on behalf of the administrator of such then-current Benchmark, the regulatory supervisor for the administrator of such Benchmark, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, the central bank for the Currency applicable to such Benchmark, an insolvency official with jurisdiction over the administrator for such Benchmark, a resolution authority with jurisdiction over the administrator for such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, announcing or stating that (a) such administrator has ceased, or will cease on a specified date, to provide such Benchmark (or all tenors of such Benchmark applicable to the loan evidenced hereby), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any applicable tenors of such Benchmark or (b) all applicable tenors of such Benchmark are or as of a specified date will no longer be representative of the underlying market and economic reality that such Benchmark is intended to measure and indicating that representativeness will not be restored.

"Benchmark Unavailability Period" means, with respect to any then-current Benchmark for any Currency, the period (if any) (x) beginning at the time that a Benchmark Replacement Date with respect to such Benchmark pursuant to clauses (a) and (b) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Credit Documents in accordance with Section 2.07.10 and (y) ending at the time that a Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Credit Documents in accordance with Section 2.07.10.

"*Beneficial Ownership Certification*" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"*Beneficial Ownership Regulation*" means 31 C.F.R. § 1010.230.

"Borrower" means each of the entities set forth in the preamble to this Agreement and identified as a Borrower and *"Borrowers"* means all of such entities.

"*Borrower Pro Rata Share*" means the amount of proceeds of the Loans advanced to or for the benefit of a Borrower, including without limitation the refinancing of existing Indebtedness for which the Borrower is an obligor.

"*Borrower Representative*" means Holdings, and any successor thereto as appointed by all of the Borrowers.

"Borrowing" means, as the context requires, a (a) Floor Plan Borrowing, (b) Revolving Borrowing, (c) WF Advance, (d) Mortgage Loan Borrowing of a particular Class or (e) Term Loan Borrowing of a particular Class.

"*Borrowing Base*" means an amount equal to:

(1) the New Unit Invoiced Amount of all Eligible New Floor Plan Units multiplied by the applicable Floor Plan Loan Advance Limit; *plus*

(2) the Pre-Owned Inventory Cost of all Eligible Used Floor Plan Units multiplied by the applicable Floor Plan Loan Advance Limit; *plus*

(3) the net amount of Eligible Accounts multiplied by [****]; *plus*

(4) the invoiced amount of Eligible Parts multiplied by [****]; *minus*

(5) the then-amount of all Reserves.

"*Borrowing Base Certificate*" has the meaning provided to such term in Section 5.09.14.

"*Borrowing Base Collateral*" means all Accounts owned by each Floor Plan Borrower, all Specified Inventory owned by each Floor Plan Borrower and all Specified Inventory Parts owned by each Floor Plan Borrower, that in each case are, or at any time, were, Eligible Accounts, Eligible Units or Eligible Parts, respectively (such Accounts, Specified Inventory and Specified Inventory Parts to be presumed to be Eligible Accounts, Eligible Units or Eligible Parts, respectively, for purposes of this definition absent information to the contrary reported by the Loan Parties to the Administrative Agent and the Floor Plan Agent in the Borrowing Base Certificates or other financial reporting).

"*Borrowing Base Obligations*" means all of the obligations of the Loan Parties to the Floor Plan Lenders, whenever arising, under this Agreement or any other Credit Documents, including without limitation all unpaid principal, accrued interest, fees and Credit Party Expenses of the Floor Plan Lenders due and payable hereunder.

"*Borrowing Base Test Date*" means (i) the last day of each calendar month for which a Borrowing Base Certificate has been delivered in accordance with Section 5.09.14, and (ii) if the Borrower Representative voluntarily has delivered a Borrowing Base Certificate (including in connection with a Permitted Acquisition).

"Borrowing Date" means any Business Day on which the Borrowers have requested that the Lenders advance proceeds of the Floor Plan Loans or Revolving Credit Loans, that WF Advances proceeds of the WF Advances, Mortgage Loans, Term Loans or that the Swingline Lender advances proceeds of the Swingline Loans, as the case may be, to or for the account of the Borrowers.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banking institutions in New York, New York are authorized or required by law or other governmental action to remain closed for business.

"Calculation Date" means each of the dates upon which the Applicable Margins are to be determined and adjusted, which adjustments shall be made quarterly on the date occurring five (5) Business Days after the date on which the Administrative Agent receives the quarterly Compliance Certificate in accordance with the provisions of this Agreement, or otherwise as required by the terms of this Agreement.

"Capital Lease" means, with respect to any Person, any lease by that Person which requires such Person to concurrently recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP.

"Capital Lease Obligations" means, with respect to any Person and a Capital Lease, the amount of the obligations of such Person as the lessee under such Capital Lease that would, in accordance with GAAP, appear as a liability on a balance sheet of such Person.

"*Capital Stock*" means (a) in the case of a corporation, capital stock, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (c) in the case of a partnership, partnership interests (whether general or limited), (d) in the case of a limited liability company, membership interests, and (e) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"*Captive Insurance Subsidiary*" means any Subsidiary of Holdings that is maintained as a self-insurance subsidiary and is subject to regulation as an insurance company (and any Subsidiary thereof).

"*Cash Collateral Account*" means a special deposit account maintained by the Administrative Agent, for the benefit of the Administrative Agent, the Issuing Bank and the Revolving Credit Lenders, and under the Administrative Agent's sole dominion and control.

"Cash Collateralize" means, to pledge and deposit with or deliver to (i) the Administrative Agent, for the benefit of the Issuing Bank and/or Lenders, as collateral for Obligations in respect of, L/C Obligations or obligations of Lenders to fund participations in respect of L/C Obligations, or as otherwise required under this Agreement with respect to other Obligations, cash or deposit account balances in the applicable Currency or, if M&T Bank, the Administrative Agent and the Issuing Bank shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to M&T Bank, the Administrative Agent and the Issuing Bank or (ii) the Floor Plan Agent (x) for the benefit of the Floor Plan Agent and the Floor Plan Lenders, as Collateral for Floor Plan Loan Commitments, (y) for the benefit of the WF Advance Lender, in its capacity as lender of the WF Advances and/or the Floor Plan Lenders, as Collateral for Obligations in respect of WF Advances or obligations of Floor Plan Lenders to fund participations in respect thereof (as the context may require), or (z) as otherwise required under this Agreement with respect to other Floor Plan Loan Commitments, cash or deposit account balances as the WF Advance Lender or the Lender benefitting from such Collateral shall agree in its sole discretion (as applicable) with respect to the Cash Collateral held for its benefit, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to the

Administrative Agent, the WF Advance Lender, Issuing Bank or the Swingline Lender (as applicable) for which such Cash Collateral is held for its benefit. "*Cash Collateral*" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Cash Equivalents" means (a) securities issued or directly and fully guaranteed or insured by the United States Government or any agency or instrumentality thereof having maturities of not more than one year from the date of acquisition, (b) time deposits, certificates of deposit and Eurodollar time deposits with maturities of not more than six months from the date of acquisition, bankers' acceptances with maturities not exceeding six months from the date of acquisition and overnight bank deposits, in each case with the Administrative Agent or any Lender or with any domestic commercial bank having capital and surplus in excess of Five Hundred Million Dollars ($500,000,000), (c) repurchase obligations with a term of not more than thirty (30) days for underlying securities of any of the types described in clause (a) or (b) and entered into with any bank meeting the qualifications specified in clause (b) above, (d) commercial paper maturing in one hundred eighty (180) days or less rated not lower than A-1 or A-2 by Standard & Poor's Ratings Group or P-1 or P-2 by Moody's Investors Service, Inc. on the date of acquisition, and (e) interests in pooled investment funds (including mutual funds and money market funds) the assets of which are invested in investments referred to in items (a) through (d) above.

"Cash Taxes" means, with respect to any referenced Person, for any applicable period, the taxes paid in cash by such Person during such period.

"*Casualty Event"* means any loss of or damage to, or any condemnation or other taking of, any of the Collateral for which any Loan Party receives insurance proceeds, or proceeds of a condemnation award or other compensation.

"CEA" means the Commodity Exchange Act (7 U.S.C.§1 et seq.), as amended from time to time, and any successor statute.

"*CFC*" means a "controlled foreign corporation" within the meaning of Section 957(a) of the Code.

"*CFC Holdco*" means a Subsidiary that has no material assets other than (i) the Capital Stock and Indebtedness, if any, of one or more Subsidiaries that are CFCs or (ii) the Capital Stock and Indebtedness, if any, of one or more Subsidiaries that hold no material assets other than the assets described in the immediately preceding clause (i).

"CFTC" means the Commodity Futures Trading Commission.

"*Change in Control*" means an event or series of events by which:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an "option right")), directly or indirectly, of thirty-five percent (35%) or more of the Capital Stock of Holdings entitled to vote for members of the board of directors or equivalent governing body of Holdings on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right); or

(b) during any period of twelve (12) consecutive months, a majority of the members of the board of directors or other equivalent governing body of Holdings cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body.

"*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.

"Charges" has the meaning provided to such term in Section 2.01.7 of this Agreement.

"Class" means, (a) when used with respect to Lenders, refers to whether such Lenders have Loans or Commitments with respect to a particular Class of Loans or Commitments, (b) when used with respect to Commitments, refers to whether such Commitments are Floor Plan Loan Commitments, Term Loan Commitments, Mortgage Loan Commitments or Revolving Credit Commitments, in each case not designated part of another existing Class, and (c) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are Floor Plan Loans, Term Loans, Mortgage Loans or Revolving Credit Loans, in each case not designated part of another existing Class. Commitments (and, in each case, the Loans made pursuant to such Commitments) that have different terms and conditions shall be construed to be in different Classes. Commitments (and, in each case, the Loans made pursuant to such Commitments) that have identical terms and conditions shall be construed to be in the same Class.

"Closing" means the execution and delivery of this Agreement by the parties hereto.

"Closing Date" means the above stated effective date of this Agreement.

"*Closing Date Refinancing*" means repayment of all outstanding obligations, termination of all commitments, and termination and release all liens and loan documents, in each case, in connection with (i) the Existing Credit Facility, and (ii) all other outstanding Indebtedness of Holdings and its Subsidiaries that are not permitted to remain outstanding under the terms of this Agreement on the Closing Date.

"Closing Date Transactions" means, collectively, (a) the execution of this Agreement and the other Credit Documents, (b) the funding of the initial Floor Plan Loans, and any Revolving Credit Loans and the Mortgage Loans, in each case on the Closing Date, (c) the execution of the IGY Acquisition Agreement, (d) the consummation of any other transactions in connection with the foregoing, (e) the payment of fees and expenses incurred in connection with any of the foregoing and (f) the occurrence of the Closing Date Refinancing.

"CME" means CME Group Benchmark Administration Ltd.

"Code" means the Internal Revenue Code of 1986, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

"*Collateral*" means all of the assets, rights, and interests in property, including tangible and Intangible Assets and personal property, in which the Administrative Agent on behalf of the Credit Parties is from time to time granted a Lien under any Security Document as security for all or any portion of the Obligations; provided, however, that Collateral shall not include any Excluded Property.

"*Collateral Information Certificate*" means each of the Collateral Information Certificates prepared, executed and delivered to the Administrative Agent by an Authorized Officer of a Loan Party.

"*Commercial Account*" means the commercial checking account to be established and maintained with the Administrative Agent by the Borrowers and which may be utilized as the means of advancing funds under the Loans (other than the Floor Plan Loans and WF Advances).

"*Commitment Percentages*" means, with respect to any Lender, such Lender's Floor Plan Loan Commitment Percentage, Revolving Credit Commitment Percentage, Term Loan Commitment Percentage and Mortgage Loan Commitment Percentage, and with respect to all Lenders, all of the Floor Plan Loan Commitment Percentages, all of the Revolving Credit Commitment Percentages, all of the Term Loan Commitment Percentages and all of the Mortgage Loan Commitment Percentage.

"*Commitments*" means, with respect to any Lender, such Lender's Floor Plan Loan Commitment, obligations hereunder to purchase participations in WF Advances, Revolving Credit Commitment, Term Loan Commitment, Mortgage Loan Commitment, and obligations hereunder to purchase participations in L/C Obligations and Swingline Loans, and with respect to all Lenders, all Floor Plan Loan Commitments, obligations of all Lenders hereunder to purchase participations in WF Advances, Revolving Credit Commitments, Term Loan Commitments, Mortgage Loan Commitments, and obligations of all Lenders hereunder to purchase participations in L/C Obligations and Swingline Loans.

"*Communications*" has the meaning provided to such term in Section 10.10.4 of this Agreement.

"Compliance Certificate" means a certificate provided by the Chief Financial Officer, Chief Executive Officer, President, or Director of Treasury of the Borrower Representative in accordance with the requirements of Section 5.09.5 of this Agreement in form and substance as Exhibit B attached hereto.

"*Connection Income Taxes*" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

"*Consolidated EBITDA*" means, for any Measurement Period, for Holdings and its Subsidiaries on a consolidated basis, without duplication, an amount equal to:

(a) Consolidated Net Income for the most recently completed Measurement Period plus

(b) the following to the extent deducted in accordance with GAAP in calculating such Consolidated Net Income (without duplication):

(i) Consolidated Interest Expense for such period ([****]),

(ii) the provision for Federal, state, local and foreign income taxes payable by Holdings and its Subsidiaries for such period,

(iii) depreciation and amortization expense for such period,

(iv) fees, costs and expenses incurred in connection with the Closing Date Transactions, in an aggregate amount not to exceed [****] for such period,

(v) non-cash charges for such period (including, without limitation, non-cash stock-based compensation expense, foreign currency translations, and impairment charges) which do not represent a cash item in such period or any future period, and

(vi) non-recurring cash fees, costs and expenses incurred in connection with Permitted Acquisitions and other Permitted Investments, in each case, whether or not consummated, for such period in an aggregate amount not to exceed [****] in any Measurement Period, minus

(c) the following to the extent included in calculating such Consolidated Net Income:

(i) Federal, state, local and foreign income tax credits of Holdings or any of its Subsidiaries for such period; and

(ii) all non-cash items increasing Consolidated Net Income for such period.

Notwithstanding anything to the contrary contained herein, for purposes of determining Consolidated EBITDA under this Agreement for any period that includes any of the Fiscal Quarters ended June 30, 2021, September 30, 2021, December 31, 2021 and March 31, 2022, Consolidated EBITDA for such Fiscal Quarters shall be $87,488,000, $50,580,000, $54,961,000 and $80,503,000, respectively. For the purposes of calculating Consolidated EBITDA for any Measurement Period, if at any time during such Measurement Period, Holdings or any of its Subsidiaries shall have made a Permitted Acquisition, Consolidated EBITDA for such Measurement Period shall be calculated after giving effect thereto on a pro forma basis. Notwithstanding the foregoing, for purposes of determining Consolidated EBITDA under this Agreement, Consolidated EBITDA attributable to Subsidiaries that are not Loan Parties, when taken together, shall not exceed 10% of Consolidated EBITDA (calculated before giving effect to all adjustments made to Consolidated EBITDA for such period).

"Consolidated Fixed Charges" means, for any period of determination, for Holdings and its Subsidiaries determined on a consolidated basis, the sum of (a) the sum of all scheduled principal payments upon Consolidated Funded Indebtedness made during such period (including the principal components of Capital Lease payments during such period and, for the avoidance of doubt, excluding any Earnout Obligations payments), plus (b) Consolidated Interest Expense ([****]), including Letter of Credit Fees and other fees paid in connection with Letters of Credit, including fronting, issuance, amendment and processing fees. For purposes of this definition, "scheduled principal payments" shall (a) be determined without giving effect to any reduction of such scheduled payments resulting from the application of any mandatory or voluntary prepayments (including any prepayments required pursuant to Section 2.06.3 and 2.06.4 of this Agreement) made during the applicable period, (b) shall be deemed to include the Attributable Indebtedness in respect of Capital Lease Obligations and Synthetic Lease Obligations, and (c) shall not include any principal payment required to be made on the maturity date of any such Consolidated Funded Indebtedness. For the avoidance of doubt, for purposes of this definition, "scheduled principal payments" shall not include any balloon payment upon maturity of the Mortgage Loans.

"Consolidated Fixed Charge Coverage Ratio" means, as of the date of determination for any Measurement Period, the ratio for such Measurement Period of (a) Consolidated EBITDA of Holdings and its Subsidiaries for such period minus (i) Cash Taxes for Holdings and its Subsidiaries on a consolidated basis paid during such period, and (ii) all dividends, distributions, and other Restricted Payments paid in cash by Holdings or any Subsidiary on a consolidated basis during such period, to (b) Consolidated Fixed Charges for such period.

"Consolidated Funded Indebtedness" means, as of any date of determination, all Indebtedness of Holdings and its Subsidiaries on a consolidated basis, excluding (i) [****], (ii) Indebtedness of the type described in clauses (vi) of the Indebtedness definition (unless drawn and unreimbursed) and (iii) [****].

"*Consolidated Interest Expense*" means, for any period, for the Holdings and its Subsidiaries on a consolidated basis, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of Holdings and its Subsidiaries in connection with Consolidated Funded Indebtedness, in each case to the extent treated as interest in accordance with GAAP, and (b) the portion of rent expense of Holdings and its Subsidiaries with respect to such period under Capital Leases that is treated as interest in accordance with GAAP.

"*Consolidated Net Income*" means, for any period, for Holdings and its Subsidiaries on a consolidated basis, the net income of Holdings and its Subsidiaries excluding the following for such period (i) extraordinary gains and extraordinary losses (in each case, calculated in a manner consistent with GAAP as in effect prior to the issuance of FASB Accounting Standards Update No. 2015-01), (ii) the income (or deficit) of any such Person accrued prior to the date it becomes a Subsidiary of Holdings or is merged into or consolidated with Holdings or one of its Subsidiaries, (iii) the income (or deficit) of any such Person (other than a Subsidiary of Holdings) in which Holdings or one of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by Holdings or such Subsidiary in the form of cash dividends or similar distributions, (iv) the undistributed earnings of any Subsidiary of Holdings to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation, any organizational document of such Subsidiary, or any requirement of Law applicable to such Subsidiary or any owner of Equity Interests of such Subsidiary.

"*Consolidated Total Assets*" means, as of any date of determination, the amount that would, in a manner consistent with GAAP, be set forth opposite the caption "total assets" (or any like caption) on the most recent consolidated balance sheet of Holdings and its Subsidiaries at such date.

"Contamination" means the presence of any hazardous substance at any real property owned or leased by any Loan Party which may require investigation, clean-up or remediation under any Environmental Law.

"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 with respect to a Person 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.

"Cost of Acquisition" means, with respect to any Acquisition, the purchase consideration for such Acquisition and all other payments, directly or indirectly, by any Loan Party to a Person other than a Loan Party in exchange for, or as part of, or in connection with, such Acquisition (including, without limitation, fees and expenses incurred in connection therewith), whether paid in cash, or by, or in exchange for, Equity Interests or of properties or otherwise (other than by the issuance of, or exchange for, any Equity Interests in Holdings or its direct or indirect parent that do not constitute Disqualified Stock and that are not prohibited from being issued hereunder) and whether payable at or prior to the consummation of such Acquisition or deferred (except as provided in clause (x) below) for payment at any future time, whether or not any such future payment is subject to the occurrence of any contingency and includes any and all payments representing the purchase price and any assumptions of Indebtedness, and seller notes; provided that, notwithstanding the foregoing, (x) earnouts (including other agreements to make any payment the amount of which is, or the terms of payment of which are, in any respect subject to or contingent upon the revenues, income, cash flow or profits (or the like) of any Person or business) (y) any cash of the seller and its Affiliates used to fund any portion of such consideration and (z) any cash or Cash Equivalents acquired in connection with such Acquisition, in the case of clauses (x), (y) and (z), shall not be considered a Cost of Acquisition.

"Credit Documents" means collectively, this Agreement, the Notes, the Guarantee and Collateral Agreement, the Guaranty Agreements, all Borrowing Base Certificates, the Security Documents, any Incremental Amendments, the L/C Documents, the Mortgages, and all agreements, instruments and documents evidencing or securing the Obligations, and all amendments and modifications thereto; provided, however, that the definition of "Credit Documents" is not intended to include Swap Agreements.

"Credit Parties" means, collectively, the Administrative Agent, Floor Plan Agent, the Lenders (including but not limited to the Swingline Lender and Wells Fargo as provider of the WF Advances), the Issuing Bank, the Swap Provider, and any other Persons the Obligations owing to which are or are purposed to be secured by the Collateral under the terms of the Security Documents

"Credit Party Expenses" means, without duplication (a) all documented costs and expenses incurred by the Administrative Agent, the Floor Plan Agent, the Arrangers, and their Affiliates, including the reasonable fees, charges, and disbursements of external counsel for the Administrative Agent and the Floor Plan Agent arising out of, pertaining to, or in any way connected with this Agreement, any of the other Credit Documents or the Obligations, the administration thereof, the due diligence performed in connection with the transactions contemplated hereby, the syndication of the credit facilities provided for herein, or otherwise in connection with such credit facilities, (b) all documented costs and reimbursements required to be paid by the Borrowers to the Administrative Agent and/or the Floor Plan Agent by the terms of the Credit Documents, (c) all documented costs and expenses incurred by the Administrative Agent and/or the Floor Plan Agent and the Arrangers relating to the Platform or to Intralinks, SyndTrak or to any other dedicated agency web page on the internet to distribute to the Lenders and to other investors or potential investors any required documentation and financial information regarding the Credit Documents and the Loans, (d) taxes and insurance premiums advanced or otherwise paid by the Administrative Agent or any other Credit Party in connection with the Collateral or on behalf of any of the Loan Parties, (e) filing and recording costs, title insurance premiums, environmental and consulting fees, audit fees, search fees, appraisal fees, and other documented expenses paid or incurred by the Administrative Agent, (f) all documented reasonable costs and expenses incurred by the Administrative Agent or the Floor Plan Agent in the collection of the accounts (with or without the institution of legal action), or to enforce any provision of this Agreement or any other Credit Document on behalf of the Credit Parties, or in gaining possession of, maintaining, handling, evaluating, preserving, storing, shipping, selling, preparing for sale and/or advertising to sell or foreclose upon the Collateral or any other property of any of the Loan Parties whether or not a sale is consummated, (g) all documented reasonable costs and expenses of litigation incurred by the Credit Parties, including reasonable external attorney's fees, in enforcing or defending this Agreement or any portion hereof or any other Credit Document, or in collecting any of the

Obligations after the occurrence and during the continuance of any Event of Default, (h) reasonable external attorneys' fees and expenses incurred by the Administrative Agent and the Floor Plan Agent in obtaining advice or the services of its attorneys with respect to the structuring, drafting, negotiating, reviewing, amending, terminating, waiving, enforcing or defending of this Agreement and the other Credit Documents, or any agreement or matter related hereto, whether or not litigation is instituted, (i) reasonable and documented travel expenses of the Administrative Agent and the Floor Plan Agent or their agents (including their counsel and consultants) related to any of the foregoing, and (j) all reasonable documented costs and expenses, including reasonable external attorneys' fees and expenses, incurred by the Administrative Agent or the Issuing Bank in connection with the Letters of Credit and L/C Obligations.

"*Currencies*" means Dollars and each Alternative Currency, and "Currency" means any of such Currencies.

"Daily Simple SOFR" means for any day (a "SOFR Rate Day"), a rate per annum equal to SOFR for the day (such day "i") that is three (3) RFR Business Days prior to (i) if such SOFR Rate Day is a RFR Business Day, such SOFR Rate Day, or (ii) if such SOFR Rate Day is not a RFR Business Day, the RFR Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator's Website. If by 5:00 pm (ET) on the second (2nd) RFR Business Day immediately following any day "i", the SOFR in respect of such day "i" has not been published on the SOFR Administrator's Website (and a Benchmark Replacement Date with respect to the Daily Simple SOFR has not occurred), then the SOFR for such day "i" will be the SOFR as published in respect of the first preceding RFR Business Day for which such SOFR was published on the SOFR Administrator's Website; provided that any SOFR determined pursuant to this sentence shall be utilized for purposes of calculation of Daily Simple SOFR for no more than three (3) consecutive SOFR Rate Days. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower Representative.

"*Debtor Relief Laws*" means the Bankruptcy Code, and all other liquidation, conservatorship, insolvency, assignment for the benefit of creditors, moratorium, rearrangement, receivership, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

"Default" means any occurrence, event or condition which with notice, the passage of time, or both would constitute an Event of Default.

"Default Rate" means (a) with respect to Eurocurrency Rate Loans and Loans accruing interest by reference to the Adjusted SOFR Rate, such Loans shall bear interest at a rate per annum of 2% in excess of the rate otherwise then applicable thereto, (b) with respect to all other Loans and outstanding Obligations, including Eurocurrency Rate Loans and Loans accruing interest by reference to the Adjusted SOFR Rate as the Interest Periods for such Loans then in effect expire, such Loans and other Obligations shall bear interest at the Adjusted Base Rate plus two hundred (200) Basis Points per annum; or (c) with respect to the Letters of Credit, the Letter of Credit Fees otherwise payable under this Agreement plus two hundred (200) Basis Points per annum.

"*Defaulting Lender*" means, subject to Section 2.14.2, any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrowers in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, Wells Fargo as the lender of the WF Advances, any Issuing Bank, any Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in WF Advances, Letters

of Credit, or Swingline Loans) within two (2) Business Days of the date when due, (b) has notified the Borrowers, the Administrative Agent, the Floor Plan Agent, the Issuing Bank, or the Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrowers, to confirm in writing to the Administrative Agent and the Borrowers 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 Administrative Agent and the Borrowers), 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, (ii) 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 (iii) 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 Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.14.2) upon delivery of written notice of such determination to the Borrowers, the Issuing Bank, the Swingline Lender, and each Lender.

"*Disposition*" means the sale, transfer, license, lease or other disposition (including any Sale and Leaseback Transaction) of any real or personal property by any Loan Party or any Subsidiary of a Loan Party (other than the sale or lease of Inventory in the ordinary course of business), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

"*Disqualified Lenders*" means banks, financial institutions, institutional lenders or any other person (x) that have been specified by the Borrowers to the Administrative Agent in writing at any time on or prior to the Closing Date or any affiliates of such banks, financial institutions, institutional lenders or other persons, in each case, that are readily identifiable as affiliates on the basis of such affiliate's name or that have been specified to the Administrative Agent by the Borrowers in writing or (y) that constitute a competitor of the Borrowers or its subsidiaries to the extent identified by the Borrowers to the Administrative Agent in writing or any affiliate of such competitor that is readily identifiable as an affiliate of such competitor on the basis of such affiliate's name or that have been specified to the Administrative Agent by the Borrowers in writing, provided that any assignment to an entity prior to such entity being designated as a Disqualified Lender shall not be void.

"Disqualified Stock" means any Equity Interest that, by its terms (or by the terms of any security or other Equity Interest into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable (other than for Equity Interests that do not qualify as Disqualified Stock), pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than for Equity Interests that do not qualify as Disqualified Stock), in whole or in part, (c) provides for the scheduled payments of dividends or distributions in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Stock, in each case, prior to the date that is ninety-one

(91) days after the then Latest Maturity Date (as of the date of issuance of such Disqualified Stock); provided that (i) an Equity Interest in any Person that would not constitute Disqualified Stock but for terms thereof giving holders thereof the right to require such Person to redeem or purchase such Equity Interest upon the occurrence of an "asset sale" or "change of control" shall not constitute Disqualified Stock if such rights are subject to the prior repayment in full of all Obligations (other than (w) contingent indemnification obligations for which no claim has been made, (x) Swap Obligations owing to a Swap Provider that, at such time, are not required to be repaid pursuant to the terms thereof, and (y) obligations arising under Bank Products that are cash collateralized or, at such time, are not required to be repaid or cash collateralized pursuant to the terms thereof) and (ii) if an Equity Interest in any Person is issued pursuant to any plan for the benefit of employees of Holdings (or any Person that directly or indirectly owns Equity Interests in Holdings) or any of its Subsidiaries or by any such plan to such employees, such Equity Interest shall not constitute Disqualified Stock solely because it may be required to be repurchased by Holdings (or such Person that directly or indirectly owns Equity Interests in Holdings) or any of its Subsidiaries in order to satisfy applicable statutory or regulatory obligations of such Person.

"Dollar," "Dollars," "U.S. Dollars" and the symbol "*$"* means lawful money of the United States of America.

"*Dollar Equivalent*" means, for any amount, at the time of determination thereof, (a) if such amount is expressed in Dollars, such amount, (b) if such amount is expressed in a currency other Dollars, the equivalent of such amount in Dollars determined by the Administrative Agent at such time on the basis of the Spot Rate for such currency determined in respect of the most recent Revaluation Date for the purchase of Dollars with such currency.

"*Earnout Obligations*" means, in connection with any acquisition, the obligation of any Borrower or any Subsidiary to pay a portion of the purchase price after the closing date thereof that is structured as an earnout or similar contingent payment or arrangement. The amount of any Earnout Obligation at any time shall be the amount reasonably estimated by the Borrower Representative at such time to be or become payable pursuant to such obligation.

"*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.

"Eligibility Date" means, with respect to each Loan Party and each Swap, the date on which this Agreement or any other Credit Document becomes effective with respect to such Swap. For the avoidance of doubt, the Eligibility Date shall be the date such Swap becomes effective if this Agreement or any other Credit Document is then in effect with respect to such Loan Party; otherwise, it shall be the Closing Date of this Agreement with respect to a Borrower or with respect to any other Loan Party the date of execution and delivery of the applicable Credit Documents by such Loan Party unless such Credit Documents specify a subsequent effective date.

"Eligible Accounts" means all Accounts owned by each Floor Plan Borrower and properly reflected as "Eligible Accounts" in the most recent Borrowing Base Certificate delivered by Borrower Representative to the Administrative Agent and Floor Plan Agent, except any Account to which any of the exclusionary criteria set forth below applies. Eligible Accounts shall not include the following Accounts of any Floor Plan Borrower:

(a) any Account that is not paid within [****]days following its original invoice date;

(b) Accounts that are the obligations of an Account Debtor if fifty percent (50%) or more of the Dollar amount of all Accounts owing by that Account Debtor are ineligible under the other criteria set forth in clause (a) of this definition;

(c) Accounts that arise from a sale to any director, officer, other employee, shareholder, partner, member, owner, agent, parent, subsidiary, affiliate of, or is related to any Loan Party, or to any entity that has any common shareholders, officer, owners, partners, members or director with any Loan Party;

(d) Accounts that arise with respect to goods that are placed on consignment or on guaranteed sale or other terms by reason of which the payment by the Account Debtor is conditional;

(e) Accounts that do not arise from the sale of Inventory by a Floor Plan Borrower in the ordinary course of business;

(f) Accounts created from the sale of goods and services on non-standard terms and/or that allow for payment to be made more than sixty (60) days from the date of sale;

(g) Accounts for which the obligor is not a commercial or institutional Person or is not a resident of the United States;

(h) Accounts with respect to which any warranty or representation is not true and correct;

(i) Accounts which represent goods or services purchased for a personal, family or household purpose;

(j) Accounts which represent goods used for demonstration purposes or loaned by any Borrower to another party;

(k) Accounts which are progress payment, barter, or contra accounts;

(l) Accounts that are not subject to a perfected first priority Lien in favor of the Administrative Agent on behalf of itself and the Credit

Parties;

(m) Accounts with respect to which the Floor Plan Agent has not completed due diligence reasonably satisfactory to the Floor Plan Agent; or

(n) Accounts that are otherwise determined to be ineligible in its Permitted Discretion by the Floor Plan Agent.

"Eligible Assignee" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than those Persons expressly excluded below) approved (each such approval not to be unreasonably withheld or delayed) by (i) in all cases, the Administrative Agent, (ii) in the case of any assignment of a Floor Plan Loan Commitment, the Floor Plan Agent, Wells Fargo as the provider of WF Advances, (iii) in the case of any assignment of a Revolving Credit Commitment, the Issuing Bank, and the Swingline Lender, and (iv) unless a Specified Event of Default has occurred and is continuing, the Borrowers; provided that notwithstanding the foregoing, the definition of "Eligible Assignee" shall not include (A) any Defaulting Lender or a Subsidiary thereof, (B) any natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person), (C) any Loan Party or any Affiliate or Subsidiary of a Loan Party or (D) unless a Specified Event of Default has occurred and is continuing, any Disqualified Lender. The Borrowers shall be deemed to have approved any proposed assignee unless the Borrowers object to such proposed assignee by written notice to the Administrative Agent within five (5) Business Days after having received notice of the proposal of such assignee.

"Eligible Contract Participant" means an "eligible contract participant" as defined in the CEA and regulations thereunder.

"*Effective Yield*" means, with respect to any Indebtedness and as of any date of determination, the applicable interest rate of such Indebtedness, taking into account interest rate floors, original issue discount and upfront fees with respect to such Indebtedness (with original issue discount and fees being equated to interest rate based on a four-year life to maturity or lesser remaining average life to maturity) and any amendment made to the interest rate with respect to such Indebtedness prior to such date of determination, but excluding arrangement, commitment, structuring and underwriting fees paid to the Arrangers or their Affiliates (in each case in their capacities as such) or to one or more arrangers (or their affiliates) in their capacities as such in connection any Incremental Facility and any amendment fees paid with respect to such Indebtedness to the Arrangers or their Affiliates (in each case in their capacities as such) or to one or more arrangers (or their affiliates) in their capacities as such in connection any Incremental Facility.

"*Eligible Floor Plan Unit*" means any Eligible New Floor Plan Unit or Eligible Used Floor Plan Unit.

"Eligible New Floor Plan Unit" means any Specified Inventory of any Floor Plan Borrower that is new and unused that meets the definition of an Eligible Unit.

"*Eligible Parts*" means Specified Inventory Parts owned by each Floor Plan Borrower and properly reflected as "Eligible Parts", in the most recent Borrowing Base Certificate delivered by Borrower Representative to the Administrative Agent and Floor Plan Agent, except any Specified Inventory Parts to which any of the exclusionary criteria set forth below or in the component definitions herein applies. Eligible Parts shall not include the following Specified Inventory Parts of a Floor Plan Borrower:

(a) Specified Inventory Parts that are not new;

(b) Specified Inventory Parts that are not owned by a Floor Plan Borrower or is subject to Liens (other than Liens granted under the Credit Documents) or other rights of any other Person (including the rights of a purchaser that has made progress payments and the rights of a surety that has issued a bond to assure a Floor Plan Borrower's performance with respect to that Specified Inventory Parts); and

(c) Specified Inventory Parts that have been held in inventory by a Floor Plan Borrower for more than [****].

"*Eligible Units*" means Specified Inventory owned by each Floor Plan Borrower and properly reflected as "Eligible Units", in the most recent Borrowing Base Certificate delivered by Borrower Representative to the Administrative Agent and Floor Plan Agent, except any Specified Inventory to which any of the exclusionary criteria set forth below or in the component definitions herein applies. Eligible Units shall not include the following Specified Inventory of a Floor Plan Borrower:

(a) Specified Inventory that is placed on consignment;

(b) Specified Inventory that (i) is not located in a Permitted Collateral Location that is subject to a landlord waiver in respect of such location delivered to the Administrative Agent in form reasonably satisfactory to the Administrative Agent (provided, that, such Specified Inventory will be treated as eligible to the extent the Floor Plan Agent has established a Rent Reserve with respect to such location(s); provided further that the failure to obtain a landlord waiver on or before ninety (90) days following the Closing Date shall not make such Specified Inventory ineligible), or (ii) is stored with a bailee or warehouseman unless an acknowledged bailee letter has been received by the Administrative Agent with respect thereto in form reasonably satisfactory to the Administrative Agent;

(c) Specified Inventory that is not located in the United States;

(d) Specified Inventory that is not owned by a Floor Plan Borrower or is subject to Liens (other than Liens granted under the Credit Documents) or other rights of any other Person (including the rights of a purchaser that has made progress payments and the rights of a surety that has issued a bond to assure a Floor Plan Borrower's performance with respect to that Specified Inventory);

(e) Specified Inventory that has not been cleared with the U.S. Customs and Border Protection agency;

(f) Pre-owned Specified Inventory if low wholesale values cannot be determined via NADA, Yachtworld.com, survey, or other source acceptable to the Floor Plan Agent, unless the Floor Plan Agent and Borrowers agree on a specific value;

(g) Specified Inventory manufactured by or branded under [****] that is greater than **[****]** ft. in length; and

(h) Specified Inventory that is subject to repair pursuant to Section 2.01.18.

"Eligible Used Floor Plan Unit" means all Specified Inventory of any Borrower that is used (i.e., a Specified Inventory that has been previously sold at retail, has been registered, documented or titled in any state or jurisdiction, or has been purchased or acquired by such Borrower from a source other than the original Manufacturer, including trade-in Inventory) that meets the definition of an Eligible Unit.

"*EMU Legislation*" means the legislative measures of the European Council for the introduction of changeover to or operation of a single or unified European currency.

"Embargoed Property" means any property; (a) beneficially owned, directly or indirectly, by a Sanctioned Person; (b) that is due to or from a Sanctioned Person; (c) in which a Sanctioned Person otherwise holds any interest; (d) that is located in a Sanctioned Jurisdiction; or (e) that otherwise would cause any actual or possible violation by the Lenders or Administrative Agent of any applicable Anti-Terrorism Law if the Lenders were to obtain an encumbrance on, lien on, pledge of, or security interest in such property, or provide services in consideration of such property.

"Environmental Laws" means any and all federal, state, local, and foreign statutes, Laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions relating to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of Holdings, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"*Environmental Lien*" means any Lien in favor of any Governmental Authority for Environmental Liabilities.

"*Environmental Permit*" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"*Equity Interests*" means, with respect to any Person, the shares of Capital Stock of (or other ownership or profit interests in) such Person, warrants, options or other rights for the purchase or acquisition from such Person of shares of Capital Stock of (or other ownership or profit interests in) such Person, securities convertible into or exchangeable for shares of Capital Stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all other ownership or profit interests in such Person, whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

"ERISA" means the Employee Retirement Income Security Act of 1974, as the same may be amended or supplemented from time to time.

"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).

"ERISA Event" means (a) a Reportable Event with respect to a Pension Plan, (b) a withdrawal by a Loan Party or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by a Loan Party or any ERISA Affiliate from a Multiemployer Plan or notification

that a Multiemployer Plan is in reorganization, (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan, (e) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan, or (f) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon a Loan Party or any ERISA Affiliate.

"*Erroneous Payment*" has the meaning given to such term in Section 9.13(a) of this Agreement.

"*Erroneous Payment Deficiency Assignment*" has the meaning given to such term in Section 9.13(d) of this Agreement.

"*Erroneous Payment Impacted Class*" has the meaning given to such term in Section 9.13(d) of this Agreement.

"*Erroneous Payment Return Deficiency*" has the meaning given to such term in Section 9.13(d) of this Agreement.

"*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.

"*EURIBOR*" has the meaning assigned thereto in the definition of "Eurocurrency Rate".

"*Euro*" and "€" mean the single currency of the Participating Member States introduced in accordance with the EMU Legislation.

"*Eurocurrency Banking Day*" means, for Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Euros, a TARGET Day; provided, that for purposes of notice requirements in Section 2.03 such day is also a Business Day.

"*Eurocurrency Rate*" means, for any Eurocurrency Rate Loan for any Interest Period (a) denominated in Euros, the greater of (i) the rate of interest per annum equal to the Euro Interbank Offered Rate ("EURIBOR") as administered by the European Money Markets Institute, or a comparable or successor administrator approved by the Administrative Agent, for a period comparable to the applicable Interest Period), at approximately 11:00 a.m. (Brussels time) on the applicable Rate Determination Date and (ii) the Floor and (b) if applicable and approved by the Administrative Agent and the Revolving Credit Lenders pursuant to Section 1.11, denominated in any other Currency, the rate designated with respect to such Currency at the time such currency is approved by the Administrative Agent and the Revolving Credit Lenders pursuant to Section 1.11.

"*Eurocurrency Rate Loan*" means any Loan bearing interest at a rate based on the Adjusted Eurocurrency Rate.

"*Eurocurrency Reserve Percentage*" means, for any day, the percentage which is in effect for such day as prescribed by the Board of Governors of the Federal Reserve System for determining the maximum reserve requirement (including any basic, supplemental or emergency reserves) in respect of eurocurrency liabilities or any similar category of liabilities for a member bank of the Federal Reserve System in New York City or any other reserve ratio or analogous requirement of any central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Loans. The Adjusted Eurocurrency Rate for each outstanding Loan shall be adjusted automatically as of the effective date of any change in the Eurocurrency Reserve Percentage.

"Event of Default" has the meaning given to such term in Article 7 hereof of this Agreement.

"Excluded Accounts" means (a) payroll, health savings and other employee wage and benefit accounts, (b) accounts exclusively used for withholding tax, goods and services tax and sales tax, (c) escrow, defeasance and redemption accounts, (d) fiduciary or trust accounts, (e) zero balance accounts and (f) the funds or other property held in or maintained for such purposes in any such account described in clauses (a) through (e).

"Excluded Property" means (a) any property of the Loan Parties to the extent that the grant of a security interest therein (i) is prohibited by any Requirement of Law of a Governmental Authority or (ii) constitutes a breach or default under or results in the termination of or requires any consent (it being agreed that the Borrowers shall use commercially reasonable efforts to obtain such consent) not obtained under, any contract, license, agreement, instrument, organizational agreement, joint venture agreement, or other document evidencing or giving rise to such property, except to the extent that such Requirement of Law or the term in such contract, license, agreement, instrument, organizational agreement, joint venture agreement, or other document providing for such prohibition, breach, default or termination or requiring such consent is ineffective under Section 9-406, 9-407, 9-408 or 9-409 of the UCC (or any successor provision or provisions) of any relevant jurisdiction or any other applicable Law (including the Bankruptcy Code) or principles of equity; provided, however, that such property shall cease to be Excluded Property and the Administrative Agent's security interest shall attach to such property immediately at such time as such Requirement of Law is not effective or applicable, or such prohibition, breach, default or termination is no longer applicable or is waived, and to the extent severable, shall attach immediately to any portion of the Collateral that does not result in such consequences, (b) any intent-to-use trademark or service mark application before the filing of a statement of use or amendment to allege use, or any other intellectual property, to the extent that applicable Law prohibits the creation of a Lien or would otherwise result in the loss of rights from the creation of such Lien or from the assignment of such rights upon an Event of Default; provided that, upon the filing of a "Statement of Use" or "Amendment to Allege Use", such trademark application will cease to be Excluded Property, (c) equipment and other assets other than Inventory (together with all proceeds thereof) that are acquired with purchase money Indebtedness (and refinancings thereof) or that are subject to Capital Leases, in each case as permitted by the terms of this Agreement, for so long as the grant of a Lien thereon would violate the terms of any applicable agreement evidencing such purchase money Indebtedness (and refinancings thereof) or Capital Leases, (d) real property (including leasehold interests constituting real property), buildings and improvements thereon (other than the Mortgage Obligations Collateral), (e) Equity Interests in any CFC or CFC Holdco directly owned by a Loan Party in excess of 65% of the total issued and outstanding voting Equity Interests of such first-tier CFC or CFC Holdco; provided, for the avoidance of doubt, Excluded Property shall not include, and the Collateral shall include, 100% of the total issued and outstanding non-voting Equity Interests of such CFC or CFC Holdco, (f) assets to the extent a security interest in such assets would result material adverse tax consequences (including, without limitation as a result of any law or regulation in any applicable jurisdiction similar to Section 956 of the Code) as reasonably determined by the Borrower Representative in good faith and notified in writing to the Administrative Agent, (g) Excluded Accounts, (h) any asset with respect to which the cost of obtaining or perfecting a security interest therein outweighs the practical benefit of a security interest to the Lenders, as reasonably determined between the Borrower Representative and the Administrative Agent, and (i) any assets that require action under the laws of any jurisdiction other than the United States to create or perfect a security interest in such assets, including any intellectual property registered in any jurisdiction other than the United States (it being understood that there shall be no security agreements or pledge agreements governed under the laws of any jurisdiction other than the United States).

"*Excluded Subsidiary*" means, (a) any Subsidiary to the extent a guarantee by such Subsidiary is prohibited or restricted by contract, including pursuant to the organizational documents of such Subsidiary (so long as such the prohibition or restriction in such contract or organizational document

is not entered into in contemplation thereof) or Requirement of Law (including any requirement to obtain Governmental Authority consent, approval, license or authorization to provide a guarantee of the Obligations unless such consent, approval, license or authorization has been received); (b) any CFC or CFC Holdco; (c) any Subsidiary that is a direct or indirect Subsidiary of an entity described in the immediately preceding clause (b), (d) any Subsidiary with respect to which a Guarantee by it of the Obligations would result in material adverse tax consequences to Holdings or any of its Subsidiaries, as reasonably determined by the Borrower Representative in good faith and notified in writing to the Administrative Agent, (e) any Captive Insurance Subsidiary, (f) any Immaterial Subsidiary, and (g) any Subsidiary to the extent that, as reasonably determined by the Borrower Representative and the Administrative Agent, the cost, burden or consequence of providing a guarantee are unreasonable in relation to the value to the Lenders to be afforded thereby.

"Excluded Swap Liabilities" means, with respect to any Loan Party, each of its Swap Obligations if, and only to the extent that, all or any portion of this Agreement or any other Credit Document that relates to such Swap Obligation is or becomes illegal under the CEA, or any rule, regulation or order of the CFTC, solely by virtue of such Loan Party's failure to qualify as an Eligible Contract Participant on the Eligibility Date for such Swap. Notwithstanding anything to the contrary contained in the foregoing or in any other provision of this Agreement or any other Credit Document, the foregoing is subject to the following provisos: (a) if a Swap Obligation arises under a master agreement governing more than one Swap, this definition shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which a guarantee of payment or the granting of a security interest is or becomes illegal under the CEA, or any rule, regulations or order of the CFTC, solely as a result of the failure by such Loan Party for any reason to qualify as an Eligible Contract Participant on the Eligibility Date for such Swap, (b) if a co-borrower agreement or a guarantee of a Swap Obligation would cause such obligation to be an Excluded Swap Liability but the grant of a security interest would not cause such obligation to be an Excluded Swap Liability, such Swap Obligation shall constitute an Excluded Swap Liability for purposes of the co-borrower agreement or the guaranty (as applicable) but not for purposes of the grant of the security interest, and (c) if a Swap Obligation would be an Excluded Swap Liability with respect to one or more of the Loan Parties, but not all of them, the definition of Excluded Swap Liabilities with respect to each such Loan Party shall only be deemed applicable to (i) the particular Swap Obligations that constitute Excluded Swap Liabilities with respect to such Loan Party, and (ii) the particular Loan Party with respect to which such Swap Obligations constitute Excluded Swap Liabilities.

"*Excluded Taxes*" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the Laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrowers under Section 2.12) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.11, 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 2.11 and (d) any U.S. federal withholding Taxes imposed under FATCA.

"*Existing Credit Facility*" means the floor plan facility evidenced by that certain Amended and Restated Loan and Security Agreement, dated as of July 9, 2021 (as amended, restated, supplemented or otherwise modified prior to the Closing Date), by and among Holdings, the other loan parties party thereto, and Wells Fargo Commercial Distribution Finance LLC as agent.

"*Facility Increase*" has the meaning provided to such term in Section 2.22.

"*Fair Market Value*" means with respect to any asset or group of assets on any date of determination, the value of the consideration obtainable in a sale of such asset at such date of determination assuming a sale by a willing seller to a willing purchaser dealing at arm's length and arranged in an orderly manner over a reasonable period of time having regard to the nature and characteristics of such asset, as determined in good faith by the Borrower Representative.

"*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.

"Federal Funds Rate" means, for any day, the rate per annum, (rounded, if necessary, to the next greater 1/100 of 1%) determined (which determination shall be conclusive and binding, absent manifest error) by the Administrative Agent to be equal to the weighted average of the rates on overnight Federal funds transactions with member banks 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 charged to the Administrative Agent (in its individual capacity) on such day on such transactions as determined by the Administrative Agent (which determination shall be conclusive and binding, absent manifest error).

"*Fee Letter*" means (a) the letter agreement dated as of May 19, 2022 between M&T Bank and Holdings and (b) the letter agreement dated as of July 22, 2022 between Wells Fargo and Holdings.

"Financial Stability Board" means the international body of that name, established in April 2009, that monitors and makes recommendations about the global financial system.

"Fiscal Quarter" means each three (3) month fiscal period of the Borrowers beginning on the first (1st) day of each consecutive October, January, April, and July during the term of this Agreement.

"Fiscal Year" means each 12-month fiscal period of the Borrowers beginning each October 1 and ending on the immediately succeeding September 30.

"*Fixed Basket*" means any category of exceptions, thresholds, baskets or other provisions in this Agreement based on a fixed Dollar amount and/or percentage of Consolidated EBITDA.

"*Flood Documents*" has the meaning provided to such term in Section 5.15.4 of this Agreement.

"Floor" means zero percent (0.0%).

"*Floor Plan Agent*" means Wells Fargo in its capacity as an agent for the Lenders in connection with Floor Plan Facility in accordance with this Agreement and any of the other Credit Documents, and its successors and assigns in such capacity as authorized by the terms of this Agreement.

"*Floor Plan Agent's Office*" means the Floor Plan Agent's address and, as appropriate, account as set forth in Section 10.10.1, or such other address or account in the United States as the Floor Plan Agent may from time to time notify the Borrowers and the Lenders.

"*Floor Plan Borrowers*" means (a) the Borrowers listed on Schedule 1.01(a) as of the Closing Date and (b) any other Subsidiaries that from time to time become a Borrower under the Floor Plan Facility pursuant to a Joinder Agreement.

"Floor Plan Borrowing" means a borrowing consisting of simultaneous Floor Plan Loans of the same Type, or a borrowing advanced by WF Advance Lender as a WF Advance subject to *pro-rata* participations by the Floor Plan Lenders, all as set forth in Sections 2.01 and 2.02 of this Agreement.

"*Floor Plan Business Day*" means any day the Federal Reserve Bank of Chicago is open for the transaction of business, other than a Saturday, Sunday or federal or statutory holiday.

"Floor Plan Facility" means the floor plan facility described in Sections 2.01 and 2.02 providing for Floor Plan Loans to the Floor Plan Borrowers by the Floor Plan Lenders.

"Floor Plan Interest Settlement Date" has the meaning provided to such term in Section 2.01.4.2 of this Agreement.

"*Floor Plan Lender*" means a Lender holding a Floor Plan Loan Commitment, or if the Floor Plan Loan Commitments have terminated, holding Floor Plan Loans.

"*Floor Plan Lender Rate*" means the interest rate for Floor Plan Loans as set forth in Section 2.07 less any applicable Performance Rebate as set forth in Section 2.23.

"Floor Plan Line of Credit" means the Floor Plan Line of Credit described in Sections 2.01 and 2.02 of this Agreement providing for Floor Plan Loans to the Borrowers by the Lenders.

"Floor Plan Line of Credit Dollar Cap" means Seven Hundred Fifty Million Dollars ($750,000,000.00), as such amount may be decreased in accordance with Section 2.01.17.

"Floor Plan Line of Credit Termination Date" means August 8, 2027.

"Floor Plan Loan Adjustment Date" means (a) each Tuesday that this Agreement is in effect or, if such Tuesday is not a Floor Plan Business Day, the next succeeding Floor Plan Business Day, or (b) any other Floor Plan Business Day selected by Floor Plan Agent in its reasonable discretion.

"Floor Plan Loan Advance Limit" means:

with respect to Eligible New Floor Plan Units that are (i) **[****]** or less in length and (ii) not manufactured by or branded under **[****]**, will be subject to the following advance rates beginning from the original invoice date (or, with respect to Eligible New Floor Plan Units manufactured or branded by [****], from the original funding date):

0-180 days – 100%

181-360 days – 90%

361-540 days – 80%

541-720 days – 70%

721-900 days – 60%

901-1079 days – 50%

1080+ days – 0%

with respect to Eligible New Floor Plan Units that are (i) **[****]** or less in length and (ii) manufactured by or branded under **[****]**, will be subject to the following advance rates beginning from the original invoice date:

0-180 days – 62%

181-360 days – 52%

361-540 days – 42%

541-720 days – 32%

721-900 days – 22%

901-1079 days – 12%

1080+ days – 0%

with respect to Eligible New Floor Plan Units that are (i) greater than **[****]** in length and (ii) not manufactured by or branded under **[****]**, will be subject to the following advance rates beginning from the original invoice date (or, with respect to Eligible New Floor Plan Units manufactured or branded by [****], from the original funding date):

0-180 days – 80%

181-360 days – 70%

361-540 days – 60%

541-720 days – 50%

721-900 days – 40%

901-1079 days – 30%

1080+ days – 0%

with respect to Eligible Used Floor Plan Units, will be subject to the following advance rates from the acquisition date:

0-180 days: 85%

181-360 days: 75%

361+ days: 0%

"Floor Plan Loan Commitment" means, as to any Lender, the amount initially set forth opposite its name on Schedule 1.01 attached hereto in the column labeled "Floor Plan Loan Commitment," and thereafter on any relevant Assignment And Assumption, or as otherwise thereafter modified in accordance with the terms set forth in this Agreement (including pursuant to an Incremental Amendment),

and *"Floor Plan Loan Commitments"* means the aggregate Floor Plan Loan Commitments of all of the Lenders.

"Floor Plan Loan Commitment Percentage" means, as to any Lender, the percentage initially set forth opposite its name on Schedule 1.01 attached hereto in the column labeled *"Floor Plan Loan Commitment Percentage"* and thereafter on any relevant Assignment And Assumption, or as otherwise modified in accordance with the terms set forth in this Agreement.

"Floor Plan Loan Exposure" means, as to any Lender at any time, the aggregate principal amount at such time of such Lender's outstanding Floor Plan Loans and such Lender's participation in, and obligation to participate in, WF Advances at such time.

"Floor Plan Loan Notes" means, collectively, the promissory notes of the Borrowers evidencing the Floor Plan Loans in the form of Exhibit C attached hereto, together with all amendments and replacements thereof.

"Floor Plan Loans" means collectively the revolving credit loans extended from time to time by the Floor Plan Lenders to the Floor Plan Borrowers as joint and several obligors in accordance with the provisions of Section 2.01 of this Agreement, including the WF Advances pursuant to Section 2.02 of this Agreement.

"Floor Plan Unit Casualty Event" means any loss of or damage to, or any condemnation or other taking of, any Floor Plan Unit or Eligible Parts financed with the proceeds of Floor Plan Loan Commitments for which any Loan Party receives casualty insurance proceeds or proceeds of a condemnation award.

"Floor Plan Units" means Eligible Units of the Borrowers held for sale by the Borrowers in the ordinary course of their businesses. For the avoidance of doubt, Floor Plan Units do not include supplies or spare parts Inventory.

"*Floor Plan Unused Commitment Fee*" has the meaning given to such term in Section 2.01.15 of this Agreement.

"Foreign Lender" means (a) if the Borrowers are U.S. Persons, a Lender that is not a U.S. Person, and (b) if the Borrowers are not U.S. Persons, a Lender that is resident or organized under the Laws of a jurisdiction other than that in which the Borrowers are resident for tax purposes.

"Free Floor Period" means a period equal to the number of days during which a Manufacturer agrees to assume the cost of financing Borrowing Base Collateral purchased by a Floor Plan Borrower by granting Floor Plan Agent a Vendor Credit.

"*Fronting Exposure*" means, at any time there is a Defaulting Lender, (a) with respect to the Issuing Bank, such Defaulting Lender's Revolving Credit Commitment Percentage of the outstanding L/C Obligations with respect to Letters of Credit issued by the Issuing Bank 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, (b) with respect to the Swingline Lender, such Defaulting Lender's Revolving Credit Commitment Percentage of outstanding Swingline Loans made by such Swingline Lender other than Swingline Loans as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders in accordance with the terms hereof, and (c) with respect to M&T Bank, such Defaulting Lender's Floor Plan Loan Commitment Percentage of outstanding WF Advances other than WF Advances 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, bonds and similar extensions of credit in the ordinary course of its business.

"GAAP" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be recognized by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination, consistently applied.

"*Galeon*" means Galeon Sp.z.o.o. Sp.K.

"*General Obligations*" means all Obligations other than Mortgage Obligations.

"*General Obligations Collateral*" means all of the assets, rights, and interests in property, including tangible and intangible assets and personal property, in which the Administrative Agent on behalf of the Credit Parties is from time to time granted a Lien under any Security Document (other than the Mortgages) as security for all or any portion of the Obligations other than the Mortgage Obligations; provided, however, that General Obligations Collateral shall not include any Excluded Property or any Mortgage Obligations Collateral.

"*Governing State*" means the State of New York.

"Governmental Authority" means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guarantee and Collateral Agreement" means the Guarantee and Collateral Agreement, dated as of the Closing Date, made by Holdings and other Subsidiaries of Holdings from time to time party thereto in favor of the Administrative Agent for the benefit of the Credit Parties as modified by each joinder agreement, security agreement supplement or pledge agreement supplement thereto delivered from time to time.

"*Guarantors*" means each direct or indirect Subsidiary of Holdings that executes the Guarantee and Collateral Agreement or a joinder thereto in its capacity as a guarantor of the Obligations and otherwise pursuant to, and subject to the terms and conditions of, the Guarantee and Collateral Agreement.

"*Guaranty Agreements*" means, collectively, each of the guaranty agreements of the Guarantors guaranteeing the payment and performance of any or all of the Obligations.

"Guaranty Obligation" or *"Guarantee"* (or "*guaranty*" or "*guarantee*") means any obligation, direct or indirect, by which a Person undertakes to guaranty, assume or remain liable for the payment of another Person's obligations, including but not limited to (a) endorsements of negotiable instruments, (b) discounts with recourse, (c) agreements to pay upon a second Person's failure to pay, (d) agreements to maintain the capital, working capital solvency or general financial condition of a second Person, and (e) agreements for the purchase or other acquisition of products, materials, supplies or services, if in any case payment therefor is to be made regardless of the nondelivery of such products, materials or supplies or the non-furnishing of such services.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"*Historical Financial Statements*" means (i) audited consolidated balance sheets and related statements of income, stockholders' equity and cash flows of the Borrowers and their Subsidiaries for (x) the twelve-month period ended September 30, 2020 and (y) the twelve-month period ended September 30, 2021 and (ii) the unaudited consolidated balance sheets and related statements of income, stockholders' equity and cash flows of the Borrowers and their Subsidiaries for each fiscal month ended after September 30, 2021 and at least 30 days prior to the Closing Date.

"*IGY*" has the meaning set forth in the preamble of this Agreement.

"*IGY Acquisition*" has the meaning set forth in the preamble of this Agreement.

"*IGY Acquisition Agreement*" has the meaning set forth in the preamble of this Agreement.

"*IGY Earnout*" means the Earnout Obligations owed by the Loan Parties pursuant to the IGY Acquisition Agreement in an aggregate amount not to exceed $100,000,000.

"*Immaterial Subsidiary*" means, at any date of determination, each Subsidiary of Holdings that has been designated by the Borrower Representative in writing to the Administrative Agent as an "Immaterial Subsidiary" for purposes of this Agreement; provided that, for purposes of this Agreement, at no time shall (i) the Consolidated EBITDA (calculated as of the most recently ended Fiscal Quarter for which financial statements are required to have been delivered pursuant to this Agreement) (x) of such Subsidiary equal or exceed [****] of the aggregate Consolidated EBITDA of Holdings and its Subsidiaries at such date and (y) of all Immaterial Subsidiaries so designated equal or exceed [****] of the Consolidated EBITDA of Holdings and its Subsidiaries at such date or (ii) the total assets (x) of such Subsidiary equal or exceed [****] of the aggregate Consolidated Total Assets of Holdings and its Subsidiaries at such date and (y) of all Immaterial Subsidiaries so designated equal or exceed [****] of the Consolidated Total Assets of Holdings and its Subsidiaries at such date, in each case determined in accordance with GAAP. In the event that the limits set forth in clauses (i) or (ii) above are at any time exceeded, then all such Subsidiaries so designated as Immaterial Subsidiaries shall no longer be permitted to be (and shall be deemed not to be) Immaterial Subsidiaries, and such Subsidiaries shall immediately comply with all of the terms of this Agreement and the other Credit Documents applicable to Subsidiaries that are not Immaterial Subsidiaries (including without limitation Section 5.15), unless and until the Borrower Representative shall designate one or more Subsidiaries as Immaterial Subsidiaries pursuant to the first sentence of this definition and, in each case, such designation complies with clauses (i) and (ii) above and provided further that no Floor Plan Borrower may be designated as an Immaterial Subsidiary. Notwithstanding the foregoing, no Immaterial Subsidiary may own or exclusively license any Material Intellectual Property.

"*Increase Effective Date*" has the meaning provided to such term in Section 2.22 of this Agreement.

"Incremental Amendment" has the meaning provided to such term in Section 2.22 of this Agreement.

"*Incremental Facility*" has the meaning provided for such term in Section 2.22 of this Agreement.

"*Incremental Lender*" has the meaning provided to such term in Section 2.22 of this Agreement.

"*Incurrence-Based Basket*" means any category of exceptions, thresholds, baskets or other provisions in this Agreement based on complying with any financial ratio (including the Total Net Leverage Ratio).

"Indebtedness" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person in respect of the deferred purchase price of property or services, including, without limitation, Earnout Obligations (other than trade payables or other accounts payable paid in the ordinary course of business or such trade payables or other accounts payable are being disputed in good faith and by appropriate measures), (iv) all obligations of such Person under any conditional sale or other title retention agreement(s) relating to property acquired by such Person, (v) all Capital Lease Obligations of such Person, (vi) all obligations, contingent or otherwise, of such Person in respect of letters of credit, bankers acceptances or similar extensions of credit, (vii) all Guarantees of such Person of the type of Indebtedness described in clauses (i) through (vi) above, (viii) all Indebtedness of a third party secured by any Lien on property owned by such Person, whether or not such Indebtedness has been assumed by such Person, (ix) all obligations of such Person, contingent or otherwise, in respect of Disqualified Stock and (x) all net hedging obligations. For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company or the foreign equivalent thereof) in which such Person is a general partner or a joint venturer to the extent such Person would be liable therefor under applicable Requirements of Law or any agreement or instrument by virtue of such Person's ownership interest in such Person, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor. The amount of any net obligation under any hedging transaction on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (viii) that is expressly made nonrecourse or limited-recourse (limited solely to the assets securing such Indebtedness) to such Person shall be deemed to be equal to the lesser of (x) the aggregate unpaid amount of such Indebtedness and (y) the Fair Market Value of the property encumbered thereby as determined by such Person in good faith. For the avoidance of doubt, Indebtedness shall exclude any indebtedness related to investments of Holdings and its Subsidiaries (including IGY) that are not consolidated in Holdings' financial statements.

"*Indemnified Taxes*" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Credit Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Indemnitee" has the meaning provided to such term in Section 10.08.2 of this Agreement.

"Information" means all information received from any Loan Party relating to the Loan Parties or any of their respective businesses, other than any such information that is available to the Credit Parties on a nonconfidential basis prior to disclosure by the Loan Parties, provided that, in the case of information received from the Loan Parties after the date hereof, such information is clearly identified at the time of delivery as confidential.

"Insolvency Proceeding" means, with respect to any referenced Person, any case or proceeding commenced by or against such Person, under any provision of the Bankruptcy Code or under any other Debtor Relief Laws.

"*Intangible Assets*" means assets that are considered to be intangible assets under GAAP, including customer lists, goodwill, computer software, copyrights, trade names, trademarks, patents,

franchises, licenses, unamortized deferred charges, unamortized debt discount and capitalized research and development costs.

"*Intercompany Indebtedness*" means any and all claims, rights of payment, subrogation rights, rights of contribution, reimbursement or indemnity that any Loan Party may have from or against any other Loan Party.

"*Interest Payment Date*" means (a) with respect to any Adjusted Base Rate Borrowing and with respect to any SOFR Borrowing of Floor Plan Loans at the Adjusted SOFR Rate, the first Business Day of each consecutive month, and (b) with respect to any Eurocurrency Rate Loan or SOFR Borrowing at the Adjusted SOFR Rate, the last Business Day of each Interest Period therefor and, in the case of such a SOFR Borrowing with an Interest Period of more than three (3) months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three (3) months' duration after the first day of such Interest Period.

"Interest Period" means: with respect to any Eurocurrency Rate Loan or SOFR Borrowing of any Class of Revolving Credit Loans, Mortgage Loans, and Term Loans, the period commencing on the date of such Eurocurrency Rate Loan or SOFR Borrowing, or continuation or conversion of such Class of Loans as Eurocurrency Rate Loan or SOFR Rate Loans, and ending on the numerically corresponding day in the calendar month that is one (1), three (3), or six (6) months thereafter, as the Borrower Representative may elect (provided that, in each case (i) if any Interest Period would end on a day other than a RFR Business Day, such Interest Period shall be extended to the next succeeding RFR Business Day, unless such next succeeding RFR Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding RFR Business Day, (ii) any Interest Period that commences on the last RFR Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last RFR Business Day of the last calendar month of such Interest Period, provided, further, that, in the event an Interest Period is extended to the next RFR Business Day in a month, the succeeding Interest Period will end on the day it would have ended had the preceding Interest Period not been so extended (e.g., if the preceding period is extended to the 16th because the 15th is not a RFR Business Day, the succeeding period will end on the 15th as long as it is a RFR Business Day), and (iii) the Borrowers may not select any Interest Period which would end after the Maturity Date for the applicable Class of Loans). For purposes hereof, the date of a Eurocurrency Rate Loan or SOFR Borrowing initially shall be the date on which such Eurocurrency Rate Loan or SOFR Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Eurocurrency Rate Loan or SOFR Borrowing.

"Inventory" means any "inventory" within the meaning of that term under the Uniform Commercial Code.

"Investment" means, as to any referenced Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests in or securities of another Person, (b) a loan, advance or capital contribution to, guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit, or (d) any other investment in securities, deposits, or the obligations of other Persons. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"*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).

"*Issuing Bank*" means M&T Bank, in its capacity as the issuer of Letters of Credit hereunder (through itself or through one of its designated Affiliates or branch offices), or its successors hereunder as the issuer of Letters of Credit.

"Joinder Agreement" means each Joinder Agreement and Counterpart, substantially in the form of Exhibit K (amended as required to apply to the capacities of the applicable Borrower and to the Collateral to be granted), executed and delivered by a Subsidiary or any other Person to the Administrative Agent in connection with this Agreement.

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"*L/C Commitment*" means (a) the commitment of the Issuing Bank to issue Letters of Credit in an aggregate amount at any time outstanding not to exceed the Letter of Credit Sublimit, and (b) with respect to each Lender, the commitment of such Lender to purchase participation interests in the L/C Obligations up to such Lender's Revolving Credit Commitment Percentage multiplied by the Letter of Credit Sublimit. The L/C Commitment of each Lender is included in and is part of each Lender's Revolving Credit Commitment and is not in addition to the Lenders' respective Revolving Credit Commitments.

"*L/C Credit Extension*" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

"*L/C Disbursement*" means a payment made by the Issuing Bank pursuant to a Letter of Credit, including but not limited to the amount of any draft paid by the Issuing Bank under any Letter of Credit, and any taxes, charges, or other costs or expenses incurred by the Issuing Bank in connection with any such payment.

"*L/C Documents*" means, with respect to any Letter of Credit, such Letter of Credit, any amendments thereto, any documents delivered in connection therewith, any Letter of Credit Application therefor, and any agreements, instruments, guarantees or other documents (whether general in application or applicable only to such Letter of Credit) governing or providing for (a) the rights and obligations of the parties concerned, or (b) any collateral security for such obligations.

"*L/C Expiration Date*" means the day that is ten (10) days prior to the Revolving Credit Termination Date (or, if such day is not a Business Day, the next preceding Business Day).

"*L/C Obligations*" means, at any time, the sum of (a) the aggregate Stated Amount of all issued and outstanding Letters of Credit, plus (b) the aggregate unpaid principal amount of all Reimbursement Obligations of the Revolving Credit Borrower at such time due and payable in respect of all drawings made under such Letter of Credit. For purposes of this Agreement, a Lender (other than the Lender then acting as Issuing Bank with respect to the related Letter of Credit) shall be deemed to hold a L/C Obligation in an amount equal to its participation interest under Section 2.05 in the related Letter of Credit, and the Lender then acting as Issuing Bank with respect to such related Letter of Credit shall be deemed to hold a L/C Obligation in an amount equal to its retained interest in the related Letter of Credit after giving effect to the acquisition by the Revolving Credit Lenders (other than the Lender then acting as Issuing Bank with respect to such related Letter of Credit) of their participation interests under such Section. 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.

"*Latest Maturity Date*" means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Term Loan Increase or Mortgage Loan Increase.

"Law" means any law (including common Law), constitution, statute, treaty, regulation, rule, ordinance, opinion, release, ruling, order, injunction, writ, decree or award of any Governmental Authority.

"Lender Credit" has the meaning provided to such term in Section 2.01.6 of this Agreement.

"Lenders" means collectively the Floor Plan Lenders, the Revolving Credit Lenders, the Term Loan Lenders, the Mortgage Loan Lenders and the Persons that are parties to this Agreement as of the Closing Date as a "Lender" or any other Person that thereafter shall have become party hereto as a "Lender" pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto as a "Lender" pursuant to an Assignment and Assumption. Unless the context requires otherwise, the term "Lenders" includes the Swingline Lender and the Issuing Bank, and Wells Fargo in connection with its funding of the WF Advances.

"Letter of Credit" means any letter of credit issued by the Issuing Bank for the account of one or more of the Borrowers or any Affiliate thereof in accordance with the terms of this Agreement. A Letter of Credit may be issued in Dollars or in any Alternative Currency.

"Letter of Credit Application" means the Issuing Bank's then current form of application and agreement for the issuance or amendment of a Letter of Credit.

"Letter of Credit Fees" has the meaning provided to such term in Section 2.05.9 of this Agreement.

"Letter of Credit Sublimit" means an amount equal to Twenty Million Dollars ($20,000,000.00).

"Lien" means any mortgage, deed of trust, pledge, lien, security interest, charge or other encumbrance or security arrangement of any nature whatsoever, whether voluntarily or involuntarily given, including but not limited to any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security and any filed financing statement or other notice of any of the foregoing (whether or not a lien or other encumbrance is created or exists at the time of the filing).

"*Limited Condition Transaction*" means an acquisition or Investment permitted by this Agreement that Holdings or one of its Subsidiaries is contractually or legally committed to consummate and the consummation of which is not conditioned on the availability of, or on obtaining, third party financing.

"*Line Cap*" means the lesser of (i) the Floor Plan Loan Commitment and (ii) the Borrowing Base.

"*Loan Parties*" means, collectively, the Borrowers and the Guarantors (including Persons that become Borrowers or Guarantors after the Closing Date).

"Loan Request" means (a) notice in the form of Exhibit H attached hereto from the Borrower Representative in accordance with the Loans (other than Floor Plan Loans) as set forth in this

Agreement and (b) with respect to Floor Plan Loans, notice in the form of Exhibit H attached hereto or a request for a Floor Plan Loan in accordance with Section 2.01.2.

"Loans" means, collectively, the Floor Plan Loans including the WF Advances, Revolving Credit Loans, the Swingline Loans, the Term Loans, and the Mortgage Loans.

"M&T Bank" means Manufacturers and Traders Trust Company, a New York banking corporation, and its successors and assigns.

"Mandatory Prepayments" has the meaning provided to such term in Section 2.06.3 of this Agreement.

"*Manufacturer*" means the manufacturer, vendor, or supplier of a Floor Plan Unit, including original equipment manufacturers (commonly referred to as "OEM") and other vendors and suppliers of a Floor Plan Unit.

"Material Adverse Change" means (a) any set of circumstances or events which has or could reasonably be expected to have a material adverse effect upon the operations, businesses, properties, actual liabilities, or financial conditions of Holdings and its Subsidiaries, taken as a whole; (b) a material impairment of the ability of the Loan Parties (taken as a whole) to perform their respective obligations under any Credit Document; or (c) any circumstances or events having a material adverse effect upon the legality, validity, binding effect or enforceability against the Loan Parties of any Credit Document to which it is a party (taken as a whole).

"*Material Intellectual Property*" means the IP Rights, whether now owned or licensed or hereafter acquired, licensed or developed, that are material to the ability of the Loan Parties to generate revenue or that are material to the conduct of business of the Loan Parties.

"*Maturity Dates*" means collectively (a) the Floor Plan Line of Credit Termination Date, (b) the Revolving Credit Termination Date, (c) the Swingline Termination Date, (d) the Term Loan Maturity Date, and (e) the Mortgage Loan Maturity Date.

"Measurement Period" means, as of any date of determination, the four (4) consecutive trailing Fiscal Quarters most recently ended.

"Minimum Borrowing Amount" means: (a) with respect to Floor Plan Loans, WF Advances, and settlement among Wells Fargo and the other Lenders on account of WF Advances on a Floor Plan Loan Adjustment Date, no Minimum Borrowing Amount shall be applicable; (b) with respect to the Revolving Credit Loans (i) no Minimum Borrowing Amount shall be applicable for Adjusted Base Rate Borrowings and (ii) Five Hundred Thousand Dollars ($500,000.00) (or such lesser amount as may be approved by the Administrative Agent) for Eurocurrency Rate Loans and SOFR Borrowings with minimum increments of Fifty Thousand Dollars ($50,000.00); (c) with respect to the Term Loans, (i) no Minimum Borrowing Amount shall be applicable for Adjusted Base Rate Borrowings and (ii) Five Hundred Thousand Dollars ($500,000.00) (or such lesser amount as may be approved by the Administrative Agent) for SOFR Borrowings with minimum increments of Fifty Thousand Dollars ($50,000.00); (d) with respect to the Swingline Loans, any whole Dollar increment and (e) with respect to Mortgage Loan advances, $50,000.00 (or, if less, the remaining amount available for drawing under the Mortgage Loan).

"*Monthly Floor Plan Interest*" has the meaning provided to such term in Section 2.01.4.2 of this Agreement.

"*Mortgage*" means , collectively, the deeds of trust, trust deeds and mortgages made by the Loan Parties in favor or for the benefit of the Administrative Agent substantially in the form delivered on the Closing Date or such other form as may be agreed to by the Borrower Representative and the Administrative Agent, together with any other related forms or documents that are required or customary to effect the recording of such deeds of trust, trust deeds and mortgages.

"*Mortgage Loan Borrower*" means with respect to any Class of Mortgage Loans (including, as applicable, the Mortgage Loan Facility), each other Borrower that becomes party to this Agreement in accordance with Section 5.15 as a Mortgage Loan Borrower with respect to such Class and that owns Real Property supporting any Mortgage Loans of such Class.

"*Mortgage Loan Borrowing*" means a borrowing consisting of simultaneous Mortgage Loans of the same Class and Type.

"*Mortgage Loan Commitment*" means, as to any Lender, the amount initially set forth opposite its name on Schedule 1.01 attached hereto in the column labeled "Mortgage Loan Commitments" and thereafter on any relevant Assignment And Assumption, as such amount may be adjusted from time to time in accordance with this Agreement, and "Mortgage Loan Commitments" means the aggregate Mortgage Loan Commitments of all of the Lenders.

"*Mortgage Loan Commitment Percentage*" means, as to any Lender, the percentage initially set forth opposite its name on the grid provided in the definition of "Mortgage Loan Commitment" in the column labeled "Mortgage Loan Commitment Percentage" and thereafter on any relevant Assignment And Assumption, as the same may be adjusted from time to time pursuant to this Agreement.

"*Mortgage Loan Facility*" means the senior secured mortgage term loan facility described in Section 2.06A providing for Mortgage Loans to the Mortgage Loan Borrower by the Mortgage Loan Lenders.

"*Mortgage Loan Facility Unused Commitment Fee*" has the meaning provided to such term in Section 2.06A.7 of this Agreement.

"*Mortgage Loan Funding Date*" means each date after the Closing Date that a Mortgage Loan is funded to a Borrower pursuant to Section 2.06A, in each case, subject to the terms and conditions set forth in Section 4.03.

"*Mortgage Loan Lenders*" means a Lender having a Mortgage Loan Commitment or any Lender holding a Mortgage Loan.

"*Mortgage Loan Maturity Date*" means August 8, 2027.

"*Mortgage Loan Notes*" means, collectively, the promissory notes of the Mortgage Loan Borrower evidencing the Mortgage Loans in the form of Exhibit M attached hereto, together with all amendments and replacements thereof.

"*Mortgage Loans*" means the mortgage loans extended by the Lenders to the Mortgage Loan Borrower in accordance with the provisions of Section 2.06A of this Agreement and the other Credit Documents.

"*Mortgage Obligations*" means, with respect to a Class of Mortgage Loans, collectively, all of the obligations of the Loan Parties to (i) the Mortgage Loan Lenders of such Class, whenever arising, under this Agreement or any other Credit Documents, including without limitation all unpaid principal,

accrued interest, fees and Credit Party Expenses of the Mortgage Loan Lenders of such Class, due and payable hereunder and thereunder in respect of such Class of Mortgage Loans or any Mortgage Loan Increase in respect of such Class, and (ii) the Mortgage Loan Lenders of such Class or any of their Related Parties on account of indemnification and reimbursement duties and obligations due and payable under this Agreement or any other Credit Document in respect of such Class of Mortgage Loans or any Mortgage Loan Increase in respect of such Class.

"Mortgage Obligations Collateral" means the Mortgaged Property in which the Administrative Agent on behalf of the Credit Parties is from time to time granted a Lien under any Security Document as security for all or any portion of the Mortgage Obligations; provided, however, that Mortgage Obligations Collateral shall not include any Excluded Property.

"*Mortgaged Property*" means, for each Class of Mortgage Loans, any fee-owned Property that becomes subject to a Mortgage after the Closing Date in connection with such Mortgage Loan, the value of which is advanced against under this Agreement after the Closing Date for the purpose of funding such Mortgage Loan of such Class.

"Mortgaged Property Asset Value" means the "as is" value of a Mortgaged Property, as determined by the most recent Real Estate Appraisal obtained and delivered to the Borrower Representative and the Administrative Agent with respect to such Mortgaged Property.

"Multiemployer Plan" means any employee benefit plan which is a "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA and to which any Loan Party or any member of the ERISA Group is then making or accruing an obligation to make contributions or, within the preceding five (5) plan years, has made or had an obligation to make such contributions.

"*Net Available Proceeds"* means the aggregate cash and Cash Equivalents received by any Loan Party or its Subsidiaries directly or indirectly in connection with or from any transaction, event, condition or occurrence described in Section 2.06.3 hereof, including but not limited to Dispositions of assets (other than sales of Floor Plan Units subject to Section 2.01), insurance proceeds, condemnation recoveries, or issuances of Indebtedness, in each case net of (a) reasonable costs and expenses associated therewith, including reasonable legal fees and expenses (but excluding any such fees and expenses paid to an Affiliate), and (b) any repayments (including reasonable expenses in connection therewith) of Indebtedness to the extent that (x) such Indebtedness is secured by a Lien on an asset that is the subject of the transaction, and (y) the transferee of (or holder of a Lien on) such asset requires that such Indebtedness be repaid as a condition to the subject transaction.

"New Unit Invoiced Amount" means, with respect to any Eligible New Floor Plan Unit, the amount of the Manufacturer or vendor invoice (including freight charges to the extent freight charges are included on such invoice) as specified to the Floor Plan Agent from time to time by the applicable Manufacturer or vendor of such Eligible New Floor Plan Unit.

"*Non-Consenting Lender*" means any Lender that does not approve any consent, waiver or amendment that (a) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 10.01 and (b) has been approved by the Required Lenders.

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Notes" means, collectively, the Floor Plan Loan Notes, the Revolving Credit Notes, the Swingline Note, the Term Loan Notes, and the Mortgage Loan Notes.

"Obligations" means, collectively, the obligations of the Borrowers or of any other Loan Party to pay to the Credit Parties or to perform for the benefit of the Credit Parties, M&T Bank or any of their Affiliates (a) sums due arising out of or in connection with the Loans or otherwise pursuant to the terms of the Notes, and the other Credit Documents, including without limitation all unpaid principal, accrued interest (including interest that accrues during any Insolvency Proceedings), fees and expenses, (b) indemnification and reimbursement duties and obligations owed in accordance with the terms of any of the Credit Documents, (c) Credit Party Expenses, (d) reimbursement, repayment or indemnity obligations owed by the Borrowers or any of the other Loan Parties to any Credit Party or to an Affiliate of a Credit Party arising out of or related to Bank Products, (e) all payment and indemnification obligations owed by the Borrowers to the Issuing Bank or to any other Credit Party which arise out of or relate to any Letters of Credit, including all of the L/C Obligations, (f) all obligations or sums due to any Swap Provider under or in connection with any Swap Obligations, (g) payments owed to the Arrangers, the Administrative Agent, the Floor Plan Agent or M&T Bank in accordance with the Fee Letter, (h) any indebtedness or liability which may exist or arise as a result of any payment made by or for the benefit of any of the Credit Parties being avoided or set aside for any reason including any payment being avoided as a preference under Sections 547 and 550 of the Bankruptcy Code, as amended, or under any other Debtor Relief Law, and (i) any interest on any portion of the Loans that accrues after the commencement of any Insolvency Proceeding.

"*Ocean*" means the vessel brand commonly known as Ocean Alexander.

"*OFAC*" means the U.S. Department of Treasury's Office of Foreign Asset Control.

"*Organization Documents*" means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction), (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement, and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"*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 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 Credit Document, or sold or assigned an interest in any Loan or Credit Document).

"Other Taxes" means all present or future stamp, court, 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 Credit Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.12).

"*Outstanding Amount*" means (a) with respect to Floor Plan Loans (including WF Advances) on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Floor Plan Loans, as the case may be, occurring on such date, (b) with respect to Revolving Credit Loans and Swingline Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Revolving Credit Loans and Swingline Loans, as the case may be, occurring on such date; (c) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving

effect to any L/C Credit Extensions 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 made by the Borrowers; (d) with respect to the Term Loans of any Class on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayment or repayments of the Term Loans of such Class, as the case may be, occurring on such date and (e) with respect to Mortgage Loans of any Class, the aggregate outstanding principal amount thereof after giving effect to the borrowing thereof and any prepayments or repayments of Mortgage Loans of such Class, as the case may be, on such date.

"*Overnight Rate*" means, for any day, (a) with respect to any amount denominated in Dollars, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent (or to the extent payable to an Issuing Bank, such Issuing Bank with notice to the Administrative Agent) to be customary in the place of disbursement or payment for the settlement of international banking transactions, and (b) with respect to any amount denominated in an Alternative Currency, an overnight rate determined by the Administrative Agent (or to the extent payable to an Issuing Bank, such Issuing Bank with notice to the Administrative Agent) to be customary in the place of disbursement or payment for the settlement of international banking transactions.

"Participant" has the meaning provided to such term in Section 10.03 of this Agreement.

"*Participant Register*" has the meaning provided to such term in Section 10.03 of this Agreement.

"*Participating Member State*" means any member state of the European Union that has the Euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"Participation" means an undivided participation interest sold by a Lender, in accordance with the provisions of Section 10.03, in such Lender's Commitments, Loans and rights and obligations under this Agreement and the other Credit Documents.

"Payment Notice" has the meaning provided to such term in Section 9.13(b) of this Agreement.

"Payment Recipient" has the meaning provided to such term in Section 9.13(a) of this Agreement.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Funding Rules" means the rules of the Code and ERISA regarding minimum required contributions (including any installment payment thereof) to Pension Plans and set forth in Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

"Pension Plan" means any "employee pension benefit plan" (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by a Borrower or any ERISA Affiliate or to which a Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding five plan years.

"*Performance Rebate*" has the meaning provided to such term in Section 2.23 of this Agreement.

"*Permitted Acquisition*" means any Acquisition after the Closing Date by one (1) or more Borrowers or their Subsidiaries, provided that:

(a) subject to the provisions of Section 1.08 with respect to any Limited Condition Transaction, before and after giving effect to such Acquisition, no Default or Event of Default has occurred and is continuing or would result therefrom and the representations and warranties of the Loan Parties contained in Article 3 of this Agreement or in any other Credit Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct in all material respects (and, in the case of any representation or warranty that is qualified by materiality or Material Adverse Change, shall be true and correct in all respects), except 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 (and, in the case of any representation or warranty that is qualified by materiality or Material Adverse Change, shall be true and correct in all respects);

(b) the Person to be (or whose assets are to be) acquired does not oppose such Acquisition and the material line or lines of business of the Person to be acquired would constitute a Permitted Business;

(c) for Acquisitions with a Cost of Acquisition (excluding the Fair Market Value of Floor Plan Units acquired in connection with any such Acquisition) in excess of $20,000,000, the Borrower Representative shall have given not less than thirty (30) days' prior written notice to the Administrative Agent (or such later notice as agreed to by the Administrative Agent in its sole discretion) identifying the applicable Acquisition and providing a general overview of such Acquisition based on information known to the Loan Parties at such time;

(d) for Acquisitions (i) with a Cost of Acquisition (excluding the Fair Market Value of Floor Plan Units acquired in connection with any such Acquisition) in excess of $30,000,000, the Borrower Representative shall have furnished to the Administrative Agent historical financial statements of such target Person as of the end of the most recently completed Fiscal Year and , if available, interim Fiscal Quarter of such target Person or (ii) with a Cost of Acquisition (excluding the Fair Market Value of Floor Plan Units acquired in connection with any such Acquisition) in excess of $100,000,000, the Borrower Representative shall have furnished to the Administrative Agent audited financial statements, in each case, at least ten (10) Business Days (or such later date agreed to by the Administrative Agent in its sole discretion) prior to the consummation of such Acquisition;

(e) on the date of the consummation of the Acquisition, Holdings and its Subsidiaries shall be in pro forma compliance with the financial covenants set forth in Section 6.12 and 6.13 as of the most recently ended Measurement Period, after giving effect to such Acquisition;

(f) if, after the consummation of such Acquisition, the Person acquired is a Subsidiary, the applicable Loan Party or Subsidiary shall have complied with the provisions of Section 5.15 and the applicable provisions of the Security Documents (in each case, within the applicable time period for compliance);

(g) three (3) Business Days prior to the consummation of the proposed Acquisition, the Borrower Representative shall have delivered to the Administrative Agent a certificate executed by an Authorized Officer of the Borrower Representative, certifying to such officer's knowledge, compliance with the requirements of preceding clauses (a) through (f) and containing the calculations (in reasonable detail) required by the preceding clause (e); and

(h) the Cost of Acquisition for such Acquisition, together with the Cost of Acquisition for all other Acquisitions in the same Fiscal Year (excluding in each case the Fair Market Value of Floor Plan Units acquired in connection with any such Acquisition and excluding the IGY Acquisition), is not greater than $250,000,000.

"*Permitted Business*" means, with respect to Holdings and its Subsidiaries, taken as a whole, (a) acquiring, owning, operating, selling and leasing, whether at wholesale or at retail, and including from auctions and trade-ins, of new and used Floor Plan Units and other marine product Inventory (together with new and used Floor Plan Units, "*Vessels*"), and parts, accessories and after-market products thereof, (b) the provision of repair, installation, maintenance, refurbishment and replacement services with respect to Vessels and parts, accessories and other after-market products thereof, (c) the provision of financing, insurance and vessel protection services and plans to customers, whether directly or arranged via third parties, including, but not limited to, installment sale and lease contracts, extended warranties and service contracts, prepaid maintenance and emergency assistance, and the provision of technology services related to other Permitted Businesses, (d) the ownership, lease, and operation of marinas, (e) marine product brokerage, marine product manufacturing, and yacht management services, (f) the acquisition, ownership and operation of any Person (or the assets or a line or lines of business of such Person), and the sale of any assets and the provision of any services that are provided by or incidental to the business of such Person at the time such Person is acquired, so long as, at the time of such acquisition, as a part of such Person's business, such Person is engaged in and/or provides one or more of the businesses, products and services set forth in the foregoing clauses (i) or (ii)(a) through (e), and (g) activities related, complementary or incidental to, or a reasonable extension, development or expansion of, any of the foregoing.

"*Permitted Collateral Location*" means Eligible Units to be located at, or in-transit domestically to and from, only locations described in Schedule 2.01 to this Agreement (as such Schedule 2.01 may be updated from time to time with the approval of Floor Plan Agent) and at such other locations in the United States disclosed to Floor Plan Agent in writing at least fifteen (15) days prior to such dealer's use of such location (but excluding the locations of any consigned Inventory), unless Floor Plan Agent otherwise agrees to such location or consignment in writing; provided that such fifteen (15) day notice and Floor Plan Agent approval shall not be required for Inventory (including consigned Inventory not financed by Floor Plan Agent hereunder) with an aggregate invoice amount of less than one million dollars ($1,000,000.00) located at other locations (including locations outside of the United States, but excluding boat shows) for up to thirty (30) days per unit and, provided, further, that such notice shall be reduced to one (1) day and Floor Plan Agent approval shall not be required for Inventory (excluding consigned Inventory) with an aggregate invoice amount of less than one million dollars ($1,000,000.00) located at boat shows for up to thirty (30) days.

"*Permitted Discretion*" means a determination made in good faith and in the exercise of reasonable credit or business judgement, from the perspective of a secured asset based lender or a floor plan lender, as applicable, in accordance with customary business practices of the Administrative Agent or the Floor Plan Agent, as applicable, for comparable asset-based or floor plan transactions for similarly situated borrowers, which in the context of establishing or modifying any eligibility criteria or Reserve provided for in this Agreement, the Administrative Agent or the Floor Plan Agent, as applicable, from time to time determines following consultation with the Borrower Representative as being appropriate, in each case of clauses (a), (b), (c) and (d) below, to the extent such items have not otherwise been included in the calculation of the Borrowing Base, (a) to reflect items that could reasonably be expected to adversely affect the Administrative Agent's ability to realize upon the Collateral relevant to that Loan Party, including, without limitation, items that could reasonably be expected to adversely affect the value of any Collateral relevant to the Loan Party, the enforceability or priority of the Administrative Agent's Liens on Collateral relevant to that Loan Party, the timing of any enforcement action, or the amount that any secured party would be likely to receive in the liquidation of Collateral relevant to that Loan Party, (b) to reflect claims and liabilities that have priority as a matter of law that the Administrative Agent determines will need to be

satisfied in connection with the realization upon that Collateral, (c) to reflect criteria, events, conditions, contingencies or risks that differ materially from facts or events occurring or known to the Administrative Agent or the Floor Plan Agent, as applicable, on the Closing Date and which directly and adversely affect any component of the Borrowing Base, or (d) to address any collateral report or other financial information received by the Administrative Agent or the Floor Plan Agent, as applicable, from any Loan Party to the extent such report is incomplete, inaccurate or misleading in any material respect.

"Permitted Encumbrances" means collectively:

(a) Liens for taxes, assessments, governmental levies or similar charges incurred in the ordinary course of business and which are not yet overdue for thirty (30) days, or if overdue for more than thirty (30) days, (i) are being contested in good faith and by appropriate proceedings diligently conducted, but only so long as such proceedings could not subject any Credit Party to any civil or criminal penalties or liabilities and (ii) for which such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made and (iii) which shall be paid in accordance with the terms of any final non-appealable judgments or orders relating thereto within thirty (30) days after the entry of such judgments or orders;

(b) Pledges or deposits made in the ordinary course of business (i) to secure payment of worker's compensation, or to participate in any fund in connection with worker's compensation, unemployment insurance, old-age pensions, other social security programs or similar program, (ii) to secure liability to insurance carriers under insurance or self-insurance agreements or arrangement or (iii) securing obligations in respect of letters of credit that have been posted by a Loan Party to support the payment of items set forth in clauses (i) and (ii) of this subsection (b);

(c) Liens of mechanics, materialmen, warehousemen, carriers, or other like Liens, securing obligations incurred in the ordinary course of business that are not yet due and payable and Liens of landlords securing obligations to pay lease payments that are not yet overdue or in default by more than thirty (30) days, or if such Liens are overdue by more than thirty (30) days, (i) are being contested in good faith and by appropriate proceedings diligently conducted and (ii) for which such reserves or other appropriate provisions, if any, as required by GAAP shall have been made and (iii) which shall be paid in accordance with the terms of any final non-appealable judgments or orders relating thereto within thirty (30) days after the entry of such judgments or orders;

(d) Pledges or deposits made in the ordinary course of business (i) to secure performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, not in excess of the aggregate amounts due thereunder (ii) to secure public or statutory or regulatory obligations or import duties, or surety, stay, appeal, customs, indemnity, completion, performance or other similar bonds required in the ordinary course of business or (iii) securing obligations in respect of letters of credit that have been posted by a Loan Party to support the payment of items set forth in clauses (i) and (ii) of this subsection (d);

(e) (i) encumbrances consisting of zoning restrictions, easements, rights-of-way, building code laws, covenants, other matters of record, survey exceptions, encroachments, protrusions or other restrictions on the use of Real Property, none of which materially impairs the use of such real property by the Loan Parties, (ii) with respect to Real Property other than the Mortgaged Property, defects in title to such Real Property and (iii) with respect to Mortgaged Property, (1) any exceptions listed on title insurance policies accepted by the Administrative Agent with respect to such Mortgaged Property and (2) matters that are disclosed by surveys received by and reasonably acceptable to the Administrative Agent;

(f) (i) Liens on assets of a Person which is merged into or acquired by a Loan Party on or after the date of this Agreement and (ii) Liens on assets acquired or assumed after the date of this

Agreement; provided, in each case, that (w) such merger or acquisition is made in compliance with this Agreement, (x) such Liens existed at the time of such merger or acquisition and were not created in anticipation thereof, (y) no such Lien covers any other property or assets of any Loan Party (other than proceeds of such acquired assets) and (z) the principal amount of any Indebtedness secured thereby is not increased from the amount outstanding immediately before such merger or acquisition, is permitted by Section 6.03(g) and is in an aggregate amount not exceeding at any time outstanding $10,000,000;

(g) Liens securing the Obligations;

(h) Liens securing judgments for the payment of money (or appeal or other surety bonds relating to such judgments) not constituting an Event of Default under Section 7.05 or Section 7.06; provided such Lien is subject and subordinate to the Lien of the Security Documents;

(i) Liens existing on the Closing Date and listed on Schedule 1.05 hereof and Liens securing any Permitted Refinancings in respect of Indebtedness secured by Liens referred to in this clause (i), and any renewals, modifications, replacements or extensions thereof; *provided that* (i) the property covered thereby is not changed, (ii) the amount secured or benefited thereby is not increased except as contemplated by Section 6.03(b), and (iii) the direct or any contingent obligor with respect thereto is not changed;

(j) (i) Liens placed upon assets securing Capitalized Lease Obligations or purchase money or similar Indebtedness in connection with acquisitions, construction, installation, repair, development, replacement or improvement of fixed or capital assets; provided that any such Lien shall not encumber any assets of any Loan Party other than the assets acquired with such Indebtedness and after-acquired property that is affixed or incorporated into such assets and proceeds and products thereof, and (ii) Liens securing Permitted Refinancings in respect of Indebtedness secured by the Liens referred to in subclause (i), in the case of subclauses (i) and (ii), to the extent such Indebtedness is permitted under Section 6.03(f) hereof;

(k) any interest or title of a lessor, licensor or sublessor under any lease, license or sublease entered into by Holdings or any of its Subsidiaries in the ordinary course of business and covering only the assets so leased, licensed or subleased;

(l) Liens of a collection bank arising under Section 4-210 of the UCC on items in the course of collection;

(m) Liens of sellers of goods to Borrowers or any Subsidiary arising under Article 2 of the Uniform Commercial Code or similar provisions of applicable Law in the ordinary course of business, covering only the goods sold and securing only the unpaid purchase price for such goods and related expenses;

(n) Liens, if any, in favor of the Administrative Agent on Cash Collateral delivered pursuant to Section 2.05.8;

(o) Liens arising from precautionary financing statements filed in connection with operating leases or consignments of goods and not securing Indebtedness;

(p) Liens that are normal and customary contractual rights of setoff, relating to (i) the establishment of depository relationships with banks or other financial institutions not given in connection with the incurrence of any Indebtedness, and (ii) purchase orders and other agreements entered into with customers of the Borrowers or any Subsidiary in the ordinary course of business;

(q) Liens securing Indebtedness to **[****]** permitted pursuant to Section 6.03(o); and

(r) other Liens securing obligations on a junior basis to the Liens securing the Obligations in an aggregate outstanding principal amount (as of the date any such Lien is incurred) not to exceed $10,000,000.

"*Permitted Investment*" means any Investment permitted by Section 6.02.

"*Permitted Refinancing*" means Indebtedness constituting a refinancing, refunding, renewal, replacement or extension of any Indebtedness of such Person; provided that such new Indebtedness (a) has an aggregate outstanding principal amount not greater than the aggregate principal amount (including an amount equal to any existing commitments unutilized and letters of credit undrawn thereunder) of the Indebtedness being refinanced, refunded, renewed, replaced or extended except by an amount equal to unpaid accrued interest and penalty or premium thereon plus all premiums (if any), interest, fees, discounts, commissions, expenses, charges and additional or contingent interest, in each case, reasonably incurred, in connection with such refinancing, refunding, renewal, replacement or extension, (b) has a Weighted Average Life to Maturity (measured as of the date of such refinancing, renewal, replacement or extension) and maturity no shorter than that of the Indebtedness being refinanced, refunded, renewed, replaced or extended, (c) is not secured by a Lien on any Collateral other than Liens otherwise permitted under Section 6.01, (d) the primary obligors of which are the same (or fewer) as the primary obligors of the Indebtedness being refinanced, refunded, renewed, replaced or extended and the same (or fewer) guarantors as the guarantors under the Indebtedness being refinanced, refunded, renewed, replaced or extended and (e) is subordinated to the Obligations on the same terms as the Indebtedness being refinanced, refunded, renewed, replaced or extended is subordinated to the Obligations, if applicable. Any reference to a Permitted Refinancing in this Agreement or any other Credit Document shall be interpreted to mean (i) a Permitted Refinancing of the subject Indebtedness and (ii) any further refinancings constituting a Permitted Refinancing of the Indebtedness resulting from a prior Permitted Refinancing.

"*Person*" means any individual, corporation, partnership, limited liability company, association, joint-stock company, trust, unincorporated organization, joint venture, government or political subdivision or agency thereof, or any other entity.

"Plan" means any "employee benefit plan" (as such term is defined in Section 3(3) of ERISA) established by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any ERISA Affiliate.

"*Platform*" means Debt Domain, Intralinks, SyndTrak or a substantially similar electronic transmission system.

"*Pre-Owned Inventory Cost*" means the Borrower Representative's internal valuation for pre-owned inventory (as set forth on the monthly inventory certificate and Borrowing Base Certificate).

"*Pre-Owned Inventory Reserve*" means the low wholesale value of Eligible Used Floor Plan Units determined via NADA, Yachtworld.com, survey or other source acceptable to Floor Plan Agent minus the Pre-Owned Inventory Cost for such Eligible Used Floor Plan Units, divided by the low wholesale value of Eligible Used Floor Plan Units determined via NADA, Yachtworld.com, survey or other source acceptable to Floor Plan Agent, as a percentage.

"Prime Rate" means the rate of interest per annum publicly announced from time to time by the Administrative Agent, in its sole discretion, as its prime lending rate of interest. Such announced rate bears no inference, implication, representation or warranty that such announced rate is charged to any

particular customer or customers of Administrative Agent. The Administrative Agent's prime lending rate of interest is but one of several interest rate bases used by the Administrative Agent. Changes in the applicable interest rate shall be made as of, and immediately upon the occurrence of, changes in the Administrative Agent's prime rate.

"Pro Rata Share" means, as to each Lender, the ratio, expressed as a percentage of (a) (i) the aggregate amount of such Lender's Floor Plan Loan Commitment, Term Loan Commitment, Mortgage Loan Commitment and Revolving Credit Commitment plus (ii) the aggregate amount of such Lender's outstanding Term Loans and Mortgage Loans to (b) (i) the aggregate amount of the Floor Plan Loan Commitments, Term Loan Commitments, Mortgage Loan Commitments and Revolving Credit Commitment of all Lenders plus (ii) the aggregate amount of all outstanding Term Loans and Mortgage Loans; provided, however, that if at the time of determination the Floor Plan Loan Commitments and Revolving Credit Commitments have terminated or been reduced to zero, the "Pro Rata Share" of each Lender shall be the ratio, expressed as a percentage of (A) the sum of the unpaid principal amount of all outstanding Floor Plan Loans, Revolving Credit Loans, Term Loans and Mortgage Loans, owing to such Lender as of such date to (B) the sum of the aggregate unpaid principal amount of all outstanding Floor Plan Loans, Revolving Credit Loans, Term Loans and Mortgage Loans of all Lenders as of such date. If at the time of determination any Commitments have been terminated or reduced to zero and there are no outstanding Loans, then the Pro Rata Shares of the Lenders shall be determined as of the most recent date on which such Commitments were in effect or Loans were outstanding. For purposes of this definition, a Floor Plan Lender shall be deemed to hold a WF Advance to the extent such Floor Plan Lender has acquired a participation therein under the terms of this Agreement and has not failed to perform its obligations in respect of such participation.

"Prohibited Transaction" means any prohibited transaction as defined in Section 4975 of the Code or Section 406 of ERISA that is not exempt under Section 408 of ERISA and for which neither an individual nor a class exemption has been issued by the United States Department of Labor.

"Property" means, any parcel of real property, whether owned in fee or leased, of any of the Loan Parties.

"*Rate Determination Date*" means, with respect to any Interest Period, two (2) Eurocurrency Banking Days prior to the commencement of such Interest Period (or such other day as is generally treated as the rate fixing day by market practice in the applicable interbank market, as determined by the Administrative Agent; provided that to the extent that such market practice is not administratively feasible for the Administrative Agent, such other day as otherwise reasonably determined by the Administrative Agent).

"Real Estate Appraisal" means a FIRREA-conforming appraisal prepared by an independent third party appraiser reasonably acceptable to the Administrative Agent.

"*Real Estate Support Documents*" means such third party consents, landlord and mortgagee waivers and agreements, flood hazard certifications, evidence of flood insurance (if required), and subordination and nondisturbance agreements, in each case as the Administrative Agent may request.

"Real Property" means, with respect to any Person, any parcel of real property, whether owned in fee or leased, of such Person.

"*Recipient*" means (a) the Administrative Agent or the Floor Plan Agent, (b) any Lender or (c) any Issuing Bank, as applicable.

"*Register*" has the meaning provided to such term in Section 10.02.4 of this Agreement.

"*Regulation D*" means certain regulations issued by the Federal Reserve Board generally known as Regulation D and entitled "Reserve Requirements of Depository Institutions," codified at 12 CFR § 204, et seq., as amended and in effect from time to time.

"*Reimbursement Obligation*" means the absolute, unconditional and irrevocable obligation of a Revolving Credit Borrower to reimburse an Issuing Bank for any drawing honored by such Issuing Bank under a Letter of Credit.

"*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.

"Related Real Property Assets" means, with respect to any Real Property, fixtures, related real property rights, related contracts and proceeds of such Real Property (including, without limitation, insurance proceeds in respect of the foregoing).

"Release" means a "release" as defined in Section 101(22) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as now or hereafter amended.

"*Relevant Governmental Body*" means (a) with respect to a Benchmark Replacement in respect of Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Dollars, the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York, or any successor thereto and (b) with respect to a Benchmark Replacement in respect of Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, any Alternative Currency, (i) the central bank for the Currency in which such Obligations, interest, fees, commissions or other amounts are denominated, or calculated with respect to, or any central bank or other supervisor which is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement or (ii) any working group or committee officially endorsed or convened by (A) the central bank for the Currency in which such Obligations, interest, fees, commissions or other amounts are denominated, or calculated with respect to, (B) any central bank or other supervisor that is responsible for supervising either (1) such Benchmark Replacement or (2) the administrator of such Benchmark Replacement, (C) a group of those central banks or other supervisors or (D) the Financial Stability Board or any part thereof.

"Rent Reserve" means reserves instituted by the Floor Plan Agent in its Permitted Discretion in an amount not to exceed the aggregate of three month's rent with respect to each leased Collateral location for which the applicable landlord has not executed and delivered to the Administrative Agent an agreement, in form and substance reasonably acceptable to the Administrative Agent, subordinating such landlord's lien in the Collateral and providing the Agents reasonable access to such Collateral;[****].

"Reportable Event" means any of the events set forth in Section 4043(c) of ERISA, other than events for which the thirty (30) day notice period has been waived.

"Reportable Compliance Event" means that: (a) any Loan Party or any of its Subsidiaries becomes a Sanctioned Person, or is charged by indictment, criminal complaint, or similar charging instrument, arraigned, custodially detained, penalized or the subject of an assessment for a penalty, or enters into a settlement with any Governmental Authority in connection with any economic sanctions or other Anti-Terrorism Law or Anti-Corruption Law, or any predicate crime to any Anti-Terrorism Law or Anti-Corruption Law, or has knowledge of facts or circumstances to the effect that it is reasonably likely that any aspect of its operations represents a violation of any Anti-Terrorism Law or Anti-Corruption Law; (b)

any Loan Party or any of its Subsidiaries engages in a transaction that has caused or is reasonably likely to cause the Lenders, Administrative Agent to be in violation of any Anti-Terrorism Laws, including any Loan Party's or any of its Subsidiaries' use of any proceeds of the facilities to fund any operations in, finance any investments or activities in, or, make any payments to a Sanctioned Person or Sanctioned Jurisdiction; (c) any Collateral becomes Embargoed Property.

"*Required Floor Plan Lenders*" means (a) if there are one or two Floor Plan Lenders, all Floor Plan Lenders and (b) if there are three or more Floor Plan Lenders, at least two unaffiliated Floor Plan Lenders who hold in the aggregate more than 50% of either (i) the total Floor Plan Loan Commitments of all Floor Plan Lenders, or (ii) in the event the Floor Plan Loan Commitments have been terminated, the aggregate Floor Plan Loan Exposure of all Floor Plan Lenders; provided that for purposes of calculating the "Required Floor Plan Lenders," the Floor Plan Loan Commitments and Floor Plan Loan Exposure of any Defaulting Lenders shall be deemed zero. For purposes of this definition a Floor Plan Lender shall be deemed to hold an WF Advance to the extent such Floor Plan Lender has acquired a participation therein under the terms of this Agreement and has not failed to perform its obligations in respect to such participation.

"*Required Lenders*" means (a) if there are one or two Lenders, all Lenders, and (b) if there are three or more Lenders, at least two unaffiliated Lenders who hold in the aggregate more than 50% of either (i) the total Commitments of all Lenders plus outstanding Term Loans and Mortgage Loans, or (ii) in the event the Commitments have been terminated, the aggregate outstanding Loans of all Lenders; provided that for purposes of calculating the "Required Lenders," the Commitments and Loans of any Defaulting Lenders shall be deemed zero.

"*Required Class Lenders*" means, with respect to the Term Loan Facility or the Mortgage Loan Facility (a) if there are one or two Lenders in such Class, all Lenders of such Class, and (b) if there are three or more Lenders in such Class, at least two unaffiliated Lenders of such Class who hold in the aggregate more than 50% of the total Loans and Commitments in such Class; provided that for purposes of calculating the "Required Class Lenders," the Commitments and Loans of any Defaulting Lenders shall be deemed zero.

"*Required Revolving Credit Lenders*" means (a) if there are one or two Revolving Credit Lenders, all Revolving Credit Lenders, and (b) if there are three or more Revolving Credit Lenders, at least two unaffiliated Revolving Credit Lenders who hold in the aggregate more than 50% of either (i) the total Revolving Credit Commitments of all Revolving Credit Lenders, or (ii) in the event the Revolving Credit Commitments have been terminated, the aggregate Revolving Credit Exposure of all Revolving Credit Lenders; provided that for purposes of calculating the "Required Revolving Credit Lenders," the Revolving Credit Commitments and Revolving Credit Exposure of any Defaulting Lenders shall be deemed zero and a Revolving Credit Lender (other than the Swingline Lender with respect to such Swingline Loan) shall be deemed to hold a Swingline Loan and a Revolving Credit Lender (other than the Issuing Bank with respect to such L/C Obligation) shall be deemed to hold a L/C Obligation, in each case, to the extent such Revolving Credit Lender has acquired a participation therein under the terms of this Agreement and has not failed to perform its obligations in respect of such participation.

"Requirement of Law" means, with respect to any Person, any Law and the interpretation, implementation, application, or administration thereof by, and other rulings, determinations, directives, guidelines, requirements or requests of, any Governmental Authority, in each case whether or not having the force of law and that are applicable to or binding upon such Person or any of its assets or property or to which such Person or any of its assets or property is subject.

"*Reserves*" means, in each case as may be established by the Administrative Agent or the Floor Plan Agent in accordance with customary business practices and in its Permitted Discretion, the sum

(calculated without duplication and without including any items otherwise addressed or excluded through eligibility criteria or any other reserve) of (a) the aggregate amount of liabilities secured by Liens upon Collateral in the Borrowing Base that are senior to the Administrative Agent's Liens, (b) the Pre-Owned Inventory Reserve (expressed as a percentage or otherwise), (c) the Rent Reserve and (d) the **[****]**.

"*Resolution Authority*" means the EEA Resolution Authority or, with respect to any UK Financial Institution, the UK Resolution Authority.

"*Responsible Officer*" means the chief executive officer, president, executive vice president, senior vice president, chief financial officer, director of treasury, treasurer, assistant treasurer, secretary, assistant secretary or other officer of a Loan Party.

"*Restricted Payment*" means collectively (a) any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests of any of the Borrowers or their Subsidiaries, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests, or on account of any return of capital to a Borrower's stockholders, partners or members (or the equivalent Person thereof), (b) any redemption, repurchase, conversion, exchange, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, by such Person of any Equity Interest in such Person now or hereafter outstanding, (c) any payment of any accrued dividends, any payments in connection with any permitted repurchases, payments of all or any portion of a redemption price, any payments of redemption interest, or any payments of any default or increased interest, or premiums upon any payments that are not paid when due, or any risk-adjusted payment or premium, (d) any sinking fund or other prepayment or installment payment on account of any Equity Interests of a Borrower, (e) any payment made by such Person to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire Equity Interests in such Person now or hereafter outstanding, (f) any loan or advance to a shareholder or other equity holder of a Borrower on account of such Person being a shareholder or other equity holder or (g) any forgiveness or release without adequate consideration by a Borrower of any Indebtedness or other obligation owing to a Borrower by a shareholder or other equity holder of a Borrower.

"*Revaluation Date*" means (a) with respect to any Loan denominated in an Alternative Currency, each of the following: (i) the date of the borrowing of such Loan (including any borrowing or deemed borrowing that results from the payment by the applicable Issuing Bank under any Letter of Credit denominated in an Alternative Currency) but only as to the amounts so borrowed on such date, (ii) each date of a continuation of such Loan pursuant to the terms of this Agreement, but only as to the amounts so continued on such date, and (iii) such additional dates as the Administrative Agent shall determine or the Required Lenders shall require; and (b) with respect to any Letter of Credit denominated in an Alternative Currency, each of the following: (i) each date of issuance of such Letter of Credit, but only as to the Letter of Credit so issued on such date, (ii) each date such Letter of Credit is amended to increase the face amount of such Letter of Credit but only as to the amount of such increase, and (iii) such additional dates as the Administrative Agent or the applicable Issuing Bank (with notice thereof to the Administrative Agent) shall determine or the Required Lenders shall require.

"*Revolving Borrowing*" means a borrowing consisting of simultaneous Revolving Credit Loans of the same Class and Type.

"*Revolving Credit Borrowers*" means (a) the Borrowers listed on Schedule 1.01(a) as of the Closing Date and (b) any other Subsidiaries that from time to time become a Borrower under the Revolving Credit Facility pursuant to a Joinder Agreement.

"*Revolving Credit Commitment*" means, as to any Lender, the amount initially set forth opposite its name on Schedule 1.01 attached hereto in the column labeled "Revolving Credit Commitment," and thereafter as set forth on any relevant Assignment And Assumption, as such amount may be adjusted from time to time in accordance with this Agreement, and "*Revolving Credit Commitments*" means the aggregate Revolving Credit Commitments of all of the Lenders.

"*Revolving Credit Commitment Percentage*" means, as to any Lender, the percentage initially set forth opposite its name on Schedule 1.01 attached hereto in the column labeled "Revolving Credit Commitment" and thereafter on any relevant Assignment And Assumption, if applicable, as the same may be adjusted from time to time pursuant to this Agreement.

"Revolving Credit Dollar Cap" means One Hundred Million Dollars ($100,000,000.00), as such sum may be decreased from time to time by the operation of Section 2.03.6 of this Agreement.

"*Revolving Credit Exposure*" means, as to any Lender at any time, the Dollar Equivalent of the aggregate principal amount at such time of such Lender's outstanding Revolving Credit Loans and such Lender's participation in, and obligation to participate in, L/C Obligations and Swingline Loans at such time.

"Revolving Credit Facility" means the revolving credit facility described in Sections 2.03, 2.04 and 2.05 providing for Revolving Credit Loans, Swingline Loans and the issuance of Letters of Credit to the Revolving Credit Borrowers by the Revolving Credit Lenders.

"*Revolving Credit Lenders*" means a Lender having a Revolving Credit Commitment and any Lender holding a Revolving Credit Loan or participation in Swingline Loans or Letters of Credit.

"*Revolving Credit Loans*" means collectively, the Revolving Credit Loans made by the Lenders to the Borrowers as joint and several obligors in accordance with Section 2.03 of this Agreement.

"Revolving Credit Notes" means, collectively, the promissory notes of the Borrowers evidencing the Revolving Credit Loans, together with all amendments or replacements thereto. The Revolving Credit Notes shall be in the form of Exhibit E attached hereto.

"Revolving Credit Termination Date" means August 8, 2027.

"*Revolving Credit Unused Commitment Fee*" has the meaning given to such term in Section 2.03.5 of this Agreement.

"*RFR Business Day*" means, for any Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, (a) Dollars, any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities, and (b) Euros, any day that is a TARGET Day; provided, that for purposes of notice requirements in Sections 2.03 such day is also a Business Day.

"Sale and Leaseback Transaction" means any arrangement, directly or indirectly, whereby a Loan Party or any of its Subsidiaries sells or transfers any real property (other than Mortgage Obligations Collateral), whether now owned or hereinafter acquired, and thereafter, any Affiliate thereof, rents or leases such property.

"*Same Day Funds*" means (a) with respect to disbursements and payments in Dollars, immediately available funds, and (b) with respect to disbursements and payments in an Alternative

Currency, same day or other funds as may be determined by the Administrative Agent or the applicable Issuing Bank (with notice thereof to the Administrative Agent), as the case may be, to be customary in the place of disbursement or payment for the settlement of international banking transactions in the relevant Alternative Currency.

"Sanction(s)" means applicable economic sanctions administered or enforced by the United States government (including without limitation, OFAC).

"*Sanctioned Country*" means a country or region the target of a comprehensive Sanctions program, which includes as of the date of this Agreement, Cuba, Iran, North Korea, Syria, the Crimea region of Ukraine, the so-called Donetsk People's Republic and the Luhansk People's Republic regions of Ukraine.

"*Sanctioned Person*" means (a) a Person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC and, as of the date hereof, available at http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf, or as otherwise published from time to time or otherwise recognized as a specially designated, prohibited, or sanctioned Person under any Sanctions, or (b) (i) an agency of the government of a Sanctioned Country, (ii) an organization controlled by a Sanctioned Country, or (iii) a Person resident in a Sanctioned Country, to the extent the same would violate Sanctions.

"*SEC*" has the meaning provided to such term in Section 5.09.11 of this Agreement.

"*Secured Net Leverage Ratio*" means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness (excluding Indebtedness on account of the Floor Plan Loans) that is secured by Liens on the Collateral on such day minus unrestricted cash to (b) Consolidated EBITDA for the four (4) consecutive trailing fiscal quarters of Holdings most recently ended for which financial statements have been delivered pursuant to this Agreement.

"Security Documents" means, collectively, the Guarantee and Collateral Agreement, all security agreements, pledges, mortgages, deeds of trust, control agreements, or other agreements, instruments, documents or filings pursuant to which any of the Loan Parties, from time to time, pledges or grants Liens for the benefit of the Credit Parties in or to any of the Collateral.

"*Seller*" has the meaning set forth in the preamble of this Agreement.

"SOFR" means a rate per annum equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Administrator's Website" means the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"SOFR Borrowing" means each unpaid principal balance of a Loan which accrues interest at the Adjusted SOFR Rate.

"SOFR Rate Day" has the meaning specified in the definition of Daily Simple SOFR.

"SOFR Rate Loan" means a Loan that bears interest based on the SOFR Rate other than pursuant to clause (c) of the definition of Base Rate.

"Solvent" means, with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person is able to pay its debts and other liabilities as they mature in the normal course of business, (d) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, and (e) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged or about to be engaged, as the case may be. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"*Specified Event of Default*" means an Event of Default pursuant to Sections 7.01, 7.07 and 7.08.

"*Specified Inventory*" means marine product Inventory not consisting of parts or accessories.

"*Specified Inventory Parts*" means marine product Inventory consisting of parts and accessories.

"*Specified Purchase Agreement Representations*" means the representations and warranties made by, or with respect to, IGY, its Subsidiaries or its business in the IGY Acquisition Agreement as are material to the interests of the Lenders, but only to the extent that Holdings or Holdings' Affiliates have the right to terminate their obligations under the IGY Acquisition Agreement or otherwise decline to close the IGY Acquisition as a result of a breach of any such representations or any such representations not being accurate (in each case, determined without regard to any notice requirement)

"*Specified Representations*" means the representations and warranties of the Loan Parties set forth in Section 3.01 (to the extent relating to the organizational existence and good standing in the jurisdiction of organization or incorporation of the Loan Parties), Section 3.04, Section 3.05, Section 3.06(a)(i), Section 3.09, Section 3.19, Section 3.22 and Section 3.24.

"*Spot Rate*" means, for a Currency, the rate provided (either by publication or otherwise provided or made available to the Administrative Agent) by Thomson Reuters Corp. (or equivalent service chosen by the Administrative Agent in its reasonable discretion) as the spot rate for the purchase of such Currency with another currency at a time selected by the Administrative Agent on the date of determination.

"Start Date" has the meaning provided to such term in Section 2.01.7 of this Agreement.

"Stated Amount" means as to any Letter of Credit, the lesser of (a) the face amount thereof, or (b) the remaining available undrawn amount thereof (regardless of whether any conditions for drawing could then be met).

"*Subordinated Indebtedness*" means any Indebtedness of a Loan Party that is expressly subordinated in right of payment to the Obligations in a manner reasonably satisfactory to the Administrative Agent; provided that Indebtedness shall not be deemed subordinated in right of payment on account of being unsecured or being secured with greater or lower priority.

"Subsidiary" means, with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity of which securities or other ownership interests representing more than fifty percent (50%) of the equity or more than fifty percent (50%) of the ordinary voting power or, in the case of a partnership, more than fifty percent (50%) of the general partnership interests are, as of such date, owned, controlled or held by the parent or one or more subsidiaries of the parent. Unless otherwise qualified, all references to a Subsidiary or to Subsidiaries in this Agreement shall refer to a Subsidiary or Subsidiaries of Holdings.

"*Supermajority Lenders*" means two or more unaffiliated Lenders who hold in the aggregate at least sixty-six and two-thirds percent (66.67%) of either (i) the total Floor Plan Loan Commitments of all Floor Plan Lenders, or (ii) in the event the Floor Plan Loan Commitments have been terminated, the aggregate outstanding Loans of all Floor Plan Lenders; provided that (i) at any time when there is only one Floor Plan Lender holding either (i) the total Floor Plan Loan Commitments, or (ii) in the event the Floor Plan Loan Commitments have been terminated, the aggregate outstanding Floor Plan Loans, Supermajority Lenders means such Lender and (ii) for purposes of calculating the "Supermajority Lenders," the Floor Plan Loan Commitments and Floor Plan Loans of any Defaulting Lenders shall be deemed zero.

"Swap" means any "swap" as defined in Section 1a(47) of the CEA and regulations thereunder, other than (a) a swap entered into, or subject to the rules of, a board of trade designated as a contract market under Section 5 of the CEA, or (b) a commodity option entered into pursuant to CFTC Regulation 32.3(a).

"Swap Agreement" means (a) any "Swap Agreement" as defined in §101(53B) of the Bankruptcy Code, (b) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, interest rate options, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (c) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Swap Obligations" means (a) all obligations or sums due to any Swap Provider under or in connection with any Swap or Swap Agreement.

"*Swap Provider*" means any Credit Party or Affiliate of a Credit Party (regardless of whether such Swap Provider ceases to be a Credit Party or Affiliate of a Credit Party after such Swap Agreement is entered into) that has entered into, or subsequently enters into a Swap Agreement from time to time with a Loan Party for Swaps with respect to the Loans, the Letters of Credit, or any of the other Obligations, but excluding, for the avoidance of doubt, any Swap Agreement entered into by a Credit Party or its Affiliates after its Commitments have been fully cancelled in accordance with the terms of this Agreement or after it has assigned all of its rights under the credit facilities established by this Agreement.

"*Swap Termination Value"* means, in respect of any one or more Swap Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Agreements: (a) for any date on or after the date such Swap Agreements have been closed out and

termination value(s) determined in accordance therewith, such termination value(s); and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Agreements (which may include a Lender or any Affiliate of a Lender).

"*Swingline Commitment*" means (a) the commitment of the Swingline Lender to make Swingline Loans in an aggregate principal amount at any time not to exceed the Swingline Committed Amount, and (b) with respect to each Lender, the commitment of such Lender to purchase participation interests in the Swingline Loans up to such Lender's Revolving Credit Commitment Percentage multiplied by the Swingline Committed Amount. The Swingline Commitment is included in and is part of the Revolving Credit Commitment held by each Lender and is not in addition thereto.

"*Swingline Committed Amount*" means Twenty Million Dollars ($20,000,000.00).

"Swingline Conversion Event" means (a) an event, change, circumstance or other occurrence resulting or which could reasonably be expected to result in a Material Adverse Change, or (b) a Default or Event of Default.

"*Swingline Lender*" means M&T Bank, and its successors and assigns.

"*Swingline Loans*" has the meaning provided to such term in Section 2.04 of this Agreement. All Swingline Loans shall be denominated in Dollars.

"*Swingline Note*" means the promissory note of the Borrowers in favor of the Swingline Lender evidencing the Swingline Loan in the form of Exhibit F as such promissory note may be amended, modified, restated, supplemented, extended, renewed or replaced from time to time.

"Swingline Termination Date" means that date which occurs five (5) Business Days prior to the Revolving Credit Termination Date.

"*Synthetic Lease Obligation*" means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"*TARGET2*" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

"*TARGET Day*" means any day on which TARGET2 is open for the settlement of payments in Euros.

"Term Loan Borrowers" means (a) the Borrowers listed on Schedule 1.01(a) as of the Closing Date and (b) any other Subsidiaries that from time to time become a Borrower under the Term Loan Facility pursuant to a Joinder Agreement.

"*Term Loan Borrowing*" means a borrowing consisting of simultaneous Term Loans of the same Class and Type.

"Term Loan Commitment" means, as to any Lender, the amount initially set forth opposite its name on Schedule 1.01 attached hereto in the column labeled "Term Loan Commitment," and thereafter as set forth on any relevant Assignment And Assumption, as such amount may be adjusted from time to time in accordance with this Agreement, and "Term Loan Commitments" means the aggregate Term Loan Commitments of all of the Lenders.

"*Term Loan Commitment Percentage*" means, as to any Lender, the percentage initially set forth opposite its name on Schedule 1.01 attached hereto in the column labeled "Term Loan Commitment" and thereafter on any relevant Assignment And Assumption, if applicable, as the same may be adjusted from time to time pursuant to this Agreement.

"Term Loan Facility" means the senior secured term loan facility described in Section 2.06 providing for Term Loans by the Term Loan Lenders.

"Term Loan Funding Date" means the date after the Closing Date that the Term Loans are funded to a Borrower pursuant to Section 2.06 subject to the terms and conditions set forth in Section 4.04.

"Term Loan Maturity Date" means August 8, 2027.

"Term Loan Notes" means, collectively, the promissory notes of the Borrowers evidencing the Term Loans in the form of Exhibit G attached hereto, together with all amendments and replacements thereof.

"Term Loan Lender" means each Lender having a Term Loan Commitment and any Lender holding a Term Loan.

"Term Loans" means collectively the term loans extended by the Lenders to the Term Loan Borrowers as joint and several obligors in accordance with the provisions of Section 2.06 of this Agreement.

"Term SOFR" means,

(a) for any calculation with respect to a SOFR Rate Loan that is a Revolving Credit Loan, Term Loan or Mortgage Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the "*Periodic Term SOFR Determination Day*") that is two (2) RFR Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; provided, that if as of 5:00 p.m. on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding RFR Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding RFR Business Day is not more than three (3) RFR Business Days prior to such Periodic Term SOFR Determination Day,

(b) and for any calculation with respect to a SOFR Rate Loan that is a Floor Plan Loan, for any calendar month, the Term SOFR Reference Rate for a one-month tenor on the day (such day, the "Periodic Term SOFR Determination Day") that is on or about the second to last Floor Plan Business Day of the preceding calendar month, as such rate is published by the Term SOFR Administrator; provided, that if as of 9:00 a.m. on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate has not

been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate as published by the Term SOFR Administrator on the first preceding Floor Plan Business Day for which such Term SOFR Reference Rate was published by the Term SOFR Administrator, and

(c) for any calculation with respect to a Base Rate Loan on any day, the Term SOFR Reference Rate for a tenor of one month on the day (such day, the "Base Rate Term SOFR Determination Day") that is two (2) RFR Business Days prior to such day, as such rate is published by the Term SOFR Administrator; provided that if as of 5:00 p.m. on any Base Rate Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding RFR Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding RFR Business Day is not more than three (3) RFR Business Days prior to such ABR SOFR Determination Day,

provided that if Term SOFR as so determined shall ever be less than the Floor, then Term SOFR shall be deemed to be the Floor.

"*Term SOFR Conforming Changes*" means, with respect to the use or administration of Term SOFR, any technical, administrative or operational changes (including, without limitation, changes to the definitions of "Business Day," "RFR Business Day," or "Interest Period," timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions and other technical, administrative or operational matters) that the Administrative Agent decides in its reasonable discretion may be appropriate to reflect the adoption and implementation of Term SOFR and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of Term SOFR exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of the loan evidenced hereby).

"*Term SOFR Administrator*" means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent and the Floor Plan Agent in their reasonable discretion).

"*Term SOFR Reference Rate*" means the rate per annum determined by (i) in the case of Floor Plan Borrowings, the Floor Plan Agent and (ii) in respect of all other SOFR Borrowings hereunder, the Administrative Agent, in each case, as the forward-looking term rate based on SOFR.

"*Threshold Amount*" means Thirty Million Dollars ($30,000,000).

"*Total Credit Exposure*" means, as to any Lender at any time, the unused Commitments, the Floor Plan Loan Exposure, the Revolving Credit Exposure, outstanding Term Loans and Mortgage Loans of such Lender at such time.

"*Total Floor Plan Loan Outstandings*" means the aggregate Outstanding Amount of all Floor Plan Loans including WF Advances.

"*Total Net Leverage Ratio*" means, as of any date of determination for any Measurement Period, the ratio of (a) Consolidated Funded Indebtedness ([****]) as of such date of determination, minus ([****]), to (b) Consolidated EBITDA for such period.

"*Total Revolving Credit Outstandings*" means the aggregate Outstanding Amount of all Revolving Credit Loans, all Swingline Loans and all L/C Obligations.

"*Trade Date*" means that date an assigning Lender enters into a binding agreement to sell and assign all or a portion of its rights and obligations under this Agreement.

"Transaction Statement" has the meaning provided to such term in Section 2.01.6 of this Agreement.

"Type" means, with respect to any Loan, its character as a Base Rate Loan or a SOFR Rate Loan.

"UK Financial Institution" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any Person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain Affiliates of such credit institutions or investment firms.

"UK Resolution Authority" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Unfunded Pension Liability" means the excess of a Pension Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

"Uniform Commercial Code" or *"UCC"* means the Uniform Commercial Code as adopted and in effect from time to time in the Governing State.

"*Unrestricted Cash and Equivalents*" means, at any date, the unrestricted cash and equivalents on the balance sheet of the Loan Parties that is subject to the security interest granted in favor of the Administrative Agent under the applicable Security Document, and excluding any cash held by any Loan Party in escrow, trust or other fiduciary capacity for or on behalf of any other Person.

"*USA Patriot Act*" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56.

"*U.S. Borrower*" means any Borrower that is a U.S. Person.

"*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 2.10.7(b)(ii)(C).

"*Vendor Credits*" means all of each Floor Plan Borrower's rights to any price protection payments, rebates, discounts, credits, factory holdbacks, incentive payments and other amounts which at any time are due a Floor Plan Borrower from a Manufacturer.

"*Weighted Average Life to Maturity*" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining scheduled installment or other required scheduled payments of principal, including payment at final scheduled maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (b) the then outstanding principal amount of such Indebtedness.

"*Wells Fargo*" means Wells Fargo Commercial Distribution Finance, LLC.

"*WF Advance*" has the meaning provided to such term in Section 2.02.

"WF Advance Lender" means Wells Fargo.

"*Withholding Agent*" means the Borrowers, the Administrative Agent and the Floor Plan Agent.

"Write-Down and Conversion Powers" means, (a) 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, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of such Person or any other Person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

Section 1.02. *Terms Generally* . 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, (a) any definition of or reference to any agreement, instrument or document herein 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), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) 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, (f) each reference to a time shall, unless otherwise indicated, be a reference to the prevailing Eastern U.S. time, and (g) Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 1.03. *[Reserved]*.

Section 1.04. *Accounting Principles* . (a) Except as otherwise provided in this Agreement, all computations and determinations as to accounting or financial matters and all financial statements to be delivered pursuant to this Agreement shall be made and prepared in accordance with GAAP (including principles of consolidation where appropriate), and all accounting or financial terms shall have the

meanings ascribed to such terms by GAAP. In the event GAAP changes after the date hereof in a manner that causes noncompliance with the covenants hereof, the parties hereto shall agree in good faith to modify the covenants and the related defined terms to compensate for such change in GAAP. Notwithstanding the foregoing, all leases and obligations of Holdings and its Subsidiaries that are or would be characterized as operating leases or operating lease obligations in accordance with GAAP as in effect prior to the date of implementation of FASB ASU No. 2016-02, Leases (Topic 842) (whether or not such operating lease or operating lease obligations were in effect on such date) shall continue to be (or shall be, in the case of any such leases or obligations not in effect on such date) accounted for as operating leases and operating lease obligations (and not as capital leases, finance leases or Capitalized Lease Obligations) for all purposes under this Agreement and the other Credit Documents, regardless of any change in GAAP that would otherwise require such leases to be treated or recharacterized as capital leases or finance leases or such obligations to be treated or recharacterized (on a prospective or retroactive basis or otherwise) as finance lease obligations or Capitalized Lease Obligations and without giving effect to the implementation of FASB ASU No. 2016-02, Leases (Topic 842).

Section 1.05. *Proforma Calculations* . (a) All pro forma calculations required to be made hereunder giving effect to any Permitted Acquisition, Disposition, or issuance, incurrence or assumption of Indebtedness, or other transaction made during the Fiscal Quarter or Fiscal Year to which the required calculation relates shall, in each case, be calculated (i) as if such transaction was consummated on the first day of the relevant period and (ii) giving pro forma effect thereto and to the historical earnings and cash flows associated with the assets acquired or disposed of and any Indebtedness incurred and repaid in connection therewith, and any synergies or cost savings, in each case, in a method consistent with Regulation S-X of the Securities Act of 1933.

(b) As at any date that any financial covenants are required to be calculated under this Agreement (each, a "date of determination"), if the Borrowers or any of their Subsidiaries has consummated a Permitted Acquisition or a Disposition on or after the first day of the period as to which the calculation is required to be made (and on or before the last day of such period), then the calculation of the applicable financial covenants on the date of determination shall be made as if such Permitted Acquisition or Disposition had occurred on the first day of the applicable period (including, the inclusion of the Consolidated EBITDA of the target, excluding the Consolidated EBITDA of the division or assets disposed of, the inclusion of the Indebtedness incurred for the Permitted Acquisition and the exclusion of the Indebtedness repaid with the disposition).

Section 1.06. *Divisions* . For all purposes under the Credit Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (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.

Section 1.07. *Rates* .

1.07.1. The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to Term SOFR, the Eurocurrency Rate, the Adjusted Eurocurrency Rate or any other Benchmark, any component definition thereof or rates referenced in the definition thereof or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Term SOFR, the Eurocurrency Rate, the Adjusted Eurocurrency Rate or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect,

implementation or composition of any Benchmark Replacement Conforming Changes. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain the Benchmark, in each case pursuant to the terms hereof, and shall have no liability to the Borrower or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

1.07.2. Each Borrower acknowledges and understands that (i) Term SOFR is established, administered and regulated by third parties, and its continuing existence and ongoing viability as a source and basis for establishing contractual interest rates is entirely outside the control of the Agents, (ii) Term SOFR is a derivative of SOFR, based on expectations derived from the derivatives markets and dependent upon derivatives market liquidity, (iii) certain industry groups have advised that Term SOFR is not recommended for all financing facilities, and (iv), the Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to Term SOFR, or any component definition thereof or rates referenced in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement) or (b) the effect, implementation or composition of any Term SOFR Conforming Changes. Notwithstanding the above, Borrower has knowingly and voluntarily requested and/or accepted utilization of Term SOFR for all purposes provided for herein, accepting any inherent risks associated with such utilization, and hereby waives any claims or defenses against the Administrative Agent in connection therewith.

Section 1.08. *Conditionality Testing Date*. Notwithstanding anything to the contrary herein, with respect to any Limited Condition Transaction, to the extent that the terms of this Agreement require satisfaction of, or compliance with, any condition, test or requirement in order to effect, incur or consummate such Limited Condition Transaction (including (w) Section 2.22, the Total Net Leverage Ratio, the Secured Net Leverage Ratio, the amount or percentage of Consolidated Total Assets, the amount or percentage of Consolidated EBITDA (including any component definitions of the foregoing) (x) the making or accuracy of any representations and warranties, (y) the absence of a Default or an Event of Default and/or (z) any other condition, test or requirement), at the written election of the Borrower Representative (an "LCT Election"), the date of determination of whether any relevant conditions, tests and requirements are satisfied or complied with shall be made on, and shall be deemed to be, the date that the definitive agreements for such Limited Condition Transaction are entered into (the "LCT Test Date"); provided that, notwithstanding the foregoing, (x) there shall not exist any Specified Event of Default on the date of consummation of such Limited Condition Transaction, (y) to the extent any representations or warranties under the Credit Documents are required to be made on the date the definitive agreements for such Limited Condition Transaction are entered into, certain customary "specified representations" and certain customary "specified acquisition agreement representations" are true in all material respects (or, in the case of such representations qualified by materiality, in all respects) at the time such Limited Condition Transaction is consummated and (z) in the event the consummation of any such transaction shall not have occurred on or prior to the date that is one hundred twenty (120) days after the date the applicable agreement with respect to such transaction is executed and effective, such transaction shall no longer constitute a Limited Condition Transaction for any purpose hereunder. If the Borrower has made an LCT Election for any Limited Condition Transaction and such Limited Condition Transaction (including any related actions and transactions) would be permitted on the LCT Test Date immediately after giving pro forma effect to such Limited Condition Transaction and the other transactions to be entered into in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) as if they occurred at the beginning of the applicable period of measurement, (i) each such condition, test and requirement shall be deemed satisfied and complied with for all purposes of such Limited Condition Transaction and (ii) any change in status of any such condition, test and requirement between the LCT Test Date and the taking of the relevant actions or consummation of the relevant transactions such that any applicable financial ratios

or tests, baskets, conditions, requirements or provisions would be exceeded, breached or otherwise no longer complied with or satisfied for any reason (including due to fluctuations in Consolidated EBITDA or consolidated total assets of the Person subject to such Limited Condition Transaction) shall be disregarded such that all financial ratios or tests, baskets, conditions, requirements or provisions shall continue to be deemed complied with and satisfied for all purposes of such Limited Condition Transaction, all applicable transactions and actions will be permitted and no Default or Event of Default shall be deemed to exist or to have occurred or resulted from such change in status or Limited Condition Transaction. If the Borrower has made an LCT Election, then in connection with any subsequent calculation of any financial ratios or tests (including any Incurrence-Based Baskets), thresholds and availability (including under any Fixed Basket) under this Agreement with respect to any unrelated transactions or actions on or following the applicable LCT Test Date and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the definitive agreement (or, if applicable, notice, declaration or similar event) for such Limited Condition Transaction is terminated or expires without consummation of such Limited Condition Transaction, for purposes of determining whether such subsequent unrelated transaction is permitted under this Agreement, any such financial ratios or tests, thresholds and availability shall be required to be satisfied on a pro forma basis both (1) assuming such Limited Condition Transaction and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated and (2) assuming such Limited Condition Transaction and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have not been consummated.

Section 1.09. *Exchange Rates; Currency Equivalents*.

1.09.1. The Administrative Agent or the applicable Issuing Bank (with notice thereof to the Administrative Agent), as applicable, shall determine the Dollar Equivalent amounts of Borrowings denominated in Alternative Currencies. Such Dollar Equivalent shall become effective as of such Revaluation Date and shall be the Dollar Equivalent of such amounts until the next Revaluation Date to occur. Except for purposes of financial statements delivered by Holdings hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any Currency (other than Dollars) for purposes of the Credit Documents shall be such Dollar Equivalent amount as so determined by the Administrative Agent or the applicable Issuing Bank, as applicable.

1.09.2. Wherever in this Agreement in connection with a borrowing, conversion, continuation or prepayment of a Eurocurrency Rate Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such borrowing, Loan or Letter of Credit is denominated in an Alternative Currency, such amount shall be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or the applicable Issuing Bank, as the case may be.

Section 1.10. *Change of Currency.*

1.10.1. The obligation of any Borrower to make a payment denominated in the national currency unit of any member state of the European Union that adopts the Euro as its lawful currency after the date hereof shall be redenominated into Euro at the time of such adoption (in accordance with the EMU Legislation). If, in relation to the currency of any such member state, the basis of accrual of interest expressed in this Agreement in respect of that currency shall be inconsistent with any convention or practice in the London or applicable offshore interbank market for the basis of accrual of interest in respect of the Euro, such expressed basis shall be replaced by such convention or practice with effect from the date on which such member state adopts the Euro as its lawful currency; provided that if any borrowing in the

currency of such member state is outstanding immediately prior to such date, such replacement shall take effect, with respect to such borrowing, at the end of the then current Interest Period.

1.10.2. Each provision of this Agreement shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect the adoption of the Euro by any member state of the European Union and any relevant market conventions or practices relating to the Euro.

1.10.3. Each provision of this Agreement also shall be subject to such reasonable changes of construction as the Administrative Agent may from time to time specify to be appropriate to reflect a change in currency of any other country and any relevant market conventions or practices relating to the change in currency.

Section 1.11. *Exchange Rates; Currency Equivalents.*

1.11.1. Holdings may from time to time request that (i) Revolving Credit Loans be made in a currency other than those specifically listed in the definition of "Alternative Currency" and/or (ii) Letters of Credit be issued in a currency other than those specifically listed in the definition of "Alternative Currency"; provided that such requested currency is (A) a lawful currency (other than Dollars) that is readily available and freely transferable and convertible into Dollars, (B) dealt with in the London or other applicable offshore interbank deposit market and (C) for which no central bank or other governmental authorization in the country of issue of such currency is required to give authorization for the use of such currency by any Lender for making Loans or any Issuing Bank for issuing Letters of Credit, as applicable, unless such authorization has been obtained and remains in full force and effect. In the case of any such request with respect to the making of Revolving Credit Loans, such request shall be subject to the approval of the Administrative Agent and the Revolving Credit Lenders; and in the case of any such request with respect to the issuance of Letters of Credit, such request shall be subject to the approval of the Administrative Agent, the Revolving Credit Lenders and the Issuing Bank.

1.11.2. Any such request shall be made to the Administrative Agent not later than 11:00 a.m., (i) with respect to a request for an additional Alternative Currency, twenty (20) Business Days prior to the date of the desired Borrowing (or such other time or date as may be agreed by the Administrative Agent in its sole discretion) or (ii) with respect to a request for an additional Alternative Currency for issuance of Letters of Credit, twenty (20) Business Days prior to the date of the desired Letter of Credit (or such other time or date as may be agreed by the applicable Issuing Bank, in its sole discretion with notice to the Administrative Agent). Each such request shall also identify the applicable benchmark rate that is to apply to Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, such requested additional Alternative Currency. In the case of any such request pertaining to Revolving Credit Loans, the Administrative Agent shall promptly notify each Revolving Credit Lender thereof; and in the case of any such request pertaining to Letters of Credit, the Administrative Agent shall promptly notify the Issuing Bank. Each Revolving Credit Lender (in the case of any such request pertaining to Revolving Credit Loans) shall notify the Administrative Agent, not later than 11:00 a.m., ten (10) Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Revolving Credit Loans in such requested currency and the usage of such benchmark rate. The applicable Issuing Bank (in the case of a request pertaining to Letters of Credit) shall notify the Administrative Agent, not later than 11:00 a.m., ten Business Days after receipt of such request whether it consents, in its sole discretion, to the issuance of Letters of Credit in such requested currency and the usage of such benchmark rate.

1.11.3. Any failure by a Revolving Credit Lender or the applicable Issuing Bank, as the case may be, to respond to such request within the time period specified in the preceding sentence

shall be deemed to be a refusal by such Lender or the applicable Issuing Bank, as the case may be, to permit Revolving Credit Loans to be made or Letters of Credit to be issued in such requested currency and such benchmark rate to be used. If the Administrative Agent and all the Revolving Credit Lenders consent to making Revolving Credit Loans in such requested currency and using such benchmark rate, the Administrative Agent shall so notify Holdings and such currency shall thereupon be deemed for all purposes to be an Alternative Currency hereunder for purposes of any borrowings of Revolving Credit Loans; and if the Administrative Agent, all the Revolving Credit Lenders and the applicable Issuing Bank consent to the issuance of Letters of Credit in such requested currency, the Administrative Agent shall so notify Holdings and such currency shall thereupon be deemed for all purposes to be an Alternative Currency hereunder for purposes of any Letter of Credit issuances by such Issuing Bank. If the Administrative Agent shall fail to obtain consent to any request for an additional currency under this Section 1.11, the Administrative Agent shall promptly so notify Holdings.

1.11.4. In connection with any approved request for an Alternative Currency, the Administrative Agent will have the right to make any technical, administrative or operational changes that the Administrative Agent decides may be appropriate to reflect the inclusion of such Alternative Currency and the adoption and implementation of the benchmark rate applicable thereto and to permit the administration thereof by the Administrative Agent from time to time and, notwithstanding anything to the contrary herein or in any other Credit Document, any amendments implementing such changes will become effective without any further action or consent of any other party to this Agreement or any other Credit Document.

ARTICLE 2
CREDIT FACILITIES

Section 2.01. *Floor Plan Loans* (a) Subject to the terms and conditions of this Agreement and the other Credit Documents, each of the Floor Plan Lenders severally agrees to make Floor Plan Loans in Dollars (and, for the avoidance of doubt, not in an Alternative Currency) to the Floor Plan Borrowers as joint and several obligors from time to time on any Borrowing Date during the Availability Period for the Floor Plan Facility; provided, however, that (i) with regard to each Floor Plan Lender, the Floor Plan Loan Exposure of such Floor Plan Lender shall not at any time exceed the amount of such Floor Plan Lender's Floor Plan Loan Commitment, (ii) the Total Floor Plan Loan Outstandings plus the aggregate amount of all outstanding Approvals, without duplication, shall not at any time exceed the Floor Plan Line of Credit Dollar Cap, (iii) the aggregate outstanding principal amount of advances of proceeds of the Floor Plan Loans (including WF Advances) used to finance (A) Eligible New Floor Plan Units larger than [****] feet shall not exceed [****]; (B) Eligible New Floor Plan Units purchased from a foreign OEM (excluding Eligible New Floor Plan Units manufactured or branded by [****] and [****]) shall not exceed [****]; (C) Eligible Used Floor Plan Units shall not exceed [****] and (D) Eligible Floor Plan Units individually having a value in excess of [****] shall not exceed [****]; (iv) the Total Floor Plan Loan Outstandings plus the aggregate amount of all outstanding Approvals, without duplication, shall not exceed the Line Cap; and (v) the aggregate principal amount of each advance of proceeds of the Floor Plan Loans (including WF Advances) requested in each Loan Request shall not exceed the sum of the Floor Plan Loan Advance Limit amounts for each Floor Plan Unit to be financed on such Loan Request. The Floor Plan Borrowers shall not request any advances of proceeds of the Floor Plan Loans which would cause the aggregate unpaid principal balances of the Floor Plan Loans (including WF Advances) to exceed the above-stated limitations. In the event that the aggregate unpaid principal balances of the Floor Plan Loans (including WF Advances) exceed the above-stated limitations in any respect, the Floor Plan Borrowers shall immediately make such payments to the Floor Plan Agent as will be sufficient to reduce the aggregate unpaid principal balances of the Floor Plan Loans to an aggregate amount which will not be in excess of such limitations. Subject to the application and satisfaction of the terms and conditions of this Agreement and of the other Credit

Documents, during the Availability Period in respect of the Floor Plan Facility, the Floor Plan Borrowers may borrow, prepay, and reborrow the Floor Plan Loans in whole or in part.

(b) [reserved].

(c) Each Floor Plan Loan extended by a Floor Plan Lender shall be in a principal amount equal to such Floor Plan Lender's Floor Plan Loan Commitment Percentage of the aggregate principal amount of the Floor Plan Loans requested on such occasion.

2.01.1 *Floor Plan Loan Promissory Notes.* The joint and several obligations of the Floor Plan Borrowers to repay the Floor Plan Loans to each Floor Plan Lender shall be evidenced by a Floor Plan Loan Note in favor of each Floor Plan Lender requesting a Floor Plan Loan Note. On the Closing Date, the Floor Plan Borrowers shall deliver a Floor Plan Loan Note executed by an Authorized Officer of each Floor Plan Borrower to each of the Floor Plan Lenders requesting a Floor Plan Loan Note.

2.01.2 *Procedure For Floor Plan Loan Borrowings.* (a) The Floor Plan Borrowers may borrow Floor Plan Loans during the Availability Period in respect of the Floor Plan Facility, provided, that the Borrower Representative on behalf of a Floor Plan Borrower delivers a request for such Floor Plan Loan in accordance with Floor Plan Agent's standard advance request procedures, including through such online system as the Floor Plan Agent may allow in its sole discretion. Any Loan Request delivered to the Floor Plan Agent by the Borrower Representative on behalf of the Floor Plan Borrowers shall be in the form approved by the Floor Plan Agent. Each Loan Request shall specify: (x) the aggregate amount to be borrowed, (y) the requested Borrowing Date, and (z) the required information and calculations evidencing compliance with the limitations set forth in Section 2.01 above, and shall be accompanied by such other information as is required by Floor Plan Agent in its Permitted Discretion. Unless Wells Fargo elects to fund a submitted Loan Request as an WF Advance in accordance with Section 2.02 of this Agreement, the Floor Plan Agent shall promptly notify each Floor Plan Lender of the Floor Plan Agent's receipt of each notice and the contents thereof. Each Floor Plan Lender shall make the amount of its *pro rata* share (calculated in accordance with its respective Floor Plan Loan Commitment Percentage) of each requested borrowing available to the Floor Plan Agent for the accounts of the Floor Plan Borrowers at the offices of the Floor Plan Agent specified in this Agreement prior to 2:00 pm (Eastern Time) on the Borrowing Date requested by the Borrower Representative in U.S. Dollars and in funds immediately available to the Floor Plan Agent. (b) With respect to financing any Floor Plan Borrower's purchase of an Eligible New Floor Plan Unit, each of the Floor Plan Borrowers hereby authorizes the Floor Plan Agent and Wells Fargo (with respect to WF Advances) to receive and process funding requests directly from Manufacturers. Upon such approval, the Floor Plan Borrower authorizes the Floor Plan Agent (and Wells Fargo with respect to WF Advances) to pay the New Unit Invoiced Amount on account of the relevant Eligible New Floor Plan Unit directly to the applicable Manufacturer or vendor.

2.01.3 *Overadvances.* If any Loan Request otherwise in compliance with the conditions set forth in this Agreement is presented as the basis for an advance of proceeds on account of the Floor Plan Loans which advance would cause (a) the aggregate principal amount of all Floor Plan Loans (including any WF Advances) then outstanding, plus (b) the aggregate principal amount of such Loan Request together with all other pending unfunded Loan Requests as of such day plus (c) all outstanding Approvals, without duplication, to exceed the Line Cap or any sublimits thereunder (such excess amount, the "Floor Plan Overexposure Amount") as applicable to each respective Floor Plan Borrower as set forth in Section 2.01 hereof, then, in such event, the Floor Plan Borrowers shall either immediately reduce the amount of any pending Loan Requests or make a payment of principal on the unpaid principal balances of the Floor Plan Loans in an amount which would prevent the aggregate amounts described in (a), (b) and (c) above from exceeding the Line Cap or such sublimits; provided, however, that the Floor Plan Borrowers shall have an additional five (5) days to make any such repayment to the extent that the Floor Plan

Overexposure Amount results from the establishment or modification of any Reserves or the modification of any eligibility standards pursuant to Section 2.21.

2.01.4

2.01.4.1 *Settlement of Principal*. It is agreed that each Floor Plan Lender's funded portion of the aggregate outstanding principal balances of Floor Plan Loans is intended by the Floor Plan Lenders to be equal at all times to such Floor Plan Lender's respective Floor Plan Loan Commitment Percentage of the aggregate outstanding principal balances of the Floor Plan Loans. Notwithstanding such agreement, the several and not joint obligation of each Floor Plan Lender to extend Floor Plan Loans in accordance with the terms of this Agreement ratably in accordance with such Floor Plan Lender's Floor Plan Loan Commitment Percentage and each Floor Plan Lender's right to receive its ratable share of principal payments upon the Floor Plan Loans in accordance with its Floor Plan Loan Commitment Percentage, the Floor Plan Lenders agree that in order to facilitate the administration of this Agreement and the Credit Documents, settlement among the Floor Plan Lenders may take place periodically on Floor Plan Loan Adjustment Dates. On each Floor Plan Loan Adjustment Date on or before 1:00 p.m. Central Time, Floor Plan Agent shall deliver notice to each Floor Plan Lender of the amount of Floor Plan Loan such Floor Plan Lender has funded and such Floor Plan Lender's Floor Plan Loan Commitment Percentage of the aggregate outstanding principal balances of the Floor Plan Loans, and: (A) if the amount of Floor Plan Loans that the Floor Plan Lender has funded is less than such Floor Plan Lender's Floor Plan Loan Commitment Percentage of the aggregate outstanding principal balances of the Floor Plan Loans calculated as of such Floor Plan Loan Adjustment Date, then such Floor Plan Lender shall remit such deficiency to Floor Plan Agent (on behalf of Wells Fargo) by 4:00 p.m. Central Time on the Floor Plan Business Day immediately following such Floor Plan Loan Adjustment Date, and (B) if the amount of Floor Plan Loans such Floor Plan Lender has funded is more than such Floor Plan Lender's Floor Plan Loan Commitment Percentage of the aggregate outstanding principal balances of the Floor Plan Loans calculated as of such Floor Plan Loan Adjustment Date, then Floor Plan Agent (on behalf of Wells Fargo) will remit such excess to such Floor Plan Lender by 5:00 p.m. Central Time on the Floor Plan Business Day immediately following such Floor Plan Loan Adjustment Date. Each payment due to Floor Plan Agent or Floor Plan Lenders will be paid in immediately available funds according to the electronic transfer instructions provided in writing from the Floor Plan Lenders to Floor Plan Agent, and, if not timely paid in accordance with this Agreement, will bear interest for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Floor Plan Agent at a rate per annum equal to the applicable interest rate with respect to the Floor Plan Loans. If Wells Fargo is acting as Floor Plan Agent, it shall be deemed to have paid its deficiency or received its excess as set forth above on each Floor Plan Loan Adjustment Date. Each Floor Plan Lender hereby waives any right it may now or in the future have to set-off its obligation to make any payment to Wells Fargo or Floor Plan Agent under this Agreement against any obligation of Wells Fargo or Floor Plan Agent to such Floor Plan Lender, whether under this Agreement or any other agreement between Wells Fargo and such Floor Plan Lender or Floor Plan Agent and such Floor Plan Lender.

2.01.4.2 *Settlement of Interest, Fees and Performance Rebates*. (a) Interest at the Floor Plan Lender Rate for each calendar month (the "Monthly Floor Plan Interest"), if any, payable to a Floor Plan Lender shall be distributed by Floor Plan Agent to Floor Plan Lenders monthly in arrears on the later of: (A) the fifteenth (15th) day of the applicable month, or if the fifteenth (15th) is not a Floor Plan Business Day, the next

succeeding Floor Plan Business Day, or (B) within five (5) Floor Plan Business Days after Floor Plan Agent's receipt thereof from all Floor Plan Borrowers (each, a "Floor Plan Interest Settlement Date"). To the extent that a Floor Plan Lender is entitled to receive interest income in excess of such Monthly Floor Plan Interest, if such additional interest has not previously been distributed to Floor Plan Lender, then Floor Plan Lender shall be entitled to receive an additional payment from Floor Plan Agent equivalent to such Floor Plan Lender's Floor Plan Loan Commitment Percentage of such interest income. Any amounts due to Floor Plan Lender for income in excess of the Monthly Floor Plan Interest shall be reflected and paid with Monthly Floor Plan Interest as set forth above. Lenders acknowledge and agree that the rate of return paid on any Floor Plan Loan is dependent on numerous factors, including discounts and subsidies offered by Manufacturers. Application of any collections received by Floor Plan Agent as interest in cash or good collected funds representing payment of interest on the Floor Plan Loans may result in the payment of interest to Floor Plan Lenders in excess of the rate set forth in Section 2.07.2(b). (b) Floor Plan Unused Commitment Fees shall be distributed by Floor Plan Agent to Floor Plan Lenders on the next succeeding Floor Plan Interest Settlement Date following receipt thereof from all Floor Plan Borrowers pursuant to Section 2.01.15. (c) If a Performance Rebate is not earned by or otherwise paid to Floor Plan Borrowers during any Fiscal Quarter, to the extent any Floor Plan Lenders have previously funded such Performance Rebate, such Floor Plan Lender may be entitled to receive an additional payments from Floor Plan Agent equivalent to such Floor Plan Lender's share of such portion of the Performance Rebate not earned by or otherwise paid to Floor Plan Borrowers. Any amounts due to Floor Plan Lenders under this Section 2.01.4.2 shall be reflected in a notice provide by Floor Plan Agent to Floor Plan Lenders within forty-five (45) days following the end of the applicable Fiscal Quarter.

2.01.4.3

2.01.5 *Repayment Of Floor Plan Loans.* The Floor Plan Borrowers unconditionally, jointly and severally, promise to pay to the Floor Plan Agent for the accounts of the Floor Plan Lenders the then aggregate unpaid principal balances of each Floor Plan Loan of the Floor Plan Lenders on or before the Floor Plan Line of Credit Termination Date (or on any earlier date on which the Floor Plan Loans become due and payable as required by the stated provisions of this Agreement). The Borrowers unconditionally, jointly and severally, promise to pay to the Floor Plan Agent for the ratable accounts of the Floor Plan Lenders all interest which has accrued upon the unpaid principal balances of the Floor Plan Loans from time to time outstanding from the date of Closing until the date of payment in full of the Floor Plan Loans at the rates per annum and on the dates set forth in Section 2.07 of this Agreement. All sums due to the Floor Plan Lenders in connection with the Floor Plan Loans shall be paid in full on or before the Floor Plan Line of Credit Termination Date.

2.01.6 *Financing Terms*. In connection with financing an item of Inventory for any Floor Plan Borrower, Floor Plan Agent, on behalf of the Floor Plan Lenders, will transmit or otherwise make available to such Floor Plan Borrower and Floor Plan Lenders a "Transaction Statement" which is a record that may be transmitted by Floor Plan Agent to such Floor Plan Borrower from time to time which identifies the Inventory financed and/or the advance made and the terms and conditions of repayment of such advance as provided in this Agreement. Floor Plan Borrower agree that a Floor Plan Borrower's failure to notify Floor Plan Agent in writing of any objection to a Transaction Statement within thirty (30) days after a Transaction Statement is transmitted or otherwise sent to such Floor Plan Borrower shall constitute Floor Plan Borrowers' (i) acceptance thereof, (ii) agreement that the Floor Plan Lenders are financing such Inventory at Floor Plan Borrowers' request, and (iii) agreement that such Transaction Statement will be incorporated herein by reference to the extent not inconsistent with the terms hereof. To the extent any Transaction Statement is inconsistent with the terms hereof, this Agreement shall govern and

control. If any Floor Plan Borrower objects to any Transaction Statement, such Floor Plan Borrower and Floor Plan Agent, on behalf of Floor Plan Lenders, will work in good faith to resolve such objection within sixty (60) days after the applicable Transaction Statement is transmitted or otherwise sent to such Floor Plan Borrower. However, notwithstanding such objection, Floor Plan Borrowers will pay Floor Plan Agent on behalf of Floor Plan Lenders for such Inventory financed in accordance with this Agreement. With respect to any advance made to a Manufacturer on behalf of a Floor Plan Borrower, Floor Plan Agent, on behalf of any one or more Floor Plan Lenders, may apply against any such amount owed to Manufacturer any amount such Floor Plan Lender or Lenders is owed from such Manufacturer with respect to Free Floor Periods (each, a "Lender Credit") or any other amounts such Floor Plan Lender or Lenders is owed from such Manufacturer. Notwithstanding the foregoing, Floor Plan Borrowers agree to pay the full amount reflected on any Transaction Statement subject to the foregoing resolution procedure. Notwithstanding anything to the contrary contained herein, including without limitation the provisions of Section 10.01 hereof, without the consent of Floor Plan Lenders, Wells Fargo may change any aspect or portion of any Transaction Statement at any time, provided that such change is not inconsistent with the terms and conditions of this Agreement.

2.01.7 *Calculation of Charges.* Floor Plan Borrowers shall pay fees, charges and interest (collectively, "Charges") with respect to each advance in accordance with this Agreement. Floor Plan Borrowers shall pay Floor Plan Agent its customary Charges for any check or other item which is returned unpaid to Floor Plan Agent. Unless otherwise provided in this Agreement, the following additional provisions shall be applicable to Charges: (i) all Charges shall be paid by Floor Plan Borrowers monthly pursuant to the terms of the billing statement in which such Charges appear; (ii) interest on each Floor Plan Loan and principal amount of the Obligations related thereto shall be computed each calendar month on the sum of the daily balances thereof during such month divided by thirty (30) multiplied by one-twelfth of the annual rate provided for in this Agreement; (iii) interest on a Floor Plan Loan shall begin to accrue on the "Start Date" which, unless otherwise set forth in the applicable Transaction Statement, shall be defined as the earlier of: (A) the invoice date referred to in the Transaction Statement; or (B) the date any one or more Floor Plan Lenders or Wells Fargo with respect to a WF Advance make such advance; provided, however, if a Manufacturer fails to fully pay, by honoring or paying any Lender Credit or otherwise, the interest or other cost of financing such Inventory during the period between the Start Date and the end of the Free Floor Period, then Floor Plan Borrowers shall pay such interest to Agent on behalf of Lenders on demand as if there were no Free Floor Period with respect to such Inventory; (iv) for the purpose of computing Charges, any payment will be credited pursuant to Floor Plan Agent's payment recognition policy, as in effect from time to time; and (v) Floor Plan Loans or any part thereof not paid when due (and Charges not paid when due, at the option of Floor Plan Agent, shall become part of the principal amount of the Floor Plan Loans) shall bear interest at the Default Rate.

2.01.8 *[Reserved]*

2.01.9 *[Reserved]*

2.01.10 *[Reserved]*

2.01.11 *[Reserved]*

2.01.12 *Permitted Purposes Of Floor Plan Loans.* The proceeds of the Floor Plan Loans shall be used by the Borrowers solely (i) for the Closing Date Refinancing, (ii) to finance the purchase and holding by the Floor Plan Borrowers of Floor Plan Units as set forth above in this Section 2.01 and subsections thereof, and (iii) for general working capital needs and for the general corporate purposes of the Borrowers and their Subsidiaries.

2.01.13 *Title Documents*. Upon the Floor Plan Agent's request, at any time after the occurrence and during the continuance of an Event of Default, the Floor Plan Borrowers shall deliver to the Floor Plan Agent immediately upon such request (and Floor Plan Agent may retain) each certificate of title or statement of origin issued for Collateral financed by Floor Plan Loans.

2.01.14 *Power of Attorney.* For the purpose of expediting the financing of Floor Plan Units in accordance with the terms of this Agreement and for other purposes relating to such financing transactions, each Floor Plan Borrower irrevocably constitutes and appoints the Floor Plan Agent and any of its officers, and each of them, severally, as its true and lawful attorneys-in-fact or attorney-in-fact with full authority to act on behalf of it, and in the name of, place, and stead of it, upon the occurrence and during the continuance of an Event Of Default, to prepare, execute, and deliver any and all instruments, documents, and agreements required to be executed and delivered by such Floor Plan Borrowers necessary to evidence borrowings of proceeds of the Floor Plan Loans hereunder and/or to evidence, perfect, or realize upon the Liens granted by this Agreement and/or any of the Credit Documents. The foregoing power of attorney shall be deemed to be coupled with an interest, and shall be irrevocable so long as this Agreement remains in effect or any Obligations remain outstanding. Each of said attorneys-in-fact shall have the power to act hereunder with or without the other. The Floor Plan Agent may, but shall not be obligated to, notify the Floor Plan Borrowers of any such instruments or documents the Floor Plan Agent has executed on behalf of any of the Floor Plan Borrowers prior to such execution.

2.01.15 *Floor Plan Unused Commitment Fees.* For each Fiscal Quarter until the termination of the Floor Plan Loan Commitments, the Floor Plan Borrowers jointly and severally promise to pay to the Floor Plan Agent for the ratable accounts of the Floor Plan Lenders (in proportion to such Floor Plan Lender's Floor Plan Loan Commitment) a per annum fee (the "*Floor Plan Unused Commitment Fee*") equal to (a) an amount equal to the average daily unused portion of the Floor Plan Loan Commitments (calculated as (i) the amount of the Aggregate Floor Plan Loan Commitments *less* (ii) the sum of the average daily aggregate principal amount drawn under the Floor Plan Loans), *multiplied by* (b) the Applicable Margin for Floor Plan Loans Unused Commitment Fees, calculated on the basis of the actual number of days elapsed in a year of 360 days. Loan balances outstanding as WF Advances shall be deemed usage with respect to the Floor Plan Loan Commitments of Wells Fargo. The Floor Plan Unused Commitment Fee shall be payable in accordance with monthly billing statement transmitted to Floor Plan Dealers in accordance with Section 2.01.16.

2.01.16 *Billing Statements.* Floor Plan Agent will transmit or otherwise send to Floor Plan Borrowers a monthly billing statement identifying all charges due on such Floor Plan Borrower's account pursuant to this Agreement, including without limitation interest and Floor Plan Unused Commitment Fees (if then payable). The charges specified on each billing statement will be (1) due and payable no later than the fifteenth (15th) day of the month in which such billing statement is transmitted to or received by Floor Plan Borrower, and (2) an account stated, unless Floor Plan Agent receives a Floor Plan Borrower's written objection thereto within fifteen (15) days after it is transmitted or otherwise sent to Floor Plan Borrower. If Floor Plan Agent does not receive, by the 25th day of any given month, payment of all charges accrued to a Floor Plan Borrower's account with any one or more Floor Plan Lenders during the immediately preceding month, Floor Plan Borrowers will (to the extent allowed by law and if requested by Floor Plan Agent) pay Floor Plan Agent a late fee equal to the greater of five dollars ($5.00) or five percent (5%) of the amount of such charges (payment of such fee does not waive the default caused by the late payment). Floor Plan Agent may adjust the billing statement at any time and from time to time to conform to applicable law and this Agreement

2.01.17 *Floor Plan Line of Credit Dollar Cap Reduction*. The Floor Plan Borrowers shall have the right at any time, upon not less than ten (10) Business Days prior written notice to the Floor Plan Agent, to permanently reduce, in whole or in part, without premium or penalty, the Floor Plan Line of Credit Dollar Cap to an amount not less than [****], provided that (a) each reduction shall be

in an amount of not less than Ten Million Dollars ($10,000,000.00), and (b) no reduction shall be permitted if, after giving effect thereto, and to any repayments of the Floor Plan Loans made on the effective date thereof, the sum of the aggregate principal balances of the Floor Plan Loans then unpaid and outstanding plus the aggregate unpaid balances of WF Advances plus the aggregate amount of outstanding Approvals, without duplication, would exceed the Floor Plan Line of Credit Dollar Cap then in effect.

2.01.18 *Payment Terms.* Floor Plan Agent may apply: (1) payments received from Floor Plan Borrowers to reduce finance charges first and then principal, regardless of a Floor Plan Borrower's instructions; and (2) principal payments to the oldest (earliest) Manufacturer's invoice for Borrowing Base Collateral financed by Floor Plan Lenders, but, in any event, all principal payments may, in Floor Plan Agent's sole discretion, first be applied to such Borrowing Base Collateral which is sold, lost, stolen, damaged, rented, leased, or otherwise disposed of or unaccounted for. Any Vendor Credit granted to any Floor Plan Borrower for any Borrowing Base Collateral will not reduce the Obligations Floor Plan Borrowers owe Floor Plan Lenders until Floor Plan Agent has received payment therefor in cash. Each Floor Plan Borrower will: (A) pay Floor Plan Agent even if any Borrowing Base Collateral is defective or fails to conform to any warranties extended by any third party; and (B) indemnify and hold Floor Plan Agent and each Floor Plan Lender harmless against all claims and defenses asserted by any buyer of any Borrowing Base Collateral. No Floor Plan Borrower will assert against Floor Plan Agent or any Floor Plan Lender any claim or defense such Floor Plan Borrower may have against any Manufacturer whether for breach of contract, warranty, misrepresentation, failure to ship, lack of authority, or otherwise, including without limitation claims or defenses based upon charge backs, credit memos, rebates, price protection payments or returns. Any such claims or defenses or other claims or defenses a Floor Plan Borrower may have against a Manufacturer shall not affect Floor Plan Borrowers' liabilities or obligations to Floor Plan Agent or Floor Plan Lenders.

2.01.19 *Payments Due Upon Casualty Event or Disposition.* Within three (3) Business Days after the receipt by a Floor Plan Borrower of any Net Available Proceeds in respect of (i) a Floor Plan Unit Casualty Event, (ii) Disposition of any Borrowing Base Collateral (other than Dispositions permitted pursuant to Section 6.05(a), (c), (h), (i), (j), (k), (l), (m), (n), (p) and (q)) and (iii) insurance proceeds and condemnation recoveries in respect of any Borrowing Base Collateral, such Floor Plan Borrower shall deliver to the Floor Plan Agent, or authorize the Floor Plan Agent to debit from a deposit account of such Floor Plan Borrower with the Floor Plan Agent, the amount of such Net Available Proceeds received by such Floor Plan Borrower; provided that, in the case of less than total destruction or damage to the applicable Borrowing Base Collateral, in lieu of making such payment, the applicable Floor Plan Borrowers may elect to use such Net Available Proceeds received to promptly repair the physical destruction or damage to such Borrowing Base Collateral to the extent that the physical destruction or damage and/or any repairs made to remedy such destruction or damage does not void any applicable warranty with respect to such applicable Borrowing Base Collateral, provided that, until such repairs are completed to the satisfaction of Floor Plan Agent in its Permitted Discretion, such Borrowing Base Collateral shall not be included in the Borrowing Base.

Section 2.02. *WF Advances and Floor Plan Lender Funding.*

2.02.1. *Advances and Approvals.* Between Floor Plan Loan Adjustment Dates, Wells Fargo may (but shall not be obligated to) fund to the Floor Plan Borrowers solely out of Wells Fargo's own funds the entire principal amount of any Loan Request (any such funding being referred to as an *"WF Advance"*). Each Floor Plan Lender shall be deemed to have purchased an irrevocable and unconditional participation in each WF Advance, in an amount equal to such Floor Plan Lender's respective Floor Plan Loan Commitment Percentage of the principal amount of such WF Advance, effective immediately upon the funding of each WF Advance. Each Floor Plan Lender shall have the unconditional and irrevocable obligation to pay, and does hereby agree to pay, to Wells Fargo, on each Floor Plan Loan Adjustment Date, an amount equal to such Floor Plan Lender's Floor Plan Loan

Commitment Percentage of each WF Advance, and settlement shall occur between Wells Fargo and all other Floor Plan Lenders on each Floor Plan Loan Adjustment Date such that after each such settlement, the Floor Plan Lenders shall each hold that percentage of the then aggregate outstanding principal balances of the Floor Plan Loans equal to such Floor Plan Lender's respective Floor Plan Loan Commitment Percentage. Each Floor Plan Lender acknowledges and agrees that (a) Wells Fargo typically issues Approvals on date (each, an "Approval Date") prior to the date Wells Fargo is required actually to fund the Floor Plan Loan (each, an "Advance Date") that is based on such Approval and (b) once an Approval has been issued, and the Manufacturer receiving such Approval shall have shipped its product based thereon, Wells Fargo may deem itself obligated to fund the related Floor Plan Loan, and notwithstanding any circumstance whatsoever, including the occurrence and continuance of a Default or Event of Default (including, without limitation, the commencement of a proceeding under the Bankruptcy Code or other Debtor Relief Laws with respect to any of Floor Plan Borrowers) or the reduction or termination of the Floor Plan Loan Commitments, each Floor Plan Lender's obligation to (i) fully fund in cash Floor Plan Loans related to any Floor Plan Loans which derive from all Approvals issued by Wells Fargo, (ii) acquire participations in WF Advances and (iii) make payments to Wells Fargo on account of such participations pursuant to this Section is absolute and unconditional. Each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. All payments of principal, interest and any other amount with respect to each outstanding WF Advance shall be payable to and received by the Floor Plan Agent for the account of Wells Fargo. Any payments received by the Floor Plan Agent between Floor Plan Loan Adjustment Dates that in accordance with the terms of this Agreement are to be applied to the reduction of the outstanding aggregate principal balances of the Floor Plan Loans, shall be paid over to and retained by Wells Fargo for such application to the outstanding WF Advances and credited against the Floor Plan Lenders' respective purchases of participation interests in the respective WF Advances, subject to the provisions of Section 2.14.

2.02.2. *Automated Sweep Program.* Wells Fargo may elect to process WF Advances under any automated sweep program in effect at Wells Fargo from time to time to facilitate automatic WF Advances to cover submitted Loan Requests.

2.02.3. *Repayment Obligations of Floor Plan Borrowers.* For the avoidance of doubt, the Floor Plan Borrowers hereby jointly and severally and unconditionally promise to pay to the Floor Plan Agent for the account of Wells Fargo all amounts outstanding on account of the WF Advances, together with accrued interest thereon, on the terms and subject to the conditions applicable to the Floor Plan Loans and the Floor Plan Loan Notes. Nothing in this Section 2.02, including but not limited to the purchase of participations in an WF Advance pursuant to this Section 2.02, shall relieve the Floor Plan Borrowers of any obligation for payments under the Floor Plan Loans and Floor Plan Loan Notes, or under the WF Advances, or for any default by the Floor Plan Borrowers in the payment thereof.

Section 2.03. *Revolving Credit Loans*. Subject to the terms and conditions of this Agreement and the other Credit Documents, each of the Revolving Credit Lenders severally agrees to make revolving credit loans in Dollars or in one or more Alternative Currencies (the "*Revolving Credit Loans*") to the Revolving Credit Borrowers as joint and several obligors from time to time during the Availability Period for the Revolving Credit Facility, in an aggregate amount outstanding not to exceed such Revolving Credit Lender's Revolving Credit Commitment Percentage multiplied by the Revolving Credit Commitments; provided, however, that after giving effect to any Revolving Borrowing, (a) the Total Revolving Credit Outstandings shall not at any time exceed the Revolving Credit Dollar Cap and (b) the aggregate Revolving Credit Exposure of any Revolving Credit Lender shall not exceed such Lender's Revolving Credit Commitment. Each Revolving Credit Loan extended by a Revolving Credit Lender shall be in a principal amount equal to such Revolving Credit Lender's Revolving Credit Commitment Percentage of the aggregate principal amount of the Revolving Credit Loans requested on such occasion. Subject to the application and satisfaction of the terms and conditions of this Agreement and of the other Credit Documents, the Borrowers may borrow, prepay, and reborrow the Revolving Credit Loans in whole or in

part until the Revolving Credit Termination Date. Revolving Credit Loans may consist of Adjusted Base Rate Borrowings or a SOFR Borrowing at the Adjusted SOFR Rate, or a combination thereof, as the Borrowers may request in accordance with the terms hereof.

2.03.1 *Revolving Credit Loan Promissory Notes.* The joint and several obligations of the Revolving Credit Borrowers to repay the Revolving Credit Loans to each Revolving Credit Lender shall be evidenced by a Revolving Credit Note in favor of each Revolving Credit Lender requesting a Revolving Credit Note. The Revolving Credit Borrowers shall deliver a Revolving Credit Note on the date of Closing to each of the Revolving Credit Lenders requesting a Revolving Credit Note executed by an Authorized Officer of each Revolving Credit Borrower.

2.03.2 *Procedure For Revolving Credit Loan Borrowings.* The Revolving Credit Borrowers may borrow proceeds of the Revolving Credit Loans during the Availability Period in respect of the Revolving Credit Facility, provided, that the Borrower Representative on behalf of the Revolving Credit Borrowers delivers to the Administrative Agent an irrevocable, written, fully completed Loan Request executed by an Authorized Officer of the Borrower Representative (which Loan Request must be received by the Administrative Agent prior to 11:00 a.m. Eastern Time) (a) (A) three (3) RFR Business Days prior to the requested Borrowing Date, if all or any part of the requested advances of proceeds of the Revolving Credit Loans are to be initially SOFR Borrowings at the Adjusted SOFR Rate and (B) in the case of an Eurocurrency Rate Loan denominated in any Alternative Currency, at least four (4) Eurocurrency Banking Days before such Eurocurrency Rate Loan, or (b) one (1) Business Day prior to the requested Borrowing Date if all of the requested advances of proceeds of the Revolving Credit Loans are to be initially Adjusted Base Rate Borrowings. Each Loan Request shall specify: (i) the aggregate amount to be borrowed, (ii) the requested Borrowing Date, (iii) whether the borrowing is to be a SOFR Borrowing, an Adjusted Base Rate Borrowing, an Eurocurrency Rate Loan or a combination thereof and (iv) the Currency of such Borrowing. If the Borrower Representative fails to specify the Currency of a Loan in a Loan Request, then the applicable Loans shall be made in Dollars. The Loan Requests may be delivered to the Administrative Agent via facsimile or by other electronic transmission it being agreed that the Administrative Agent may rely on the authority of the Person making any such request without receipt of any other confirmation. The Administrative Agent shall promptly notify each Revolving Credit Lender of the Administrative Agent's receipt of each notice and the contents thereof. Each Revolving Credit Lender shall make the amount of its *pro rata* share (calculated in accordance with its respective Revolving Credit Commitment Percentage) of each requested borrowing available to the Administrative Agent in Same Day Funds, in the Applicable Currency immediately available to the Administrative Agent, for the accounts of the Revolving Credit Borrowers at the offices of the Administrative Agent specified in this Agreement (x) in the case of any Loan denominated in Dollars, prior to 1:00 pm (Eastern Time) on the Borrowing Date requested by the Borrowers and (y) in the case of any loan denominated in an Alternative Currency, prior to the Applicable Time specified by the Administrative Agent on the Borrowing Date requested by the Borrowers. Such borrowing will be made available thereafter by the Administrative Agent crediting the Commercial Account (or any other account specified in writing to the Administrative Agent by the Borrower Representative) (x) in the case of any Loan denominated in Dollars, prior to 2:00 pm (Eastern Time) on the Borrowing Date with the aggregate of the amounts made available to the Administrative Agent by the Revolving Credit Lenders and in like funds as received by the Administrative Agent and (y) in the case of any Loan denominated in an Alternative Currency, on the Borrowing Date with the aggregate of the amounts made available to the Administrative Agent by the Revolving Credit Lenders in Same Day Funds as received by the Administrative Agent.

2.03.3 *Repayment Of Revolving Credit Loans.* The Revolving Credit Borrowers unconditionally, jointly and severally, promise to pay to the Administrative Agent for the accounts of the Revolving Credit Lenders the then unpaid principal amount of each Revolving Credit Loan of the Revolving Credit Lenders on or before the Revolving Credit Termination Date (or on any earlier date on which the Revolving Credit Loans become due and payable as required by the stated provisions of this Agreement)

in the Currency in which such Loan is denominated. The Revolving Credit Borrowers unconditionally, jointly and severally, promise to pay to the Administrative Agent for the ratable accounts of the Revolving Credit Lenders all interest which has accrued upon the unpaid principal amounts of the Revolving Credit Loans from time to time outstanding from the date of Closing until the date of payment in full of the Revolving Credit Loans at the rates per annum and on the dates set forth in Section 2.07 of this Agreement. All sums due to the Revolving Credit Lenders in connection with the Revolving Credit Loans shall be paid in full on or before the Revolving Credit Termination Date.

2.03.4 *Permitted Purposes Of Revolving Credit Loans.* The proceeds of the Revolving Credit Loans shall be used by the Borrowers solely for the general working capital needs and for the general corporate purposes of the Borrowers and their Subsidiaries, including for Permitted Acquisitions and issuances of Letters of Credit.

2.03.5 *Revolving Credit Unused Commitment Fees.* For each Fiscal Quarter until the termination of the Revolving Credit Commitments, the Revolving Credit Borrowers jointly and severally promise to pay to the Administrative Agent for the ratable accounts of the Revolving Credit Lenders a per annum fee (the "Revolving Credit Unused Commitment Fee") (calculated on the basis of the actual number of days elapsed in a year of 360 days) equal to (a) the Applicable Margin for Revolving Credit Unused Commitment Fees times (b) the average daily unused portion of the Revolving Credit Commitments. In calculating the Revolving Credit Unused Commitment Fees, (x) the aggregate Stated Amount of L/C Obligations shall be deemed usage of Revolving Credit Commitments, but (y) Swingline Loans shall not be deemed usage of Revolving Credit Commitments. The Revolving Credit Unused Commitment Fee shall be payable in arrears on the first Business Day of each succeeding Fiscal Quarter with the first of such payments to be scheduled for payment on October 1, 2022.

2.03.6 *Permanent Reduction Of Revolving Credit Dollar Cap.* The Revolving Credit Borrowers shall have the right at any time, upon not less than ten (10) Business Days prior written notice to the Administrative Agent, to permanently reduce, in whole or in part, without premium or penalty, the Revolving Credit Dollar Cap, provided that (a) each reduction shall be in an amount of not less than Two Hundred Fifty Thousand Dollars ($250,000.00) or, if greater, a multiple of Fifty Thousand Dollars ($50,000.00), and (b) no reduction shall be permitted if, after giving effect thereto, and to any repayments of the Revolving Credit Loans made on the effective date thereof, the sum of the aggregate principal balances of the Revolving Credit Loans then unpaid and outstanding plus the aggregate unpaid balances of Swingline Loans plus the aggregate amount of L/C Obligations outstanding would exceed the Revolving Credit Dollar Cap then in effect.

2.03.7 *Overadvance.* If, on any date, the aggregate Revolving Credit Exposure of all Lenders exceeds the Revolving Credit Commitment (such amount in excess of the Revolving Credit Commitment, the "*Revolving Credit Overexposure Amount*"), then no later than the date that is three (3) Business Days thereafter, the Revolving Credit Borrowers shall repay such outstanding Revolving Credit Loans, Swingline Loans and Reimbursement Obligations (and thereafter Cash Collateralize such outstanding L/C Obligations, to the extent remaining) in an amount equal to 100% of such Revolving Credit Overexposure Amount to the Administrative Agent, which such amount shall be applied to the Revolving Credit Loans ratably in accordance with Section 2.08.3; provided however that the Revolving Credit Borrower shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.03.7 unless after the prepayment in full of the Revolving Credit Loans a Revolving Credit Overexposure Amount still remains. All such repayments shall be applied (i) first, to prepay the outstanding Swingline Loans to the full extent thereof, (ii) second, to prepay the Revolving Credit Loans to the full extent thereof, (iii) third, to prepay outstanding Reimbursement Obligations, and (iv) fourth, to Cash Collateralize Letters of Credit.

Section 2.04. *Swingline Loan Subfacility.* During the Availability Period for the Revolving Credit Facility, subject to the terms and conditions set forth herein, the Swingline Lender agrees to make certain

revolving credit loans (each, a "Swingline Loan" and collectively, the "Swingline Loans") to the Revolving Credit Borrowers in Dollars from time to time on any Business Day provided that, (a) the aggregate amount of Swingline Loans outstanding at any time shall not exceed the Swingline Committed Amount, (b) the Revolving Credit Exposure of any Revolving Credit Lender shall not exceed such Revolving Credit Lender's Revolving Credit Commitment and (c) the Total Revolving Credit Outstandings shall not exceed the Revolving Credit Dollar Cap. Swingline Loans may be repaid and reborrowed in accordance with the provisions of this Agreement. Notwithstanding the foregoing, the Swingline Lender shall not be required to make a Swingline Loan if any Credit Party shall have notified the Swingline Lender and the Revolving Credit Borrowers in writing at least one (1) Business Day prior to the Borrowing Date with respect to such Swingline Loan, that the conditions set forth in Section 4.02 have not been satisfied and such conditions remain unsatisfied as of the requested time of the making such Swingline Loan. Each Swingline Loan shall be due and payable in full on the earlier of (a) the Swingline Termination Date, or (b) such earlier maturity date as may be agreed to by the Swingline Lender and the Revolving Credit Borrowers. Swingline Loans may only be Adjusted Base Rate Borrowings and may not be SOFR Borrowings.

2.04.1. *Advances.* The Revolving Credit Borrowers shall request each Swingline Loan by a notification from an Authorized Officer of the Borrower Representative to the Administrative Agent and to the Swingline Lender by telephone (confirmed electronically) or electronically not later than 11:00 a.m. Eastern Time on the proposed Borrowing Date. Each such notice shall be irrevocable and shall specify (a) the aggregate principal amount to be borrowed, (b) the requested Borrowing Date, and (c) the requested maturity date of the requested Swingline Loan. The Swingline Lender will make the requested amount available promptly on the Borrowing Date, to the Administrative Agent (for the accounts of the Revolving Credit Borrowers) who, thereupon, will promptly make such amount available to the Revolving Credit Borrowers on such Borrowing Date in like funds as provided therein. Each Swingline Loan shall be in an amount not less than the applicable Minimum Borrowing Amount.

2.04.2. *Repayment of Swingline Loans Upon Swingline Conversion Event.* Each Revolving Credit Borrower agrees to repay each Swingline Loan made to it within one Business Day of demand therefor by the Swingline Lender and, in any event, within five (5) Business Days after the date such Swingline Loan was made; provided, that the proceeds of a Swingline Loan may not be used to pay a Swingline Loan. Notwithstanding the foregoing, the Revolving Credit Borrowers shall repay the entire outstanding principal amount of, and all accrued but unpaid interest on, the Swingline Loans on the Swingline Termination Date (or such earlier date as the Swingline Lender and the Revolving Credit Borrowers may agree in writing). In lieu of demanding repayment of any outstanding Swingline Loan from the Revolving Credit Borrowers, the Swingline Lender may, on behalf of the Revolving Credit Borrowers (which hereby irrevocably directs the Swingline Lender to act on its behalf for such purpose), request a borrowing of Revolving Credit Loans that are Base Rate Loans from the Revolving Credit Lenders (with notice to the Borrower Representative) in an amount equal to the principal balance of such Swingline Loan. The minimum borrowing amount limitations contained in Section 2.04.1 shall not apply to any borrowing of such Revolving Credit Loans made pursuant to this subsection. The Swingline Lender shall give notice to the Administrative Agent of any such borrowing of Revolving Credit Loans not later than 11:00 a.m. at least one Business Day prior to the proposed date of such borrowing. Promptly after receipt of such Loan Request from the Swingline Lender under the immediately preceding sentence, the Administrative Agent shall notify each Revolving Credit Lender and the Borrower Representative of the proposed borrowing. Not later than 10:00 a.m. on the proposed date of such borrowing, each Revolving Credit Lender will make available to the Administrative Agent at the offices of the Administrative Agent specified in this Agreement for the account of the Swingline Lender, in immediately available funds, the proceeds of the Revolving Credit Loan to be made by such Revolving Credit Lender. The Administrative Agent shall pay the proceeds of such Revolving Credit Loans to the Swingline Lender, which shall apply such proceeds to repay such Swingline Loan. Each Revolving Credit Lender irrevocably agrees to extend its *pro rata* share of the requested Revolving Credit Loans notwithstanding (a) that the amount of the borrowing may not satisfy the

Minimum Borrowing Amount for Revolving Credit Loans, (b) that a Default or Event of Default may exist, (c) the failure of any request or deemed request for the Revolving Credit Loans to be timely made, (d) that the date of such borrowing is not a date on which Revolving Credit Loans are otherwise permitted to be made, or (e) any reduction or termination of the Revolving Credit Commitments.

2.04.3. *Participations.* Immediately upon the making of a Swingline Loan, each Revolving Credit Lender shall be deemed to have purchased, and hereby irrevocably and unconditionally agrees to purchase, from the Swingline Lender, without recourse or warranty, an undivided interest and participation to the extent of such Revolving Credit Lender's Revolving Credit Commitment Percentage of such Swingline Loan. In the event that outstanding Swingline Loans cannot be repaid with the proceeds of Revolving Credit Loans pursuant to Section 2.04.2 for any reason (including, without limitation, as a result of the commencement of a proceeding under the Bankruptcy Code or other Debtor Relief Laws with respect to the Borrowers), the Revolving Credit Lenders will, as of the date such proposed borrowing otherwise would have occurred but adjusted for any payments received in respect of such Swingline Loan(s) by or for the account of the Revolving Credit Borrowers on or after such date and prior to such purchase, immediately fund their respective participations in the outstanding Swingline Loans as necessary to cause such Revolving Credit Lenders to share in such Swingline Loan(s) proportionately in accordance with their respective Revolving Credit Commitment Percentages in respect of the Revolving Credit Commitments. Any amounts received by the Swingline Lender from the Revolving Credit Borrowers (or from any other Person on behalf of the Revolving Credit Borrowers) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the applicable Revolving Credit Lenders that shall have made their payments pursuant to this Section and to the Swingline Lender, as their interests may appear. The purchase of participations in a Swingline Loan pursuant to this Section shall not relieve the Revolving Credit Borrowers of any default by the Revolving Credit Borrowers in the payment thereof; provided, however, that in the event any such payment received by the Administrative Agent is subsequently set aside or is required to be refunded, returned or repaid, such Revolving Credit Lender will repay to the Administrative Agent its proportionate share thereof.

2.04.4. *Obligations Absolute.* A Revolving Credit Lender's obligation to purchase such a participation in a Swingline Loan shall be absolute and unconditional and shall not be affected by any circumstance whatsoever, including without limitation, (i) any claim of setoff, counterclaim, recoupment, defense or other right which such Revolving Credit Lender or any other Person may have or claim against the Administrative Agent, any Swingline Lender or any other Person whatsoever, (ii) the occurrence or continuation of a Default or Event of Default (including without limitation, any of the Defaults or Events of Default described in Sections 7.07 or 7.08), or the termination of any Revolving Credit Lender's Revolving Credit Commitment, (iii) the existence (or alleged existence) of an event or condition which has had or could have a Material Adverse Change, (iv) any breach of any Credit Document by the Administrative Agent, any Lender, any Borrower or any other Loan Party, or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing. If such amount is not in fact made available to the Swingline Lender by any Revolving Credit Lender, the Swingline Lender shall be entitled to recover such amount on demand from such Revolving Credit Lender, together with accrued interest thereon for each day from the date of demand thereof, at the Overnight Rate. If such Revolving Credit Lender does not pay such amount forthwith upon the Swingline Lender's demand therefor, and until such time as such Revolving Credit Lender makes the required payment, the Swingline Lender shall be deemed to continue to have outstanding Swingline Loans in the amount of such unpaid participation obligation for all purposes of the Credit Documents (other than those provisions requiring the other Revolving Credit Lenders to purchase a participation therein). Further, such Revolving Credit Lender shall be deemed to have assigned any and all payments made of principal and interest on its Revolving Credit Loans, and any other amounts due it hereunder, to the Swingline Lender to fund Swingline Loans in

the amount of the participation in Swingline Loans that such Revolving Credit Lender failed to purchase pursuant to this Section until such amount has been purchased (as a result of such assignment or otherwise).

Section 2.05. *Letter of Credit Subfacility*. During the Availability Period for the Revolving Credit Commitments, subject to the terms and conditions set forth in this Agreement, an Authorized Officer of the Borrower Representative may request on behalf of the Revolving Credit Borrowers or any Subsidiary the issuance of, and the Issuing Bank in reliance upon the agreements of the Revolving Credit Lenders set forth in Section 2.05.3 agrees to issue, Letters of Credit in Dollars or one or more Alternative Currencies in the Dollar Equivalent for the accounts of the Revolving Credit Borrowers or any of its Subsidiaries, in a form acceptable to the Issuing Bank, at any time and from time to time on any Business Day from the Closing Date through, but not including the L/C Expiration Date, *provided*, *however*, that the Issuing Bank shall not be obligated to issue any Letter of Credit if, after giving effect to such issuance, (a) the aggregate amount of L/C Obligations (after giving effect to any requested issuance) exceeds the Letter of Credit Sublimit, (b) the Revolving Credit Exposure of any Lender exceeds such Lender's Revolving Credit Commitment or (c) the aggregate Revolving Credit Exposure of all Lenders exceeds the Revolving Credit Dollar Cap. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of Letter of Credit Application or other L/C Document submitted by the Borrowers to, or entered into by the Borrowers with, the Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

2.05.1. *Request for Issuance; Amendment; Renewal; Extension; Certain Conditions.* To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), an Authorized Officer of the Borrower Representative on behalf of the applicable Revolving Credit Borrower or Revolving Credit Borrowers shall deliver to the Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a written notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended together with a Letter of Credit Application, and specifying the proposed date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with Section 2.05.2), the amount and Currency of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. Such written notice may be transmitted electronically or by facsimile, if arrangements for doing so have been approved by the Issuing Bank. Upon receipt of the Letter of Credit Application executed by an Authorized Officer of the Borrower Representative, the Issuing Bank shall process such Letter of Credit Application and issue the Letter of Credit requested thereby, provided all fees and expenses in connection with such Letter of Credit have been paid and all other conditions precedent to the issuance of Letters of Credit have been satisfied and, provided further, the Issuing Bank shall not be required to issue any Letter of Credit earlier than three (3) Business Days after receipt by the Issuing Bank of the Letter of Credit Application and of all of the certificates, documents and other papers and information required by the Issuing Bank which relate thereto. The Issuing Bank shall promptly furnish a copy of each Letter of Credit to the Administrative Agent and to the Borrower Representative. A Letter of Credit shall be issued, amended, renewed or extended only if (and, upon issuance, amendment, renewal or extension of each Letter of Credit, the Revolving Credit Borrowers shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension, the provisos set forth in Section 2.05(a) through (g) are satisfied. The Issuing Bank shall not be obligated to amend any Letter of Credit if the Issuing Bank would not be required at such time to issue such Letter of Credit in its amended form under the terms of this Agreement. Upon the issuance by the Issuing Bank of a Letter of Credit and until such Letter of Credit shall have expired or been cancelled, the Revolving Credit Commitment of each Revolving Credit Lender shall be deemed to be utilized for all purposes of this Agreement in an amount equal to the product of (i) such Revolving Credit Lender's Revolving Credit Commitment Percentage and (ii) the sum of (A) the Stated Amount of such Letter of Credit plus (B) without

duplication of any amounts included under clause (A), any related Reimbursement Obligations then outstanding.

2.05.2. *Expiration Date*. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (a) the date that is 365 days after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, 365 days after such renewal or extension) and (b) the L/C Expiration Date, *provided* that any Letter of Credit may provide for the automatic renewal thereof for additional 365-day periods (which shall in no event extend beyond the L/C Expiration Date, *provided* that a Letter of Credit may, as a result of its express terms or as the result of the effect of an automatic extension provision, have an expiration date of not more than one year beyond the date which is 30 days prior to the Revolving Credit Termination Date so long as the Borrowers deliver to the Administrative Agent for the benefit of the Issuing Bank no later than 10 days prior to the Revolving Credit Termination Date, Cash Collateral in an amount not less than 103% of such Letter of Credit, unless otherwise agreed by the Issuing Bank and the Required Revolving Credit Lenders).

2.05.3. *Agreement of Lenders To Purchase Proportionate Share of Letters of Credit.* Upon receipt by the Issuing Bank from the beneficiary of a Letter of Credit issued by the Issuing Bank of any demand for payment under such Letter of Credit and the Issuing Bank's determination that such demand for payment complies with the requirements of such Letter of Credit, the Issuing Bank shall promptly notify the applicable Revolving Credit Borrower or the Borrower Representative and the Administrative Agent of the amount to be paid by the Issuing Bank as a result of such demand and the date on which payment is to be made by the Issuing Bank to such beneficiary in respect of such demand; provided, however, that the Issuing Bank's failure to give, or delay in giving, such notice shall not discharge the applicable Revolving Credit Borrower in any respect from the applicable Reimbursement Obligation. In order to induce the Issuing Bank to issue Letters of Credit for the accounts of the Borrowers in accordance with the terms of this Agreement, each Revolving Credit Lender unconditionally and irrevocably agrees to accept and purchase and hereby accepts and purchases from the Issuing Bank, on the terms and conditions hereinafter stated, for such Lender's own account and risk an undivided interest and participation equal to such Lender's Revolving Credit Commitment Percentage in the Issuing Bank's obligations and rights under each Letter of Credit issued hereunder and the amount of each L/C Disbursement of the Issuing Bank.

2.05.4. *Reimbursement Obligations of the Borrowers*. In the event of any drawing under any Letter of Credit, the Revolving Credit Borrowers agree to reimburse (either with the proceeds of a Revolving Credit Loan as provided for in this Section or with funds from other sources), in Same Day Funds, in the Currency of such Letter of Credit, the applicable Issuing Bank by paying to the Administrative Agent the amount of such drawing not later than 12:00 noon on (i) the Business Day that the Revolving Credit Borrowers receive notice of such drawing, if such notice is received by the Revolving Credit Borrowers prior to 10:00 a.m., or (ii) the Business Day immediately following the day that the Revolving Credit Borrowers receive such notice, if such notice is not received prior to such time, for the amount of (x) such draft so paid and (y) any amounts incurred by such Issuing Bank in connection with such payment. Unless the Revolving Credit Borrowers shall immediately notify the Administrative Agent and such Issuing Bank that the Revolving Credit Borrowers intend to reimburse such Issuing Bank for such drawing from other sources or funds, the Revolving Credit Borrowers shall be deemed to have timely given a Loan Notice to the Administrative Agent requesting that the Revolving Credit Lenders make a Revolving Credit Loan denominated in Dollars as a Base Rate Loan on the applicable repayment date in the amount ((x) if such drawing is denominated in an Alternative Currency, with such reimbursement obligation hereunder converted to a reimbursement obligation in an amount equal to the Dollar Equivalent of such amount in such Alternative Currency and (y) without regard to the minimum and multiples specified in Section 2.03) of (i) such draft so paid and (ii) any amounts incurred by such Issuing Bank in connection with such payment (including any and all costs, fees and other expenses incurred by the applicable Issuing Bank in effecting the payment of any Letter of Credit denominated in an Alternative Currency), and the Revolving Credit Lenders shall make a Revolving Credit Loan denominated in Dollars as a Base Rate Loan

in such amount, the proceeds of which shall be applied to reimburse such Issuing Bank for the amount of the related drawing and such fees and expenses. Each Revolving Credit Lender acknowledges and agrees that its obligation to fund a Revolving Credit Loan in accordance with this Section to reimburse such Issuing Bank for any draft paid under a Letter of Credit issued by it is absolute and unconditional and shall not be affected by any circumstance whatsoever, including non-satisfaction of the conditions set forth in Section 2.03 or Article 4. If the Revolving Credit Borrowers have elected to pay the amount of such drawing with funds from other sources and shall fail to reimburse such Issuing Bank in the applicable Currency as provided above, or if the amount of such drawing is not fully refunded through a Base Rate Loan as provided above, the unreimbursed amount of such drawing shall bear interest at the rate which would be payable on any outstanding Base Rate Loans which were then overdue from the date such amounts become payable (whether at stated maturity, by acceleration or otherwise) until paid in full. The Revolving Credit Borrowers shall, upon demand from any Issuing Bank, pay to such Issuing Bank, the amount of (i) any loss or cost or increased cost incurred by such Issuing Bank, (ii) any reduction in any amount payable to or in the effective return on the capital to such Issuing Bank and (iii) any currency exchange loss, in each case that such Issuing Bank sustains as a result of the Revolving Credit Borrowers' repayment in Dollars of any Letter of Credit denominated in an Alternative Currency. A certificate of such Issuing Bank setting forth in reasonable detail the basis for determining such additional amount or amounts necessary to compensate such Issuing Bank shall be conclusively presumed to be correct save for manifest error. Each Revolving Credit Lender's obligation to make such payments to the Administrative Agent under this subsection, and the Administrative Agent's right to receive the same for the account of the Issuing Bank, shall be absolute, irrevocable and unconditional and shall not be affected in any way by any circumstance whatsoever, including without limitation, (i) the failure of any other Revolving Credit Lender to make its payment under this subsection, (ii) the financial condition of the Revolving Credit Borrowers or any other Loan Party, (iii) the existence of any Default or Event of Default, including any Event of Default described in Section 7.07 or 7.08, (iv) the termination of the Revolving Credit Commitments, (v) the delivery of Cash Collateral, (vi) any adverse change in the relevant exchange rates or in the availability of the relevant Alternative Currency or in the relevant currency markets generally. Each such payment to the Administrative Agent for the account of the Issuing Bank shall be made without any offset, abatement, withholding or deduction whatsoever.

2.05.5. *Borrowers' Reimbursement Obligations Are Absolute*. The Revolving Credit Borrowers' joint and several reimbursement obligations hereunder shall be absolute and unconditional under all circumstances and irrespective of any set-off, counterclaim or defense to payment which the Revolving Credit Borrowers may have or have had against the Administrative Agent, the Issuing Bank, any of the Lenders, any beneficiary of a Letter of Credit or any other Person. The Revolving Credit Borrowers agree and acknowledge that none of the Administrative Agent, the Issuing Bank, or the Lenders shall be responsible for, nor shall the Revolving Credit Borrowers' duties and obligations hereunder under the Credit Documents be affected by, among other things (a) the form, validity, sufficiency, accuracy, genuineness or legal effect of any documents or of any endorsements thereon presented in connection with any draft upon a Letter of Credit, even though such documents shall in fact prove to be invalid, fraudulent or forged, (b) any dispute between or among any Revolving Credit Borrower and any beneficiary of any Letter of Credit or any other party to which such Letter of Credit may be transferred, or (c) any claims whatsoever of the Revolving Credit Borrowers against any beneficiary of such Letter of Credit or any such transferee. None of the Administrative Agent, the Issuing Bank, or any of the Lenders shall be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with the issuance, administration, or payment of any drafts presented against any Letter of Credit. The Revolving Credit Borrowers agree and acknowledge that any action taken or omitted by the Administrative Agent, the Issuing Bank, or the Revolving Credit Lenders under or in connection with any Letter of Credit or the related drafts or documents shall be binding on the Revolving Credit Borrowers and shall not result in any liability of any of the Administrative Agent, the Issuing Bank, or the Revolving Credit Lenders to the Borrowers, absent gross negligence or willful misconduct. In furtherance and not in limitation of the foregoing, the Issuing Bank 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 Issuing Bank 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.

2.05.6. *Applicability of ISP98.* Unless otherwise expressly agreed by the Issuing Bank and the Revolving Credit Borrowers, when a Letter of Credit is issued the rules of the ISP shall apply to each standby Letter of Credit.

2.05.7. *Interim Interest*. If the Issuing Bank shall make any L/C Disbursement, then, unless the Revolving Credit Borrowers shall reimburse such L/C Disbursement in full on the date such L/C Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such L/C Disbursement is made to but excluding the date that the Revolving Credit Borrowers reimburse such L/C Disbursement at the Adjusted Base Rate then applicable to Revolving Credit Loans; provided that the Default Rate shall apply during any continuing Event of Default. Interest accrued pursuant to this Section shall be for the account of the Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to Section 2.05.3 to purchase a participation from the Issuing Bank shall be for the account of such purchasing Lender to the extent of such payment.

2.05.8. *Cash Collateralization*. Upon the request of the Administrative Agent (a) if the Issuing Bank has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in Reimbursement Obligation (unless such Reimbursement Obligation has been reimbursed by the proceeds of a Revolving Credit Loan in accordance with Section 2.05.4), or (b) if, as of the L/C Expiration Date, any Letter of Credit for any reason remains outstanding and partially or wholly undrawn, or (c) a continuing Event of Default exists and the Loans have been accelerated and have become due and payable in accordance with Section 8.01 of this Agreement, the Borrowers shall immediately Cash Collateralize in Same Day Funds, in the applicable Currencies, all then outstanding L/C Obligations (in an amount determined as of the date of such Reimbursement Obligation or the L/C Expiration Date or the date of acceleration of the Loans, as the case may be), but an amount not less than 103% of the outstanding L/C Obligations, unless otherwise agreed by the Issuing Bank and the Required Revolving Credit Lenders.

2.05.9. *Letter of Credit Fees*. The Borrowers shall pay to the Administrative Agent, for the ratable accounts of the Lenders, letter of credit fees (the "Letter of Credit Fees") on the aggregate daily Stated Amount of each outstanding Letters of Credit at the rate equal to the Applicable Margin applicable to Revolving Credit Loans then in effect, provided, that upon the implementation of the Default Rate and for so long as the same shall continue, the Letter of Credit Fees shall be increased to the Default Rate. Letter of Credit Fees shall be payable (a) quarterly in arrears on the last Business Day of each Fiscal Quarter occurring during the term of this Agreement, and (b) on the last day of the Availability Period for the Revolving Credit Commitments. The Borrowers shall pay to the Administrative Agent, for the sole account of the Issuing Bank, those fees specified in the Fee Letter, plus such fronting fees and customary issuance, presentation, amendment and processing fees and all standard costs or charges of the Issuing Bank relating to letters of credit, as are from time to time in effect. Such fees and costs and charges shall be due and payable on demand and shall be nonrefundable.

2.05.10. *Letters of Credit Issued for Other Loan Parties or Subsidiaries.* Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of another Loan Party or a Subsidiary of a Borrower or of another Loan Party, each Revolving Credit Borrower shall be jointly and severally obligated with all other Borrowers to reimburse the Issuing Bank hereunder for any and all drawings under such Letter of Credit. Each Revolving Credit Borrower hereby acknowledges that the issuance of Letters of Credit for the accounts of other Loan Parties

and Subsidiaries of such Borrower and any other Loan Party inures to the benefit of such Borrower, and that its business derives substantial benefits from the businesses of such other Loan Parties and Subsidiaries.

Section 2.06. *Term Loans*.

(a) Subject to the terms and conditions set forth herein including the satisfaction of the conditions set forth in Section 4.04, during the Availability Period, on the Term Loan Funding Date, each Term Loan Lender severally agrees to make a term loan in Dollars in an aggregate amount not to exceed such Term Loan Lender's Term Loan Commitment. The Term Loan Borrower may make only one borrowing under the Term Loan Commitments which shall be on the Term Loan Funding Date. Any amounts borrowed under this Section 2.06 and subsequently repaid or prepaid may not be reborrowed. Term Loans may be either Adjusted Base Rate Borrowings, or SOFR Borrowings at the Adjusted SOFR Rate, or a combination thereof.

(b) Each Term Loan Lender's Term Loan Commitment shall terminate immediately and without further action on the Term Loan Funding Date after giving effect to the funding of such Lender's Term Loan Commitment on such date. All unused Term Loan Commitments shall terminate immediately on the last day of the Availability Period in respect of the Term Loan Facility.

(c) Each Term Loan Borrowing shall be made upon the written notice given by the Borrower Representative on behalf of the applicable Borrower to the Administrative Agent by delivery to the Administrative Agent of a written Loan Request, completed and signed by an Authorized Officer of the Borrower Representative. For any such (x) SOFR Borrowings, each such notice must be received by the Administrative Agent not later than 11:00 a.m. three (3) RFR Business Days prior to the requested date of Borrowing and (y) Adjusted Base Rate Borrowings, each such notice must be received by the Administrative Agent not later than 11:00 a.m. on the date of the requested date of Borrowing. Each Loan Request shall specify (i) the requested Borrowing Date (which shall be a RFR Business Day), (ii) the Borrower receiving such Term Loan Borrowing (iii) the principal amount of Loans to be borrowed, (iv) the Type of Loans to be borrowed by such Borrower, and (v) the duration of the Interest Period with respect thereto, if applicable.

(d) Following receipt of a written Loan Request pursuant to this Section, the Administrative Agent shall promptly notify each applicable Term Loan Lender of the amount of its Applicable Percentage of the Term Loans. Each Term Loan Lender shall make the amount of its Term Loans available to the Administrative Agent in immediately available funds at the Administrative Agent's office not later than 10:00 a.m. on the Term Loan Funding Date. Upon satisfaction of the applicable conditions precedent set forth in Article 4, the Administrative Agent shall make all funds so received available to the applicable Borrower in like funds as received by the Administrative Agent either by (i) crediting the Commercial Account (or any other account specified in writing to the Administrative Agent by the Borrower Representative) 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 Administrative Agent by the applicable Borrowers or the Borrower Representative; provided, however that the Administrative Agent shall have the right to make disbursements through a title insurance company.

2.06.1. *Term Loan Notes.* The joint and several obligations of the Term Loan Borrowers to repay the Term Loans to each of the Term Loan Lenders shall be evidenced by a Term Loan Note to be issued to each requesting Term Loan Lender.

2.06.2. The aggregate unpaid principal balances of the Term Loans shall be paid by the Term Loan Borrowers to the Administrative Agent for the ratable accounts of the Term Loan Lenders in consecutive quarterly installments [****]. The Term Loan Borrowers, jointly and severally, unconditionally promise to pay interest to the Administrative Agent for the accounts of the Term Loan

Lenders on the unpaid principal balances of the Term Loans from time to time outstanding from the Term Loan Funding Date until the date of the payment in full of the Term Loans at the rates per annum, and on the dates set forth in Section 2.07 of this Agreement. All remaining unpaid balances Term Loans, including all unpaid principal, accrued and unpaid interest, fees and Credit Party Expenses which are due and owing in connection therewith, shall be paid in full on the Term Loan Maturity Date.

2.06.3. *Mandatory Prepayments.*

(a) The Borrowers, jointly and severally, promise to pay, or cause to be paid, to the Administrative Agent for the accounts of the Lenders the following payments (collectively, "*Mandatory Prepayments*"):

(i) 100% of Net Available Proceeds of a Disposition of (x) Real Property (other than Mortgage Obligations Collateral) for which Net Available Proceeds exceed $15,000,000 and (y) all other assets (other than (i) Mortgage Obligations Collateral, (ii) Eligible Units, Eligible Accounts, and Eligible Parts and (iii) Dispositions permitted pursuant to Section 6.05(a), (c), (h), (i), (j), (k), (l), (m), (n), (p) and (q)) for which Net Available Proceeds exceed Ten Million Dollars ($10,000,000.00) per Fiscal Year arising on account of any Disposition or Series of Disposition by the Loan Parties, unless, with respect to a Disposition described in clause (y), in the absence of any continuing Default or Event of Default, the proceeds are utilized by the Loan Parties for acquisition of similar or replacement property and equipment within 270 days from the date of receipt, and pending such reinvestment shall be held on the balance sheet of the relevant Loan Party, shall not be invested in any business outside of the Permitted Business of the Loan Parties, and shall not be distributed, directly or indirectly, to any holders (other than the Borrowers) of Equity Interests in any Loan Party, or otherwise disbursed as a Restricted Payment;

(ii) 100% of insurance proceeds and condemnation recoveries (other than in respect of Floor Plan Units, and Eligible Parts and in respect of Mortgage Obligations Collateral) in excess of Five Million Dollars ($5,000,000.00) per Fiscal Year, unless, in the absence of any continuing Default or Event of Default, the proceeds are utilized by the Loan Parties for repair or acquisition of similar or replacement property and equipment within 270 days from the date of receipt, and pending such reinvestment shall be held on the balance sheet of the relevant Loan Party, shall not be invested in any business outside of the Permitted Business of the Loan Parties and shall not be distributed, directly or indirectly, to any holders (other than the Borrowers) of Equity Interests in any Loan Party, or otherwise disbursed as a Restricted Payment; and

(iii) 100% of Net Available Proceeds with respect to issuances of Indebtedness (excluding Indebtedness permitted to be issued pursuant to Section 6.03 hereof);

Mandatory Prepayments under this Section 2.06.3 shall be due and payable within five (5) Business Days of the receipt thereof by any Loan Party or any Subsidiary of any Loan Party. The provisions of this Section 2.06.3 shall not be deemed a waiver of or constitute the implied consent of the Credit Parties to any transactions which are either prohibited by the terms of the Credit Documents or which by the terms of any of the Credit Documents require the prior consent of any or all of the Credit Parties. Mandatory Prepayments shall be applied first, (x) to outstanding amounts under Term Loans, on a pro rata basis, to reduce the applicable remaining amortization payments in direct order of maturity until such outstandings have been reduced to zero and (y) to outstanding Revolving Credit Loans, Swingline Loans and Reimbursement Obligations, ratably among the Lenders, Swingline Lender and Issuing Bank until such outstandings have been reduced to zero without a concurrent reduction in Revolving Credit Commitments, on a pro rata basis; second, (x) to outstanding amounts under Mortgage Loans, on a pro rata basis, to reduce the applicable remaining amortization payments in direct order of maturity until such outstandings have been reduced to zero and (y) to outstanding Floor Plan Loans and WF Advances ratably among the Floor

Plan Lenders and WF Advance Lender without a concurrent reduction in Floor Plan Loan Commitment, on a pro rata basis , and third, to cash collateralize outstanding Letters of Credit in an amount equal to 103% of the outstanding L/C Obligations.

Notwithstanding anything in this Section 2.06.3 to the contrary, if the repatriation to a Loan Party of any amounts required to be mandatorily prepay the Loans pursuant to Section 2.06.3(a)(i) or Section 2.06.3(a)(ii) above would result in material adverse tax consequences (such amount, a "Restricted Amount"), as reasonably determined by the Borrower Representative in good faith (in consultation with the Administrative Agent), the amount of such mandatory prepayment shall be reduced by the Restricted Amount, it being agreed that, solely for a period of one (1) year following the date on which the applicable amounts of such prepayment are received, Holdings shall take any commercially reasonable actions required by applicable Law to permit such repatriation, and the failure to make any such prepayment (or any portion thereof) shall not result if an Default or Event of Default hereunder.

2.06.4. *Voluntary Prepayments.* The Borrowers may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay the Term Loans in whole or in part without premium or penalty; provided that (a) such notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three (3) Business Days prior to any date of prepayment of SOFR Borrowings, and (ii) on the date of prepayment of Adjusted Base Rate Borrowings; and (b) any voluntary prepayment of the Term Loan shall be in a principal amount of not less than Five Hundred Thousand Dollars ($500,000). Each such notice shall specify the date and amount of such prepayment and, if SOFR Borrowings at the Adjusted SOFR Rate are to be prepaid, the Interest Period(s) of such SOFR Borrowings. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Term Loan Commitment Percentage of such prepayment. If such notice is given by the Borrowers, the Borrowers 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 SOFR Borrowing at the Adjusted SOFR Rate shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 2.07.3. Each such prepayment shall be applied to the Term Loan in accordance with the Term Loan Commitment Percentages of the Lenders.

2.06.5. *Permitted Purposes Of Term Loan.* The proceeds of the Term Loans shall be used by the Borrowers solely in respect of the IGY Acquisition and costs and expenses related to the IGY Acquisition and the Term Loans.

Section 2.06A. *Mortgage Loans*.

(a) Subject to the terms and conditions set forth herein including the satisfaction of the conditions set forth in Section 4.01, 4.02 and 4.03, during the Availability Period, on each Mortgage Loan Funding Date, each Mortgage Loan Lender severally agrees to make a Mortgage Loan in Dollars (any such Mortgage Loans advanced after the Closing Date and on a Mortgage Loan Funding Date (other than Loans under an Incremental Facility, which shall be governed by the terms of the applicable Incremental Amendment), the "*Mortgage Loans*") to the applicable Mortgage Loan Borrowers, in an aggregate amount not to exceed such Mortgage Loan Lender's Mortgage Loan Commitment; provided that any Mortgage Loan Borrowing of Mortgage Loans requested by a Mortgage Loan Borrower after the Closing Date shall be in a principal amount of at least One Million Dollars ($1,000,000) (or such lesser amount (x) to the extent the remaining Mortgage Loan Commitments are less than such amount or (y) as may be agreed by the Administrative Agent in its sole discretion).

(b) *Expiration of Commitments*. On the date of each Mortgage Loan Borrowing hereunder, each Mortgage Loan Lender's Commitment in respect of such Class of Mortgage Loans shall be reduced by the amount of such Mortgage Loan Borrowing funded by such Mortgage Loan Lender in respect of such

Class. With respect to each Class, all unused Commitments of such Class shall terminate immediately on the last day of the Availability Period in respect of such Class.

(c) *No Reborrowing; Types of Loans*. Amounts borrowed under this Section and repaid or prepaid may not be reborrowed. Mortgage Loans may be either Adjusted Base Rate Borrowings, or SOFR Borrowings at the Adjusted SOFR Rate, or a combination thereof.

(d) *Borrowing Requests*. Each Mortgage Loan Borrowing shall be made upon the written notice given by the Borrower Representative on behalf of the applicable Borrower to the Administrative Agent by delivery to the Administrative Agent of a written Loan Request, completed and signed by an Authorized Officer of the Borrower Representative. For any such (x) SOFR Borrowings after the Closing Date, each such notice must be received by the Administrative Agent not later than 11:00 a.m. three (3) RFR Business Days prior to the requested date of Borrowing and (y) Adjusted Base Rate Borrowings after the Closing Date, each such notice must be received by the Administrative Agent not later than 11:00 a.m. on the date of the requested date of Borrowing. Each Loan Request shall specify (i) the requested Borrowing Date (which shall be a RFR Business Day), (ii) the Borrower receiving such Mortgage Loan Borrowing (iii) the principal amount of Loans to be borrowed, (iv) the Type of Loans to be borrowed by such Borrower, and (v) the duration of the Interest Period with respect thereto, if applicable.

(e) *Funding*. Following receipt of a written Loan Request pursuant to this Section, the Administrative Agent shall promptly notify each applicable Mortgage Loan Lender of the amount of its Applicable Percentage of the applicable Class of Mortgage Loans. In the case of a Mortgage Loan Borrowing of any Class, each Lender under such Class shall make the amount of its Mortgage Loans in respect of such Class available to the Administrative Agent in immediately available funds at the Administrative Agent's office not later than 10:00 a.m. on the Closing Date, the Mortgage Loan Funding Date, or the date provided for in the applicable Incremental Amendment, as applicable. Upon satisfaction of the applicable conditions precedent set forth in Article 4, the Administrative Agent shall make all funds so received available to the applicable Borrower in like funds as received by the Administrative Agent either by (i) crediting the Commercial Account 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 Administrative Agent by the applicable Borrowers or the Borrower Representative; provided, however that the Administrative Agent shall have the right to make disbursements through a title insurance company.

2.06A.1. *Mortgage Loan Notes*. The obligations of the Mortgage Loan Borrower to repay the Mortgage Loans to each of the Mortgage Loan Lenders shall be evidenced by a Mortgage Loan Note to be issued to each requesting Mortgage Loan Lender.

2.06A.2. *Payment*.

(a) The aggregate unpaid principal balances of the Mortgage Loans shall be paid to the Administrative Agent for the ratable accounts of the Mortgage Loan Lenders in consecutive quarterly payments equal to the sum of (i) commencing with the first full Fiscal Quarter ending after the Closing Date and each Mortgage Loan Funding Date with respect to Mortgage Loans, the original principal amount of any Mortgage Loans funded on such date *plus* (ii) commencing with the first full Fiscal Quarter ending after any Mortgage Loan is made with respect to a Mortgage Loan Increase, the original principal amount of Mortgage Loans funded on such date pursuant to such Mortgage Loan Increase, multiplied by 1.25%.

(b) Such quarterly principal payments shall be due and payable on each of the last Business Day of each Fiscal Quarter, beginning with September 30, 2022 and continuing until the Mortgage Loan Maturity Date. Accrued interest on all principal balances from time to time outstanding under the Mortgage Loans shall be payable in arrears at the rates per annum set forth in Section 2.06A of this Agreement and shall be due and payable on each applicable Interest Payment Date. All remaining unpaid

balances of each Class of Mortgage Loans, including all unpaid principal, accrued and unpaid interest, fees and Credit Party Expenses which are due and owing in connection therewith, shall be paid in full on the Maturity Date for such Class of Mortgage Loans. Payments due under this Section 2.06A.2. shall give effect to any applicable prepayments applied under Sections 2.06A.3. or 2.06A.4.

All remaining unpaid balances of the Mortgage Loans, including all unpaid principal, unpaid and accrued interest and fees, shall be paid in full on the Mortgage Loan Maturity Date. The Mortgage Loan Borrower unconditionally promises to pay interest to the Administrative Agent for the accounts of the Mortgage Loan Lenders on the unpaid principal balances of the Mortgage Loans from time to time outstanding from the date of Closing until the date of the payment in full of the Mortgage Loans at the rates per annum, and on the dates set forth in Section 2.07 of this Agreement.

2.06A.3. *Mandatory Prepayments of Mortgage Loans*.

(a) *Termination of the Floor Plan Credit Agreement*. Upon termination of the Floor Plan Loan Commitments or permanent reduction thereof to $0, all outstanding Mortgage Loan Commitments, Revolving Credit Commitments and Term Loan Commitments shall terminate and all Obligations under this Agreement or any other Credit Document shall become immediately due and payable in full.

(b) *Loan to Value: Dispositions; Casualty Events*.

(i) Mortgaged Property.

(A) If the Administrative Agent provides written notice to the Borrower Representative that the Outstanding Amount of all Mortgage Loans in respect of a Class exceeds 70% of the Aggregate Mortgaged Property Asset Value of such Class at such time, then the Borrowers shall prepay within five (5) Business Days after receiving such notice, Mortgage Loans of such Class in an amount necessary to ensure that (after giving effect to such prepayment) the Outstanding Amount of all Mortgage Loans of such Class does not exceed 70% of the Aggregate Mortgaged Property Asset Value of such Class at such time. All payments under this clause (A) shall be applied in direct order of maturity to all remaining amortization installments (including the final installment due on the Maturity Date), to the Mortgage Loans of such Class ratably among the Lenders of such Class in proportion to the respective amounts payable to them until paid in full.

(B) The applicable Borrowers shall pay, or cause to be paid, to the Administrative Agent for the accounts of the applicable Lenders (to be applied as set forth in clause (c) below) on or before the date that is five (5) Business Days following the receipt thereof by any Loan Party, (i) in the case of a Disposition (other than a lease or sublease) of the entirety of a Mortgaged Property, the amount of any Net Available Proceeds from such Disposition required to repay in full the Outstanding Amount of all Mortgage Loans allocated against such Mortgaged Property when such Mortgage Loans were originally advanced by the applicable Lenders or (ii) in the case of a Disposition (other than a lease or sublease) of a portion of a Mortgaged Property, the amount of any Net Available Proceeds from such Disposition required to repay the Mortgage Loans allocated against such Mortgaged Property when such Mortgage Loans were originally advanced by the applicable Lenders such that, after giving effect to such repayment under this clause (ii), the Outstanding Amount of the Mortgage Loans in respect of such Mortgaged Property does not exceed 70%- of the Mortgaged Property Asset Value of such Mortgaged Property (after giving effect to such Disposition). Borrowers shall obtain one

or more new Real Estate Appraisals in connection with any Disposition of a portion of a Mortgaged Property for purposes of calculating the Mortgaged Property Asset Value of such Mortgaged Property at such time.

(C) If there is material damage to, or loss or destruction of, all or any portion of a Mortgaged Property as a result of a Casualty Event in respect of such Mortgaged Property, the Borrowers shall pay, or cause to be paid, to the Administrative Agent to be held or applied by it in accordance with this clause (C), on or before the date that is five (5) Business Days following the receipt thereof by any Borrower, the Net Available Proceeds resulting from such Casualty Event; provided, however, if such Net Available Proceeds for restoration, repair or replacement of such Mortgaged Property (hereinafter called "*Work*") is, or is reasonably expected to be (I) less than $2,500,000, the Administrative Agent shall make such Net Available Proceeds available to the applicable Borrower for the costs of restoring such Mortgaged Property if (i) no Default or Event of Default exists and (ii) such Borrower causes the Work to be promptly commenced and diligently pursued or (II) equal to or greater than $2,500,000, if (i) the Borrower Representative certifies ("*Mortgagor's Certificate*") to the Administrative Agent that there are sufficient Net Available Proceeds in respect of such Casualty Event (and sufficient other sources of funds if the amount of such Net Available Proceeds is not sufficient to pay for the Work), to fully pay for such Work on any portion of the Mortgaged Property and the projected appraised value of the Mortgaged Property upon completion of the Work is equal to or greater than the appraised value of the Mortgaged Property immediately prior to the Casualty Event, (ii) no Default or Event of Default shall exist, and (iii) the applicable Borrower presents reasonably sufficient evidence to the Administrative Agent that the damaged property will be restored within one hundred eighty (180) days following such Casualty Event and in any event (180) days prior to the applicable Maturity Date of the Mortgage Loan secured by such Mortgaged Property, then the Administrative Agent shall make such Net Available Proceeds available to the applicable Borrower and such Borrower shall, within thirty (30) days following disbursement of any portion of such Net Available Proceeds from the Administrative Agent, apply to Governmental Authorities for permits necessary to perform or cause the Work to be performed (as such thirty (30) day period may be extended by the Administrative Agent in the Administrative Agent's sole discretion), and within thirty (30) days of obtaining all such permits, commence to restore, repair, replace and rebuild such Mortgaged Property (as such thirty (30) days period may be extended by the Administrative Agent in the Administrative Agent's sole discretion), and thereafter continue diligently to complete the Work to restore the Mortgaged Property as nearly as possible to its condition immediately prior to such Casualty Event; provided that if the Administrative Agent reasonably determines that the Net Available Proceeds and other amounts previously identified as available to the Borrower are insufficient to cause the Work to be performed in a manner that would satisfy the requirements in clause (II)(i) above (a "*Shortfall*"), then prior to any disbursement of such Net Available Proceeds, the applicable Borrower shall provide the Administrative Agent with satisfactory evidence that such Borrower has sufficient sources of funds, in addition to those previously identified, from which to pay such Shortfall. If the conditions set forth in Mortgagor's Certificate are not satisfied with respect to a Casualty Event within one hundred eighty (180) days following such Casualty Event, if the applicable Borrower shall otherwise fail to restore, repair, replace or rebuild such Mortgaged Property as provided above, then the Net Available Proceeds related thereto shall be promptly paid to the Administrative Agent as a prepayment and applied in accordance with clause (b).

The provisions of this 2.06A.3. shall not be deemed a waiver of or constitute the implied consent of the Credit Parties to any transactions which are either prohibited by the terms of the Credit Documents or which by the terms of any of the Credit Documents require the prior consent of any or all of the Credit Parties.

(c) *Application of Mandatory Prepayments of Mortgage Loans*. The mandatory prepayments set forth in this Section 2.06A.3 shall be applied by the Administrative Agent to the Mortgage Obligations as follows: in regard to a Mortgaged Property securing a Class of Mortgage Loans *first*, to the payment of that portion of the Mortgage Obligations constituting unpaid fees, indemnities, expenses, reimbursements, and other amounts (including Credit Party Expenses) payable to the Administrative Agent, which such Mortgage Obligations are incurred under or with respect to such Class of Mortgage Loans; second, to the payment of that portion of the Mortgage Obligations constituting unpaid fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including Credit Party Expenses), ratably among the Lenders in proportion to the respective amounts described in this clause second payable to them, which Mortgage Obligations are incurred under or with respect to such Class of Mortgage Loans; third, to the payment of that portion of the Mortgage Obligations constituting accrued and unpaid interest on the applicable Class Mortgage Loans, ratably among the Mortgage Lenders of such Class in proportion to the respective amounts described in this clause third payable to them; fourth, in direct order of maturity to all remaining amortization installments (including the final installment due on the Maturity Date), to the applicable Class of Mortgage Loans ratably among the Mortgage Lenders of such Class in proportion to the respective amounts described in this clause fourth payable to them until paid in full; and fifth, to the extent of any excess, to the applicable Class of Mortgage Loan Borrowers.

2.06A.4. *Voluntary Prepayments of Mortgage Loans*. Each Mortgage Loan Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay any Class of Mortgage Loans in whole or in part without premium or penalty except for the charges set forth in Section 2.07; provided that (a) such notice must be received by the Administrative Agent not later than 11:00 a.m. (i) three (3) Business Days prior to any date of any prepayment; and (b) any voluntary prepayment of a Class of Mortgage Loans shall be in a principal amount of not less than Five Hundred Thousand Dollars ($500,000). The Administrative Agent will promptly notify each Mortgage Loan Lender in the applicable Class of its receipt of each such notice, and of the amount of such Mortgage Loan Commitment Percentage of such prepayment. If such notice is given by a Mortgage Loan Borrower, the Mortgage Loan 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 SOFR Borrowing at the Adjusted SOFR Rate shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 2.07.3. Each such prepayment shall be applied to the respective Class of Mortgage Loans in accordance with the Mortgage Loan Commitment Percentages of the Lenders of such Class.

Section 2.06A.5. *Permitted Purposes Of Mortgage Loan*. The proceeds of the Mortgage Loans shall, on the Closing Date and an applicable Mortgage Loan Funding Date, be available to (i) fund costs directly attributable to the acquisition of Property or finance Property after it has been acquired by a Borrower (and to refinance other Indebtedness secured by such Property (including payment of closing costs and fees in connection herewith and therewith)) and (ii) to pay fees and expenses incurred in connection with the foregoing.

Section 2.06A.6. *Reduction or Termination of Commitments*. The Mortgage Loan Borrowers may, at any time and from time to time, upon written notice to the Administrative Agent by such Borrower or the Borrower Representative, voluntarily terminate and reduce unfunded Commitments in respect of any Class in whole or in part without fees, prepayment premiums or penalties; provided that any such termination and reduction (x) shall be in minimum amounts of One Million Dollars ($1,000,000) (or such lesser amount to the extent the remaining Commitments of such Class are less than such amount or as otherwise may be agreed by the Administrative Agent in its sole discretion) and (y) shall be allocated ratably

among the Mortgage Loan Lenders of the applicable Class in proportion to their Applicable Percentage of such Class of Commitments. The Commitments of any Class, once reduced or terminated pursuant to this Section, may not be increased or reinstated other than pursuant to a Mortgage Loan Increase in respect of such Class. The Mortgage Loan Borrowers shall pay all fees under Section 2.07.3 with respect to the amount of the Commitments of such Class being reduced or terminated, accrued to the date of such reduction or termination of such Commitments to the Administrative Agent for the account of the applicable Class of Lenders holding such Commitments.

Section 2.07. *Interest Terms Applicable To The Loans.* Interest shall accrue upon the unpaid principal balances of the Loans until the Loans have been repaid in full at the rate or rates described below in this Section 2.07. With respect to all Loans other than Floor Plan Loans, the Borrowers promise to pay to the Administrative Agent for the ratable benefit of the Lenders in each Class all accrued interest owing in respect of such Class of Loans in arrears on the applicable Interest Payment Dates. The Borrowers promise to pay interest with respect to the Floor Plan Loans to the Floor Plan Agents in accordance with the billing statements provided by Floor Plan Agent in accordance with Section 2.01.16.

2.07.1. *Adjusted Base Rate.* Swingline Loans advanced and outstanding shall bear interest at the Adjusted Base Rate. Absent a timely election by the Borrower Representative of a SOFR Borrowing or Eurocurrency Rate Loan or automatic extension of a SOFR Rate Loan in accordance with Section 2.07.2 of this Agreement, Revolving Credit Loans, Mortgage Loans and Term Loans, including any balances of any SOFR Borrowings or Eurocurrency Rate Loans for which the applicable Interest Period has expired without an effective continuation, shall be deemed automatically to bear interest at the Adjusted Base Rate. Changes in the Adjusted Base Rate shall be made when and as changes in the Base Rate occur. Each election by the Borrower Representative of an Adjusted Base Rate Borrowing shall be in the Minimum Borrowing Amount, or any multiple thereof. Payments on account of Adjusted Base Rate Borrowings shall be due and payable in arrears monthly on the Interest Payment Date in each consecutive month.

2.07.2. *SOFR Borrowing Option*. Subject to the terms of this Section, interest shall accrue at the election of the Borrower Representative (a) with respect to Term Loans, at the Adjusted SOFR Rate for Interest Periods and on portions of the unpaid principal balances of the Term Loans, as selected by the Borrower Representative, (b) (i) with respect to Revolving Credit Loans denominated in Dollars, at the Adjusted SOFR Rate for Interest Periods and on portions of the unpaid principal balances of the Revolving Credit Loans, as selected by the Borrower Representative and (ii) with respect to Revolving Credit Loans denominated in Euros or other Currencies (other than Dollars), at the applicable Eurocurrency Rate for the applicable Interest Period plus the Applicable Margin on portions of the unpaid principal balances of such Revolving Credit Loans, each as selected by the Borrower Representative, (c) with respect to Floor Plan Loans, at the Adjusted SOFR Rate on the principal balances outstanding of the Floor Plan Loans and (d) with respect to Mortgage Loans, at the SOFR Rate for Interest Periods and on portions of the unpaid principal balances of the Mortgage Loans, as selected by the Borrower Representative. With respect to the Revolving Credit Loans, the Borrower shall have the option to elect a series of consecutive Interest Periods applicable to portions of the unpaid principal balances of Revolving Credit Loans to be designated at the time of an initial election for SOFR Borrowings; provided that SOFR shall be redetermined on the terms set forth in this Agreement for each Interest Period and interest payments shall be made at the end of each Interest Period. For the avoidance of doubt, the SOFR Borrowing option shall not be available for Swingline Loans.

(a) *Interest Payment and Computation*. Interest shall accrue from and including the first day of each Interest Period selected by the Borrower Representative to (but not including) the last day of such Interest Period as provide in 2.07.2 at the Adjusted SOFR Rate or the Adjusted Eurocurrency Rate for the applicable Interest Period on the amount of the unpaid principal balances of the Term Loans, Mortgage Loans or Revolving Credit Loans, as the case may be. SOFR Borrowings shall be due and payable in arrears on each applicable Interest Payment Date.

(b) *Interest Payment and Computation (Floor Plan Loans)*. Subject to the last sentence of this clause (b) and to the operation and effect of Sections 2.07.4 and 2.07.5 hereof, the principal balance of any advanced and outstanding Floor Plan Loans shall bear interest at the Adjusted SOFR Rate. With respect to the Floor Plan Loans, there shall only be one (1) applicable interest rate in effect for all of the Floor Plan Loans at any time and each interest rate election shall apply to the entire aggregate unpaid principal balances of the Floor Plan Loans. Payments on account of interest applicable to Floor Plan Loans shall be applied by the Floor Plan Agent to outstanding balances of such Loans accruing or having accrued interest at the Adjusted SOFR Rate in such order or proportion as the Floor Plan Agent, in its sole discretion, shall determine.

(c) *Continuation and Conversion.* Provided that no Default or Event of Default has occurred and is then continuing, the Borrower Representative shall have the option to (a) convert at any time, subject to the notice requirements herein, all or any portion of any outstanding Base Rate Loans (other than Swingline Loans) in a principal amount equal to $2,000,000 or any whole multiple of $1,000,000 in excess thereof (or such lesser amount as shall represent all of the Base Rate Loans then outstanding) into one or more SOFR Rate Loans, (b) upon the expiration of any Interest Period therefor, (i) convert all or any part of any outstanding SOFR Rate Loans in a principal amount equal to $1,000,000 or a whole multiple of $500,000 in excess thereof (or such lesser amount as shall represent all of the SOFR Rate Loans then outstanding) into Base Rate Loans (other than Swingline Loans) or (ii) continue any SOFR Rate Loans as SOFR Rate Loans, provided that, unless notice is otherwise given by the Borrower Representative to convert or continue any SOFR Rate Loans, upon the expiration of any Interest Period in respect of such SOFR Rate Loans, such SOFR Rate Loans shall automatically continue as SOFR Rate Loans having the same Interest Period as such expiring Interest Period, (c) upon the expiration of any Interest Period therefor, continue any Eurocurrency Rate Loans as Eurocurrency Rate Loans. Whenever the Borrower Representative desires to convert or continue Loans as provided above (other than an automatic continuation of a SOFR Rate Loan as provided in clause (b)(ii) above), the Borrower Representative shall give the Administrative Agent irrevocable prior written notice in the form attached as Exhibit I (a "Notice of Conversion/Continuation") not later than 11:00 a.m. (i) in the case of a Loan denominated in Dollars, at least three (3) RFR Business Days before the day on which a proposed conversion or continuation of such Loan is to be effective, (ii) in the case of a Loan denominated in any Alternative Currency that is to be a Eurocurrency Rate Loan, at least four (4) Eurocurrency Banking Days before the day on which a proposed conversion or continuation of such Loan is to be effective, in each case, specifying (A) the Loans to be converted or continued, and, in the case of any Eurocurrency Rate Loan or SOFR Rate Loan to be converted or continued, the last day of the Interest Period therefor, (B) the effective date of such conversion or continuation (which shall be a Business Day), (C) the principal amount and Currency of such Loans to be converted or continued, and (D) in the case of any Eurocurrency Rate Loan or SOFR Rate Loans, the Interest Period to be applicable to such converted or continued Eurocurrency Rate Loan or SOFR Rate Loan. If the Borrower Representative fails to deliver a timely Notice of Conversion/Continuation with respect to a Eurocurrency Rate Loan prior to the end of the Interest Period therefor, then, unless such Eurocurrency Rate Loan is repaid as provided herein, the Borrower Representative shall be deemed to have selected that such Eurocurrency Rate Loan shall automatically be converted to a Base Rate Loan denominated in Dollars (in an amount equal to the Dollar Equivalent of the applicable Alternative Currency) at the end of such Interest Period. If the Borrower Representative requests a conversion to, or continuation of, a Eurocurrency Rate Loan or a SOFR Rate Loan, 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, a Swingline Loan may not be converted to a Eurocurrency Rate Loan. The Administrative Agent shall promptly notify the affected Lenders of such Notice of Conversion/Continuation.

(d) *Manner of Payment.* Except as otherwise expressly provided herein and except with respect to principal of and interest on Loans denominated in an Alternative Currency or any amounts payable in an Alternative Currency, each payment by a Borrower on account of the principal

of or interest on the Loans or of any fee, commission or other amounts (including the Reimbursement Obligation) payable to the Lenders under this Agreement shall be made not later than 1:00 p.m. on the date specified for payment under this Agreement to the Administrative Agent at the Administrative Agent's Office for the account of the Lenders entitled to such payment in Dollars, in Same Day Funds and shall be made without any setoff, counterclaim or deduction whatsoever. Except as otherwise expressly provided herein, with respect to principal of and interest on Loans denominated in an Alternative Currency or any amounts payable in an Alternative Currency, each payment by a Borrower on account of the principal of or interest on the Loans or of any fee, commission or other amounts (including the Reimbursement Obligation) payable to the Lenders under this Agreement shall be made not later than the Applicable Time specified by the Administrative Agent on the date specified for payment under this Agreement to the Administrative Agent at the applicable Administrative Agent's office for the account of the Lenders entitled to such payment in such Alternative Currency, in Same Day Funds and shall be made without any setoff, counterclaim or deduction whatsoever. Any payment received after 1:00 p.m. (or, with respect to a payment to be made in an Alternative Currency, the Applicable Time specified by the Administrative Agent) shall be deemed to have been made on the next succeeding Business Day for all purposes. Upon receipt by the Administrative Agent of each such payment, the Administrative Agent shall distribute to each such Lender at its address for notices set forth herein its Pro Rata Share in respect of the relevant facility (or other applicable share as provided herein) of such payment and shall wire advice of the amount of such credit to each Lender. Each payment to the Administrative Agent on account of the principal of or interest on the Swingline Loans or of any fee, commission or other amounts payable to the Swingline Lender shall be made in like manner, but for the account of the Swingline Lender. Each payment to the Administrative Agent of any Issuing Bank's fees shall be made in like manner, but for the account of such Issuing Bank. Each payment to the Administrative Agent of Administrative Agent's fees or expenses shall be made for the account of the Administrative Agent and any amount payable to any Lender under Sections 2.07.3, 2.10 or 2.11 or 10.08 shall be paid to the Administrative Agent for the account of the applicable Lender. Subject to the definitions of Interest Period and Interest Payment Date, if any payment under this Agreement shall be specified to be made upon a day which is not a Business Day, it shall be made on the next succeeding day which is a Business Day and such extension of time shall in such case be included in computing any interest if payable along with such payment. Notwithstanding the foregoing, if there exists a Defaulting Lender each payment by the Borrower to such Defaulting Lender hereunder shall be applied in accordance with Section 2.14.1(b). Without limiting the generality of the foregoing, the Administrative Agent may require that any payments due under this Agreement be made in the United States. If, for any reason, a Borrower is prohibited by any Applicable Law from making any required payment hereunder in an Alternative Currency, such Borrower shall make such payment in Dollars in the Dollar Equivalent of the Alternative Currency payment amount.

2.07.3. *Breakage Costs*. The Borrowers jointly and severally promise to compensate the Lenders from time to time, upon demand from any Lender through the Administrative Agent, for all losses, expenses, lost earnings, costs and liabilities (including all interest paid to lenders of funds borrowed by the Lenders to carry SOFR Borrowings) which any of the Lenders sustains if: (1) any repayment or prepayment of any SOFR Borrowings or any Eurocurrency Rate Loan (including any payment resulting from the acceleration of the Loans in accordance with the terms of this Agreement or from an assignment required by Section 2.11 of this Agreement) or any conversion of SOFR Borrowings or an Eurocurrency Rate Loan for any reason occurs on a date which is not a Business Day and, with respect to any SOFR Borrowing or any Eurocurrency Rate Loan on account of a Revolving Credit Loan, Term Loan, or Mortgage Loan is not the last day of an Interest Period; or (2) any failure by the Borrowers to borrow a SOFR Borrowing or an Eurocurrency Rate Loan or convert an Adjusted Base Rate Borrowing to a SOFR Borrowing or an Eurocurrency Rate Loan on the date for such borrowing or conversion specified in the relevant Notice of Continuation/Conversion given by the Borrower Representative to the Administrative Agent in accordance with the terms of this Agreement. In the case of a Eurocurrency Rate Loan, the amount of such loss or expense shall be determined, in the applicable Lender's sole discretion, based upon the assumption that such Lender funded its Pro Rata Share of the Eurocurrency Rate Loans in the London or

other applicable offshore interbank market for such Currency, whether or not such Eurocurrency Rate Loan was in fact so funded, and using any reasonable attribution or averaging methods which such Lender deems appropriate and practical.

2.07.4. *Illegality*. If, after the date hereof, the introduction of, or any change in, any Applicable Law or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any of the Lenders (or any of their respective Lending Offices) with any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, shall make it unlawful or impossible for any of the Lenders (or any of their respective Lending Offices) to honor its obligations hereunder to make or maintain any SOFR Rate Loan or Eurocurrency Rate Loan, or to determine or charge interest based upon the Term SOFR Reference Rate, Term SOFR, the Eurocurrency Rate or the Adjusted Eurocurrency Rate, such Lender shall promptly give notice thereof to the Administrative Agent and the Administrative Agent shall promptly give notice to the Borrower Representative and the other Lenders (an "Illegality Notice"). Thereafter, until each affected Lender notifies the Administrative Agent and the Administrative Agent notifies the Borrower Representative that the circumstances giving rise to such determination no longer exist, (i) any obligation of the Lenders to make Eurocurrency Rate Loans in the affected Currency or Currencies, and any right of the Borrower Representative to convert any Loan denominated in Dollars to a SOFR Rate Loan or continue any Loan as an Eurocurrency Rate Loan, as applicable, in the affected Currency or Currencies shall be suspended and (ii) if necessary to avoid such illegality, the Administrative Agent shall compute the Base Rate without reference to clause (c) of the definition of "Base Rate". Upon receipt of an Illegality Notice, the Borrower Representative shall, if necessary to avoid such illegality, upon demand from any Lender (with a copy to the Administrative Agent), prepay or, if applicable, (A) convert all SOFR Rate Loans to Base Rate Loans or (B) convert all Eurocurrency Rate Loans denominated in an affected Alternative Currency to Base Rate Loans denominated in Dollars (in an amount equal to the Dollar Equivalent of such Alternative Currency) (in each case, if necessary to avoid such illegality, the Administrative Agent shall compute the Base Rate without reference to clause (c) of the definition of "Base Rate"), with respect to Eurocurrency Rate Loans or SOFR Rate Loans, on the last day of the Interest Period therefor, if all affected Lenders may lawfully continue to maintain such Eurocurrency Rate Loans or SOFR Rate Loans, as applicable, to such day, or immediately, if any Lender may not lawfully continue to maintain such Eurocurrency Rate Loans or SOFR Rate Loans, as applicable, to such day. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 2.07.3.

2.07.5. *Termination Of Right To Elect SOFR Borrowings.* Notwithstanding anything to the contrary set forth in this Agreement, and without limiting any other rights and remedies of the Lenders, the Required Lenders during any continuing Default or Event of Default may suspend the right of the Borrowers to elect any new Eurocurrency Rate Loans or SOFR Borrowing or to convert any Adjusted Base Rate Borrowing into a Eurocurrency Rate Loans or SOFR Borrowing, to permit any Eurocurrency Rate Loans or SOFR Borrowing to be renewed as a Eurocurrency Rate Loans or SOFR Borrowing, or to permit (x) any SOFR Borrowing at the Adjusted SOFR Rate to continue as a SOFR Borrowing or (y) any Eurocurrency Rate Loans to be continued, in which case, all Eurocurrency Rate Loans and SOFR Borrowings, other than a Floor Plan Borrowing shall be converted on the last days of the respective Interest Periods therefor to Adjusted Base Rate Borrowings, and all SOFR Borrowings that are Floor Plan Borrowings shall be converted to Adjusted Base Rate Borrowings on the date selected by the Required Lenders.

2.07.6. *Calculation Of Interest.* Interest shall be calculated upon Adjusted Base Rate Borrowings on the basis of a 365 or 366 days per year factor applied to the actual days on which there exists an unpaid balance of the Adjusted Base Rate Borrowings. Interest shall be calculated upon Eurocurrency Rate Loans or SOFR Borrowings on the basis of a 360 day per year factor applied to the

actual days on which there exists an unpaid balance of such Eurocurrency Rate Loans or SOFR Borrowings, except that interest on Loans denominated in any Alternative Currency as to which market practice differs from the foregoing shall be computed in accordance with market practice for such Loans.

2.07.7. *Default Interest*.

(a) During the existence of an Event of Default under Sections 7.01, 7.07 or 7.08, automatically and without the requirement of any notice, and at the request of the Administrative Agent or the Required Lenders during the existence of any other Event of Default, the principal amount of all Loans outstanding, Reimbursement Obligations and all fees and other Obligations owed hereunder, including, to the extent permitted by applicable law, any interest payments on the Loans, shall thereafter bear interest (including post-petition interest in any proceeding under the Debtor Relief Laws or other applicable bankruptcy laws) payable on demand at the applicable Default Rate; provided, in the case of Eurocurrency Rate Loans and Loans accruing interest at the Adjusted SOFR Rate (other than Floor Plan Loans), upon the expiration of the Interest Period in effect at the time such Loans shall thereupon accrue interest at the Base Rate and shall thereafter bear interest payable upon demand at the Default Rate. Payment or acceptance of the increased rates of interest provided for in this Section 2.07.7 is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Administrative Agent or any Lender. Imposition of the Default Rate may, at the election of the Required Lenders, be applied retroactively to the date of the occurrence of the Event of Default.

(b) Without limiting any other rights and remedies available to the Credit Parties by this Agreement or applicable Laws, accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

2.07.8. *Maximum Rate Of Interest.* Any provision contained in the Credit Documents to the contrary notwithstanding, the Lenders shall not be entitled to receive or collect, nor shall the Borrowers be obligated to pay, interest, fees, or charges thereunder in excess of the maximum rate of interest permitted by any applicable Law, and if any provision of this Agreement, the Notes or any of the other Credit Documents is construed or held by any court of law or Governmental Authority having jurisdiction to permit or require the charging, collection or payment of any amount of interest in excess of that permitted by such Laws, the provisions of this Section shall control and shall override any contrary or inconsistent provision. The intention of the parties is to at all times conform strictly with all applicable usury requirements and other Laws limiting the maximum rates of interest which may be lawfully charged upon the Loans. The interest to be paid pursuant to the Notes shall be held subject to reduction to the amount allowed under said usury or other Laws as now or hereafter construed by the courts having jurisdiction, and any sums of money paid in excess of the interest rate allowed by applicable Law shall be applied in reduction of the principal amount owing pursuant to the Notes.

2.07.9. *Effect of Benchmark Transition Event.*

(a) *Benchmark Replacement.* Notwithstanding anything to the contrary herein or in any other Credit Document, if a Benchmark Transition Event with respect to any Benchmark and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of such then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Credit Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment or further action or consent of any other party hereto or to any other Credit Document, and (y) if a Benchmark Replacement is determined in accordance with clause (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, the Administrative Agent may unilaterally amend the terms of this Agreement to replace the then-current Benchmark with a Benchmark Replacement in accordance with the terms of this Agreement, with any such amendment to become effective as soon as practicable for the Administrative Agent and upon notice to the Borrower, without any further action or

consent of the Borrower. No replacement of the Term SOFR Reference Rate (or the then-current Benchmark) with a Benchmark Replacement pursuant to clause (y) above will occur prior to 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 180th 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 180 days after such statement or publication, the date of such statement or publication). Borrower shall pay reasonable out-of-pocket costs (including reasonable attorneys' fees) incurred by the Administrative Agent in connection with any amendment and related actions, negotiation, documentation or enforcement of the terms hereof or any related matters contemplated in this Section 2.07.10.

(b) *Benchmark Replacement Conforming Changes.* In connection with the implementation or administration of a Benchmark Replacement, the Administrative 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 Credit Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement. Administrative Agent shall not be liable to any party hereto for any Benchmark Replacement Conforming Changes it makes in good faith.

(c) *Notices; Standards for Decisions and Determinations.* The Administrative Agent will promptly notify the Borrower and the Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Benchmark Replacement Conforming Changes. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section, 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 or any selection, will be conclusive and binding on all parties hereto absent manifest error, and may be made in its or their sole discretion and without consent from any other party to this Agreement or other Credit Document (except, in each case, as expressly required pursuant to this Section) and shall not be a basis of any claim of liability of any kind or nature by any party hereto, all such claims being hereby waived individually by each party hereto.

(d) *Unavailability of Tenor or Benchmark.* Notwithstanding anything to the contrary herein or in any other Credit Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if any then-current Benchmark is a term rate and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or nonrepresentative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(e) *Benchmark Unavailability Period*. Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a given Benchmark and until a Benchmark Replacement is determined in accordance with this Section 2.07.10, the Borrower may revoke any pending request for, or conversion to, or continuation of, a SOFR Rate Loan or Eurocurrency Rate Loan, in each case, to be made, converted or continued during any Benchmark Unavailability Period

denominated in the applicable Currency and, failing that, (I) in the case of any request for any affected SOFR Rate Loan, if applicable, (i) the Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to Base Rate Loans in the amount specified therein and (ii) in the case of any request for any affected Eurocurrency Rate Loan, in an Alternative Currency, if applicable, then such request shall be ineffective and (ii) (I) any outstanding affected SOFR Rate Loan will be deemed to have been converted into Base Rate Loans immediately and (II) any outstanding affected Eurocurrency Rate Loans denominated in an Alternative Currency, at the Borrower Representative's election, shall either (1) be converted into Base Rate Loans denominated in Dollars (in an amount equal to the Dollar Equivalent of such Alternative Currency) immediately or, in the case of Eurocurrency Rate Loans, at the end of the applicable Interest Period or (2) be prepaid in full immediately or, in the case of Eurocurrency Rate Loans, at the end of the applicable Interest Period;; provided, that, with respect to any Eurocurrency Rate Loan, if no election is made by the Borrower Representative by the earlier of (x) the date that is three (3) Business Days after receipt by the Borrower Representative of such notice and (y) the last day of the current Interest Period for the applicable Eurocurrency Rate Loan, the Borrower Representative shall be deemed to have elected clause (1) above. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest (on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 2.07.3. During a Benchmark Unavailability Period with respect to any Benchmark, or at any time that a tenor for any then-current Benchmark is not an Available Tenor, the component of the Base Rate based upon the then-current Benchmark that is the subject of such Benchmark Unavailability Period or such tenor for such Benchmark, as applicable will not be used in any determination of the Base Rate.

2.07.10. *Term SOFR Conforming Changes*. In connection with the use or administration of Term SOFR, the Administrative Agent will have the right to make Term SOFR Conforming Changes from time to time and, notwithstanding anything to the contrary herein, any amendments implementing such Term SOFR Conforming Changes will become effective without any further action or consent of the Borrower or any other party hereto. The Administrative Agent will promptly notify the Borrower of the effectiveness of any Term SOFR Conforming Changes.

2.07.11. *Changed Circumstances.* Subject Section 2.07.9, in connection with any SOFR Rate Loan or Eurocurrency Rate Loan, a request therefor, a conversion to or a continuation thereof or otherwise, if for any reason (i) the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that if Term SOFR or a Eurocurrency Rate is utilized in any calculations hereunder or under any other Loan Document with respect to any Obligations, interest, fees, commissions or other amounts, reasonable and adequate means do not exist for ascertaining Term SOFR or such Eurocurrency Rate, as applicable, for the applicable Currency and the applicable Interest Period with respect to a proposed SOFR Rate Loan or Eurocurrency Rate Loan, as applicable, on or prior to the first day of such Interest Period, (ii) the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that a fundamental change has occurred in the foreign exchange or interbank markets with respect to an applicable Alternative Currency (including changes in national or international financial, political or economic conditions or currency exchange rates or exchange controls), (iii) with respect to any Eurocurrency Rate Loan, the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that deposits are not being offered in the applicable Currency to banks in the London or other applicable offshore interbank market for the applicable Currency, amount or Interest Period of such Eurocurrency Rate Loan, or (iv) the Required Lenders shall determine (which determination shall be conclusive and binding absent manifest error) that if Term SOFR or a Eurocurrency Rate is utilized in any calculations hereunder or under any other Loan Document with respect to any Obligations, interest, fees, commissions or other amounts, Term SOFR or such Eurocurrency Rate, as applicable, does not adequately and fairly reflect the cost to such Lenders of making or maintaining such Loans during the applicable Interest Period and, in such case, the Required Lenders have provided notice of such determination to the Administrative Agent, then, in each case, the Administrative Agent shall promptly give notice thereof to the Borrower Representative. Upon notice thereof by the Administrative Agent to the Borrower Representative, any obligation of the Lenders to make

SOFR Rate Loans or Eurocurrency Rate Loans, as applicable, in each such Currency, and any right of the Borrower Representative to convert any Loan in each such Currency (if applicable) to or continue any Loan as an SOFR Rate Loan or a Eurocurrency Rate Loan, as applicable, in each such Currency, shall be suspended (to the extent of the affected SOFR Rate Loans or Eurocurrency Rate Loans or, in the case of SOFR Rate Loans or Eurocurrency Rate Loans, the affected Interest Periods) until the Administrative Agent (with respect to clause (iv), at the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (A) the Borrower Representative may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Rate Loans or Eurocurrency Rate Loans in such affected Currency (to the extent of the affected SOFR Rate Loans or Eurocurrency Rate Loans or, in the case of SOFR Rate Loans or Eurocurrency Rate Loans, the affected Interest Periods) or, failing that, (I) in the case of any request for a borrowing of an affected SOFR Rate Loan, the Borrower Representative will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans in the amount specified therein and (II) in the case of any request for a borrowing of an affected Eurocurrency Rate Loan in an Alternative Currency, then such request shall be ineffective and (B)(I) any outstanding affected SOFR Rate Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period and (II) any outstanding affected Loans denominated in an Alternative Currency, at the Borrower Representative's election, shall either (1) be converted into Base Rate Loans denominated in Dollars (in an amount equal to the Dollar Equivalent of such Alternative Currency) immediately or, in the case of Eurocurrency Rate Loans, at the end of the applicable Interest Period or (2) be prepaid in full immediately or, in the case of Eurocurrency Rate Loans, at the end of the applicable Interest Period; provided that if no election is made by the Borrower Representative by the date that is the earlier of (x) three (3) Business Days after receipt by the Borrower Representative of such notice or (y) with respect to a Eurocurrency Rate Loan the last day of the current Interest Period, the Borrower Representative shall be deemed to have elected clause (1) above. Upon any such prepayment or conversion, the Borrower Representative shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 2.07.3.

2.07.12. *Alternative Currencies*. If, after the designation by the Lenders of any currency as an Alternative Currency, any change in currency controls or exchange regulations or any change in national or international financial, political or economic conditions are imposed in the country in which such currency is issued, and such change results in, in the reasonable opinion of the Administrative Agent (i) such currency no longer being readily available, freely transferable and convertible into Dollars, (ii) a Dollar Equivalent no longer being readily calculable with respect to such currency, (iii) such currency being impracticable for the Lenders to loan or (iv) such currency no longer being a currency in which the Required Lenders are willing to make extensions of credit (each of clauses (i), (ii), (iii) and (iv), a "Disqualifying Event"), then the Administrative Agent shall promptly notify the Lenders and the Borrower Representative, and such currency shall no longer be an Alternative Currency until such time as the Disqualifying Event(s) no longer exist. Within five (5) Business Days after receipt of such notice from the Administrative Agent, the Borrower Representative shall repay all Loans denominated in such currency to which the Disqualifying Event(s) apply or convert such Loans into the Dollar Equivalent in Dollars, bearing interest at the Base Rate, subject to the other terms contained herein.

Section 2.08. *Pro Rata Treatment And Payments.*

2.08.1. *Distribution Of Payments To Lenders.* Except as otherwise expressly provided to the contrary by the terms of this Agreement, all payments (including prepayments) to be made by the Borrowers in respect of a Class hereunder, whether on account of principal, interest, fees or otherwise shall be made without set-off or counterclaim and shall be made prior to 12:00 Noon on the due date thereof to the Applicable Agent for the accounts of the Lenders in such Class at the Applicable Agent's Office in Dollars and in immediately available funds. The Applicable Agent shall promptly distribute to each Lender in such Class by wire transfer such Lender's *pro rata* share of each of such payments in like funds as received for such Class. The Applicable Agent may assume that the Borrowers have made such payments

on the applicable date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or to the Issuing Bank, as the case may be, the amount due. In such event, if the Borrowers have not in fact made such payments, then each of the Lenders or the Issuing Bank, as the case may be, severally agrees to repay to the Applicable Agent forthwith on demand the amount so distributed to such Lender or the Issuing Bank, in the applicable Currency 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 the Applicable Agent, at the greater of the Overnight Rate or a rate determined by the Applicable Agent in accordance with banking industry customs and rules on interbank compensation.

2.08.2. *Funding Of Loans.* The Lenders agree that the Applicable Agent may assume that each Lender will fund timely its *pro rata* portion of each borrowing requested by the Borrowers in accordance with the terms of this Agreement and that the Applicable Agent may, in reliance upon such assumption, make available to the Borrowers a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable borrowing available to the Applicable Agent, then the applicable Lender and the Borrowers severally agree to pay to the Applicable Agent forthwith on demand such corresponding amount in the applicable Currency 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 Applicable Agent, at (a) in the case of a payment to be made by such Lender, the greater of the Overnight Rate or a rate determined by the Applicable Agent in accordance with banking industry customs and rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Applicable Agent in connection with the foregoing, and (b) in the case of a payment to be made by the Borrowers, the interest rate applicable to Adjusted Base Rate Borrowings. If the Borrowers and such Lender shall pay such interest to the Applicable Agent for the same or an overlapping period, the Applicable Agent shall promptly remit to the Borrowers the amount of such interest paid by the Borrowers for such period. If such Lender pays its share of the applicable borrowing to the Applicable Agent, then the amount so paid shall constitute such share included in the subject borrowing. Any payment by the Borrowers shall be without prejudice to any claim the Borrowers may have against a Lender that shall have failed to make such payment to the Applicable Agent.

2.08.3. *Ratable Sharing*. Except to the extent otherwise provided herein: (a) each Borrowing from the Revolving Credit Lenders under Section 2.03 shall be made from the Revolving Credit Lenders, each payment of the fees under Section 2.03.5 shall be made for the account of the Revolving Credit Lenders, and each termination or reduction of the amount of the Revolving Credit Commitments under Section 2.03.6 shall be applied to the respective Revolving Credit Commitments of the Revolving Credit Lenders, pro rata according to the amounts of their respective Revolving Credit Commitments; (b) each payment or prepayment of principal of Revolving Credit Loans shall be made for the account of the Revolving Credit Lenders pro rata in accordance with the respective unpaid principal amounts of the Revolving Credit Loans held by them, provided that, subject to Section 2.14, if immediately prior to giving effect to any such payment in respect of any Revolving Credit Loans the outstanding principal amount of the Revolving Credit Loans shall not be held by the Revolving Credit Lenders pro rata in accordance with their respective Revolving Credit Commitments in effect at the time such Revolving Credit Loans were made, then such payment shall be applied to the Revolving Credit Loans in such manner as shall result, as nearly as is practicable, in the outstanding principal amount of the Revolving Credit Loans being held by the Revolving Credit Lenders pro rata in accordance with such respective Revolving Credit Commitments; (c) each Borrowing from the Floor Plan Lenders under Sections 2.01 shall be made from the Floor Plan Lenders and each termination or reduction of the amount of the Floor Plan Loan Commitments shall be applied to the respective Floor Plan Loan Commitments of the Floor Plan Lenders, pro rata according to the amounts of their respective Floor Plan Loan Commitments; (d) each payment or prepayment of principal of any Floor Plan Loans shall be made for the account of the Floor Plan Lenders, pro rata in accordance with the respective unpaid principal amounts of Floor Plan Loans held by them; (e) each payment of interest on any Floor Plan Loans shall be made for the account of the Floor Plan Lenders, pro rata in accordance with the amounts of interest on Floor Plan Loans, then due and payable to the respective Floor Plan Lenders; (f) the conversion and continuation of Revolving Credit Loans (other than conversions provided for by Sections 2.07.4) shall be made pro rata among the Revolving Credit Lenders, according to the amounts of

their respective Revolving Credit Loans, and the then current Interest Period for each Lender's portion of each such Loan of such Type and Class shall be coterminous; (g) the Revolving Credit Lenders' participation in, and payment obligations in respect of, Swingline Loans under Section 2.04, shall be in accordance with their respective applicable percentages for Revolving Credit Commitments; (h) the Revolving Credit Lenders' participation in, and payment obligations in respect of, Letters of Credit under Section 2.05, shall be in accordance with their respective applicable percentages for Revolving Credit Commitments; (i) each payment or prepayment of principal of any Class of Term Loans or any Class of Mortgage Loans shall be made for the account of the Term Loan Lenders or Mortgage Loan Lenders of such Class, pro rata in accordance with the respective unpaid principal amounts of such Class of Term Loans or Mortgage Loans held by them; (j) each payment of interest on any Class of Term Loans or Mortgage Loans shall be made for the account of the Lenders of such Class, pro rata in accordance with the amounts of interest on such Class of Loans, then due and payable to the respective Lenders of such Class; and (k) the conversion and continuation of Term Loans or Mortgage Loans of a particular Type and Class (other than conversions provided for by Sections 2.07.4) shall be made pro rata among the Term Loan Lenders or Mortgage Loan Lenders of such Class, according to the amounts of their respective Term Loans or Mortgage Loans of such Class, and the then current Interest Period for each Lender's portion of each such Loan of such Type and Class shall be coterminous. All payments of principal, interest, fees and other amounts in respect of the Swingline Loans shall be for the account of the Swingline Lender only (except to the extent any Lender shall have acquired a participating interest in any such Swingline Loan pursuant to Section 2.04.1(d), in which case such payments shall be pro rata in accordance with such participating interests).

2.08.4. *Setoffs, Counterclaims, Other Payments*. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Loans made by it, or the participations in L/C Obligations or in Swingline Loans held by it resulting in such Lender receiving payment greater than its *pro rata* share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value in Dollars) participations in the Loans and participations in the L/C Obligations and Swingline Loans of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, provided that:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (A) any payment made by the Borrowers 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) or (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in L/C Obligations or Swingline Loans to any assignee or participant, other than to the Borrowers or any Subsidiaries 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 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 2.09. *Application Of Payments*. Except as expressly required to the contrary by the terms of this Agreement, all payments received upon the Loans may be applied first to Credit Party Expenses, then to accrued interest and the unpaid principal balances of the Loans, or in such other order as elected by the Required Lenders.

Section 2.10. *Increased Costs.*

2.10.1. *Increased Costs Generally.* If any Change In Law shall:

(a) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the Adjusted SOFR Rate) or the Issuing Bank;

(b) subject any Recipient to any Taxes (other than (i) Indemnified Taxes, (ii) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (iii) 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

(c) impose on any Lender or the Issuing Bank or (with respect Eurocurrency Rate Loans) the London or other applicable offshore interbank market any other condition, cost or expense affecting this Agreement or any SOFR Borrowing made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender, the Issuing Bank, or such other Recipient of making, converting to or continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, the Issuing Bank, or such other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, the Issuing Bank, or such other Recipient hereunder (whether of principal, interest or any other amount) then, upon the request of such Lender, the Issuing Bank, or such other Recipient, the Borrowers agree to pay to such Lender, the Issuing Bank, or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, the Issuing Bank, or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

2.10.2. *Capital Requirements*. If any Lender or the Issuing Bank determines that any Change in Law affecting such Lender or the Issuing Bank or any lending office of such Lender or such Lender's or the Issuing Bank's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Bank's capital or on the capital of such Lender's or the Issuing Bank'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 Swingline Loans held by, such Lender, or the Letters of Credit issued by the Issuing Bank, to a level below that which such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Bank's policies and the policies of such Lender's or the Issuing Bank's holding company with respect to capital adequacy), then from time to time the Borrowers agree to pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company for any such reduction suffered.

2.10.3. *Certificate for Reimbursement.* A certificate of a Lender or the Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or the Issuing Bank or its holding company, as the case may be, as specified in this Section 2.10 and delivered to the Borrowers shall be conclusive absent manifest error. The Borrowers promise to pay such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

2.10.4. *Delay in Requests*. Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or the Issuing Bank's right to demand such compensation, provided that the Borrowers shall not be required to compensate a Lender or the Issuing Bank pursuant to this Section for any increased costs

incurred or reductions suffered more than nine (9) months prior to the date that such Lender or the Issuing Bank, as the case may be, notifies the Borrowers of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Bank'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 nine (9) month period referred to above shall be extended to include the period of retroactive effect thereof).

Section 2.11. *Taxes.*

2.11.1. *Defined Terms*. For purposes of this Section, the term "Lender" includes any Issuing Bank and the term "applicable Law" includes FATCA.

2.11.2. *Payments Free of Taxes*. Any and all payments by or on account of any obligation of any Loan Party under any Credit Document shall be made without deduction or withholding for any Taxes, except as required by applicable Law. If any applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

2.11.3. *Payment of Other Taxes by the Loan Parties*. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable Laws, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

2.11.4. *Indemnification*. The Loan Parties shall indemnify each Recipient, within 10 days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrowers by a Recipient (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Recipient, shall be conclusive absent manifest error.

2.11.5. *Indemnification by the Lenders*. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (a) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (b) any Taxes attributable to such Lender's failure to comply with the provisions of Section 10.03 relating to the maintenance of a Participant Register and (c) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Credit Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Credit Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this Section 2.11.5.

2.11.6. *Evidence of Payments*. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

2.11.7. *Status of Lenders*.

(a) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Credit Document shall deliver to the Borrowers and the Administrative Agent, at the time or times reasonably requested by the Borrowers or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrowers or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrowers or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by the Borrowers or the Administrative Agent as will enable the Borrowers or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(b) Without limiting the generality of the foregoing, in the event that the Borrowers are U.S. Borrowers,

(i) any Lender that is a U.S. Person shall deliver to the Borrowers and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(ii) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrowers and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Administrative Agent), whichever of the following is applicable:

(A) 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 Credit Document, executed copies of IRS Form W-8BEN or W-8BEN-E, 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 Credit Document, IRS Form W-8BEN or W-8BEN-E, 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;

(B) executed copies of IRS Form W-8ECI;

(C) 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 J-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 Borrowers 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-8BEN-E, as applicable; or

(D) 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-8BEN-E, as applicable, a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-2 or Exhibit J-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 J-4 on behalf of each such direct and indirect partner;

(iii) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrowers and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Administrative Agent), executed copies of any other form prescribed by applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable Law to permit the Borrowers or the Administrative Agent to determine the withholding or deduction required to be made; and

(iv) if a payment made to a Lender under any Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrowers and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrowers or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrowers or the Administrative Agent as may be necessary for the Borrowers and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (iv), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrowers and the Administrative Agent in writing of its legal inability to do so.

2.11.8. *Treatment of Certain Refunds*. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to Section 2.11 of this Agreement (including by the payment of additional amounts pursuant to Section 2.11), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest

(other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 2.11.8 (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 2.11.8, in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 2.11.8 the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amount with respect to such Tax had never been paid. This Section shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

2.11.9. *Survival*. Each party's obligations under this Section 2.11 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Credit Document.

Section 2.12. *Mitigation Obligations; Replacement of Lenders*.

2.12.1. *Designation of a Different Lending Office*. If any Lender requests compensation under Section 2.10, or requires the Borrowers to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.11, then such Lender shall (at the request of the Borrowers) 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 2.10 or 2.11, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrowers hereby agree to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

2.12.2. *Replacement of Lenders*. If any Lender requests compensation under Section 2.10, or if the Borrowers are required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.11 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 2.12.1, or if any Lender is a Defaulting Lender or a Non-Consenting Lender, then the Borrowers may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.02), all of its interests, rights (other than its existing rights to payments pursuant to Section 2.10 or Section 2.11) and obligations under this Agreement and the related Credit Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:

(a) the Borrowers shall have paid to the Administrative Agent the administrative fee (if any) specified in Section 10.02;

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in L/C Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Credit Documents (including any amounts under Section 2.07.3) 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 2.10 or payments required to be made pursuant to Section 2.11, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable Laws; and

(e) in the case of any assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

Section 2.13. *Certain Credit Support Events.* Upon the request of the Administrative Agent or the Issuing Bank (a) if the Issuing Bank has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in a Reimbursement Obligation, or (b) if, as of the L/C Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrowers shall, in each case, immediately provide Cash Collateralize in an amount equal to 103% of the then Outstanding Amount of all L/C Obligations.

Section 2.14. *Defaulting Lenders*.

2.14.1. *Defaulting Lender Adjustments*. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable Laws:

(a) *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, Required Revolving Credit Lenders and Required Floor Plan Lenders.

(b) *Defaulting Lender Waterfall*. Any payment of principal, interest, fees or other amounts received by the Floor Plan Agent or the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 8 or otherwise) or received by the Floor Plan Agent or the Administrative Agent from a Defaulting Lender pursuant to Section 10.07 shall be applied at such time or times as may be determined by the Applicable Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent or the Floor Plan Agent hereunder; *second*, to the payment on a *pro rata* basis of any amounts owing by such Defaulting Lender to any Issuing Bank to Wells Fargo as the provider of the WF Advances hereunder or Swingline Lender hereunder; *third*, to Cash Collateralize the Issuing Bank's Fronting Exposure or M&T Bank's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.14; *fourth*, as the Borrowers 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 Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrowers, to be held in a deposit account and released *pro rata* in order to (i) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (ii) Cash Collateralize the Issuing Bank's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement and future WF Advances, in accordance with Section 2.13; *sixth*, to the payment of any amounts owing to Wells Fargo as the provider of the WF Advances hereunder, the Lenders, the Issuing Banks or Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by Wells Fargo as the provider of the WF Advances hereunder, any Lender, the Issuing Banks or Swingline Lenders 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 Borrowers as a result of any judgment of a court of competent jurisdiction obtained by the Borrowers 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 Disbursements 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 Disbursements 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 Disbursements owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in WF Advances, L/C Obligations and Swingline Loans are held by the Lenders *pro rata* in accordance with the Commitments under the Applicable Credit Facility without giving effect to Section 2.14.1(d). 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 Section 2.14.1(e) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(c) *Certain Fees*.

(i) No Defaulting Lender shall be entitled to receive a Floor Plan Unused Commitment Fee, a Mortgage Loan Facility Unused Commitment Fee or a Revolving Credit Unused Commitment Fee for any period during which that Lender is a Defaulting Lender.

(ii) 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 limited extent allocable to its Revolving Credit Commitment Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.14.1(e).

(iii) With respect to any Floor Plan Unused Commitment Fee, Mortgage Loan Facility Unused Commitment Fee, Revolving Credit Unused Commitment Fee, or Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clauses (i) or (ii) above, the Borrowers shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender that has been reallocated to such Non-Defaulting Lender pursuant to clause (d) below, (y) pay to the Issuing Bank and the Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's or Swingline Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fees.

(d) *Reallocation of Participations to Reduce Fronting Exposure*. All or any part of such Defaulting Lender's participation in (a) WF Advances shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Floor Plan Loan Commitment Percentages (calculated without regard to such Defaulting Lender's Floor Plan Loan Commitments) but only to the extent that such reallocation does not cause the aggregate Outstanding Amount of the Floor Plan Loan of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Floor Plan Loan Commitment and (b) in the case of a Defaulting Lender that is a Revolving Credit Lender, all or any part of such Defaulting Lender's participation in L/C Obligations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders that are Revolving Credit Lenders in accordance with their respective Revolving Credit Commitment Percentages, determined without regard to such Defaulting Lender's Revolving Credit Commitment but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any such Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Credit 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. Operation of the allocations provided in Section 2.14 above shall not be deemed to result in a default of any Borrower's obligations to a Defaulting Lender under this Agreement or any other Credit Document.

(e) *Cash Collateral, Repayment of Swingline Loans and WF Advances*.

(i) If the reallocation described in the immediately preceding subsection (d) above cannot, or can only partially, be effected, the Borrowers of the applicable Class shall, without prejudice to any right or remedy available to them hereunder or under law, (I) in respect of the Revolving Credit Facility, (x) first, prepay Swingline Loans in an amount equal to the Swingline Lender's Fronting Exposure and (y) second, Cash Collateralize the Issuing Bank's Fronting Exposure in accordance with the procedures set forth in this subsection and (II) in respect of the Floor Plan Facility, prepay the WF Advances in an amount equal to Wells Fargo's Fronting Exposure as the lender of WF Advances.

(ii) At any time that there shall exist a Revolving Credit Lender that is a Defaulting Lender, within one (1) Business Day following the written request of the Administrative Agent or the Issuing Bank (with a copy to the Administrative Agent), the Revolving Credit Borrowers shall Cash Collateralize the Issuing Bank's Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to the immediately preceding subsection (d) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than 103% of the aggregate Fronting Exposure of the Issuing Bank with respect to Letters of Credit issued and outstanding at such time.

(iii) All Cash Collateral (other than credit support not constituting funds subject to deposit) provided under Section 2.14 shall be maintained in blocked, non-interest bearing deposit accounts maintained at M&T Bank. The Revolving Credit Borrowers, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grant to the Administrative Agent, for the benefit of the Issuing Bank, and agree to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lenders' obligation to fund participations in respect of Letter of Credit Liabilities, to be applied pursuant to the immediately following clause (iv). The Floor Plan Borrowers, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grant to the Administrative Agent, for the benefit of the Floor Plan Agent and Wells Fargo as the lender of WF Advances, and agree to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lenders' obligation to fund participations in respect of WF Advances, to be applied pursuant to the immediately following clause (iv). If at any time the Administrative Agent determines that Cash Collateral in the Cash Collateral Account is subject to any right or claim of any Person other than the Administrative Agent, the Floor Plan Agent, Wells Fargo as lender of WF Advances and the Issuing Bank as herein provided, or that the total amount of such Cash Collateral is less than the aggregate Fronting Exposure of the Issuing Bank with respect to Letters of Credit issued and outstanding at such time and of Wells Fargo as lender of WF Advances, the Revolving Credit Borrowers and/or Floor Plan Borrowers, as applicable, will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(iv) Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.14 in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letter of Credit Liabilities (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.14 in respect of WF Advances shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of WF Advances

(including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(v) Cash Collateral (or the appropriate portion thereof) provided to reduce the Issuing Bank's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this subsection following (x) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Revolving Credit Lender), or (y) the determination by the Administrative Agent and the Issuing Bank that there exists excess Cash Collateral; provided that, subject to the immediately preceding subsection (b), the Person providing Cash Collateral and the Issuing Bank may (but shall not be obligated to) agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations and provided further that to the extent that such Cash Collateral was provided by a Revolving Credit Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Credit Documents. Cash Collateral (or the appropriate portion thereof) provided to reduce Wells Fargo's Fronting Exposure in respect of WF Advances shall no longer be required to be held as Cash Collateral pursuant to this subsection following (x) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Floor Plan Lender), or (y) the determination by the Floor Plan Agent and Wells Fargo as the lender of WF Advances, that there exists excess Cash Collateral; provided that, subject to the immediately preceding subsection (b), the Person providing Cash Collateral and Wells Fargo as the lender of WF Advances, may (but shall not be obligated to) agree that Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations and provided further that to the extent that such Cash Collateral was provided by a Floor Plan Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Credit Documents.

2.14.2. *Defaulting Lender Cure*. If the Borrower Representative, the Administrative Agent, Issuing Bank, Swingline Lender and WF Advance Lender as the provider of the WF Advances each agree in writing that a Lender is no longer a Defaulting Lender, the Administrative 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 Administrative Agent (or the Floor Plan Agent, in respect of the Floor Plan Facility) may determine to be necessary to cause, as applicable, (i) the WF Advances and funded and unfunded participations in WF Advances to be held pro rata by the Floor Plan Lenders in accordance with their respective Floor Plan Loan Commitment Percentages (determined without giving effect to Section 2.14.1(d)), (ii) the funded and unfunded participations in Letters of Credit and Swingline Loans to be held pro rata by the Revolving Credit Lenders in accordance with their Revolving Credit Commitment Percentages (determined without giving effect to the immediately preceding subsection Section 2.14.1(d)) and (iii) the Loans of each Class to be held by the Lenders of such Class pro rata as if there had been no Defaulting Lenders of such Class, 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 Borrowers 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 having been a Defaulting Lender.

2.14.3. *New Swingline Loans/Letters of Credit/WF Advances*. Without limiting the discretion of the WF Advance Lender to determine whether or not to make a WF Advance (as set forth in Section 2.02.1), so long as any Lender (other than WF Advance Lender or any of its Affiliates) under the Floor Plan Facility is a Defaulting Lender, WF Advance Lender shall not be required to fund any WF Advance. So long as any Lender is a Defaulting Lender, (a) the Swingline Lender shall not be required to fund any Swingline Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to

such Swingline Loan and (b) the Issuing Bank shall not be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

Section 2.15. *Fees.*

(a) *Fee Letter*. The Borrowers promise to pay to the Administrative Agent and the Floor Plan Agent such fees in Dollars as are required by the terms of the Fee Letter.

(b) *Mortgage Loan Facility Unused Commitment Fees*. For each Fiscal Quarter, until the last day of the Availability Period for the Mortgage Loan Facility, the Mortgage Loan Borrowers agree to pay to the Administrative Agent for the ratable accounts of the Mortgage Loan Lenders under the Mortgage Loan Facility a per annum fee [****] .

(c) *Term Loan Facility Unused Commitment Fees*. For each Fiscal Quarter, until the last day of the Availability Period for the Term Loan Facility, the Term Loan Borrowers agree to pay to the Administrative Agent for the ratable accounts of the Term Loan Lenders under the Term Loan Facility a per annum fee [****].

(d) *Floor Plan Unused Commitment Fees*. Floor Plan Borrowers agree to pay Floor Plan Unused Commitment Fees as set forth in Section 2.01.15.

Section 2.16. *Payments.* All payments received by the Credit Parties which are to be applied to reduce the Obligations shall be provisional and shall not be considered final unless and until such payment is not subject to avoidance under any provision of the Bankruptcy Code, as amended, including Sections 547 and 550, or any other Debtor Relief Law. If any payment is avoided or set aside under any provision of the Bankruptcy Code, including Sections 547 and 550 thereof, or any other Debtor Relief Law, the payment shall be considered not to have been made for all purposes of this Agreement and the Credit Parties shall adjust their respective records to reflect the fact that the avoided payment was not made and has not been credited against the Obligations.

Section 2.17. *Advancements.* If the Borrowers or any other Loan Party fail to perform any of their respective material agreements or covenants contained in the Credit Documents or if the Borrowers or any other Loan Party fails to protect or preserve the Collateral or any other security for the Obligations or the status and priority of the Liens of the Credit Parties in the Collateral or in any other security for the Obligations, the Administrative Agent for the account of the Lenders may make advances to perform the same on behalf of the Borrowers or other Loan Party to protect or preserve the Collateral or any other security for the Obligations or the status and priority of the Liens of the Credit Parties in the Collateral or in any other security for the Obligations, and all sums so advanced shall immediately upon such advance become secured by the Liens granted in the Credit Documents and any other security for the Obligations, and shall become part of the principal amount owed to the Lenders with interest to be assessed at the Default Rate. The Borrowers promise to repay on demand all sums so advanced on the Borrowers' behalf, plus all expenses or costs incurred by the Administrative Agent, on account of the Lenders, including reasonable legal fees, with interest thereon. The provisions of this Section shall not be construed to prevent the institution of the rights and remedies of the Administrative Agent upon the occurrence of an Event of Default. The authorization contained in this Section is not intended to impose any duty or obligation on the Administrative Agent or any other Credit Party to perform any action or make any advancement on behalf of the Borrowers and is intended to be for the sole benefit and protection of the Credit Parties. Notwithstanding anything herein to the contrary, no Lender shall be required to fund any advances under this Section if such advance would cause the aggregate outstanding exposure of such Lender to exceed such Lender's Commitment.

Section 2.18. *Co-Borrower Provisions*.

2.18.1. *Borrower Representative.* To facilitate administration of the Loans, the Borrower Representative (a) is designated and appointed by each of the other Borrowers as its Borrower Representative and (b) accepts such appointment as the Borrower Representative, in each case and with full power and authority to issue, execute, deliver and acknowledge as appropriate, Loan Requests, notices of election and make the interest rate elections set forth therein, and certificates including Compliance Certificates, and to give instructions with respect to the disbursement of the proceeds of the Loans, give and receive all other notices and consents hereunder or under any of the other Credit Documents and take all other actions (including in respect of compliance with covenants) on behalf of any Borrower or Borrowers under the Credit Documents. The Administrative Agent and the Floor Plan Agent and each Lender may regard any notice or other communication pursuant to any Credit Document from the Borrower Representative as a notice or communication from all Borrowers. Each warranty, covenant, agreement and undertaking made on behalf of any Borrower by the Borrower Representative shall be deemed for all purposes to have been made by such Borrower and shall be binding upon and enforceable against such Borrower to the same extent as if the same had been made directly by such Borrower. This power-of-attorney is coupled with an interest and cannot be revoked, modified or amended without the prior written consent of the Required Lenders. The Administrative Agent and the Floor Plan Agent and each Lender may regard any notice or other communication pursuant to any Credit Document from the Borrower Representative as a notice or communication from all Borrowers. Each warranty, covenant, agreement and undertaking made on behalf of a Borrower by the Borrower Representative shall be deemed for all purposes to have been made by such Borrower and shall be binding upon and enforceable against such Borrower to the same extent as if the same had been made directly by such Borrower.

2.18.2. *Subordination*. Each Borrower hereby subordinates all Intercompany Indebtedness that it may have from or against any other Borrower or other Loan Party, and any successor or assign of any other Borrower or other Loan Party, including, without limitation, any trustee, receiver or debtor-in-possession, howsoever arising, due or owing and whether heretofore, now or hereafter existing, to all of the Obligations of the other Borrower or the other Loan Parties owed to the Credit Parties.

2.18.3. *Postponement of Subrogation.* Until all of the Obligations are paid in full, no Borrower shall have any right of subrogation, reimbursement or indemnity whatsoever, nor any right of recourse to security for any of the Obligations, and nothing shall discharge or satisfy the liability of a Borrower hereunder, until the full, final and absolute payment and performance of all of the Obligations at any time after all Commitments of the Lenders under this Agreement are terminated. All present and future debts and obligations of each Borrower to any other Loan Party are hereby waived and postponed in favor of and subordinated to the full payment and performance of all present and future Obligations.

2.18.4. *No Discharge.* No Obligation of any Borrower or other Loan Party shall be affected, discharged or impaired by any of the following: (a) bankruptcy, disability, dissolution, incompetence, death, insolvency, liquidation, or reorganization of any other Borrower or any Loan Party; (b) any defense of any other Borrower or Loan Party to payment or performance of any or all of the Obligations or enforcement of any or all rights of the Administrative Agent and the Lenders in the Collateral; (c) discharge, modification of the terms of, reduction in the amount of, or stay of enforcement of any or all liens and encumbrances in the Collateral or any or all Obligations in any bankruptcy, insolvency, reorganization, or other legal proceeding or by application of any applicable Laws; (d) any claim or dispute by any other Borrower or other Loan Party concerning the occurrence of an Event of Default, performance of any Obligations, or any other matter; (e) any waiver or modification of any provision of the Credit Documents that affects any other Borrower or other Loan Party, whether or not such waiver or modification affects all Borrowers and/or all Loan Parties; (f) the cessation of liability, release or discharge of any other Borrower or any other Loan Party or other obligor for any reason; (g) the perfection or failure to perfect, release or discharge of any Collateral or other security; (h) the exercise or failure to exercise any rights or remedies pursuant to the Credit Documents by the Administrative Agent or the Required Lenders or any election of remedies by the Administrative Agent or the Required Lenders; (i) any

invalidity, irregularity or unenforceability in whole or in part of any of the Credit Documents or any limitation of the liability of any Borrower or any other Loan Party under the Credit Documents, including any claim that the Credit Documents were not duly authorized, executed, or delivered on behalf of any Borrower or any other Loan Party; (j) any other acts or omissions by the Administrative Agent, the Floor Plan Agent or any Lender that result in or could result in the release or discharge of any other Borrower or any other Loan Party; or (k) the occurrence of any other event or the existence of any other condition that by operation of law or otherwise could result in the release or discharge of a surety, guarantor, or other persons secondarily liable on an obligation.

2.18.5. *Waivers.* Each Borrower unconditionally waives: (a) any requirement that the Administrative Agent or the Required Lenders first make demand upon, or seek to enforce or exhaust remedies against any (i) other Borrower or any other Loan Party; (ii) the Collateral or other property of any Borrower or any other Loan Party; or (iii) other Person, before demanding payment from or seeking to enforce the Obligations against such Borrower; (b) any requirement of applicable Law that might operate to limit any Borrower's liability under, or the enforcement of, the Obligations; (c) diligence, presentment, protest, demand for performance, notice of acceptance, notice of nonperformance, notice of intent to accelerate, notice of acceleration, notice of protest, notice of dishonor, notice of extension, renewal, alteration or amendment, notice of acceptance of the Credit Documents, notice of default under any of the Credit Documents (except as provided in the Credit Documents), and all other notices whatsoever, except for notices specifically required pursuant to other provisions of the Credit Documents; (d) any obligation of the Administrative Agent or the Floor Plan Agent or any Lender to provide any Borrower any information, including any information concerning any other Borrower or any other Loan Party or any Collateral; and (e) any other claim or defense that otherwise would be available based on principles of suretyship or guarantee or otherwise governing secondary obligations.

2.18.6. *Cross-Guaranty; Joint and Several Liability of Co-Borrowers.*

(a) *Floor Plan Borrowers*. Each Floor Plan Borrower shall be jointly and severally liable as a primary obligor, and not merely as surety, for any and all Floor Plan Loans and Obligations under and in connection with the Floor Plan Facility and now or hereafter owed to the Administrative Agent, WF Advance Lender, in its capacity as a lender of the WF Advances, and the Floor Plan Lenders, in each case, whether voluntary or involuntary and however arising, whether direct or acquired by any Floor Plan Lender by assignment or succession, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined.

(b) *Revolving Credit Borrowers*. Each Revolving Credit Borrower shall be jointly and severally liable as a primary obligor, and not merely as surety, for any and all Revolving Credit Loans and Obligations under and in connection with the Revolving Credit Facility and now or hereafter owed to the Administrative Agent, the Swingline Lender, the Issuing Bank, and the Revolving Credit Lenders, in each case, whether voluntary or involuntary and however arising, whether direct or acquired by any Revolving Credit Lender by assignment or succession, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined.

(c) *Benefit to Each Borrower*. Each Borrower represents and warrants to and covenants with the Lenders that (i) the Borrowers are engaged in operations that require financing on a joint basis and, accordingly, each Borrower will materially benefit, directly or indirectly, from the extension of the Loans by the Lenders; (ii) the Loans have been offered to the applicable Borrowers on the basis set forth in this Agreement and would not be available to the Borrowers on an individual basis without the credit support of the other Loan Parties on the terms and conditions stated herein; (iii) the benefits received by each Borrower are reasonably equivalent to the obligations undertaken by such Borrower and (iv) the delivery of funds to any Borrower in connection with the Loans under this Agreement shall constitute valuable consideration and reasonably equivalent value to all Borrowers.

(d) *Cross-Guaranty*. Each Borrower guarantees to the Credit Parties the payment in full of all of the Obligations owned by each of the other Borrowers and further guarantees the due performance by each of the other Borrowers of its respective duties and covenants made in favor of the Credit Parties in this Agreement and in the other Credit Documents. Each Borrower agrees that neither this cross guaranty nor the joint and several liability of the Borrowers provided in this Agreement nor the Credit Parties' liens and rights in any of the Collateral shall be impaired or affected by any modification, supplement, extension or amendment of any contract or agreement to which the parties hereto may hereafter agree, nor by any modification, release or other alteration of any of the rights of the Credit Parties with respect to any of the Collateral, nor by any delay, extension of time, renewal, compromise or other indulgence granted by the Administrative Agent or the Lenders with respect to any of the Obligations, nor by any other agreements or arrangements whatever with the other Borrowers or with any other Person, each Borrower hereby waiving all notice of any such delay, extension, release, substitution, renewal, compromise or other indulgence, and hereby consenting to be bound thereby as fully and effectively as if it had expressly agreed thereto in advance. Except as may be expressly stated in this Agreement to the contrary, the liability of each Borrower hereunder is direct and unconditional as to all of the Obligations (except as may be expressly stated in this Agreement to the contrary), and may be enforced without requiring the Credit Parties first to resort to any other right, remedy or security.

2.18.7. *Obligations Among Loan Parties.* WITHOUT LIMITATION OF THE FOREGOING, EACH BORROWER SHALL BE JOINTLY AND SEVERALLY LIABLE TO THE ADMINISTRATIVE AGENT, THE FLOOR PLAN AGENT, ISSUING BANK, SWINGLINE LENDER, WF ADVANCE LENDER AND THE OTHER CREDIT PARTIES, IN EACH CASE, SOLELY TO THE EXTENT EXPRESSLY SET FORTH IN SECTION 2.18.6 AND, IN EACH SUCH CASE, WITHOUT REGARD TO ANY ALLOCATION OF LOSSES AND LIABILITIES PURSUANT TO THIS SUBSECTION OR OTHERWISE AND, IN CONNECTION THEREWITH, EACH BORROWER HAS EXPRESSLY ASSUMED THE RISK THAT SUCH BORROWER'S ACTUAL LIABILITY MAY EXCEED SUCH BORROWER'S *PRO RATA* SHARE AND THAT OVERPAYMENTS MAY NOT ACTUALLY BE REIMBURSED OR INDEMNIFIED. Subject to the foregoing, the Borrowers agree that the provisions of this subsection are intended to provide for an allocation of the Obligations among Borrowers of each Class. Accordingly, as among the Borrowers of each Class, if any Borrower under such Class (the "*Overpaying Borrower*") pays (whether directly or by application of Collateral), or is otherwise held liable for, Loans and related Obligations in connection with Loans under the Applicable Credit Facility, in each case, in excess of its pro rata share for the Overpaying Borrower, the other Borrowers under such Applicable Credit Facility will pay the amount of such excess to the Overpaying Borrower and will indemnify the Overpaying Borrower for, from and against any claims, damages, loss or liability arising from or related to such overpayment. The value to each Borrower of the rights and claims against the other applicable Borrowers provided above under this Section 2.18.7 is intended, to the extent permitted under applicable Law, to prevent any Borrower from being rendered "insolvent" solely by virtue of the joint and several liability it may be subject to under Section 2.18.7. The rights and obligations among Borrowers pursuant to this subsection shall survive the payment and performance of the Obligations.

Section 2.19. *Swap Obligations; Keepwell*. Notwithstanding anything to the contrary contained in this Agreement or any of the other Credit Documents, Swap Obligations of any Loan Party that is not an Eligible Contract Participant shall not include any Excluded Swap Liabilities; *provided however*, to the extent that a Loan Party is an Eligible Contract Participant, such Loan Party (in addition to its other Obligations and agreements hereunder), hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party in respect of the Swap Obligations. The obligations of each Loan Party, to the extent that it is an Eligible Contract Participant, under this Section 2.19 shall remain in full force and effect until indefeasible payment in full in cash of all of the Obligations and termination of this Agreement and the other Credit Documents. Each Loan Party , to the extent that such Loan Party is an Eligible Contract Participant, intends that this Section 2.19 constitute, and this Section 2.19 shall be deemed to constitute, a

"keepwell, support, or other agreement" for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the CEA.

Section 2.20. *Acknowledgment and Consent to Bail-In of Affected Financial Institutions*. Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable 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 the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected 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) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected 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 Credit Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

Section 2.21. *[Reserved]*.

Section 2.22. *Incremental Facilities*.

(a) *Request for Increase*. Upon notice to the Administrative Agent and the Floor Plan Agent (with respect to the Floor Plan Increases), the Borrower Representative on behalf of the applicable Borrowers may from time to time, request (i) to increase the existing aggregate Floor Plan Loan Commitments by requesting new floor plan loan commitment to be added to the Floor Plan Facility (each such increase a "*Floor Plan Increase*"); (ii) to increase an existing Class of Term Loans by requesting new term loans be added to an existing Class of Term Loans or request new term loans under one or more new Classes of term loans (each such increase or establishment of a new Class, a "*Term Loan Increase*"); (iii) to increase an existing Class of Mortgage Loans by requesting new mortgage loans be added to an existing Class of Mortgage Loans or request new mortgage loans under one or more new Classes of mortgage loans (each such increase or establishment of a new Class, a "*Mortgage Loan Increase*"); and (iv) to increase the existing aggregate Revolving Credit Commitments by requesting new revolving credit commitments to be added to the Revolving Credit Facility (each such increase a "*Revolving Credit Increase*" and, together with a Floor Plan Increase, Term Loan Increase and Mortgage Loan Increase, each a "*Facility Increase*" and an "*Incremental Facility*"); provided that (i) [****] (ii) [****] (iii) after giving pro forma effect to any Facility Increase, the Loan Parties are in compliance with the financial covenants, assuming that the entire amount of such increase is funded and that the cash proceeds of such Facility Increase will be excluded for netting purposes, (iv) such Facility Increase in respect of the Floor Plan Loan Commitments, Term Loan Facility, Mortgage Loan Facility and Revolving Credit Facility shall be on the same terms and pursuant to the same documentation applicable to the Floor Plan Loan Commitments, Term Loan Facility, Mortgage Loan Facility and Revolving Credit Facility, as applicable (except to the extent of any upfront, arranger or similar

fees), (v) no Lender shall have any obligation to increase its Commitments with respect to a Facility Increase or to provide a commitment with respect to a Facility Increase, (vi) any Mortgage Loan Increase may only be effected after the Mortgage Loan Commitments as in effect on the Closing Date are terminated and, (vii) subject to Section 1.08 with respect to any Facility Increase or Incremental Facility the proceeds of which are to be used to provide financing for a Limited Condition Transaction, after giving pro forma effect to such Facility Increase, (A) no Default or Event of Default shall exist at the time of giving effect to such Facility Increase and (B) the representations and warranties contained in the Credit Documents shall be true and correct in all material respects (or in all respects to the extent that any representation or warranty is qualified by materiality). Without limiting the foregoing, Loans under an Incremental Facility may be made available on a delayed draw basis, subject to the terms and conditions of the applicable Incremental Amendment.

(b) *Incremental Lenders*. Facility Increases may be provided, by any existing Lender (but no existing Lender will have an obligation to make any Facility Increase) or by any Additional Lender (each such existing Lender or Additional Lender providing such Facility Increase, in such capacity, an "*Incremental Lender*"); provided that the Applicable Agent shall have consented to such Additional Lender's making such Facility Increase to the extent such consent, if any, would be required under Section 10.02 for an assignment of Loans or Commitments, as applicable, to such Additional Lender.

(c) *Effective Date and Allocations*.

(i) With respect to each Facility Increase, the Administrative Agent or the Floor Plan Agent (with respect to the Floor Plan Increases) and the Borrower Representative shall determine the effective date (the "*Increase Effective Date*") and the final allocation of such Incremental Facility. The Administrative Agent shall promptly notify (i) the Incremental Lenders, and the existing Lenders of the amount and Class of such Incremental Facility and the Increase Effective Date, and (ii) the Incremental Lenders of the final allocation of such increase.

(ii) On any Increase Effective Date on which a Floor Plan Increase is effected, with respect to Floor Plan Loan Commitment of an Incremental Lender, each of the existing Floor Plan Lenders shall automatically and without further act be deemed to have assigned to such Incremental Lender, and such Incremental Lender shall automatically and without further act be deemed to have purchased and assumed at the principal amount thereof, such interests in the Floor Plan Loans outstanding on such Increase Effective Date as shall be necessary in order that, after giving effect to all such assignments and assumptions, the Floor Plan Loans will be held by existing Floor Plan Lenders and Incremental Lenders in respect of such Floor Plan Increase ratably in accordance with their respective Floor Plan Loan Commitment after giving effect to such Floor Plan Increase. The Administrative 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 this paragraph.

(iii) On any Increase Effective Date on which a Revolving Credit Increase is effected, with respect to Revolving Credit Commitments of an Incremental Lender, each of the existing Revolving Credit Lenders shall automatically and without further act be deemed to have assigned to such Incremental Lender, and such Incremental Lender shall automatically and without further act be deemed to have purchased and assumed at the principal amount thereof, such interests in the Revolving Credit Loans outstanding on such Increase Effective Date as shall be necessary in order that, after giving effect to all such assignments and assumptions, the Revolving Credit Loans will be held by existing Revolving Credit Lenders and Incremental Lenders in respect of such Revolving Credit Increase ratably in accordance with their respective Revolving Credit Commitments after giving effect to such Revolving Credit Increase. The Administrative 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 this paragraph.

(d) *Conditions to Effectiveness of Increase*. As a condition precedent to the effectiveness of any Incremental Amendment, the Borrower Representative shall deliver to the Administrative Agent one or more certificates dated as of the Increase Effective Date duly executed by an Authorized Officer of the Borrower Representative or the applicable Loan Parties (a) certifying and attaching the resolutions adopted by each applicable Loan Party approving or consenting to such increase, and (b) certifying that, after giving effect to such increase, all financial covenants under Sections 6.12 and 6.13 would be satisfied as of the most recently ended Measurement Period, after giving pro forma effect to such Facility Increase (assuming (i) that the entire amount of such Facility Increase is funded and (ii) that the cash proceeds of such Facility Increase will be excluded for netting purposes in such determination of pro forma compliance with the financial covenants under Sections 6.12 and 6.13). With respect to any Facility Increase, all conditions precedent set forth in Section 4.02 hereof shall have been satisfied. With respect to any Mortgage Loan Increase, all conditions precedent set forth in Sections 4.03 and 10.28 hereof shall have been satisfied. Any Mortgage Loan Increase shall be secured by Real Property that satisfies the requirements set forth in Section 5.15; provided, however, that no Class of Mortgage Loans shall be secured by Real Property that secures any other Class of Mortgage Loans. The proceeds of any Floor Plan Increases shall be used for the purposes set forth in Section 2.01.12. The proceeds of any Revolving Credit Increases shall be used for the purposes set forth in Section 2.03.4. The proceeds of any Term Loan Increases shall be used in accordance with Section 2.06.5 or to finance Permitted Acquisitions. The proceeds of any Mortgage Loan Increase shall be used in accordance with Section 2.06A.5.

(e) Required Terms.

(i) Any Facility Increase in respect of any increase of an existing Class shall be on the same terms applicable to the Class of Loans to which such Facility Increase applies (other than with respect to upfront fees, arranger and similar fees).

(ii) The Weighted Average Life to Maturity of any Term Loan Increase that is a separate Class shall not be shorter than the Weighted Average Life to Maturity of any Term Loans then outstanding. The Weighted Average Life to Maturity of any Mortgage Loan Increase that is a separate Class shall not be shorter than the Weighted Average Life to Maturity of any Mortgage Loans then outstanding.

(iii) The maturity date of any Term Loan Increase that is a separate Class shall be no earlier than the Latest Maturity Date in effect at the time such Term Loan Increase is incurred. The maturity date of any Mortgage Loan Increase shall be no earlier than the Latest Maturity Date in effect at the time such Mortgage Loan Increase is incurred.

(iv) If the Effective Yield in respect of any Term Loan Increase that is a separate Class exceeds the Effective Yield for any existing Term Loans by more than 0.50%, the Applicable Margin for the existing Term Loans shall be increased so that the Effective Yield in respect of such existing Term Loans is equal to the Effective Yield for such additional Term Loans minus 0.50%. If the Effective Yield in respect of any Mortgage Loan Increase that is a separate Class exceeds the Effective Yield for any existing Mortgage Loans by more than 0.50%, the Applicable Margin for the existing Mortgage Loans shall be increased so that the Effective Yield in respect of such existing Mortgage Loans is equal to the Effective Yield for such additional Mortgage Loans minus 0.50%.

(v) With respect to the Term Loan Increase that is a separate Class, the terms, taken as a whole, shall not be materially more favorable to the holders of such Term Loan Increase (as reasonably determined by the Administrative Agent) than the terms of the Term Loan Facility or any other Class of Term Loans, taken as a whole, in existence on the date of incurrence thereof. With respect to the Mortgage Loan Increase that is a separate Class, the terms, taken as a whole, shall not be materially more favorable to the holders of such Mortgage Loans (as reasonably determined by the Administrative Agent) than the

terms of the Mortgage Loan Facility or any other Class of Mortgage Loans, taken as a whole, in existence on the date of incurrence thereof.

(f) *Incremental Amendment*. Commitments and Loans in respect of Facility Increases of any Class shall become Commitments or Loans (and in the case of a Facility Increase to be provided by an existing Lender, an increase in such Lender's applicable Commitment) of such Class under this Agreement pursuant to an amendment (an "*Incremental Amendment*") to this Agreement and, as appropriate, the other Credit Documents, executed by the applicable Borrowers, each Incremental Lender providing such Commitments, the Administrative Agent and (in the case of a Floor Plan Increase) the Floor Plan Agent (and each such Incremental Lender shall be recorded in the Register by the Administrative Agent and, to the extent such Person is not a Lender prior to such date, shall be subject to the requirements of Section 10.02 of this Agreement). The Incremental Amendment may, without the consent of any other Loan Party or Lender, effect such amendments to this Agreement and the other Credit Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and (to the extent such amendment affects the Floor Plan Facility) the Floor Plan Agent and the Borrower Representative, to effect the provisions of this Section 2.22. In connection with any Incremental Amendment, the Borrowers shall, if reasonably requested by the Administrative Agent and (to the extent such amendment affects the Floor Plan Facility) the Floor Plan Agent, deliver customary reaffirmation agreements, such amendments to the Security Documents and/or legal opinions with respect thereto, in each case, as may be reasonably requested by such Agent in order to ensure that such Facility Increases are provided with the benefit of the applicable Credit Documents.

Section 2.23. *Performance Rebate*. So long as (a) no Default or Event of Default exists for the duration of an entire Fiscal Quarter, and (b) this Agreement is in full force and effect as of the last day of the Fiscal Quarter for which such Performance Rebate is applicable, the Floor Plan Agent, on behalf of Lenders, will pay the Borrowers in arrears a rebate for such Fiscal Quarter in an amount equal to [****] per annum (assuming a calendar year of 360 days) of the average daily balance of the Outstanding Amount of the Floor Plan Loans owed to Lenders for such Fiscal Quarter (the "*Performance Rebate*") (i.e. the sum of [****] multiplied by the average daily balance of the Outstanding Amount of the Floor Plan Loans owed to Lenders for the applicable Fiscal Quarter multiplied by the number of days in the applicable Fiscal Quarter). Such Performance Rebate will be subject to the following:

(i) the Performance Rebate will be paid in arrears within thirty (30) Business Days following the end of the applicable Fiscal Quarter;

(ii) [****]

(iii) if the Floor Plan Agent or the Administrative Agent transmits, sends or otherwise makes available to Holdings a statement detailing the Performance Rebate, the Performance Rebate and its calculation specified on any such statement shall be deemed accepted unless the Floor Plan Agent and the Administrative Agent receive Borrower's written objection within sixty (60) days (or such other period specified on such statement) after such statement is transmitted, sent or otherwise made available; and

(iv) the Performance Rebate will be prorated for the Fiscal Quarters during which (A) the Closing Date, and (B) the last day of the Availability Period, occurs.

ARTICLE 3
REPRESENTATIONS AND WARRANTIES

The Borrowers make the following representations and warranties to the Credit Parties as of the Closing Date and, as of each date on which any Floor Plan Loans, WF Advance, Revolving Credit Loans, Swingline Loan, Term Loan, Mortgage Loan or other Loan is requested or made or any Letter of Credit is requested or issued (for purposes hereof, each extension of a Letter of Credit shall constitute an issuance thereof):

Section 3.01. *Organization and Qualification*. Each Loan Party and each Subsidiary of each Loan Party (a) is a corporation or limited liability company duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of incorporation or organization of such Loan Party or Subsidiary, (b) has the lawful power to own or lease its properties and to engage in the business it presently conducts or proposes to conduct, and (c) is duly licensed or qualified and in good standing in all jurisdictions where the property owned or leased by it or the nature of the business transacted by it makes such licensing or qualification necessary (except to the extent that the failure to be licensed, qualified or in good standing is not likely to cause a Material Adverse Change).

Section 3.02. *Capitalization and Ownership* . As of the Closing Date, the authorized Equity Interests and the issued and outstanding Equity Interests of the respective Loan Parties consists of those shares of common stock or other interests described in the Collateral Information Certificate given as of the Closing Date, having such par value as may be indicated therein, of which that number of shares or other interests indicated therein as issued and outstanding are in fact issued and outstanding. All of the Equity Interests of the Loan Parties indicated as issued and outstanding have been validly issued and are fully paid and nonassessable. As of the Closing Date, there are no options, warrants or other rights outstanding to purchase any Equity Interests of any Loan Party, except as disclosed by the Collateral Information Certificate.

Section 3.03. *Subsidiaries*. No Loan Party nor any Subsidiary of a Loan Party has any Subsidiaries as of the Closing Date, except as otherwise set forth in the Collateral Information Certificate given as of the Closing Date. Each Loan Party has good and marketable title to all the Equity Interests of any Subsidiary which such Loan Party owns, free and clear of any Lien other than Permitted Encumbrances. All of the issued and outstanding shares of Equity Interests of each Subsidiary of the respective Loan Parties are fully paid and non-assessable. There are no options, warrants or other rights outstanding to purchase any shares of Equity Interests of any Subsidiary of any Loan Party nor are any securities or Equity Interests of any Subsidiary convertible into or exchangeable for their Equity Interests. Except for any investments in such assets permitted under the provisions of this Agreement, no Loan Party owns directly or indirectly any Equity Interests of any other Person, no Subsidiary, is a partner (general or limited) of any partnership, and no Subsidiary is a party to any joint venture and or otherwise owns (beneficially or of record) any Equity Interest or similar interest in any other Person.

Section 3.04. *Power and Authority* . Each of the Loan Parties has the full power to enter into, execute, deliver, carry out and perform this Agreement and the Credit Documents to which it is a party, to incur the Indebtedness contemplated by the Credit Documents and to perform its respective obligations under the Credit Documents to which it is a party and all of such actions have been duly authorized in each instance by all necessary corporate or other organizational proceedings.

Section 3.05. *Validity and Binding Effect*. This Agreement has been, and each Credit Document, when executed and delivered by the respective Loan Parties, will have been, duly and validly executed and delivered by the Loan Parties which are signatories thereto. This Agreement and each of the other Credit Documents executed and delivered by the respective Loan Parties will, upon such execution and delivery, constitute the legal, valid and binding obligations of such Loan Parties, enforceable against the respective Loan Parties in accordance with their respective terms, subject to applicable bankruptcy, insolvency, reorganization moratorium or similar Laws affecting the rights of creditors generally and to the effect of general principles of equity whether applied by a court of Law or equity.

Section 3.06. *No Conflict*. Neither the execution and delivery by any Loan Party of any Credit Documents to which it is a party, nor the consummation of the transactions herein or therein contemplated, nor compliance with the terms and provisions hereof or thereof by the Borrowers or the other Loan Parties will (a) conflict with, constitute a default under or result in any breach of (i) the terms and conditions of the Organization Documents of any Loan Party, or (ii) any Law or any agreement or instrument or order, writ, judgment, injunction or decree to which any Loan Party is a party or by which it is bound or to which it is subject, which conflict, default or breach would cause a Material Adverse Change, or (b) result in the creation or enforcement of any Lien upon any property (now or hereafter acquired) of any of the Loan Parties (other than Liens securing the Obligations and the Permitted Encumbrances).

Section 3.07. *Litigation* . There are no actions, suits, proceedings or investigations pending or, to the knowledge of a Responsible Officer of any Borrower, threatened in writing against any Loan Party or any Subsidiary, at law or in equity, before any Governmental Authority which individually or in the aggregate, could be reasonably expected to result in any Material Adverse Change; and no Loan Party or Subsidiary is in violation of any order, writ, injunction or decree of any Governmental Authority, the violation of which could reasonably be expected to result in any Material Adverse Change.

Section 3.08. *Financial Statements; Financial Projections.*

3.08.1. *Financial Statements.* The Historical Financial Statements and the financial statements delivered pursuant to Section 5.09.2, (a) were prepared in accordance with GAAP (except as disclosed therein); and (b) fairly present in all material respects the results of operations and the changes in financial positions of the Persons covered thereby for the periods covered thereby in accordance with GAAP, subject, in the case of clause (ii) of the definition of Historical Financial Statements, to the exceptions set forth therein and the absence of footnotes and normal year-end adjustments.

3.08.2. *Books and Records.* (a) The books of account and other financial records of the Borrowers and their Subsidiaries as in effect on the Closing Date are correct and complete in all material respects, represent actual, bona fide transactions and have been maintained in accordance with sound business and accounting practices; and (b) as of the Closing Date, the Borrowers and their Subsidiaries maintain an adequate system of internal accounting controls and does not engage in or maintain any off-the-books accounts or transactions.

3.08.3. *Absence of Material Liability.* As of the Closing Date, the Borrowers and their Subsidiaries do not have any Indebtedness or material liabilities of any kind, whether direct or indirect, fixed or contingent or otherwise which is not disclosed upon the most recent consolidated and consolidating financial statements of Holdings and its Subsidiaries which have been provided to the Credit Parties; other than executory obligations under contracts, leases, or other agreements which GAAP would not require to be set forth in the consolidated and consolidating financial statements of Holdings and its Subsidiaries.

3.08.4. *Financial Projections.* The Borrowers have delivered to the Credit Parties financial projections of the Borrowers and their Subsidiaries for the period commencing October 1, 2021 and ending September 30, 2023 (the "Projections"). Such projections set forth in the judgment of the Borrowers a reasonable range of possible results in light of the history of the businesses of the Borrowers and their Subsidiaries, and present reasonably foreseeable conditions and the intentions of the management of the Borrowers and their Subsidiaries. In the reasonable judgment of the Borrower, such projections accurately reflect the liabilities of the Borrowers and their Subsidiaries on the Closing Date, after giving effect to the transactions contemplated by that Agreement. No events have occurred since the preparation of the projections which would cause the projections, taken as a whole, not to be reasonably attainable.

Section 3.09. *Margin Stock* . No Borrower and no Subsidiary of a Borrower engages or intends to engage principally, or as one of its important activities, in the business of incurring Indebtedness or extending credit to others for the purpose, immediately, incidentally or ultimately, of purchasing or carrying "margin stock" (within the meaning of Regulation U issued by the Federal Reserve Board). No part of the proceeds of any Loan or other extension of credit hereunder has been or will be used, to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock or to refund or retire Indebtedness originally incurred for such purpose. As of the Closing Date no Borrower and no Subsidiary of a Borrower intends to hold any margin stock. None of Holdings, any Person Controlling the Borrower, or any Subsidiary is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

Section 3.10. *Full Disclosure* . Neither this Agreement nor any Credit Document, nor any certificate, statement, agreement or other document furnished to the Credit Parties by the Loan Parties, contains any misstatement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which they were made, not misleading. There is no fact known to the Borrowers which materially adversely affects the business, property, assets, financial condition, or results of operations of the Borrowers and their Subsidiaries, taken as a whole, which has not been set forth in this Agreement or the Credit Documents or in the certificates, statements, agreements or other documents furnished in writing to the Credit Parties before or at the date hereof in connection with the transactions contemplated hereby and thereby. As of the Closing Date, the information included in the Beneficial Ownership Certification is true and correct in all respects.

Section 3.11. *Tax Returns and Payments*. All federal and state tax returns that are required by applicable Law to be filed by the Borrowers and their Subsidiaries have been filed or properly extended. All taxes, assessments and other governmental charges levied upon the Borrowers and their Subsidiaries, or any of their respective properties, assets, income or franchises which are due and payable or not delinquent have been paid in full other than (a) those presently payable without penalty or interest, (b) those which are being contested in good faith by appropriate proceedings, and (c) those which, if not paid, would not, in the aggregate, constitute a Material Adverse Change; and as to each of items (a), (b) and (c) the Borrowers and their Subsidiaries have established reserves for such claims as have been determined to be adequate by application of GAAP consistently applied. There are no agreements or waivers extending the statutory period of limitations applicable to any consolidated federal income tax returns of the Borrowers and their Subsidiaries for any period.

Section 3.12. *Consents and Approvals*. No consent, approval, exemption, order or authorization of, or a registration or filing with any Governmental Authority or any other Person, which has not been obtained is required by any Law or any agreement (other than the Credit Documents) in connection with the execution, delivery and carrying out of this Agreement and the Credit Documents to which any Loan Party is a party.

Section 3.13. *No Event of Default; Compliance with Instruments* . No event has occurred and is continuing and no condition exists or will exist after giving effect to the Loans which constitutes an Event of Default or a Default. No Loan Party or Subsidiary of a Loan Party is in violation of any term of its Organization Documents.

Section 3.14. *Compliance with Laws* . Each of the Loan Parties and their respective Subsidiaries are in compliance in all material respects with all applicable Laws in all jurisdictions in which any of the Loan Parties or their Subsidiaries are presently or will be doing business, the non-compliance with which would be likely to cause a Material Adverse Change.

Section 3.15. *ERISA Compliance*.

3.15.1. *Plans and Contributions.* Each Loan Party and each Subsidiary, their ERISA Affiliates, and each Plan is in material compliance with the applicable provisions of ERISA, the Code and other Federal or state laws. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service to the effect that the form of such Plan is qualified under Section 40l(a) of the Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 50l(a) of the Code, or an application for such a letter is currently being processed by the Internal Revenue Service or, in the case of a Pension Plan that is maintained pursuant to the adoption of a master or prototype or volume submitter document, the sponsor of such master or prototype or volume submitter document has obtained from the Internal Revenue Service a favorable opinion letter stating that the form of such master or prototype or volume submitter document is acceptable for the establishment of a tax-qualified plan under Section 40l(a) of the Code. No Responsible Officer of the Borrower Representative has knowledge of any occurrence that would prevent or cause the loss of any applicable tax-qualified status set forth in the immediately preceding sentence. Except to the extent required under Section 4980B of the Code or similar state laws, or as would not reasonably be expected to result in a material liability or obligation to a Loan Party, no Plan provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of any Loan Party or any Subsidiary.

3.15.2. *Pending Claims.* There are no pending or, to the knowledge of any Responsible Officer of the Borrower Representative, threatened in writing claims (other than routine claims for benefits), actions or lawsuits, or actions, with respect to any Plan that could reasonably be expected to result in liabilities to the Loan Parties and their Subsidiaries, individually or collectively, in excess of $20,000,000. There has been no Prohibited Transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or would reasonably be expected to result in a material tax or liability to a Loan Party, any Subsidiary or a Plan.

3.15.3. *ERISA Events.* Except as would not reasonably be expected to result in liabilities to a Loan Party or any Subsidiary either individually or in the aggregate in excess of $20,000,000, no ERISA Event has occurred and the Borrowers are not aware of any fact, event or circumstance that would reasonably be expected to constitute or result in an ERISA Event. Each Loan Party, each Subsidiary and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained. As of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and neither the Borrowers nor any ERISA Affiliate knows of any facts or circumstances that would reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the next valuation date. Neither the Loan Parties, any Subsidiary nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no material premium payments which have become due that are unpaid. No Loan Party, Subsidiary nor any ERISA Affiliate has engaged in a transaction that would be subject to Section 4069 or Section 4212(c) of ERISA and no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC that would reasonably be expected to result in a liability in excess of $20,000,000, and no event or circumstance has occurred or exists that would reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan.

Section 3.16. *Title to Properties* . Each Loan Party and each Subsidiary has (i) good, sufficient and legal title to (in the case of fee interests in Real Property), (ii) valid leasehold interests in (in the case of leasehold interests in real or personal property), and (iii) all of the respective properties and assets reflected in their respective Historical Financial Statements and in the most recent financial statements delivered pursuant to Section 4.01, Section 5.01.1 or Section 5.08.2, in each case except for assets Disposed of since the date of such financial statements in the ordinary course of business if occurring prior to the

Closing Date or as otherwise permitted under Section 6.04 or Section 6.05. Except as permitted by this Agreement, all such properties and assets are free and clear of Liens other than Permitted Encumbrances.

Section 3.17. *Insurance* . The properties of each Loan Party and each Subsidiary are insured with financially sound and reputable insurance companies that are not Affiliates of any Loan Party or Subsidiary, in each case, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in the same or similar businesses as the Loan Parties and the Subsidiaries.

Section 3.18. *Employment Matters* . Each Loan Party and each Subsidiary of a Loan Party is in material compliance with all employee benefit plans, employment agreements, collective bargaining agreements and labor contracts and all Laws applicable thereto. There are no outstanding grievances, arbitration awards or appeals relating to any of the foregoing plans, agreements or contracts, or, to the knowledge of a Responsible Officer of any Loan Party, threatened in writing strikes, picketing, handbilling or other work stoppages or slowdowns at facilities of any Loan Party or any Subsidiary of a Loan Party which could reasonably be expected to result in any Material Adverse Change. All payments due or to become due from any Loan Party or the Subsidiary of the Loan Party on account of obligations in respect of employee health and welfare insurance which could reasonably be expected to result in any Material Adverse Change if not paid have been paid or, in the case of such amounts not yet due, have been recorded as liabilities on the books of the Borrowers and their Subsidiaries.

Section 3.19. *Solvency*. As of the Closing Date, after giving effect to the Closing Date Transactions, and as of the date of each advance of the proceeds of any Loan and each issuance or renewal of any Letter of Credit, as the case may be, and after giving effect to such advances or issuances or renewals, each of the Loan Parties and each Subsidiary of a Loan Party, taken as a whole is, and will remain, Solvent.

Section 3.20. *Material Contracts* . Except as otherwise disclosed on Schedule 3.20 and, in each instance in which the representations and warranties of this Section are given or deemed given on a date subsequent to the Closing Date, as theretofore otherwise disclosed to the Credit Parties in writing, all material contracts relating to the business operations of the Loan Parties and their Subsidiaries, are valid, binding and enforceable upon the Loan Parties and their Subsidiaries, and to the knowledge of a Responsible Officer of any Loan Party, the other parties thereto, without any material defaults thereunder, except to the extent that such circumstance could not reasonably be expected to result in a Material Adverse Change.

Section 3.21. *Patents, Trademarks, Copyrights, Licenses, Etc.* Holdings and its Subsidiaries own, license or otherwise possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other intellectual property rights, including but not limited to such intellectual property rights acquired by Holdings and its Subsidiaries under agreements with Manufacturers and other suppliers of Floor Plan Units and other vendors, that are reasonably necessary for the operation of their respective businesses as currently conducted (the "*IP Rights*") and no Responsible Officer of the Loan Parties has knowledge that the use thereof by Holdings and its Subsidiaries infringes upon any intellectual property rights of any other Person. No Responsible Officer of the Loan Parties has knowledge that the use of the IP Rights in connection with such businesses materially infringes or misappropriates the intellectual property rights of any other Person. No slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by Holdings or any of its Subsidiaries in the conduct of their respective businesses as currently conducted infringes upon any material intellectual property rights held by any other Person.

Section 3.22. *Liens* . Except as otherwise contemplated hereby or under any other Credit Document, and subject to limitations set forth herein and in the Security Documents, the Security Documents, together with such filings and other actions required to be taken hereby or by the applicable Security Documents, are effective to create legal, valid and enforceable Liens (subject to Permitted

Encumbrances) in the Collateral described therein in favor of the Administrative Agent for the benefit of the Credit Parties and (i) when financing statements and other filings in appropriate form are filed in the offices required by the applicable provision of the Security Documents and (ii) upon the taking of possession or control by the Administrative Agent of such Collateral with respect to which a security interest may be perfected only by possession or control (which such possession or control shall be given to the Administrative Agent to the extent required by the Security Documents), the Liens created by the Security Documents shall constitute fully perfected first-priority Liens on, and security interests in all right, title and interest of the grantors in such Collateral to the extent perfection can be obtained by filing financing statements or taking possession or control, in each case subject to no Liens other than Permitted Encumbrances and the Liens created thereunder are entitled to all applicable rights and benefits provided by applicable Law.

Section 3.23. *Environmental Compliance*. Except as disclosed on Schedule 3.23:

3.23.1. Holdings and its Subsidiaries have been and are in compliance with all material Environmental Laws, including obtaining and complying with all required Environmental Permits, other than non-compliances;

3.23.2. neither Holdings nor any of its Subsidiaries nor any property currently, or, to the knowledge the Responsible Officers of the Loan Parties, previously owned, operated or leased by or for Holdings or any of its Subsidiaries is subject to any pending or threatened, in writing, written claim, order, legally-binding agreement with any Governmental Authority to conduct any Remedial Action pursuant to Environmental Law, written notice of violation or written notice of potential liability or, to the knowledge of any Responsible Officer of any Loan Party, is the subject of any pending governmental investigation of which Holdings or any of its Subsidiaries have written notice, in each case under or pursuant to Environmental Laws;

3.23.3. as of the Closing Date, neither Holdings nor any of its Subsidiaries operates their respective currently owned or leased real property as a treatment or storage or disposal facility requiring a permit under the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq., the regulations thereunder or any state analog;

3.23.4. no Responsible Officer of any Loan Party has knowledge of any environmental conditions arising out of or relating to the operations or ownership of Holdings or any of its Subsidiaries at the property currently owned, operated or leased by Holdings or any of its Subsidiaries that would be reasonably expected to have resulted in any material Environmental Liabilities that are not specifically included in the financial information furnished to the Lenders, unless such liabilities are reasonably expected to be (i) covered by environmental liability insurance or (ii) subject to an indemnity satisfactory to Holdings from, to the extent that the board of directors of Holdings has determined in good faith to be appropriately credit worthy in relation to the potential amount of such liabilities, any Person that is not an Affiliate of Holdings;

3.23.5. as of the Closing Date, no material Environmental Lien has attached to any property of Holdings or its Subsidiaries and, to the knowledge of any Responsible Officer of any Loan Party, no facts, circumstances or conditions exist that would result in such a Lien; and

3.23.6. neither Holdings nor any of its Subsidiaries is undertaking, either individually or together with other potentially responsible parties, as of the Closing Date, any investigation or assessment or Remedial Action relating to any actual or threatened release of Hazardous Materials at any location or disposal site, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law; and all Hazardous Materials generated, used, treated, handled or stored at, or transported to or from, any property currently or, during the period of ownership or operation

by Holdings or any of its Subsidiaries, formerly owned or operated by Holdings or any of its Subsidiaries have been disposed of by Holdings or any of its Subsidiaries.

Section 3.24. *Anti-Corruption; Anti-Terrorism*. No Loan Party nor any Subsidiary is a Sanctioned Person. No Loan Party nor any Subsidiary (a) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person, in either case, in violation of any Sanctions; (b) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person, in either case, in violation of any Anti-Terrorism Law or Sanctions; or (c) engages in any dealings or transactions prohibited by any Anti-Terrorism Law or Sanctions. No Loan Party nor any Subsidiary, nor, to the knowledge of any Responsible Officer of any Loan Party, any Director, officer or employee thereof, is in violation in any material respect of (A) Sanctions or (B) the USA Patriot Act. Each Loan Party and each Subsidiary has conducted its businesses in material compliance with the United States Foreign Corrupt Practices Act of 1977. No proceeds of any Loan made or Letter of Credit issued hereunder will be used to fund any operations in, finance any investments or activities in, or make any payments to, a Sanctioned Person, in each case, in violation of applicable Sanctions. No Collateral is Embargoed Property.

Section 3.25. *Affected Financial Institution*. Neither the Borrower nor any other Loan Party is an Affected Financial Institution.

Section 3.26. *Beneficial Ownership*. As of the Closing Date, the information included in the Beneficial Ownership Certification (if any) is true and correct in all respects.

Section 3.27. *Covered Entities*. No Loan Party is a Covered Entity.

Section 3.28. *Real Property Specific Representations*.

3.28.1. *Separate Tax Parcel; Special Assessments*. As of the date of the applicable Mortgage and for so long as the applicable Mortgage encumbers such Mortgaged Property, each Mortgaged Property that is subject to such Mortgage is comprised of one (1) or more parcels, each of which (or together with one or more of the other parcels encumbered by such Mortgage) constitutes a separate tax lot and none of which constitutes a portion of any other tax lot. As of the date the applicable Mortgage and for so long as the applicable Mortgage encumbers such Mortgaged Property, there are no pending or, to knowledge of a Responsible Officer of Holdings or any Mortgage Loan Borrower, proposed, special or other assessments for public improvements or otherwise affecting any Mortgaged Property that is subject to such Mortgage, nor are there any contemplated improvements to any Mortgaged Property that is subject to such Mortgage that would reasonably be expected to result in such special or other assessments, except as may be approved by the Administrative Agent in its sole discretion.

3.28.2. *Purchase Options*. As of the date of the applicable Mortgage and for so long as the applicable Mortgage encumbers such Mortgaged Property, there are no outstanding options to purchase, rights of first refusal to purchase or rights of first offer to purchase affecting any part of any Mortgaged Property that is subject to such Mortgage.

3.28.3. *Zoning*. Based solely on any zoning reports delivered to the Administrative Agent in connection with the Mortgages and to the knowledge of the Responsible Officers of Holdings and each Mortgage Loan Borrower, as of the date the applicable Mortgage Loan and for so long as the applicable Mortgage encumbers such Mortgaged Property, each Mortgaged Property that is subject to such Mortgage complies with all applicable zoning ordinances, regulations and restrictive

covenants affecting such Mortgaged Property, and no special use permits are required for the current or anticipated use of such Mortgaged Property that have not been obtained.

3.28.4. *Easement Rights*. As of the date of the applicable Mortgage and for so long as the applicable Mortgage encumbers such Mortgaged Property, each Borrower or any of its Subsidiaries has been granted all easements necessary for the use and operation of each applicable Mortgaged Property that is subject to such Mortgage, and any mortgage liens now or hereafter affecting any land burdened by such easements are subordinate to such easements.

3.28.5. *Utilities; Access*. As of the date the applicable Mortgage and for so long as the applicable Mortgage encumbers such Mortgaged Property, all utility and municipal services reasonably necessary for the use and occupancy of any parcel of Mortgaged Property that is subject to such Mortgage are available and have sufficient capacity to operate such Mortgaged Property for its current or anticipated purposes, including water supply, storm and sanitary sewer facilities, electricity and telephone facilities. As of the date of the applicable Mortgage and for so long as the applicable Mortgage encumbers such Mortgaged Property, all impact, connection or other requisite fees for such services have been paid. Based solely on any surveys delivered to the Administrative Agent pursuant to Section 5.15.4 and to the knowledge of the Responsible Officers of Holdings and each Mortgage Loan Borrower, as of the date of the applicable Mortgage and for so long as the applicable Mortgage encumbers such Mortgaged Property, each Mortgaged Property that is subject to such Mortgage has direct physical access to and from at least one public road.

Section 3.29. *Location of Floor Plan Units and Books and Records; Chief Executive Office*. As of the Closing Date, the locations (and addresses) set forth in Schedule 2.01 are all the locations at which each Loan Party and each Subsidiary keep the Floor Plan Units held as Inventory, except for such Floor Plan Units that are at Permitted Collateral Locations, and the respective Loan Parties or Subsidiaries maintain records with the location of the Floor Plan Unit and, where applicable, the name of, and such other relevant information as is standard in the industry with respect to, the dealer involved in such a dealer trade (or the customer test driving or renting such Floor Plan Unit). Set forth on Schedule 2.01 as of the Closing Date is the chief executive office for each Loan Party and each Subsidiary.

ARTICLE 4
CONDITIONS PRECEDENT

Section 4.01. *Conditions to Closing*. The effectiveness of this Agreement and the obligation of each Lender to make any advances of proceeds of the Loans, the obligation of M&T to make WF Advances, and the obligation of the Issuing Bank to issue any Letters of Credit hereunder, in each case, on the Closing Date are subject to the satisfaction on or before the Closing Date of the following conditions precedent:

4.01.1. *Closing Submissions.* The Administrative Agent's receipt of the following, each properly executed by an Authorized Officer of the signing Loan Party, each dated either the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance reasonably satisfactory to the Administrative Agent and its counsel:

(a) executed counterparts of this Agreement, the Guarantee and Collateral Agreement and the other Credit Documents;

(b) Notes executed by the Borrowers in favor of each Lender requesting notes;

(c) an Agreement Regarding Expected Outstanding Amount executed by the Floor Plan Agent and the Floor Plan Borrowers in form and substance reasonably acceptable to the Floor Plan Agent;

(d) such certificates of resolutions or other organizational action, incumbency certificates and/or other certificates of Authorized Officers of each Loan Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Authorized Officer thereof authorized to act as an Authorized Officer in connection with this Agreement and the other Credit Documents to which such Loan Party is a party;

(e) (i) such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, and that each Loan Party is validly existing, in good standing and qualified to engage in business in each respective jurisdiction of each such Loan Party and each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Change and (ii) a copy of the Organization Documents, to the extent applicable, certified as of a recent date by the appropriate governmental official, each certified as true and complete by an Authorized Officer of the applicable Loan Party;

(f) a favorable opinion letter or opinion letters of counsel to the Loan Parties, addressed to the Administrative Agent and the Lenders in form and substance satisfactory to the Administrative Agent;

(g) a certificate of an Authorized Officer of each Loan Party stating that all notices, consents, licenses, approvals, and agreements required in connection with the execution, delivery and performance by such Loan Party and the validity against such Loan Party of the Credit Documents to which it is a party, including notices to, and consents, and approvals required from Manufacturers, OEM and other vendors and suppliers of Floor Plan Units and a statement identifying all of such Manufacturers, OEM, vendors and suppliers of Floor Plan Units, and shall have been duly given or received, and that any such consents, licenses, approvals, and agreements shall be in full force and effect upon giving effect to the Credit Documents and the transactions contemplated by this Agreement;

(h) a certificate signed by an Authorized Officer of the Loan Parties or the Borrower Representative certifying (i) the absence of any continuing Defaults or Events of Default, (ii) satisfaction of all conditions precedent to Closing hereunder, (iii) solvency, (iv) all shareholder and corporate consents and approvals, and all material governmental and third party consents and approvals required in connection with the Closing Date Transactions (all of which shall be final with no waiting period to expire or ongoing governmental inquiry or investigation) shall have been received and there does not exist any action, suit, investigation, litigation or proceeding pending or threatened in writing in any court or before any arbitrator or Governmental Authority that challenges the credit facilities or any other transaction involving any of the Loan Parties, (v) such other matters as are reasonably required by the Administrative Agent or the Lenders;

(i) a duly completed Compliance Certificate, including calculations of the financial covenants set forth therein in a manner reasonably satisfactory to the Administrative Agent, signed by an Authorized Officer of the Loan Parties in form and substance satisfactory to the Administrative Agent evidencing, as of the as of the last day of the most recently completed month ending at least 30 days prior to the Closing Date, (i) a Total Net Leverage Ratio not greater than 3.35:1.00, and (ii) a Consolidated Fixed Charge Coverage Ratio not less than 1.10:1.00, in each case after giving *pro forma* effect to the Closing Date Transactions;

(j) the Historical Financial Statements and the Projections;

(k) all sale-leaseback documents, operating leases, real estate mortgages, all title, survey, appraisals and other customary real estate documentation in respect of the Mortgage Obligations Collateral and delivery to the Administrative Agent of such Real Estate Support Documents as are reasonably required by the Administrative Agent;

(l) certificates evidencing insurance (including flood insurance) which insurance shall name the Administrative Agent as additional insured and include lender loss payee endorsements for property and casualty policies, as applicable;

(m) all documentation and other information required by the Administrative Agent, the Floor Plan Agent, any Lenders or the Issuing Bank to evidence or facilitate both the Borrowers' and each Lender's compliance with all applicable Laws and regulations, including, all "know your customer" rules in effect from time to time pursuant to the Bank Secrecy Act, the USA Patriot Act and other applicable Laws on or prior to the date which is five (5) Business Days prior to the Closing Date;

(n) to the extent that the Lenders have reasonably requested such certification in writing delivered to the Borrower Representative at least ten Business Days prior to the Closing Date, at least five days prior to the Closing Date, any Borrower that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation shall deliver a Beneficial Ownership Certification in relation to such Borrower;

(o) (i) UCC search results with respect to the Loan Parties showing no Liens except Permitted Encumbrances (or Liens with respect to Indebtedness to be repaid on or prior to the Closing Date) and (ii) searches of ownership of intellectual property owned by the Loan Parties in the United States Patent and Trademark Office and the United States Copyright Office and such patent/trademark/copyright filings as requested by the Administrative Agent in order to perfect the Administrative Agent's security interest in such intellectual property;

(p) UCC-1 financing statements for filing in all places required by applicable Law to perfect the Liens of the Administrative Agent for the benefit of the Credit Parties under the Security Documents as a perfected Lien as to items of Collateral in which a security interest may be perfected by the filing of a UCC-1 financing statement;

(q) customary evidence that the Closing Date Refinancing shall have occurred (or shall occur substantially simultaneously with the funding of the Loans on the Closing Date) and that the Existing Credit Facility has been, or concurrently with the Closing Date is being, terminated, and that all loans and obligations thereunder have been paid in full or are being paid in full with cash on hand and Loans funded on the Closing Date, and any and all Liens thereunder shall have been terminated prior to the Closing Date or shall terminate substantially concurrently therewith;

(r) an executed Collateral Information Certificate by Holdings for itself and for each Loan Party completed giving pro forma effect to the Closing Date Transactions; and

(s) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, the Issuing Bank, the Floor Plan Agent, or the Required Lenders reasonably may require.

4.01.2. *Fees.* Any fees required to be paid on or before the Closing Date shall have been paid.

4.01.3. *Credit Party Expenses.* The Borrowers shall have paid in full all Credit Party Expenses to the extent invoiced prior to or on the Closing Date.

4.01.4. *No Material Adverse Change.* No material adverse change shall have occurred in the business, financial condition, assets, operations, liabilities, or properties of the Borrowers and their respective Subsidiaries, taken as a whole since September 30, 2021.

Section 4.02. *Conditions To Advances Of Proceeds Of Loans And Issuances Of Letters Of Credit After Closing Date.* Subject to Section 1.08 with respect to any Borrowing after the Closing Date the proceeds of which are to be used to provide financing for a Limited Condition Transaction and except with respect to Term Loans which are addressed in Section 4.04, the obligations of each Lender and of the Issuing Bank to honor any request for the advance of any proceeds of the Loans or the issuance or reissuance of any Letters of Credit after the Closing Date or request to renew or amend any Letter of Credit after the Closing Date, shall be subject to the satisfaction of the following conditions precedent:

4.02.1. *Representations And Warranties.* The representations and warranties of the Loan Parties contained in Article 3 of this Agreement or in any other Credit Document, shall be true and correct in all material respects (and, in the case of any representation or warranty that is qualified by materiality or Material Adverse Change, shall be true and correct in all respects) on and as of the date of any such advance of proceeds of the Loans or issuance of Letters of Credit, except 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 (and, in the case of any representation or warranty that is qualified by materiality or Material Adverse Change, shall be true and correct in all respects) as of such earlier date.

4.02.2. *Absence Of Defaults And Events Of Default.* No continuing Default or Event of Default shall exist, or would result from such requested advance or issuance.

4.02.3. *Loan Request*. With respect to any borrowing of Loans, the Applicable Agent shall have received (x) a Loan Request as required by the terms of this Agreement and (y) in respect of Floor Plan Loans, a Borrowing Base Certificate calculated as of the last day of the calendar month ended at least thirty (30) days (or such lesser number of days as the Borrower Representative may elect in its discretion) prior to the Borrowing Date demonstrating Availability on the proposed date of such Borrowing and/or issuance, amendment, extension or renewal of a Letter of Credit sufficient to cover the amount of such Borrowing and/or issuance, amendment, extension or renewal of such Letter of Credit.

4.02.4. *Alternative Currency*. In the case of a Loan to be denominated in an Alternative Currency, there shall not have occurred any change in national or international financial, political or economic conditions or currency exchange rates or exchange controls which in the reasonable opinion of the Administrative Agent or the Required Lenders would make it impracticable for such Loan to be denominated in the relevant Applicable Currency.

Each request for the advance of proceeds of the Loans or for the issuance or reissuance of any Letters of Credit shall be deemed automatically to be a representation and warranty of the Borrowers that the conditions specified in this Section 4.02 have been satisfied on and as of the date of the request.

Section 4.03. *Conditions to Mortgage Loan Facility*. The obligation of each Lender to make Mortgage Loans on any Mortgage Loan Funding Date, are subject to the satisfaction (or waiver) of the conditions set forth in Section 4.02 and the following conditions precedent:

4.03.1. *Mortgage Loan Requirements*. (a) All requirements set forth in Section 2.06A hereof to the extent applicable to the relevant delayed draw borrowing shall have been satisfied, (b) the Administrative Agent shall have received Mortgage Loan Notes executed by the applicable Borrowers in favor of the applicable Lenders requesting a Mortgage Loan Note prior to the Mortgage Loan Funding Date in originals or electronic copy (followed promptly by originals) and (c) the Administrative Agent shall have received all documents in originals or electronic copy (followed promptly by originals) and other items, in each case, required under Section 5.15.4 with respect to any Mortgaged Property applicable to such delayed draw borrowing and as otherwise set forth in Section 4.03.2 below (including a title insurance endorsement to the Administrative Agent which title insurance endorsement shall comply with the title

insurance regulations in the applicable jurisdiction with respect to the title insurance policy covering the Property which is being acquired in connection with such Borrowing).

4.03.2. *Closing Submissions*. The Administrative Agent's receipt of the following, each of which shall be originals or electronic copies (followed promptly by originals), unless otherwise specified, each properly executed by an Authorized Officer of the applicable signing Loan Party to the extent that a Loan Party is a party thereto, each dated either the applicable Mortgage Loan Funding Date or, in the case of certificates of governmental officials, a recent date before the applicable Mortgage Loan Funding Date and each in form and substance reasonably satisfactory to the Administrative Agent and the Lenders providing such Loans:

(a) a certificate of an Authorized Officer of the Borrower Representative certifying that the Borrowers have complied in all respects with the requirements set forth in Section 5.15.4 (in the case of Section 5.15.4, solely with respect to the Mortgaged Property applicable to such delayed draw borrowing) and, if applicable, Section 5.15 and all collateral and organizational documents required thereby shall be effective as of such Mortgage Loan Funding Date;

(b) completion and reasonably satisfactory review of Real Estate Appraisals on such Mortgaged Property financed by such Class of Mortgage Loans evidencing that the Outstanding Amount of the Mortgage Loans of such Class on such Mortgage Loan Funding Date shall not be greater than 70% of the Aggregate Mortgaged Property Asset Value;

(c) to the extent that the Lenders have reasonably requested such certification in writing delivered to the Borrower Representative at least ten Business Days prior to the applicable Mortgage Loan Funding Date, at least five Business Days prior to the applicable Mortgage Loan Funding Date, any Borrower that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation shall deliver a Beneficial Ownership Certification in relation to such Borrower, or if previously delivered, such Borrower shall attest that such previously delivered beneficial ownership certificate remains accurate;

(d) a duly completed Compliance Certificate signed by an Authorized Officer of the Borrower Representative, demonstrating that, after giving pro forma effect to the Mortgage Loans funded on such Mortgage Loan Funding Date, that the Borrowers are in compliance with the financial covenants set forth in Sections 6.12 and 6.13; and

(e) all documentation and other information required by the Administrative Agent or any Lender to evidence or facilitate both the Borrowers' and each Lender's compliance with all applicable Laws and regulations, including, all "know your customer" rules in effect from time to time pursuant to the Bank Secrecy Act, the USA Patriot Act and other applicable Laws on or prior to the date which is five (5) Business Days prior to the Mortgage Loan Funding Date.

Section 4.04. *Conditions to Term Loan Facility, IGY Acquisition.* The obligation of each Term Loan Lender to make a Term Loan on the Term Loan Funding Date in connection with the IGY Acquisition are subject to the satisfaction (or waiver) of the following conditions precedent:

4.04.1. *IGY Acquisition Delayed Draw Requirements*. (a) All requirements set forth in Section 2.06 hereof shall have been satisfied and (b) the Administrative Agent shall have received Term Loan Notes executed by the applicable Borrowers in favor of each applicable Lender requesting a Term Loan Note in originals or electronic copy (followed promptly by originals).

4.04.2. *Closing Submissions.* The Administrative Agent's receipt of the following, each of which shall be originals or electronic copies (followed promptly by originals), unless otherwise specified, each properly executed by an Authorized Officer of the applicable signing Loan Party, each dated either the applicable Term Loan Funding Date or, in the case of certificates of governmental officials, a recent date before the Term Loan Funding Date and each in form and substance reasonably satisfactory to the Administrative Agent and the Lenders providing such Loans:

(a) a Loan Notice requesting the Term Loans requested to be funded on the Term Loan Funding Date executed by the applicable Borrowers requesting such respective Loans;

(b) a certificate of an Authorized Officer of the Borrower Representative certifying that the Borrowers have complied in all respects with the requirements set forth in Section 5.15 and all collateral and organizational documents required thereby shall be effective as of such Term Loan Funding Date;

(c) [reserved];

(d) Administrative Agent shall have received copies of the final executed IGY Acquisition Agreement, and any note, guaranty and other material agreement, instrument or document entered into in connection therewith (including all schedules, exhibits, amendments, supplements, modification, assignments and all other documents delivered pursuant thereto or in connection therewith), each of which shall be certified by an Authorized Officer of Holdings and in form and substance reasonably satisfactory to Administrative Agent;

(e) All conditions precedent to the IGY Acquisition set forth in the IGY Acquisition Agreement shall have been satisfied (without any amendment, modification or waiver of any condition that would be adverse to the Lenders without the consent of Administrative Agent) and the IGY Acquisition shall have been consummated in accordance with the IGY Acquisition Agreement (without any amendment, modification or waiver of any provision that would be adverse to the Lenders without the consent of Administrative Agent) and with all material requirements of law;

(f) All governmental authorizations, shareholder and corporate consents and all material consents of other Persons set forth in Section 7.2 of the IGY Acquisition Agreement, or that are necessary in connection with the other transactions contemplated by the Credit Documents, shall have been obtained, and each of the foregoing shall be final and in full force and effect. All applicable waiting periods shall have expired without any action being taken or threatened, in writing, by any competent authority which would restrain or prevent the IGY Transactions or the other transactions contemplated by the Credit Documents or the financing thereof and no action, request for stay, petition for review or rehearing, reconsideration, or appeal with respect to any of the foregoing shall be pending, and the time for any applicable agency to take action to set aside its consent on its own motion shall have expired;

(g) a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower Representative, demonstrating that, (i) the Total Net Leverage Ratio of Holdings and its Subsidiaries as of the last day of the most recently ended Test Period prior to such Term Loan Funding Date shall not be greater than [****] to 1.00 after giving pro forma effect to the IGY Transactions and (ii) the aggregate amount [****] (2) the amount by which the aggregate Revolving Credit Commitments exceeds the aggregate Revolving Credit Exposure, plus (3) the amount by which the Line Cap exceeds the aggregate Floor Plan Loan Exposure shall be at least [****].

(h) (i) the representations and warranties of the Loan Parties contained in Article 3 of this Agreement or in any other Credit Document (after giving effect to the IGY Acquisition and in any event including with respect to IGY), shall be true and correct in all material respects (and, in the case of any representation or warranty that is qualified by materiality or Material Adverse Change, shall be true and correct in all respects) on and as of Term Loan Funding Date, except 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 (and, in the case of any representation or warranty that is qualified by materiality or Material Adverse Change, shall be true and correct in all respects) as of such earlier date; provided, that only the accuracy of the Specified Representations in all material respects as of the Term Loan Funding Date (except in the case of any Specified Representation which expressly relates to a given date or period, such representation and warranty shall be true and correct in all material respects as of the respective date or for the respective period, as the case may be) shall be a condition to funding of the Term Loans on the Term Loan Funding Date; provided, further, that any Specified Representation qualified by or subject to a materiality, Material Adverse Change or similar term or qualification shall be true and correct in all respects (after giving effect to any such qualification of materiality) and (ii) the Specified Purchase Agreement Representations will be true and correct as of the Term Loan Funding Date;

(i) Since the date of the IGY Acquisition Agreement, there shall not have occurred any event that, individually or in the aggregate with all other effects since the date of this Agreement, has had or would reasonably be expected to have, individually or in the aggregate, a "Company Material Adverse Effect" (as defined in the IGY Acquisition Agreement as in effect on the date hereof);

(j) No Specified Event of Default shall exist immediately before or after giving effect to the IGY Acquisition;

(k) the Borrower Representative shall have delivered to the Administrative Agent a certificate executed by an Authorized Officer of the Borrower Representative, certifying to such officer's knowledge, compliance with the requirements of preceding clauses (a) through (j) and containing the calculations (in reasonable detail) required by the preceding clause (g);

(l) certificates evidencing insurance (including flood insurance) which insurance shall name the Administrative Agent as additional insured and include lender loss payee endorsements for property and casualty policies, as applicable;

(m) all documentation and other information required by the Administrative Agent or any Lender to evidence or facilitate both the Borrowers' and each Lender's compliance with all applicable Laws and regulations, including, all "know your customer" rules in effect from time to time pursuant to the Bank Secrecy Act, the USA Patriot Act and other applicable Laws on or prior to the date which is five (5) Business Days prior to the Term Loan Funding Date; and

(n) to the extent that the Lenders have reasonably requested such certification in writing delivered to the Borrower Representative at least ten Business Days prior to the Term Loan Funding Date, at least five Business Days prior to the Term Loan Funding Date, any Borrower that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation shall deliver a Beneficial Ownership Certification in relation to such Borrower, or if previously delivered, such Borrower shall attest that such previously delivered beneficial ownership certificate remains accurate;

ARTICLE 5

AFFIRMATIVE COVENANTS

Each Borrower agrees that until the payment and satisfaction in full of all of the Obligations, it will comply with and cause the other Loan Parties and each other Subsidiary to comply with the covenants set forth in this Article 5.

Section 5.01. *Payment and Performance.* Each Borrower promises that all Obligations shall be paid and performed in full when and as due.

Section 5.02. *Insurance*. The Borrowers and each Loan Party shall obtain and maintain and shall cause their respective Subsidiaries to obtain and maintain such insurance coverages as are reasonable, customary and prudent for businesses engaged in activities similar to the business activities in which it is engaged. Without limitation to the foregoing, the Borrowers and the other Loan Parties shall each maintain fire and extended coverage casualty insurance covering the Collateral and their respective assets in amounts satisfactory to the Administrative Agent consistent with prudent practices and sufficient to prevent any co-insurance liability (which amount shall be the full insurable value of the assets and properties insured unless the Administrative Agent in writing agrees to a lesser amount), naming the Administrative Agent for the benefit of the Credit Parties as sole lender loss payee and/or additional insured with respect to the Collateral and such assets, with insurance companies and upon policy forms which are acceptable to and approved by the Administrative Agent. The Loan Parties shall submit to the Administrative Agent originals or certified copies of the casualty insurance policies and paid receipts evidencing payment of the premiums due on the same. The casualty insurance policies shall be endorsed so as to make them non-cancellable unless thirty (30) days prior notice of cancellation is provided to the Administrative Agent.

Section 5.03. *Collection Of Accounts; Sale Of Inventory*. The Loan Parties shall collect their respective Accounts and sell their respective Inventory only in the ordinary course of their respective businesses, subject to customary credit and collection policies.

Section 5.04. *Notice Of Litigation And Proceedings*. The Borrowers and each other Loan Party shall give prompt notice to the Administrative Agent of any action, suit, citation, violation, direction, notice or proceeding before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, affecting such Loan Party, or the assets or properties thereof, which, if determined adversely to such Loan Party (a) could reasonably be expected to require it to pay over more than $20,000,000 or deliver assets the value of which exceeds that sum, or (b) could reasonably be expected to cause a Material Adverse Change.

Section 5.05. *UCC and Floor Plan Units.* Each Eligible Floor Plan Unit shall constitute Inventory under the applicable UCC. With respect to each Eligible Floor Plan Unit, the related Floor Plan Borrower is and shall continue to be in the business of selling Floor Plan Units, and in each jurisdiction where such Floor Plan Borrower maintains any Floor Plan Units or is "located" (for purposes of the UCC), the Lien of the Administrative Agent and the Lenders on such Floor Plan Units is and shall continue to be perfected by filing a UCC financing statement in accordance with Section 9-311(a) and (d) of the applicable UCC.

Section 5.06. *Notice Of Change Of Business Location Or Of Jurisdiction of Organization; Notice of Name Change*. The Borrower Representative shall notify the Administrative Agent (a) within fifteen (15) days after any change in the location of any Loan Party's chief executive office or principal place of business, any Loan Party's legal name, type of organization, or of the jurisdiction in which any Loan Party is organized and (b) of any new place of business or any location where material portion of the Collateral is moved which location is not a Permitted Collateral Location either (x) within ten (10) Business Days after establishing any new place of business or moving a material portion of the Collateral or (y) in a Compliance Certificate delivered prior to establishing such new place of business or moving a material portion of the Collateral.

Section 5.07. *Payment of Taxes* . Each of the Borrowers and each of the other Loan Parties shall pay or cause to be paid before becoming delinquent all Taxes imposed upon it or on any of its property or which it is required to withhold and pay over to the taxing authority or which it must pay on its income, except where contested in good faith, by appropriate proceedings and at its own cost and expense; provided, however, that no Loan Party shall be deemed to be contesting in good faith by appropriate proceedings unless, (a) such proceedings operate to prevent the taxing authority from enforcing the collection of the Taxes, (b) the Collateral is not subject to sale, forfeiture or loss during such proceedings, (c) the applicable Loan Party's contest does not subject the Credit Parties to any liabilities owed to or claims from the taxing authority or any other person, (d) the applicable Loan Party establishes appropriate reserves for the payment of all Taxes, court costs and other expenses for which such Loan Party would be liable if unsuccessful in the contest, (e) the applicable Loan Party prosecutes the contest continuously to its final conclusion, and (f) at the conclusion of the proceedings, the applicable Loan Party promptly pays all amounts determined to be payable, including but not limited to all taxes, legal fees and court costs.

Section 5.08. *Notice Of Events Affecting Collateral; Compromise Of.* The Borrower Representative shall promptly report to the Administrative Agent all matters adversely affecting the enforceability or collectability of any of the Collateral by the Administrative Agent having an aggregate value in excess of $5,000,000.

Section 5.09. *Reporting Requirements*. The Borrower Representative, on behalf of the Loan Parties, shall submit the following items to the Administrative Agent (and, if requested in writing by the Administrative Agent, with copies for each Lender) or, in the case of Section 5.09.14, to the Floor Plan Agent:

5.09.1. *[Reserved]*.

5.09.2. *Quarterly Financial Statements.* Within sixty (60) calendar days after the end of each Fiscal Quarter (commencing with the Fiscal Quarter ending June 30, 2022), the Borrower Representative shall submit to the Administrative Agent an internally prepared consolidated balance sheet of Holdings and its Subsidiaries as of the end of such Fiscal Quarter, together with a consolidated statement of income, a consolidated statement of cash flows and a consolidated statement of retained earnings of Holdings and its Subsidiaries for such Fiscal Quarter and stating in comparative form the respective consolidated figures for the corresponding Fiscal Quarter of the previous Fiscal Year, all prepared in accordance with GAAP and certified by a Responsible Officer of Holdings (subject to the absence of footnotes).

5.09.3. *Annual Financial Statements*. Within one hundred twenty (120) calendar days after the end of each Fiscal Year (commencing with the Fiscal Year ending September 30, 2022), the Borrower Representative shall submit to the Administrative Agent a consolidated and consolidating balance sheet of Holdings and its Subsidiaries as of the end of such Fiscal Year, together with a consolidated and consolidating statement of income, statement of cash flows and statement of retained earnings, in each case, of Holdings and its Subsidiaries for such Fiscal Year and stating in comparative form the respective consolidated and consolidating figures for the previous Fiscal Year, all prepared in accordance with GAAP and accompanied by an audit opinion thereon issued by an independent nationally recognized certified public accounting firm selected by Holdings and reasonably acceptable to the Administrative Agent (which shall not be subject to any "going concern" or like qualification or exception or any qualification or exception as to the scope of the audit other than as a result of, or with respect to, an upcoming maturity date under this Agreement occurring within one year from the time such opinion is delivered).

5.09.4. *Management Letters.* Promptly upon receipt thereof, each Borrower Representative shall submit to the Credit Parties copies of any reports submitted to it or to any Loan Party

by independent certified public accountants in connection with the examination of the financial statements of Holdings and its Subsidiaries made by such accountants.

5.09.5. *Compliance Certificate.* The Borrower Representative shall, concurrently with any delivery of annual financial statements under Sections 5.09.3 and quarterly financial statements to be delivered pursuant to Section 5.09.2 above, submit a Compliance Certificate from the Chief Financial Officer, Chief Executive Officer, President, or Director of Treasury of Holdings or the Borrower Representative to the Administrative Agent (commencing with the Fiscal Quarter ending June 30, 2022) (a) certifying that no Default or Event of Default has occurred during such period or, if such a Default or an Event of Default has occurred during such period, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, (b) setting forth the reasonably detailed calculations with respect to the Consolidated Fixed Charge Coverage Ratio and Total Net Leverage Ratio, (c) if applicable, a list of any Excluded Subsidiary as of the date of delivery of such certificate, (d) a description of any anticipated establishment of any new dealerships of which the Administrative Agent has not received notice, (e) a description of any anticipated locations of which the Administrative Agent has not received notice where a material portion of Eligible Floor Plan Units or any material portion of any other Collateral is located, except for any Eligible Floor Plan Unit which is at a Permitted Collateral Location and (f) including such additional information as may from time to time be required under the Security Documents.

5.09.6. *Reportable Compliance Event*. The Loan Parties covenant and agree that they shall immediately notify the Administrative Agent and each of the Lenders in writing upon the occurrence of a Reportable Compliance Event.

5.09.7. *SEC Filings*. Promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of Holdings, and copies of all annual, regular, periodic and special reports and registration statements which Holdings may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, or with any Governmental Authority that may be substituted therefor, or with any national securities exchange, and in any case not otherwise required to be delivered to the Administrative Agent pursuant hereto.

5.09.8. *Budget and Projections*. The Borrower Representative shall deliver to the Administrative Agent within sixty (60) days after the commencement of each Fiscal Year commencing after the Closing Date, an annual operating budget for the consolidated operations of Holdings and its Subsidiaries for such Fiscal Year, including a projected consolidated balance sheet as of the last day of such Fiscal Year, together with projected consolidated statements of income and cash flows of Holdings and its Subsidiaries for such Fiscal Year, as well as a statement of the key assumptions relating to the preparation of such projections; it being understood that no assurance can be given that any particular projections will be realized, actual results may vary from such forecasts, and that such variations may be material.

5.09.9. *Notice of Defaults and Events of Default.* The Borrowers shall promptly give written notice to the Credit Parties of the occurrence of any event, occurrence or condition (which is known to an executive officer of any Loan Party) which constitutes an Event of Default or a Default.

5.09.10. *ERISA Event.* The Borrowers shall promptly give written notice to the Credit Parties of the occurrence of any ERISA Event.

5.09.11. *SEC Notices*. Promptly and in any event within five (5) Business Days after receipt thereof by any Loan Party or any of its Subsidiaries, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction)

concerning any formal investigation or other formal inquiry by such agency regarding financial or other operational results of any Loan Party or any of its Subsidiaries.

5.09.12. *Beneficial Ownership*. The Borrower Representative shall promptly notify the Administrative Agent of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in parts (c) or (d) of such certification.

5.09.13. *General Information.* In addition to the items set forth in subsections 5.09.1 through 5.09.12 above, the Borrowers agree to submit, and cause the other Loan Parties to submit, to the Credit Parties such other information respecting the condition or operations, financial or otherwise, of the Loan Parties as the Credit Parties may reasonably request from time to time.

5.09.14. *Borrowing Base Certificates*. Within ten (10) days after the end of each calendar month (or on any other date if the Borrower Representative voluntarily elects to deliver a Borrowing Base Certificate (including in connection with a Permitted Acquisition)), a certificate in the form of Exhibit N (or such other form as may be agreed to by the Floor Plan Agent and the Borrower Representative in their reasonable discretion) (a "Borrowing Base Certificate") calculating and/or demonstrating, in detail reasonably acceptable to the Administrative Agent and the Floor Plan Agent, the Line Cap, the Borrowing Base, and Availability, in each case as of the close of business as of the last day of the immediately preceding calendar month (or in respect of any Borrowing Base Certificate voluntarily delivered by the Borrower Representative, as of the close of business on a more recent Borrowing Base Test Date as indicated in such Borrowing Base Certificate), each Borrowing Base Certificate to be certified as complete and correct in all material respects by an Authorized Officer of the Borrower Representative. In connection with each Borrowing Base Certificate, the Borrowers' shall provide (i) a schedule of Accounts in form and manner reasonably acceptable to Floor Plan Agent (which shall include current addresses and telephone numbers of account debtors and a detailed aging of the Accounts for such period); (ii) a monthly inventory report in form and manner reasonably acceptable to Floor Plan Agent, together with supporting documentation requested by Floor Plan Agent; and (iii) a schedule of Specified Inventory Parts in form and manner reasonably acceptable to Floor Plan Agent, together with supporting documentation requested by Floor Plan Agent, in each case based on the balances as of the last day of the immediately preceding month.

Documents required to be delivered pursuant to Sections 5.09.2, 5.09.3, 5.09.4, 5.09.7 or 5.09.11 (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 Holdings posts such documents, or provides a link thereto on the Borrower's website on the internet, if any; or (ii) on which such documents are posted on Holdings behalf on an internet or intranet website, if any, to which each Lender and each Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent) or posted on the website of the SEC at http://www.sec.gov/; provided that Holdings shall notify (which may be by facsimile or by customary electronic or internet postings) the Administrative Agent and each Lender of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions of such documents. The Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by Holdings with any such request for delivery, and each Lender shall be solely responsible for timely accessing posted documents or maintaining its copies of such documents.

Section 5.10. *Preservation of Existence, Etc.* Each Borrower and each of the other Loan Parties shall each (a) preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization, except to the extent permitted by Section 6.04 and 6.05 hereof, (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises

necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to cause a Material Adverse Change, (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to cause a Material Adverse Change, and (d) preserve and maintain material and necessary approvals with Manufacturers, OEMs and other suppliers of Floor Plan Units, material franchise or framework agreements, all Manufacturer statements of origin, certificates of origin, certificates of title or ownership and other customary vessel title documentation (which, for the avoidance of doubt, may be in electronic form), except to the extent that failure to do so could not reasonably be expected to cause a Material Adverse Change (collectively, the "*Vessel Title Documentation*"), or in any case, a power of attorney with respect thereto.

Section 5.11. *Maintenance of Assets and Properties.* Each of the Borrowers and each of the other Loan Parties shall maintain, preserve and protect all of its material assets and properties necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted, except to the extent that failure to do so could not reasonably be expected to cause a Material Adverse Change.

Section 5.12. *Compliance with Laws.* Each of the Borrowers and each of the other Loan Parties shall comply in all material respects with all Laws applicable to it, and obtain or maintain all permits, franchises and other governmental authorizations and approvals necessary for the ownership, acquisition and disposition of its properties and the conduct of its business, except to the extent that the failure to do so could not reasonably expected to result in a Material Adverse Change. Without limiting the generality of the foregoing, the Loan Parties and each Subsidiary shall be in compliance in all material respects with applicable legal requirements of the Anti-Corruption Laws, Anti-Terrorism Laws, the USA Patriot Act, and the Bank Secrecy Act. Each Loan Party and each Subsidiary shall conduct its businesses in material compliance with the United States Foreign Corrupt Practices Act of 1977.

Section 5.13 Inspection Rights. Each of Holdings and its Subsidiaries shall permit (a) representatives and independent contractors of the Administrative Agent and the Floor Plan Agent to visit and inspect any of its respective properties, to perform audits of Floor Plan Units in a manner reasonably satisfactory to the Floor Plan Agent, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at such reasonable times during normal business hours, no less than [****] per calendar year or as often as may be reasonably desired by the Administrative Agent and, except during the occurrence and continuance of an Event of Default during which no advance notice shall be required, upon not less than two Business Days' advance notice to the Loan Parties and (b) representatives and independent contractors of the Floor Plan Agent to (i) visit and inspect any of the Floor Plan Borrowers' respective properties and to perform audits of the Inventory and Collateral, including without limitation the Floor Plan Units, in a manner reasonably satisfactory to the Floor Plan Agent (and during such inspections, Floor Plan Agent will inspect multiple locations wherein at least 45% of Eligible Units is located) no less than [****] per calendar year or as often as may be reasonably desired by the Floor Plan Agent, and, except during the occurrence and continuance of an Event of Default during which no advance notice shall be required and no restrictions on time of inspections shall be applicable, upon not less than two Business Days' advance notice to the Loan Parties and during normal business hours and (ii) at least every one hundred eighty (180) days or as often as may be reasonably desired by the Floor Plan Agent, audit Floor Plan Borrowers' certificates or statements of origin or certificates of title, all at such reasonable times during normal business hours, and, except during the occurrence and continuance of an Event of Default during which no advance notice shall be required and no restrictions on time of audits shall be applicable, upon not less than two Business Days' advance notice to the Loan Parties and during normal business hours; provided that unless an Event of Default exists at the time of any such inspection, the Borrowers shall not be required to reimburse the Administrative Agent or the Floor Plan Agent for any costs, fees and expenses incurred by Administrative Agent or the Floor Plan Agent in connection with such inspections; provided, further, that notwithstanding the foregoing proviso, inspections conducted upon the

occurrence and during the continuance of an Event of Default shall be at the sole cost of the Borrowers and shall be permitted without prior notice to the Borrowers.

Section 5.14. *Environmental Matters and Indemnification.* Each of the Borrowers and each of the other Loan Parties shall comply, and shall cause its respective Subsidiaries to comply with all Environmental Laws, the non-compliance with which could reasonably be expected to result in a Material Adverse Change. The Loan Parties shall investigate any circumstances which give the Loan Parties reason to believe the Contamination of any of the Properties. The Loan Parties shall promptly perform any remediation of such Contamination required under applicable Laws.

Section 5.15. *Additional Subsidiaries*

5.15.1. *Subsidiaries*. If (i) any Subsidiary (other than an Excluded Subsidiary) is formed or acquired after the Closing Date or (ii) any Subsidiary ceases to be an Excluded Subsidiary pursuant to the definition thereof, (a) the Borrower Representative shall notify the Administrative Agent in writing within thirty (30) Business Days (or such longer period as the Administrative Agent may agree) after the date on which such Subsidiary is formed or acquired or ceases to be an Excluded Subsidiary and (b) within forty-five (45) calendar days after such Subsidiary is formed or acquired or ceases to be an Excluded Subsidiary (or such longer period as the Administrative Agent may agree in its sole discretion), the Borrower Representative shall (i) unless such Subsidiary becomes a Borrower pursuant to Section 5.15.3, cause such Subsidiary to duly execute and deliver a joinder agreement to become a guarantor of the Obligations under, and subject to the terms and conditions of, the Guarantee and Collateral Agreement (or, in the case of a Person required to or that elects to become a Borrower, a Joinder Agreement) together with all schedules and information thereto appropriately completed with respect to such Subsidiary, (ii) cause such Subsidiary to deliver a joinder agreement to the Guarantee and Collateral Agreement providing for the creation of Liens on the Collateral owned by such Subsidiary as security for the Obligations, (together with all schedules and information thereto appropriately completed with respect to such Subsidiary), (iii) cause such Subsidiary to deliver a joinder agreement to the Guarantee and Collateral Agreement providing for the pledge of any Equity Interests held by such Subsidiary pursuant to the Guarantee and Collateral Agreement (except to the extent that such Equity Interests constitute Excluded Property) (together with all schedules and information thereto appropriately completed with respect to such Subsidiary), (iv) [reserved], (v) deliver, or cause to delivered, any and all certificates representing Equity Interests held by such Subsidiary, and any Equity Interest in such Subsidiary that are held by other Persons, that are (in each case) required to be delivered pursuant to the Security Documents (and accompanied, in each case, by undated stock powers or other appropriate instrument of transfer executed in blank), provided, that in respect of any CFC or CFC Holdco, Borrower Representative shall, or shall cause the applicable Loan Party to (i) pledge 65% of the issued and outstanding voting Equity Interests and 100% of the issued and outstanding non-voting Equity Interests, or other evidence of ownership, of such CFC or CFC Holdco, as applicable, (vi) take such other actions such that all of the Equity Interests (except to the extent that such Equity Interests constitute Excluded Property or are not otherwise required to be pledged or certificated pursuant to the terms of the Credit Documents) issued by any such Subsidiary shall be pledged as security for the Obligations pursuant to such Credit Documents in form and substance reasonable satisfactory to the Administrative Agent, as may be required under applicable Laws to effectuate a fully enforceable first priority pledge of such Equity Interests, (vii) deliver or cause to be delivered to the Administrative Agent UCC financing statements naming such Subsidiary as "Debtor" and naming the Administrative Agent for the benefit of the Credit Parties as "Secured Party," in form and substance sufficient in the reasonable opinion of the Administrative Agent and its counsel for filing in each applicable UCC filing office in which filing is necessary to perfect the Administrative Agent's Liens in the Collateral granted by such Subsidiary under the Security Documents, and (viii) deliver, or cause to be delivered, an opinion of counsel reasonably satisfactory to the Administrative Agent as to customary matters in connection with the joinder of such Subsidiary to the Credit Documents. Notwithstanding anything to the contrary set forth herein, in no event shall the Loan Parties be required to take any action in any non-U.S. jurisdiction to create any security

interest in any assets located or titled outside the U.S. or to perfect any security interest in such assets and there shall be no security agreements governed by laws of any non-U.S. jurisdiction.

5.15.2. [reserved].

5.15.3. *Joinder of Additional Borrowers*. Any Subsidiary of Holdings (a) owning Real Property the value of which is directly advanced against under the Mortgage Loan Facility or any Mortgage Loan Increase or owning any Eligible Floor Plan Units shall be required to be a Borrower hereunder with respect to the applicable Class and (b) that is a Subsidiary and is not a Borrower in respect of any Class under this Agreement may, but shall not be required to (except as provided in clause (a) above), in its sole discretion from time to time become a Borrower hereunder with respect to a particular Class, in the case of each of clause (a) and (b), by executing and delivering to the Administrative Agent a Joinder Agreement (together with all schedules thereto); provided that such Joinder Agreement shall specify the applicable facility under which such Subsidiary shall join this Agreement as a Borrower. Any Person that executes and delivers a Joinder Agreement shall deliver to the Administrative Agent such items as are required pursuant to Sections 4.01.1(d) and 4.01.1(o) (which such items shall be in form and substance reasonably acceptable to the Administrative Agent and the Floor Plan Agent). Such Subsidiary shall thereafter have all of the rights, benefits and obligations of a Borrower party to this Agreement with respect to such Class.

5.15.4. Requirements for Mortgaged Property. With respect to each parcel of Mortgaged Property, the applicable Mortgage Loan Borrower shall provide to the Administrative Agent each of the following, in form and substance reasonably acceptable to the Administrative Agent (and, in the case of clauses (b), (c) and (e) below, reasonably acceptable to the Administrative Agent, Floor Plan Agent and each Mortgage Loan Lender), (x) in respect of the items identified in clauses (b), (c) and (e) below, at least 20 Business Days prior to the applicable Mortgage Loan Funding Date and (y) in respect of all other items identified in this Section 5.15.4, on or before the Mortgage Loan Funding Date: (a) a title insurance commitment (subject to Permitted Encumbrances) in favor of the Administrative Agent, together with a current ALTA survey, for such Mortgaged Property, (b) a Phase I (and, if applicable Phase II) environmental report for such Mortgaged Property, (c) for such Mortgaged Property (x) a "Life of Loan" Federal Emergency Management Agency standard flood hazard determination, (y) if required, a notice, in the form required under flood laws, about special flood hazard area status and flood disaster assistance duly executed by the applicable Loan Parties and (z) if any building on such improved Mortgaged Property encumbered by any Mortgage is located in a special flood hazard area, a flood insurance policy, (d) a Mortgage and any other related Credit Documents required hereunder in respect of such Mortgaged Property, (e) a Real Estate Appraisal opining as to the Fair Market Value of the such Mortgaged Property, (f) evidence that all insurance (other than insurance referenced in clause (c) above) required to be maintained pursuant to this Agreement with respect to such Mortgaged Property has been obtained and is in effect, (g) if applicable, a tax certificate from the applicable authority confirming any Taxes due as a result of the transfer of such Mortgaged Property or the recording of the Mortgage, (h) a written opinion of legal counsel licensed in the jurisdiction of such Mortgaged Property in form and substance reasonably acceptable to the Administrative Agent, with respect to the enforceability of the Mortgage for such Mortgaged Property, (i) a property condition report in respect of such Mortgaged Property and (j) such other customary reports or certificates as related to such Mortgaged Property as an Agent may reasonably request. Notwithstanding anything to the contrary contained in this Agreement or any other Credit Document, no Loan Party or Subsidiary shall execute or deliver, and the Administrative Agent shall not record, any Mortgage with respect to any Real Property unless and until each Mortgage Loan Lender has given notice to the Administrative Agent that such Mortgage Loan Lender has completed its due diligence of, and is satisfied (in its sole discretion) with, any flood insurance policies, Administrative Agent or Lender notices to (and acknowledgements from) Loan Parties regarding flood determinations, and certificates of flood insurance with respect to such Real Property (collectively, "Flood Documents").

Section 5.16. *Deposit and Operating Accounts*. The Borrowers shall use commercially r easonable efforts to expand treasury management systems with M&T Bank.

Section 5.17. *Landlord Waivers*. Each Loan Party will (a) except as required by clause (b) below, use commercially reasonable efforts to obtain and deliver to the Administrative Agent a customary landlord or bailee access agreement with respect to each location in the United States not owned by a Loan Party where Collateral is located and (b) obtain and deliver to the Administrative Agent a customary landlord or bailee access agreement with respect to each location in the United States leased to a Loan Party by (x) a Loan Party or (y) any other Affiliate of a Loan Party under the Control of such Loan Party, in the case of clauses (a) and (b), within thirty (30) days (or such later date agreed to by the Administrative Agent) of Collateral becoming located at such location, in form and substance reasonably acceptable to the Administrative Agent.

Section 5.18. *Post-Closing Deliverables*. Notwithstanding the conditions precedent set forth in Section 4.01, the Loan Parties have informed the Administrative Agent and the Lenders that certain items required to be delivered as conditions precedent to the effectiveness of this Agreement will not be delivered as of the Closing Date. As an accommodation to the Loan Parties, the Administrative Agent and the Lenders have agreed to make the Loans available under this Agreement notwithstanding that such conditions have not been satisfied. In consideration of such accommodation, each applicable Loan Party hereby agrees to take each of the actions described on Schedule 5.18 attached hereto, in each case, in the manner and by the dates set forth thereon, or such later dates as may be agreed to by Administrative Agent.

Section 5.19. *Further Assurances*. Each Loan Party shall execute, acknowledge, deliver, and record or file such further instruments, including, without limitation, further security agreements, financing statements, and continuation statements, and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of the Credit Documents, including, without limitation, (i) causing any additions, substitutions, replacements, or equipment related to the Floor Plan Units financed under the Floor Plan Facility to be covered by and subject to the Liens created in the Credit Documents to which any Floor Plan Borrower is a party; and (ii) with respect to any Floor Plan Units which are, or are required to be, subject to Liens under the Credit Documents, execute, acknowledge, endorse, deliver, procure, and record or file any document or instrument, including, without limitation, any financing statement or, if an Event of Default has occurred and is continuing, any Vessel Title Documentation, deemed advisable by the Administrative Agent or Floor Plan Agent to protect the Liens granted in the Security Documents against the rights or interests of third Persons. Notwithstanding anything to the contrary in the Credit Documents, no Loan Party shall be required to provide mortgages with respect to any fee owned or leasehold interest in any Property.

Section 5.20. *Delivery of Floor Plan Unit Titles and Vessel Title Documentation.*

5.20.1. In the event, in violation of the penultimate and final sentences of Section 5.12, any Floor Plan Borrower maintains any Floor Plan Units in a jurisdiction that requires the notation of the Lien of the Administrative Agent and the Lenders on the certificate of title of such Floor Plan Units in order to establish or maintain the perfection of such Lien or upon the written request of the Administrative Agent during the continuance of a Default or Event of Default, for each Eligible Floor Plan Unit or other Floor Plan Unit which constitutes Collateral, the Borrowers and their Subsidiaries shall promptly, (A)(i) send to the relevant Governmental Authority a completed title application for each such Floor Plan Unit listing the Administrative Agent as sole lienholder for the benefit of the Lenders, and (ii) deliver to the Administrative Agent a copy of such title application and (B) deliver, or cause to be delivered, within ten (10) Business Days all such original Manufacturer's Certificates and Manufacturer's and vendor's invoices and Vessel Title Documentation being maintained by the Borrowers and their Subsidiaries at the time of such time.

5.20.2. Each title application completed pursuant to Section 5.20.1 above shall indicate that the original certificate of title (or other evidence thereof) shall be delivered by the relevant Governmental Authority directly to the Administrative Agent. During any period that the Borrowers and their Subsidiaries are required to take action under Section 5.20.1(A)(i) and (ii), if any Borrower or Subsidiary receives a certificate of title (or other evidence thereof) to any Eligible Floor Plan Unit financed under this Agreement or any other Floor Plan Unit which constitutes Collateral listing the Administrative Agent as lienholder for the benefit of the Lenders, such Borrower or Subsidiary shall promptly deliver such certificate of title (or other evidence thereof) to the Administrative Agent.

Section 5.21. *Post-Closing Deliverables*. Notwithstanding the conditions precedent set forth in Section 4.01, the Loan Parties have informed the Administrative Agent and the Lenders that certain items required to be delivered as conditions precedent to the effectiveness of this Agreement will not be delivered as of the Closing Date. As an accommodation to the Loan Parties, the Administrative Agent and the Lenders have agreed to make the Loans available under this Agreement notwithstanding that such conditions have not been satisfied. In consideration of such accommodation, each applicable Loan Party hereby agrees to take each of the actions described on Schedule 5.21 attached hereto, in each case, in the manner and by the dates set forth thereon, or such later dates as may be agreed to by Administrative Agent.

ARTICLE 6

NEGATIVE COVENANTS

Each Borrower agrees that until the payment and performance in full of all of the Obligations, it will not do, and it will not permit any of the other Loan Parties and any Subsidiary to do, any of the following:

Section 6.01. *Liens.* No Loan Party and no other Subsidiary shall create, incur, assume or suffer to exist any Lien upon any of its properties (real or personal), assets or revenues, whether now owned or hereafter acquired, other than Liens securing the Obligations and Permitted Encumbrances.

Section 6.02. *Investments And Loans.* No Loan Party and no other Subsidiary shall make any Investments or extend any loans or credit facilities to any Persons, except:

(a) Permitted Acquisitions;

(b) Investments in cash and Cash Equivalents including cash and Cash Equivalents held in deposit and securities accounts;

(c) Loans and advances to employees, officers, managers and directors of any Loan Party or any Subsidiary in the ordinary course of business for travel, entertainment, relocation and general ordinary course of business purposes;

(d) extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business;

(e) Investments by any Loan Party or any Subsidiary outstanding on the date hereof and set forth on Schedule 6.02;

(f) (i) any Loan Party or any Subsidiary may make intercompany loans to, and guarantees on behalf of, and other Investments in Loan Parties (other than Holdings) so long as, solely in the case of such intercompany loans by Subsidiaries that are not Loan Parties to Loan Parties, all payment obligations of the respective Loan Parties thereunder are subordinated to the Obligations on terms reasonably satisfactory to

the Administrative Agent, (ii) the Loan Parties may make intercompany loans to, guarantees on behalf of, and other Investments in, Subsidiaries that are not Loan Parties so long as the aggregate amount of outstanding loans, guarantees and the aggregate amount of the other outstanding Investments made pursuant to this subclause (ii) does not exceed $15,000,000 and (iii) any Subsidiary that is not a Loan Party may make intercompany loans to, and other investments in, any other Subsidiary that is also not a Loan Party;

(g) the Closing Date Transactions;

(h) any Investment in securities or other assets not constituting Cash Equivalents and received in connection with a Disposition made in accordance with Section 6.05;

(i) any Investment acquired by a Borrower or any Subsidiary (i) in exchange for any other Investment, accounts receivable or indorsements for collection or deposit held by any Borrower or any Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of, or settlement of delinquent accounts and disputes with or judgments against, the issuer of such other Investment or accounts receivable (including any trade creditor, customer or supplier), (ii) in satisfaction of judgments against other Persons, (iii) as a result of a foreclosure by Borrower Representative or any Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default or (iv) as a result of the settlement, compromise or resolution of (A) litigation, arbitration or other disputes or (B) obligations of trade creditors, customers or suppliers that were incurred in the ordinary course of business or consistent with industry practice of any Borrower or any Subsidiary, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor, customer or supplier;

(j) guarantees of the performance of Loan Parties and Subsidiaries, which guarantees are incurred in the ordinary course of business or consistent with industry practice;

(k) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Sections 6.03 (other than 6.03(h)), Section 6.04 (other than Section 6.04(e)) or Section 6.05 (other than Section 6.05(i));

(l) advances of payroll payments to officers and employees of the Loan Parties and their Subsidiaries in the ordinary course of business;

(m) Investments by any Loan Party or any Subsidiary consisting of deposits, prepayment and other credits to suppliers or landlords made in the ordinary course of business;

(n) Investments in the ordinary course of business consisting of UCC Article 3 (or the equivalent under other applicable law) endorsements for collection or deposit; and

(o) [****]

The entry of a Loan Party or any Subsidiary into a Swap Agreement or other hedging arrangement shall not be deemed to be an Investment for purposes of this Section 6.02; provided that such Swap Agreement or other hedging arrangement is (or was) entered into in connection with the Obligations or in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Loan Party or Subsidiary, or changes in the value of securities issued by such Loan Party or such Subsidiary, and not for purposes of speculation. Notwithstanding the foregoing, in no event shall any Loan Party make any Investment which results in any Material Intellectual Property owned by such Loan Party being contributed or otherwise transferred by such Loan Party to any non-Loan Party, except in the ordinary course of business and consistent with such Loan Party's past practices.

Section 6.03. *Indebtedness.* No Loan Party and no other Subsidiary shall create, incur, assume or suffer to exist any Indebtedness, except:

(a) the Obligations;

(b) Indebtedness outstanding on the Closing Date and listed on Schedule 6.03 attached hereto and any Permitted Refinancing thereof;

(c) Indebtedness arising from agreements of any Borrower or any Subsidiary providing for indemnification, adjustment of purchase price or acquisition price or similar obligations, in each case, incurred or assumed in connection with the Disposition of any business or assets of any Borrower or any Subsidiary permitted by Section 6.04 or 6.05;

(d) obligations (contingent or otherwise) of any Loan Party or any Subsidiary existing or arising under any Swap Agreements or other hedging arrangement; provided that such obligations are (or were) entered into in connection with the Obligations or in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Loan Party or Subsidiary, or changes in the value of securities issued by such Loan Party or such Subsidiary, and not for purposes of speculation;

(e) Indebtedness incurred in the ordinary course of business to finance insurance premiums;

(f) Indebtedness under leases constituting Capitalized Lease Obligations and purchase money obligations for fixed or capital assets; provided that the aggregate principal amount at any time outstanding under this clause (f) owing to a Person other than a Loan Party, not to exceed $15,000,000;

(g) Indebtedness of any Person that becomes a Subsidiary or, in the case of an Acquisition by a then-existing Subsidiary of the assets of another Person that does not constitute a Subsidiary (including any Acquisition by means of a merger, amalgamation or consolidation with or into such Subsidiary), Indebtedness assumed by the applicable Subsidiary acquiring such assets, in each case, in connection with a Permitted Acquisition and any Permitted Refinancing thereof (provided, that (i) such Indebtedness was in existence (but not incurred or created in connection with an Acquisition) on the date of such Acquisition, (ii) neither Holdings nor any Subsidiaries (other than a Person so acquired or, solely to the extent it acquires assets subject to Indebtedness permitted under this clause (g), the applicable Subsidiary) have any obligation with respect to such Indebtedness, (iii) such Indebtedness is unsecured or secured only by Liens permitted pursuant to clause (f) of the definition of Permitted Encumbrances, (iv) immediately before and after giving effect to the assumption of such Indebtedness, no Default or Event of Default shall have occurred and be continuing, (v) immediately after giving effect to the assumption of such Indebtedness, the Borrowers are in pro forma compliance with the financial covenants set forth in Sections 6.12 and 6.13 hereof and (vi) the aggregate principal amount of all of such Indebtedness at any time outstanding under this clause (g) shall not exceed $15,000,000;

(h) Indebtedness of a Subsidiary owing to another Subsidiary, in each case, to the extent such Indebtedness constitutes a Permitted Investment;

(i) Indebtedness consisting of obligations of the Borrowers or any Subsidiary under deferred consideration, Earnout Obligations (other than the IGY Earnout) or other similar arrangements incurred by such Person in connection with any Permitted Acquisition or other Permitted Investment in an aggregate principal amount outstanding at any time not to exceed $50,000,000; provided that any such deferred consideration will not be payable unless on the date of any such payment, (A) no Default or Event of Default has occurred and is continuing, and (B) the Borrowers are in pro forma compliance with the financial

covenants set forth in Sections 6.12 and 6.13 after giving pro forma effect to the payment of such consideration;

(j) the incurrence of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or consistent with industry practice;

(k) the incurrence of Indebtedness by any Loan Party or any Subsidiary undertaken in connection with cash management (including netting services, automatic clearinghouse arrangements, overdraft protections, employee credit card programs and related or similar services or activities) with respect to any Loan Party or any Subsidiary in the ordinary course of business or consistent with industry practice, including with respect to financial accommodations of the type described in the definition of Bank Products;

(l) guarantees incurred in the ordinary course of business or consistent with industry practice in respect of obligations of Loan Parties and Subsidiaries to vendors, suppliers, customers, franchisees, lessors, licensees, sub-licensees and distribution partners;

(m) Indebtedness with respect to letters of credit (other than Letters of Credit issued in accordance with this Agreement) issued for the account of any Loan Party or any Subsidiary, so long as the sum of (without duplication): (i) the aggregate undrawn face amount thereof, and (ii) any unreimbursed obligations in respect thereof, does not exceed $10,000,000 at any time;

(n) the IGY Earnout;

(o) Indebtedness of MarineMax KW, LLC to **[****]** in an aggregate principal amount not to exceed $500,000 at any time outstanding; and

(p) any other Indebtedness in an aggregate principal amount at any time outstanding under this clause (p), not to exceed $15,000,000.

Section 6.04. *Fundamental Changes.* No Loan Party nor any Subsidiary shall merge, dissolve, liquidate, amalgamate, consolidate with or into another Person, Dispose of all or substantially all of its assets (whether in one transaction or in a series of transactions) or directly or indirectly by Requirements of Law or otherwise, consummate a Division/Series Transaction, except that, so long as immediately after giving effect to such transaction or series of transactions, there exists no Default or Event of Default:

(a) any Subsidiary (or any other Person) may merge, amalgamate or consolidate with (i) any Borrower; provided that a Borrower shall be the continuing or surviving Person or (ii) any one or more other Subsidiaries; provided that (A) when any Guarantor is merging with another Subsidiary that is not a Loan Party the Guarantor shall be the continuing or surviving Person or the continuing or surviving Person shall become a Guarantor, (B) to the extent constituting an Investment, such Investment must be a Permitted Investment and (C) to the extent constituting a Disposition, such Disposition must be permitted in accordance with Section 6.05

(b) (i) any Subsidiary that is not a Loan Party may merge, amalgamate or consolidate with or into any other Subsidiary that is not a Loan Party and (ii) any Subsidiary may dissolve, if the Borrower Representative determines in good faith that such action is in the best interest of Holdings and its Subsidiaries taken as a whole and is not disadvantageous to the Lenders in any material respect, it being understood that in the case of any liquidation or dissolution of a Subsidiary that is a Borrower or a Guarantor, such Subsidiary shall at or before the time of such dissolution transfer its assets to another Subsidiary that is a Borrower or a Guarantor unless such Disposition of assets is permitted hereunder;

(c) any Loan Party (other than Holdings) or Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution or otherwise) to any Loan Party or Subsidiary; provided that if the transferor in such a transaction is a Borrower or a Guarantor, then (i) the transferee must either be a Borrower or a Guarantor (or the transferee shall become a Guarantor) or (ii) to the extent constituting an Investment, such Investment must be permitted by Section 6.02;

(d) any Loan Party (other than Holdings) or any Subsidiary may merge, amalgamate, consolidate (and in the case of any Loan Party (other than Holdings) or any Subsidiary, dissolve or liquidate) with or into another Person or Dispose of all or substantially all of its assets in order to effect a Disposition permitted pursuant to Section 6.05 (other than 6.05(k)); provided that a Borrower or Loan Party, as applicable shall be the continuing or surviving Person; and

(e) any Investment permitted by Section 6.02 (other than 6.02(k)) may be structured as a merger, consolidation or amalgamation; provided that if such transaction is entered into by a Borrower or Guarantor, a Borrower or Guarantor shall be the continuing or surviving Person.

Section 6.05. Dispositions. No Loan Party and no Subsidiary of a Borrower or of another Loan Party shall make any Disposition, except:

(a) Dispositions of (i) Inventory in the ordinary course of business and (ii) Floor Plan Units;

(b) Dispositions of property that is obsolete, surplus, worn out or no longer used in or useful to such Loan Party's or such Subsidiary's business, whether now owned or hereafter acquired;

(c) Dispositions of equipment to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are applied to the purchase price of similar replacement property;

(d) the sale of residual ownership rights in vessels (other than Floor Plan Units which are Inventory) and equipment upon the termination of operating leases;

(e) Sale and Lease-Back Transactions permitted under Section 6.11;

(f) Dispositions of chattel paper (other than chattel paper relating to Floor Plan Units which are Inventory), Accounts arising from the wholesale of parts and accessories, and retail sales contracts, in each case in arms-length transactions for fair value in the ordinary course of business of the Floor Plan Borrowers;

(g) Dispositions not otherwise permitted under this Section 6.05; provided, that (i) no Default or Event of Default has occurred and is continuing at the time of such Disposition or would result therefrom, (ii) the Borrowers are in pro forma compliance with the financial covenants set forth in Section 6.12 and 6.13 after giving effect to such Disposition, (iii) such Disposition is for Fair Market Value and (iv) at least 75% of the consideration for such Disposition shall be cash or Cash Equivalents;

(h) Dispositions of improvements made to leased real property to landlords pursuant to customary terms of leases entered into in the ordinary course of business;

(i) Dispositions permitted under Section 6.01, Section 6.02 (other than Section 6.02(k) or Section 6.02(l)), Section 6.04 or Section 6.07 (other than Section 6.07(g));

(j) (i) the lease, sublease, license or sublicense of any real property or personal property in the ordinary course of business or consistent with industry practice and (ii) the exercise of termination rights

with respect to any lease, sublease, license or sublicense or other agreement; provided, however that this clause (j) shall not permit any lease, sublease, license or sublicense of Mortgaged Property;

(k) Dispositions in connection with Casualty Events;

(l) the unwinding, termination, settlement or novation of any Swap Agreements or other hedging arrangements;

(m) the lapse or abandonment of intellectual property rights (including any registrations or applications therefor) in the ordinary course of business or consistent with industry practice, which in the reasonable good faith determination of the Borrower Representative, are not material to the conduct of the business of the Borrowers and their Subsidiaries taken as a whole;

(n) (i) Dispositions of property to Holdings or a Subsidiary of Holdings; provided, that if the transferor of such property is a Borrower or a Guarantor, the transferee thereof must either be a Borrower or a Guarantor, and provided further, that with respect to dispositions of Borrowing Base Collateral from a Floor Plan Borrower to a Borrower or a Guarantor that is not a Floor Plan Borrower, after giving effect to such disposition, the Total Floor Plan Loan Outstandings plus the aggregate amount of all outstanding Approvals, without duplication, shall not exceed the Line Cap;

(o) each Loan Party and its Subsidiaries may sell or otherwise dispose of assets acquired pursuant to a Permitted Acquisition so long as (i) such assets are not used or useful to the core or principal business of the Loan Parties and its Subsidiaries, (ii) the aggregate Fair Market Value of such assets acquired pursuant to any Permitted Acquisition and subsequently disposed of pursuant to this Section 6.05(o) shall not exceed $10,000,000, and (iii) such assets are sold or otherwise disposed of on or prior to the first anniversary of the relevant Permitted Acquisition;

(p) Dispositions listed on Schedule 6.05; or

(q) leases of Mortgaged Property entered into among Loan Parties and Subsidiaries; provided that each Borrower, and, by execution of the security agreement, each Guarantor agrees that (i) its rights as a lessor under such lease (x) are collaterally assigned to the Administrative Agent as security for the Obligations and (y) are hereby subordinated in all respects to the Obligations and (ii) upon the occurrence and during the continuance of an Event of Default hereunder and in exercising its rights and remedies under the Credit Documents, the Administrative Agent may require the termination of such lease and, upon such termination, the lessor shall vacate such Mortgaged Property.

Section 6.06. *Restricted Payments.* No Loan Party and no other Subsidiary may declare or make, directly or indirectly, any Restricted Payments, or incur any obligation (contingent or otherwise) to do so, except:

(a) each Subsidiary may make Restricted Payments to Holdings and to wholly owned Subsidiaries (and, in the case of a Restricted Payment by a non-wholly owned Subsidiary, to Holdings and any Subsidiary and to each other owner of Equity Interests of such Subsidiary on a pro rata basis based on their relative ownership interests);

(b) Holdings and each Subsidiary of Holdings may declare and make dividend payments or other distributions payable solely in the common stock or other common Equity Interests of such Person;

(c) Holdings and each Subsidiary may purchase, redeem or otherwise acquire shares of its common stock or other common Equity Interests with the proceeds received from the substantially concurrent issue of new shares of its common stock or other common Equity Interests; and

(d) Holdings may make Restricted Payments so long as in all cases (i) no Default or Event of Default has occurred and is continuing or would result therefrom and, after giving effect thereto, and (ii) (x) the Total Net Leverage Ratio shall not exceed 2.50 to 1.00 and (y) Holdings shall be in compliance with the Consolidated Fixed Charge Coverage Ratio required under Section 6.13, each recomputed on a pro forma basis as of the most recently ended fiscal quarter for which financial statements have been delivered (and Holdings shall have delivered to the Administrative Agent a Compliance Certificate evidencing such compliance with the financial covenants and certifying as to the other matters in subclauses (i)-(ii) above).

Section 6.07. *Change in Nature Of Business.* The Loan Parties and their Subsidiaries, taken as a whole, shall not fundamentally and substantively alter the character of their business, taken as a whole, from the Permitted Business.

Section 6.08. *Transactions With Affiliates.* No Loan Party and no other Subsidiary shall enter into any material transaction of any kind with any Affiliate (other than with its Subsidiaries), whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable as would be obtainable at the time in a comparable arm's length transaction with a Person other than an Affiliate.

Section 6.09. *Burdensome Agreements; Negative Pledges.* No Loan Party nor any Subsidiary shall (a) enter into or grant any negative pledges or agreements restricting its ability to pledge its assets or to grant Liens against its assets to secure the Obligations or (b) enter into any Contractual Obligation that limits the ability of such Person: (i) to make Restricted Payments to any Loan Party or to otherwise transfer property to any Loan Party, or (ii) to guarantee the Obligations as provided hereunder and subject to the limits provided herein; provided, that the foregoing restrictions shall not apply to:

(a) to the extent that any capital lease or purchase money facility of any of the Loan Parties or Subsidiaries prohibits the granting of Liens against the equipment or asset that is being leased or financed, as applicable, pursuant to such capital lease or purchase money facility;

(b) customary restrictions on assignments, subletting or other transfers contained in the documents governing leases, subleases, licenses, sublicenses, and similar agreements entered into in the ordinary course of business (provided that such restrictions are limited to the property subject to such lease, sublease, license, sublicense, or other agreement);

(c) restrictions existing under or by reason of applicable Law;

(d) restrictions binding upon any Person, or relating to Indebtedness or Equity Interests of a Person, which is merged into or acquired by the Borrowers or a Subsidiary, or assets acquired from a Person, in each case, on or after the date of this Agreement and to the extent constituting a Permitted Investment or a transaction permitted pursuant to Section 6.02, which restrictions (A) were not created in anticipation of such acquisition and (B) do not apply to Holdings or any Subsidiary (other than such Person) or the assets of Holdings or any Subsidiary (other than the assets of such Person);

(e) restrictions arising in connection with any Disposition permitted by Section 6.05, so long as such restrictions relate solely to the assets subject thereto;

(f) customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted by the Credit Documents, which provisions are limited to restrictions on Restricted

Payments or guarantees by such joint ventures or the pledge of Equity Interests in, or other assets by, such joint ventures;

(g) restrictions on Liens imposed by any agreement relating to Indebtedness permitted pursuant to Section 6.03(f) solely to the extent that such restrictions apply solely to the assets securing such Indebtedness;

(h) customary provisions restricting assignment of any agreement entered into in the ordinary course of business;

(i) encumbrances or restrictions pursuant to the Credit Documents; and

(j) encumbrances or restrictions on cash, Cash Equivalents or other deposits constituting a Permitted Encumbrance entered into in the ordinary course of business and property subject to Permitted Encumbrances under clauses (b), (d), (j), (k), and (l) of the definition thereof; and

(k) any encumbrance or restriction consisting of customary provisions contained in asset sale agreements, asset purchase agreements, merger agreements, stock sale agreements, and similar agreements; provided that, to the extent such assets or Equity Interests are being sold by a Loan Party or any Subsidiary, such encumbrances or restrictions apply only to the Person and the assets subject to such agreements, including the Equity Interests in such Persons to be merged or sold or with respect to whose assets are being sold, and such assets or Equity Interests would be permitted to be Disposed of in accordance with Section 6.04 or Section 6.05 as of the date of entering into such agreement.

Section 6.10. *Use Of Proceeds.* No Loan Party shall use the proceeds of any Loan, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry "margin stock" (within the meaning of Regulation U of the Federal Reserve Board) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund Indebtedness originally incurred for such purpose, in each case, in violation of the regulations of the Board of Governors of the Federal Reserve System of the United States including Regulation T, U or X. No Borrower will request any Loan, and no Borrower shall use, and shall ensure that none of its Subsidiaries or its or their respective directors, officers, employees and agents shall use, the proceeds of any Loan, directly or knowingly indirectly, (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-Corruption Laws, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, in each case, in violation of applicable Sanctions, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

Section 6.11. *Sale and Lease-Back Transactions.* No Loan Party nor any Subsidiary shall enter into any arrangement, directly or indirectly, with any person whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and substantially contemporaneously rent or lease from the transferee such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred (a "Sale and Lease-Back Transaction"), provided that (x) a Sale and Lease-Back Transaction shall be permitted with respect to property (other than Mortgaged Property and Floor Plan Units) owned by any Loan Party or any Subsidiary and (y) the aggregate Fair Market Value of which, for all Sale and Lease-Back Transactions, [****].

Section 6.12. *Maximum Total Net Leverage Ratio.* The Borrowers shall not permit the Total Net Leverage Ratio to exceed a ratio of 3.35 to 1.00, as measured on the last day of each Fiscal Quarter, beginning with the Fiscal Quarter ending September 30, 2022.

Section 6.13. *Minimum Consolidated Fixed Charge Coverage Ratio.* The Borrowers shall not permit the Consolidated Fixed Charge Coverage Ratio to be less than a ratio of 1.10 to 1.00 as measured on the last day of each Fiscal Quarter, beginning with the Fiscal Quarter ending September 30, 2022.

Section 6.14. *Limitation on Modifications of Certificate of Incorporation, By-Laws and Certain Other Agreements; Payment of Subordinated Indebtedness; Modifications of Indebtedness; etc.* No Loan Party nor any Subsidiary shall (i) amend or modify in any manner materially adverse to the Lenders, or grant any waiver or release under or terminate in any manner (if such granting or termination shall be materially adverse to the Lenders), the articles or certificate of incorporation or by laws or limited liability company operating agreement of Holdings, a Borrower or any of the Subsidiaries, (ii) make, or agree to make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any (x) earn-out obligation or (y) Subordinated Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of such Indebtedness (except for (i) with respect to Indebtedness described under clause (y) above, payments permitted under the subordination agreement entered into with respect thereto and (ii) payments of earn-out obligations otherwise permitted by Section 6.03; provided that any such earn-out obligation may only be paid to the extent that the amount of such earn-out obligation was permitted to be paid on the closing date of such Acquisition in accordance with the terms thereof and the amount to be paid is required to be paid pursuant to the related Acquisition agreement as in effect on the applicable closing date of such Acquisition) or (iii) amend or modify, or permit the amendment or modification of, any provision of any Subordinated Indebtedness or any agreement relating thereto, other than amendments or modifications that are permitted under the subordination agreement entered into with respect thereto.

Section 6.15. *MarineMax Vacations and MarineMax KW.* If MarineMax Vacations, Ltd is a Loan Party, no Loan Party nor any Subsidiary shall permit MarineMax Vacations, Ltd. to hold Specified Inventory with an aggregate invoice amount of more than ten million dollars ($10,000,000.00); provided that any Specified Inventory held by MarineMax Vacations, Ltd. shall at all times be used by MarineMax Vacations, Ltd. in connection with its charter business or businesses directly related thereto.

ARTICLE 7

EVENTS OF DEFAULT

The occurrence of any of the following events or conditions shall constitute an Event of Default.

Section 7.01. *Failure To Pay.* The failure or refusal of any Loan Party to pay in the Currency required hereunder (a) all or any amount or installment of principal due upon the Loans or upon any L/C Obligation (whether scheduled, by acceleration, or as otherwise required by the terms of the Credit Documents), or (b) any interest or fees upon any Loan or L/C Obligation within three (3) Business Days after the due date thereof, or (c) any other amount payable hereunder or under any Credit Document within five (5) Business Days after the due date thereof.

Section 7.02. *Violation Of Covenants.* The failure or refusal of any Loan Party to (a) perform, observe, and comply with any covenant, agreement, or condition contained in Sections 5.09.9, 5.10(a) (solely as to Holdings) and 5.13 or in Article 6 (Negative Covenants) of this Agreement, (b) perform, observe, and comply with any covenant, agreement, or condition contained in Sections 5.06, 5.09.2, 5.09.3, 5.09.5 or 5.09.14, and such failure or refusal continues for a period of ten (10) consecutive calendar days, (c) timely perform, observe and comply with any other covenant, agreement, or condition contained in this Agreement (not specified above in Section 7.01, 7.02(a) or 7.02(b)), and such failure or refusal continues for a period of thirty (30) consecutive calendar days after the earlier of (x) receipt by a Loan Party of written notice thereof from the Administrative Agent or (y) a Responsible Officer of the Borrower Representative

or any Loan Party obtaining knowledge of such Default, or (d) timely perform, observe, or comply with any covenant, agreement or condition contained in any other Credit Document, after expiration of any cure period set forth therein.

Section 7.03. *Representation Or Warranty.* Any representation or warranty made by the Borrowers or by any other Loan Party herein or in any Credit Document, any Collateral Information Certificate, or in any Compliance Certificate or other document or instrument delivered from time to time by a Loan Party to any of the Credit Parties shall be intentionally false, incorrect, or misleading in any material respect when made or deemed made (or in the case of any representation or warranty that is qualified by materiality or Material Adverse Change, shall be false, incorrect or misleading in any respect when made or deemed made).

Section 7.04. *Cross-Default.* (a) Any Borrower or any other Loan Party (i) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or guarantee (other than Indebtedness hereunder) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than the Threshold Amount, and (ii) fails to observe or perform any other agreement or condition relating to any such Indebtedness or guarantee or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such guarantee (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause (without regard to any existing intercreditor arrangements), with the giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity, or such guarantee to become payable or cash collateral in respect thereof to be demanded, or (b) there occurs and is continuing a default or event of default under any Swap Agreement.

Section 7.05. *Judgments.* The Loan Parties shall suffer final judgments for the payment of money aggregating for all Loan Parties in excess of the Threshold Amount in excess of available insurance proceeds and shall not discharge the same within a period of thirty (30) days unless, pending further proceedings, execution has not been commenced or if commenced has been effectively stayed.

Section 7.06. *Levy By Judgment Creditor.* Any judgment creditor of any of the Loan Parties shall obtain possession of any of the Collateral with a value in excess of the Threshold Amount by any means, including but not limited to levy, distraint, replevin or self-help, and the Loan Parties shall not remedy same within thirty (30) days thereof; or a writ of garnishment is served on the Administrative Agent or any other Credit Party relating to any of the accounts of the Borrowers or of any of the other Loan Parties maintained with the Administrative Agent or with any other Credit Party.

Section 7.07. *Involuntary Insolvency Proceedings.* The institution of involuntary Insolvency Proceedings against any Borrower or any other Loan Party and the failure of any such Insolvency Proceedings to be dismissed before the earliest to occur of (a) the date which is sixty (60) days after the institution of such Insolvency Proceedings or (b) the entry of any order for relief in the Insolvency Proceeding or any order adjudicating any Borrower or any other Loan Party insolvent.

Section 7.08. *Voluntary Insolvency Proceedings.* The commencement by any Borrower or by any other Loan Party of Insolvency Proceedings.

Section 7.09. *Attempt To Terminate Or Limit Guaranties.* The receipt by a Credit Party of notice from a Guarantor that such Guarantor is attempting to terminate or limit any portion of its obligations under a Guaranty Agreement or the Guarantee and Collateral Agreement.

Section 7.10. *ERISA.* An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of the Threshold Amount, or any Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of the Threshold Amount.

Section 7.11. *[Reserved].*

Section 7.12. *Invalidity of Credit Documents.* Any Credit Document, or any document containing a subordination or intercreditor undertaking pertaining to any Obligation, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party contests in any manner the validity or enforceability of any Credit Document or such other document; or any Loan Party denies that it has any or further liability or obligation under any Credit Document or such other document, or purports to revoke, terminate or rescind any Credit Document.

Section 7.13. *Invalidity of Security Documents.* Any Security Document shall for any reason cease to create a valid security interest in the Collateral purported to be covered thereby or the security interest in the Collateral shall for any reason cease to be a perfected security interest with the priority provided therefor in such Security Document subject only to Permitted Encumbrances, except to the extent that any such loss of perfection or priority results from the failure of the Administrative Agent to maintain possession of instruments or certificates actually delivered to it representing securities or instruments (including promissory notes) pledged under the Security Documents or to file Uniform Commercial Code financing statements or continuation statements.

Section 7.14. *Licenses and Agreements.* Any agreement with any Manufacturer is revoked, terminated or suspended and, a replacement for same is not entered into within 30 days of such termination, revocation or suspension if such failure to find a replacement could be reasonably expected to result in a Material Adverse Change, or any license, consent, or approval which is material and necessary to the conduct of the business of any Loan Party is revoked, terminated or suspended and is not cured or reinstated within 30 days of such revocation, termination or suspension if such failure to cure or reinstate could be reasonably expected to result in a Material Adverse Change.

Section 7.15. *Change In Control.* The occurrence of any Change in Control.

ARTICLE 8
RIGHTS AND REMEDIES OF CREDIT PARTIES
ON THE OCCURRENCE OF AN EVENT OF DEFAULT

Upon the occurrence of an Event of Default and during the continuance thereof:

Section 8.01. *Credit Parties' Specific Rights And Remedies.* In addition to all other rights and remedies provided by applicable Laws and the terms of the Credit Documents, upon the occurrence and during the continuance of any Event of Default, the Administrative Agent may, on behalf of the Lenders and shall, at the direction of the Required Lenders (a) declare the Commitments of each Lender to advance proceeds of the Loans and any obligation of the Issuing Bank to issue any Letters of Credit to be terminated, (b) accelerate and call immediately due and payable all or any part of the Obligations (and each Loan Party waives notice of intent to accelerate, and of acceleration of any Obligations), (c) require the Loan Parties to Cash Collateralize the L/C Obligations and the WF Advances in an amount equal to 103% thereof, (d) seek specific performance or injunctive relief to enforce performance of the undertakings, duties, and

agreements provided in the Credit Documents, whether or not a remedy at Law exists or is adequate, (e) exercise any rights of a secured creditor under applicable Laws against the Collateral, including (i) the right to take possession of the Collateral without the use of judicial process or hearing of any kind, (ii) the right to require the Loan Parties to assemble the Collateral at such place as the Administrative Agent may specify, and (iii) the right to sell the Collateral, in whole or in part, at either private or public sale, and (f) seek the appointment of a receiver for any or all of the Loan Parties and/or the assets of any or all of the Loan Parties. For the avoidance of doubt, the availability and exercise of default remedies and rights under any Swap Agreements shall be governed by the default provisions of such Swap Agreement. Upon the occurrence and during the continuance of any Event of Default, at Floor Plan Agent's request, or without request upon the occurrence and during the continuance of an Event of Default as described in Sections 7.07 or 7.08 of this Agreement, each Floor Plan Borrower shall pay all Vendor Credits to Floor Plan Agent as soon as the same are received for application to the Floor Plan Loans. Each Floor Plan Borrower authorizes Floor Plan Agent to collect such amounts directly from Manufacturers and, upon request of Floor Plan Agent, shall instruct Manufacturers to pay Floor Plan Agent directly.

Section 8.02. *Automatic Acceleration.* Upon the occurrence and during the continuance of an Event of Default as described in Sections 7.07 or 7.08 of this Agreement, the Commitments shall automatically terminate, the Obligations shall be automatically accelerated and due and payable without any notice, demand or action of any type on the part of the Credit Parties, the obligations of the Issuing Bank to issue Letters of Credit shall be automatically terminated, and the Loan Parties shall be automatically required to Cash Collateralize the L/C Obligations and WF Advances in an amount equal to 103% thereof.

Section 8.03. *Consent To Appointment Of Receiver.* Each Borrower irrevocably consents to the appointment of a receiver upon the request of the Administrative Agent during any continuing Event of Default for it and for any or all of its business affairs, business operations, and assets, which receiver shall be authorized and deemed empowered to have and exercise the broadest powers permitted or available under applicable Laws to operate, manage, conserve, liquidate and sell any or all of its assets; provided, however, that such receiver shall have no authority without the prior written consent of the Required Lenders to release, discharge or otherwise negate any Liens securing the Obligations or to sell any assets of the Borrowers free and clear of any Liens securing the Obligations.

Section 8.04. *Remedies Cumulative.* The rights and remedies provided in this Agreement and in the other Credit Documents or otherwise under applicable Laws shall be cumulative and the exercise of any particular right or remedy shall not preclude the exercise of any other rights or remedies in addition to, or as an alternative of, such right or remedy.

Section 8.05. *Application Of Funds.* After the exercise of remedies (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

8.05.1. First, to the payment of that portion of the Obligations constituting fees, indemnities, expenses, reimbursements, and other amounts (including Credit Party Expenses) payable to the Administrative Agent and the Floor Plan Agent and to that part of the Obligations owed to any of the Credit Parties or to Affiliates of any of the Credit Parties for Bank Products, as described in item (d) in the definition of Obligations.

8.05.2. Second, to the payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders and the Issuing Bank (including Credit Party Expenses), ratably among the Lenders and the Issuing Bank.

8.05.3. Third, to the payment of that portion of the Obligations constituting Letter of Credit Fees, accrued and unpaid interest on the Loans and Reimbursement Obligations and on other Obligations, ratably among the Lenders and the Issuing Bank in proportion to the respective amounts described in this clause Third payable to them.

8.05.4. Fourth, to the payment of that portion of the Obligations constituting unpaid principal of the Loans and Reimbursement Obligations and payment or Cash Collateralization of any obligations under any Swap Agreements, ratably among the Lenders and the Issuing Bank and the respective Swap Providers in proportion to the respective amounts described in this clause Fourth held by them.

8.05.5. Fifth, to the Administrative Agent for the account of the Issuing Bank, to Cash Collateralize that portion of the L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit.

8.05.6. Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrowers or as otherwise required by applicable Laws.

Notwithstanding the foregoing, (i) proceeds of Mortgage Obligations Collateral shall be applied first to those Obligations described in "First" through "Fifth" above which are Mortgage Obligations of the Class secured by such Mortgage Obligations Collateral or were otherwise incurred in connection with the Mortgage Loans (or commitments with respect thereto) of such applicable Class until paid in full, next to other Mortgage Obligations ratably until paid in full and then to the General Obligations, (ii) proceeds of other Real Property and Related Real Property Assets (other than Mortgage Obligations Collateral) shall be applied first ratably to those Obligations described in "First" through "Fifth" above which are General Obligations other than Borrowing Base Obligations until paid in full and then to other Obligations, (iii), the proceeds of Borrowing Base Collateral shall be first applied to the Borrowing Base Obligations and then to all other Obligations, (iv) the proceeds of General Obligations Collateral other than Borrowing Base Collateral shall be applied to the General Obligations, other than Borrowing Base Obligations, until paid in full and then to all other Obligations. Amounts used to Cash Collateralize either the Swap Agreements pursuant to clause Fourth above, or the aggregate undrawn amount of Letters of Credit pursuant to clause Fifth above shall be applied to satisfy drawings under such Letters of Credit and payment obligations under the Swap Agreements as they occur. If any amounts remain on deposit as Cash Collateral after all Letters of Credit have been fully drawn or have expired and all Swap Agreements have been terminated, such remaining amount shall be applied to other Obligations, if any, in the order set forth above.

Section 8.06. *Cash Collateral Account.*

8.06.1. As collateral security for the prompt payment in full when due of all WF Advances and the other Obligations, the Borrowers hereby pledge and grant to the Administrative Agent, for the ratable benefit of the Administrative Agent, the Issuing Bank and the Lenders as provided herein, a security interest in all of its right, title and interest in and to the Cash Collateral Account and the balances from time to time in the Cash Collateral Account (including the investments and reinvestments therein provided for below). The balances from time to time in the Cash Collateral Account shall not constitute payment of any WF Advances until applied by the Administrative Agent as provided herein or the L/C Obligations until applied by the Issuing Bank as provided herein. Anything in this Agreement to the contrary notwithstanding, funds held in the Cash Collateral Account shall be subject to withdrawal only as provided in this Section.

8.06.2. Amounts on deposit in the Cash Collateral Account shall be invested and reinvested by the Administrative Agent in such Cash Equivalents as the Administrative Agent shall determine in its sole discretion. All such investments and reinvestments shall be held in the name of and be under the sole dominion and control of the Administrative Agent for the ratable benefit of the

Administrative Agent, the Issuing Bank, the Floor Plan Agent and the Lenders; provided, that all earnings on such investments will be credited to and retained in the Cash Collateral Account. The Administrative Agent shall exercise reasonable care in the custody and preservation of any funds held in the Cash Collateral Account and shall be deemed to have exercised such care if such funds are accorded treatment substantially equivalent to that which the Administrative Agent accords other funds deposited with the Administrative Agent, it being understood that the Administrative Agent shall not have any responsibility for taking any necessary steps to preserve rights against any parties with respect to any funds held in the Cash Collateral Account.

8.06.3. If an Event of Default exists at the time that a drawing pursuant to any Letter of Credit occurs on or prior to the expiration date of such Letter of Credit, the Borrowers and the Lenders authorize the Administrative Agent to use the monies deposited in the Cash Collateral Account for the purposes of Cash Collateralizing Letters of Credit in the amount of 103% of the L/C Obligations to reimburse the Issuing Bank for the payment made by the Issuing Bank to the beneficiary with respect to such drawing.

8.06.4. If an Event of Default exists, the Administrative Agent may (and, if instructed by the Required Lenders, shall) in its (or their) discretion at any time and from time to time elect to liquidate any such investments and reinvestments and apply the proceeds thereof to the Obligations in accordance with Section 8.05. Notwithstanding the foregoing, the Administrative Agent shall not be required to liquidate and release any such amounts if such liquidation or release would result in the amount available in the Cash Collateral Account to be less than the Stated Amount of all Letters of Credit and WF Advances that remain outstanding.

8.06.5. The Borrowers shall pay to the Administrative Agent from time to time such fees as the Administrative Agent normally charges for similar services in connection with the Administrative Agent's administration of the Cash Collateral Account and investments and reinvestments of funds therein.

8.06.6. The rights and remedies provided in this Agreement and in the other Credit Documents or otherwise under applicable Laws shall be cumulative and the exercise of any particular right or remedy shall not preclude the exercise of any other rights or remedies in addition to, or as an alternative of, such right or remedy.

ARTICLE 9
THE ADMINISTRATIVE AGENT AND THE FLOOR PLAN AGENT
"1"

Section 9.01. *Appointment.* Each of the Lenders and the Issuing Bank hereby irrevocably designates and appoints M&T Bank as the Administrative Agent and Wells Fargo as the Floor Plan Agent under this Agreement and the other Credit Documents and each Lender and the Issuing Bank authorizes M&T Bank as its respective Administrative Agent and Wells Fargo as its respective Floor Plan Agent to take such action on its behalf under the provisions of this Agreement and the other Credit Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent or the Floor Plan Agent, as applicable, by the terms of this Agreement and such other Credit Documents, together with such other powers as are reasonably incidental thereto. The provisions of this Article 9 are solely for the benefit of the Credit Parties and no Loan Party shall have any rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Credit Document (or any other similar term) with reference to the Administrative Agent or the Floor Plan Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Laws. Instead, such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

Section 9.02. *Exculpatory Provisions.*

9.02.1. *No Fiduciary, Discretionary or Implied Duties.* The Administrative Agent and the Floor Plan Agent shall not have any duties or obligations except those expressly set forth herein and in the other Credit Documents and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, neither the Administrative Agent nor the Floor Plan Agent:

(a) Shall be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(b) Shall 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 Credit Documents that the Administrative Agent or the Floor Plan Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Credit Documents), provided that neither the Administrative Agent nor the Floor Plan Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Credit Document or applicable 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 cause a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(c) Shall, except as expressly set forth herein and in the other Credit Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of their Affiliates that is communicated to or obtained by the Person serving as such Agent or any of its Affiliates in any capacity.

9.02.2. *No Liability for Certain Actions.* Neither the Administrative Agent nor the Floor Plan Agent shall be liable for any action taken or not taken by it (a) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent or the Floor Plan Agent, as applicable, shall believe in good faith shall be necessary, under the circumstances as provided in Sections 8.01 and 10.01 or (b) in the absence of its own gross negligence or willful misconduct, as determined by a court of competent jurisdiction by final and non-appealable judgment.

9.02.3. *Knowledge.* Neither the Administrative Agent nor the Floor Plan Agent shall be deemed to have knowledge of any Default or Event of Default or Material Adverse Change unless and until written notice describing such Default, Event of Default or Material Adverse Change is given to the Administrative Agent in writing by a Credit Party or by a Loan Party.

9.02.4. *No Duty to Inquire.* Neither the Administrative Agent nor the Floor Plan Agent shall be responsible for or have any duty to ascertain or inquire into (a) any statement, warranty or representation made in or in connection with this Agreement or any other Credit Document, (b) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (c) 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, (d) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Credit Document or any other agreement, instrument or document or (e) the satisfaction of any condition set forth in Article 4 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to such Agent.

Section 9.03. *Reliance by Agents.* Each Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or

other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the Issuing Bank, the Administrative Agent and the Floor Plan Agent may presume that such condition is satisfactory to such Lender or the Issuing Bank unless the Administrative Agent (and in the case of a Floor Plan Loan, the Floor Plan Agent) shall have received notice to the contrary from such Lender or the Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit. Each Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 9.04. *Delegation of Duties*. Each Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Credit Document by or through any one or more sub-agents appointed by such Agent. Each Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of such 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 an Agent. Neither Agent shall be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Section 9.05. *Resignation of Administrative Agent or Floor Plan Agent.* The Administrative Agent or the Floor Plan Agent may at any time give notice of its resignation to the Credit Parties and to the Borrowers. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrowers, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent or Floor Plan Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders (the "Resignation Effective Date")), then the retiring Administrative Agent or Floor Plan Agent may (but shall not be obligated to) on behalf of the Lenders and the Issuing Bank, appoint a successor Administrative Agent or Floor Plan Agent meeting the qualifications set forth above; provided that in no event shall any successor Administrative Agent or Floor Plan Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date. With effect from the Resignation Effective Date, (a) the retiring Administrative Agent or Floor Plan Agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the Issuing Bank under any of the Credit Documents, the retiring Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (b) except for any indemnity payments owed to the retiring Administrative Agent or Floor Plan Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent or Floor Plan Agent shall instead be made by or to each Lender and the Issuing Bank directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent or Floor Plan Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent or Floor Plan Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Administrative Agent or Floor Plan Agent (other than any rights to indemnity payments owed to the retiring Administrative Agent or Floor Plan Agent), and the retiring Administrative Agent or Floor Plan Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit

Documents. The fees payable by the Borrowers to a successor Administrative Agent or Floor Plan Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrowers and such successor. After the retiring Administrative Agent's or Floor Plan Agent's resignation or removal hereunder and under the other Credit Documents, the provisions of this Article and the provisions of Section 10.08 of this Agreement shall continue in effect for the benefit of such retiring Administrative Agent or Floor Plan Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent or Floor Plan Agent was acting as Administrative Agent or Floor Plan Agent.

Section 9.06. *Non-Reliance on Administrative Agent, the Floor Plan Agent and Other Lenders.* Each Lender and the Issuing Bank acknowledges that it has, independently and without reliance upon the Administrative Agent, the Floor Plan Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and the Issuing Bank acknowledges that it will, independently and without reliance upon the Administrative Agent, the Floor Plan Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Credit Document or any related agreement or any document furnished hereunder or thereunder.

Section 9.07. *Administrative Agent May Hold Collateral For Lenders and Others.* The Lenders and the Loan Parties acknowledge that any Security Documents relating to the Loans, the Obligations, or the Collateral, including all of such documents filed in the public records in order to evidence or perfect the Liens granted in the Credit Documents, may name only the Administrative Agent, as agent for the Lenders as the secured party, mortgagee, beneficiary, or as lienholder. The Lenders and the Loan Parties authorize the Administrative Agent to hold any or all of the Liens in and to the Collateral as the agent for the benefit of the Credit Parties, M&T Bank, the Swap Providers, or any of their respective Affiliates, as applicable under this Agreement. Such Swap Providers and Affiliates which are party hereto, by their acceptance of the benefits of this Agreement and/or any other Security Documents or Credit Documents, also hereby authorize the Administrative Agent to hold the Liens in and to the Collateral as their administrative agent.

Section 9.08. *The Administrative Agent and the Floor Plan Agent In Their Individual Capacity.* The Person serving as the Administrative Agent or Floor Plan Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent or Floor Plan Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, including the Person serving as the Administrative Agent or Floor Plan Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Loan Party or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent or Floor Plan Agent hereunder and without any duty to account therefor to the Lenders. The Issuing Bank and the Lenders acknowledge that, pursuant to such activities, the Lender acting as Administrative Agent or the Floor Plan Agent or their Affiliates may receive information regarding the Borrowers, other Loan Parties, other Subsidiaries and other Affiliates (including information that may be subject to confidentiality obligations in favor of such Person) and acknowledge that the Administrative Agent or Floor Plan Agent shall be under no obligation to provide such information to them.

Section 9.09. *Administrative 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 Administrative 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 Administrative 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 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 Issuing Bank and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Bank and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Bank and the Administrative Agent under Sections 2.01.15, 2.03.5, 2.05.9, 2.15 and 10.08) 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, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the Issuing Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Bank, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.01.15, 2.03.5, 2.05.9, 2.15 and 10.08. Nothing contained herein shall be deemed to (a) permit the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or the Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or the Issuing Bank, (b) authorize the Administrative Agent to vote in respect of the claim of any Lender or the Issuing Bank in any such proceeding, or (c) credit bid any Obligation held by any Lender or the Issuing Bank in any such proceeding, without the prior consent of such Lender or the Issuing Bank, as applicable.

Section 9.10. *Collateral and Guaranty Matters.* The Lenders and the Issuing Bank irrevocably authorize the Administrative Agent, at its option and in its discretion, (a) to release any Lien on any property granted to or held by the Administrative Agent under any Credit Document (i) upon the final termination of all of the Commitments and payment in full of all Obligations (other than contingent indemnification obligations) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the Issuing Bank shall have been made) or to release the Liens granted to or held by the Administrative Agent on a Mortgaged Property upon the indefeasible payment in full of the Class of Mortgage Loans secured by such Mortgaged Property, (ii) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Credit Document, (iii) subject to Section 10.01, if approved, authorized or ratified in writing by the Required Lenders and, with respect to Borrowing Base Collateral, approved in writing by the Floor Plan Agent or (iv) that becomes Excluded Property; (b) to subordinate any Lien on any property granted to or held by the Administrative Agent under any Credit Document to the holder of any Lien on such property that is permitted under clause (h) of the definition of Permitted Encumbrance; and (c) to release any Guarantor from its obligations under its respective Guaranty Agreements if such Person becomes an Excluded Subsidiary or ceases to be a Subsidiary, in each case, as a result of a transaction permitted hereunder. Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative 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 the Guaranty Agreement pursuant to this Section 9.10. Neither the Administrative Agent nor the Floor Plan Agent shall be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Loan Party in connection therewith, nor shall the Administrative Agent or the Floor Plan Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

Section 9.11. *No Reliance on Administrative Agent's Customer Identification Program*. Each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on the Administrative Agent or the Floor Plan Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or

imposed under or pursuant to the USA Patriot Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "CIP Regulations"), or any other Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with any Loan Party, its Affiliates or its agents, this Agreement, any other Credit Documents or the transactions hereunder or contemplated hereby: (a) any identity verification procedures, (b) any record-keeping, (c) comparisons with government lists, (d) customer notices or (e) other procedures required under the CIP Regulations or such other laws.

Section 9.12. *No Other Duties, Etc.* Notwithstanding anything to the contrary herein, none of the Bookrunners, Arrangers listed on the cover page of this Agreement shall have any powers, duties or responsibilities under this Agreement or any of the other Credit Documents, except in the capacity, as applicable, as the Administrative Agent, the Floor Plan Agent, a Lender, the Issuing Bank or the Swingline Lender.

Section 9.13. *Erroneous Payments.*

(a) If any Agent notifies a Lender, Issuing Bank or Credit Party, or any Person who has received funds on behalf of a Lender, Issuing Bank or Credit Party such Lender or Issuing Bank (any such Lender, Issuing Bank, Credit Party or other recipient, a "Payment Recipient") that such Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from such Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Issuing Bank, Credit Party or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "Erroneous Payment") and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of such Agent, and such Lender, Issuing Bank or Credit Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than three (3) Business Days thereafter, return to such Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to such Agent in same day funds at the greater of the Overnight Rate and a rate determined by such Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of any Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Payment Recipient hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from any Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by such Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment (a "Payment Notice"), (y) that was not preceded or accompanied by a Payment Notice, or (z) that such Payment Recipient otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

(i) an error may have been made (in the case of immediately preceding clauses (x) or (y)) or an error has been made (in the case of immediately preceding clause (z)) with respect to such payment, prepayment or repayment; and

(ii) such Payment Recipient shall promptly (and, in all events, within one (1) Business Day of its knowledge of such error) notify such Agent of its receipt of such

payment, prepayment or repayment, the details thereof and that it is so notifying such Agent pursuant to this Section 9.13(b).

(c) Each Lender, Issuing Bank or Credit Party hereby authorizes each Agent to set off, net and apply any and all amounts at any time owing to such Lender, Issuing Bank or Credit Party under any Credit Document, or otherwise payable or distributable by such Agent to such Lender, Issuing Bank or Credit Party from any source, against any amount due to such Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event an Erroneous Payment (or portion thereof) is not recovered by the Applicable Agent for any reason, after demand therefor by the Applicable Agent in accordance with the immediately preceding clause (a), from any Lender or Issuing Bank that has received such Erroneous Payment (or portion thereof) (or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an "Erroneous Payment Return Deficiency"), upon the such Agent's request to such Lender or Issuing Bank at any time, (i) such Lender or Issuing Bank shall be deemed to have assigned its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the "Erroneous Payment Impacted Class") in an amount equal to the Erroneous Payment Return Deficiency (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the "Erroneous Payment Deficiency Assignment") at par plus any accrued and unpaid interest (with the assignment fee to be waived by such Agent in such instance), and is hereby (together with the Borrowers) deemed to execute and deliver an Assignment and Assumption (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to the Platform as to which the Applicable Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender or Issuing Bank shall deliver any Notes evidencing such Loans to the Borrowers or the Applicable Agent, (ii) the Applicable Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment and (iii) upon such deemed acquisition, the Applicable Agent as the assignee Lender shall become a Lender or Issuing Bank, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender or assigning Issuing Bank shall cease to be a Lender or Issuing Bank, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender or assigning Issuing Bank. For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender or Issuing Bank and such Commitments shall remain available in accordance with the terms of this Agreement.

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrowers or any other Loan Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received (or debited from the Cash Collateral Account) by the Applicable Agent from the Borrowers or any other Loan Party for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable Law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Applicable Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on "discharge for value" or any similar doctrine.

(g) Each party's obligations, agreements and waivers under this Section 9.13 shall survive the resignation or replacement of the any Agent, any transfer of rights or obligations by, or the

replacement of, a Lender or Issuing Bank, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Credit Document.

Section 9.14. *Indemnification of Administrative Agent and Floor Plan Agent.* Each Lender agrees to indemnify each of the Administrative Agent and the Floor Plan Agent (to the extent not reimbursed by the Borrowers and without limiting the obligation of the Borrowers to do so) pro rata in accordance with such Lender's respective Pro Rata Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits and reasonable out-of-pocket costs and expenses of any kind or nature whatsoever which may at any time be imposed on, incurred by, or asserted against such Agent (in its capacity as Administrative Agent or Floor Plan Agent but not as a Lender) in any way relating to or arising out of the Credit Documents, any transaction contemplated hereby or thereby or any action taken or omitted by the Administrative Agent or the Floor Plan Agent under the Credit Documents (collectively, "Indemnifiable Amounts"); provided, however, that no Lender shall be liable for any portion of such Indemnifiable Amounts to the extent resulting from such Agent's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final, non-appealable judgment; provided, further, that no action taken in accordance with the directions of the Required Lenders (or all of the Lenders, if expressly required hereunder) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section. Without limiting the generality of the foregoing, each Lender agrees to reimburse the Administrative Agent and the Floor Plan Agent (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so) promptly upon demand for its Pro Rata Share (determined as of the time that the applicable reimbursement is sought) of any out-of-pocket expenses (including the reasonable fees and expenses of the counsel to such Agent) incurred by the such Agent in connection with the preparation, negotiation, execution, administration, or enforcement (whether through negotiations, legal proceedings, or otherwise) of, or legal advice with respect to the rights or responsibilities of the parties under, the Credit Documents, any suit or action brought by the Administrative Agent or the Floor Plan Agent to enforce the terms of the Credit Documents and/or collect any Obligations, any "lender liability" suit or claim brought against either Agent and/or the Lenders, and any claim or suit brought against either Agent and/or the Lenders arising under any Environmental Laws. Such out-of-pocket expenses (including counsel fees) shall be advanced by the Lenders on the request of the respective Agent notwithstanding any claim or assertion that such Agent is not entitled to indemnification hereunder upon receipt of an undertaking by such Agent that such Agent will reimburse the Lenders if it is actually and finally determined by a court of competent jurisdiction that such Agent is not so entitled to indemnification. The agreements in this Section shall survive the payment of the Loans and all other Obligations and the termination of this Agreement. If the Borrower shall reimburse the Administrative Agent or the Floor Plan Agent for any Indemnifiable Amount following payment by any Lender to such Agent in respect of such Indemnifiable Amount pursuant to this Section, such Agent shall share such reimbursement on a ratable basis with each Lender making any such payment.

Section 9.15. *Cooperation between Administrative Agent and Floor Plan Agent*. Each Agent shall provide to the other Agent (the "*Requesting Agent*") any information reasonably requested by the Requesting Agent to enable the Requesting Agent to perform its obligations and exercise its rights as an Agent under this Agreement and the other Credit Documents. The Agents may enter into separate side agreements between the Agents, without the consent of any Lender or any Loan Party, in order to clarify the division of responsibilities between the Agents or enable any Agent to perform its obligations and exercise its rights under this Agreement and the other Credit Documents; provided that if any such side agreement directly increases the obligations, or directly and adversely affects the rights and obligations, of any Loan Party under this Agreement or any other Credit Document, the consent of such Loan Party shall be required. In the event either Agent receives any amounts hereunder, including without limitation payment of any principal, interest or fees, that was required to be paid to the other Agent, such amounts shall be segregated and held in trust and promptly paid over to the Agent entitled to such amounts, in the same form as received, with any necessary endorsements.

ARTICLE 10
MISCELLANEOUS

Section 10.01. *Waivers and Amendments.* No amendment or waiver of any provision of this Agreement or any other Credit Document, and no consent to any departure by the Borrowers or by any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrowers or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:

(a) waive any condition set forth in Section 4.01.1 without the written consent of each Lender or waive any condition set forth in Section 4.03 without the written consent of each Lender holding Mortgage Loan Commitments;

(b) extend or increase any Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 8.01(a)) without the written consent of such Lender;

(c) postpone any date fixed by this Agreement or any other Credit Document for any scheduled payment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Credit Document, extend the final Maturity Date of any Loans, or extend the date of payment for reimbursement obligations in respect of Letters of Credit, without the written consent of each Lender directly affected thereby;

(d) reduce the principal of, or the rate of interest specified herein on, any Loan or Reimbursement Obligation, or (subject to clause (v) of the second proviso to this Section 10.01) any fees (including fees related to Letters of Credit) or other amounts payable hereunder or under any other Credit Document, without the written consent of each Lender directly affected thereby; 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 Borrowers to pay interest or Letter of Credit Fees at the Default Rate;

(e) change Section 8.05 or any other provision of this Agreement in a manner that would alter the *pro rata* sharing of payments required thereby without the written consent of each Lender or add any provision to this Agreement in a manner that would alter the pro rata sharing of payments required hereunder as of the date hereof without the prior written consent of each Lender;

(f) (A) with respect to any Class of Mortgage Loans or Term Loans, reduce the amount of Loans or commitments specified in the definition of "Required Class Lenders" with respect to such Class, without the written consent of each Lender of such Class, (B) reduce the amount of Commitments or Loans specified in the definition of "Required Floor Plan Lenders" or "Supermajority Lenders" without the written consent of each Floor Plan Lender, (C) reduce the amount of Commitments or Loans specified in the definition of "Required Revolving Credit Lenders" without the written consent of each Revolving Credit Lender and (D) change any provision of this Section or reduce the aggregate commitment amount specified in the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender;

(g) (A) amend, modify or waive Section 4.02 or any other provision of this Agreement, in each case without the written consent of the Required Floor Plan Lenders, if the effect of such amendment, modification or waiver is to require the Floor Plan Lenders to make Floor Plan Loans when such Lenders would not otherwise be required to do so,(B) amend, modify or waive Section 4.02 or any other provision of this Agreement, in each case without the written consent of the Required Revolving Credit Lenders, if

the effect of such amendment, modification or waiver is to require the Revolving Credit Lenders to make Revolving Credit Loans when such Lenders would not otherwise be required to do so, (C) amend, modify or waive Section 4.03 or any other provision of this Agreement, in each case without the written consent of the Required Class Lenders of a Class of Mortgage Loans, if the effect of such amendment, modification or waiver is to require the Mortgage Lenders of such Class make Mortgage Loans when such Lenders would not otherwise be required to do so and (D) amend, modify or waive Section 4.04 or any other provision of this Agreement, in each case without the written consent of the Required Class Lenders of Term Loan Lenders, if the effect of such amendment, modification or waiver is to require the Term Loan Lenders to make Term Loans when such Lenders would not otherwise be required to do so;

(h) release all or any substantial portion of Collateral or any Loan Party (other than as specifically authorized by the terms of this Agreement or any other Credit Document) without the prior written consent of each Lender;

(i) amend or otherwise modify the definition of "Pro Rata Share" or amend or otherwise modify the provisions of Section 2.08.3 or Section 9.14 or any other provision of this Agreement without the written consent of each Lender or add any provision to this Agreement in a manner that would alter the pro rata treatment required hereunder as of the date hereof without the prior written consent of each Lender;

(j) modify the definition of the term "Borrowing Base" (or any component definition thereof as used therein to determine eligibility under the Borrowing Base), including any advance rates set forth therein, in the case of each of the foregoing, if such modification would increase the amount available to be borrowed under the Credit Documents without the written consent of the Floor Plan Agent and the Supermajority Lenders; provided that the foregoing shall not limit any discretion of the Administrative Agent to change, establish or eliminate any Reserves to exercise its Permitted Discretion without the consent of any other Credit Party; or

(k) subordinate the Liens on the Collateral securing any of the Obligations or subordinate the right of payment of the Obligations (in each case, as such definitions were in effect on the Closing Date) in each case without the written consent of each Lender;

provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the Issuing Bank in addition to the Lenders required above, affect the rights or duties of the Issuing Bank under this Agreement or any L/C 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 Swingline Lender in addition to the Lenders required above, affect the rights or duties of the Swingline Lender under this Agreement; (iii) no amendment, waiver or consent shall amend or modify any Swap Agreements or otherwise affect the rights or duties of any Swap Providers (and no Lender or Required Lender consent or approval shall be required or permitted with respect to any such amendments or modifications to any Swap Agreements) or release any Collateral securing any obligations under any Swap Agreement without the consent of the respective Swap Provider; (iv) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Credit Document; (v) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto; (vi) no amendment, waiver or consent shall, unless in writing and signed by Wells Fargo as WF Advance Lender in addition to the applicable Lenders required above, affect the rights or duties of WF Advance Lender pursuant to this Agreement; (vii) no amendment, waiver or consent shall, unless in writing and signed by the Floor Plan Agent in addition to the Lenders required above, affect the rights or duties of the Floor Plan Agent under this Agreement or any other Credit Document (viii) notwithstanding anything to the contrary in this Agreement or any other Credit Document, but except for the consents required pursuant to clause (f) above, any waiver, amendment or modification of this Agreement or any other Credit Document that by its terms affects the rights or duties under this Agreement or such Credit Document of Lenders solely in their

capacities as Lenders holding Loans or Commitments of a particular Class (but not in their capacities as Lenders holding Loans or Commitments of any other Class) may be effected by an agreement or agreements in writing entered into solely by the Borrowers in respect of such particular Class, on the one hand, and the Required Class Lenders of such Class, the Required Floor Plan Lenders or the Required Revolving Credit Lenders, on the other hand, as applicable and (ix) any amendment, waiver or consent relating to an increase in the amount, extension of the maturity, or renewal that extends the maturity of any of the Commitments or Loans shall comply with the requirements of Section 10.28 hereof. Notwithstanding anything to the contrary herein, (i) 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 Commitments 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 more adversely than other affected Lenders shall require the consent of such Defaulting Lender and (ii) if the Administrative Agent and the Floor Plan Agent and the Borrowers have jointly identified an ambiguity, omission, mistake or defect in any provision of this Agreement or an inconsistency between provisions of this Agreement, the Administrative Agent and the Floor Plan Agent and the Borrowers shall be permitted to amend such provision or provisions to cure such ambiguity, omission, mistake, defect or inconsistency so long as (x) to do so would not adversely affect the interests of the Lenders and (y) such amendment is not objected to in writing by the Required Lenders to the Administrative Agent within five (5) Business Days following receipt of notice thereof, and any such amendment shall become effective without any further action or consent of any of other party to this Agreement.

Section 10.02. *Successors and Assigns.*

10.02.1. *Successors and Assigns Generally.* The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consents of the Administrative Agent and of each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (a) to an Eligible Assignee in accordance with the provisions of Section 10.2.2; (b) by way of participation in accordance with the provisions of Section 10.03, or (c) by way of pledge or assignment of a security interest authorized by Section 10.04 (and any other attempted assignment, transfer or pledge by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 10.03 of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

10.02.2. *Assignments By Lenders.* Each Lender may assign to one or more Eligible Assignees all or any portion of such Lender's interests, rights and obligations set forth in this Agreement or the other Credit Documents, including all or a portion of its Commitments and the Loans (including for purposes hereof, its participations in L/C Obligations and Swingline Loans) provided that (a) an administrative fee in the amount of Five Thousand ($5,000.00) is paid to the Administrative Agent by either the assigning Lender or the Eligible Assignee in connection with the assignment, (b) if less than all of the assigning Lender's Commitments and Loans is to be assigned, the amount of the Commitments and Loans so assigned shall be for an aggregate principal amount of not less than Five Million Dollars ($5,000,000.00), (c) each partial assignment shall be made as an assignment of a proportionate amount of all of the assigning Lender's rights and obligations under this Agreement with respect to the Loans and Commitments assigned (except this clause (c) shall not apply to the Swingline Lender's rights and obligations in the Swingline Loans), (d) the parties to each such assignment shall execute and deliver an Assignment And Assumption to the Administrative Agent, for its acceptance (or with respect to

assignments under the Floor Plan Facility, the Floor Plan Agent's acceptance), and (e) such Assignment And Assumption does not require the filing of a registration statement with the Securities And Exchange Commission or require the Loans or the Notes to be qualified in conformance with the requirements imposed by any blue sky Laws or other Laws of any state. Upon such execution, delivery, acceptance and recording, from and after the effective date specified in each Assignment And Assumption, which effective date is at least five (5) Business Days after the execution thereof, (a) the Assignee thereunder shall be a party hereto and, to the extent provided in such Assignment And Assumption, have the rights, duties, and obligations of a Lender hereunder, and (b) the assigning Lender thereunder shall, to the extent provided in such Assignment And Assumption, be released from its duties and obligations under this Agreement but shall continue to be entitled to all indemnification and reimbursement rights provided to the Lenders by the Borrowers pursuant to any of the Credit Documents with respect to facts, events, and circumstances occurring prior to the effective date of such assignment. By executing and delivering an Assignment And Assumption, the assigning Lender thereunder and the Assignee thereunder confirm to and agree with each other and the other parties to this Agreement the facts and matters as set forth in such Assignment and Assumption. Lenders may only assign their interests in the Commitments, the Loans, and Credit Documents to Eligible Assignees. Any assignment or transfer by a Lender of rights or obligations under the Credit Documents that does not comply with this Section shall be treated for purposes of the Credit Documents as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.03 of this Agreement. Except to the extent otherwise expressly agreed in writing by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or a release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender.

10.02.3. *Certain Additional Payments*. In connection with any assignment of rights and obligations of any Defaulting Lender pursuant to Section 10.02.2, 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 Administrative 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 Borrowers and the Administrative 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 (a) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the Issuing Bank, the Swingline Lender, the Floor Plan Agent and each other Lender hereunder (and interest accrued thereon), and (b) acquire (and fund as appropriate) its full *pro rata* share of all Loans and participations in Letters of Credit and Swingline Loans in accordance with its respective Commitment Percentages. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Laws without compliance with the provisions of this Section, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

10.02.4. *Register.* The Administrative Agent, acting solely for this purpose as a limited fiduciary agent of the Borrowers, shall maintain a copy of each Assignment And Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders and the amount of the Loans with respect to each Lender from time to time (the "Register"). The entries in the Register shall be conclusive, in the absence of manifest error, and the Borrowers, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrowers or the Lenders at any reasonable time and from time to time upon reasonable prior notice.

10.02.5. *Procedures for Implementing Lender Assignments.* Upon the Administrative Agent's receipt of an Assignment And Assumption executed by an assigning Lender and an Eligible Assignee together with any Note or Notes subject to such Assignment and Assumption and any

necessary consents to such Assignment and Assumption, the Administrative Agent shall, if such Assignment and Assumption has been completed and is substantially in the form of Exhibit A (a) accept such Assignment And Assumption, (b) record the information contained therein in the Register, (c) give prompt notice thereof to the Borrowers, and (d) promptly deliver a copy of such Assignment And Assumption to the Borrowers. Within three (3) Business Days after receipt of notice, the Borrowers shall execute and deliver to the Administrative Agent, in exchange for the surrendered Notes, new Notes to the order of such Eligible Assignee in amounts equal to the Commitments and Commitment Percentages assumed by it pursuant to such Assignment And Assumption and new Notes to the order of the assigning Lender in an amount equal to the Commitments and Commitment Percentages retained by the assigning Lender. Such Notes shall be in the aggregate stated principal amount equal to the aggregate principal amount of such surrendered Notes, shall be dated the effective date of such Assignment And Assumption and shall otherwise be in substantially the form of the assigned Notes delivered to the assigning Lender. The surrendered Notes shall be canceled and returned to the Borrowers. The Borrowers expressly acknowledge that the cancellation of any Note or Notes and the replacement of any Note or Notes in accordance with this provision shall not constitute or be deemed to be a refinancing or a novation of any of the Obligations.

10.02.6. *Cashless Settlements*. Notwithstanding anything to the contrary contained in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrowers, the Administrative Agent and such Lender.

Section 10.03. *Participations.* Any Lender may at any time, without the consent of, or notice to, the Borrowers or the Administrative Agent, sell participations to any Person (other than to a Defaulting Lender, a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person), or the Borrowers or any of the Borrowers' 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 Commitments and/or the Loans owing to it); provided that (a) such Lender's obligations under this Agreement shall remain unchanged, (b) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (c) the Borrowers, the Administrative Agent, the Issuing Bank, the Floor Plan Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 2.11.5. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in Section 10.01 that affects such Participant. The Borrowers agree that each Participant shall be entitled to the benefits of Sections 2.07.3, 2.10 and 2.11 (subject to the requirements and limitations therein, including the requirements under Section 2.11.7 (it being understood that the documentation required under Section 2.11.7 shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.02 of this Agreement; provided that such Participant (i) agrees to be subject to the provisions of Section 2.12 as if it were an assignee under Section 10.02 of this Agreement; and (ii) shall not be entitled to receive any greater payment under Sections 2.10 or 2.11, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrowers' request and expense, to use reasonable efforts to cooperate with the Borrowers to effectuate the provisions of Section 2.12.2 with respect to any Participant. To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 10.07 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.08 as though it

were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a limited non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Credit 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 Credit Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

Section 10.04. *Pledges.* Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 10.05. *Resignations Of Issuing Bank And Swingline Lender.* Notwithstanding anything to the contrary the Issuing Bank may upon thirty (30) days' notice to the Administrative Agent, the Borrowers and the Lenders, resign as Issuing Bank, and/or the Swingline Lender may upon thirty (30) days' notice to the Administrative Agent, the Borrowers and the Lenders, resign as Swingline Lender. After the resignation of the Issuing Bank hereunder, the retiring Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of the Issuing Bank under this Agreement and the other Credit Documents with respect to Letters of Credit issued by it prior to such resignation, but shall not be required to issue additional Letters of Credit or to extend, renew or increase any existing Letter of Credit. After the resignation of the Swingline Lender hereunder, the retiring Swingline Lender shall remain a party hereto and shall continue to have all the rights and obligations of a Swingline Lender under this Agreement and the other Credit Documents with respect to Swingline Loans made by it prior to such resignation, but shall not be required to make any additional Swingline Loans.

Section 10.06. *No Advisory or Fiduciary Responsibility*. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document), each of the Borrowers acknowledges and agrees that: (a) (i) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Floor Plan Agent and the Arrangers, are arm's-length commercial transactions between the Borrowers and their Affiliates, on the one hand, and the Administrative Agent, the Floor Plan Agent and the Arrangers, on the other hand, (ii) the Borrowers have consulted their own legal, accounting, regulatory and tax advisors to the extent the Borrowers have deemed appropriate, and (iii) the Borrowers are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents; (b) (i) the Administrative Agent, the Floor Plan Agent and the Arrangers each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for any of the Borrowers or any of their Affiliates, or any other Person and (ii) neither the Administrative Agent, the Floor Plan Agent, nor any of the Arrangers has any obligation to any of the Borrowers or any of their Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents; and (c) the Administrative Agent, the Floor Plan Agent and the Arrangers and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrowers and their Affiliates, and neither the Administrative Agent, the Floor Plan Agent nor any of the Arrangers has any obligation to disclose any of such interests to the

Borrowers or their Affiliates. To the fullest extent permitted by Law, each Borrower hereby waives and releases any claims that it may have against the Administrative Agent, the Floor Plan Agent and the Arrangers with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 10.07. *Right of Setoff.* If an Event of Default shall have occurred and be continuing, each Lender, the Issuing Bank, and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable Laws, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held, and other obligations (in whatever currency) at any time owing, by such Lender, the Issuing Bank or any such Affiliate, to or for the credit or the account of any Borrower or any other Loan Party against any and all of the Obligations of the Borrowers or any Loan Party now or hereafter existing under this Agreement or any other Credit Document to such Lender or the Issuing Bank or their respective Affiliates, irrespective of whether or not such Lender, the Issuing Bank or any of their Affiliates shall have made any demand under this Agreement or any other Credit Document and although such Obligations of the Borrowers or any Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or the Issuing Bank different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (a) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.13 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 Administrative Agent, the Issuing Banks, the Floor Plan Agent and the Lenders, and (b) the Defaulting Lender shall provide promptly to the Administrative 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, each Issuing Bank and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Bank or their respective Affiliates may otherwise have under applicable Laws. The Lender and the Issuing Bank each agree to notify the Borrowers and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 10.08. *Expenses; Indemnity; Damage Waiver.*

10.08.1. *Costs and Expenses*. The Borrowers jointly and severally promise to pay (a) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates or the Floor Plan Agent and its Affiliates (including the reasonable fees, charges and disbursements of outside counsel for the Administrative Agent or the Floor Plan Agent (including the reasonable fees, charges and disbursements of one firm of counsel for the Administrative Agent, the Floor Plan Agent any Lender or any Issuing Bank taken as a whole and, if necessary, one firm of local counsel in each appropriate jurisdiction, in each case for all such parties taken as a whole (and in the case of an actual or perceived conflict of interest, of another firm or counsel for such affected party taken as a whole), but in any event excluding allocated costs of internal counsel)), related to due diligence performed in connection with the Closing Date Transactions, the syndication of the credit facilities hereunder, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Credit Documents, or any amendments, or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (b) all reasonable out-of-pocket expenses incurred by the Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, (c) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Floor Plan Agent, any Lender or the Issuing Bank (including reasonable fees, charges and disbursements of one firm of counsel for the Administrative Agent, the Floor Plan Agent any Lender or any Issuing Bank taken as a whole and, if necessary, one firm of local counsel in each appropriate jurisdiction, in each case for all such parties taken as a whole (and in the case of an actual or perceived conflict of interest, of another firm or counsel for such affected party taken as a whole), but in

any event excluding allocated costs of internal counsel) in connection with the enforcement or protection of its rights (i) in connection with this Agreement and the other Credit Documents, including its rights under this Section, or (ii) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit, and (d) all other Credit Party Expenses. The agreements of the Borrowers set forth in this Section 10.08.1 shall not merge into any judgment entered in connection with this Agreement or any other Credit Documents but shall survive as separate independent contractual agreements of the Borrowers.

10.08.2. *Indemnification by the Borrowers*. The Borrowers jointly and severally agree to indemnify the Administrative Agent (and any sub-agent thereof) the Floor Plan Agent (and any sub-agent thereof), each Lender and the Issuing Bank, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, liabilities, fines, costs, penalties, claims, damages and related expenses (including reasonable fees, charges and disbursements of one firm of counsel for the Indemnitees taken as a whole and, if necessary, one firm of local counsel in each appropriate jurisdiction, in each case for all such parties taken as a whole (and in the case of an actual or perceived conflict of interest, of another firm or counsel for such affected party taken as a whole), but in any event excluding allocated costs of internal counsel), and to indemnify and hold harmless each Indemnitee from all fees and time charges and disbursements for attorneys who may be employees of any Indemnitee, incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Borrowers or any other Loan Party) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (a) the execution or delivery of this Agreement, any other Credit Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (b) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (c) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Loan Party or any of its Subsidiaries, or any Environmental Liability related in any way to any Loan Party or any of its Subsidiaries, or (d) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Borrower or any other Loan Party, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee, or (y) result from a claim brought by a Borrower or any other Loan Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Credit Document, if a Borrower or such Loan Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This Section 10.08.2 shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

10.08.3. *Reimbursement by Lenders*. To the extent that the Borrowers for any reason fail to indefeasibly pay any amount required under Section 10.08.1 or 10.08.2 to be paid by it to the Administrative Agent or the Floor Plan Agent (or any sub-agent thereof), the Issuing Bank, any Swingline Lender or any Related Party of any of the foregoing, each Lender severally promises to pay to the Administrative Agent or the Floor Plan Agent (or any such sub-agent), the Issuing Bank, the Swingline Lender or such Related Party, as the case may be, such Lender's *pro rata* share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender's share of the aggregate Total Credit Exposure for all Lenders at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender); provided that with respect to such unpaid amounts owed to the Issuing Bank or the Swingline Lender solely in its capacity as such, only the

holders of Revolving Credit Loans shall be required to pay such unpaid amounts, such payment to be made severally among them based on each of such Lenders' respective Revolving Credit Commitment Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) provided, further, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent or the Floor Plan Agent (or any such sub-agent), such Issuing Bank or the Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent or the Floor Plan Agent (or any such sub-agent), the Issuing Bank or any the Swingline Lender in connection with such capacity.

10.08.4. *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by applicable Laws, each Borrower agrees that it will not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Credit Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit, or the use of the proceeds thereof. No Indemnitee referred to in Section 10.08.2 above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby.

10.08.5. *Payments*. All amounts due under this Section shall be payable not later than ten (10) Business Days after demand therefor.

10.08.6. *Survival*. Each party's obligations under this Section 10.08 shall survive the termination of the Credit Documents and the payment of the Obligations hereunder.

Section 10.09. *Course of Conduct*. No failure or delay by any Credit Party in exercising any right or power under any Credit Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Credit Parties under the Credit Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Credit Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless such waiver is made in accordance with Section 10.01 of this Agreement, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No waiver or indulgence by any of the Credit Parties shall constitute a future waiver of performance or exact performance by any of the Loan Parties. No amendment or waiver shall be effective unless in writing. Without limiting the generality of the foregoing, the advance of proceeds of a Loan or the issuance of a Letter of Credit shall not be construed as a waiver of any Default or an 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 of such advance or issuance.

Section 10.10. *Notices; Effectiveness; Electronic Communication.*

10.10.1. *Notices Generally*. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 10.10.2 below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows:

(a) if to any of the Borrowers or to any other Loan Party, to it at 2600 McCormick Drive, Suite # 200, Clearwater, FL 33759, Attention: Michael H. McLamb;

(b) if to the Administrative Agent, to Manufacturers and Traders Trust Company at One Fountain Plaza – 12th Floor, Buffalo, NY 14203, Attention of Brendan Kelly, Vice President (bkelly@mtb.com; Telephone No. (716) 848-2778; and to M&T Debt Capital Markets Group, 25 S. Charles Street, 12th Floor, Baltimore, Maryland 21201, Attention of Chad Durakis, Vice President (Telephone No. (410) 244-4580);

(c) if to the Floor Plan Agent, to it at 5595 Trillium Blvd., 4th FL, Hoffman Estates, IL 60192, Attention of Laura Mickey, Relationship Manager, (laura.m.mickey@wellsfargo.com; Telephone No. (847) 747-6943;

(d) if to Wells Fargo in its capacity as provider of the WF Advances, to it at 5595 Trillium Blvd., 4th FL, Hoffman Estates, IL 60192, Attention of Laura Mickey, Relationship Manager, (laura.m.mickey@wellsfargo.com; Telephone No. (847) 747-6943;

(e) if to Manufacturers and Traders Trust Company in its capacity as Issuing Bank, to it at One Fountain Plaza – 12th Floor, Buffalo, NY 14203, Attention of Brendan Kelly, Vice President (bkelly@mtb.com; Telephone No. (716) 858-2778; and if to any other Issuing Bank, to it at the address provided in writing to the Administrative Agent and the Borrowers at the time of its appointment as an Issuing Bank hereunder; and

(f) if to a Lender, to it at its address (or facsimile number) on file with the Administrative Agent or as set forth on its respective Assignment And Assumption.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications, to the extent provided in Section 10.10.2 below, shall be effective as provided in said Section 10.10.2.

10.10.2. *Electronic Communications*. Notices and other communications to the Lenders and the Issuing Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Applicable Agent. The Applicable Agent, any Lender or the Borrower Representative 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 Applicable Agent otherwise prescribes, (a) 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 (b) 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 (a), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (a) and (b) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.

10.10.3. *Change of Address, etc*. Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

10.10.4. *Platform*. (a) Each of the Borrowers and each other Loan Party agrees that the Administrative Agent may, but shall not be obligated to, make the Communications (as defined below) available to the Issuing Bank and the other Lenders by posting the Communications on the Platform; and (b) the Platform is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, 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 Communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "*Agent Parties*") have any liability to the Borrowers or to any other Loan Parties, any Lender or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Borrowers', any Loan Party's or the Administrative Agent's transmission of Communications through the Platform. "*Communications*" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Credit Document or the transactions contemplated therein which is distributed to the Administrative Agent, any Lender or the Issuing Bank by means of electronic communications pursuant to this Section, including through the Platform.

Section 10.11. *Treatment of Certain Information; Confidentiality*. Each of the Administrative Agent, the Lenders and the Issuing Bank agree to maintain the confidentiality of the "Information" (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (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 required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners); (c) to the extent required by applicable Laws or by any subpoena or similar legal process; (d) to any other party hereto; (e) in connection with the exercise of any remedies hereunder or under any other Credit Document or any action or proceeding relating to this Agreement or any other Credit 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 and obligations under this Agreement, (ii) to federal and state bank examiners, and other regulatory officials and organizations having jurisdiction over the Administrative Agent, the Floor Plan Agent, the Lenders, Issuing Bank and their Affiliates and Related Parties or its affiliates, or (iii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrowers and their obligations, this Agreement or payments hereunder; (g) on a confidential basis to (i) any rating agency in connection with rating the Borrowers or their Subsidiaries or the credit facilities hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the credit facilities hereunder; (h) with the consent of the Borrowers; or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section, or (y) becomes available to the Administrative Agent, any Lender, any Issuing Bank or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrowers. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent and the Lenders in connection with the administration of this Agreement, the other Credit Documents, and the Commitments. For purposes of this Section, "Information" means all information received from the Borrowers or any of their Subsidiaries relating to the Borrowers or any of their Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any Issuing Bank on a nonconfidential basis prior to disclosure by the Borrowers or any of their Subsidiaries; provided that, in the case of information received from the Borrowers or any of their Subsidiaries after the date hereof, 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.

Section 10.12. *Counterparts And Integration.* 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 Credit 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 Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be just as effective as the delivery of a manually executed counterpart of this Agreement.

Section 10.13. *Electronic Execution.* The words "execution", "signed," "signature," and words of like import in any Credit Document shall be deemed to include electronic signatures 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. Without limitation to the foregoing, signature pages to the Credit Documents delivered by electronic communication (including facsimile, e-mail and internet or intranet websites) shall be as effective, valid and enforceable and binding upon the indicated signatories as manually delivered signatures.

Section 10.14. *Severability.* In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby (it being understood that the invalidity of a particular provision in a particular jurisdiction shall not in and of itself affect the validity of such provision in any other jurisdiction). The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 10.15. *Survival.* All covenants, agreements, representations and warranties made by the Borrowers herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Credit Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of any Credit Document and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that any Credit Party may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under the Credit Documents is outstanding and unpaid and so long as the Revolving Credit Commitments have not expired or terminated. The provisions of Sections 2.07.3, 2.09, 2.10.4, Article 9 and Section 10.08 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans and the termination of the Commitments or the termination of this Agreement or any provision hereof.

Section 10.16. *Time.* Time is of the essence to this Agreement.

Section 10.17. *Advertisement.* The Borrowers authorize the Administrative Agent or the Floor Plan Agent to publish the names of the Borrowers and the amount of the financing provided in accordance with this Agreement in any "tombstone" or comparable advertisement which the Administrative Agent or the Floor Plan Agent elects to publish. The Borrowers further agree that the Administrative Agent or the Floor Plan Agent may provide lending industry trade organizations with information necessary and customary (including, without limitation, the amount and type of facilities, the rates and counsel's name) for inclusion in league table measurements after the Closing Date. Without limiting the generality of the foregoing, the Borrowers consent to the disclosure by the Administrative Agent or the Floor Plan Agent after the Closing Date of information relating to the Loans to Gold Sheets and other similar bank trade publications, with such information to consist of deal terms consisting of (a) the Borrowers' names, (b) principal loan amounts, (c) interest rates, (d) term lengths, (e) commitment fees and other fees to the Lenders in the syndicate, and (f) the identity of their attorneys and other information customarily found in such publications.

Section 10.18. *Acknowledgments*. Each Borrower hereby acknowledges that (a) it and each of the other Loan Parties has been advised and represented by counsel in the negotiation, execution and delivery of each Credit Document, (b) no Credit Party has any fiduciary relationship with or duty to it or any other Loan Party arising out of or in connection with this Agreement and the relationship between the Credit Parties, on one hand, and the Borrowers and the other Loan Parties, on the other hand, in connection herewith is solely that of creditors and debtors, and (c) no joint venture exists among any of the Credit Parties and the Borrowers or any of the other Loan Parties.

Section 10.19. *Governing Law.* This Agreement and the other Credit Documents and any claims, disputes or causes of action (whether in contract or tort) arising out of or related to this Agreement or any other Credit Document (except as to any other Credit Document, as expressly set forth therein) and the transaction contemplated hereby and thereby shall be governed by, and construed in accordance with, the Laws of the Governing State.

Section 10.20. *Jurisdiction.* Each Borrower irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in Law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, the Floor Plan Agent, any Lender, any Issuing Bank, or any Related Party of the foregoing in any way relating to this Agreement or any other Credit Document or the transactions relating hereto or thereto, in any forum other than the courts of the State of New York sitting in New York County, and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable Law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. Nothing in this Agreement or in any other Credit Document shall affect any right that the Administrative Agent, the Floor Plan Agent, any Lender or any Issuing Bank may otherwise have to bring any action or proceeding relating to this Agreement or any other Credit Document against the Borrowers or any other Loan Party or its properties in the courts of any jurisdiction.

Section 10.21. *Venue*. Each Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the other Credit Documents in any court referred to in Section 10.20. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 10.22. *Service Of Process.* Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 10.10. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by Law.

Section 10.23. *WAIVER OF JURY TRIAL.* EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE OBLIGATIONS. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, ADMINISTRATIVE AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 10.24. *USA Patriot Act Notice.* Each Credit Party that is subject to the USA Patriot Act hereby notifies the Borrowers that pursuant to the requirements of the USA Patriot Act it is required to obtain, verify and record information that identifies the Borrowers, which information includes the names and address of the Borrowers and other information that will allow such Credit Party to identify the Borrowers in accordance with the USA Patriot Act.

Section 10.25. *Acknowledgement Regarding Any Supported QFCs.* To the extent that the Credit Documents provide support, through a guarantee or otherwise, for Hedging Obligations 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 Credit 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 Credit 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 Credit 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 10.25, 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).

Section 10.26. *Judgment Currency.* If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Credit Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower Representative in respect of any such sum due from it to the Administrative Agent or any Lender hereunder or under the other Credit Documents shall, notwithstanding any judgment in a currency (the "Judgment Currency") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "Agreement Currency"), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent or such Lender, as the case may be, of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent or such Lender, as the case may be, may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent or any Lender from the Borrower Representative in the Agreement Currency, the Borrower Representative agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or such Lender, as the case may be, against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent or any Lender in such Currency, the Administrative Agent or such Lender, as the case may be, agrees to return the amount of any excess to the Borrower Representative (or to any other Person who may be entitled thereto under Applicable Law).

Section 10.27. *Investigation.* Each Loan Party irrevocably authorizes each Agent and each Lender to investigate and make inquiries in a commercially reasonable manner of former, current, or future creditors or other persons and credit bureaus regarding or relating to Loan Parties (including, to the extent permitted by law, any equity holders of any Loan Party, unless the equity of such Loan Party is publicly-traded on a recognized exchange). Information requested to be provided by Loan Party shall be requested through Administrative Agent and provided to Administrative Agent for distribution to Lenders. Further, each Borrower irrevocably authorizes and instructs any third parties (including without limitation, any Manufacturers or customers of Loan Parties) to provide to Administrative Agent or Floor Plan Agent any credit, financial or other information regarding Credit Parties that such third parties may at any time possess, whether such information was supplied by any Loan Party to such third parties or otherwise obtained by such third parties.

Section 10.28. *MIRE Event*. Notwithstanding anything to the contrary contained in this Agreement or any other Credit Document, no increase in the amount, extension of the maturity or renewal of any of the Commitments or Loans (other than (x) any conversion or continuation of any Loan from one Type to another, (y) the making of any Loan pursuant to a pre-existing Commitment and (z) any Commitment or Loan not secured by any of the Mortgaged Properties) or the addition of any new commitment hereunder not secured by any of the Mortgaged Properties (each, a "*MIRE Event*") shall occur or be effective, and the conditions to such MIRE Event shall not be satisfied, unless and until each Lender has given notice to the Administrative Agent that such Lender has completed its due diligence of, and is satisfied (in its sole discretion) with Flood Documents with respect to all Mortgaged Properties.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have caused this Credit Agreement to be executed by their respective duly Authorized Officers as of the date first written above.

BORROWERS:

MARINEMAX, INC.

By: /s/ Anthony Cassella
Anthony Cassella
Vice President and Chief Accounting Officer

BOATING GEAR CENTER, LLC
BY HOLDINGS, LLC
FWW, LLC
[****]
GULFPORT MARINA, LLC
[****]
MARINEMAX CHARTER SERVICES, LLC
MARINEMAX EAST, INC.
MARINEMAX KW, LLC
MARINEMAX NORTHEAST, LLC
MARINEMAX PRODUCTS, INC.
MY WEB SERVICES, LLC
N & J GROUP, LLC
N & J MEDIA, LLC
NEWCOAST INSURANCE SERVICES, LLC
NISSWA MARINE, LLC
NORTHROP & JOHNSON HOLDING LLC
NORTHROP & JOHNSON YACHTS-SHIPS LLC
NVGH, LLC
PERFECT YACHT CHARTER, LLC
SILVER SEAS CALIFORNIA, INC.
SILVER SEAS YACHTS, LLC
SKIPPER BUD'S OF ILLINOIS, LLC
SKIPPER MARINE, LLC
SKIPPER MARINE OF CHICAGO-LAND, LLC
SKIPPER MARINE OF FOX VALLEY, LLC
SKIPPER MARINE OF MADISON, LLC
SKIPPER MARINE OF MICHIGAN, LLC
SKIPPER MARINE OF OHIO, LLC
US LIQUIDATORS, LLC
INTREPID POWERBOATS, INC.
INTREPID SOUTHEAST, INC.
NORTHROP & JOHNSON CALIFORNIA INC.

By: /s/ Anthony Cassella
Anthony Cassella
Assistant Treasurer

MARINEMAX SERVICES, INC.
NEWCOAST FINANCIAL SERVICES, LLC

By: /s/ Anthony Cassella
Anthony Cassella
Assistant Treasurer

FRASER YACHTS CALIFORNIA
FRASER YACHTS FLORIDA, INC.

By: /s/ Alessandra Nenci
Alessandra Nenci
Chief Financial Officer

CREDIT PARTIES:

MANUFACTURERS AND TRADERS TRUST COMPANY,
in its capacities as Administrative Agent, Swingline Lender, Issuing Bank and as a Lender

By: /s/ Brendan Kelly
Brendan Kelly
Vice President

WELLS FARGO COMMERCIAL DISTRIBUTION

FINANCE, LLC,

in its capacities as Floor Plan Agent and as a Lender

By: /s/ Thomas M. Adamski
Thomas M. Adamski
SVP Credit Leader

BANK OF AMERICA, N.A.

By: /s/ Sam Scott
Senior Vice President

PNC Bank, N.A

By: /s/ Micahel R. Dehney
Senior Vice President

NYSCB SPECIALTY FINANCE COMPANY, LLC

By: /s/ Jennifer Gobell
First Vice President

Bank of the West

By: /s/ Ronald A. DeLucca
Vice President

BMO Harris Bank N.A.

By: /s/ Steve Gagnon
Director

THE HUNTINGTON NATIONAL BANK

By: /s/ Anthony Munaco
Assistant Vice President

First Horizon Bank, a Tennessee Banking Corporation

By: /s/ Eric Vogt
SVP

NORTHPOINT COMMERICAL FINANCE LLC,

By: /s/ Evan Jones
Chief Risk Officer

Hancock Whitney Bank

By: s/ Malik F. Folkman
VP

Bank United, N.A.

By: /s/ Michael R. Del Rocco
Senior Vice President

Raymond James Bank

By: /s/ Douglas S. Marron
Senior Vice President

Cadence Bank

By: s/ Leslie Fredericks
Senior Vice President

Costal States Bank

By: /s/ Brian P. Smith
Regional President

Exhibits A-N

Exhibit 21

LIST OF SUBSIDIARIES

The following is a list of subsidiaries of which MarineMax, Inc. has a controlling interest, omitting some subsidiaries which, considered in the aggregate, would not constitute a significant subsidiary.

Name	State or Jurisdiction of Incorporation or Organization
MarineMax East, Inc. (1)	Delaware
MarineMax Services, Inc. (2)	Delaware
MarineMax Northeast, LLC (2)	Delaware
Boating Gear Center, LLC (2)	Delaware
US Liquidators, LLC (1)	Delaware
Newcoast Financial Services, LLC (2)	Delaware
My Web Services, LLC (2)	Delaware
MarineMax Charter Services, LLC (2)	Delaware
MarineMax Vacations, LTD. (2)	British Virgin Islands
Gulfport Marina, LLC (2)	Delaware
FWW, LLC (2)	Florida
FWW, UK Limited (3)	United Kingdom
Fraser Yachts Florida, Inc. (3)	Florida
TCN Antibes S.A.R.L. (4)	France
Fraser Yachts Limited (4)	United Kingdom
Fraser Worldwide S.A.M. (4)	Monaco
Fraser Yachts Group S.R.L. (4)	Italy
Fraser Yachts Spain SLU (4)	Spain
Fraser Yachts California, Inc. (5)	California
Northrop & Johnson Holding, LLC, (1)	Florida
Newcoast Insurance Services, LLC (1)	Florida
Northrop & Johnson France S.A.R.L. (6)	France
Northrop & Johnson Monaco S.A.M. (7)	Monaco
Skipper Marine of Madison, LLC (1)	Wisconsin
Skipper Marine of Chicago-Land, LLC (1)	Illinois
Skipper Marine of Michigan, LLC (1)	Michigan
Silver Seas Yachts, LLC (1)	Arizona
Silver Seas California, Inc. (8)	California
Skipper Marine, LLC (1)	Wisconsin
Skipper Marine of Fox Valley, LLC (1)	Wisconsin
Skipper Marine of Ohio, LLC (1)	Ohio
Marinemax Products, Inc. (1)	Florida
KCS International, Inc. (9)	Wisconsin
KCS RE Acquisition Company, LLC (10)	Wisconsin
Intrepid Powerboats, Inc. (9)	Florida
Intrepid Southeast, Inc. (13)	Florida
Nisswa Marine, LLC (1)	Minnesota
N&J Media, LLC (1)	Florida
Marinemax KW, LLC (1)	Florida
BY Holdings, LLC (1)	Florida
N&J Group, LLC (15)	Florida
Wave Aviation, LLC (2)	Florida
Perfect Yacht Charter, LLC (16)	Delaware
Northrop & Johnson California, Inc. (17)	California
Northrop & Johnson Yachts-Ships LLC (5)	Florida
Northrop & Johnson Group Spain, S.L. (4)	Spain
Skipper Bud’s of Illinois, LLC (1)	Illinois

Super Yacht Management S.A.S. (11)	France
NVHG, LLC (2)	Florida
Gulfwind Development, LLC (2)	Delaware
Next Wave Innovations, LLC (1)	Florida
Fraser Yachts Greece, I.K.E. (4)	Greece
Fraser Yachts Management and Services LLC (14)	Qatar
Pentagon Management N.V. (2)	Netherlands Antilles
Simpson Bay Yacht Club Marina, NV (12)	St. Maarten
Gem Pebbles, N.V. (12)	Netherlands
Island Global Yachting LLC (2)	Delaware
Island Gardens Deep Harbour LLC (18)	Delaware
IGY Cyprus Holdings Limited (19)	Cyprus
IGY Netherlands Holdings B.V. (20)	Netherlands
Cabo Marina, S. de R.L. de C.V. (21)	Mexico
IGY Málaga Marina (22)	Spain
Operadora Cabo San Lucas, S.A. de C.V. (23)	Mexico
IGY Acceptance I LLC (19)	United States
IGY - Rodney Bay Holdings Ltd.(19)	Cayman Islands
Planviron (Caribbean Practice) Limited (24)	St. Lucia
IGY - AYH St. Thomas Holdings, LLC (19)	USVI
RBM IBC Ltd.(19)	St. Lucia
Rodney Bay Marina Limited (25)	St. Lucia
RF Marina Management S. de R.L. (19)	Panama
Island Global Yachting Facilities LLC(26)	Delaware
IGY St. Maarten Holdings B.V. (19)	Netherlands Antilles
IGY Red Frog LLC (27)	Delaware
IYH Corp. (28)	USVI
CMMC Corporation B.V. (29)	Netherlands Antilles
Hop-Inn Enterprises N.V. (29)	Netherlands Antilles
Yacht Club at Isle De Sol B.V. (30)	Netherlands Antilles
Isle De Sol Development Corporation B.V. (30)	Netherlands Antilles
Sun Resorts Management Inc. (31)	Texas
IGY Services France SAS (33)	France
IGY Séte Marina SAS (34)	France
YHG Holdings Ltd. (26)	Caymans
YHG Lender LLC (37)	Delaware
YH Equity LLC (38)	Delaware
FTYHG LLC (28)	USVI
Yacht Haven USVI LLC (28)	USVI
YHUSVI Marina, LLC (39)	USVI
YHG Hotel LLC (39)	USVI
Fairport Yacht Support LLC(41)	Delaware
Fairport Crew Support PCC Limited(40)	Guernsey
IGY Yacht Services Holding LLC(31)	Delaware
Island Global Yachting Services Holdings LLC (26)	Delaware
IGY-Cabo Marina Management, S. de R.L. de C.V. (31)	Mexico
Island Global Yachting Development Services LLC (31)	Delaware
North Cove Sailing LLC (31)	New York
North Cove Services LLC (31)	New York
Yacht Haven Services LLC (31)	Delaware
IGY Florida Management Services LLC (31)	Delaware
IGY Anchor Club LLC(31)	Delaware
IGY Europe LLC(31)	Delaware
Island Global Yachting Services LLC(31)	Delaware
IGY Savannah LLC (31)	Delaware
IGY Trident Services LLC (31)	Delaware
IGY France Management SAS (31)	France
IGY Yacht Services LLC (31)	Delaware
IGY Marketing Services LLC (31)	Delaware
IGY Services UK Limited (42)	United Kingdom
Portisco Holding SRL (43)	Italy
Marina Di Portisco S.P.A. (36)	Italy

IGY Services Europe Limited (34)……	United Kingdom
IGY SKD Management Co. Ltd. (42)……	United Kingdom
IGY Management Services Europe Ltd. (42)……..	United Kingdom

(1) Wholly owned subsidiary of MarineMax, Inc.
(2) Wholly owned subsidiary of MarineMax East, Inc.
(3) Wholly owned subsidiary of FWW, LLC
(4) Wholly owned subsidiary of FWW UK Limited
(5) Wholly owned subsidiary of Fraser Yachts Florida, Inc.
(6) Wholly owned subsidiary of TCN Antibes S.A.R.L.
(7) Wholly owned subsidiary of Fraser Worldwide S.A.M.
(8) Wholly owned subsidiary of Silver Seas Yachts, LLC
(9) Wholly owned subsidiary of Marinemax Products, Inc.
(10) Wholly owned subsidiary of KCS International, Inc.
(11) Wholly owned subsidiary of Northrop & Johnson France S.A.R.L.
(12) Wholly owned subsidiary of Pentagon Management N.V.
(13) Wholly owned subsidiary of Intrepid Powerboats, Inc.
(14) Partially owned subsidiary of FWW UK Limited & a third party
(15) Wholly owned subsidiary of Northrop & Johnson Holding LLC
(16) Wholly owned subsidiary of My Web Services, LLC
(17) Wholly owned subsidiary of Fraser Yachts California, Inc.
(18) Partially owned subsidiary of Marinemax East, Inc. and Island Global Yachting LLC
(19) Wholly owned subsidiary of Island Global Yachting Facilities LLC
(20) Wholly owned subsidiary of IGY Cyprus Holdings Limited
(21) Wholly owned subsidiary of IGY Netherlands Holdings B.V.
(22) Partially owned subsidiary of Cabo Marina, S. de R.L. de C.V. & a third party
(23) Wholly owned subsidiary of Cabo Marina, S. de R.L. de C.V.
(24) Wholly owned subsidiary of IGY – Rodney Bay Holdings Ltd.
(25) Wholly owned subsidiary of RBM IBC Ltd.
(26) Wholly owned subsidiary of Island Global Yachting LLC
(27) Partially owned subsidiary of Island Global Yachting Facilities LLC & Island Global Yachting LLC
(28) Wholly owned subsidiary of YH Equity LLC
(29) Wholly owned subsidiary of IGY St. Maarten Holdings B.V
(30) Wholly owned subsidiary of Hopp-Inn Enterprises N.V.
(31) Wholly owned subsidiary of Island Global Yachting Services Holdings LLC
(32) Partially owned subsidiary of Sun Resorts Management, Inc. & a third party
(33) Wholly owned subsidiary of IGY Séte Marina SAS
(34) Wholly owned subsidiary of Sun Resorts Management, Inc.
(35) Partially owned subsidiary of IGY Séte Marina SAS & a third party
(36) Wholly owned subsidiary of Portisco Holdings SRL
(37) Partially owned subsidiary of YHG Holdings Ltd. & Island Global Yachting LLC
(38) Wholly owned subsidiary of YHG Lender LLC
(39) Wholly owned subsidiary of Yacht Haven USVI LLC
(40) Wholly owned subsidiary of Fairport Yacht Support LLC
(41) Partially owned subsidiary of Island Global Yachting LLC & IGY Yacht Services Holding LLC
(42) Wholly owned subsidiary of IGY Services Europe Limited
(43) Partially owned subsidiary of IGY Services UK Limited & a third party

Exhibit 23.1

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the registration statement (No. 333-251083) on Form S-3 and the registration statements (No. 333-63307, 333-156358, 333-83332, 333-140366, 333-141657, 333-177019, 333-218563, 333-218566, 333-236617, 333-236618, and 333-264637) on Form S-8 of our reports dated November 18, 2022, with respect to the consolidated financial statements of MarineMax, Inc. and the effectiveness of internal control over financial reporting.

/s/ KPMG LLP

Tampa, Florida
November 18, 2022

Exhibit 31.1

CERTIFICATION

I, W. Brett McGill, certify that:

1. I have reviewed this report on Form 10-K of MarineMax, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations, and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer 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/ W. BRETT MCGILL
W. Brett McGill
Chief Executive Officer and President
(Principal Executive Officer)

Date: November 18, 2022

Exhibit 31.2

CERTIFICATION

I, Michael H. McLamb, certify that:

1. I have reviewed this report on Form 10-K of MarineMax, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations, and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information; and

b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ Michael H. McLamb
Michael H. McLamb
Chief Financial Officer
(Principal Financial Officer)

Date: November 18, 2022

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 10-K of MarineMax, Inc. (the "Company") for the year ended September 30, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, W. Brett McGill, Chief Executive Officer of the Company, certify, to my best knowledge and belief, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)); and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ W. BRETT McGILL
W. Brett McGill
Chief Executive Officer

Date: November 18, 2022

Exhibit 32.2

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report on Form 10-K of MarineMax, Inc. (the "Company") for the year ended September 30, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael H. McLamb, Chief Financial Officer of the Company, certify, to my best knowledge and belief, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)); and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Michael H. McLamb
Michael H. McLamb
Chief Financial Officer

Date: November 18, 2022