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

FORM 10-Q

(Mark One)

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

For the quarterly period ended August 1, 2010

OR

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

For the transition period from _____ to _____

Commission File Number 001-07572

PHILLIPS-VAN HEUSEN CORPORATION
(Exact name of registrant as specified in its charter)

Delaware	13-1166910
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
200 Madison Avenue, New York, New York	10016
(Address of principal executive offices)	(Zip Code)

(212) 381-3500
(Registrant's telephone number, including area code)

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 x No o

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

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

Large accelerated filer x Accelerated filer o Non-accelerated filer o Smaller reporting company o
(do not check if a smaller reporting company)

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

The number of outstanding shares of common stock, par value $1.00 per share, of the registrant as of August 31, 2010 was 66,352,932.

PHILLIPS-VAN HEUSEN CORPORATION
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PART I -- FINANCIAL INFORMATION

Item 1 - Financial Statements

SAFE HARBOR STATEMENT UNDER THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995: Forward-looking statements in this Quarterly Report on Form 10-Q including, without limitation, statements relating to our future revenue and cash flows, plans, strategies, objectives, expectations and intentions, are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. Investors are cautioned that such forward-looking statements are inherently subject to risks and uncertainties, many of which cannot be predicted with accuracy, and some of which might not be anticipated, including, without limitation, the following: (i) our plans, strategies, objectives, expectations and intentions are subject to change at any time at our discretion; (ii) in connection with the acquisition of Tommy Hilfiger B.V. and certain affiliated companies (collectively, "Tommy Hilfiger"), we borrowed significant amounts, may be considered to be highly leveraged, and will have to use a significant portion of our cash flows to service such indebtedness, as a result of which we might not have sufficient funds to operate our businesses in the manner we intend or have operated in the past; (iii) the levels of sales of our apparel, footwear and related products, both to our wholesale customers and in our retail stores, the levels of sales of our licensees at wholesale and retail, and the extent of discounts and promotional pricing in which we and our licensees and other business partners are required to engage, all of which can be affected by weather conditions, changes in the economy, fuel prices, reductions in travel, fashion trends, consolidations, repositionings and bankruptcies in the retail industries, repositionings of brands by our licensors and other factors; (iv) our plans and results of operations will be affected by our a bility to manage our growth and inventory, including our ability to continue to develop and grow our Calvin Klein businesses in terms of revenue and profitability, and our ability to realize benefits from Tommy Hilfiger; (v) our operations and results could be affected by quota restrictions and the imposition of safeguard controls (which, among other things, could limit our ability to produce products in cost-effective countries that have the labor and technical expertise needed), the availability and cost of raw materials, our ability to adjust timely to changes in trade regulations and the migration and development of manufacturers (which can affect where our products can best be produced), and civil conflict, war or terrorist acts, the threat of any of the foregoing, or political and labor instability in any of the countries where our or our licensees' or other business partners' products are sold, produced or are planned to be sold or produced; (vi) disease epidemics and health related con cerns, which could result in closed factories, reduced workforces, scarcity of raw materials and scrutiny or embargoing of goods produced in infected areas, as well as reduced consumer traffic and purchasing, as consumers limit or cease shopping in order to avoid exposure or become ill; (vii) acquisitions and issues arising with acquisitions and proposed transactions, including without limitation, the ability to integrate an acquired entity, such as Tommy Hilfiger, into us with no substantial adverse affect on the acquired entity's or our existing operations, employee relationships, vendor relationships, customer relationships or financial performance; (viii) the failure of our licensees to market successfully licensed products or to preserve the value of our brands, or their misuse of our brands; and (ix) other risks and uncertainties indicated from time to time in our filings with the Securities and Exchange Commission.

We do not undertake any obligation to update publicly any forward-looking statement, including, without limitation, any estimate regarding revenue or cash flows, whether as a result of the receipt of new information, future events or otherwise.

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Stockholders of Phillips-Van Heusen Corporation

We have reviewed the consolidated balance sheets of Phillips-Van Heusen Corporation as of August 1, 2010 and August 2, 2009, the related consolidated statements of operations for the thirteen and twenty-six week periods ended August 1, 2010 and August 2, 2009 and the related consolidated statements of cash flows for the twenty-six week periods ended August 1, 2010 and August 2, 2009. These financial statements are the responsibility of the Company's management.

We conducted our reviews in accordance with the standards of the Public Company Accounting Oversight Board (United States). A review of interim financial information consists principally of applying analytical procedures to financial data, and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the Public Company Accounting Oversight Board (United States), the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

Based on our reviews, we are not aware of any material modifications that should be made to the consolidated interim financial statements referred to above for them to be in conformity with U.S. generally accepted accounting principles.

We have previously audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheet of Phillips-Van Heusen Corporation as of January 31, 2010, and the related consolidated income statement, statement of changes in stockholders' equity, and statement of cash flows for the year then ended (not presented herein) and in our report dated March 31, 2010, we expressed an unqualified opinion on those consolidated financial statements. In our opinion, the information set forth in the accompanying consolidated balance sheet as of January 31, 2010, is fairly stated, in all material respects, in relation to the consolidated balance sheet from which it has been derived.

/s/ ERNST & YOUNG LLP

New York, New York
September 10, 2010

Phillips-Van Heusen Corporation
Consolidated Balance Sheets
(In thousands, except share and per share data)

	August 1, 2010 UNAUDITED	January 31, 2010 AUDITED	August 2, 2009 UNAUDITED
ASSETS			
Current Assets:			
Cash and cash equivalents	$ 475,340	$ 480,882	$ 369,596
Trade receivables, net of allowances for doubtful accounts of $12,426, $7,224 and $11,242	291,465	188,844	160,486
Other receivables	19,016	7,759	12,697
Inventories, net	692,814	263,788	302,286
Prepaid expenses	125,237	41,038	24,266
Other, including deferred taxes of $46,800, $5,621 and $10,049	80,121	12,572	16,260
Total Current Assets	1,683,993	994,883	885,591
Property, Plant and Equipment, net	387,417	167,474	183,530
Goodwill	1,701,641	419,179	396,184
Tradenames	2,290,028	621,135	621,135
Perpetual License Rights	86,000	86,000	86,000
Other Intangibles, net	188,261	32,056	33,831
Other Assets, including deferred taxes of $66,214, $0 and $0	183,070	18,952	26,917
Total Assets	$ 6,520,410	$ 2,339,679	$ 2,233,188
LIABILITIES AND STOCKHOLDERS' EQUITY			
Current Liabilities:			
Accounts payable	$ 314,821	$ 108,494	$ 98,703
Accrued expenses	420,534	215,413	224,421
Deferred revenue	46,957	38,974	35,266
Short-term borrowings	4,617	-	-
Total Current Liabilities	786,929	362,881	358,390
Long-Term Debt	2,491,635	399,584	399,576
Other Liabilities, including deferred taxes of $603,103, $176,449 and $181,446	1,046,278	408,661	420,326
Stockholders' Equity:			
Preferred stock, par value $100 per share; 150,000 total shares authorized (142,000; 150,000 and 150,000 shares undesignated); no undesignated shares issued	-	-	-
Series A convertible preferred stock, par value $100 per share; 8,000 total shares authorized, issued and outstanding as of August 1, 2010	188,595	-	-
Common stock, par value $1 per share; 240,000,000 shares authorized; 66,448,534; 57,139,230 and 56,858,331 shares issued	66,449	57,139	56,858
Additional capital - common stock	1,263,606	596,344	580,447
Retained earnings	709,431	796,282	689,566
Accumulated other comprehensive loss	(26,286)	(80,448)	(71,276)
Less: 96,401; 5,236,818 and 5,235,282 shares of common stock held in treasury, at cost	(6,227)	(200,764)	(200,699)
Total Stockholders' Equity	2,195,568	1,168,553	1,054,896
Total Liabilities and Stockholders' Equity	$ 6,520,410	$ 2,339,679	$ 2,233,188

See accompanying notes.

Phillips-Van Heusen Corporation
Consolidated Statements of Operations
Unaudited
(In thousands, except per share data)

	Thirteen Weeks Ended		Twenty-Six Weeks Ended	
	August 1, 2010	August 2, 2009	August 1, 2010	August 2, 2009
Net sales	$1,011,439	$457,410	$1,542,127	$ 933,155
Royalty revenue	68,106	52,571	132,965	111,489
Advertising and other revenue	23,723	19,302	47,220	42,064
Total revenue	1,103,268	529,283	1,722,312	1,086,708
Cost of goods sold	528,027	263,527	830,038	549,126
Gross profit	575,241	265,756	892,274	537,582
Selling, general and administrative expenses	524,637	214,307	811,837	437,019
Debt extinguishment costs	6,650	-	6,650	-
Other loss	88,100	-	140,490	-
(Loss) income before interest and taxes	(44,146)	51,449	(66,703)	100,563
Interest expense	39,706	8,378	48,088	16,744
Interest income	481	393	588	899
(Loss) income before taxes	(83,371)	43,464	(114,203)	84,718
Income tax (benefit) expense	(28,784)	16,907	(32,003)	33,450
Net (loss) income	$ (54,587)	$ 26,557	$ (82,200)	$ 51,268
Basic net (loss) income per common share	$ (0.83)	$ 0.51	$ (1.39)	$ 0.99
Diluted net (loss) income per common share	$ (0.83)	$ 0.51	$ (1.39)	$ 0.99
Dividends declared per common share	$ 0.00	$ 0.00	$ 0.075	$ 0.075

See accompanying notes.

Phillips-Van Heusen Corporation
Consolidated Statements of Cash Flows
Unaudited
(In thousands)

	Twenty-Six Weeks Ended	
	August 1, 2010	August 2, 2009
OPERATING ACTIVITIES		
Net (loss) income	$ (82,200)	$ 51,268
Adjustments to reconcile to net cash provided by operating activities:		
Losses on settlement of derivative instruments	140,490	-
Depreciation and amortization	62,240	25,203
Deferred taxes	(9,571)	1,059
Stock-based compensation expense	12,224	5,622
Impairment of long-lived assets	-	1,494
Debt extinguishment costs	6,650	-
Changes in operating assets and liabilities:		
Trade receivables, net	94,198	27,156
Inventories, net	(142,162)	(17,731)
Accounts payable, accrued expenses and deferred revenue	106,616	11,704
Prepaid expenses	(54,482)	11,014
Other, net	(32,455)	(35,936)
Net cash provided by operating activities	101,548	80,853
INVESTING ACTIVITIES[1]		
Business acquisitions, net of cash acquired	(2,490,607)	(5,699)
Purchase of property, plant and equipment	(29,014)	(12,866)
Contingent purchase price payments	(21,452)	(18,591)
Losses on settlement of derivative instruments	(140,490)	-
Net cash used by investing activities	(2,681,563)	(37,156)
FINANCING ACTIVITIES[1]		
Net proceeds from common stock offering	364,860	-
Net proceeds from preferred stock issuance	188,595	-
Net proceeds from issuance of debt	584,145	-
Net proceeds from credit facilities	1,825,223	-
Extinguishment of debt	(303,645)	-
Repayment of credit facilities	(100,000)	-
Net proceeds from settlement of awards under stock plans	6,732	1,693
Excess tax benefits from awards under stock plans	3,482	259
Cash dividends on common and preferred stock	(4,652)	(3,885)
Acquisition of treasury shares	(2,438)	(335)
Net cash provided (used) by financing activities	2,562,302	(2,268)
Effect of exchange rate changes on cash and cash equivalents	12,171	-
(Decrease) increase in cash and cash equivalents	(5,542)	41,429
Cash and cash equivalents at beginning of period	480,882	328,167
Cash and cash equivalents at end of period	$ 475,340	$369,596

[1] See Note 14 for information on noncash investing and financing transactions.

See accompanying notes.

PHILLIPS-VAN HEUSEN CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

(Currency and share amounts in thousands, except per share data)

1. GENERAL

The consolidated financial statements include the accounts of Phillips-Van Heusen Corporation and its subsidiaries (the "Company"). The Company's fiscal years are based on the 52-53 week period ending on the Sunday closest to February 1 and are designated by the calendar year in which the fiscal year commences. References to a year are to the Company's fiscal year, unless the context requires otherwise.

The accompanying unaudited consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States for interim financial information. Accordingly, they do not contain all disclosures required by accounting principles generally accepted in the United States for complete financial statements. Reference should be made to the audited consolidated financial statements, including the notes thereto, included in the Company's Annual Report on Form 10-K for the year ended January 31, 2010.

The preparation of interim financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ materially from the estimates.

The results of operations for the thirteen and twenty-six weeks ended August 1, 2010 and August 2, 2009 are not necessarily indicative of those for a full fiscal year due, in part, to seasonal factors. The data contained in these financial statements are unaudited and are subject to year-end adjustments. However, in the opinion of management, all known adjustments (which consist only of normal recurring accruals) have been made to present fairly the consolidated operating results for the unaudited periods.

Certain reclassifications have been made to the consolidated financial statements and the notes thereto for the prior year periods to present that information on a basis consistent with the current year.

References to the brand names *Calvin Klein Collection*, *ck Calvin Klein*, *Calvin Klein*, *Tommy Hilfiger*, *Van Heusen*, *IZOD*, *Bass*, *G.H. Bass & Co.*, *ARROW*, *Eagle*, *Geoffrey Beene*, *CHAPS*, *Sean John*, *Trump*, *Donald J. Trump Signature Collection*, *JOE Joseph Abboud*, *Kenneth Cole New York*, *Kenneth Cole Reaction*, *MICHAEL Michael Kors*, *Michael Kors Collection*, *DKNY*, *Elie Tahari*, *Nautica*, *Ike Behar*, *Ted Baker*, *Jones New York*, *J. Garcia*, *Claiborne*, *Robert Graham*, *U.S. POLO ASSN.*, *Axcess* and *Timberland* and to other brand names are to registered trademarks owned by the Company or licensed to the Company by third parties and are identified by italicizing the brand name.

2. INVENTORIES

Inventories related to the Company's wholesale and international retail operations, comprised principally of finished goods, are stated at the lower of cost or market. Inventories related to the Company's North American retail operations, comprised entirely of finished goods, are stated at the lower of average cost or market using the retail inventory method. Under the retail inventory method, the valuation of inventories at cost is calculated by applying a cost-to-retail ratio to the retail value of inventories. Permanent and point of sale markdowns, when recorded, reduce both the retail and cost components of inventory on hand so as to maintain the already established cost-to-retail relationship.

3. ACQUISITIONS

Acquisition of Tommy Hilfiger

The Company acquired on May 6, 2010 all of the outstanding equity interests of Tommy Hilfiger B.V. and certain affiliated companies (collectively, "Tommy Hilfiger"). The results of Tommy Hilfiger's operations have been included in the Company's consolidated financial statements since that date.

Tommy Hilfiger, through its subsidiaries, designs, sources and markets men's and women's sportswear and activewear, jeanswear, childrenswear and other products worldwide and licenses its brands worldwide over a broad range of products.

The Company believes Tommy Hilfiger's established international platform in Europe will be a strategic complement to its strong North American presence and provides the Company with the resources and expertise needed to grow its heritage brands and businesses internationally.

Fair Value of the Acquisition Consideration

The acquisition date fair value of the acquisition consideration paid at closing totaled $2,969,225, which consisted of the following:

Cash	$2,483,258
Common stock (8,044 shares, par value $1.00 per share)	485,967
Total fair value of the acquisition consideration	$2,969,225

The fair value of the 8,044 common shares issued was equal to the aggregate value of the shares at the closing market price of the Company's common stock on May 5, 2010, the day prior to the closing. The value is not the same as the value of the shares as determined pursuant to the acquisition agreement, due to the fluctuation in the market price of the Company's common stock between the date of the acquisition agreement and the date of the acquisition closing.

The Company funded the cash portion and related costs of the Tommy Hilfiger acquisition with cash on hand and the net proceeds of the following activities: (i) the sale on April 28, 2010 of 5,750 shares of the Company's common stock; (ii) the issuances of an aggregate of 8 shares of Series A convertible preferred stock, which are currently convertible into 4,189 shares of the Company's common stock, for an aggregate gross purchase price of $200,000; (iii) the issuance of $600,000 of 7 3/8% senior notes due 2020; and (iv) the borrowing of approximately $1,900,000 of term loans under new credit facilities.

Please see the notes entitled "Goodwill and Other Intangible Assets," "Debt" and "Stockholders' Equity" for a further discussion of these aspects of the acquisition.

The Company incurred certain pre-tax costs directly associated with the acquisition, totaling approximately $52,000, which are included within selling, general and administrative expenses in its financial statements. The Company also recorded a loss of $140,490 during the twenty-six weeks ended August 1, 2010 associated with hedges against Euro to United States dollar exchange rates relating to the purchase price. The Company incurred costs totaling $28,920 associated with the issuance of the common and preferred shares related to the acquisition, which were deducted from the recognized proceeds of issuance within stockholders' equity. The Company incurred costs totaling $70,512 associated with the issuance of debt related to the acquisition, which will be amortized over the term of the related debt agreement.

Tommy Hilfiger had total revenue of $532,175 and a net loss, after non-cash valuation amortization charges and transaction and integration costs, of $(4,720) for the period from the date of acquisition through August 1, 2010. These amounts are included in the Company's results of operations for the thirteen and twenty-six week periods then ended.

Pro Forma Impact of the Transaction

The following table presents the Company's pro forma consolidated results of operations as if the acquisition and the related financing transactions had occurred on February 2, 2009 instead of on May 6, 2010. The pro forma results were calculated applying the Company's accounting policies and reflect: (i) the impact on depreciation and amortization based on what would have been charged related to the fair value adjustments to Tommy Hilfiger's property, plant and equipment and the intangible assets recorded in connection with the acquisition; (ii) the impact on interest expense and interest income resulting from changes to the Company's capital structure in connection with the acquisition; (iii) the impact on cost of goods sold resulting from acquisition-date adjustments to the fair value of inventory; and (iv) the tax effects of the above adjustments. The pro forma results do not include any anticipated cost synergies or other effects of the plann ed integration of Tommy Hilfiger. Accordingly, such pro forma amounts are

not necessarily indicative of the results that actually would have occurred had the acquisition been completed on February 2, 2009, nor are they indicative of the future operating results of the combined company.

	Pro Forma Thirteen Weeks Ended		Pro Forma Twenty-Six Weeks Ended	
	8/1/10	8/2/09	8/1/10	8/2/09
Total revenue	$1,112,040	$1,013,806	$2,368,196	$2,157,053
Net income	54,749	8,915	114,794	3,521

Allocation of the Acquisition Consideration

The following table summarizes the estimated fair values of the assets acquired and liabilities assumed at the date of acquisition:

Trade receivables	$ 193,080
Inventories	282,838
Prepaid expenses	32,232
Other current assets	95,135
Property, plant and equipment	230,505
Goodwill	1,225,470
Tradenames	1,635,417
Other intangibles	172,069
Other assets	121,002
Accounts payable	91,570
Accrued expenses	224,195
Other liabilities	702,758

The Company is still in the process of valuing the assets acquired and liabilities assumed; thus, the allocation of the purchase price is subject to change.

In connection with the acquisition, the Company recorded goodwill of $1,225,470, which was assigned to the Company's Tommy Hilfiger North America and Tommy Hilfiger International segments (See Note 15, "Segment Data") in the amounts of $82,352 and $1,143,118, respectively. None of the goodwill is expected to be deductible for tax purposes. The Company also recorded other intangible assets of $1,807,486, which included customer relationships of $138,724, covenants not to compete of $1,527 and order backlog of $31,818, which are all amortizable, as well as indefinitely-lived tradenames of $1,635,417.

Acquisition of Tommy Hilfiger Handbag License

On June 14, 2010, the Company entered into an agreement to reacquire from a licensee, prior to the expiration of the license, the rights to distribute *Tommy Hilfiger* branded handbags internationally. The effective date of the transfer of the rights is December 31, 2010. In connection with this transaction, the Company made a payment of $7,349 to the licensee during the second quarter of 2010.

The transaction is being accounted for as a business combination. The Company's preliminary assessment of the assets to be acquired by the Company on December 31, 2010 is that no amortizable intangible assets will be acquired. Until a more complete allocation of the purchase price is finalized, the Company has classified the entire $7,349 purchase price as goodwill.

Acquisition of Block Assets

The Company acquired in February 2009 from Block Corporation ("Block"), a former licensee of *Van Heusen* and *IZOD* "big and tall" sportswear in the United States, inventories and inventory purchase commitments related to the licensed business. As part of this transaction, the license agreements between the Company and Block were terminated. The Company paid $5,699 during the first quarter of 2009 in connection with the transaction.

4. GOODWILL AND OTHER INTANGIBLE ASSETS

The changes in the carrying amount of goodwill for the period ended August 1, 2010, by segment, were as follows:

	Heritage Brand Wholesale Dress Furnishings	Heritage Brand Wholesale Sportswear	Calvin Klein Licensing	Tommy Hilfiger North America	Tommy Hilfiger International	Total
Balance as of January 31, 2010						
Goodwill, gross	$ 74,932	$ 84,553	$ 259,694	$ -	$ -	$ 419,179
Accumulated impairment losses	-	-	-	-	-	-
Goodwill, net	74,932	84,553	259,694	-	-	419,179
Contingent purchase price payments to Mr. Calvin Klein	-	-	18,235	-	-	18,235
Goodwill from acquisition of Tommy Hilfiger	-	-	-	82,352	1,143,118	1,225,470
Goodwill from acquisition of Tommy Hilfiger handbag license	-	-	-	-	7,349	7,349
Currency translation	(98)	-	(315)	251	31,570	31,408
Balance as of August 1, 2010						
Goodwill, gross	74,834	84,553	277,614	82,603	1,182,037	1,701,641
Accumulated impairment losses	-	-	-	-	-	-
Goodwill, net	$ 74,834	$ 84,553	$ 277,614	$ 82,603	$1,182,037	$1,701,641

The Company is required to make contingent purchase price payments to Mr. Calvin Klein in connection with the Company's acquisition in 2003 of all of the issued and outstanding stock of Calvin Klein, Inc. and certain affiliated companies (collectively, "Calvin Klein"). Such payments are based on 1.15% of total worldwide net sales, as defined in the agreement (as amended) governing the Calvin Klein acquisition, of products bearing any of the *Calvin Klein* brands and are required to be made with respect to sales made through February 12, 2018. A significant portion of the sales on which the payments to Mr. Klein are made are wholesale sales by the Company and its licensees and other partners to retailers.

The Company's intangible assets subject to amortization consisted of the following:

	Customer Relationships			
	Gross Carrying Amount	Accumulated Amortization	Currency Translation	Net
Balance as of January 31, 2010	$ 35,507	$ (7,299)	$ -	$ 28,208
Amount recorded in connection with the acquisition of Tommy Hilfiger	138,724	-	-	138,724
Amortization	-	(3,470)	-	(3,470)
Currency translation	-	-	3,651	3,651
Balance as of August 1, 2010	$ 174,231	$ (10,769)	$ 3,651	$ 167,113

	Covenants Not to Compete			
	Gross Carrying Amount	Accumulated Amortization	Currency Translation	Net
Balance as of January 31, 2010	$ 600	$ (420)	$ -	$ 180
Amount recorded in connection with the acquisition of Tommy Hilfiger	1,527	-	-	1,527
Amortization	-	(218)	-	(218)
Currency translation	-	-	34	34
Balance as of August 1, 2010	$ 2,127	$ (638)	$ 34	$ 1,523

	Order Backlog			
	Gross Carrying Amount	Accumulated Amortization	Currency Translation	Net
Balance as of January 31, 2010	$ -	$ -	$ -	$ -
Amount recorded in connection with the acquisition of Tommy Hilfiger	31,818	-	-	31,818
Amortization	-	(15,663)	-	(15,663)
Currency translation	-	-	186	186
Balance as of August 1, 2010	$ 31,818	$ (15,663)	$ 186	$ 16,341

	License Rights		
	Gross Carrying Amount	Accumulated Amortization	Net
Balance as of January 31, 2010	$ 5,007	$ (1,339)	$ 3,668
Amortization	-	(384)	(384)
Balance as of August 1, 2010	$ 5,007	$ (1,723)	$ 3,284

Customer relationships recorded in connection with the acquisition of Tommy Hilfiger are amortized principally over 15 years from the date of acquisition. Covenants not to compete in connection with the Tommy Hilfiger acquisition are amortized over two years from the date of acquisition. Order backlog in connection with the Tommy Hilfiger acquisition is amortized over six months from the date of acquisition. As of August 1, 2010, the weighted average life of the amortizable intangible assets recorded in connection with the acquisition of Tommy Hilfiger was 13.1 years.

Customer relationships and license rights recorded as of January 31, 2010 are amortized principally over 15 years from the date of the related acquisition. Covenants not to compete recorded as of January 31, 2010 are amortized over ten years from the date of acquisition.

As of August 1, 2010, accumulated amortization for other intangible assets was $28,793.

Amortization expense, a portion of which is subject to exchange rate fluctuation, for the remainder of 2010 and the next five years thereafter related to the Company's intangible assets is expected to be as follows:

Remainder of 2010	$23,057
2011	12,993
2012	12,405
2013	12,149
2014	12,149
2015	12,149

The Company's intangible assets not subject to amortization consisted of the following:

	Tradenames	Perpetual License Rights	Total
Balance as of January 31, 2010	$ 621,135	$ 86,000	$ 707,135
Amount recorded in connection with the acquisition of Tommy Hilfiger	1,635,417	-	1,635,417
Currency translation	33,476	-	33,476
Balance as of August 1, 2010	$ 2,290,028	$ 86,000	$ 2,376,028

5. RETIREMENT AND BENEFIT PLANS

The Company has five noncontributory defined benefit pension plans covering substantially all employees resident in the United States (not currently including any employees associated with the businesses acquired in the Tommy Hilfiger acquisition) who meet certain age and service requirements. For those vested (after five years of service), the plans provide monthly benefits upon retirement based on career compensation and years of credited service.

The Company also has for certain of such employees an unfunded non-qualified supplemental defined benefit pension plan, which provides benefits for compensation in excess of Internal Revenue Service earnings limits and requires payments to vested employees upon, or shortly after, employment termination or retirement.

As a result of the Company's acquisition of Tommy Hilfiger, the Company also has for certain members of Tommy Hilfiger's senior management a supplemental executive retirement plan ("SERP Plan"), which is a non-qualified unfunded supplemental defined benefit pension plan. Such plan is frozen, and as a result, participants do not accrue additional benefits.

In addition to the defined benefit pension plans described above, the Company has a capital accumulation program ("CAP Plan"), which is an unfunded non-qualified supplemental defined benefit plan covering four current and 16 retired executives. Under the individual participants' CAP Plan agreements, the participants will receive a predetermined amount during the 10 years following the attainment of age 65, provided that prior to the termination of employment with the Company, the participant has been in the CAP Plan for at least 10 years and has attained age 55.

The Company also provides certain postretirement health care and life insurance benefits to certain retirees resident in the United States. Retirees contribute to the cost of this plan, which is unfunded. During 2002, the postretirement plan was amended to eliminate benefits for active participants who, as of January 1, 2003, had not attained age 55 and 10 years of service.

Net benefit cost related to the Company's pension plans was recognized as follows:

	Thirteen Weeks Ended		Twenty-Six Weeks Ended	
	8/1/10	8/2/09	8/1/10	8/2/09
Service cost, including plan expenses	$ 2,413	$ 1,891	$ 4,758	$ 3,818
Interest cost	4,537	4,197	8,922	8,468
Amortization of net loss	1,921	533	3,790	1,170
Expected return on plan assets	(4,982)	(5,048)	(9,985)	(10,122)
Amortization of prior service credit	(15)	(8)	(31)	(15)
Total	$ 3,874	$ 1,565	$ 7,454	$ 3,319

Net benefit cost related to the Company's CAP Plan and SERP Plan was recognized as follows:

	Thirteen Weeks Ended		Twenty-Six Weeks Ended	
	8/1/10	8/2/09	8/1/10	8/2/09
Service cost, including plan expenses	$ 22	$ 17	$ 45	$ 35
Interest cost	463	240	696	488
Amortization of net gain	-	(9)	-	(18)
Total	$ 485	$ 248	$ 741	$ 505

Net benefit (credit) cost related to the Company's postretirement plan was recognized as follows:

	Thirteen Weeks Ended		Twenty-Six Weeks Ended	
	8/1/10	8/2/09	8/1/10	8/2/09
Interest cost	$ 206	$ 365	$ 545	$ 730
Amortization of net loss	(105)	65	-	129
Amortization of prior service credit	(205)	(205)	(409)	(409)
Total	$(104)	$ 225	$ 136	$ 450

6. COMPREHENSIVE (LOSS) INCOME

Comprehensive (loss) income was as follows:

	Thirteen Weeks Ended		Twenty-Six Weeks Ended	
	8/1/10	8/2/09	8/1/10	8/2/09
Net (loss) income	$(54,587)	$26,557	$(82,200)	$51,268
Foreign currency translation adjustments, net of tax (benefit) expense of $(310); $533; $(622) and $736	58,377	876	57,864	1,210
Change related to retirement and benefit plan costs, net of tax expense of $604; $141; $1,267 and $323	992	235	2,083	534
Unrealized losses on derivative financial instruments	(5,785)	-	(5,785)	-
Comprehensive (loss) income	$ (1,003)	$27,668	$(28,038)	$53,012

7. DEBT

Short-Term Borrowings

One of the Company's subsidiaries has a Yen-denominated overdraft facility with a Japanese bank, which provides for borrowings of ¥600,000 (approximately $6,900 based on the Yen to United States dollar exchange rate in effect on August 1, 2010) and is utilized to fund working capital. Borrowings under the facility are unsecured and bear interest at the one month Japanese inter-bank borrowing rate ("TIBOR") plus 0.20%. Such facility matures on May 31, 2011. The outstanding balance was ¥400,000 ($4,617 based on the Yen to United States dollar exchange rate in effect on August 1, 2010) as of August 1, 2010, with the balance of ¥200,000 ($2,283 based on the Yen to United States dollar exchange rate in effect on August 1, 2010) remaining undrawn under the facility. The weighted average interest rate on the funds borrowed at August 1, 2010 was 0.42%.

Long-Term Debt

The carrying amounts of the Company's long-term debt were as follows:

	8/1/10	8/2/09
Senior secured term loan A facility due 2015	$ 471,668	$ -
Senior secured term loan B facility due 2016	1,320,374	-
7 3/8% senior unsecured notes due 2020	600,000	-
7 3/4% debentures due 2023	99,593	99,576
7 1/4% senior unsecured notes due 2011	-	150,000
8 1/8% senior unsecured notes due 2013	-	150,000
Total	$2,491,635	$ 399,576

Senior Secured Credit Facilities

On May 6, 2010, the Company entered into a new senior secured credit facility, which consists of a Euro-denominated term loan A facility, a United States dollar-denominated term loan A facility, a Euro-denominated term loan B facility, a United States dollar-denominated term loan B facility, a United States dollar-denominated revolving credit facility and two multi-currency (one United States dollar and Canadian dollar, and the other Euro, Yen and Pound) revolving credit facilities. These credit facilities provide for borrowings equal to an aggregate of approximately $2,350,000 (based on applicable exchange rates in effect on August 1, 2010), consisting of (i) an aggregate of approximately $1,900,000 of term loan facilities, which had been borrowed in full at May 6, 2010 and for which the Company made repayments of $100,000 during the second quarter of 2010; and (ii) approximately $450,000 of revolving credit facilities, for which the Company had no revolving credit borrowings and $195,824 of letters of credit outstanding as of August 1, 2010.

The term loan A facilities and the revolving credit facilities will mature on May 6, 2015 and the term loan B facilities will mature on May 6, 2016. Borrowings under the credit facilities bear interest at a rate equal to an applicable margin plus a variable rate, each of which is determined based on the jurisdiction of such borrowings. The terms of each of the term loan A and B facilities contain a mandatory repayment schedule on a quarterly basis, such that the total annual repayments are as follows:

	Term Loan	
	A	B
Originally borrowed on May 6, 2010, based on the applicable exchange rate at that date	$494,970	$1,384,910
Percentage required to be repaid for the annual period ending May 6:		
2011	5%	1%
2012	10%	1%
2013	15%	1%
2014	25%	1%
2015	45%	1%
2016	-	95%

Additionally, in the event there is consolidated Excess Cash Flow, as defined in the agreement, for any fiscal year, the Company is required to prepay a percentage of such amount based on its Leverage Ratio, as calculated in accordance with the agreement. Such amount will be reduced by any repayments made during the preceding fiscal year.

All repayments made under the facilities are applied on a pro rata basis, determined by the amounts then outstanding under each of the United States dollar and Euro tranches of term loans A and B. In addition, the Company has the ability to prepay at any time the outstanding borrowings under the new senior secured credit facility without penalty (other than customary breakage costs).

The United States dollar-denominated borrowings under the senior secured credit facility bear interest at a rate equal to an applicable margin plus, as determined at the Company's option, either (a) a base rate determined by reference

to the higher of (i) the prime rate, (ii) the United States federal funds rate plus 1/2 of 1% and (iii) a one-month adjusted Eurocurrency rate plus 1% (provided, that, in the case of the term loan A and B facilities, in no event will the base rate be deemed to be less than 2.75%); or (b) an adjusted Eurocurrency rate, calculated in a manner set forth in the senior secured credit facility (provided, that, in the case of the term loan A and B facilities, in no event will the adjusted Eurocurrency rate be deemed to be less than 1.75%).

Canadian dollar-denominated borrowings under the revolving credit facility bear interest at a rate equal to an applicable margin plus, as determined at the Company's option, either (a) a Canadian prime rate determined by reference to the greater of (i) the average of the rates of interest per annum equal to the per annum rate of interest quoted, published and commonly known in Canada as the "prime rate" or which Royal Bank of Canada establishes at its main office in Toronto, Ontario as the reference rate of interest in order to determine interest rates for loans in Canadian dollars to its Canadian borrowers and (ii) the sum of (x) the average of the rates per annum for Canadian dollar bankers' acceptances having a term of one month that appears on the Reuters Screen CDOR Page as of 10:00 a.m. (Toronto time) on the date of determination, as reported by the administrative agent (and if such screen is not available, any successor or similar service a s may be selected by the administrative agent), and (y) 1%, or (b) an adjusted Eurocurrency rate, calculated in a manner set forth in the senior secured credit facility.

The borrowings under the senior secured credit facility in currencies other than United States dollars or Canadian dollars bear interest at a rate equal to an applicable margin plus an adjusted Eurocurrency rate, calculated in a manner set forth in the senior secured credit facility (provided that, in the case of the term loan A and B facilities, in no event will the adjusted Eurocurrency rate be deemed to be less than 1.75%).

The initial applicable margins will be (a) in the case of the United States dollar-denominated term loan A facility and the United States dollar-denominated term loan B facility, 3.00% for adjusted Eurocurrency rate loans and 2.00% for base rate loans, as applicable, (b) in the case of the Euro-denominated term loan A facility and the Euro-denominated term loan B facility, 3.25% and (c) in the case of the revolving credit facilities, (x) for borrowings denominated in United States dollars, 3.00% for adjusted Eurocurrency rate loans and 2.00% for base rate loans, as applicable, (y) for borrowings denominated in Canadian dollars, 3.00% for adjusted Eurocurrency rate loans and 2.00% for Canadian prime rate loans, as applicable, and (z) for borrowings denominated in other currencies, 3.25%. After the date of delivery of the compliance certificate and financial statements with respect to the Company's period ending January 30, 2011, the applicable margin for bo rrowings under the term loan A facilities and the revolving credit facilities will be adjusted depending on the Company's leverage ratio.

7 3/8% Senior Notes Due 2020

On May 6, 2010, the Company issued $600,000 principal amount of 7 3/8% senior notes due May 15, 2020 under an indenture between the Company and U.S. Bank National Association, as trustee. Interest on the 7 3/8% notes is payable semi-annually in arrears on May 15 and November 15 of each year, commencing November 15, 2010.

The Company may redeem some or all of these notes on or after May 15, 2015 at specified redemption prices. The Company may redeem some or all of these notes at any time prior to May 15, 2015 by paying a "make whole" premium. In addition, the Company may also redeem up to 35% of these notes prior to May 15, 2013 with the net proceeds of certain equity offerings.

Prior Senior Secured Revolving Credit Facility

On May 6, 2010, the Company terminated its $325,000 secured revolving credit facility with JP Morgan Chase Bank, N.A., as the Administrative Agent and Collateral Agent, which was scheduled to expire in July 2012.

Tender for and Redemption of 2011 Notes and 2013 Notes

The Company commenced tender offers on April 7, 2010 for (i) all of the $150,000 outstanding principal amount of its notes due 2011; and (ii) all of the $150,000 outstanding principal amount of its notes due 2013. The tender offers expired on May 4, 2010. On May 6, 2010, the Company accepted for purchase all of the notes tendered and made payment to tendering holders and called for redemption all of the balance of its outstanding 7 1/4% senior notes due 2011, and all of the balance of its outstanding 8 1/8% senior notes due 2013. The redemption prices of the notes due 2011 and 2013 were 100.000% and 101.354%, respectively, of the outstanding aggregate principal amount of each

applicable note, plus accrued and unpaid interest thereon to the redemption date. As of May 6, 2010, the Company made an irrevocable cash deposit, including accrued and unpaid interest, to the trustee for the notes due 2011 and 2013. As a result, such notes have been satisfied and effectively discharged as of May 6, 2010.

The Company incurred a loss of $6,650 during the second quarter of 2010 on the extinguishment of its 7 1/4% senior notes due 2011 and its 8 1/8% senior notes due 2013.

8. DERIVATIVE FINANCIAL INSTRUMENTS

The Company entered into foreign currency forward exchange contracts with respect to €1,300,000 during the first quarter of 2010 and €250,000 during the second quarter of 2010 in connection with the acquisition of Tommy Hilfiger to hedge against its exposure to changes in the exchange rate for the Euro, as a portion of the acquisition purchase price was payable in cash and denominated in Euros. Such foreign currency forward exchange contracts were not designated as hedging instruments. The Company settled the foreign currency forward exchange contracts at a loss of $140,490 (of which $88,100 was recorded in the second quarter of 2010) on May 6, 2010 in connection with the Company's completion of the Tommy Hilfiger acquisition. Such loss is reflected in Other Loss in the Company's Consolidated Statements of Operation s.

The Company has increased exposure to changes in foreign currency exchange rates related to certain anticipated cash flows associated with international inventory purchases as a result of the Company's acquisition of Tommy Hilfiger. To help manage this exposure, the Company periodically uses foreign currency forward exchange contracts. The Company does not use derivative financial instruments for trading or speculative purposes.

The Company records the foreign currency forward exchange contracts at fair value in its consolidated balance sheets. Changes in fair value of foreign currency forward exchange contracts that are designated as hedging instruments are deferred in equity as a component of accumulated other comprehensive loss. Changes in the fair value of foreign currency forward exchange contracts that are not designated as hedging instruments are immediately recognized in earnings.

The following table summarizes the fair value and presentation in the consolidated balance sheets for the Company's foreign currency forward exchange contracts:

Asset Derivatives (Classified in Other Current Assets)		Liability Derivatives (Classified in Accrued Expenses)	
8/1/10	8/2/09	8/1/10	8/2/09
$3,766	$ -	$9,473	$ -

At August 1, 2010, the notional amount of foreign currency forward exchange contracts outstanding was approximately $235,000 against the Euro and $54,000 against the Canadian dollar. Such contracts expire between August 2010 and August 2011. No amounts were excluded from effectiveness testing.

The following table summarizes the effect of the Company's derivatives designated as hedging instruments, which consist of the foreign currency forward exchange contracts for inventory purchases:

Amount of Loss Recognized in Other Comprehensive Loss on Derivatives (Effective Portion)		Gain Reclassified from Accumulated Other Comprehensive Loss into Income (Effective Portion)			Loss Recognized in Income on Derivatives (Ineffective Portion)		
Thirteen and Twenty-Six Weeks Ended			Amount Thirteen and Twenty-Six Weeks Ended			Amount Thirteen and Twenty-Six Weeks Ended	
8/1/10	8/2/09	Location	8/1/10	8/2/09	Location	8/1/10	8/2/09
$(5,785)	$ -	Cost of goods sold	$3,914	$ -	Selling, general and administrative expenses	$(6,106)	$ -

The above amount of $5,785 recognized in accumulated other comprehensive loss on foreign currency forward exchange contracts at August 1, 2010 will be recognized principally in the next 12 months in the Consolidated Statements of Operations as costs of goods sold as the underlying inventory is sold.

Please refer to Note 9 “Fair Value Measurements,” for disclosures on fair value measurements of the Company’s derivative financial instruments. The Company had no derivative financial instruments with credit risk related contingent features underlying the related contracts as of August 1, 2010.

9. FAIR VALUE MEASUREMENTS

Financial Accounting Standards Board (“FASB”) guidance for fair value measurements defines fair value as the price that would be received to sell an asset or paid to transfer a liability in the principal or most advantageous market in an orderly transaction between market participants at the measurement date. It also establishes a three level hierarchy that prioritizes the inputs used to measure fair value. The three levels of the hierarchy are defined as follows:

Level 1 – Inputs are unadjusted quoted prices in active markets for identical assets or liabilities that the Company has the ability to access at the measurement date.

Level 2 – Observable inputs other than quoted prices included in Level 1, including quoted prices for similar assets or liabilities in active markets, quoted prices for identical assets or liabilities in inactive markets, inputs other than quoted prices that are observable for the asset or liability and inputs derived principally from or corroborated by observable market data.

Level 3 – Unobservable inputs reflecting the Company’s own assumptions about the inputs that market participants would use in pricing the asset or liability based on the best information available.

In accordance with the fair value hierarchy described above, the following table shows the fair value of the Company’s financial assets and liabilities that were required to be remeasured at fair value on a recurring basis during the twenty-six weeks ended August 1, 2010:

	Fair Value Measurement Using			Total Fair Value at
Description	Level 1	Level 2	Level 3	8/1/10
Derivative instrument assets	N/A	$ 3,766	N/A	$ 3,766
Derivative instrument liabilities	N/A	$ 9,473	N/A	$ 9,473

Derivative instruments presented above represent unrealized gains and losses on foreign currency forward exchange contracts, which are measured as the difference between (i) the United States dollars to be paid at the contracts’ settlement date and (ii) the United States dollar value of the foreign currency to be purchased at the current forward or period end spot rate, as applicable.

There were no financial assets or liabilities that were required to be remeasured at fair value on a recurring basis during the twenty-six weeks ended August 2, 2009.

There were no non-financial assets or liabilities that were required to be remeasured at fair value on a nonrecurring basis during the twenty-six weeks ended August 1, 2010.

In accordance with FASB guidance for the impairment or disposal of long-lived assets, long-lived assets held and used with a carrying amount of $136 were written down to a fair value of zero during the first quarter of 2009. Fair value was determined based on the estimated discounted future cash flows associated with the assets using current sales trends and market participant assumptions. Additionally, long-lived assets held for sale with a carrying amount of $2,783 were written down to a fair value of $1,425 during the second quarter of 2009 based on the quoted contractual selling price of such assets, less the related selling costs. Such assets were sold during the third quarter of 2009.

The following table shows the fair value of the Company's non-financial assets and liabilities that were required to be remeasured at fair value on a nonrecurring basis during the twenty-six weeks ended August 2, 2009, and the total impairments recorded as a result of the remeasurement process:

	Fair Value Measurement Using			Fair Value as of Impairment	Total Impairments for Twenty-Six Weeks Ended
Description	Level 1	Level 2	Level 3	Date	8/2/09
Property and equipment	N/A	$1,425	$ -	$ 1,425	$ 1,494

The carrying amounts and the fair values of the Company's cash and cash equivalents, short-term borrowings and long-term debt for the periods ended August 1, 2010 and August 2, 2009 were as follows:

	8/1/10		8/2/09	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Cash and cash equivalents	$ 475,340	$ 475,340	$369,596	$369,596
Short-term borrowings	4,617	4,617	-	-
Long-term debt	2,491,635	2,522,577	399,576	378,375

The fair values of cash and cash equivalents and short-term borrowings approximate their carrying values due to the short-term nature of these instruments. The Company estimates the fair value of its long-term debt using quoted market prices as of the last business day of the applicable quarter.

10. STOCK-BASED COMPENSATION

The Company's 2006 Stock Incentive Plan (the "2006 Plan") was approved at the Company's Annual Meeting of Stockholders held in June 2006. The 2006 Plan replaced the Company's then-existing 1997, 2000 and 2003 Stock Option Plans. The 1997, 2000 and 2003 Stock Option Plans terminated on the date of such approval, other than with respect to outstanding options under those plans, which continue to be governed by the respective plan under which they were granted. Shares issued as a result of stock-based compensation transactions generally have been funded with the issuance of new shares of the Company's common stock.

The Company may grant the following types of incentive awards under the 2006 Plan: (i) non-qualified stock options ("NQs"); (ii) incentive stock options ("ISOs"); (iii) stock appreciation rights; (iv) restricted stock; (v) restricted stock units ("RSUs"); (vi) performance shares; and (vii) other stock-based awards. Each award granted under the 2006 Plan is subject to an award agreement that incorporates, as applicable, the exercise price, the term of the award, the periods of restriction, the number of shares to which the award pertains, applicable performance period(s) and performance measure(s), and such other terms and conditions as the plan committee determines.

Through August 1, 2010, the Company has granted under the 2006 Plan: (i) service-based NQs and RSUs; (ii) contingently issuable performance shares; and (iii) RSUs that are intended to satisfy the performance-based condition for deductibility under Section 162(m) of the Internal Revenue Code. According to the terms of the 2006 Plan, for purposes of determining the number of shares available for grant, each share underlying a stock option award reduces the number available by one share and each share underlying an RSU, restricted stock or performance share award reduces the number available by three shares for awards made before April 29, 2009 and by two shares for awards made on or after April 29, 2009. The per share exercise price of options granted under the 2006 Plan cannot be less than the closing price of the common stock on the date of grant (the business day prior to the date of grant for awards granted prior to September 21, 2006). In addition, the Company granted restricted stock to certain of Tommy Hilfiger's management employees in the second quarter of 2010 in connection with the acquisition of Tommy Hilfiger.

The Company currently has service-based NQs and ISOs outstanding under its 1997, 2000 and 2003 Stock Option Plans. Such options were granted with an exercise price equal to the closing price of the common stock on the business day immediately preceding the date of grant.

Net (loss) income for the twenty-six weeks ended August 1, 2010 and August 2, 2009 included $12,224 and $5,622, respectively, of pre-tax expense related to stock-based compensation.

Options currently outstanding are generally cumulatively exercisable in four equal annual installments commencing one year after the date of grant. The vesting of options outstanding is also generally accelerated upon retirement (as defined in the applicable plan). Options are generally granted with a 10-year term.

The Company estimates the fair value of stock options granted at the date of grant using the Black-Scholes-Merton model. The estimated fair value of the options, net of estimated forfeitures, is expensed on a straight-line basis over the options' vesting period.

The following summarizes the assumptions used to estimate the fair value of service-based stock options granted during the twenty-six weeks ended August 1, 2010 and August 2, 2009, respectively:

	Twenty-Six Weeks Ended	
	8/1/10	8/2/09
Weighted average risk-free interest rate	2.99%	2.58%
Weighted average expected option term (in years)	6.25	6.59
Weighted average expected volatility	41.78%	38.92%
Expected annual dividends per share	$ 0.15	$ 0.15
Weighted average estimated fair value per share of options granted	$26.45	$11.16

The Securities and Exchange Commission issued Staff Accounting Bulletin ("SAB") No. 110 in December 2007. SAB No. 110 allows for the continued use, under certain circumstances, of the simplified method discussed in SAB No. 107 for estimating the expected term of "plain vanilla" stock options. The Company has continued to utilize the simplified method to estimate the expected term for its stock options granted due to a lack of relevant historical data resulting, in part, from recent changes in the pool of employees receiving option grants and changes in the vesting schedule of certain grants. The Company will continue to evaluate the appropriateness of utilizing such method.

Service-based stock option activity for the twenty-six weeks ended August 1, 2010 was as follows:

	Options	Weighted Average Price Per Option
Outstanding at January 31, 2010	3,616	$ 30.16
Granted	124	59.66
Exercised	310	21.58
Cancelled	2	28.27
Outstanding at August 1, 2010	3,428	$ 32.01
Exercisable at August 1, 2010	2,522	$ 30.87

Service-based RSUs granted to employees generally vest in three annual installments (25%, 25% and 50%) commencing two years after the date of grant. Service-based RSUs granted to non-employee directors vest in four equal annual installments commencing one year after the date of grant. The underlying RSU award agreements generally provide for accelerated vesting upon the award recipient's retirement (as defined in the 2006 Plan). The fair value of service-based RSUs is equal to the closing price of the Company's common stock on the date of grant and is expensed, net of estimated forfeitures, on a straight-line basis over the RSUs' vesting period.

RSU activity for the twenty-six weeks ended August 1, 2010 was as follows:

	RSUs	Weighted Average Grant Date Fair Value
Non-vested at January 31, 2010	734	$ 35.85
Granted	163	58.80
Vested	85	45.24
Cancelled	12	40.04
Non-vested at August 1, 2010	800	$ 39.48

The Company granted restricted stock to certain of Tommy Hilfiger's management employees in connection with the Company's acquisition of Tommy Hilfiger during the second quarter of 2010. The stock is registered in the name of each such employee and is held in a third-party escrow account until it vests, at which time the stock will be delivered to the employees who have vested in the awards. The restricted stock vests upon the second anniversary of the date of grant.

The fair value of restricted stock is equal to the closing price of the Company's common stock on the date of grant and is expensed, net of forfeitures, on a straight-line basis over the restricted stock's vesting period.

Restricted stock activity for the twenty-six weeks ended August 1, 2010 was as follows:

	Restricted Stock	Weighted Average Grant Date Fair Value
Non-vested at January 31, 2010	-	$ -
Granted	179	60.41
Vested	-	-
Non-vested at August 1, 2010	179	$ 60.41

The Company granted contingently issuable performance share awards to all of the Company's senior executives (other than senior executives of Tommy Hilfiger) during the second quarter of 2010 and to all then-executive officers of the Company during the first quarter of 2010 and the first quarter of 2008, subject to performance periods of three, two and three years, respectively. The final number of shares that will be earned, if any, is contingent upon the Company's achievement of goals for each of the performance periods based on earnings per share growth for the awards granted in 2010 and both earnings per share growth and return on equity for the awards granted in 2008 during the applicable performance cycle. Depending on the level of objectives achieved, up to a total number of 611 and 89 shares could be issued for all non-vested performance share awards granted in 2010 and 2008, respectively. The Company records expense for the contingently issuable pe rformance shares ratably over each applicable vesting period based on fair value and the Company's current expectations of the probable number of shares that will ultimately be issued. The fair value of the contingently issuable performance shares is equal to the closing price of the Company's common stock on the date of grant, reduced for the present value of any dividends expected to be paid on the Company's common stock during the performance cycle, as these contingently issuable performance shares do not accrue dividends prior to being earned.

Performance share activity for the twenty-six weeks ended August 1, 2010 was as follows:

	Performance Shares	Weighted Average Grant Date Fair Value
Non-vested at January 31, 2010	89	$ 41.80
Granted	611	52.69
Vested	-	-
Cancelled	-	-
Non-vested at August 1, 2010	700	$ 51.31

The Company receives a tax deduction for certain transactions associated with its stock plan awards. The actual income tax benefits realized from these transactions for the twenty-six weeks ended August 1, 2010 and August 2, 2009 were $5,421 and $815, respectively. Of those amounts, $3,482 and $259, respectively, were reported as excess tax benefits. Excess tax benefits arise when the actual tax benefit resulting from a stock plan award transaction exceeds the tax benefit associated with the grant date fair value of the related stock award.

11. STOCKHOLDERS' EQUITY

Series A Convertible Preferred Stock Issuance

On May 6, 2010, the Company completed the sale of an aggregate of 8 shares of Series A convertible preferred stock, par value $100.00 per share, for an aggregate gross purchase price of $200,000 and for net proceeds of $188,595 after related fees. The Series A convertible preferred stock has a liquidation preference of $25,000 per share and is currently convertible at a price of $47.74 into 4,189 shares of common stock. The conversion price is subject to equitable adjustment in the event of the Company taking certain actions, including stock splits, stock dividends, mergers, consolidations or other capital reorganizations. The Series A convertible preferred stock is not redeemable, in whole or in part, at the Company's option or that of any holder. The holders of the Series A convertible preferred stock are entitled to vote and participate in dividends with the holders of the Company's common stock on an as-converted basis.

Common Stock Offering

The Company sold 5,750 shares of its common stock on April 28, 2010 for an offering price of $66.50 per share before commissions and discounts to underwriters. The net proceeds of the sale after commissions, discounts and related fees, which totaled $364,860, were used to fund a portion of the purchase price and fees relating to the acquisition of Tommy Hilfiger. Of the 5,750 shares, a total of 5,250 shares were released from treasury and 500 shares were newly issued.

Common Stock Issuance

On May 6, 2010, the Company issued 8,044 shares of its common stock, par value $1.00 per share, as part of the consideration paid to the former shareholders of Tommy Hilfiger in connection with the acquisition.

Warrant

The Company issued to Mr. Calvin Klein a nine-year warrant to purchase 320 shares of the Company's common stock at $28.00 per share in connection with the Company's acquisition of Calvin Klein in 2003. 160 shares of such warrant were exercised during the first quarter of 2010 and the warrant remains outstanding as of August 1, 2010 with respect to the balance of 160 shares issuable upon exercise.

12. ACTIVITY EXIT COSTS AND ASSET IMPAIRMENTS

In connection with the Company's acquisition of Tommy Hilfiger during the second quarter of 2010, the Company incurred severance and termination benefit costs. Such costs were as follows:

	Total Expected to be Incurred	Incurred During the Thirteen and Twenty-Six Weeks Ended 8/1/10
Severance and termination benefits	$12,700	$ 10,620

As of August 1, 2010, the liability balance for these severance and termination benefits was $10,448. The charges for severance and termination benefits were principally included in selling, general and administrative expenses of the Company's Tommy Hilfiger North America segment (see Note 15, "Segment Data").

The Company announced in the fourth quarter of 2008 that it initiated a series of actions to respond to the difficult economic conditions that existed during the second half of 2008 and were expected to (and did) continue into 2009 by restructuring certain of its operations and implementing a number of other cost reduction efforts. These restructuring initiatives were substantially completed during 2009.

The Company recorded long-lived asset impairment charges in connection with these restructuring initiatives of $1,494 (of which $1,358 was recorded in the second quarter) during the twenty-six weeks ended August 2, 2009.

Such charges were included in corporate selling, general and administrative expenses not allocated to any reportable segments.

Liabilities recorded in connection with the restructuring were as follows:

	Liability at 1/31/10	Costs Paid During the Twenty-Six Weeks Ended 8/1/10	Liability at 8/1/10
Severance, termination benefits and other costs	$ 2,265	$ 1,460	$ 805
Lease termination costs	1,240	1,240	-
Total	$ 3,505	$ 2,700	$ 805

13. NET (LOSS) INCOME PER COMMON SHARE

The Company computed its basic and diluted net (loss) income per common share as follows:

	Thirteen Weeks Ended		Twenty-Six Weeks Ended	
	8/1/10	8/2/09	8/1/10	8/2/09
Net (loss) income	$(54,587)	$26,557	$(82,200)	$51,268
Less:				
Common stock dividends paid to holders of Series A convertible preferred stock	(157)	-	(157)	-
Net (loss) income available to common stockholders for basic and diluted net (loss) income per common share	(54,744)	26,557	(82,357)	51,268
Weighted average common shares outstanding for basic net (loss) income per common share	65,875	51,605	59,077	51,558
Weighted average impact of dilutive securities	-	573	-	472
Weighted average impact of dilutive warrant	-	16	-	8
Total shares for diluted net (loss) income per common share	65,875	52,194	59,077	52,038
Basic net (loss) income per common share	$ (0.83)	$ 0.51	$ (1.39)	$ 0.99
Diluted net (loss) income per common share	$ (0.83)	$ 0.51	$ (1.39)	$ 0.99

The Company utilizes the two-class method of calculating basic net (loss) income per common share, as holders of the Company's Series A convertible preferred stock participate in dividends with holders of the Company's common stock. Net losses are not allocated to holders of the Series A convertible preferred stock.

Potentially dilutive securities excluded from the calculation of diluted net (loss) income per share were as follows:

	Thirteen Weeks Ended		Twenty-Six Weeks Ended	
	8/1/10	8/2/09	8/1/10	8/2/09
Weighted average antidilutive securities	4,565	2,302	4,588	2,564

According to FASB guidance for earnings per share, contingently issuable shares that have not met the necessary conditions as of the end of a reporting period should not be included in the calculation of diluted net income per share for that period. The Company had contingently issuable awards that did not meet the performance conditions as of August 1, 2010 and August 2, 2009 and, therefore, were excluded from the calculation of diluted net (loss) income per share for the thirteen and twenty-six weeks ended August 1, 2010 and August 2, 2009. The maximum number of potentially dilutive shares that could be issued upon vesting for such awards was 700 and 280 as of August 1, 2010 and August 2, 2009, respectively. These amounts were also excluded from the computation of weighted average antidilutive securities. Conversion of the Series A convertible preferred stock into 4,051 and 2,026 weighted average common shares outstanding for the thirteen and twenty-six weeks ended August 1, 2010,

respectively, was not assumed because the inclusion thereof would have been antidilutive. These amounts were also excluded from the computation of weighted average antidilutive securities.

14. NONCASH INVESTING AND FINANCING TRANSACTIONS

During the twenty-six weeks ended August 1, 2010 and August 2, 2009, the Company recorded increases to goodwill of $18,235 and $15,776, respectively, related to liabilities incurred for contingent purchase price payments to Mr. Calvin Klein. Such amounts are not due or paid in cash until 45 days subsequent to the Company's applicable quarter end. As such, during the twenty-six weeks ended August 1, 2010 and August 2, 2009, the Company paid $21,452 and $18,591, respectively, in cash related to contingent purchase price payments to Mr. Calvin Klein that were recorded as additions to goodwill during the periods the liabilities were incurred.

During the second quarter of 2010, the Company issued 8,044 shares of its common stock valued at $485,967 in connection with the acquisition of Tommy Hilfiger.

During the second quarter of 2010, the Company recorded a loss of $3,005 to write-off previously capitalized debt issuance costs in connection with the extinguishment of its 7 1/4% senior notes due 2011 and its 8 1/8% senior notes due 2013.

The Company issued to Mr. Calvin Klein a nine-year warrant to purchase 320 shares of the Company's common stock at $28.00 per share in connection with the Company's acquisition of Calvin Klein in 2003. 160 shares of such warrant were exercised at the end of the first quarter of 2010, and the underlying shares were issued early in the second quarter of 2010. The exercise price for these shares was satisfied through the Company's withholding of 68 shares, which had a total fair market value that approximated the exercise price, from the shares that would have otherwise been issuable.

15. SEGMENT DATA

The acquisition of Tommy Hilfiger has impacted significantly the way the Company and its chief operating decision maker manage and analyze its operating results. As such, the Company has changed the way it reports its segment data. Prior year periods have been restated in order to present that information on a basis consistent with the current year.

The Company manages its operations through its operating divisions, which are aggregated into seven reportable segments: (i) Heritage Brand Wholesale Dress Furnishings; (ii) Heritage Brand Wholesale Sportswear; (iii) Heritage Brand Retail; (iv) Calvin Klein Licensing; (v) Tommy Hilfiger North America; (vi) Tommy Hilfiger International; and (vii) Other (Calvin Klein Apparel).

Heritage Brand Wholesale Dress Furnishings Segment - This segment consists of the Company's heritage brand wholesale dress furnishings division. This segment derives revenue primarily from marketing both dress shirts and neckwear under the brand names *ARROW, IZOD, Eagle, Sean John, Trump* (marketed as *Donald J. Trump Signature Collection* prior to January 1, 2010), *Kenneth Cole New York, Kenneth Cole Reaction, JOE Joseph Abboud, DKNY, Elie Tahari, J. Garcia* and *MICHAEL Michael Kors*, as well as dress shirts under the brand names *Van Heusen, Geoffrey Beene* and *CHAPS* and neckwear under the brand names *Nautica, Ike Behar, Ted Baker, Jones New York, Michael Kors Collection, Claiborne, U.S. POLO ASSN., Axcess, Hart Schaffner Marx, Bugatti, City of London* and *Robert Graham.* In addition, the Company sold dress shirts under the *BCBG Max Azria* and *BCBG Attitude* brand names into the fourth qu arter of 2009. The Company markets its dress shirt and neckwear brands, as well as various private label brands, primarily to department, mid-tier department and specialty stores.

Heritage Brand Wholesale Sportswear Segment - The Company aggregates the results of its heritage brand wholesale sportswear divisions into the Heritage Brand Wholesale Sportswear segment. This segment derives revenue primarily from marketing men's sportswear under the brand names *Van Heusen, IZOD, Geoffrey Beene, ARROW* and *Timberland*, and women's sportswear under the brand name *IZOD* to department, mid-tier department and specialty stores.

Heritage Brand Retail Segment - The Company aggregates the results of its three heritage brand retail divisions into the Heritage Brand Retail segment. This segment derives revenue principally from operating retail stores, primarily in outlet centers in the United States, which sell apparel, footwear, accessories and related products under the brand names *Van Heusen, IZOD, Bass* and *G.H. Bass & Co*.

Calvin Klein Licensing Segment - The Company aggregates the results of its Calvin Klein licensing and advertising division into the Calvin Klein Licensing segment. This segment derives revenue principally from licensing and similar arrangements worldwide relating to the use by third parties of the brand names *Calvin Klein Collection*, *ck Calvin Klein* and *Calvin Klein* for a broad array of products and retail services. This segment also derives revenue from the Company's Calvin Klein Collection wholesale business and from selling *Calvin Klein Collection* branded high-end collection apparel and accessories through the Company's own full price *Calvin Klein Collection* retail store located in New York City, both of which the Company operates directly in support of the global licensing business.

Tommy Hilfiger North America Segment - The Company aggregates the results of its Tommy Hilfiger wholesale and retail divisions in North America into the Tommy Hilfiger North America segment. This segment derives revenue principally from (i) marketing *Tommy Hilfiger* branded apparel and related products at wholesale in the United States and Canada, primarily to department and specialty stores, and through licensees; and (ii) operating retail stores in the United States and Canada and an e-commerce website, which sell *Tommy Hilfiger* branded apparel, accessories and related products.

Tommy Hilfiger International Segment - The Company aggregates the results of its Tommy Hilfiger wholesale and retail divisions that operate outside of North America into the Tommy Hilfiger International segment. This segment derives revenue principally from (i) marketing *Tommy Hilfiger* branded apparel and related products at wholesale principally in Europe, primarily to department and specialty stores and franchise operators of *Tommy Hilfiger* stores, and through distributors and licensees; and (ii) operating retail stores and an e-commerce website in Europe and retail stores in Japan, which sell *Tommy Hilfiger* branded apparel, accessories and related products.

Other (Calvin Klein Apparel) Segment - The Company aggregates the results of its Calvin Klein apparel divisions into the Other (Calvin Klein Apparel) segment. This segment derives revenue from the Company's marketing at wholesale of apparel and related products under the brand names *Calvin Klein* and *ck Calvin Klein*, primarily to department, mid-tier department and specialty stores, and at retail through the Company's e-commerce website and *Calvin Klein* retail stores, which are primarily located in outlet centers in the United States.

The following table presents summarized information by segment:

	Thirteen Weeks Ended		Twenty-Six Weeks Ended	
	8/1/10	8/2/09	8/1/10	8/2/09
Revenue – Heritage Brand Wholesale Dress Furnishings				
Net sales	$ 102,928	$ 99,372	$ 235,099	$ 220,229
Royalty revenue	1,299	1,390	2,764	2,991
Advertising and other revenue	637	309	1,016	732
Total	104,864	101,071	238,879	223,952
Revenue – Heritage Brand Wholesale Sportswear				
Net sales	88,545	88,817	223,875	212,938
Royalty revenue	2,624	2,948	5,101	5,435
Advertising and other revenue	440	87	898	822
Total	91,609	91,852	229,874	219,195
Revenue – Heritage Brand Retail				
Net sales	171,432	158,746	306,615	285,043
Royalty revenue	1,185	1,330	2,368	2,332
Advertising and other revenue	164	40	424	327
Total	172,781	160,116	309,407	287,702
Revenue – Calvin Klein Licensing				
Net sales	5,701	5,233	14,655	12,203
Royalty revenue	52,293	46,903	112,027	100,731
Advertising and other revenue	20,449	18,866	42,849	40,183
Total	78,443	71,002	169,531	153,117
Revenue – Tommy Hilfiger North America				
Net sales	256,144	-	256,144	-
Royalty revenue	4,051	-	4,051	-
Advertising and other revenue	833	-	833	-
Total	261,028	-	261,028	-
Revenue – Tommy Hilfiger International				
Net sales	263,293	-	263,293	-
Royalty revenue	6,654	-	6,654	-
Advertising and other revenue	1,200	-	1,200	-
Total	271,147	-	271,147	-
Revenue – Other (Calvin Klein Apparel)				
Net sales	123,396	105,242	242,446	202,742
Total	123,396	105,242	242,446	202,742
Total Revenue				
Net sales	1,011,439	457,410	1,542,127	933,155
Royalty revenue	68,106	52,571	132,965	111,489
Advertising and other revenue	23,723	19,302	47,220	42,064
Total	$1,103,268	$529,283	$1,722,312	$1,086,708

	Thirteen Weeks Ended		Twenty-Six Weeks Ended	
	8/1/10	8/2/09	8/1/10	8/2/09
Income before interest and taxes – Heritage Brand Wholesale Dress Furnishings	$ 7,059	$ 4,161	$ 25,519	$ 20,329[5]
Income before interest and taxes – Heritage Brand Wholesale Sportswear	7,194	11,249[4]	28,082	27,849[5]
Income before interest and taxes – Heritage Brand Retail	16,794	11,737[4]	25,478	7,958[5]
Income before interest and taxes – Calvin Klein Licensing	39,350	35,775	76,333	69,726
Income before interest and taxes – Tommy Hilfiger North America	6,424[2]	-	6,424[3]	-
Loss before interest and taxes – Tommy Hilfiger International	(13,633)[2]	-	(13,633)[3]	-
Income before interest and taxes – Other (Calvin Klein Apparel)	14,666	7,598[4]	28,371	8,555[5]
Loss before interest and taxes – Corporate[1]	(122,000)[2]	(19,071)[4]	(243,277)[3]	(33,854)[5]
(Loss) income before interest and taxes	$ (44,146)	$ 51,449	$ (66,703)	$ 100,563

(1) Includes corporate expenses not allocated to any reportable segments. Corporate expenses represent overhead operating expenses and include expenses for senior corporate management, corporate finance and information technology related to corporate infrastructure.

(2) Income (loss) before interest and taxes for the thirteen weeks ended August 1, 2010 includes costs of $166,082, associated with the Company's acquisition and integration of Tommy Hilfiger, including restructuring and non-cash valuation amortization charges and the effects of foreign currency forward exchange contracts. Such costs were included in the Company's segments as follows: $24,479 in Tommy Hilfiger North America; $39,376 in Tommy Hilfiger International; and $102,227 in corporate expenses not allocated to any reportable segments.

(3) Income (loss) before interest and taxes for the twenty-six weeks ended August 1, 2010 includes costs of $270,110 associated with the Company's acquisition and integration of Tommy Hilfiger. Such costs were included in the Company's segments as follows: $24,479 in Tommy Hilfiger North America; $39,376 in Tommy Hilfiger International; and $206,255 in corporate expenses not allocated to any reportable segments.

(4) Income (loss) before interest and taxes for the thirteen weeks ended August 2, 2009 includes costs of $6,256 associated with the Company's restructuring initiatives announced during the fourth quarter of 2008. Such costs were included in the Company's segments as follows: $188 in Heritage Brand Wholesale Sportswear; $650 in Heritage Brand Retail; $1,094 in Other (Calvin Klein Apparel); and $4,324 in corporate expenses not allocated to any reportable segments.

(5) Income (loss) before interest and taxes for the twenty-six weeks ended August 2, 2009 includes costs of $10,976 associated with the Company's restructuring initiatives announced during the fourth quarter of 2008. Such costs were included in the Company's segments as follows: $541 in Heritage Brand Wholesale Dress Furnishings; $701 in Heritage Brand Wholesale Sportswear; $2,341 in Heritage Brand Retail; $2,296 in Other (Calvin Klein Apparel); and $5,097 in corporate expenses not allocated to any reportable segments.

Intersegment transactions consist of transfers of inventory principally between the Heritage Brand Wholesale Dress Furnishings segment and the Heritage Brand Retail segment and Other (Calvin Klein Apparel) segment. These transfers are recorded at cost plus a standard markup percentage. Such markup percentage is eliminated in the Heritage Brand Retail segment and Other (Calvin Klein Apparel) segment.

The following table presents the Company's total assets by segment:

	8/1/10	1/31/10	8/2/09
Identifiable Assets			
Heritage Brand Wholesale Dress Furnishings	$ 291,632	$ 278,101	$ 275,576
Heritage Brand Wholesale Sportswear	269,478	249,864	239,351
Heritage Brand Retail	104,159	97,837	115,120
Calvin Klein Licensing	939,743	925,832	883,542
Tommy Hilfiger North America	817,071	-	-
Tommy Hilfiger International	3,084,836	-	-
Other (Calvin Klein Apparel)	137,133	134,515	160,226
Corporate	876,358	653,530	559,373
Total	$6,520,410	$2,339,679	$2,233,188

16. GUARANTEES

The Company guaranteed the payment of certain purchases made by one of the Company's suppliers from a raw material vendor. The maximum amount guaranteed as of August 1, 2010 is $500. The guarantee expires on January 31, 2011.

The Company guaranteed to a former landlord the payment of rent and related costs by the tenant currently occupying space previously leased by the Company. The maximum amount guaranteed as of August 1, 2010 is approximately $3,700, which is subject to exchange rate fluctuation. The Company has the right to seek recourse of approximately $2,400 as of August 1, 2010, which is subject to exchange rate fluctuation. The guarantee expires on May 19, 2016.

17. RECENT ACCOUNTING GUIDANCE

New guidance issued but not effective until after August 1, 2010 is not expected to have a material impact on the Company's consolidated results of operations or financial position.

References to the brand names *Calvin Klein Collection, ck Calvin Klein, Calvin Klein, Tommy Hilfiger, Van Heusen, IZOD, Bass, ARROW, Eagle, Geoffrey Beene, CHAPS, Sean John, JOE Joseph Abboud, MICHAEL Michael Kors, Michael Kors Collection, Trump, Donald J. Trump Signature Collection, Kenneth Cole New York, Kenneth Cole Reaction, DKNY, Elie Tahari, Nautica, Ike Behar, Ted Baker, Jones New York, J. Garcia, Claiborne, Robert Graham, U.S. POLO ASSN., Axcess* and *Timberland* and to other brand names are to registered trademarks owned by us or licensed to us by third parties and are identified by italicizing the brand name.

References to the acquisition of Tommy Hilfiger refer to our May 6, 2010 acquisition of Tommy Hilfiger B.V. and certain affiliated companies, which companies we refer to collectively as "Tommy Hilfiger."

References to the "Mulberry acquisition" refer to our April 2008 acquisition of certain assets (including certain trademark licenses, inventories and receivables) of Mulberry Thai Silks, Inc., a manufacturer and distributor of branded neckwear in the United States, which we refer to as "Mulberry."

References to the "Superba acquisition" refer to our January 2007 acquisition of substantially all of the assets of Superba, Inc., a manufacturer and distributor of neckwear in the United States and Canada.

References to the acquisition of Calvin Klein refer to our February 2003 acquisition of Calvin Klein, Inc. and certain affiliated companies, which companies we refer to collectively as "Calvin Klein."

OVERVIEW

The following discussion and analysis is intended to help you understand us, our operations and our financial performance. It should be read in conjunction with our consolidated financial statements and the accompanying notes, which are included elsewhere in this report.

We are one of the largest apparel companies in the world, with a heritage dating back over 125 years. Our brand portfolio consists of nationally recognized brand names, including *Calvin Klein, Van Heusen, IZOD, Bass, ARROW, Eagle* and, as of the beginning of the second quarter of 2010, *Tommy Hilfiger* (previously a licensed brand), which are owned, and *Geoffrey Beene, Kenneth Cole New York, Kenneth Cole Reaction, Sean John, JOE Joseph Abboud, MICHAEL Michael Kors, Michael Kors Collection, CHAPS, Trump* (marketed as *Donald J. Trump Signature Collection* prior to January 1, 2010), *DKNY, Elie Tahari, Nautica, Ike Behar, Ted Baker, J. Garcia, Claiborne, Robert Graham, U.S. POLO ASSN., Axcess, Jones New York* and *Timberland,* which are licensed.

We completed our acquisition of Tommy Hilfiger during the second quarter of 2010. Tommy Hilfiger, through its subsidiaries, designs, sources and markets men's and women's sportswear and activewear, jeanswear, childrenswear and other products worldwide and licenses its brands worldwide over a broad range of products.

We paid $2.5 billion in cash and issued 8.0 million shares of our common stock valued at $486.0 million, as consideration for the acquisition, for total consideration of approximately $3.0 billion. We entered into foreign currency forward exchange contracts to purchase €1.3 billion during the first quarter of 2010, and entered into an additional foreign currency forward exchange contract to purchase €250.0 million during the second quarter of 2010, in connection with the acquisition of Tommy Hilfiger to hedge against our exposure to changes in the exchange rate for the Euro, as a portion of the acquisition purchase price was payable in cash and denominated in Euros. We settled the foreign currency forward exchange contracts on May 6, 2010 in connection with our completion of the acquisition of Tommy Hilfiger.

We funded the cash portion and related costs of the Tommy Hilfiger acquisition with cash on hand and the net proceeds of the following activities: (i) the sale on April 28, 2010 of 5.8 million shares of our common stock, for an offering price of $66.50 per share; (ii) the issuance of an aggregate of 8,000 shares of Series A convertible preferred stock for an aggregate gross purchase price of $200.0 million; (iii) the issuance of $600.0 million of 7 3/8% senior notes due 2020; and (iv) the borrowing of $1.9 billion of term loans under new credit facilities. In conjunction with this financing, we paid $303.6 million in the second quarter of 2010 to extinguish our 7 1/4% senior notes due 2011 and our 8 1/8% senior notes due 2013. In addition, we made a $100.0 million voluntary debt repayment on the term loans at the end of the second quarter of 2010. These items are more fully described in the section entitled "Liquidity and Capital Resources" below.

Our historical business strategy has been to manage and market a portfolio of nationally recognized brands at multiple price points and across multiple channels of distribution. We believe this strategy reduces our reliance on any one demographic group, merchandise preference or distribution channel. We have enhanced this strategy by expanding our portfolio of brands through acquisitions of well-known brands, such as *Calvin Klein*, *ARROW* and, now, *Tommy Hilfiger*, that offer additional geographic distribution channel and price point opportunities in our traditional categories of dress shirts and sportswear. The *Calvin Klein* and, to a lesser degree, *ARROW* and *Tommy Hilfiger* acquisitions (we acquired the *ARROW* brand in 2004) also enhanced our business strategy by providing us with established international licensing businesses, which do not require working capital investments. We have successfully pursued growth opportunities in extending the *Calvin Klein* and *ARROW* brands through licensing into additional product categories and geographic areas and may seek to do the same with *Tommy Hilfiger*. The Superba and Mulberry acquisitions helped to advance our historical strategy by adding a product category that is complementary to our heritage dress shirt business and leverages our position in dress furnishings. Our business strategy was also extended by gender with our assumption in 2007 of the wholesale *IZOD* women's sportswear collection, which was previously a licensed business. Further, in the second quarter of 2008, we began marketing men's sportswear under the *Timberland* brand in North America under a licensing arrangement with The Timberland Company. We believe that the acquisition of Tommy Hilfiger will advance our business strategy by adding a global brand with growth opportunities and by establishing an international platform in Europe that will be a strategic complement to our strong North America n presence and provides us with the resources and expertise needed to grow our heritage brands and businesses internationally.

We have entered into license agreements with partners across the globe for our brands. A significant portion of our total income before interest and taxes is derived from international sources, which, prior to the acquisition of Tommy Hilfiger, had been primarily driven by the international component of our Calvin Klein licensing business. The acquisition of Tommy Hilfiger adds a strong operational platform that accelerates our international presence and is expected to provide a platform for global expansion of all of our brands and businesses.

OPERATIONS OVERVIEW

We generate net sales from (i) the wholesale distribution to wholesale customers and franchise, licensee and distributor operated stores of men's dress shirts and neckwear, men's, women's and children's sportswear, footwear, accessories and related products; and (ii) the sale, through over 1,000 company-operated retail locations worldwide, of apparel, footwear, accessories and other products under the brand names *Van Heusen*, *IZOD*, *Bass*, *Calvin Klein* and *Tommy Hilfiger*.

We generate royalty, advertising and other revenue from fees for licensing the use of our trademarks. Calvin Klein royalty, advertising and other revenue, which comprised 79% of total royalty, advertising and other revenue in the second quarter of 2010, is derived under licenses and other arrangements for a broad array of products, including jeans, underwear, fragrances, eyewear, footwear, women's apparel, outerwear, watches and home furnishings.

We completed the acquisition of Tommy Hilfiger early in the second quarter of 2010. We recorded pre-tax charges in the first half of 2010 in connection with the acquisition and integration of Tommy Hilfiger that totaled $270.1 million, which includes: (i) a loss of $140.5 million associated with hedges against Euro to United States dollar exchange rates relating to the purchase price; (ii) non-cash valuation amortization charges of $53.3 million; and (iii) transaction, restructuring and debt extinguishment costs of $76.3 million. We expect to incur additional pre-tax expenses of approximately $45.0 million during the second half of 2010 in connection with the integration of Tommy Hilfiger. Our future results of operations will be significantly impacted by this acquisition, including through the operations of the Tommy Hilfiger business and the changes in our capital structure that were necessary to complete the acquisition as more fully discussed below.

Gross profit on total revenue is total revenue less cost of goods sold. Included as cost of goods sold are costs associated with the production and procurement of product, including inbound freight costs, purchasing and receiving costs, inspection costs, internal transfer costs and other product procurement related charges. 100% of our royalty, advertising and other revenue is included in gross profit because there is no cost of goods sold associated with such revenue. As a result, our gross profit may not be comparable to that of other entities.

RESULTS OF OPERATIONS

Thirteen Weeks Ended August 1, 2010 Compared With Thirteen Weeks Ended August 2, 2009

Net Sales

Net sales in the second quarter of 2010 were $1,011.4 million as compared to $457.4 million in the second quarter of the prior year. The increase of $554.0 million was due principally to the effect of the following items:

- The addition of $256.1 million and $263.3 million of net sales attributable to our Tommy Hilfiger North America and Tommy Hilfiger International segments, respectively, as a result of the acquisition of Tommy Hilfiger early in the second quarter of 2010.

- The addition of $12.7 million of net sales attributable to growth in our Heritage Brand Retail segment. This was primarily driven by a comparable store sales increase in our Heritage Brand retail businesses of 11%.

- The addition of $18.2 million of net sales attributable to growth in our Other (Calvin Klein Apparel) segment, which is comprised of our Calvin Klein dress furnishings, sportswear and outlet retail divisions. Comparable store sales in our Calvin Klein retail business increased 14%.

Royalty, Advertising and Other Revenue

Royalty, advertising and other revenue in the second quarter of 2010 was $91.8 million as compared to $71.9 million in the prior year's second quarter. Of the overall $20.0 million increase over the prior year, $12.7 million was attributable to Tommy Hilfiger. Within the Calvin Klein Licensing segment, global licensee royalty revenue increased $5.4 million, or 11% compared to the prior year's second quarter, due primarily to strong performance across virtually all product categories, with jeans, underwear, fragrance, women's sportswear and dresses performing particularly well.

Gross Profit on Total Revenue

Gross profit on total revenue in the second quarter of 2010 was $575.2 million, or 52.1% of total revenue, compared with $265.8 million, or 50.2% of total revenue in the second quarter of the prior year. Included in the second quarter's 190 basis point increase is (i) a reduction of 340 basis points ($37.7 million), attributable to non-cash valuation amortization charges as a result of the Tommy Hilfiger acquisition; and (ii) an increase of 530 basis points over the prior year, primarily due to the effect of the following items:

- An increase due to the acquisition of Tommy Hilfiger, as Tommy Hilfiger has a large international presence, and international businesses typically have higher gross margin percentages than domestic businesses. In addition, the majority of Tommy Hilfiger's North America operations are comprised of its retail business and retail businesses typically have higher gross margin percentages than wholesale businesses.

- More full-priced selling in our Heritage Brand and Calvin Klein businesses during the second quarter of 2010 as compared to the prior year's second quarter.

Selling, General and Administrative ("SG&A") Expenses

SG&A expenses in the second quarter of 2010 increased $310.3 million to $524.6 million, or to 47.6% of total revenue, from $214.3 million, or 40.5% of total revenue, in the second quarter of the prior year. Included in the 710 basis point increase in SG&A expenses as a percentage of revenue over the prior year are $33.7 million, or 310 basis points, of transaction, restructuring and non-cash valuation amortization charges in connection with our acquisition and integration of Tommy Hilfiger. The non-cash valuation amortization charges relate to acquired order backlog and have an amortization period of six months. The remaining 400 basis point increase in SG&A expenses as a percentage of total revenue is principally attributable to our Tommy Hilfiger business, as Tommy Hilfiger has a large international presence and international businesses typically have higher SG&A expense percentages than domestic businesses. In addition, the majority of Tommy Hilfig er's North America operations are comprised of its retail business and retail businesses typically have higher SG&A expense percentages than wholesale businesses. Also

contributing to the SG&A expense percentage increase, to a lesser extent, is an increase in advertising expenses related to our *Calvin Klein* and heritage brands over the prior year.

Debt Extinguishment

We incurred a loss of $6.7 million during the second quarter of 2010 on the extinguishment of our 7 1/4% senior notes due 2011 and our 8 1/8% senior notes due 2013. Please refer to the section entitled “Liquidity and Capital Resources” below for a discussion of the tender for, and redemption of, these notes.

Other Loss

We entered into foreign currency forward exchange contracts to purchase €1.3 billion during the first quarter of 2010 and entered into an additional foreign currency forward exchange contract to purchase €250.0 million during the second quarter of 2010. These contracts were entered into in connection with the acquisition of Tommy Hilfiger to hedge against our exposure to changes in the exchange rate for the Euro, as a portion of the acquisition purchase price was payable in cash and denominated in Euros. We settled the foreign currency forward exchange contracts on May 6, 2010 in connection with our completion of the acquisition. We recorded a pre-tax loss of $88.1 million during the second quarter of 2010 related to these contracts.

Interest Expense and Interest Income

Interest expense increased to $39.7 million in the second quarter of 2010 from $8.4 million in the second quarter of the prior year principally as a result of the issuance during the second quarter of 2010 of $600.0 million of 7 3/8% senior notes due 2020 and term loans of $1.9 billion borrowed under new credit facilities, the net proceeds of which were used in connection with the purchase of Tommy Hilfiger. We subsequently made a $100.0 million voluntary debt repayment on the term loans at the end of the second quarter of 2010. Interest income of $0.5 million in the second quarter of 2010 was relatively flat to the prior year’s second quarter amount of $0.4 million.

Income Taxes

The income tax rate for the second quarter of 2010 was 34.5% compared with last year’s second quarter rate of 38.9%. The decrease was due primarily to the impact of the non-deductibility of certain transaction costs associated with the Tommy Hilfiger acquisition. Non-deductible expenses cause the effective tax rate to decrease when there is a pre-tax loss, as was the case in the second quarter of 2010.

Twenty-Six Weeks Ended August 1, 2010 Compared With Twenty-Six Weeks Ended August 2, 2009

Net Sales

Net sales for the twenty-six weeks ended August 1, 2010 increased to $1,542.1 million as compared to $933.2 million in the twenty-six week period of the prior year. The increase of $609.0 million was due principally to the effect of the following items:

- The addition of $256.1 million and $263.3 million of net sales attributable to our Tommy Hilfiger North America and Tommy Hilfiger International segments, respectively, as a result of the acquisition of Tommy Hilfiger early in the second quarter of 2010.
- The addition of $25.8 million of net sales, principally in the first quarter of the current year, attributable to growth in our Heritage Brand Wholesale Dress Furnishings and Heritage Brand Sportswear segments resulting from better performance across the majority of our heritage brands, with *Van Heusen* performing particularly well.
- The addition of $21.6 million of net sales attributable to growth in our Heritage Brand Retail segment. This was primarily driven by an overall comparable store sales increase of 11%.
- The addition of $39.7 million of net sales attributable to growth in our Other (Calvin Klein Apparel) segment, which is comprised of our Calvin Klein dress furnishings, sportswear and outlet retail divisions. Comparable store sales in our Calvin Klein retail business increased 15%.

We currently estimate that our 2010 full year net sales will increase to a range of approximately $4.05 billion to $4.08 billion from $2.07 billion in the prior year, due primarily to the addition of net sales of approximately $1.77 billion to $1.79 billion from Tommy Hilfiger. Net sales in our Heritage Brand and Calvin Klein businesses are currently projected to increase 10% to 11% as compared to the prior year. Comparable store sales in our Heritage Brand and Calvin Klein retail businesses are currently projected to grow approximately 7% to 8% on a combined basis.

Royalty, Advertising and Other Revenue

Royalty, advertising and other revenue for the twenty-six weeks ended August 1, 2010 was $180.2 million as compared to $153.6 million in the prior year's twenty-six week period. Of the overall $26.6 million increase over the prior year, $12.7 million was attributable to Tommy Hilfiger. Within the Calvin Klein Licensing segment, global licensee royalty revenue increased $11.3 million, or 11% as compared to the prior year's twenty-six week period, due primarily to strong performance in fragrance, jeans, underwear, women's sportswear and dresses.

We currently expect that total royalty, advertising and other revenue for the full year will increase to a range of approximately $385.0 million to $390.0 million for 2010 from $328.0 million in 2009. This increase is due principally to the addition of royalty revenue, beginning with the second quarter of 2010, attributable to the addition of Tommy Hilfiger, combined with growth within the Calvin Klein Licensing segment, as Calvin Klein royalty revenue is expected to increase 8% to 9% (9% to 10% on a constant currency basis) for the full year 2010.

Gross Profit on Total Revenue

Gross profit on total revenue for the twenty-six weeks ended August 1, 2010 was $892.3 million, or 51.8% of total revenue, compared with $537.6 million, or 49.5% of total revenue in the twenty-six week period of the prior year. Included in the 230 basis point increase in gross profit as a percentage of revenue over the prior year period is (i) a reduction of 220 basis points ($37.7 million), attributable to non-cash valuation amortization charges as a result of the Tommy Hilfiger acquisition; and (ii) an increase of 450 basis points over the prior year's twenty-six week period, primarily due to the effect of the following items:

- An increase due to the acquisition of Tommy Hilfiger, as Tommy Hilfiger has a large international presence and international businesses typically have higher gross margin percentages than domestic businesses. In addition, the majority of Tommy Hilfiger's North America operations are comprised of its retail business and retail businesses typically have higher gross margin percentages than wholesale businesses.

- More full-priced selling in our Heritage Brand and Calvin Klein businesses during the twenty-six weeks ended August 1, 2010 as compared to the prior year's twenty-six week period.

We currently expect that the gross profit on total revenue percentage will increase significantly for the full year 2010 compared to the 2009 full year percentage of 49.3% due primarily to (i) the acquisition of Tommy Hilfiger, for the factors described immediately above; and (ii) more full-priced selling in our Heritage Brand and Calvin Klein businesses in 2010 as compared to 2009.

Selling, General and Administrative ("SG&A") Expenses

SG&A expenses for the twenty-six weeks ended August 1, 2010 increased $374.8 million to $811.8 million, or to 47.1% of total revenue, from $437.0 million, or 40.2% of total revenue, in the twenty-six week period of the prior year. Included in the 690 basis point increase in SG&A expenses as a percentage of total revenue over the prior year period are $85.3 million, or 500 basis points, of transaction, restructuring and non-cash valuation amortization charges in connection with our acquisition and integration of Tommy Hilfiger. The non-cash valuation amortization charges relate to acquired order backlog and have an amortization period of six months. The remaining 190 basis point increase is principally attributable to our Tommy Hilfiger business, as Tommy Hilfiger has a large international presence and international businesses typically have higher SG&A expense percentages than domestic businesses. In addition, the majority of Tommy Hilfiger's North A merica operations are comprised of its retail businesses and retail businesses typically have higher SG&A expense percentages than wholesale businesses. Also contributing to the SG&A expense percentage increase, to a lesser extent, is an increase in advertising expenses related to our *Calvin Klein* and heritage brands over the prior year.

Our full year 2010 SG&A expenses as a percentage of total revenue is expected to increase significantly compared to the 2009 full year percentage of 39.1% principally as a result of one-time costs expected to be incurred in connection with the acquisition and integration of Tommy Hilfiger, as well as the other factors associated with the Tommy Hilfiger business described immediately above.

Debt Extinguishment

We incurred a loss of $6.7 million during the twenty-six weeks ended August 1, 2010 on the extinguishment of our 7 1/4% senior notes due 2011 and our 8 1/8% senior notes due 2013. Please refer to the section entitled “Liquidity and Capital Resources” below for a discussion of the tender for, and redemption of, these notes.

Other Loss

We entered into foreign currency forward exchange contracts to purchase €1.3 billion during the first quarter of 2010, and entered into an additional foreign currency forward exchange contract to purchase €250.0 million during the second quarter of 2010. These contracts were entered into in connection with the acquisition of Tommy Hilfiger to hedge against our exposure to changes in the exchange rate for the Euro, as a portion of the acquisition purchase price was payable in cash and denominated in Euros. We settled the foreign currency forward exchange contracts on May 6, 2010 in connection with our completion of the acquisition. We recorded a pre-tax loss of $140.5 million during the twenty-six weeks ended August 1, 2010 related to these contracts.

Interest Expense and Interest Income

Interest expense increased to $48.1 million in the twenty-six weeks ended August 1, 2010 from $16.7 million in the twenty-six week period of the prior year principally as a result of the issuance during the second quarter of 2010 of $600.0 million of 7 3/8% senior notes due 2020 and term loans of $1.9 billion borrowed under new credit facilities, the net proceeds of which were used in connection with the purchase of Tommy Hilfiger. We made a $100.0 million voluntary debt repayment on the term loans at the end of the second quarter of 2010. Interest income of $0.6 million in the twenty-six weeks ended August 1, 2010 was relatively flat to the prior year’s twenty-six week period amount of $0.9 million.

Net interest expense for the full year 2010 is expected to increase to a range of $130.0 million to $132.0 million from $32.2 million in the prior year principally as a result of the issuance during the second quarter of 2010 of $600.0 million of 7 3/8% senior notes due 2020 and term loans of $1.9 billion borrowed under new credit facilities, the proceeds of which were used in connection with the purchase of Tommy Hilfiger. We made a $100.0 million voluntary debt repayment on the term loans at the end of the second quarter of 2010 and we currently plan on making approximately $300 million of additional repayments at the end of 2010. (Please refer to the section entitled “Liquidity and Capital Resources” below for a further discussion.)

Income Taxes

The income tax rate for the twenty-six weeks ended August 1, 2010 was 28.0% compared with last year’s twenty-six week period rate of 39.5%. The decrease was due primarily to the impact of the non-deductibility of certain transaction costs associated with the Tommy Hilfiger acquisition. Non-deductible expenses cause the effective tax rate to decrease when there is a pre-tax loss, as was the case in the twenty-six weeks ended August 1, 2010.

We currently anticipate that our 2010 income tax rate will be between 55.0% and 56.0%, which compares with last year’s full year rate of 23.5%. The non-deductibility of certain transaction expenses in 2010, which decreased our effective tax rate during the twenty-six weeks ended August 1, 2010 when we experienced pre-tax losses, will increase our effective tax rate for the full year if we achieve pre-tax income, as is currently expected. Partially offsetting the impact of the non-deductible transaction expenses is the favorable impact from the expected earnings from our international Tommy Hilfiger business, a significant portion of which is subject to favorable tax rates, and which earnings are expected to be permanently reinvested outside the United States. It is possible that our estimated full year tax rate could change from the mix of international and domestic pre-tax earnings, or from discrete events arising from specific transactions, audits by tax authorities or the receip t of new information.

The 2009 full year tax rate was favorably impacted by a settlement with the Internal Revenue Service relating to the audit of our Federal income tax returns for 2006 and 2007 and the effect of the lapse of the statute of limitations with respect to certain previously unrecognized tax positions.

LIQUIDITY AND CAPITAL RESOURCES

Operations

Cash provided by operating activities was $101.5 million in the twenty-six weeks ended August 1, 2010, which compares with $80.9 million in the twenty-six week period of the prior year. The factors that affect our cash provided by operating activities have been significantly impacted by the acquisition of Tommy Hilfiger. In the future, we expect that our cash provided by operating activities will generally increase by a significant amount as a result of the acquisition. The increase in the cash generated by operating activities will generally be used to pay down debt, as well as to fund additional capital spending needs due to the expansion of our businesses, most notably the Tommy Hilfiger business. In addition, the changes in the amount of cash provided and used related to our working capital will be more pronounced as a result of the Tommy Hilfiger acquisition.

Capital Expenditures

Our capital expenditures paid in cash in the twenty-six weeks ended August 1, 2010 were $29.0 million. We currently expect that capital expenditures will increase for the full year 2010 as a result of the Tommy Hilfiger acquisition and will be approximately $135 million. This compares to capital expenditures paid in cash for the full year 2009 of $23.9 million.

Contingent Purchase Price Payments

In connection with the acquisition of Calvin Klein, we are obligated to pay Mr. Calvin Klein contingent purchase price payments based on 1.15% of total worldwide net sales, as defined in the agreement (as amended) governing the Calvin Klein acquisition, of products bearing any of the *Calvin Klein* brands with respect to sales made through February 12, 2018. A significant portion of the sales on which the payments to Mr. Klein are made are wholesale sales by us and our licensees and other partners to retailers. Such contingent purchase price payments totaled $21.5 million in the twenty-six weeks ended August 1, 2010. We currently expect that such payments will be $41.0 million to $43.0 million for the full year 2010.

Tommy Hilfiger Acquisition

We paid $2,483.3 million in cash and issued 8.0 million shares of our common stock, valued at $486.0 million, as consideration for the acquisition, for total consideration of approximately $3.0 billion. In addition, we entered into foreign currency forward exchange contracts to purchase €1.3 billion during the first quarter of 2010 and €250.0 million during the second quarter of 2010 in connection with the acquisition of Tommy Hilfiger to hedge against our exposure to changes in the exchange rate for the Euro, as a portion of the acquisition purchase price was payable in cash and denominated in Euros. We settled the foreign currency forward exchange contracts at a loss of $140.5 million on May 6, 2010 in connection with the completion of the acquisition.

We funded the cash portion and related costs of the Tommy Hilfiger acquisition with cash on hand and the net proceeds of the following activities: (i) the sale on April 28, 2010 of 5.8 million shares of our common stock; (ii) the issuances of an aggregate of 8,000 shares of Series A convertible preferred stock for an aggregate gross purchase price of $200.0 million; (iii) the issuance of $600.0 million of 7 3/8% senior notes due 2020; and (iv) the borrowing of $1.9 billion of term loans under new credit facilities. See the discussion below for further detail on these activities.

Tommy Hilfiger Handbag License Acquisition

On June 14, 2010, we entered into an agreement to reacquire from a licensee, prior to the expiration of the license, the rights to distribute *Tommy Hilfiger* branded handbags internationally. The effective date of the transfer of the rights is December 31, 2010. In connection with this transaction, we made a payment of $7.3 million to the licensee during the second quarter of 2010.

Series A Convertible Preferred Stock

On May 6, 2010, we sold an aggregate of 8,000 shares of Series A convertible preferred stock, par value $100.00 per share, for an aggregate gross purchase price of $200.0 million. We received net proceeds of $188.6 million in connection with this issuance, which were used in the second quarter of 2010 to fund a portion of the purchase price for the Tommy Hilfiger acquisition. The Series A convertible preferred stock has a liquidation preference of $25,000 per share and is currently convertible at a price of $47.74 into 4.2 million shares of common stock. The conversion

price is subject to equitable adjustment in the event of us taking certain actions, including stock splits, stock dividends, mergers, consolidations or other capital reorganizations. The Series A convertible preferred stock is not redeemable, in whole or in part, at our option or that of any holder. The holders of the Series A convertible preferred stock are entitled to vote and participate in dividends with the holders of our common stock on an as-converted basis.

Common Stock Offering

We sold 5.8 million shares of our common stock on April 28, 2010 for an offering price of $66.50 per share before commissions and discounts to underwriters. We received net proceeds of $364.9 million in connection with this common stock offering, which were used in the second quarter of 2010 to fund a portion of the purchase price for the Tommy Hilfiger acquisition.

Dividends

Our common stock currently pays annual dividends totaling $0.15 per share. Our Series A convertible preferred stock participates in common stock dividends on an as-converted basis. Common stock dividends totaled $4.7 million in the twenty-six weeks ended August 1, 2010.

We project that cash common stock dividends in 2010 will be $10.0 million based on our current dividend rate, the number of shares of our common and preferred stock outstanding at August 1, 2010 and our estimates of common stock to be issued in 2010 under our stock incentive plans.

Financing Arrangements

Our capital structure as of August 1, 2010 was as follows:

(in millions)

Short-term borrowings	$ 4.6
Long-term debt	$ 2,491.6
Stockholders' equity	$ 2,195.6

In addition, we had $475.3 million of cash and cash equivalents as of August 1, 2010.

Tender for and Redemption of 2011 Notes and 2013 Notes

We commenced tender offers on April 7, 2010 for (i) all of the $150.0 million outstanding principal amount of our notes due 2011; and (ii) all of the $150.0 million outstanding principal amount of our notes due 2013. The tender offers expired on May 4, 2010. On May 6, 2010, we accepted for purchase all of the notes tendered and made payment to tendering holders and called for redemption all of the balance of our outstanding 7 1/4% senior notes due 2011 and all of the balance of our outstanding 8 1/8% senior notes due 2013. The redemption prices of the notes due 2011 and 2013 were 100.000% and 101.354%, respectively, of the outstanding aggregate principal amount of the applicable note, plus accrued and unpaid interest thereon to the redemption date. As of May 6, 2010, we made an irrevocable cash deposit, including accrued and unpaid interest, to the trustee for the notes due 2011 and 2013. As a result, such indentures have been satisfied and effectively discharged as of May 6, 2010.

7 3/8% Senior Notes Due 2020

Our $600.0 million 7 3/8% senior notes, which we issued on May 6, 2010 under an indenture dated as of May 6, 2010, between us and U.S. Bank National Association, as trustee, are due May 15, 2020. Interest on the 7 3/8% notes is payable semi-annually in arrears on May 15 and November 15 of each year, commencing November 15, 2010.

We may redeem some or all of these notes on or after May 15, 2015 at specified redemption prices. We may redeem some or all of these notes at any time prior to May 15, 2015 by paying a "make whole" premium. In addition, we may also redeem up to 35% of these notes prior to May 15, 2013 with the net proceeds of certain equity offerings.

New Senior Secured Credit Facilities

Our new senior secured credit facility, which we entered into on May 6, 2010, consists of a Euro-denominated term loan A facility, a United States dollar-denominated term loan A facility, a Euro-denominated term loan B facility, a United States dollar-denominated term loan B facility, a United States dollar-denominated revolving credit facility and two multi-currency (one United States dollar and Canadian dollar, and the other Euro, Yen and Pound) revolving credit facilities. We borrowed $1.9 billion of term loans on May 6, 2010 and made a voluntary repayment of $100.0 million on these term loans during the second quarter of 2010. As of August 1, 2010, we had an aggregate of $1.8 billion of borrowings under the term loan facilities outstanding (based on the applicable exchange rates in effect on August 1, 2010). These new credit facilities provide for approximately $450 million of revolving credit facilities (based on the applicable exchange rates in effect on August 1, 2010), for which we had no revolving credit borrowings and $195.8 million of letters of credit outstanding as of August 1, 2010. The terms of each of the term loan A and B facilities contain a mandatory repayment schedule on a quarterly basis, such that the total annual repayments are as follows:

	Term Loan	
	A	B
Originally borrowed on May 6, 2010, based on the applicable exchange rate at that date	$494,970	$1,384,910
Percentage required to be repaid for the annual period ending May 6:		
2011	5%	1%
2012	10%	1%
2013	15%	1%
2014	25%	1%
2015	45%	1%
2016	-	95%

We currently plan on making approximately $300 million of additional repayments on these term loans at the end of 2010.

Additionally, in the event there is consolidated Excess Cash Flow, as defined in the agreement, for any fiscal year, we are required to prepay a percentage of such amount based on our Leverage Ratio, as calculated in accordance with the agreement. Such amount will be reduced by any repayments made during the preceding fiscal year.

All repayments made under the facilities are applied on a pro rata basis, determined by the amounts then outstanding under each of the United States dollar and Euro tranches of term loans A and B. In addition, we have the ability to prepay at any time the outstanding borrowings under the new senior secured credit facility without penalty (other than customary breakage costs).

The United States dollar-denominated borrowings under the senior secured credit facility bear interest at a rate equal to an applicable margin plus, as determined at our option, either (a) a base rate determined by reference to the higher of (i) the prime rate, (ii) the United States federal funds rate plus 1/2 of 1% and (iii) a one-month adjusted Eurocurrency rate plus 1% (provided, that, in the case of the term loan A and B facilities, in no event will the base rate be deemed to be less than 2.75%); or (b) an adjusted Eurocurrency rate, calculated in a manner set forth in the senior secured credit facility (provided, that, in the case of the term loan A and B facilities, in no event will the adjusted Eurocurrency rate be deemed to be less than 1.75%).

Canadian dollar-denominated borrowings under the revolving credit facility bear interest at a rate equal to an applicable margin plus, as determined at our option, either (a) a Canadian prime rate determined by reference to the greater of (i) the average of the rates of interest per annum equal to the per annum rate of interest quoted, published and commonly known in Canada as the “prime rate” or which Royal Bank of Canada establishes at its main office in Toronto, Ontario as the reference rate of interest in order to determine interest rates for loans in Canadian dollars to its Canadian borrowers and (ii) the sum of (x) the average of the rates per annum for Canadian dollar bankers’ acceptances having a term of one month that appears on the Reuters Screen CDOR Page as of 10:00 a.m. (Toronto time) on the date of determination, as reported by the administrative agent (and if such screen is not available, any successor or similar service as may be select ed by the administrative agent), and (y) 1%, or (b) an adjusted Eurocurrency rate, calculated in a manner set forth in the senior secured credit facility.

The borrowings under the senior secured credit facility in currencies other than United States dollars or Canadian dollars bear interest at a rate equal to an applicable margin plus an adjusted Eurocurrency rate, calculated in a manner set forth in the senior secured credit facility (provided that, in the case of the term loan A and B facilities, in no event will the adjusted Eurocurrency rate be deemed to be less than 1.75%).

The initial applicable margins will be (a) in the case of the United States dollar-denominated term loan A facility and the United States dollar-denominated term loan B facility, 3.00% for adjusted Eurocurrency rate loans and 2.00% for base rate loans, as applicable, (b) in the case of the Euro-denominated term loan A facility and the Euro-denominated term loan B facility, 3.25% and (c) in the case of the revolving credit facilities, (x) for borrowings denominated in United States dollars, 3.00% for adjusted Eurocurrency rate loans and 2.00% for base rate loans, as applicable, (y) for borrowings denominated in Canadian dollars, 3.00% for adjusted Eurocurrency rate loans and 2.00% for Canadian prime rate loans, as applicable, and (z) for borrowings denominated in other currencies, 3.25%. After the date of delivery of the compliance certificate and financial statements with respect to our period ending January 30, 2011, the applicable margin for borrowings under the te rm loan A facilities and the revolving credit facilities will be adjusted depending on our leverage ratio.

Our senior secured credit facility contains covenants that restrict our ability to finance future operations or capital needs, to take advantage of other business opportunities that may be in our interest or to satisfy our obligations under our other outstanding debt. These covenants restrict our ability to, among other things:

- incur or guarantee additional debt or extend credit;
- pay dividends or make distributions on, or redeem or repurchase, our capital stock or certain other debt;
- make other restricted payments, including investments;
- dispose of assets;
- engage in transactions with affiliates;
- enter into agreements restricting our subsidiaries' ability to pay dividends;
- create liens on our assets or engage in sale/leaseback transactions; and
- effect a consolidation or merger, or sell, transfer, lease all or substantially all of our assets.

In addition, our senior secured credit facility requires us to comply with certain financial covenants, including maximum leverage, minimum interest coverage and maximum capital expenditures. A breach of any of these operating or financial covenants would result in a default under our senior secured credit facility. If an event of default occurs and is continuing under our senior secured credit facility, the lenders could elect to declare all amounts outstanding under the senior secured credit facility, together with accrued interest, to be immediately due and payable which would result in acceleration of our other debt. If we were unable to repay any such borrowings when due, the senior secured credit facility lenders could proceed against their collateral, which also secures some of our other indebtedness.

We are also subject to similar covenants and restrictions in connection with our long-term debt agreements.

Contractual Obligations

Our contractual cash obligations reflected in the contractual obligations table included in Part I, Item 7 of our Annual Report on Form 10-K for the fiscal year ended January 31, 2010 have materially changed as a result of the acquisition of Tommy Hilfiger.

Our contractual cash obligations increased for principal and interest payments on the new debt issued in connection with financing the acquisition. Please refer to the discussion above in this "Liquidity and Capital Resources" section for a description of new debt obligations that were incurred in connection with financing the acquisition. As a result of Tommy Hilfiger's large number of company-operated retail, office and warehouse locations worldwide, our contractual obligations have also increased for Tommy Hilfiger's retail store, warehouse, showroom, office and equipment leases. We have increased our inventory purchase commitments and have also incurred severance payment obligations in connection with the acquisition of Tommy Hilfiger. In addition, as a result of the acquisition

of Tommy Hilfiger, we have for certain members of Tommy Hilfiger's senior management an unfunded non-qualified defined benefit pension plan.

SEASONALITY

Our business generally follows a seasonal pattern. Our wholesale businesses tend to generate higher levels of sales and income in the first and third quarters, while our retail businesses tend to generate higher levels of sales and income in the fourth quarter. Royalty, advertising and other revenue tends to be earned somewhat evenly throughout the year, although the third quarter has the highest level of royalty revenue due to higher sales by licensees in advance of the holiday selling season.

Due to the above factors, our operating results for the twenty-six week period ended August 1, 2010 are not necessarily indicative of those for a full fiscal year.

ITEM 3 - QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Financial instruments held by us include cash equivalents, short and long-term debt and foreign currency forward exchange contracts. Note 9, "Fair Value Measurements," included in Part I, Item 1 of this report outlines the fair value of our financial instruments as of August 1, 2010. Cash and cash equivalents held by us are affected by short-term interest rates. Therefore, a change in short-term interest rates would have an impact on our interest income. Due to the currently low rates of return we are receiving on our investments, the impact of a further decrease in short-term interest rates would not have a material impact on our interest income, while an increase in short-term interest rates could have a more material impact. Given our average balance of cash and cash equivalents during the first half of 2010, the effect of a 10 basis point increase in short-term interest rates on our interest income would be approximately $0.5 million annually. During the second quarter of 2010, we entered into a new senior secured credit facility, which consists of a Euro-denominated term loan A facility, a United States dollar-denominated term loan A facility, a Euro-denominated term loan B facility, a United States dollar-denominated term loan B facility, a United States dollar-denominated revolving credit facility and two multi-currency (one United States dollar and Canadian dollar, and the other Euro, Yen and Pound) revolving credit facilities. Due to the fact that, effective with the second quarter of 2010, certain of our debt is denominated in foreign currency, our interest expense in the future will be impacted by fluctuations in exchange rates. Borrowings under the credit facilities bear interest at a rate equal to an applicable margin plus a variable rate, each of which is determined based on the jurisdiction of such borrowings. As such, effective with the second quarter of 2010, our new credit facilities expose us to market risk for changes in interest rates.

Our exposure to fluctuations in foreign currency exchange rates has increased significantly as a result of the acquisition of Tommy Hilfiger, as the Tommy Hilfiger business has a substantial international component. Accordingly, the impact of a strengthening United States dollar, particularly against the Euro, the Yen and the Canadian dollar, will have a significantly larger negative impact on our results of operations than prior to the acquisition of Tommy Hilfiger. Our Tommy Hilfiger business purchases the majority of the products that it sells in United States dollars, which exposes the international Tommy Hilfiger business to foreign exchange risk as the United States dollar fluctuates. As such, we currently use and plan to continue to use foreign currency forward exchange contracts or other derivative instruments to mitigate the cash flow or market value risks associated with United States dollar denominated purchases by the Tommy Hilfiger business.

We are also exposed to market risk for changes in exchange rates for the United States dollar in connection with our licensing businesses, particularly our Calvin Klein businesses. Most of our license agreements require the licensee to report sales to us in the licensee's local currency but to pay us in United States dollars based on the exchange rate as of the last day of the contractual selling period. Thus, while we are not exposed to exchange rate gains and losses between the end of the selling period and the date we collect payment, we are exposed to exchange rate changes during and up to the last day of the selling period. In addition, certain of our other foreign license agreements expose us to exchange rate changes up to the date we collect payment or convert local currency payments into United States dollars. As a result, during times of a strengthening United States dollar, our foreign royalty revenue will be adversely impacted, and during times of a weakening United States dollar, our foreign royalty revenue will be favorably impacted.

ITEM 4 - CONTROLS AND PROCEDURES

As of the end of the period covered by this report, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report. Disclosure controls and procedures are controls and procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms and that such information is accumulated and communicated to our management, including our Chief E xecutive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

There have been no changes in our internal control over financial reporting during the period to which this report relates that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II – OTHER INFORMATION

ITEM 1A – RISK FACTORS

The risk factors included in Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended January 31, 2010 have materially changed as a result of the acquisition of Tommy Hilfiger. The risk factors that have been modified or added are set forth below.

Our level of debt could impair our financial condition.

In connection with the acquisition of Tommy Hilfiger, we borrowed term loans (of which $1.8 billion in principal amount is currently outstanding) under our senior secured credit facility and issued $600 million in high-yield notes. We also have $100 million of secured debentures outstanding. Our level of debt could have important consequences to investors, including:

- requiring a substantial portion of our cash flows from operations be used for the payment of interest on our debt, thereby reducing the funds available to us for our operations or other capital needs;

- limiting our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate because our available cash flow after paying principal and interest on our debt may not be sufficient to make the capital and other expenditures necessary to address these changes;

- increasing our vulnerability to general adverse economic and industry conditions because, during periods in which we experience lower earnings and cash flow, we will be required to devote a proportionally greater amount of our cash flow to paying principal and interest on our debt;

- limiting our ability to obtain additional financing in the future to fund working capital, capital expenditures, acquisitions, contributions to our pension plans and general corporate requirements;

- placing us at a competitive disadvantage to other relatively less leveraged competitors that have more cash flow available to fund working capital, capital expenditures, contributions to pension plans and general corporate requirements; and

- with respect to any borrowings we make at variable interest rates, including under our revolving credit facility, leaving us vulnerable to increases in interest rates generally.

A substantial portion of our revenue and gross profit is derived from a small number of large customers and the loss of any of these customers could substantially reduce our revenue.

A few of our customers, including Macy's, Inc., J.C. Penney Company, Inc., Kohl's Corporation and Wal-Mart Stores, Inc., account for significant portions of our revenue. Sales to our five largest customers were 31% of our revenue in 2009, 32% of our revenue in 2008 and 30% of our revenue in 2007. Macy's, our largest customer, accounted for 12% of our revenue in 2009, 12% of our revenue in 2008 and 10% of our revenue in 2007.

Tommy Hilfiger is party to a strategic alliance with Macy's providing for the exclusive wholesale distribution in the United States of most men's, women's, women's plus-size and children's sportswear under the *Tommy Hilfiger* brand. The initial term of the agreement with Macy's ends on January 30, 2011 and is renewable at the option of Macy's for up to three renewal terms of three years, for a total possible term of approximately 12 years. Macy's has notified Tommy Hilfiger of its desire to renew the agreement for a second three-year term and the parties are currently in discussion about expanding the scope of the agreement. Discussions are expected to be concluded shortly and an extension executed, although there can be no assurance that this will be the case. Prior to our acquisition of Tommy Hilfiger, Macy's represented approximately 14% of Tommy Hilfiger's North America revenue and 6% of its total reven ue. As a result of this strategic alliance, the success of Tommy Hilfiger's North American wholesale business is substantially dependent on this relationship and on Macy's ability to maintain and increase sales of *Tommy Hilfiger* products. Upon the expiration of the initial term of the Macy's agreement and each subsequent three-year term, Macy's may be unwilling to renew the Macy's agreement on favorable terms, or at all. In addition, our and Tommy Hilfiger's United States wholesale businesses may be affected by any operational or financial difficulties that Macy's experiences, including any deterioration in Macy's overall ability to attract customer traffic or in its overall liquidity position.

Other than Tommy Hilfiger's strategic alliance with Macy's, we do not have long-term agreements with any of our customers and purchases generally occur on an order-by-order basis. A decision by any of our major customers, whether motivated by marketing strategy, competitive conditions, financial difficulties or otherwise, to decrease significantly the amount of merchandise purchased from us or our licensing or other partners, or to change their manner of doing business with us or our licensing or other partners, could substantially reduce our revenue and materially adversely affect our profitability. During the past several years, the retail industry has experienced a great deal of consolidation and other ownership changes and we expect such changes to be ongoing. In addition, store closings by our customers decrease the number of stores carrying our apparel products, while the remaining stores may purchase a smaller amount of our products and may red uce the retail floor space designated for our brands. In the future, retailers may further consolidate, undergo restructurings or reorganizations, realign their affiliations or reposition their stores' target markets. Any of these types of actions could decrease the number of stores that carry our products or increase the ownership concentration within the retail industry. These changes could decrease our opportunities in the market, increase our reliance on a smaller number of large customers and decrease our negotiating strength with our customers. These factors could have a material adverse effect on our financial condition and results of operations.

We may not be able to continue to develop and grow our Calvin Klein and Tommy Hilfiger businesses in terms of revenue and profitability.

A significant portion of our business strategy involves growing our Calvin Klein and Tommy Hilfiger businesses. Our realization of revenue and profitability growth from Calvin Klein and Tommy Hilfiger will depend largely upon our ability to:

- continue to maintain and enhance the distinctive brand identity of the *Calvin Klein* and *Tommy Hilfiger* brands;

- continue to maintain good working relationships with Calvin Klein's and Tommy Hilfiger's licensees;

- continue to enter into new (or renew or extend existing) licensing agreements for the *Calvin Klein* and *Tommy Hilfiger* brands, both domestically and internationally; and

- continue to strengthen and expand the Tommy Hilfiger North American business.

We cannot assure you that we can successfully execute any of these actions or our growth strategy for these brands, nor can we assure you that the launch of any additional product lines or businesses by us or our licensees or that the continued offering of these lines will achieve the degree of consistent success necessary to generate profits or positive cash flow. Our ability to successfully carry out our growth strategy may be affected by, among other things, our ability to enhance our relationships with existing customers to obtain additional selling space and/or add additional product lines, our ability to develop new relationships with retailers, economic and competitive conditions, changes in consumer spending patterns and changes in consumer tastes and style trends. If we fail to continue to develop and grow either the Calvin Klein or Tommy Hilfiger business in terms of revenue and profitability, our financial condition and results of operations may be materia lly and adversely affected.

The success of Calvin Klein and Tommy Hilfiger depends on the value of our Calvin Klein and Tommy Hilfiger brands, and if the value of either of those brands were to diminish, our business could be adversely affected.

Our success depends on our brands and their value. The *Calvin Klein* name is integral to the existing Calvin Klein business, as well as to our strategies for continuing to grow and expand Calvin Klein. The *Calvin Klein* brands could be adversely affected if Mr. Klein's public image or reputation were to be tarnished. We have similar exposure with respect to the *Tommy Hilfiger* brands. Mr. Hilfiger is closely identified with the *Tommy Hilfiger* brand and any negative perception with respect to Mr. Hilfiger could adversely affect the *Tommy Hilfiger* brand. In addition, under Mr. Hilfiger's employment agreement, if his employment is terminated for any reason, his agreement not to compete with Tommy Hilfiger will expire two years after such termination. Although Mr. Hilfiger could not use any *Tommy Hilfiger* trademark in connection with a competitive business, his association with a competitive busine ss could adversely affect Tommy Hilfiger.

Our business is exposed to foreign currency exchange rate fluctuations.

Our exposure to fluctuations in foreign currency exchange rates has increased significantly as a result of the acquisition of Tommy Hilfiger, as the Tommy Hilfiger business has a substantial international component. Accordingly, the impact of a strengthening United States dollar, particularly against the Euro, the Yen and the

Canadian dollar, will have a significantly larger negative impact on our results of operations than prior to the acquisition of Tommy Hilfiger. Our Tommy Hilfiger business purchases the majority of the products that it sells in United States dollars, which exposes the international Tommy Hilfiger business to foreign exchange risk as the United States dollar fluctuates. As such, we currently use and plan to continue to use foreign currency forward exchange contracts or other derivative instruments to mitigate the cash flow or market value risks associated with United States dollar denominated purchases by the Tommy Hilfiger business.

We are also exposed to market risk for changes in exchange rates for the United States dollar in connection with our licensing businesses, particularly our Calvin Klein businesses. Most of our license agreements require the licensee to report sales to us in the licensee's local currency but to pay us in United States dollars based on the exchange rate as of the last day of the contractual selling period. Thus, while we are not exposed to exchange rate gains and losses between the end of the selling period and the date we collect payment, we are exposed to exchange rate changes during and up to the last day of the selling period. In addition, certain of our other foreign license agreements expose us to exchange rate changes up to the date we collect payment or convert local currency payments into United States dollars. As a result, during times of a strengthening United States dollar, our foreign royalty revenue will be adversely impacted, and during times of a weakening United States dollar, our foreign royalty revenue will be favorably impacted.

We have licensed businesses in countries that are or have been subject to exchange rate control regulations and have, as a result, experienced difficulties in receiving payments owed to us when due, with amounts left unpaid for extended periods of time. Although the amounts to date have been immaterial to us, as our international businesses grow and if controls are enacted or enforced in additional countries, there can be no assurance that such controls would not have a material and adverse affect on our business, financial condition or results of operations.

We primarily use foreign suppliers for our products and raw materials, which poses risks to our business operations.

All of our apparel and footwear products, excluding handmade and handfinished neckwear, are produced by and purchased or procured from independent manufacturers located in countries in Europe, the Far East, the Indian subcontinent, the Middle East, South America, the Caribbean and Central America. We believe that we are one of the largest users of shirting fabric in the world. Although no single supplier or country is expected to be critical to our production needs, any of the following could materially and adversely affect our ability to produce or deliver our products and, as a result, have a material adverse effect on our business, financial condition and results of operations:

- political or labor instability in countries where contractors and suppliers are located;
- political or military conflict involving the United States, which could cause a delay in the transportation of our products and raw materials to us and an increase in transportation costs;
- heightened terrorism security concerns, which could subject imported or exported goods to additional, more frequent or more thorough inspections, leading to delays in deliveries or impoundment of goods for extended periods or could result in decreased scrutiny by customs officials for counterfeit goods, leading to lost sales, increased costs for our anti-counterfeiting measures and damage to the reputation of our brands;
- a significant decrease in availability or increase in cost of raw materials or the inability to use raw materials produced in a country that is a major provider due to political, human rights, labor, environmental, animal cruelty or other concerns;
- disease epidemics and health-related concerns, which could result in closed factories, reduced workforces, scarcity of raw materials and scrutiny or embargoing of goods produced in infected areas;
- the migration and development of manufacturers, which could affect where our products are or are planned to be produced;
- imposition of regulations, quotas and safeguards relating to imports and our ability to adjust timely to changes in trade regulations, which, among other things, could limit our ability to produce products in cost-effective countries that have the labor and expertise needed;
- imposition of duties, taxes and other charges on imports;

- significant fluctuation of the value of the United States dollar against foreign currencies; and

- restrictions on transfers of funds out of countries where our foreign licensees are located.

Tommy Hilfiger is dependent on third parties to source its products and any disruption in the relationship with these parties or in their businesses may materially adversely affect our Tommy Hilfiger business.

Our Tommy Hilfiger business uses third parties to source the majority of its products from manufacturers. Prior to our acquisition of Tommy Hilfiger, Tommy Hilfiger outsourced approximately 81% of its sourcing functions to external buying offices. Tommy Hilfiger is a party to a non-exclusive buying agency agreement with Li & Fung Limited to carry out most of its sourcing work. Li & Fung is one of the world's largest buying agencies for apparel and related goods and is Tommy Hilfiger's largest buying office. Under the terms of the agreement, we are required to use Li & Fung for at least 54% of Tommy Hilfiger's global sourcing needs. The buying agency agreement with Li & Fung is terminable by us upon 12 months' prior notice for any reason, and is terminable by either party (i) upon six months' prior notice in the event of a material breach by the other party and (ii) immediately upon the occurr ence of certain bankruptcy or insolvency events relating to the other party. Tommy Hilfiger also uses other third-party buying offices for a portion of its sourcing and has retained a small in-house sourcing team. Any interruption in the operations of Li & Fung or Tommy Hilfiger's other buying offices, or the failure of Li & Fung or Tommy Hilfiger's other buying offices to perform effectively their services for Tommy Hilfiger, could result in material delays, reductions of shipments and increased costs. Furthermore, such events could harm Tommy Hilfiger's wholesale and retail relationships. Although alternative sourcing companies exist, we may be unable to source *Tommy Hilfiger* products through other third parties, if at all, on terms commercially acceptable to us and on a timely basis. Any disruption in Tommy Hilfiger's relationship with its buying offices or their businesses, particularly Li & Fung, could have a material adverse effect on our cash flows , business, financial condition and results of operations.

A significant portion of our revenue is dependent on royalties and licensing.

Royalty, advertising and other revenue from Calvin Klein's three largest licensing partners accounted for approximately 67% of its royalty, advertising and other revenue in 2009. Prior to our acquisition of Tommy Hilfiger, royalty, advertising and other revenue from Tommy Hilfiger's three largest licensing partners accounted for approximately 35% of its royalty, advertising and other revenue. We also derive licensing revenue from our *Van Heusen, IZOD, Bass, G.H. Bass & Co.* and *ARROW* brand names, as well as from the sublicensing of *Geoffrey Beene*. The operating profit associated with our royalty, advertising and other revenue is significant because the operating expenses directly associated with administering and monitoring an individual licensing or similar agreement are minimal. Therefore, the loss of a significant licensing partner, whether due to the termination or expiration of the relationship, the cessation of the licensi ng partner's operations or otherwise (including as a result of financial difficulties of the partner), without an equivalent replacement, could materially affect our profitability.

While we generally have significant control over our licensing partners' products and advertising, we rely on our licensing partners for, among other things, operational and financial controls over their businesses. Our licensing partners' failure to successfully market licensed products or our inability to replace our existing licensing partners could materially and adversely affect our revenue both directly from reduced royalty and advertising and other revenue received and indirectly from reduced sales of our other products. Risks are also associated with our licensing partners' ability to obtain capital; execute their business plans, including timely delivery of quality products; manage their labor relations; maintain relationships with their suppliers; manage their credit risk effectively; and maintain relationships with their customers.

Acquisitions may not be successful in achieving intended benefits and synergies.

One component of our growth strategy contemplates our making select acquisitions if appropriate opportunities arise. Prior to completing any acquisition, our management team identifies expected synergies, cost savings and growth opportunities. However, these benefits may not be realized due to, among other things:

- delays or difficulties in completing the integration of acquired companies or assets;

- higher than expected costs, lower than expected cost savings and/or a need to allocate resources to manage unexpected operating difficulties;

- diversion of the attention and resources of management;

- consumers' failure to accept product offerings by us or our licensees;
- inability to retain key employees in acquired companies; and
- assumption of liabilities unrecognized in due diligence.

A significant shift in the relative sources of our earnings, adverse decisions of tax authorities or changes in tax treaties, laws, rules or interpretations could have a material adverse effect on our results of operations and cash flow.

With the acquisition of Tommy Hilfiger, we now have direct operations in a number of countries, including the United States, Canada, the Netherlands, Germany, the United Kingdom, Italy, Japan, Hong Kong and China, and the applicable statutory tax rates vary by jurisdiction. As a result, our overall effective tax rate could be materially affected by the relative level of earnings in the various taxing jurisdictions to which our earnings are subject. In addition, the tax laws and regulations in the various countries in which we operate may be subject to change and there may be changes in interpretation and enforcement of tax law. As a result, we may face increases in taxes payable if tax rates increase, or if tax laws, regulations or treaties in the jurisdictions in which we operate are modified by the competent authorities in an adverse manner.

In addition, various national and local taxing authorities periodically examine us and our subsidiaries. The resolution of an examination or audit may result in us making a payment in an amount that differs from the amount for which we may have reserved with respect to any particular tax matter, which could have a material adverse effect on our cash flows, business, financial condition and results of operations for any affected reporting period.

We and our subsidiaries are engaged in a number of intercompany transactions. Although we believe that these transactions reflect arm's length terms and that proper transfer pricing documentation is in place which should be respected for tax purposes, the transfer prices and conditions may be scrutinized by local tax authorities, which could result in additional tax becoming due.

If Tommy Hilfiger were unable to fully utilize its deferred tax assets, its profitability could be reduced.

Tommy Hilfiger has substantial deferred income tax assets on its balance sheet. This includes tax loss and foreign tax credit carryforwards in the United States and the Netherlands. Our ability to utilize these assets depends on a number of factors, including whether there will be adequate levels of taxable income in future periods to offset the tax loss carryforwards before they expire. Also, United States tax rules impose an annual limit on the amount of certain loss carryovers of Tommy Hilfiger that we can use following the acquisition, and, depending on our taxable income in tax years following the acquisition, such limit may be material. These factors could reduce the value of the deferred tax assets, which could have a material effect on our profitability.

ITEM 2 - UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

ISSUER PURCHASES OF EQUITY SECURITIES

Period	(a) Total Number of Shares (or Units) Purchased[1]	(b) Average Price Paid per Share (or Unit)[1]	(c) Total Number of Shares (or Units) Purchased as Part of Publicly Announced Plans or Programs	(d) Maximum Number (or Approximate Dollar Value) of Shares (or Units) that May Yet Be Purchased Under the Plans or Programs
May 3, 2010 - May 30, 2010	81,566	65.10	-	-
May 31, 2010 - July 4, 2010	242	53.87	-	-
July 5, 2010 - August 1, 2010	518	49.16	-	-
Total	82,326	$64.97	-	-

(1) Our 2006 Stock Incentive Plan provides us with the right to deduct or withhold, or require employees to remit to us, an amount sufficient to satisfy any applicable tax withholding requirements applicable to stock-based compensation awards. To the extent permitted, employees may elect to satisfy all or part of such withholding requirements by tendering previously owned shares or by having us withhold shares having a fair market value equal to the minimum statutory tax withholding rate that could be imposed on the transaction. 13,834 shares shown in this table were withheld during the second quarter of 2010 in connection with the settlement of vested restricted stock units to satisfy tax withholding requirements. The remaining shares were withheld to satisfy the exercise price of certain warrants that were exercised during 2010.

ITEM 6 - EXHIBITS

The following exhibits are included herein:

3.1 Certificate of Incorporation (incorporated by reference to Exhibit 5 to the Company's Annual Report on Form 10-K for the fiscal year ended January 29, 1977).

3.2 Amendment to Certificate of Incorporation, filed June 27, 1984 (incorporated by reference to Exhibit 3B to the Company's Annual Report on Form 10-K for the fiscal year ended February 3, 1985).

3.3 Certificate of Designation of Series A Cumulative Participating Preferred Stock, filed June 10, 1986 (incorporated by reference to Exhibit A of the document filed as Exhibit 3 to the Company's Quarterly Report on Form 10-Q for the period ended May 4, 1986).

3.4 Amendment to Certificate of Incorporation, filed June 2, 1987 (incorporated by reference to Exhibit 3(c) to the Company's Annual Report on Form 10-K for the fiscal year ended January 31, 1988).

3.5 Amendment to Certificate of Incorporation, filed June 1, 1993 (incorporated by reference to Exhibit 3.5 to the Company's Annual Report on Form 10-K for the fiscal year ended January 30, 1994).

3.6 Amendment to Certificate of Incorporation, filed June 20, 1996 (incorporated by reference to Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q for the period ended July 28, 1996).

3.7 Certificate of Designations, Preferences and Rights of Series B Convertible Preferred Stock of Phillips-Van Heusen Corporation (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K, filed on February 26, 2003).

3.8 Corrected Certificate of Designations, Preferences and Rights of Series B Convertible Preferred Stock of Phillips-Van Heusen Corporation, dated as of April 17, 2003 (incorporated by reference to Exhibit 3.9 to the Company's Annual Report on Form 10-K for the fiscal year ended February 2, 2003).

3.9 Certificate of Amendment of Certificate of Incorporation, filed June 29, 2006 (incorporated by reference to Exhibit 3.9 to the Company's Quarterly Report on Form 10-Q for the period ended May 6, 2007).

3.10 Certificate Eliminating Reference to Series B Convertible Preferred Stock from Certificate of Incorporation of Phillips-Van Heusen Corporation, filed June 12, 2007 (incorporated by reference to Exhibit 3.10 to the Company's Quarterly Report on Form 10-Q for the period ended May 6, 2007).

3.11 Certificate Eliminating Reference To Series A Cumulative Participating Preferred Stock From Certificate of Incorporation (incorporated by reference to Exhibit 3.2 to the Company's Current Report on Form 8-K, filed on September 28, 2007).

3.12 Certificate of Designations of Series A Convertible Preferred Stock of Phillips-Van Heusen Corporation (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K, filed May 12, 2010).

3.13 By-Laws of Phillips-Van Heusen Corporation, as amended through April 30, 2009 (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K, filed on May 5, 2009).

4.1 Specimen of Common Stock certificate (incorporated by reference to Exhibit 4 to the Company's Annual Report on Form 10-K for the fiscal year ended January 31, 1981).

4.2 Indenture, dated as of November 1, 1993, between Phillips-Van Heusen Corporation and The Bank of New York, as Trustee (incorporated by reference to Exhibit 4.01 to the Company's Registration Statement on Form S-3 (Reg. No. 33-50751) filed on October 26, 1993).

4.3 First Supplemental Indenture, dated as of October 17, 2002 to Indenture dated as of November 1, 1993 between Phillips-Van Heusen Corporation and The Bank of New York, as Trustee (incorporated by reference to Exhibit 4.15 to the Company's Quarterly Report on Form 10-Q for the period ended November 3, 2002).

4.4 Second Supplemental Indenture, dated as of February 12, 2002 to Indenture, dated as of November 1, 1993, between Phillips-Van Heusen Corporation and The Bank of New York, as Trustee (incorporated by reference to Exhibit 4.2 to the Company's Current Report on Form 8-K, filed on February 26, 2003).

4.5 Indenture, dated as of May 5, 2003, between Phillips-Van Heusen Corporation and SunTrust Bank, as Trustee (incorporated by reference to Exhibit 4.13 to the Company's Quarterly Report on Form 10-Q for the period ended May 4, 2003).

4.6 Indenture, dated as of February 18, 2004 between Phillips-Van Heusen Corporation and SunTrust Bank, as Trustee (incorporated by reference to Exhibit 4.14 to the Company's Annual Report on Form 10-K for the fiscal year ended February 1, 2004).

4.7 First Supplemental Indenture to 7 1/4% Senior Notes Due May 1, 2011, dated as of April 20, 2010, to Indenture, dated as of February 18, 2004, between Phillips-Van Heusen Corporation and U.S. Bank National Association (as successor to SunTrust Bank, the Predecessor Trustee), as Trustee (incorporated by reference to Exhibit 4.8 to the Company's Quarterly Report on Form 10-Q for the period ended May 2, 2010).

4.8 First Supplemental Indenture to 8 1/8% Senior Notes Due May 1, 2013, dated as of April 20, 2010, to Indenture, dated as of May 5, 2003, between Phillips-Van Heusen Corporation and U.S. Bank National Association (as successor to SunTrust Bank, the Predecessor Trustee), as Trustee (incorporated by reference to Exhibit 4.9 to the Company's Quarterly Report on Form 10-Q for the period ended May 2, 2010).

4.9 Securities Purchase Agreement, dated as of March 15, 2010, by and among Phillips-Van Heusen Corporation, LNK Partners, L.P. and LNK Partners (Parallel), L.P. (incorporated by reference to Exhibit 4.10 to the Company's Quarterly Report on Form 10-Q for the period ended May 2, 2010).

4.10 Securities Purchase Agreement, dated as of March 15, 2010, by and between Phillips-Van Heusen Corporation and MSD Brand Investments, LLC (incorporated by reference to Exhibit 4.11 to the Company's Quarterly Report on Form 10-Q for the period ended May 2, 2010).

+4.11	Stockholders Agreement, dated as of May 6, 2010, by and among Phillips-Van Heusen Corporation, Tommy Hilfiger Holding S.a.r.l, Stichting Administratiekantoor Elmira, Apax Europe VI-A, L.P., Apax Europe VI-1, L.P. and Apax US VII, L.P.
+ 4.12	Amendment to Stockholders Agreement, dated as of June 8, 2010 to Stockholders Agreement, dated as of May 6, 2010, by and among Phillips-Van Heusen Corporation, Tommy Hilfiger Holding S.a.r.l, Stichting Administratiekantoor Elmira, Apax Europe VI-A, L.P., Apax Europe VI-1, L.P. and Apax US VII, L.P.
+ 4.13	Stockholders Agreement, dated as of May 6, 2010, by and among Phillips-Van Heusen Corporation, LNK Partners, L.P. and LNK Partners (Parallel), L.P.
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+ 4.15	Indenture, dated as of May 6, 2010, between Phillips-Van Heusen Corporation and U.S. Bank National Association, as Trustee.
+ 4.16	Third Supplemental Indenture, dated as of May 6, 2010, between Phillips-Van Heusen Corporation and The Bank of New York Mellon (formerly known as The Bank of New York), as Trustee.
+10.1	Credit and Guaranty Agreement, dated as of May 6, 2010, among Phillips-Van Heusen Corporation, Tommy Hilfiger B.V., certain subsidiaries of Phillips-Van Heusen Corporation, Barclays Bank PLC as Administrative Agent and Collateral Agent, Barclays Capital as Joint Lead Arranger and Joint Lead Bookrunner, Deutsche Bank Securities Inc. as Joint Lead Arranger, Joint Lead Bookrunner and Syndication Agent, Banc of America Securities LLC as Joint Lead Bookrunner and Co-Documentation Agent, Credit Suisse Securities (USA) LLC as Joint Lead Bookrunner and Co-Documentation Agent, and RBC Capital Markets as Joint Lead Bookrunner and Co-Documentation Agent.
+10.2	First Amendment to Credit and Guaranty Agreement, dated as of July 26, 2010 to Credit and Guaranty Agreement, dated as of May 6, 2010, among Phillips-Van Heusen Corporation, Tommy Hilfiger B.V., certain subsidiaries of Phillips-Van Heusen Corporation, Barclays Bank PLC as Administrative Agent and Collateral Agent, Barclays Capital as Joint Lead Arranger and Joint Lead Bookrunner, Deutsche Bank Securities Inc. as Joint Lead Arranger, Joint Lead Bookrunner and Syndication Agent, Banc of America Securities LLC as Joint Lead Bookrunner and Co-Documentation Agent, Credit Suisse Securities (USA) LLC as Joint Lead Bookrunner and Co-Documentation Agent, and RBC Capital Markets as Joint Lead Bookrunner and Co-Documentation Agent.
+10.3	Revised Form of Restricted Stock Unit Award Agreement for Directors under the Phillips-Van Heusen Corporation 2006 Stock Incentive Plan, effective as of June 24, 2010.
+10.4	Schedule of Non-Management Directors' Fees, effective June 24, 2010.
+10.5	Second Amended and Restated Revolving Credit Agreement, dated as of July 10, 2007, among Phillips-Van Heusen Corporation, The IZOD Corporation, PVH Wholesale Corp., PVH Retail Corp., izod.com inc., G.H. Bass Franchises Inc., CD Group Inc., PVH CK Stores, Inc., PVH Ohio, Inc., PVH Michigan, Inc., PVH Pennsylvania, Inc., PVH Wholesale New Jersey, Inc., PVH Retail Management Company, PVH Superba/Insignia Neckwear, Inc. and the lender parties thereto, JPMorgan Chase Bank, N.A., as Administrative Agent and Collateral Agent, JPMorgan Securities Inc., as Joint Lead Arranger and Sole Bookrunner, Bank of America, N.A., as Joint Lead Arranger and Co-Syndication Agent, SunTrust Bank, as Co-Syndication Agent, Wachovia Bank, National Association, as Co-Documentation Agent, and The CIT Group/Commercial Services, Inc., as Co-Documentation Agent.
+10.6	Second Amendment to Second Amended and Restated Employment Agreement, dated as of May 27, 2010, between Phillips-Van Heusen Corporation and Emanuel Chirico.
+15	Acknowledgement of Independent Registered Public Accounting Firm.
+31.1	Certification of Emanuel Chirico, Chairman and Chief Executive Officer, pursuant to Section 302 of the Sarbanes – Oxley Act of 2002.
+31.2	Certification of Michael Shaffer, Executive Vice President and Chief Financial Officer, pursuant to Section 302 of the Sarbanes – Oxley Act of 2002.

+32.1	Certification of Emanuel Chirico, Chairman and Chief Executive Officer, pursuant to Section 906 of the Sarbanes – Oxley Act of 2002, 18 U.S.C. Section 1350.
+32.2	Certification of Michael Shaffer, Executive Vice President and Chief Financial Officer, pursuant to Section 906 of the Sarbanes – Oxley Act of 2002, 18 U.S.C. Section 1350.

+ Filed herewith.

Exhibits 32.1 and 32.2 shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, or otherwise subject to the liability of that Section. Such exhibits shall not be deemed incorporated by reference into any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934.

SIGNATURES

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

PHILLIPS-VAN HEUSEN CORPORATION
Registrant

Dated: September 10, 2010

/s/ BRUCE GOLDSTEIN
Bruce Goldstein
Senior Vice President and Controller
(Chief Accounting Officer)

Exhibit Index

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10.6	Second Amendment to Second Amended and Restated Employment Agreement, dated as of May 27, 2010, between Phillips-Van Heusen Corporation and Emanuel Chirico.

15	Acknowledgement of Independent Registered Public Accounting Firm.
31.1	Certification of Emanuel Chirico, Chairman and Chief Executive Officer, pursuant to Section 302 of the Sarbanes – Oxley Act of 2002.
31.2	Certification of Michael Shaffer, Executive Vice President and Chief Financial Officer, pursuant to Section 302 of the Sarbanes – Oxley Act of 2002.
32.1	Certification of Emanuel Chirico, Chairman and Chief Executive Officer, pursuant to Section 906 of the Sarbanes – Oxley Act of 2002, 18 U.S.C. Section 1350.
32.2	Certification of Michael Shaffer, Executive Vice President and Chief Financial Officer, pursuant to Section 906 of the Sarbanes – Oxley Act of 2002, 18 U.S.C. Section 1350.

EXHIBIT 4.11

STOCKHOLDERS AGREEMENT

Dated as of May 6, 2010

by and among

Phillips-Van Heusen Corporation,

Tommy Hilfiger Holding S.a.r.l,

Stichting Administratiekantoor Elmira,

Apax Europe VI-A, L.P.,
Apax Europe VI-1, L.P.,
Apax US VII, L.P.
and
each of the Other Signatories Hereto

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STOCKHOLDERS AGREEMENT

THIS STOCKHOLDERS AGREEMENT, dated as of May 6, 2010 (this "Agreement"), by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "Company"), Tommy Hilfiger Holding S.a.r.l., a Luxembourg limited liability company ("LuxCo"), Stichting Administrekantoor Elmira, a foundation under Dutch law (*stichting*) (the "Foundation"), Apax Europe VI-A, L.P., a limited partnership under English law ("Apax Europe VI-A, L.P."), Apax Europe VI-1, L.P., a limited partnership under English law ("Apax Europe VI-1, L.P."), Apax US VII, L.P., an exempted limited partnership under Cayman Islands law ("Apax US VII, L.P.") and each of the other signatories hereto (together with Apax, LuxCo and the Foundation referred to hereinafter collectively as the "Investors" and individually as an "< U>Investor").

RECITALS:

A. The Company, LuxCo, the Foundation and certain related parties have entered into that certain Purchase Agreement, dated as of March 15, 2010 (the "Purchase Agreement"), pursuant to which the Company and one of its Affiliates are purchasing all of the outstanding capital stock of Tommy Hilfiger B.V. and Tommy Hilfiger U.S.A., Inc.

B. As of immediately prior to the Closing, LuxCo and the Foundation own 100% of the outstanding equity capital stock of Tommy Hilfiger B.V.

C. In connection with the closing of the transactions pursuant to the Purchase Agreement, LuxCo and the Foundation received as partial consideration for their aggregate 100% equity interest in Tommy Hilfiger B.V. shares of Company Common Stock (the shares received by LuxCo (some of which are to be held in escrow for a period following Closing pursuant to the Purchase Agreement, the " Luxco Shares ") and the shares received by the Foundation (some of which are to be held in escrow for a period following Closing pursuant to the Purchase Agreement , the " Foundation Shares ").

D. Following the closing of the transactions under the Purchase Agreement, (i) LuxCo may distribute some or all of the Luxco Shares to its Beneficial Owners and (ii) the Foundation shall promptly distribute the Foundation Shares to its Beneficial Owners (less, in each case, the number of Foundation Shares as to receipt of which a Beneficial Owner has agreed shall be deferred pursuant to a Management Term Sheet or other binding agreement, which shares shall be deposited in a management escrow account and treated pursuant to such escrow agreement and shares otherwise subject to escrow pursuant to the Purchase Agreement).

E. It is a condition to closing the transactions contemplated by the Purchase Agreement that the Company and LuxCo enter into this Agreement to provide for certain agreements and obligations of the parties following the closing of the transactions contemplated by the Purchase Agreement (the "Closing").

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements contained herein and for other good and valuable consideration, the

receipt and adequacy of which are hereby acknowledged, intending to be legally bound, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

SECTION 1.1. Definitions. The following terms shall have the meanings ascribed to them below:

"Action" means a judgment, suit, litigation, arbitration, claim, action, complaint, injunction, order, dispute, inquiry, arbitration or governmental proceeding.

"Additional Securities" means Company Common Stock, preferred stock or convertible debt of the Company, convertible into or exchangeable for shares of Company Common Stock or any option or warrant for such securities .

"Affiliate" of a Person has the meaning set forth in Rule 12b-2 under the Exchange Act. Notwithstanding anything to the contrary set forth in this Agreement, no limited partner or similar participant of an Investor shall be deemed an Affiliate of such Investor.

"Agreement" means this Agreement, as amended, modified or supplemented from time to time, in accordance with the terms hereof, together with any exhibits, schedules or other attachments hereto.

"Ancillary Agreements" has the meaning set forth in the Purchase Agreement.

"Apax" means Apax Europe VI-A, L.P., Apax Europe VI-1, L.P. and Apax US VII, L.P. and their Affiliates that from time to time hold shares of Company Common Stock received pursuant to the Purchase Agreement or the Ancillary Agreement or in respect of any such shares. References to Apax include all of its private equity funds, including co-invest and side-by-side entities, that hold Company Common Stock from time to time as Permitted Transferee under this Agreement, so long as such entities continue to be advised by Apax Partners L.P. and Apax Partners LLP.

"Apax Europe VI-A, L.P." has the meaning set forth in preamble to this Agreement.

"Apax Europe VI-1., L.P." has the meaning set forth in preamble to this Agreement.

"Apax US VII, L.P." has the meaning set forth in preamble to this Agreement.

"Apax VCOC Partnerships" means Apax Europe VI-A, L.P. and Apax US VII, L.P.

"Beneficially Own" with respect to any securities means having "beneficial ownership" of such securities (as determined pursuant to Rule 13d-3 under the Exchange Act without limitation by the 60-day provision in paragraph (d)(1)(i) thereof); provided, that any shares of Company Common Stock held in escrow under the Purchase Agreement shall be deemed to be Beneficially Owned by the Investors in proportion to their beneficial percentage interest in the escrow account until such time as any such shares are released from escrow to the Company in

accordance with the Purchase Agreement (an "Escrow Release"). The terms "Beneficial Ownership" and "Beneficial Owner" have correlative meanings.

"Board" or "Board of Directors" means the Board of Directors of the Company.

"Business Day" means a day, other than a Saturday or Sunday, on which commercial banks in New York City are open for the general transaction of business.

"Capital Stock" means, with respect to any Person at any time, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of capital stock, partnership interests (whether general or limited) or equivalent ownership interests in or issued by such Person.

"Change of Control" means the existence or occurrence of any of the following: (a) the sale, conveyance or disposition of all or substantially all of the assets of the Company; (b) the consolidation, merger or other business combination of the Company with or into any other entity, immediately following which the then current stockholders of the Company fail to own, directly or indirectly, at least Majority Voting Power; (c) a transaction or series of transactions in which any person or "group" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) acquires Majority Voting Power (other than (i) a reincorporation or similar corporate transaction in which the Company's stockholders own, immediately thereafter, interests in the new parent company in essentially the same percentage as they owned in the Company immediately prior to such transaction, or (ii) a transaction described in clause (b) (such as a triangular merger) in which the threshold in clause (b) is not passed) or (d) the replacement of a majority of the Board of Directors with individuals who were not nominated or elected by at least a majority of the directors at the time of such replacement.

"Closing" has the meaning ascribed thereto in the recitals of this Agreement.

"Closing Date" means the date on which the Closing occurs.

"Closing Date Shares" means the shares of Company Common Stock issued to the Investors as of the Closing under the Purchase Agreement (net of any shares of Company Common Stock returned to the Company pursuant to an Escrow Release), and any securities issued in respect thereof, or in substitution therefor, in connection with any stock split, dividend, spin-off or combination, or any reclassification, recapitalization, merger consolidation, exchange or other similar reorganization or business combination.

"Common Equivalent Securities" means Company Common Stock or securities convertible into or exercisable or exchangeable for such Company Common Stock.

"Company" has the meaning set forth in the preamble of this Agreement.

"Company Common Stock" means the common stock, par value $1 per share, of the Company.

"Company Indemnitees" has the meaning set forth in Section 5.6(b).

"Company Supported Distribution" means a public underwritten offering by the Company that is designated as a "Company Supported Distribution" in the applicable Shelf Take-Down Notice or Demand Notice.

"Covered Parties" has the meaning set forth in Section 6.1.

" Covered Transaction " means the sale for cash of shares of any Additional Securities, where the primary purpose of such offering is to raise equity capital for the Company. For the avoidance of doubt, the term "Covered Transaction" will not apply to the issuance of (a) Options or Company Common Stock, or warrants therefor, to consultants, advisors, directors, officers or employees of the Company, or any joint venture partner; (b) Company Common Stock issued as consideration in a merger or acquisition transaction, other extraordinary business combination or joint venture approved by the Board of Directors; (c) Options, Company Common stock, or warrants therefor, issued to a strategic (as opposed to financial) investor with an actual or prospective operational or business (as opposed to financial) relationship with the Company, whether for cash or assets, where a substantial purpose of the issuance, as determined in good faith by the Board of Directors (excluding the Investor Designee) is to develop or maintain an operational or business (as opposed to financial) relationship with such strategic investor and so long as such issuance does not exceed 5% of the then outstanding shares of Company Common Stock or (d) Options or warrants to ac quire shares of Company Common Stock issued to commercial lending institutions of debt financing to the Company. For the avoidance of doubt, where an issuance of Additional Shares is not a Covered Transaction, the exercise of such security and issuance of the related shares, shall also not be a Covered Transaction.

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

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

"Demand Registration Statement" has the meaning set forth in Section 5.2(a).

"Director" means a director of the Company.

"Disposition Restriction Period" has the meaning set forth in Section 3.3.

"Election Meetings" has the meaning set forth in Section 2.1(b).

"Escrow Release" has the meaning set forth in the definition of Beneficially Own.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Existing Shelf Registration Statement" has the meaning set forth in Section 5.1(a).

"Governance Rights Termination Event" shall be deemed to have occurred upon the earliest to occur of (a) Apax ceasing to Beneficially Own the Governance Rights Termination Threshold, (b) Apax breaching in any material respect any of the provisions of Article III of this Agreement, which breach is incapable of cure, or is not cured, within 30 days of notice thereof or (c) the Company's good faith determination based upon advice of outside counsel, that Apax's right under Section 2.1 initially to appoint the Investor Designee or his Replacement as a

Director and thereafter, in connection with each Election Meeting, to include the Investor Designee or his Replacement in its slate of nominees for election as a Director would likely result in a violation of Section 8 of the Clayton Act, 15 U.S.C. §19, or any applicable material foreign antitrust Laws.

"Governmental Entity" means any United States or foreign (a) federal, state, local, municipal or other government, (b) governmental or quasi-governmental entity of any nature (including, without limitation, any governmental agency, branch, department, official or entity and any court or other tribunal) or (c) body exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature, including, without limitation, any arbitral tribunal.

"Governance Rights Termination Threshold" means a number of shares equal to the greater of (a) 50% of the Closing Date Shares Beneficially Owned by Apax as of the date of this Agreement and (b) 4% of the then issued and outstanding shares of Company Common Stock.

"Indemnified Party" has the meaning set forth in Section 5.6(c).

"Indemnifying Party" has the meaning set forth in Section 5.6(c).

"Investor" and "Investors" have the meaning set forth in the preamble of this Agreement. References to Investors also include transferees to which an Investor transfers shares of Company Common Stock and related rights under this Agreement in accordance with, and subject to the terms of, Section 3.3.

"Investor Designee" means either Michael Phillips or Christian Stahl, as designated by Apax Europe VI-A, L.P. prior to the Closing Date, or any Replacement thereof, as the case may be, subject to the terms of Section 2.1 governing replacement designees.

"Investor Indemnitees" has the meaning set forth in Section 5.6(a).

"Investors' Representative" means Apax Europe VI-A, L.P. or any other Investor designated by the Investors holding a majority of the Company Common Stock then held by the Investors in the aggregate.

"Law" means any applicable federal, state, local or foreign law, statute, ordinance, rule, guideline, regulation, order, writ, decree, agency requirement, license or permit of any Governmental Entity.

"Losses" has the meaning set forth in Section 5.6(a).

"LuxCo" has the meaning set forth in preamble to this Agreement.

"Majority Voting Power" of the resulting corporation or of the Company shall mean a majority of the ordinary voting power in the election of directors of all the outstanding voting securities of the resulting corporation or of the Company, respectively.

"Management Term Sheets" has the meaning set forth in the Purchase Agreement.

"Notice and Questionnaire" means a written notice executed by a respective Investor and delivered to the Company containing the information required by the Securities Act and the rules and regulations promulgated thereunder to be included in any Shelf Registration Statement regarding the applicable Investor seeking to sell Company Common Stock pursuant thereto.

"NYSE" means the New York Stock Exchange.

"Options" means options to subscribe for, purchase or otherwise directly acquire Company Common Stock.

"Other Securities" means the Company Common Stock or other securities of the Company which the Company is registering pursuant to a Registration Statement covered by Article V.

"Permitted Acquisition" has the meaning set forth in Section 3.1.

"Person" shall mean any natural person, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof.

"Piggyback Notice" has the meaning set forth in Section 5.3(a).

"Piggyback Registration" has the meaning set forth in Section 5.3(a).

"Pre-emptive Acceptance Notice" has the meaning set forth in Section 4.2(b).

"Pre-emptive Acceptance Period has the meaning set forth in Section 4.2(b).

"Pre-emptive Notice" has the meaning set forth in Section 4.2(a).

" Pre-emptive Notice Time " has the meaning set forth in Section 4.2(a).

"Pre-emptive Right" has the meaning set forth in Section 4.2(a).

"Pro Rata" means, with respect to any offer of Additional Securities, the percentage of outstanding Company Common Stock held by an Investor.

"Prospectus" means the prospectus included in any Registration Statement, as amended or supplemented by any prospectus supplement and by all other amendments thereto, including post-effective amendments, and all material incorporated by reference into such prospectus.

"Purchase Agreement" has the meaning ascribed thereto in the recitals of this Agreement.

"Qualified Investor" has the meaning set forth in Section 4.2(g).

"Registration Expenses" has the meaning set forth in Section 5.4.

"Registrable Securities" means (i) the shares of Company Common Stock acquired by the Investors pursuant to the Purchase Agreement, as well as any shares of Company Common Stock

or other securities issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange generally for, or in replacement generally of, such Company Common Stock or other Registrable Securities and any securities issued in exchange for such Company Common Stock or other Registrable Securities in any merger, reorganization, consolidation, share exchange, recapitalization, restructuring or other comparable transaction of the Company and (ii) shares of Company Common Stock acquired by the Investors pursuant to Section 4.2. As to any particular Registrable Securities, once issued such securities shall cease to be Registrable Securities when (a) a Registration Statement with respect to the sale by the Investor holding such securities has been declared effective by the SEC and such securities have been disposed of pursuant to such effecti ve Registration Statement, (b) such securities have been otherwise transferred and the Company has delivered a new certificate or other evidence of ownership for such securities not bearing a restrictive legend and not subject to any stop order, and such securities may be publicly resold by the Person receiving such certificate without complying with the registration requirements of the Securities Act, (c) such securities shall have ceased to be outstanding or (d) such securities have been or could be sold under circumstances in which all applicable conditions of Rule 144 (or any similar provisions then in force) under the Securities Act are met; provided, that any shares of Company Common Stock that may be requested to be sold in a Company Supported Distribution in accordance with, and subject to the limitations provided in this Agreement, shall be considered Registrable Securities without regard to this clause (d).

"Registration Statement" means any registration statement of the Company under the Securities Act which permits the public offering of any of the Registrable Securities pursuant to the provisions of this Agreement, including the Prospectus, amendments and supplements to such registration statement, including post-effective amendments, all exhibits and all material incorporated by reference or deemed to be incorporated by reference in such registration statement.

"Relevant Restriction Period" means, with respect to any Investor, (a) with respect to 100% of the Closing Date Shares Beneficially Owned by such Investor, the period commencing on the date of this Agreement and ending on the day that is 9 months from the date of this Agreement and (b) with respect to 50% of the Closing Date Shares Beneficially Owned by such Investor, the period commencing on the date of this Agreement and ending on the day that is 15 months from the date of this Agreement.

"Replacement" has the meaning set forth in Section 2.1(e).

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Selling Investor" means an Investor who is selling Registrable Securities pursuant to a Registration Statement under the Securities Act.

"Shelf Date" has the meaning set forth in Section 5.1(a).

"Shelf Registration Statement" has the meaning set forth in Section 5.1(a).

"Shelf Take-Down Notice" has the meaning set forth in Section 5.1(b).

"Short Interests" means any agreement, arrangement, understanding or relationship, including any repurchase or similar so-called "stock borrowing" agreement or arrangement, engaged in, directly or indirectly, by any of the Investors or their Affiliates, the purpose or effect of which is to short shares of Company Common Stock.

"Standstill Period" means the period commencing on the Closing Date and ending on the earlier to occur of (i) the termination of this Agreement pursuant to its terms; (ii) a Change of Control involving the Company or (iii) 3 months after (a) Apax irrevocably waives and terminates all of its rights under Section 2.1, (b) a Governance Right Termination Event, or (c) the resignation, removal or death of the Investor Designee, if no Replacement shall have filled such vacancy and Apax shall have during such period proposed at least two different Replacements who it believes in good faith are qualified designees and both of whom shall have been rejected by the Company.

"Subsidiary" means, as to any Person, any other Person more than 50% of the shares of the voting stock or other voting interests of which are owned or controlled, or the ability to select or elect more than 50% of the directors or similar managers is held, directly or indirectly, by such first Person or one or more of its Subsidiaries or by such first Person and one or more of its Subsidiaries.

"Suspension Period" has the meaning set forth in Section 5.5(a)(ii).

"Voting Securities" means the shares of Company Common Stock and any other securities of the Company entitled to vote generally for the election of directors or convertible into such securities.

"13D Group" means any group of Persons who, with respect to those acquiring, holding, voting or disposing of Company Common Stock would, assuming ownership of the requisite percentage thereof, be required under Section 13(d) of the Exchange Act to file a statement on Schedule 13D with the SEC as a "person" within the meaning of Section 13(d)(3) of the Exchange Act.

SECTION 1.2. General Interpretive Principles. Whenever used in this Agreement, except as otherwise expressly provided or unless the context otherwise requires, any noun or pronoun shall be deemed to include the plural as well as the singular and to cover all genders. The name assigned this Agreement and the Section captions used herein are for convenience of reference only and shall not be construed to affect the meaning, construction or effect hereof. Unless otherwise specified, the terms "hereof," "herein" and similar terms refer to this Agreement as a whole (including the exhibits hereto), and references herein to Sections refer to Sections of this Agreement.

ARTICLE II
GOVERNANCE

SECTION 2.1. Election and Appointment. The Company agrees, until a Governance Rights Termination Event:

(a) to appoint the Investor Designee as a Director on the Closing Date;

(b) to include the Investor Designee in its slate of nominees for election as a Director at each annual or special meeting of stockholders of the Company at which Directors are to be elected and at which the seat held by the Investor Designee is subject to election (such annual or special meetings, the "Election Meetings");

(c) to use commercially reasonable efforts to cause the election of the Investor Designee to the Board of Directors at each of the Election Meetings (including recommending that the Company's stockholders vote in favor of the election of the Investor Designee and otherwise supporting the Investor Designee for election in a manner no less rigorous and favorable than the manner in which the Company supports its other nominees);

(d) if the Investor Designee is not elected to the Board of Directors at any Annual Meeting, or becomes unable to serve for any reason or is removed during the course of his term as Director, the Company will promptly appoint the Replacement of such Investor Designee to the Board of Directors to serve until the following Election Meeting;

(e) if the Investor Designee (i) is unable to serve as a nominee for election as Director or to serve as a Director, for any reason, or (ii) is removed or fails to be elected at an Election Meeting, Apax Europe VI-A, L.P. shall have the right to submit the name of a replacement (the "Replacement") to the Company for its approval (such determination to be made in the sole discretion of the Company acting in good faith and consistent with the Company's nominating and governance practices in effect from time to time) and who shall serve as the nominee for election as Director or serve as Director in accordance with the terms of this Section 2.1(e). If the proposed Replacement is not approved by the Company, Apax Europe VI-A, L.P. shall have the right to submit another proposed Replacement to the Company for its approval on the same basis as set forth in the immediately preceding sentence. Apax Europe VI-A, L. P. shall have the right to continue submitting the name of a proposed Replacement to the Company for its approval until the Company approves that such Replacement may serve as a nominee for election as Director or to serve as a Director whereupon such person is appointed as the Replacement. An Investor Designee shall, at the time of nomination and at all times thereafter until such individual's service on the Board of Directors ceases, (i) meet any applicable requirements or qualifications under applicable Law, stock exchange rules or applicable corporate governance policies or guidelines (consistently applied) to be a member of the Board of Directors and (ii) prior to being nominated, agree to comply with the requirements of Section 2.4 hereof. The Company acknowledges that, as of the date of this Agreement, to the company's knowledge, each of Michael Phillips and Christian Stahl meet the standards set forth above.

SECTION 2.2. Expenses and Fees; Indemnification. The Company agrees to reimburse the Investor Designee elected to the Board for his reasonable expenses, consistent with the Company's policy for such reimbursement in effect from time to time, incurred attending meetings of the Board and/or any committee of the Board. No Investor Designee shall be entitled to any retainer, equity compensation or other fees or compensation paid to the non-employee Directors of the Company for their services as a Director, including any service on any committee of the Board. The Company shall indemnify, or provide for the indemnification of,

the Investor Designee and provide the Investor Designee with director and officer insurance to the same extent it indemnifies and provides insurance for the non-executive members of the Board of Directors.

SECTION 2.3. Committees. Until a Governance Rights Termination Event, the Investor Designee shall be appointed to the Nominating Committee of the Board of Directors or any other committee performing similar functions of the foregoing committee (provided that such Investor Designee meets the requirements under applicable Law and stock exchange rules for service on such committee).

SECTION 2.4. Resignation. Upon the occurrence of a Governance Rights Termination Event, the Investors shall cause the Investor Designee to promptly tender his resignation from the Board and any committee of the Board on which he then sits.

ARTICLE III
STOCKHOLDER RESTRICTIONS

SECTION 3.1. Standstill. During the Standstill Period and unless otherwise approved by the Board of Directors (other than the Investor Designee), Apax will not, and will cause each of its controlled Affiliates not to, directly or indirectly:

(a) Other than goods and services in the ordinary course, acquire or agree, offer, seek or propose to acquire (or request permission to do so), ownership (including, but not limited to, Beneficial Ownership) of any of the assets or businesses of the Company or any Subsidiary thereof or any securities issued by the Company or any Subsidiary thereof, or rights or options to acquire such ownership (including from a third party);

(b) Other than as permitted by clause (a) above, acquire, offer or propose to acquire or agree to acquire (or request permission to do so), whether by purchase, tender or exchange offer, by joining a partnership, limited partnership, syndicate or other 13D Group or otherwise, ownership (including, but not limited to, Beneficial Ownership) of any of the assets or businesses of the Company or any Subsidiary thereof, or any securities issued by the Company or any Subsidiary thereof, or any rights or options to acquire such ownership (whether currently, upon lapse of time, following the satisfaction of any conditions, upon the occurrence of any event or any combination of the foregoing) other than (i) the delivery of shares of Company Common Stock pursuant to the Purchase Agreement, (ii) the acquisition of shares of Company Common Stock or other securities of the Company as a result of any stock splits, stock dividends or other distributions or recapitalizations or offerings made available by the Company to holders of Company Common Stock, including rights offerings, (iii) the acquisition of Company Common stock pursuant to Section 4.2, (iv) any acquisition of shares of Company Common Stock approved by the Board (other than the Investor Designee) or (v) any acquisition of shares of Company Common Stock pursuant to a Permitted Transfer (each event listed in clauses (i) through (v), a "Permitted Acquisition");

(c) engage in any "solicitation" (within the meaning of the Exchange Act) of proxies or consents relating to the election of directors with respect to the Company, or become a

"participant" in any "election contest" (both within the meaning of the Exchange Act) seeking to elect directors not nominated by the Board of Directors, other than the Investor Designee;

(d) in any manner, agree, attempt, seek or propose to deposit any securities of the Company or any rights to acquire (whether currently, upon lapse of time, following the satisfaction of any conditions, upon the occurrence of any event or any combination of the foregoing) any Voting Securities of the Company in any voting trust or similar arrangement (other than any such voting trust or similar arrangement among the Investors);

(e) publicly announce any intention, plan or arrangement inconsistent with the foregoing;

(f) form or join in the formation of a 13D Group with respect to any securities of the Company or any Subsidiary thereof, other than any such "group" consisting exclusively of Apax, the other Investors and any Affiliates of the Investors;

(g) finance (or arrange financing for) any Person in connection with any of the foregoing; or

(h) seek or request permission to do any of the foregoing, request to amend or waive any provision of this Section 3.1 (including, without limitation, this clause (h)), or make or seek permission to make any public announcement with respect to any of the foregoing.

SECTION 3.2. Permitted Actions.

(a) The restrictions set forth in Sections 3.1(a)-(h) shall not apply if any of the following occurs (provided that if any event described in this Section 3.2 occurs and, during the following 12 months, none of the transactions described below has been consummated, then the restrictions set forth in Sections 3.1 shall thereafter resume and continue to apply in accordance with their terms):

(i) in the event that the Company enters into a definitive agreement for a merger, consolidation or other business combination transaction as a result of which the stockholders of the Company would own (including, but not limited to, Beneficial Ownership) securities of the resulting corporation having less than Majority Voting Power;

(ii) in the event that a tender offer or exchange offer for at least 50.1% of the Capital Stock of the Company is commenced by a third person (and not involving any breach of Section 3.1) which tender offer or exchange offer, if consummated, would result in a Change of Control, and the Board of Directors recommends that the stockholders of the Company tender their shares in response to such offer or does not recommend against the tender offer or exchange offer within ten (10) Business Days after the commencement thereof or such longer period as shall then be permitted under U.S. federal securities laws; or

(iii) in the event that the Company makes any public announcement indicating that it is actively seeking to sell itself and, in such event, such announcement is made with the approval of its Board of Directors.

(b) Nothing in Section 3.1and this Section 3.2 shall (x) prohibit any individual who is serving as a Director, solely in his or her capacity as a Director, from (A) exercising his or her fiduciary duties, (B) taking any action or making any statement at any meeting of the Board of Directors or of any committee thereof or (C) making any statement or disclosure required under federal securities Laws or other applicable Law or (y) restrict any disclosure or statements required to be made by any Investor under applicable Law.

(c) Affiliates of Apax not engaged in the private equity business ("Non-Investor Affiliates") shall not be considered "Affiliates" for purposes of Sections 3.1 so long as (i) any of the actions taken by them as to which Section 3.1 might otherwise apply are not taken at the direction of any officer, partner or general partner of Apax or any of its Affiliates (other than Non-Investor Affiliates) or any officer or general partner of Apax and (ii) if confidential information regarding the Company is not made available to such Non-Investor Affiliates by Apax directly or indirectly.

(d) Sections 3.1 and 3.3 shall not apply to any transaction pursuant to the Ancillary Agreements or the Purchase Agreement.

SECTION 3.3. Dispositions. Each of the Investors agrees that during the Relevant Restriction Period, without the prior written consent of the Company, such Investor shall not, and shall not authorize, permit or direct its Subsidiaries or Affiliates to, directly or indirectly, (y) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of its Closing Date Shares or (z) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of its ownership of any Closing Date Shares, whether any such transaction described in clauses (y) or (z) above is to be settled by delivery of any shares of Company Common Stock, in cash or otherwise. Notwithstanding the foregoing, the following trans fers of Common Equivalent Securities shall be permitted at any time (each a "Permitted Transfer"):

(i) by any Investor or stockholder of LuxCo to Apax or LuxCo;

(ii) by the Foundation to any holder of depositary receipts in the Foundation based on the pro rata ownership of such stockholder in the Foundation (or in accordance with the elections made by such stockholders pursuant to the Management Term Sheets) or by LuxCo to any of its stockholders, provided, that for any such stockholder who is not a Party, as a condition to transfer to any such stockholder, such stockholder agrees to become subject to the restrictions in this Section 3.3;

(iii) by any Investor, pro rata to its direct or indirect partners, investors or participants pursuant to the terms of such limited partnership agreement, operating agreement or similar agreement; provided, that as a condition to transfer to any such transferee, such transferee agrees to become subject to the restrictions in this Section 3.3;

(iv) by any Investor to any of its Affiliates provided that such Affiliate agrees with the Company to be bound by the terms of this Agreement;

(v) by any Investor who is a natural person, (A) to any family member, trust or other vehicle for bona fide estate planning purposes or (B) upon such natural person's death, to the persons who would receive such interests under the natural person's will or other testamentary instrument or pursuant to the laws of descent, subject, in each case to such Person or entity agreeing to be bound by the terms of this Agreement;

(vi) by any Investor to a third party pursuant to a tender offer, exchange offer, merger, consolidation or other transaction (A) which is recommended to the stockholders of the Company by the Board; or (B) in the case of a merger or other business combination transaction, which has been approved by the stockholders of the Company; or

(vii) any transaction pursuant to the Purchase Agreement or any escrow agreement relating thereto.

The restrictions set forth in this Section 3.3 shall terminate upon a Change of Control.

ARTICLE IV

CERTAIN INVESTOR RIGHTS

SECTION 4.1. Information Rights.

(a) The Apax VCOC Partnerships shall have the right to receive upon request (i) annually consolidated statements of income and cash flows of the Company and its Subsidiaries for each such fiscal year, and consolidated balance sheets of the Company and its Subsidiaries as of the end of each such fiscal year, all prepared in accordance with applicable generally accepted accounting principles; (ii) quarterly consolidated statements of income and cash flows of the Company and its Subsidiaries for each calendar quarter, and consolidated balance sheets of the Company and its Subsidiaries as of the end of each such calendar quarter, all prepared in accordance with applicable generally accepted accounting principles; (iii) to the extent the Company is required by law or pursuant to the terms of any outstanding indebtedness of the Company to prepare such reports, any annual reports, quarterly reports and other periodic reports pursuant to Section 13 or 15(d) of the Exchange Act actually prepared by the Company as soon as available; and (iv) any such financial or other information of the Company and its Subsidiaries as the Apax VCOC Partnerships may reasonably request.

(b) Any authorized representative of each Apax VCOC Partnership shall be entitled, upon reasonable notice and during normal business hours, and at such other times as such Apax VCOC Partnership may reasonably request, to (i) visit and inspect any of the properties of the Company, (ii) examine any, books and records and make copies thereof or extracts therefrom of the Company, and (iii) consult with and advise the management of the Company and its subsidiaries on all matters relating to the operation of the Company and its subsidiaries.

(c) Any information obtained by the Apax VCOC Partnerships or its representatives pursuant to the exercise of their rights described in this Section 4.1 which is not generally available to the public shall be kept strictly confidential by the Apax VCOC Partnerships and their representatives.

(d) The rights described in this Section 4.1 shall be deemed to be separate contractual rights held independently by each of the Apax VCOC Partnerships.

(e) Notwithstanding the above, (i) the Company shall not be obligated pursuant to this Section 4.1 to supply to the Apax VCOC Partnerships any books, records or other materials, or to otherwise disclose any information, which could compromise any legal privilege to which such information is subject, and (ii) this Section 4.1 shall not apply to any of the Apax VCOC Partnerships during the period in which it has a contractual right to appoint a member of the Board hereunder or otherwise.

SECTION 4.2. Pre-emptive Rights .

(a) In the event that the Company proposes to issue any Additional Securities in a Covered Transaction, the Company will offer in writing (the " Pre-emptive Notice ") to each Qualified Investor, at least 10 Business Days prior to the consummation of such transaction (" Pre-emptive Notice Time "), the right to purchase its Pro Rata share of such Additional Securities on the same terms as such Additional Securities are to be issued (each such right a " Pre-emptive Right ").

(b) The provisions of Section 4.2 shall terminate upon a Change of Control.

(c) The Pre-emptive Notice shall specify (i) the number of Additional Securities to be issued or sold, (ii) the Company's good faith estimate of the total amount of capital to be raised by the Company pursuant to the issuance or Sale of Additional Securities, (ii) the price and other material terms of the proposed issuance or sale, (iii) the number of such Additional Securities which such Qualified Investor is entitled to purchase (determined as provided in Section 4.2(a)), and (iv) the period during which such Qualified Investor may elect to purchase such Additional Securities, which period shall extend for at least 10 days following the receipt by such Investor of the Pre-emptive Notice (the " Pre-emptive Acceptance Period "). Each Qualified Investor who desires to purchase Additional Securities shall notify the Company within the Preemptive Acceptance Period of the number of Additional Securities such Qualified Investor wishes to purchase , which number shall not exceed its then-applicable Pro Rata share (the " Pre-emptive Acceptance Notice ") .. A Preemptive Acceptance Notice shall be binding and irrevocable, except as set forth in Section 4.2(e). The purchase price for the Additional Securities shall be paid in cash contemporaneously with the closing of the transaction which gave rise to the Pre-emptive Notice and t he terms of such purchase shall otherwise be on terms and conditions not less favorable to the Company than those set forth in the Pre-emptive Notice ..

(d) The rights contained in this Section 4.2 are personal to the Qualified Investors who have such rights as of the Closing and may not be transferred or assigned or delegated to another Person.

(e) In the event of urgent need as determined by the Board of Directors in good faith, the Company may agree to and consummate a Covered Transaction without complying with this Section 4.2, so long as promptly thereafter it provides the Pre-Emptive Notice as required herein and permits Qualified Investors to purchase up to its Pro Rata share of Additional Shares it would have been entitled to purchase pursuant to this Section (after taking into account the consummation of the Covered Transaction).

(f) In the event the subject transaction of a Pre-Emptive Notice is terminated, no purchase of securities shall occur pursuant to this Section 4.2, and the applicable notices shall be cancelled.

(g) "Qualified Investor" shall mean, without duplication, determined as of the date of the event giving rise to the Pre-emptive Notice, any Investor, including for such purposes Apax and LuxCo collectively, (i) who own(s) at least 4% of the Company Common Stock and (ii) whose Beneficial Ownership of shares of Company Common Stock has not been reduced to less than 50% of the Closing Date Shares Beneficially Owned by such Investor(s) as of the Closing Date.

ARTICLE V
REGISTRATION RIGHTS

SECTION 5.1. Shelf Registration.

(a) No later than 90 days prior to the expiration of the Disposition Restriction Period (the "Shelf Date"), the Company shall prepare and file with the SEC a Registration Statement providing for registration and resale, on a continuous or delayed basis pursuant to Rule 415 under the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC, of all of the Registrable Securities, provided that such obligation shall be satisfied if the Company shall have in effect an automatically effective shelf registration statement on Form S-3ASR (an "Existing Shelf Registration Statement") as of the Shelf Date (any such registration statement, a "Shelf Registration Statement"); provided, further, that, for the avoidance of doubt, the existence of an Existing Shelf Registration Statement shall not have any effect on the restrictions set forth in Section 3.3. The Shelf Registration Statement shall be on Form S-3 (or any comparable or successor form or forms then in effect) under the Securities Act (or to the extent the Company is not eligible to use Form S-3 or any comparable or successor form or forms, on Form S-1 or any comparable or successor form or forms); provided, however, that if the Company is a well-known seasoned issuer (as defined in Rule 405 under the Securities Act) at the time of filing of the Shelf Registration Statement with the SEC, such Shelf Registration Statement shall be designated by the Company as an automatic shelf registration statement (as defined in Rule 405 under the Securities Act). In the event that the Shelf Registration Statement is not an automatic shelf registration statement, the Company shall use its commercially reasonable efforts to cause the Shelf Registration Statement to be declared effective under the Securities Act by the SEC as of the expir ation of the Disposition Restriction Period. The Company shall use its commercially reasonable efforts to keep the Shelf Registration Statement continuously effective under the Securities Act until the earlier of (i) the date when all of the Registrable Securities covered by such Shelf Registration Statement have been sold and (ii) the date on which the Registrable

Securities covered by the Shelf Registration Statement are eligible to be sold or transferred without being subject to any holding period or volume limitations pursuant to Rule 144 under the Securities Act.

(b) Each Investor agrees that if such Investor wishes to sell Registrable Securities pursuant to a Shelf Registration Statement and related Prospectus, it will do so in accordance with this Section 5.1(b) and Section 5.5. Each Investor wishing to sell Registrable Securities pursuant to a Shelf Registration Statement and related Prospectus, whether in an underwritten offering or otherwise, agrees to notify the Company of such intent (a "Shelf Take-Down Notice") and shall deliver a Notice and Questionnaire to the Company at least ten (10) Business Days prior to any intended distribution of Registrable Securities under the Shelf Registration Statement, it being agreed that if any Investor intends to distribute any Registrable Securities by means of an underwritten offering it shall promptly so advise the Company and the Company shall reasonably cooperate with such Investor to facilitate such distribution, inc luding but not limited to the actions required pursuant to Section 5.5(a)(viii) and, if a Company Supported Distribution is requested, Section 5.5(a)(xiv). From and after the date the Shelf Registration Statement is declared effective, the Company shall, as promptly as practicable after the date a Notice and Questionnaire is delivered to it in connection with a Shelf Take-Down Notice:

(i) if required by applicable Law, file with the SEC a post-effective amendment to the Shelf Registration Statement or prepare and, if required by applicable Law, file a supplement to the related Prospectus or a supplement or amendment to any document incorporated therein by reference or file any other required document so that the Investor delivering such Notice and Questionnaire is named as a selling security holder in the Shelf Registration Statement and the related Prospectus in such a manner as to permit such Investor to deliver such Prospectus to purchasers of Registrable Securities in accordance with applicable Law and, if the Company shall file a post-effective amendment to the Shelf Registration Statement, use commercially reasonable efforts to cause such post-effective amendment to be declared effective under the Securities Act as promptly as practicable;

(ii) provide such Investor copies of any documents filed pursuant to Section 5.1(b)(i); and

(iii) notify such Investor as promptly as practicable after the effectiveness under the Securities Act of any post-effective amendment filed pursuant to Section 5.1(b)(i);

provided, however, that if such Shelf Take-Down Notice or Notice and Questionnaire is delivered during a Suspension Period, the Company shall so inform the Investor delivering such Shelf Take-Down Notice or Notice and Questionnaire and shall take the actions set forth in clauses (i), (ii) and (iii) above upon expiration of the Suspension Period in accordance with Section 5.5; provided, further, that the Investors shall not be entitled to deliver to the Company more than one (1) Shelf Take-Down Notices in any 12 month period and each Shelf Take-Down Notice may only be made if the sale of the Registrable Securities covered thereby is reasonably expected to result in aggregate gross cash proceeds in excess of $100,000,000 (without regard to

any underwriting discount or commission) and, provided, further that the Investors shall not be entitled to request more than two (2) Company Supported Distributions in the aggregate. Notwithstanding anything contained herein to the contrary, the Company shall be under no obligation to name any Investor that has not delivered a Notice and Questionnaire to the Company as a selling security holder in any Shelf Registration Statement or related Prospectus.

(c) If any of the Registrable Securities to be sold pursuant to a Shelf Registration Statement are to be sold in a firm commitment underwritten offering which underwritten offering was initially requested by the Investors pursuant to a Shelf Take-Down Notice, and the managing underwriter(s) of such underwritten offering advise the Investors in writing that it is their good faith opinion that the total number or dollar amount of Registrable Securities proposed to be sold in such offering, together with any Other Securities proposed to be included by holders thereof which are entitled to include securities in such Registration Statement, exceeds the total number or dollar amount of such securities that can be sold without having an adverse effect on the price, timing or distribution of the Registrable Securities to be so included, together with all such Other Securities, then there shall be included in such firm commitment underwritten offering the number or dollar amount of Registrable Securities and such Other Securities that in the opinion of such managing underwriter(s) can be sold without so adversely affecting such offering, and such number of Registrable Securities and Other Securities shall be allocated for inclusion as follows:

(i) first, the Registrable Securities for which inclusion in such underwritten offering was requested by the Investors, pro rata (if applicable), based on the number of Registrable Securities Beneficially Owned by each such Investor; and

(ii) second, among any holders of Other Securities, pro rata, based on the number of Other Securities Beneficially Owned by each such holder of Other Securities;

provided that, in the event that, due to a cutback in accordance with this clause (c), Investors are unable to sell at least 90% of the Registrable Securities initially proposed to be sold in a Company Supported Distribution, such offering shall not constitute a Company Supported Distribution and count against the limit thereof.

(d) The Investors' Representative shall have the right to notify the Company that it has determined that the Shelf Take-Down Notice be abandoned or withdrawn, in which event the Company shall promptly abandon or withdraw all activities undertaken in connection with such offering, and such withdrawn registration shall not count against the limit of Shelf Take-Down Notices or Company Supported Distributions, as applicable; provided, however, that the Company shall not be required to pay for expenses of any registration proceeding begun pursuant to Section 5.1(a) hereof, which has been subsequently withdrawn pursuant to this Section 5.1(d) at the request of the Investors' Representative, and shall be reimbursed by the Investors whose Registrable Securities were intended to be included in the registration pursuant to the Shelf Take-Down Notice for reasonable and documented out-of-pocket expenses (including legal f ees and printing expenses) so incurred, unless the withdrawal is based upon material adverse information concerning the Company that the Company has not publicly

disclosed in compliance with applicable securities Laws at least two (2) Business Days prior to the Company's receipt of such withdrawal request.

SECTION 5.2. Demand Registration.

(a) At any time following the expiration of the Disposition Restriction Period, if the Company is unable to file, cause to be effective or maintain the effectiveness of a Shelf Registration Statement as required under Section 5.1 hereof, the Investors' Representative shall have the right, by delivering a written notice to the Company (a "Demand Notice"), to require the Company to register under and in accordance with the provisions of the Securities Act the number of Registrable Securities Beneficially Owned by any Investors and requested by such Demand Notice to be so registered (a "Demand Registration"); provided, however, that the Company shall not be required to effect more than two (2) Demand Registrations for underwritten offerings pursuant to this Section 5.2(a); and, provided, further, that the Investors shall not be entitled to deliver to the Company more than one (1) Dema nd Registration in any twelve (12) month period and, in any event, a Demand Notice may only be made if the sale of the Registrable Securities requested to be registered by the Investors' Representative is reasonably expected to result in aggregate gross cash proceeds in excess of $100,000,000 (without regard to any underwriting discount or commission); and provided, further that the Investors shall not be entitled to request more than two (2) Company Supported Distributions in the aggregate (including underwritten Demand Registrations). A Demand Notice shall also specify the expected method or methods of disposition of the applicable Registrable Securities. Following receipt of a Demand Notice, the Company shall use commercially reasonable efforts to file, as promptly as reasonably practicable, but not later than 30 days after receipt by the Company of such Demand Notice, a Registration Statement relating to the offer and sale of the Registrable Securities requested to be included therein by the Investors thereof in accordance with the methods of distribution elected by such Investors (a "Demand Registration Statement") and shall use commercially reasonable efforts to cause such Registration Statement to be declared effective under the Securities Act as promptly as practicable after the filing thereof, it being agreed that if any Investor intends to distribute any Registrable Securities by means of an underwritten offering it shall promptly so advise the Company and the Company shall cooperate with such Investor to facilitate such distribution, including but not limited to the actions required pursuant to Section 5.5(a)(viii) and, if a Company Supported Distribution is requested, Section 5.5(a)(xiv).

(b) If any of the Registrable Securities registered pursuant to a Demand Registration are to be sold in a firm commitment underwritten offering, and the managing underwriter(s) of such underwritten offering advise the Investors in writing that it is their good faith opinion that the total number or dollar amount of Registrable Securities proposed to be sold in such offering, together with any Other Securities proposed to be included by holders thereof which are entitled to include securities in such Registration Statement, exceeds the total number or dollar amount of such securities that can be sold without having an adverse effect on the price, timing or distribution of the Registrable Securities to be so included together with all such Other Securities, then there shall be included in such firm commitment underwritten offering the number or dollar amount of Registrable Securities and such Other Securities that in the opinion of suc h managing underwriter(s) can be sold without so adversely affecting such offering, and

such number of Registrable Securities and Other Securities shall be allocated for inclusion as follows:

(i) first, the Registrable Securities for which inclusion in such underwritten offering was requested by the Investors, pro rata (if applicable), based on the number of Registrable Securities Beneficially Owned by each such Investor; and

(ii) second, among any holders of Other Securities, pro rata, based on the number of Other Securities Beneficially Owned by each such holder of Other Securities;

provided that, in the event that, due to a cutback in accordance with this clause (c), Investors are unable to sell at least 90% of the Registrable Securities initially proposed to be sold in a Company Supported Distribution, such offering shall not constitute a Company Supported Distribution and count against the limit thereof.

(c) In the event of a Demand Registration, the Company shall be required to maintain the continuous effectiveness of the applicable Registration Statement for a period of at least 180 days after the effective date thereof or such shorter period in which all Registrable Securities included in such Registration Statement have actually been sold.

(d) The Investors' Representative shall have the right to notify the Company that it has determined that the Registration Statement relating to a Demand Registration be abandoned or withdrawn, in which event the Company shall promptly abandon or withdraw such Registration Statement and such withdrawn registration shall not count against the limit of Demand Registrations or Company Supported Distributions, as applicable; provided, however, that the Company shall not be required to pay for expenses of any registration proceeding begun pursuant to Section 5.2(a) hereof, which has been subsequently withdrawn pursuant to this Section 5.2(d) at the request of the Investors' Representative, and shall be reimbursed by the Investors whose Registrable Securities were intended to be included in the Demand Registration Statement for reasonable and documented out-of-pocket expenses (including legal fees and printing expens es) so incurred, unless the withdrawal is based upon material adverse information concerning the Company that the Company has not publicly disclosed at least five (5) Business Days prior to the Company's receipt of such withdrawal request.

(e) Notwithstanding anything contained herein to the contrary, with the prior written consent of the Investors' Representative (which consent shall not be unreasonably withheld, conditioned or delayed), the Company shall be entitled to coordinate any offerings under this Section 5.2 with any offerings to be effected pursuant to similar agreements with the holders of Other Securities, including, if practicable, by filing one Registration Statement for all Other Securities.

SECTION 5.3. Piggyback Registration.

(a) At any time following the expiration of the Disposition Restriction Period, if the Company proposes to file a registration statement under the Securities Act with respect to an offering (i) by the Company for its own account (other than a registration statement (A) on Form S-4, Form S-8 or any successor forms thereto, (B) filed solely in connection with any

employee benefit or dividend reinvestment plan or (C) for the purpose of effecting a rights offering afforded to all holders of the Company Common Stock) or (ii) for the account of any of its security holders, the Company will give to each Investor written notice of such filing at least fifteen (15) days prior to the anticipated filing date (the "Piggyback Notice"). The Piggyback Notice shall offer each Investor the opportunity to include in such registration statement the number of Registrable Securities (for purposes of this Section 5.3, "Registrable Securities" shall be deemed to mean solely securities of the same type as those proposed to be offered by the Company for its own account) as they may request (a "Piggyback Registration"). Subject to Section 5.3(b), the Company shall include in each such Piggyback Registration all Registrable Securities with respect to which the Company has rec eived written requests for inclusion therein within seven (7) days after notice has been given to the Investors. The Company shall be required to maintain the effectiveness of the Registration Statement for a Piggyback Registration for a period of 180 days after the effective date thereof or such shorter period in which all Registrable Securities included in such Registration Statement have actually been sold.

(b) If any of the securities to be registered pursuant to the registration giving rise to the Investors' rights under this Section 5.3 are to be sold in an underwritten offering, the Investors shall be permitted to include all Registrable Securities requested to be included in such registration in such offering on the same terms and conditions as any other shares of Capital Stock, if any, of the Company included therein; provided, however, that if such offering involves a firm commitment underwritten offering and the managing underwriter(s) of such underwritten offering advise the Investors in writing that it is their good faith opinion that the total number or dollar amount of Registrable Securities proposed to be sold in such offering, together with all Other Securities that the Company and any other Persons having rights to participate in such registration intend to include in such offering, exceeds the total nu mber or dollar amount of such securities that can be sold without having an adverse effect on the price, timing or distribution of the Registrable Securities to be so included together with all such Other Securities, then there shall be included in such firm commitment underwritten offering the number or dollar amount of Registrable Securities and such Other Securities that in the opinion of such managing underwriter(s) can be sold without so adversely affecting such offering, and such number of Registrable Securities and Other Securities shall be allocated for inclusion as follows:

(i) first, all Other Securities being sold by the Company or by any Person (other than an Investor) exercising a contractual right to demand registration pursuant to which such registration statement was filed; and

(ii) second, among any other holders of Registrable Securities or Other Securities requesting such registration, pro rata, based on the aggregate number of Registrable Securities and Other Securities Beneficially Owned by each such holder.

(c) The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 5.3 prior to the effectiveness of the related Registration Statement and shall have no obligation to register any Registrable Securities in connection with such registration, except to the extent provided herein. The Registration Expenses of such withdrawn Piggyback Registration shall be borne by the Company in accordance with Section 5.4 hereof.

Any Investor shall have the right to withdraw its request for inclusion of its Registrable Securities in any Piggyback Registration by giving written notice to the Company of its request to withdraw at least two (2) Business Days prior to the planned effective date of the related Registration Statement; provided, however, that the Company shall not be required to pay for expenses of any Piggyback Registration, which has been subsequently withdrawn pursuant to this Section 5.3(d) at the request of the applicable Investor, and shall be reimbursed by the Investors whose Registrable Securities were intended to be included in the Piggyback Registration for reasonable and documented out-of-pocket expenses (including legal fees and printing expenses) so incurred, unless the withdrawal is based upon material adverse information concerning the Company that the Company has not publicly disclosed in compliance with applicable securities Laws at least five (5) Business Days prior to the Company's receipt of such withdrawal request.

SECTION 5.4. Registration Expenses. Except to the extent otherwise provided herein, in connection with registrations pursuant to Sections 5.1, 5.2 and 5.3 hereof, the Company shall pay all of the registration expenses incurred in connection with the registration thereunder (the "Registration Expenses"), including, without limitation, all: (a) reasonable registration and filing fees, (b) reasonable fees and expenses of compliance with securities or blue sky laws (including reasonable fees and disbursements of counsel in connection with blue sky qualifications of the Registrable Securities), (c) reasonable processing, duplicating and printing expenses, (d) internal expenses of the Company (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), (e) fees and expenses incurred in connection with the listing of the Registrable Securities, (f) fees and disbursements of counsel for the Company and fees and expenses for independent certified public accountants retained by the Company (including the expenses of any comfort letters or costs associated with the delivery by independent certified public accountants of a comfort letter or comfort letters requested but not the cost of any audit other than a year end audit) and (g) fees and expenses of any special experts retained by the Company in connection with such registration . Notwithstanding the foregoing, each Selling Investor shall be responsible for (i) any allocable underwriting fees, discounts or commissions, (ii) any allocable commissions of brokers and dealers and (iii) capital gains, income and transfer taxes, if any, relating to the sale of Registrable Securities of such Selling Investor.

SECTION 5.5. Registration Procedures.

(a) In connection with the registration of any Registrable Securities pursuant to this Agreement, the Company will keep the Selling Investors advised in writing as to the initiation of each such registration and the Company will:

(i) Use commercially reasonable efforts to keep each Registration Statement continuously effective during the period such Registration Statement is required to remain effective pursuant to the terms of this Agreement; upon the occurrence of any event that would cause the Registration Statement or the Prospectus contained therein (A) to contain a material misstatement or omission or (B) not to be effective and usable for resale of Registrable Securities during the period such Registration Statement is required to remain effective pursuant to the terms of this Agreement, the Company shall file promptly an appropriate amendment to the Registration Statement, a supplement

to the Prospectus or a report filed with the SEC pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, in the case of clause (A), correcting any such misstatement or omission, and, in the case of either clause (A) or (B), the Company shall use commercially reasonable efforts to cause such amendment to be declared effective and the Registration Statement and the related Prospectus to become usable for their intended purposes as soon as practicable thereafter.

(ii) Notwithstanding Section 5.5(a)(i) hereof, the Company may suspend the effectiveness of a Registration Statement and the Investors' right to sell thereunder (each such period, a "Suspension Period") if the Company reasonably determines in good faith and delivers to any Investor a certificate signed by an officer of the Company stating that such Registration Statement or further sales under an effective Registration Statement would have a detrimental effect, as reasonably determined by the Company in good faith, on the Company or a plan currently being considered by the Company or the Board of Directors. Promptly upon occurrence of such suspension, the Company shall give notice to the Investors listed in such Registration Statement that the availability of the Registration Statement is suspended and, upon actual receipt of such notice, each Investor agrees not to sell any Registrable S ecurities pursuant to the Registration Statement until the earlier of (1) such Investor's receipt of copies of the supplemented or amended Prospectus provided for in this Section 5.5 or (2) such Investor has been advised in writing by the Company that the sale of Registrable Securities pursuant to the Registration Statement may resume A Suspension Period shall not exceed 90 consecutive days and the aggregate of all Suspension Periods shall not exceed 180 days in any 360-day period.

(iii) Prepare and file with the SEC such amendments and post-effective amendments to each Registration Statement as may be necessary to keep such Registration Statement effective during the period provided herein.

(iv) Advise any Investor that has provided in writing to the Company a telephone or facsimile number and address for notice, promptly (which notice pursuant to clauses (B) through (D) below shall be accompanied by an instruction to suspend the use of the Prospectus until the Company shall have remedied the basis for such suspension and promptly thereafter notified such Investors of such remediation):

(A) when the Prospectus or any Prospectus supplement or post-effective amendment is proposed to be or has been filed, and, with respect to the Registration Statement or any post-effective amendment thereto, when the same has become effective;

(B) of any request by the SEC or any other Governmental Entity for amendments to the Registration Statement or amendments or supplements to the Prospectus or for additional information relating thereto;

(C) of the issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement under the Securities Act or of the suspension by any state securities commission of the qualification of

the Registrable Securities for offering or sale in any jurisdiction, or the threatening or initiation of any proceeding for any of the preceding purposes;

(D) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any proceeding for such purpose; or

(E) of the existence of any fact or the happening of any event, during the period in which a Registration Statement remains effective under the Securities Act, that makes any statement of a material fact made in such Registration Statement, the Prospectus, any amendment or supplement thereto, or any document incorporated by reference therein untrue, or that requires the making of any additions to or changes in the Registration Statement or the Prospectus in order to make the statements therein not misleading.

(v) Unless any Registrable Securities shall be in book-entry form only, cooperate with the Investors to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends (unless required by applicable securities Laws), and enable such Registrable Securities to be in such denominations and registered in such names as the Investors may request at least two (2) Business Days before any sale of Registrable Securities.

(vi) Use commercially reasonable efforts to promptly register or qualify any Registrable Securities under such other securities or blue sky laws of such jurisdictions within the United States as any Investor reasonably requests and which may be reasonably necessary or advisable to enable such Investor to consummate the disposition in such jurisdictions of the Registrable Securities owned by such Investor, keep such registrations or qualifications in effect for so long as the Registration Statement remains in effect and do any and all other acts and things which may be reasonably necessary or advisable to enable such Investor to consummate the disposition in such jurisdictions of the Registrable Securities owned by such Investor; provided, however, that the Company will not be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be required to qua lify but for this Agreement, (B) subject itself to taxation in any jurisdiction where it would not otherwise be subject to taxation but for this Agreement or (C) consent to general service of process in any jurisdiction where it would not otherwise be subject to such service but for this Agreement.

(vii) Use commercially reasonable efforts to promptly cause any Registrable Securities covered by a Registration Statement to be registered with or approved by such other Governmental Entity within the United States as may be necessary to enable the seller or sellers thereof to consummate the disposition of such Registrable Securities in accordance with the intended methods of disposition set forth in such Registration Statement.

(viii) In the event that the Investors' Representative advises the Company that an Investor intends to distribute any Registrable Securities by means of an underwritten offering, whether pursuant to Sections 5.1, 5.2 or 5.3, enter into an underwriting agreement in customary form, scope and substance (including customary indemnifications) and take all such other actions reasonably requested by the Investors owning a majority of the Registrable Securities being sold in connection therewith or by the managing underwriter(s), if any, to expedite or facilitate the underwritten disposition of such Registrable Securities and deliver such documents and certificates as may be reasonably requested by the Investors of a majority of the Registrable Securities being sold in connection therewith, their counsel and the managing underwriter(s), if any.

(ix) Use its commercially reasonable efforts to prevent, or obtain the withdrawal of, any stop order or other order suspending the use of any Prospectus.

(x) Deliver to each Selling Investor and each underwriter, if any, without charge, as many copies of the applicable Prospectus and any amendment or supplement thereto as such Selling Investor or underwriter may reasonably request.

(xi) Cooperate with each Selling Investor and the underwriters, if any, of such Registrable Securities and their respective counsel in connection with any filings required by Law to be made with FINRA.

(xii) Obtain opinions of counsel to the Company and updates thereof addressed to each Selling Investor and the underwriters or initial purchasers, if any, covering matters as are customarily requested in opinions covering secondary resale offerings of companies of comparable size, maturities and lines of business as the Company.

(xiii) Obtain "comfort" letters and updates thereof from the Company's independent certified public accountants, such letters covering matters as are customarily requested in comfort letters covering secondary resale offerings of companies of comparable size, maturities and lines of business as the Company.

(xiv) Only in the case of a Company Supported Distribution, as requested by the managing underwriter in any such underwritten offering, provide reasonable assistance with the marketing of any such offering, including causing members of the Company's management team to participate in a reasonable number of conference calls, limited-duration investor meetings and due diligence sessions, in each case and, to the extent to be in-person, to take place in and around New York City; provided, that any such requested assistance shall not be required if it would, in the Company's reasonable judgment, interfere with the normal business operations of the Company in any substantial respect.

(b) Each Investor agrees by acquisition of a Registrable Security that no Investor shall be entitled to sell any of such Registrable Securities pursuant to a Registration Statement, or to receive a Prospectus relating thereto, unless such Investor has furnished the Company with a Notice and Questionnaire (including the information required to be included in

such Notice and Questionnaire) and the information set forth in the next sentence. The Company may require each Investor selling Registrable Securities pursuant to a Registration Statement to furnish to the Company such customary information regarding such Investor and the distribution of such Company Common Stock as the Company may from time to time reasonably require for inclusion in such Registration Statement. Each such Investor agrees promptly to furnish to the Company all information required to be disclosed in order to make the information previously furnished to the Company by such Investor not misleading. Any sale of any Registrable Securities by any Investor shall constitute a representation and warranty by such Investor that the information relating to such Investor and its plan of distribution is as set forth in the Prospectus delivered in connection with such disposition, that such Prospectus does not as of the time of suc h sale contain any untrue statement of a material fact provided by such Investor and that such Prospectus does not as of the time of such sale omit to state any material fact provided by such Investor necessary to make the statements in such Prospectus, in light of the circumstances under which they were made, not misleading. The Company may exclude from such Registration Statement the Registrable Securities of any Investor that fails to furnish such information within a reasonable time after receiving such request. The Company shall not include in any Registration Statement any information regarding, relating to or referring to any Investor or its plan of distribution without the approval of such Investor in writing.

(c) No Investor shall use any free writing prospectus (as defined in Rule 405 under the Securities Act) in connection with the sale of Registrable Securities without the prior written consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed).

(d) If any offering of Registrable Securities pursuant to any Shelf Registration Statement or any Demand Registration is an underwritten offering, the Investors agree that, unless the Company otherwise consents in writing, at least one of Barclays Capital Inc., Deutsche Bank Securities, Inc., Credit Suisse Securities (USA) LLC or Banc of America Securities LLC shall be either the managing underwriter or co-managing underwriter or the lead book running manager or co-lead book running manager for the offering.

SECTION 5.6. Indemnification.

(a) The Company shall indemnify and hold harmless, to the fullest extent permitted by Law, (1) each Selling Investor whose Registrable Securities are covered by a Registration Statement or Prospectus, (2) the officers, directors, partners (limited and general), members, managers, representatives, agents and employees of each of them, (3) each member, limited or general partner of each such member, limited or general partner, (4) each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) each such Selling Investor, (5) each of their respective affiliates, officers, directors, shareholders, employees advisors, agents, (6) each underwriter (including any Investor that is deemed to be an underwriter pursuant to any SEC comments or policies), if any, and (7) each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) such under writer (collectively, "Investor Indemnitees"), from and against all losses, claims, damages, liabilities, penalties, judgments, suits, costs and expenses (including legal fees) (collectively, "Losses") in connection with any sale of Registrable Securities pursuant to a Registration Statement arising out of or based upon (i) any violation or alleged violation of

the Securities Act or any rule or regulation promulgated thereunder by the Company or any of its Affiliates, employees, officers, directors or agents or (ii) any untrue or alleged untrue statement of a material fact contained in any Registration Statement or any Prospectus (including but not limited to preliminary or final) relating to the registration of such Registrable Securities or any amendment or supplement thereto or any document incorporated by reference therein or any omission (iii) or any alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading;, and will reimburse to each of the Persons listed above, for any legal or any other expenses reasonably incurred in connection with investigating and defending any such losses; provided, however, that the Company shall not be liable to such Invest or Indemnitee in any such case to the extent that any such loss, claim, damage, liability or expense arises out of or is based upon (A) an untrue statement or alleged untrue statement or omission or alleged omission made in such Registration Statement, including any such preliminary or final Prospectus contained therein or any such amendments or supplements thereto, or contained in any free writing prospectus (as such term is defined in Rule 405 under the Securities Act) prepared by the Company or authorized by it in writing for use by such Investor Indemnitee (or any amendment or supplement thereto), in reliance upon and in conformity with information regarding such Investor Indemnitee or its plan of distribution or ownership interests which was furnished in writing to the Company for use in connection with such Registration Statement, including any such preliminary or final Prospectus contained therein or any such amendments or supplements thereto (B) offers or sales effected by or on behalf of such Invest or Indemnitee "by means of" (as defined in Rule 159A under the Securities Act) a "free writing prospectus" (as defined in Rule 405 under the Securities Act) that was not authorized in writing by the Company or (C) the failure of any Investor Indemnitee to deliver or make available to a purchaser of Registrable Securities a copy of any Registration Statement, including any preliminary or final Prospectus contained therein or any amendments or supplements thereto (if the same was required by applicable Law to be delivered or made available); provided that the Company shall have delivered to such Investor Indemnitee such Registration Statement, including such preliminary or final Prospectus contained therein and any amendments or supplements thereto.

(b) In connection with any Registration Statement in which a Selling Investor is participating by registering Registrable Securities, such Selling Investor agrees to indemnify and hold harmless, to the fullest extent permitted by Law, severally and not jointly, the Company, the officers, directors, agents, representatives or other employees of the Company, each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) the Company, each underwriter, if any, and each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) such underwriter (collectively, "Company Indemnitees"), from and against all Losses, as incurred, arising out of or based on any untrue or alleged untrue statement of a material fact contained in any such Registration Statement or preliminary or final Prospectus relating to the registration of s uch Registrable Securities or any amendment or supplement thereto or any document incorporated by reference therein, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, in each case solely to the extent that such untrue or alleged untrue statement or omission or alleged omission is made in such Registration Statement or in any preliminary or final Prospectus contained therein or any such amendments or supplements thereto or contained in any free writing prospectus (as such term is

defined in Rule 405 under the Securities Act) in reliance upon and in conformity with written information furnished to the Company by such Selling Investor expressly for inclusion in such document.

(c) If any Person shall be entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall give prompt notice to the party from which such indemnity is sought (the "Indemnifying Party") of any claim or of the commencement of any Action with respect to which such Indemnified Party has actual notice and seeks indemnification or contribution pursuant hereto; provided, however, that the delay or failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party from any obligation or liability except to the extent that the Indemnifying Party has been actually prejudiced by such delay or failure. The Indemnifying Party shall have the right, exercisable by giving written notice to an Indemnified Party promptly after the receipt of written notice from such Indemnified Party of such claim or Action, to assume, at the Indemnifying Party's expen se, the defense of any such Action, with counsel reasonably satisfactory to such Indemnified Party; provided, however, that an Indemnified Party shall have the right to employ separate counsel in any such Action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless: (i) the Indemnifying Party agrees to pay such fees and expenses; (ii) the Indemnifying Party fails promptly to assume, or in the event of a conflict of interest cannot assume, the defense of such Action or fails to employ counsel reasonably satisfactory to such Indemnified Party, in which case the Indemnified Party shall also have the right to employ counsel and to assume the defense of such Action or (iii) in the Indemnified Party's reasonable judgment a conflict of interest between such Indemnified Party and Indemnifying Party may exist in respect of such Action; provided, further, that the Indemnifying Party shall not, in co nnection with any one such Action or separate but substantially similar or related Actions in the same jurisdiction, arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one firm of attorneys (together with appropriate local counsel) at any time for all of the Indemnified Parties, or for fees and expenses that are not reasonable. Whether or not such defense is assumed by the Indemnifying Party, neither the Indemnifying Party nor the Indemnified Party will be subject to any liability for, or otherwise effect, any settlement made without the consent of the other (but such consent shall not be unreasonably withheld, conditioned or delayed).

(d) Neither party shall settle, compromise, discharge or consent to an entry of judgment with respect to a claim or liability subject to indemnification under this Section 4.6 without the other parties' prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed); provided that the Indemnifying Party may agree without the prior written consent of the Indemnified Party solely to any settlement, compromise, discharge or consent to an entry of judgment, in each case that relates only to money damages and by its terms obligates the Indemnifying Party to pay the full amount of the liability in connection with such claim and which unconditionally releases the Indemnified Party from all liability in connection with such claim.

(e) If the indemnification provided for in this Section 5.6 is unavailable to hold harmless each of the Indemnified Parties against any losses, claims, damages, liabilities and expenses to which such parties may become subject under the Securities Act, then the Indemnifying Party shall, in lieu of indemnifying each party entitled to indemnification

hereunder, contribute to the amount paid or payable by such party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and such Indemnified Parties on the other in connection with the statements or omissions or alleged statements or omissions that resulted in such losses, claims, damages, liabilities or expenses. The relative fault of such parties shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact, or omission or alleged omission to state a material fact, relates to information supplied by or concerning the Indemnifying Party on the one hand, or by such Indemnified Party on the other, and such party's relative intent, knowledge, access to information and opportunity to have corrected or prevented such statement or omission; provided, however, that the obligations of each of the Selling Investors hereunder shall be several and not joint. No Person guilty of fraudulent misrepresentation (within the meaning of the Securities Act) shall be entitled to contribution from any Person that is not guilty of such fraudulent misrepresentation.

SECTION 5.7. Miscellaneous.

(a) With a view to making available the benefits of certain rules and regulations of the SEC which may at any time permit the sale of the Registrable Securities to the public without registration, the Company agrees, so long as there are outstanding Registrable Securities, to use its commercially reasonable efforts to:

(i) file with the SEC in a timely manner all reports and other documents as the SEC may prescribe under Section 13(a) or 15(d) of the Exchange Act at any time while the Company is subject to such reporting requirements of the Exchange Act; and

(ii) If the Company is subject to the requirements of Section 13, 14 or 15(d) of the Exchange Act, the Company covenants that it will file any reports required to be filed by it under the Securities Act and the Exchange Act (or, if the Company is not required to file such reports, it will make publicly available such information, as described in Rule 144) and it will take such further action as any Investor may reasonably request, so as to enable such Investor to sell Registrable Securities without registration under the Securities Act within the limitation of the exemptions provided by (i) Rule 144 under the Securities Act, as such Rule may be amended from time to time or (ii) any successor or similar rule or regulation hereafter adopted by the SEC. Upon the request of any Investor, the Company will deliver to such Holder (w) a written statement as to whether it has complied with such requirements; (x) a writ ten statement by the Company as to whether it qualifies as a registrant whose securities may be resold pursuant to short form registration statement; (y) a copy of the most recent annual or quarterly report of the Company; and (z) such other reports and documents as an Investor may reasonably request in availing itself of any rule or regulation of the SEC allowing it to sell any Registrable Securities without registration.

(b) Subject to the provisions hereof, in the event the Company proposes to enter into an underwritten public offering, each Investor agrees to enter into a customary agreement with the managing underwriters not to effect any sale or distribution of equity securities of the Company, or any securities convertible, exchangeable or exercisable for or into

such securities, during the period beginning up to two (2) days prior to the date of such offering and extending for up to 90 days following the effective date of such offering if so requested by the Company and the underwriters. The Company may impose stop-transfer restrictions with respect to the securities subject to the foregoing restriction until the end of the required stand-off period and shall lift such stop-transfer restrictions immediately upon the end of such period.

(c) The registration rights granted under this Agreement shall terminate, as to any Selling Investor, on the date on which such Selling Investor no longer owns Registrable Securities.

ARTICLE VI
TERMINATION

SECTION 6.1. Termination. Other than the termination provisions applicable to particular Sections of this Agreement that are specifically provided elsewhere in this Agreement, this Agreement shall terminate (a) upon the mutual written agreement of the Company and the Investors holding a majority of the Company Common Stock then held by the Investors in the aggregate and (b) with respect to any individual Investor, at such time as such Investor ceases to Beneficially Own any Registrable Securities.

ARTICLE VII
MISCELLANEOUS

SECTION 7.1. Amendment and Modification. This Agreement may be amended, modified and supplemented, and any of the provisions contained herein may be waived, only by a written instrument signed by the Company and by the Investors holding a majority of the Company Common Stock then held by the Investors in the aggregate. No course of dealing between or among any Persons having any interest in this Agreement will be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Person under or by reason of this Agreement.

SECTION 7.2. Assignment; No Third-Party Beneficiaries.

(a) Neither this Agreement, nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of Law or otherwise) without the prior written consent of the other parties; provided, however that (i) each Investor may assign its rights, interests and obligations under this Agreement to any other transferee in a Permitted Transfer of a type described in clauses (i)-(v) of the definition thereof; provided that Apax shall not be entitled to assign its rights under Section 2.1 to any transferee other than an Affiliate of Apax and (ii) in the event of such assignment, the assignee shall agree in writing to be bound by the provisions of this Agreement; provided that Non-Affiliate Transferees shall not become subject to Apax's obligations under Section 3.1.

(b) This Agreement shall not confer any rights or remedies upon any Person other than the parties to this Agreement and their respective successors and permitted assigns.

SECTION 7.3. Binding Effect; Entire Agreement. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their

respective successors and assigns and executors, administrators and heirs. This Agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof and merges and supersedes all prior discussions, agreements and understandings of any and every nature among them.

SECTION 7.4. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable Law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provisions were so excluded and shall be enforceable in accordance with its terms so long as the economic or legal substance of the transactions contemplated by this Agreement are not affected in any manner materially adverse to any party.

SECTION 7.5. Notices and Addresses. Any notice, demand, request, waiver, or other communication under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service, if personally served or sent by facsimile; on the business day after notice is delivered to a courier or mailed by express mail, if sent by courier delivery service or express mail for next day delivery; and on the third day after mailing, if mailed to the party to whom notice is to be given, by first class mail, registered, return receipt requested, postage prepaid and addressed as follows:

If to the Company:

Phillips-Van Heusen Corporation
200 Madison Avenue
New York, New York 10016
Attention: Mark D. Fischer, Esq.
Facsimile: (212) 381-3993

with a copy (which shall not constitute notice) to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attention: Andrew J. Nussbaum, Esq.
Gregory E. Ostling, Esq.
Facsimile: (212) 403-2000

If to any Investor, at the most current address, and with a copy to be sent to each additional address given by such Investor to the Company in writing, and copies (which shall not constitute notice) sent to:

Simpson Thacher and Bartlett LLP
425 Lexington Avenue
New York, New York 10014
Attention: Robert Spatt
Ryerson Symons

Facsimile: (212) 455-2502

SECTION 7.6. Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without giving effect to any choice of law 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 the State of Delaware.

SECTION 7.7. Headings. The headings in this Agreement are for convenience of reference only and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

SECTION 7.8. Counterparts. This Agreement may be executed via facsimile and in any number of counterparts, each of which shall be deemed to be an original instrument and all of which together shall constitute one and the same instrument.

SECTION 7.9. Further Assurances. Each party shall cooperate and take such action as may be reasonably requested by another party in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby.

SECTION 7.10. Remedies. In the event of a breach or a threatened breach by any party to this Agreement of its obligations under this Agreement, any party injured or to be injured by such breach will be entitled to specific performance of its rights under this Agreement or to injunctive relief, in addition to being entitled to exercise all rights provided in this Agreement and granted by Law, it being agreed by the parties that the remedy at Law, including monetary damages, for breach of any such provision will be inadequate compensation for any loss and that any defense or objection in any action for specific performance or injunctive relief for which a remedy at Law would be adequate is waived.

SECTION 7.11. Jurisdiction and Venue. The parties hereto hereby irrevocably submit to the jurisdiction of the Delaware Court of Chancery or, in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, in the United States District Court for the District of Delaware in respect of the interpretation and enforcement of the provisions of this Agreement and of the documents referred to in this Agreement, and in respect of the transactions contemplated hereby, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in the Delaware Court of Chancery, or in the event (but only in the event) that such court does not have subject matt er jurisdiction over such action or proceeding, in the United States District Court for the District of Delaware, or that this Agreement or any such document may not be enforced in or by such courts, and the parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in the Delaware Court of Chancery, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, in the United States District Court for the District of Delaware. The parties hereto hereby consent to and grant the Delaware Court of Chancery, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, the United States District Court for the District of Delaware, jurisdiction over the person of such parties and, to the extent permitted by Law, over

the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 7.5 or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

PHILLIPS-VAN HEUSEN CORPORATION

By: /s/ Mark D. Fischer
Name:
Title:

TOMMY HILFIGER HOLDING S.A.R.L.

By: /s/ Frank Ehmer
Name: Frank Ehmer
Title: as Director

STICHTING ADMINISTRIEKANTOOR ELMIRA

By: /s/ Matthijs Schütte
Name: Matthijs Schütte
Title: Managing Director

APAX WW NOMINEES LTD., AS NOMINEE FOR APAX EUROPE VI-A, L.P. AND APAX EUROPE VI-1, L.P.

FOR AND ON BEHALF OF APAX PARTNERS EUROPE MANAGERS LIMITED, AS MANAGER OF APAX EUROPE VI – A, L.P.

By: [NOT READABLE]

By: [NOT READABLE]

FOR AND ON BEHALF OF APAX PARTNERS EUROPE MANAGERS LIMITED, AS MANAGER OF APAX EUROPE VI-1, L.P.

By: [NOT READABLE]

By: [NOT READABLE]

APAX US VII, L.P.

By: APAX US VII GP, L.P., its general partner

By: APAX US VII GP, LTD., its general partner

By: /s/ Christian Stahl
Name: Christian Stahl
Title:

EXHIBIT 4.12

AMENDMENT

Dated as of June 8, 2010

TO THE STOCKHOLDERS AGREEMENT
dated as of May 6, 2010

by and among

Phillips-Van Heusen Corporation,

Tommy Hilfiger Holding S.a.r.l,

Stichting Administratiekantoor Elmira,

Apax Europe VI-A, L.P.,

Apax Europe VI-1, L.P.,

Apax US VII, L.P.

and

each of the Other Signatories thereto

AMENDMENT TO STOCKHOLDERS AGREEMENT

THIS AMENDMENT TO THE STOCKHOLDERS AGREEMENT, dated as of June 8, 2010 (this "Amendment"), is being entered into by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "Company"), Tommy Hilfiger Holding S.a.r.l., a Luxembourg limited liability company ("LuxCo"), Stichting Administrekantoor Elmira, a foundation under Dutch law (*stichting*) (the "Foundation"), Apax Europe VI-A, L.P., a limited partnership under English law ("Apax Europe VI-A, L.P."), Apax Europe VI-1, L.P., a limited partnership under English law ("Apax Europe VI-1, L.P.") and Apax US VII, L.P., an exempted limited partnership under Cayman Islands law ("Apax US VII, L.P."). Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Stockholders Agreement dated as of May 6, 2010 (the "Stockholders Agreement").

RECITALS:

A. In connection with the Closing, on May 6, 2010, the parties hereto entered into the Stockholders Agreement.

B. The parties now wish to amend the Stockholders Agreement as set forth in this Amendment, as permitted by Section 7.1 of the Stockholders Agreement, in order to clarify certain understandings and agreements among the parties.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, intending to be legally bound, the parties hereto agree as follows:

1. Amendment of Section 1.1.

The definition of "Governance Rights Termination Threshold" set forth in the Stockholders Agreement is hereby amended and restated in its entirety to read as follows:

"Governance Rights Termination Threshold" means a number of shares equal to the greater of (a) 2,180,552 shares of Company Common Stock, which number shall be appropriately adjusted in good faith as necessary to give effect to any stock split or combination, or any reclassification, recapitalization, merger, consolidation, exchange or other similar reorganization or business combination affecting the Company Common Stock after May 6, 2010 and (b) 4% of the then issued and outstanding shares of Company Common Stock.

2. References to the Stockholders Agreement; Construction. This Amendment shall be interpreted and construed together with, and as part of, the Stockholders Agreement. After giving effect to this Amendment, each reference in the Stockholders Agreement to "this Agreement", "hereof", "hereunder" or words of like import referring to the Stockholders Agreement, and any reference in any other document to the Stockholders Agreement, shall refer to the Stockholders Agreement as amended by this Amendment; provided that all references in

the Stockholders Agreement to "the date of this Agreement" or "the date hereof" shall refer to May 6, 2010.

3. Other Miscellaneous Terms. The provisions of Article VII (Miscellaneous) of the Stockholders Agreement shall apply *mutatis mutandis* to this Amendment, and to the Stockholders Agreement as modified by this Amendment, taken together as a single agreement, reflecting the terms therein as modified hereby.

4. No Further Amendment. Except as amended by this Amendment, the Stockholders Agreement shall remain in full force and effect.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

PHILLIPS-VAN HEUSEN CORPORATION

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

STICHTING ADMINISTRIEKANTOOR ELMIRA

By: /s/ Matthijs Schütte
Name: Matthijs Schütte
Title: Managing Director

TOMMY HILFIGER HOLDING S.A.R.L.

By: NOVA LIQUIDATOR LTD, its managing liquidator

By: /s/ Alain Steichen
Name: Alain Steichen
Title: Duly Empowered

APAX WW NOMINEES LTD., AS NOMINEE FOR APAX EUROPE VI - A, L.P. AND APAX EUROPE VI - 1, L.P.

FOR AND ON BEHALF OF APAX PARTNERS EUROPE MANAGERS LIMITED, AS MANAGER OF APAX EUROPE VI - A, L.P.

By: /s/ Stephen Grabiner
Name: Stephen Grabiner
Title: Director

By: /s/ Paul Fitzsimons
Name: Paul Fitzsimons
Title: Director

FOR AND ON BEHALF OF APAX PARTNERS EUROPE MANAGERS LIMITED, AS MANAGER OF APAX EUROPE VI - 1, L.P.

By: /s/ Stephen Grabiner
Name: Stephen Grabiner
Title: Director

By: /s/ Paul Fitzsimons
Name: Paul Fitzsimons
Title: Director

APAX US VII, L.P.

By: APAX US VII GP, L.P., its general partner
By: APAX US VII GP, LTD., its general partner

By: /s/ Christian Stahl
Name: Christian Stahl
Title: Partner

EXHIBIT 4.13
EXECUTION COPY

STOCKHOLDERS AGREEMENT

dated as of May 6, 2010

by and among

PHILLIPS-VAN HEUSEN CORPORATION,

LNK PARTNERS, L.P.,

and

LNK PARTNERS (PARALLEL), L.P.

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STOCKHOLDERS AGREEMENT

THIS STOCKHOLDERS AGREEMENT, dated as of May 6, 2010 (this "Agreement"), by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "Company"), LNK Partners, L.P., a Delaware limited partnership, and LNK Partners (Parallel), L.P., a Delaware limited partnership (together, with LNK Partners, L.P., the "Investors").

RECITALS:

WHEREAS, (a) the Investors and the Company have entered into that certain Securities Purchase Agreement, dated as of March 15, 2010 (the "LNK Purchase Agreement"), pursuant to which the Investors will purchase 4,000 shares of Series A Convertible Preferred Stock of the Company (the "Preferred Stock") and (b) MSD Brand Investments, LLC ("MSD") and the Company have entered into that certain Securities Purchase Agreement, dated as of March 15, 2010 (the "MSD Purchase Agreement" and, together with the LNK Purchase Agreement, the "Purchase Agreements")), pursuant to which MSD will purchase 4,000 shares of the Preferred Stock, which will collectively constitute all of the issued and outstanding shares of the Preferred Stock; and

WHEREAS, it is a condition precedent to the Investors' purchase of such Preferred Stock under the LNK Purchase Agreement that the Company enter into this Agreement with the Investors to provide for certain agreements and obligations of the parties following the closing of the transactions contemplated by the LNK Purchase Agreement (the "Closing").

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, intending to be legally bound, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

SECTION 1.1. Definitions. The following terms shall have the meanings ascribed to them below:

"Affiliate" of a Person has the meaning set forth in Rule 12b-2 under the Exchange Act. Notwithstanding anything to the contrary set forth in this Agreement, no limited partner or similar participant of an Investor shall be deemed an Affiliate of such Investor.

"Agreement" means this Agreement, as amended, modified or supplemented from time to time, in accordance with the terms hereof, together with any exhibits, schedules or other attachments hereto.

"Beneficially Own" with respect to any securities means having "beneficial ownership" of such securities (as determined pursuant to Rule 13d-3 under the Exchange Act without

limitation by the 60-day provision in paragraph (d)(1)(i) thereof). The terms "Beneficial Ownership" and "Beneficial Owner" have correlative meanings.

"Board" or "Board of Directors" means the Board of Directors of the Company.

"Business Day" means a day, other than a Saturday or Sunday, on which commercial banks in New York City are open for the general transaction of business.

"Capital Stock" means, with respect to any Person at any time, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of capital stock, partnership interests (whether general or limited) or equivalent ownership interests in or issued by such Person.

"Change of Control" means the existence or occurrence of any of the following: (a) the sale, conveyance or disposition of all or substantially all of the assets of the Company, (b) the consolidation, merger or other business combination of the Company with or into any other entity, immediately following which the then current stockholders of the Company fail to own, directly or indirectly, at least Majority Voting Power, (c) a transaction or series of transactions in which any person or "group" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) acquires Majority Voting Power (other than (i) a reincorporation or similar corporate transaction in which the Company's stockholders own, immediately thereafter, interests in the new parent company in essentially the same percentage as they owned in the Company immediately prior to such transaction, or (ii) a transaction descri bed in clause (b) (such as a triangular merger) in which the threshold in clause (b) is not passed) or (d) the replacement of a majority of the Board of Directors with individuals who were not nominated or elected by at least a majority of the directors at the time of such replacement.

"Closing" has the meaning ascribed thereto in the recitals of this Agreement.

"Closing Date" means the date on which the Closing occurs.

"Company" has the meaning set forth in the preamble of this Agreement.

"Company Common Stock" means the common stock, par value $1.00 per share, of the Company.

"Company Indemnitees" has the meaning set forth in Section 4.6(b).

"Demand Notice" has the meaning set forth in Section 4.2(a).

"Demand Registration" has the meaning set forth in Section 4.2(a).

"Demand Registration Statement" has the meaning set forth in Section 4.2(a).

"Director" means a director of the Company.

"Election Meetings" has the meaning set forth in Section 2.1(b).

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Governance Rights Termination Event" means the earliest to occur of (a) the Investors (together with its Affiliates) ceasing to collectively Beneficially Own, net of Short Interests, at least 80% of the Shares (provided that for purposes of this subclause (a), a Person shall only be deemed to Beneficially Own a Share as of a certain date if they have a right to vote and dispose of (without regard to any limitations on disposal in this Agreement) such share as of such date), (b) either the Investors or any of their Affiliates breaching in any material respect any of the provisions of Article III of this Agreement or (c) the Company's good faith determination, after consultation with outside counsel, that the Investors' right under Section 2.1 may result in a violation of Section 8 of the Clayton Act, 15 U.S.C. §19, or any applicable foreign antitrust Laws.

"Governmental Entity" means any United States or foreign (a) federal, state, local, municipal or other government, (b) governmental or quasi-governmental entity of any nature (including, without limitation, any governmental agency, branch, department, official or entity and any court or other tribunal), or (c) body exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature, including, without limitation, any arbitral tribunal.

"Indemnified Party" has the meaning set forth in Section 4.6(c).

"Indemnifying Party" has the meaning set forth in Section 4.6(c).

"Investor" and "Investors" have the meaning set forth in the preamble of this Agreement.

"Investor Designee" means David Landau or any Replacement pursuant to the terms of Section 2.1.

"Investor Indemnitees" has the meaning set forth in Section 4.6(a).

"Investors' Representative" means LNK Partners, L.P. or any other Person designated by the Investors holding a majority of the Preferred Stock then held by the Investors in the aggregate.

"Joint Demand Registration" means a Demand Registration delivered jointly and identified as such by one or more Investors, on the one hand, and MSD, on the other hand.

"Joint Shelf Take-Down Notice" means a Shelf Take-Down Notice delivered jointly and identified as such by one or more Investors, on the one hand, and MSD, on the other hand.

"Joint Representative" means any Person designated as such in a Joint Demand Registration.

"Law" means any applicable federal, state, local or foreign law, statute, ordinance, rule, guideline, regulation, order, writ, decree, agency requirement, license or permit of any Governmental Entity.

"LNK Purchase Agreement" has the meaning ascribed thereto in the recitals of this Agreement.

"Losses" has the meaning set forth in Section 4.6(a).

"Majority Voting Power" of the resulting corporation or of the Company shall mean a majority of the ordinary voting power in the election of Directors of all the outstanding voting securities of the resulting corporation or of the Company, respectively.

"MSD" has the meaning ascribed thereto in the recitals of this Agreement.

"MSD Purchase Agreement" has the meaning ascribed thereto in the recitals of this Agreement.

"MSD Stockholder Agreement" means the Stockholder Agreement, dated as of the date hereof, by and between the Company and MSD.

"Notice and Questionnaire" means a written notice executed by a respective Investor and delivered to the Company containing the information required by Item 507 of Regulation S-K to be included in any Shelf Registration Statement regarding the applicable Investor seeking to sell Company Common Stock pursuant thereto.

"NYSE" means the New York Stock Exchange.

"Other Securities" means the Company Common Stock or other securities of the Company which the Company is registering pursuant to a Registration Statement covered by Section 4.3.

"Person" shall mean any natural person, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof.

"Piggyback Notice" has the meaning set forth in Section 4.3(a).

"Piggyback Registration" has the meaning set forth in Section 4.3(a).

"Preferred Stock" has the meaning ascribed thereto in the recitals of this Agreement.

"Prospectus" means the prospectus included in any Registration Statement, as amended or supplemented by any prospectus supplement and by all other amendments thereto, including post-effective amendments, and all material incorporated by reference into such prospectus.

"Purchase Agreements" has the meaning ascribed thereto in the recitals of this Agreement.

"Registration Expenses" has the meaning set forth in Section 4.4.

"Registrable Securities" means shares of Company Common Stock issued by the Company upon conversion of any shares of Preferred Stock, as well as any shares of Company

Common Stock or other securities issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange generally for, or in replacement generally of, such Preferred Stock or other Registrable Securities and any securities issued in exchange for such Preferred Stock or other Registrable Securities in any merger, reorganization, consolidation, share exchange, recapitalization, restructuring or other comparable transaction of the Company. As to any particular Registrable Securities, once issued such securities shall cease to be Registrable Securities when (a) a Registration Statement with respect to the sale by the Investor holding such securities has been declared effective by the SEC and such securities have been disposed of pursuant to such effective Registration Statement, (b) such securities shall have bee n or could be sold, without being subject to any holding period or volume limitations pursuant to Rule 144, under circumstances in which all of the applicable conditions of Rule 144 (or any similar provisions then in force) under the Securities Act are met, (c) such securities have been otherwise transferred and the Company has delivered a new certificate or other evidence of ownership for such securities not bearing a restrictive legend and not subject to any stop order, and such securities may be publicly resold by the Person receiving such certificate without complying with the registration requirements of the Securities Act or (d) such securities shall have ceased to be outstanding.

"Registration Statement" means any registration statement of the Company under the Securities Act which permits the public offering of any of the Registrable Securities pursuant to the provisions of this Agreement, including the Prospectus, amendments and supplements to such registration statement, including post-effective amendments, all exhibits and all material incorporated by reference or deemed to be incorporated by reference in such registration statement.

"Relevant Restricted Period" means (a) with respect to 50% of the Shares, the period commencing on the date of this Agreement and ending on the day that is nine (9) months from the date of this Agreement and (b) with respect to 50% of the Shares, the period commencing on the date of this Agreement and ending on the day that is fifteen (15) months from the date of this Agreement.

"Replacement" has the meaning set forth in Section 2.1(e).

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Selling Investor" means an Investor who is selling Registrable Securities pursuant to a Registration Statement under the Securities Act.

"Shares" means the Preferred Stock acquired by the Investors at the Closing and any Company Common Stock into which such Preferred Stock may be converted pursuant to the terms of the Certificate of Designations relating to the Preferred Stock.

"Shelf Effective Period" has the meaning set forth in Section 4.1(a).

"Shelf Registration Statement" has the meaning set forth in Section 4.1(a).

"Shelf Take-Down Notice" has the meaning set forth in Section 4.1(b).

"Short Interests" means any agreement, arrangement, understanding or relationship, including any repurchase or similar so-called "stock borrowing" agreement or arrangement, engaged in, directly or indirectly, by any of the Investors or their Affiliates, the purpose or effect of which is to short shares of Company Common Stock.

"Standstill Period" means the period commencing on the Closing Date and ending on the date that is the sixth month anniversary of a Governance Right Termination Event.

"Subsidiary" means, as to any Person, any other Person more than 50% of the shares of the voting stock or other voting interests of which are owned or controlled, or the ability to select or elect more than 50% of the directors or similar managers is held, directly or indirectly, by such first Person or one or more of its Subsidiaries or by such first Person and one or more of its Subsidiaries.

"Suspension Period" has the meaning set forth in Section 4.5(a)(ii).

"13D Group" means any group of Persons who, with respect to those acquiring, holding, voting or disposing of Company Common Stock would, assuming ownership of the requisite percentage thereof, be required under Section 13(d) of the Exchange Act to file a statement on Schedule 13D with the SEC as a "person" within the meaning of Section 13(d)(3) of the Exchange Act.

SECTION 1.2. General Interpretive Principles. Whenever used in this Agreement, except as otherwise expressly provided or unless the context otherwise requires, any noun or pronoun shall be deemed to include the plural as well as the singular and to cover all genders. The name assigned this Agreement and the Section captions used herein are for convenience of reference only and shall not be construed to affect the meaning, construction or effect hereof. Unless otherwise specified, the terms "hereof," "herein" and similar terms refer to this Agreement as a whole (including the exhibits hereto), and references herein to Sections refer to Sections of this Agreement.

ARTICLE II
GOVERNANCE

SECTION 2.1. Election and Appointment. The Company agrees, until a Governance Rights Termination Event:

(a) to appoint the Investor Designee as a Director on the Closing Date;

(b) to include the Investor Designee in its slate of nominees for election as a Director at each annual or special meeting of stockholders of the Company at which Directors are to be elected and at which the seat held by the Investor Designee is subject to election (such annual or special meetings, the "Election Meetings");

(c) to use commercially reasonable efforts to cause the election of the Investor Designee to the Board of Directors at each of the Election Meetings (including recommending

that the Company's stockholders vote in favor of the election of the Investor Designee and otherwise supporting the Investor Designee for election in a manner no less rigorous and favorable than the manner in which the Company supports its other nominees);

(d) if the Investor Designee is not elected to the Board of Directors at any Annual Meeting, or becomes unable to serve for any reason or is removed during the course of his term as Director, the Company will promptly appoint the Replacement of such Investor Designee to the Board of Directors to serve until the following Election Meeting;

(e) if the Investor Designee (i) is unable to serve as a nominee for election as Director or to serve as a Director, for any reason, or (ii) is removed or fails to be elected at an Election Meeting, the Investors shall have the right to submit the name of a replacement (the "Replacement") to the Company for its approval (such determination to be made in the sole discretion of the Company acting in good faith and consistent with the Company's nominating and governance practices in effect from time to time) and who shall serve as the nominee for election as Director or serve as Director in accordance with the terms of this Section 2.1(e). If the proposed replacement is not approved by the Company, the Investors shall have the right to submit another proposed Replacement to the Company for its approval on the same basis as set forth in the immediately preceding sentence. The Investors shall have the right to continue submitting the name of a proposed Replacement to the Company for its approval until the Company approves that such Replacement may serve as a nominee for election as Director or to serve as a Director whereupon such person is appointed as the Replacement. An Investor Designee shall, at the time of nomination and at all times thereafter until such individual's service on the Board of Directors ceases, (i) meet any applicable requirements or qualifications under applicable Law or stock exchange rules to be a member of the Board of Directors and (ii) prior to being nominated, agree to comply with the requirements of Section 2.3 hereof.

SECTION 2.2. Expenses and Fees; Indemnification. The Company agrees to reimburse the Investor Designee (or his Replacement) elected to the Board for his reasonable expenses, consistent with the Company's policy for such reimbursement in effect from time to time, incurred attending meetings of the Board and/or any committee of the Board. Neither the Investor Designee nor any Replacement shall be entitled to any retainer, equity compensation or other fees or compensation paid to non-employee Directors for their services as a Director, including any service on any committee of the Board. The Company shall indemnify, or provide for the indemnification of, the Investor Designee and provide the Investor Designee with director and officer insurance to the same extent it indemnifies and provides insurance for the non-executive members of the Board of Directors.

SECTION 2.3. Resignation. Upon the occurrence of a Governance Rights Termination Event, the Investors shall cause the Investor Designee to promptly tender his resignation from the Board and any committee of the Board on which he then sits.

SECTION 2.4. Voting Agreements. Until the occurrence of a Governance Rights Termination Event, each Investor hereby agrees to cause each share of Preferred Stock Beneficially Owned by it to be present in person or represented by proxy at all meetings (whether annual or special) of stockholders of the Company, so that all such shares of Preferred Stock shall be counted as present for determining the presence of a quorum at such meetings.

The Investors shall (a) vote or cause to be voted, at all meetings of stockholders of the Company, all of the shares of Preferred Stock Beneficially Owned by it in accordance with the recommendation of the Board on all matters upon which holders of shares of Preferred Stock are entitled to vote and (b) act by written consent in accordance with the recommendation of the Board in connection with any consent solicitation.

ARTICLE III
STOCKHOLDER RESTRICTIONS

SECTION 3.1. Standstill. During the Standstill Period and unless otherwise approved by the Board of Directors (other than the Investor Designee), each of the Investors, will not, and will cause each of its Affiliates not to, directly or indirectly:

(a) acquire or agree, offer, seek or propose to acquire (or request permission to do so) ownership (including, but not limited to, Beneficial Ownership) of any of the assets or businesses of the Company or any Subsidiary thereof (other than any assets or businesses that, individually or in the aggregate, are de minimis to the Company or any Subsidiary thereof), or any rights or options to acquire such ownership (including from a third party);

(b) acquire, offer or propose to acquire or agree to acquire, whether by purchase, tender or exchange offer, by joining a partnership, limited partnership, syndicate or other 13D Group or otherwise, ownership (including, but not limited to, Beneficial Ownership) of any securities issued by the Company or any Subsidiary thereof, or any rights or options to acquire such ownership (whether currently, upon lapse of time, following the satisfaction of any conditions, upon the occurrence of any event or any combination of the foregoing), other than (i) the delivery of shares of Preferred Stock pursuant to the Purchase Agreement, (ii) the acquisition of shares of Company Common Stock, or other property or assets pursuant to the terms of the Preferred Stock, (iii) the acquisition of other securities of the Company as a result of any stock split, stock dividends or other distributions or recapitalizations or offerings made available by the Co mpany to the holders of Preferred Stock or Company Common Stock, including rights offering, or (iv) any acquisition of shares of Company Common Stock approved by the Board (other than the Investor Designee) prior to such acquisition;

(c) engage in any “solicitation” (within the meaning of the Exchange Act) of proxies or consents relating to the election of directors with respect to the Company, or become a “participant” in any “election contest” (both within the meaning of the Exchange Act) seeking to elect directors not nominated by the Board of Directors;

(d) knowingly induce or attempt to induce any other Person to initiate any stockholder proposal with respect to the Company;

(e) in any manner, agree, attempt, seek or propose to deposit any securities of the Company or any rights to acquire (whether currently, upon lapse of time, following the satisfaction of any conditions, upon the occurrence of any event or any combination of the foregoing) any securities of the Company in any voting trust or similar arrangement;

(f) publicly announce any intention, plan or arrangement inconsistent with the foregoing;

(g) form or join in the formation of a 13D Group with respect to any securities of the Company or any Subsidiary thereof, other than any such "group" consisting exclusively of the Investors and any Affiliates of the Investors;

(h) (i) finance (or arrange financing for) any Person for the purpose of enabling such Person to take an action that, if taken by an Investor, or any of its Affiliates, would be prohibited under this Section 3.1 or (ii) otherwise knowingly encourage or advise another Person, in each case in connection with any of the foregoing; or

(i) seek to do any of the foregoing, request to amend or waive any provision of this Section 3.1 (including, without limitation, this clause (i)), or make or seek permission to make any public announcement with respect to any of the foregoing.

Nothing in this Section 3.1 shall (x) prohibit any individual who is serving as a Director, solely in his or her capacity as a Director, from (A) exercising his or her fiduciary duties, (B) taking any action or making any statement at any meeting of the Board of Directors or of any committee thereof or (C) making any statement or disclosure required under federal securities Laws or other applicable Law or (y) restrict any disclosure or statements required to be made by any Investor under applicable Law. For the avoidance of doubt, Sections 3.1 shall not apply to any transaction pursuant to the LNK Purchase Agreement.

SECTION 3.2. Dispositions.

(a) Each Investor agrees that during the Relevant Restricted Period, without the prior written consent of the Company, such Investor shall not, and shall not authorize, permit or direct its Subsidiaries to, directly or indirectly, (a) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of any Shares or securities convertible into or exercisable or exchangeable for such Shares, including in any transaction that involves any common equity securities, equity-linked securities (including convertible securities) or equity forward sale agreements, relating to the Shares or (b) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of any of the Shares, whether any such transaction described in cl auses (a) or (b) above is to be settled by delivery of any Shares, in cash or otherwise; provided that each Investor may (i) transfer any Shares to any of its Affiliates provided that such Affiliate agrees to be bound by the terms of this Agreement and (ii) transfer any Shares to a third party pursuant to a tender offer, exchange offer, merger, consolidation or other transaction (A) which is recommended to the stockholders of the Company by the Board (other than the Investor Designee) or (B) in the case of a merger or other business combination transaction, which has been approved by the stockholders of the Company.

(b) The restrictions set forth in this Section 3.2 shall terminate upon a Change of Control.

ARTICLE IV
REGISTRATION RIGHTS

SECTION 4.1. Shelf Registration.

(a) No later than 90 days prior to the expiration of the Relevant Restricted Period (any such date, the "Shelf Date"), the Company shall prepare and file with the SEC a Registration Statement providing for registration and resale, on a continuous or delayed basis pursuant to Rule 415 under the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC, of all of the Registrable Securities, provided that such obligation shall be satisfied if the Company shall have in effect an automatically effective shelf registration statement on Form S-3ASR that will permit the registration and resale of all Registrable Securities (an "Existing Shelf Registration Statement") as of the Shelf Date (any such registration statement, a "Shelf Registration Statement"); provided, further, that, for the avoidance of dou bt, the existence of an Existing Shelf Registration Statement shall not have any effect on the restrictions set forth in Section 3.2. The Shelf Registration Statement shall be on Form S-3 (or any comparable or successor form or forms then in effect) under the Securities Act (or to the extent the Company is not eligible to use Form S-3 or any comparable or successor form or forms, on Form S-1 or any comparable or successor form or forms); provided, however, that if the Company is a well-known seasoned issuer (as defined in Rule 405 under the Securities Act) at the time of filing of the Shelf Registration Statement with the SEC, such Shelf Registration Statement shall be designated by the Company as an automatic shelf registration statement (as defined in Rule 405 under the Securities Act). In the event that the Shelf Registration Statement is not an automatic shelf registration statement, the Company shall use commercially reasonable efforts to cause the Shelf Registrat ion Statement to be declared effective under the Securities Act by the SEC as of the expiration of the Relevant Restricted Period. The Company shall use commercially reasonable efforts to keep the Shelf Registration Statement continuously effective under the Securities Act until the earlier of (i) the date when all of the Registrable Securities covered by such Shelf Registration Statement have been sold and (ii) the date on which the Registrable Securities covered by the Shelf Registration Statement are eligible to be sold or transferred without being subject to any holding period or volume limitations pursuant to Rule 144 under the Securities Act (the "Shelf Effective Period").

(b) Each Investor agrees that if such Investor wishes to sell Registrable Securities pursuant to a Shelf Registration Statement and related Prospectus, it will do so in accordance with this Section 4.1(b) and Section 4.5. Each Investor wishing to sell Registrable Securities pursuant to a Shelf Registration Statement and related Prospectus, whether in an underwritten offering or otherwise, agrees to notify the Company of such intent (a "Shelf Take-Down Notice") and shall deliver a Notice and Questionnaire to the Company at least five (5) Business Days prior to any intended distribution of Registrable Securities under the Shelf Registration Statement, it being agreed that if any Investor intends to distribute any Registrable Securities by means of an underwritten offering it shall promptly so advise the Company and the Company shall take all reasonable steps to facilitate such distribution, inc luding the actions required pursuant to Section 4.5(a)(viii). From and after the date the Shelf Registration Statement is declared effective, the Company shall, as promptly as practicable after the date a Notice and Questionnaire is delivered to it in connection with a Shelf Take-Down Notice:

(i) if required by applicable Law, file with the SEC a post-effective amendment to the Shelf Registration Statement or prepare and, if required by applicable Law, file a supplement to the related Prospectus or a supplement or amendment to any document incorporated therein by reference or file any other required document so that the Investor delivering such Notice and Questionnaire is named as a selling security

holder in the Shelf Registration Statement and the related Prospectus in such a manner as to permit such Investor to deliver such Prospectus to purchasers of Registrable Securities in accordance with applicable Law and, if the Company shall file a post-effective amendment to the Shelf Registration Statement, use commercially reasonable efforts to cause such post-effective amendment to be declared effective under the Securities Act as promptly as is practicable;

(ii) provide such Investor copies of any documents filed pursuant to Section 4.1(b)(i); and

(iii) notify such Investor as promptly as practicable after the effectiveness under the Securities Act of any post-effective amendment filed pursuant to Section 4.1(b)(i);

provided, however, that if such Shelf Take-Down Notice or Notice and Questionnaire is delivered during a Suspension Period, the Company shall so inform the Investor delivering such Shelf Take-Down Notice or Notice and Questionnaire and shall take the actions set forth in clauses (i), (ii) and (iii) above upon expiration of the Suspension Period in accordance with Section 4.5; provided, further, that the Investors shall not be entitled to deliver to the Company more than one (1) Shelf Take-Down Notice in any 12-month period and, in any event, each Shelf Take Down Notice may only be made if the sale of the Registrable Securities covered by such Shelf Take Down Notice includes at least 25% of the shares of Company Common Stock into which the originally issued shares of the Preferred Stock may be converted or is reasonably expected to result in aggregate gross cash proceeds in excess of $50,000,000 (without regard to any underwriting discount or commission). Notwithstanding anything contained herein to the contrary, the Company shall be under no obligation to name any Investor that has not delivered a Notice and Questionnaire to the Company as a selling security holder in any Shelf Registration Statement or related Prospectus.

(c) If any of the Registrable Securities to be sold pursuant to a Shelf Registration Statement are to be sold in a firm commitment underwritten offering which underwritten offering was initially requested by the Investors pursuant to a Shelf Take-Down Notice, and the managing underwriter(s) of such underwritten offering advise the Investors in writing that it is their good faith opinion that the total number or dollar amount of Registrable Securities proposed to be sold in such offering, together with any Other Securities proposed to be included by holders thereof which are entitled to include securities in such Registration Statement, exceeds the total number or dollar amount of such securities that can be sold without having an adverse effect on the price, timing or distribution of the Registrable Securities to be so included, together with all such Other Securities, then there shall be included in such firm commitment underwritten offering the number or dollar amount of Registrable Securities and such Other Securities that in the opinion of such managing underwriter(s) can be sold without so adversely affecting such offering, and such number of Registrable Securities and Other Securities shall be allocated for inclusion as follows:

(i) first, the Registrable Securities for which inclusion in such underwritten offering was requested by the Investors, pro rata (if applicable), based

on the number of Registrable Securities Beneficially Owned by each such Investor; and

(ii) second, among any holders of Other Securities, pro rata, based on the number of Other Securities Beneficially Owned by each such holder of Other Securities.

SECTION 4.2. Demand Registration.

(a) At any time following the expiration of the Relevant Restricted Period, if the Company is unable to file, cause to be effective or maintain the effectiveness of a Shelf Registration Statement as required under Section 4.1 hereof, subject to the restrictions set forth in Section 3.2, the Investors' Representative shall have the right, by delivering a written notice to the Company (a "Demand Notice"), to require the Company to register under and in accordance with the provisions of the Securities Act the number of Registrable Securities Beneficially Owned by any Investors and requested by such Demand Notice to be so registered (a "Demand Registration"); provided, however, that the Company shall not be required to effect a Demand Registration pursuant to this Section 4.2(a) after the Company has effected two (2) Demand Registrations pursuant to this Section 4.2(a); and provided, further, that the Investors shall not be entitled to deliver to the Company more than one (1) Demand Registration in any 12-month period and, in any event, a Demand Notice may only be made if the sale of the Registrable Securities requested to be registered by the Investors' Representative includes at least 25% of the shares of Company Common Stock into which the originally issued shares of the Preferred Stock (which, for the avoidance of doubt, shall include all of the shares of Preferred Stock that were issued to each of the Investors and MSD under the Purchase Agreements) may be converted or is reasonably expected to result in aggregate gross cash proceeds in excess of $50,000,000 (without regard to any underwriting discount or commission). For all purposes under this Section 4.2(a), any Demand Registration delivered to the Company by MSD under the MSD Stockholder Agreement shall be considered to be a Demand Registration delivered under this Section 4.2(a) and a Joint Demand Registration shall be deemed to be a single Demand Registration under this Section 4.2(a). A Demand Notice shall also specify the expected method or methods of disposition of the applicable Registrable Securities. Following receipt of a Demand Notice, the Company shall use commercially reasonable efforts to file, as promptly as reasonably practicable, but not later than 30 days after receipt by the Company of such Demand Notice, a Registration Statement relating to the offer and sale of the Registrable Securities requested to be included therein by the Investors thereof in accordance with the methods of distribution elected by such Investors (a "Demand Registration Statement") and shall use commercially reasonable efforts to cause such Registration Statement to be declared effective under the Securities Act as promptly as practicable after the filing thereof.

(b) If any of the Registrable Securities registered pursuant to a Demand Registration are to be sold in a firm commitment underwritten offering, and the managing underwriter(s) of such underwritten offering advise the Investors in writing that it is their good faith opinion that the total number or dollar amount of Registrable Securities proposed to be sold in such offering, together with any Other Securities proposed to be included by holders thereof which are entitled to include securities in such Registration Statement, exceeds the total number or dollar amount of such securities that can be sold without having an adverse effect on the price,

timing or distribution of the Registrable Securities to be so included together with all such Other Securities, then there shall be included in such firm commitment underwritten offering the number or dollar amount of Registrable Securities and such Other Securities that in the opinion of such managing underwriter(s) can be sold without so adversely affecting such offering, and such number of Registrable Securities and Other Securities shall be allocated for inclusion as follows:

(i) first, the Registrable Securities for which inclusion in such underwritten offering was requested by the Investors, pro rata (if applicable), based on the number of Registrable Securities Beneficially Owned by each such Investor; and

(ii) second, among any holders of Other Securities, pro rata, based on the number of Other Securities Beneficially Owned by each such holder of Other Securities.

(c) In the event of a Demand Registration, the Company shall be required to maintain the continuous effectiveness of the applicable Registration Statement for a period of at least 180 days after the effective date thereof or such shorter period in which all Registrable Securities included in such Registration Statement have actually been sold.

(d) The Investors' Representative (or in the case of a Joint Demand Registration, the Joint Representative) shall have the right to notify the Company that it has determined that the Registration Statement relating to a Demand Registration or a Joint Demand Registration, as the case may be, be abandoned or withdrawn, in which event the Company shall promptly abandon or withdraw such Registration Statement or Joint Demand Registration; provided, however, that the Company shall not be required to pay for expenses of any registration proceeding begun pursuant to Section 4.2(a) hereof, which has been subsequently withdrawn pursuant to this Section 4.2(d) at the request of the Investors' Representative (or in the case of a Joint Demand Registration, the Joint Representative), and shall be reimbursed by the Investors (or in the event of a Joint Demand Registration by each of the Investors and MSD on a pro rata basis) whose Registrable Securities were intended to be included in the Demand Registration Statement or Joint Demand Registration for reasonable and documented out-of-pocket expenses (including legal fees and printing expenses) so incurred, unless the withdrawal is based upon material adverse information concerning the Company that the Company had not publicly disclosed at least two (2) Business Days prior to the Company's receipt of such Demand Notice.

(e) Subject to Section 4.4, with the prior written consent of the Investors' Representative (which consent shall not be unreasonably withheld, conditioned or delayed), the Company shall be entitled to coordinate any offerings under this Section 4.2 with any offerings to be effected pursuant to similar agreements with the holders of Other Securities, including, if practicable, by filing one Registration Statement for all Other Securities.

SECTION 4.3. Piggyback Registration.

(a) At any time following the expiration of the Relevant Restricted Period, if, other than pursuant to Sections 4.1 and a Demand Registration requested by an Investor (as

defined in this Agreement), the Company proposes to file a registration statement under the Securities Act with respect to an offering by the Company for its own account (other than a registration statement (a) on Form S-4, Form S-8 or any successor forms thereto, (b) filed solely in connection with any employee benefit or dividend reinvestment plan or (c) for the purpose of effecting a rights offering relating to the Company Common Stock) or for the account of any of its security holders, the Company will give to each Investor written notice of such filing at least fifteen (15) days prior to the anticipated filing date (the "Piggyback Notice"). The Piggyback Notice shall offer each Investor, subject to the restrictions set forth in Section 3.2, the opportunity to include in such registration statement the number of Registrable Securities (for purposes of this Section 4.3, "Registrable Securities" shall be deemed to mean solely securities of the same type and class as those proposed to be offered by the Company for its own account) as they may request (a "Piggyback Registration"). Subject to Section 4.3(b), the Company shall include in each such Piggyback Registration all Registrable Securities with respect to which the Company has received written requests for inclusion therein within seven (7) days after notice has been given to the Investors. The Company shall be required to maintain the effectiveness of the Registration Statement for a Piggyback Registration for a period of 180 days after the effective date thereof or such shorter period in which all Registrable Securities included in such Registration Statement have actually been sold.

(b) If any of the securities to be registered pursuant to the registration giving rise to the Investors' rights under this Section 4.3 are to be sold in an underwritten offering, the Investors shall be permitted to include all Registrable Securities requested to be included in such registration in such offering on the same terms and conditions as any other shares of Capital Stock, if any, of the Company included therein; provided, however, that if such offering involves a firm commitment underwritten offering and the managing underwriter(s) of such underwritten offering advise the Investors in writing that it is their good faith opinion that the total number or dollar amount of Registrable Securities proposed to be sold in such offering, together with all Other Securities that the Company and any other Persons having rights to participate in such registration intend to include in such offering, exceeds the t otal number or dollar amount of such securities that can be sold without having an adverse effect on the price, timing or distribution of the Registrable Securities to be so included together with all such Other Securities, then there shall be included in such firm commitment underwritten offering the number or dollar amount of Registrable Securities and such Other Securities that in the opinion of such managing underwriter(s) can be sold without so adversely affecting such offering, and such number of Registrable Securities and Other Securities shall be allocated for inclusion as follows:

(i) first, all Other Securities being sold by the Company or by any Person (other than an Investor) exercising a contractual right to demand registration pursuant to which such registration statement was filed; provided that if the registration statement triggering the Piggyback Notice was for an offering for the account of MSD pursuant to the terms of the MSD Stockholder Agreement and the Investors request a corresponding Piggyback Registration pursuant to this Section 4.3(b), then the priority in this clause (i) shall be allocated pro rata between MSD and the Investors (based on the number of Registrable Securities requested to be registered by such Person); and

(ii) second, among any other holders of Registrable Securities or Other Securities requesting such registration, pro rata, based on the aggregate number of Registrable Securities and Other Securities Beneficially Owned by each such holder.

(c) The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 4.3 prior to the effectiveness of the related Registration Statement and shall have no obligation to register any Registrable Securities in connection with such registration, except to the extent provided herein. The Registration Expenses of such withdrawn Piggyback Registration shall be borne by the Company in accordance with Section 4.4 hereof.

(d) Any Investor shall have the right to withdraw its request for inclusion of its Registrable Securities in any Piggyback Registration by giving written notice to the Company of its request to withdraw at least two (2) Business Days prior to the planned effective date of the related Registration Statement; provided, however, that the Company shall not be required to pay for expenses of any registration proceeding begun pursuant to this Section 4.3, which has been subsequently withdrawn pursuant to this Section 4.3(d) at the request of the applicable Investor, and shall be reimbursed by the Investors whose Registrable Securities were intended to be included in the Piggyback Registration for reasonable and documented out-of-pocket expenses (including legal fees and printing expenses) so incurred, unless the withdrawal is based upon material adverse information concerning the Company that the Company h ad not publicly disclosed at least two (2) Business Days prior to the Company's receipt of such Piggyback Notice.

SECTION 4.4. Registration Expenses. In connection with registrations pursuant to Sections 4.1, 4.2 and 4.3 hereof, the Company shall pay all of the registration expenses incurred in connection with the registration thereunder (the "Registration Expenses"), including, without limitation, all: (a) reasonable registration and filing fees, (b) reasonable fees and expenses of compliance with securities or blue sky laws (including reasonable fees and disbursements of counsel in connection with blue sky qualifications of the Registrable Securities), (c) reasonable processing, duplicating and printing expenses, (d) internal expenses of the Company (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), (e) fees and expenses incurred in connection with the listing of the Registrable Securities, (f) fees and disbursements of counsel for the Company, fees and expenses for independent certified public accountants retained by the Company (including the expenses of any comfort letters or costs associated with the delivery by independent certified public accountants of a comfort letter or comfort letters requested but not the cost of any audit other than a year end audit) and reasonable and documented fees and expenses of one counsel (including applicable local counsel as necessary) for the Selling Investors not in excess of $50,000 and (g) fees and expenses of any special experts retained by the Company in connection with such registration. Notwithstanding the foregoing, each Selling Investor shall be responsible for (i) any underwriting fees, discounts or commissions, (ii) any commissions of brokers and dealers, and (iii) capital gains, income and transfer taxes, if any, relating to the sale of Registrable Securities of such Selling Investor. For purposes of this Section 4.4, the term "Selling Investor" shall include Persons who are "Selling Investors" under the MSD Stockholders Agreement.

SECTION 4.5. Registration Procedures.

(a) In connection with the registration of any Registrable Securities pursuant to this Agreement:

(i) The Company shall prepare and file with the SEC a Registration Statement with respect to such Registrable Securities as provided herein, make all required filings with FINRA and use commercially reasonable efforts to keep each Registration Statement continuously effective during the period such Registration Statement is required to remain effective pursuant to the terms of this Agreement; upon the occurrence of any event that would cause the Registration Statement or the Prospectus contained therein (A) to contain a material misstatement or omission or (B) not to be effective and usable for resale of Registrable Securities during the period such Registration Statement is required to remain effective pursuant to the terms of this Agreement, the Company shall file promptly an appropriate amendment to the Registration Statement, a supplement to the Prospectus or a report filed with the SEC pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, in the case of clause (A), correcting any such misstatement or omission, and, in the case of either clause (A) or (B), the Company shall use commercially reasonable efforts to cause such amendment to be declared effective and the Registration Statement and the related Prospectus to become usable for their intended purposes as soon as practicable thereafter.

(ii) Notwithstanding Section 4.5(a)(i) hereof, the Company may suspend the effectiveness of a Registration Statement and the Investors' right to sell thereunder (each such period, a "Suspension Period") if the Company reasonably determines and delivers to the Investors a certificate signed by an officer of the Company stating that such Registration Statement or further sales under an effective Registration Statement would have a detrimental effect, as reasonably determined by the Company, on the Company or a plan currently being considered by the Company or the Board of Directors. Upon such suspension, the Company shall give notice to the Investors listed in such Registration Statement that the availability of the Registration Statement is suspended and, upon actual receipt of such notice, each Investor agrees not to sell any Registrable Securities pursuant to the Registration Stat ement until the earlier of (1) such Investor's receipt of copies of the supplemented or amended Prospectus provided for in this Section 4.5 or (2) such Investor has been advised in writing by the Company that the sale of Registrable Securities pursuant to the Registration Statement may resume. A Suspension Period shall not exceed 90 consecutive days and the aggregate of all Suspension Periods shall not exceed 180 days in any 360-day period.

(iii) The Company shall prepare and file with the SEC such amendments and post-effective amendments to each Registration Statement as may be necessary to keep such Registration Statement effective during the periods provided herein.

(iv) The Company shall advise any Investor that has provided in writing to the Company a telephone or facsimile number and address for notice, promptly (which notice pursuant to clauses (B) through (D) below shall be accompanied by an

instruction to suspend the use of the Prospectus until the Company shall have remedied the basis for such suspension):

(A) when the Prospectus or any Prospectus supplement or post-effective amendment is proposed to be or has been filed, and, with respect to the Registration Statement or any post-effective amendment thereto, when the same has become effective;

(B) of any request by the SEC or any other Governmental Entity for amendments to the Registration Statement or amendments or supplements to the Prospectus or for additional information relating thereto;

(C) of the issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement under the Securities Act or of the suspension by any state securities commission of the qualification of the Registrable Securities for offering or sale in any jurisdiction, or the threatening or initiation of any proceeding for any of the preceding purposes;

(D) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any proceeding for such purpose; or

(E) of the existence of any fact or the happening of any event, during the period in which a Registration Statement remains effective under the Securities Act, that makes any statement of a material fact made in such Registration Statement, the Prospectus, any amendment or supplement thereto, or any document incorporated by reference therein untrue, or that requires the making of any additions to or changes in the Registration Statement or the Prospectus in order to make the statements therein not misleading.

(v) The Company shall, unless any Registrable Securities shall be in book-entry form only, cooperate with the Investors to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends (unless required by applicable securities Laws), and enable such Registrable Securities to be in such denominations and registered in such names as the Investors may request at least two (2) Business Days before any sale of Registrable Securities. In connection therewith, if reasonably required by the Company's transfer agent, the Company shall promptly deliver any authorizations, certificates and directions required by the transfer agent which authorize and direct the transfer agent to issue such Registrable Securities without legend upon sale by the holder of such shares of Registrable Securities under the Registration Statement.

(vi) The Company shall use commercially reasonable efforts to promptly register or qualify any Registrable Securities under such other securities or blue

sky laws of such jurisdictions within the United States as any Investor reasonably requests and which may be reasonably necessary or advisable to enable such Investor to consummate the disposition in such jurisdictions of the Registrable Securities owned by such Investor, keep such registrations or qualifications in effect for so long as the Registration Statement remains in effect and do any and all other acts and things which may be reasonably necessary or advisable to enable such Investor to consummate the disposition in such jurisdictions of the Registrable Securities owned by such Investor; provided, however, that the Company will not be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this Agreement, (B) subject itself to taxation in any jurisdiction where it would not otherwise be subjec t to taxation but for this Agreement or (C) consent to general service of process in any jurisdiction where it would not otherwise be subject to such service but for this Agreement.

(vii) The Company shall use commercially reasonable efforts to promptly cause any Registrable Securities covered by a Registration Statement to be registered with or approved by such other Governmental Entity within the United States as may be necessary to enable the seller or sellers thereof to consummate the disposition of such Registrable Securities in accordance with the intended methods of disposition set forth in such Registration Statement.

(viii) The Company shall, in the event that the Investors' Representative advises the Company that an Investor intends to distribute any Registrable Securities by means of an underwritten offering, whether pursuant to Section 4.1, 4.2 or 4.3, enter into an underwriting agreement in customary form, scope and substance and take all such other actions reasonably requested by the Investors owning a majority of the Registrable Securities being sold in connection therewith or by the managing underwriter(s), if any, to expedite or facilitate the underwritten disposition of such Registrable Securities and deliver such documents and certificates as may be reasonably requested by the Investors of a majority of the Registrable Securities being sold in connection therewith, their counsel and the managing underwriter(s), if any.

(ix) Use its commercially reasonable efforts to prevent, or obtain the withdrawal of, any stop order or other order suspending the use of any Prospectus.

(x) Deliver to each Selling Investor and each underwriter, if any, without charge, as many copies of the applicable Prospectus and any amendment or supplement thereto as such Selling Investor or underwriter may reasonably request.

(xi) Cooperate with each Selling Investor and the underwriters, if any, of such Registrable Securities and their respective counsel in connection with any filings required by Law to be made with FINRA.

(xii) Obtain opinions of counsel to the Company and updates thereof addressed to each Selling Investor and the underwriters or initial purchasers, if any, covering matters as are customarily requested in opinions covering secondary resale

offerings of companies of comparable size, maturities and lines of business as the Company.

(xiii) Obtain "comfort" letters and updates thereof from the Company's independent certified public accountants, such letters covering matters as are customarily requested in comfort letters covering secondary resale offerings of companies of comparable size, maturities and lines of business as the Company.

(b) Each Investor agrees by acquisition of a Registrable Security that no Investor shall be entitled to sell any of such Registrable Securities pursuant to a Registration Statement, or to receive a Prospectus relating thereto, unless such Investor has furnished the Company with a Notice and Questionnaire (including the information required to be included in such Notice and Questionnaire) and the information set forth in the next sentence. The Company may require each Investor selling Registrable Securities pursuant to a Registration Statement to furnish to the Company such information regarding such Investor and the distribution of such Company Common Stock as the Company may from time to time reasonably require for inclusion in such Registration Statement. Each such Investor agrees promptly to furnish to the Company all information required to be disclosed in order to make the information previously furnished to the Comp any by such Investor not misleading. Any sale of any Registrable Securities by any Investor shall constitute a representation and warranty by such Investor that the information relating to such Investor and its plan of distribution is as set forth in the Prospectus delivered in connection with such disposition, that such Prospectus does not as of the time of such sale contain any untrue statement of a material fact relating to or provided by such Investor or its plan of distribution and that such Prospectus does not as of the time of such sale omit to state any material fact relating to or provided by such Investor or its plan of distribution necessary to make the statements in such Prospectus, in light of the circumstances under which they were made, not misleading. The Company may exclude from such Registration Statement the Registrable Securities of any Investor that fails to furnish such information within a reasonable time after receiving such request. The Company shall not include in any Re gistration Statement any information regarding, relating to or referring to any Investor or its plan of distribution without the approval of such Investor in writing.

(c) No Investor shall use any free writing prospectus (as defined in Rule 405 under the Securities Act) in connection with the sale of Registrable Securities without the prior written consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed).

(d) If any offering of Registrable Securities pursuant to a Shelf Registration Statement or any Demand Registration is an underwritten offering, it is agreed that, unless the Company otherwise consents in writing, either Barclays Capital Inc., Deutsche Bank Securities Inc., Credit Suisse Securities (USA) LLC or Banc of America Securities LLC shall be either the managing underwriter or lead book running manager.

SECTION 4.6. Indemnification.

(a) The Company shall indemnify and hold harmless, to the fullest extent permitted by Law (i) each Selling Investor whose Registrable Securities are covered by a

Registration Statement or Prospectus, (ii) the officers, directors, partners (limited and general), members, managers, representatives, agents and employees of each of such Selling Investors, (iii) each member, limited or general partner of each such member, limited or general partner, (iv) each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) each such Selling Investor and such controlling Person's Affiliates, officers, directors, shareholders, employees, advisors and agents , (v) each underwriter (including any Investor that is deemed to be an underwriter pursuant to any SEC comments or policies), if any, and (vi) each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) such underwriter (collectively, "Investor Indemnitees"), from and against all losses, claims, damages, liabilit ies, penalties, judgments, suits, costs and expenses (including legal fees and expenses) (collectively, "Losses") in connection with any sale of Registrable Securities pursuant to a Registration Statement arising out of or based upon (i) any violation or alleged violation of the Securities Act or any rule or regulation promulgated thereunder by the Company or any of its Affiliates, employees, officers, directors or agents or (ii) any untrue or alleged untrue statement of a material fact contained in any Registration Statement or any Prospectus (including preliminary or final) relating to the registration of such Registrable Securities or any amendment or supplement thereto or any document incorporated by reference therein or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading; provided, however, that the Company shall not be liable to such Investor Indemnitee in any such case to the extent that any such loss, claim, damage, liability or expense arises out of or is based upon (A) an untrue statement or alleged untrue statement or omission or alleged omission made in such Registration Statement, including any such preliminary or final Prospectus contained therein or any such amendments or supplements thereto, or contained in any free writing prospectus (as such term is defined in Rule 405 under the Securities Act) prepared by the Company or authorized by it in writing for use by such Investor Indemnitee (or any amendment or supplement thereto), in reliance upon and in conformity with information regarding such Investor Indemnitee or its plan of distribution or ownership interests which was furnished in writing to the Company for use in connection with such Registration Statement, including any such preliminary or final Prospectus contained therein or any such amendments or supplements thereto, (B) offers or sales effected by o r on behalf of such Investor Indemnitee "by means of" (as defined in Rule 159A under the Securities Act) a "free writing prospectus" (as defined in Rule 405 under the Securities Act) that was not authorized in writing by the Company or (C) the failure of any Investor Indemnitee to deliver or make available to a purchaser of Registrable Securities a copy of any Registration Statement, including any preliminary or final Prospectus contained therein or any amendments or supplements thereto (if the same was required by applicable Law to be delivered or made available); provided, that the Company shall have delivered to such Investor Indemnitee such Registration Statement, including such preliminary or final Prospectus contained therein and any amendments or supplements thereto.

(b) In connection with any Registration Statement in which a Selling Investor is participating by registering Registrable Securities, such Selling Investor agrees to indemnify and hold harmless, to the fullest extent permitted by Law, severally and not jointly, the Company, the officers, directors, agents, representatives or other employees of the Company, each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) the Company, each underwriter, if any, and each Person who controls

(within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) such underwriter (collectively, "Company Indemnitees"), from and against all Losses, as incurred, arising out of or based on any untrue or alleged untrue statement of a material fact contained in any such Registration Statement or preliminary or final Prospectus relating to the registration of such Registrable Securities or any amendment or supplement thereto or any document incorporated by reference therein, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, in each case solely to the extent that such untrue or alleged untrue statement or omission or alleged omission is made in such Registration Statement or in any preliminary or final Prospectus contain ed therein or any such amendments or supplements thereto or contained in any free writing prospectus (as such term is defined in Rule 405 under the Securities Act) in reliance upon and in conformity with written information furnished to the Company by such Selling Investor expressly for inclusion in such document.

(c) If any Person shall be entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall give prompt notice to the party from which such indemnity is sought (the "Indemnifying Party") of any claim or of the commencement of any Action with respect to which such Indemnified Party seeks indemnification or contribution pursuant hereto; provided, however, that the delay or failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party from any obligation or liability except to the extent that the Indemnifying Party has been actually prejudiced by such delay or failure. The Indemnifying Party shall have the right, exercisable by giving written notice to an Indemnified Party promptly after the receipt of written notice from such Indemnified Party of such claim or Action, to assume, at the Indemnifying Party's expense, the defense of any such Action, with counsel reasonably satisfactory to such Indemnified Party; provided, however, that an Indemnified Party shall have the right to employ separate counsel in any such Action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless: (i) the Indemnifying Party agrees to pay such fees and expenses; (ii) the Indemnifying Party fails promptly to assume, or in the event of a conflict of interest cannot assume, the defense of such Action or fails to employ counsel reasonably satisfactory to such Indemnified Party, in which case the Indemnified Party shall also have the right to employ counsel and to assume the defense of such Action or (iii) in the Indemnified Party's reasonable judgment a conflict of interest between such Indemnified Party and Indemnifying Party may exist in respect of such Action; provided, further, that the Indemnifying Party shall not, in connection with any one such Action or separate but substantially similar or related Actions in the same jurisdiction, arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one firm of attorneys (together with appropriate local counsel) at any time for all of the Indemnified Parties, or for fees and expenses that are not reasonable. Whether or not such defense is assumed by the Indemnifying Party, neither the Indemnifying Party nor the Indemnified Party will be subject to any liability for, or otherwise effect, any settlement made without the consent of the other (but such consent shall not be unreasonably withheld, conditioned or delayed).

(d) Neither party shall settle, compromise, discharge or consent to an entry of judgment with respect to a claim or liability subject to indemnification under this Section 4.6 without the other parties' prior written consent (which consent shall not be unreasonably

withheld, conditioned or delayed); provided that the Indemnifying Party may agree without the prior written consent of the Indemnified Party to any settlement, compromise, discharge or consent to an entry of judgment, in each case that relates only to money damages and by its terms obligates the Indemnifying Party to pay the full amount of the liability in connection with such claim and which unconditionally releases the Indemnified Party from all liability in connection with such claim.

(e) If the indemnification provided for in this Section 4.6 is unavailable to hold harmless each of the Indemnified Parties against any losses, claims, damages, liabilities and expenses to which such parties may become subject under the Securities Act, then the Indemnifying Party shall, in lieu of indemnifying each party entitled to indemnification hereunder, contribute to the amount paid or payable by such party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and such Indemnified Parties on the other in connection with the statements or omissions or alleged statements or omissions that resulted in such losses, claims, damages, liabilities or expenses. The relative fault of such parties shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact, or omission or alleged omission to state a material fact, relates to information supplied by or concerning the Indemnifying Party on the one hand, or by such Indemnified Party on the other, and such party's relative intent, knowledge, access to information and opportunity to have corrected or prevented such statement or omission. No Person guilty of fraudulent misrepresentation (within the meaning of the Securities Act) shall be entitled to contribution from any Person that is not guilty of such fraudulent misrepresentation.

SECTION 4.7. Miscellaneous.

(a) With a view to making available the benefits of certain rules and regulations of the SEC which may at any time permit the sale of the Registrable Securities to the public without registration, the Company agrees, so long as there are outstanding Registrable Securities, to use commercially reasonable efforts to:

(i) Make and keep public information available, as those terms are understood and defined in Rule 144 under the Securities Act (as amended from time to time) or any similar or analogous rule promulgated under the Securities Act, at all times after the effective date of this Agreement;

(ii) file with the SEC in a timely manner all reports and other documents as the SEC may prescribe under the Exchange Act at any time while the Company is subject to such reporting requirements of the Exchange Act;

(iii) furnish to the Investors forthwith upon a reasonable request a written statement by the Company as to its compliance with the reporting requirements of Rule 144 (as amended from time to time) and of the Securities Act and of the Exchange Act; a copy of the most recent annual or quarterly report of the Company; and such other reports and documents as the Investors' Representative on behalf of the Investor may reasonably request in availing itself of any rule or regulation of the SEC allowing it to sell any such Registrable Securities without registration; and

(iv) take such further action as any Investor may reasonably request, so as to enable such Investor to sell Registrable Securities without registration under the Securities Act within the limitations of the exemptions provided by Rule 144 under the Securities Act (as amended from time to time) or any successor or similar rule or regulation thereafter adopted by the SEC.

(b) Subject to the provisions hereof, in the event the Company proposes to enter into an underwritten public offering, each Investor who, at such time, Beneficially Owns Preferred Stock (which for the purposes of this subsection, shall include any Company Common Stock issuable by the Company upon conversion of any shares of Preferred Stock) and Company Common Stock that, in the aggregate, is equal to at least four percent (4%) of the total number of shares of Company Common Stock then outstanding agrees to enter into a customary agreement with the managing underwriters not to effect any sale or distribution of equity securities of the Company, or any securities convertible, exchangeable or exercisable for or into such securities, during the period beginning up to two (2) days prior to the date of such offering and extending for up to 90 days following the effective date of such offering if so requested by the Company and the underwri ters. The Company may impose stop-transfer restrictions with respect to the securities subject to the foregoing restriction until the end of the required stand-off period and shall lift such stop-transfer restrictions immediately upon the end of such period.

ARTICLE V
TERMINATION

SECTION 5.1. Termination. Other than the termination provisions applicable to particular Sections of this Agreement that are specifically provided elsewhere in this Agreement, this Agreement shall terminate (a) upon the mutual written agreement of the Company and the Investors holding a majority of the shares of Preferred Stock then held by the Investors in the aggregate and (b) with respect to any Investor, at such time as such Investor ceases to hold Registrable Securities.

ARTICLE VI
MISCELLANEOUS

SECTION 6.1. Amendment and Modification. This Agreement may be amended, modified and supplemented, and any of the provisions contained herein may be waived, only by a written instrument signed by the Company and by the Investors holding a majority of the Shares then held by the Investors in the aggregate. No course of dealing between or among any Persons having any interest in this Agreement will be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Person under or by reason of this Agreement.

SECTION 6.2. Assignment; No Third-Party Beneficiaries.

(a) Neither this Agreement, nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of Law or otherwise) without the prior written consent of the other parties; provided, however that (i) each Investor may assign its rights, interests and obligations under this Agreement to any Affiliate of

such Investor in connection with a transfer of Shares to such Person and (ii) in the event of such assignment, the assignee shall agree in writing to be bound by the provisions of this Agreement.

(b) This Agreement shall not confer any rights or remedies upon any Person other than the parties to this Agreement and their respective successors and permitted assigns.

SECTION 6.3. Binding Effect; Entire Agreement. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and executors, administrators and heirs. This Agreement, the LNK Purchase Agreement and the other agreements set forth herein, including the Certificate of Designations of the Preferred Stock, set forth the entire agreement and understanding between the parties as to the subject matter hereof and merges and supersedes all prior discussions, agreements and understandings of any and every nature among them.

SECTION 6.4. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable Law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provisions were so excluded and shall be enforceable in accordance with its terms so long as the economic or legal substance of the transactions contemplated by this Agreement are not affected in any manner materially adverse to any party.

SECTION 6.5. Notices and Addresses. Any notice, demand, request, waiver, or other communication under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service, if personally served or sent by facsimile; on the Business Day after notice is delivered to a courier or mailed by express mail, if sent by courier delivery service or express mail for next day delivery; and on the third day after mailing, if mailed to the party to whom notice is to be given, by first class mail, registered, return receipt requested, postage prepaid and addressed as follows:

If to the Company:

Phillips-Van Heusen Corporation
200 Madison Avenue
New York, New York 10016
Attention: Mark D. Fischer, Esq.
Facsimile: (212) 381-3993

with a copy (which shall not constitute notice) to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attention: Andrew J. Nussbaum, Esq.
Gregory E. Ostling, Esq.
Facsimile: (212) 403-2000

If to any Investor, at the most current address, and with a copy to be sent to each additional address given by such Investor to the Company in writing, and copies (which shall not constitute notice) sent to:

LNK Partners, L.P.
81 Main Street
White Plains, NY 10601
Attention: David A. Landau
Facsimile: (914) 824-5901
Telephone: (914) 824-5900

or

LNK Partners (Parallel), L.P.
c/o LNK Partners, L.P.
81 Main Street
White Plains, NY 10601
Attention: David A. Landau
Facsimile: (914) 824-5901
Telephone: (914) 824-5900

with a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022
Attention: Kim Taylor
Facsimile: (212) 446-6460

SECTION 6.6. Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without giving effect to any choice of law 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 the State of Delaware.

SECTION 6.7. Headings. The headings in this Agreement are for convenience of reference only and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

SECTION 6.8. Counterparts. This Agreement may be executed via facsimile or electronic mail and in any number of counterparts, each of which shall be deemed to be an original instrument and all of which together shall constitute one and the same instrument.

SECTION 6.9. Further Assurances. Each party shall cooperate and take such action as may be reasonably requested by another party in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby.

SECTION 6.10. Remedies. In the event of a breach or a threatened breach by any party to this Agreement of its obligations under this Agreement, any party injured or to be injured by

such breach will be entitled to specific performance of its rights under this Agreement or to injunctive relief, in addition to being entitled to exercise all rights provided in this Agreement and granted by Law, it being agreed by the parties that the remedy at Law, including monetary damages, for breach of any such provision will be inadequate compensation for any loss and that any defense or objection in any action for specific performance or injunctive relief for which a remedy at Law would be adequate is waived.

SECTION 6.11. Jurisdiction and Venue. The parties hereto hereby irrevocably submit to the jurisdiction of the Delaware Court of Chancery or, in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, in the United States District Court for the District of Delaware in respect of the interpretation and enforcement of the provisions of this Agreement and of the documents referred to in this Agreement, and in respect of the transactions contemplated hereby, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in the Delaware Court of Chancery, or in the event (but only in the event) that such court does not have subject matt er jurisdiction over such action or proceeding, in the United States District Court for the District of Delaware, or that this Agreement or any such document may not be enforced in or by such courts, and the parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in the Delaware Court of Chancery, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, in the United States District Court for the District of Delaware. The parties hereto hereby consent to and grant the Delaware Court of Chancery, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, the United States District Court for the District of Delaware, jurisdiction over the person of such parties and, to the extent permitted by Law, over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 6.5 or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

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IN WITNESS WHEREOF, the parties hereto have caused this Stockholders Agreement to be duly executed as of the date and year first above written.

PHILLIPS-VAN HEUSEN CORPORATION

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

LNK PARTNERS, L.P.

By: LNK GenPar, L.P.
Its: General Partner

By: LNK MPG, LLC
Its: General Partner

By: /s/ David Landau
Name: David Landau
Its: President

LNK PARTNERS (PARALLEL), L.P.

By: LNK GenPar, L.P.
Its: General Partner

By: LNK MPG, LLC
Its: General Partner

By: /s/ David Landau
Name: David Landau
Its: President

EXHIBIT 4.14
EXECUTION COPY

STOCKHOLDER AGREEMENT

dated as of May 6, 2010

by and between

PHILLIPS-VAN HEUSEN CORPORATION,

and

MSD BRAND INVESTMENTS, LLC

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STOCKHOLDER AGREEMENT

THIS STOCKHOLDER AGREEMENT, dated as of May 6, 2010 (this "Agreement"), by and between Phillips-Van Heusen Corporation, a Delaware corporation (the "Company") and MSD Brand Investments, LLC, a Delaware limited liability company (the "Investor").

RECITALS:

WHEREAS, (a) LNK Partners, L.P., a Delaware limited partnership, LNK Partners (Parallel), L.P., a Delaware limited partnership (together, with LNK Partners, L.P., "LNK") and the Company have entered into that certain Securities Purchase Agreement, dated as of March 15, 2010 (the "LNK Purchase Agreement"), pursuant to which LNK will purchase 4,000 shares of Series A Convertible Preferred Stock of the Company (the "Preferred Stock") and (b) the Investor and the Company have entered into that certain Securities Purchase Agreement, dated as of March 15, 2010 (the "MSD Purchase Agreement" and, together with the LNK Purchase Agreement, the "Purchase Agreements"), pursuant to which the Investor will purchase 4,000 shares of the Preferred Stock, which will collectively constitute all of the issued and outstanding shares of the Preferred Stock; and

WHEREAS, it is a condition precedent to the purchase of such Preferred Stock under the MSD Purchase Agreement that the Company enter into this Agreement with the Investor to provide for certain agreements and obligations of the parties following the closing of the transactions contemplated by the MSD Purchase Agreement (the "Closing").

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, intending to be legally bound, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

SECTION 1.1. Definitions. The following terms shall have the meanings ascribed to them below:

"Affiliate" of a Person has the meaning set forth in Rule 12b-2 under the Exchange Act. Notwithstanding anything to the contrary set forth in this Agreement, no limited partner or similar participant of the Investor shall be deemed an Affiliate of the Investor.

"Agreement" means this Agreement, as amended, modified or supplemented from time to time, in accordance with the terms hereof, together with any exhibits, schedules or other attachments hereto.

"Alternative Transaction" has the meaning set forth in Section 2.1.

"Beneficially Own" with respect to any securities means having "beneficial ownership" of such securities (as determined pursuant to Rule 13d-3 under the Exchange Act without limitation by the 60-day provision in paragraph (d)(1)(i) thereof). The terms "Beneficial Ownership" and "Beneficial Owner" have correlative meanings.

"Board" or "Board of Directors" means the Board of Directors of the Company.

"Business Day" means a day, other than a Saturday or Sunday, on which commercial banks in New York City are open for the general transaction of business.

"Capital Stock" means, with respect to any Person at any time, any and all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of capital stock, partnership interests (whether general or limited) or equivalent ownership interests in or issued by such Person.

"Change of Control" means the existence or occurrence of any of the following: (a) the sale, conveyance or disposition of all or substantially all of the assets of the Company, (b) the consolidation, merger or other business combination of the Company with or into any other entity, immediately following which the then current stockholders of the Company fail to own, directly or indirectly, at least Majority Voting Power, (c) a transaction or series of transactions in which any person or "group" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act) acquires Majority Voting Power (other than (i) a reincorporation or similar corporate transaction in which the Company's stockholders own, immediately thereafter, interests in the new parent company in essentially the same percentage as they owned in the Company immediately prior to such transaction, or (ii) a transaction descri bed in clause (b) (such as a triangular merger) in which the threshold in clause (b) is not passed) or (d) the replacement of a majority of the Board of Directors with individuals who were not nominated or elected by at least a majority of the directors at the time of such replacement.

"Closing" has the meaning ascribed thereto in the recitals of this Agreement.

"Closing Date" means the date on which the Closing occurs.

"Company" has the meaning set forth in the preamble of this Agreement.

"Company Common Stock" means the common stock, par value $1.00 per share, of the Company.

"Company Indemnitees" has the meaning set forth in Section 3.6(b).

"Demand Notice" has the meaning set forth in Section 3.2(a).

"Demand Registration" has the meaning set forth in Section 3.2(a).

"Demand Registration Statement" has the meaning set forth in Section 3.2(a).

"Director" means a director of the Company.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Governmental Entity" means any United States or foreign (a) federal, state, local, municipal or other government, (b) governmental or quasi-governmental entity of any nature (including, without limitation, any governmental agency, branch, department, official or entity and any court or other tribunal), or (c) body exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature, including, without limitation, any arbitral tribunal.

"Indemnified Party" has the meaning set forth in Section 3.6(c).

"Indemnifying Party" has the meaning set forth in Section 3.6(c).

"Investor" has the meaning set forth in the preamble of this Agreement.

"Investor Indemnitees" has the meaning set forth in Section 3.6(a).

"Joint Demand Registration" means a Demand Registration delivered jointly and identified as such by the Investor, on the one hand, and LNK, on the other hand.

"Joint Shelf Take-Down Notice" means a Shelf Take-Down Notice delivered jointly and identified as such by the Investor, on the one hand, and LNK, on the other hand.

"Joint Representative" means any Person designated as such in a Joint Demand Registration.

"Law" means any applicable federal, state, local or foreign law, statute, ordinance, rule, guideline, regulation, order, writ, decree, agency requirement, license or permit of any Governmental Entity.

"LNK" has the meaning ascribed thereto in the recitals of this Agreement.

"LNK Purchase Agreement" has the meaning ascribed thereto in the recitals of this Agreement.

"LNK Stockholders Agreement" means the Stockholders Agreement, dated as of the date hereof, by and between the Company and LNK.

"Losses" has the meaning set forth in Section 3.6(a).

"Majority Voting Power" of the resulting corporation or of the Company shall mean a majority of the ordinary voting power in the election of Directors of all the outstanding voting securities of the resulting corporation or of the Company, respectively.

"MSD Purchase Agreement" has the meaning ascribed thereto in the recitals of this Agreement.

"Notice and Questionnaire" means a written notice executed by the Investor and delivered to the Company containing the information required by Item 507 of Regulation S-K to be included in any Shelf Registration Statement regarding the Investor.

"NYSE" means the New York Stock Exchange.

"Other Securities" means the Company Common Stock or other securities of the Company which the Company is registering pursuant to a Registration Statement covered by Section 3.3.

"Person" shall mean any natural person, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof.

"Piggyback Notice" has the meaning set forth in Section 3.3(a).

"Piggyback Registration" has the meaning set forth in Section 3.3(a).

"Preferred Stock" has the meaning ascribed thereto in the recitals of this Agreement.

"Prospectus" means the prospectus included in any Registration Statement, as amended or supplemented by any prospectus supplement and by all other amendments thereto, including post-effective amendments, and all material incorporated by reference into such prospectus.

"Purchase Agreements" has the meaning ascribed thereto in the recitals of this Agreement.

"Registration Expenses" has the meaning set forth in Section 3.4.

"Registrable Securities" means shares of Company Common Stock issued by the Company upon conversion of any shares of Preferred Stock, as well as any shares of Company Common Stock or other securities issued as (or issuable upon the conversion or exercise of any warrant, right or other security which is issued as) a dividend or other distribution with respect to, or in exchange generally for, or in replacement generally of, such Preferred Stock or other Registrable Securities and any securities issued in exchange for such Preferred Stock or other Registrable Securities in any merger, reorganization, consolidation, share exchange, recapitalization, restructuring or other comparable transaction of the Company. As to any particular Registrable Securities, once issued such securities shall cease to be Registrable Securities when (a) a Registration Statement with respect to the sale of such securities by the Inve stor has been declared effective by the SEC and such securities have been disposed of pursuant to such effective Registration Statement, (b) such securities shall have been or could be sold, without being subject to any holding period or volume limitations pursuant to Rule 144, under circumstances in which all of the applicable conditions of Rule 144 (or any similar provisions then in force) under the Securities Act are met, (c) such securities have been otherwise transferred and the Company has delivered a new certificate or other evidence of ownership for such securities not bearing a restrictive legend and not subject to any stop order, and such securities may be publicly resold by the Person receiving such certificate without

complying with the registration requirements of the Securities Act or (d) such securities shall have ceased to be outstanding.

"Registration Statement" means any registration statement of the Company under the Securities Act which permits the public offering of any of the Registrable Securities pursuant to the provisions of this Agreement, including the Prospectus, amendments and supplements to such registration statement, including post-effective amendments, all exhibits and all material incorporated by reference or deemed to be incorporated by reference in such registration statement.

"Relevant Restricted Period" means (a) with respect to 50% of the Shares, the period commencing on the date of this Agreement and ending on the day that is nine (9) months from the date of this Agreement and (b) with respect to 50% of the Shares, the period commencing on the date of this Agreement and ending on the day that is twelve (12) months from the date of this Agreement.

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Shares" means the Preferred Stock acquired by the Investor at the Closing and any Company Common Stock into which such Preferred Stock may be converted pursuant to the terms of the Certificate of Designations relating to the Preferred Stock.

"Shelf Effective Period" has the meaning set forth in Section 3.1(a).

"Shelf Registration Statement" has the meaning set forth in Section 3.1(a).

"Shelf Take-Down Notice" has the meaning set forth in Section 3.1(b).

"Short Interests" means any agreement, arrangement, understanding or relationship, including any repurchase or similar so-called "stock borrowing" agreement or arrangement, engaged in, directly or indirectly, by the Investor or its Affiliates, the purpose or effect of which is to short shares of Company Common Stock.

"Standstill Period" means the period commencing on the Closing Date and ending on the nine (9) month anniversary of the Closing Date.

"Subsidiary" means, as to any Person, any other Person more than 50% of the shares of the voting stock or other voting interests of which are owned or controlled, or the ability to select or elect more than 50% of the directors or similar managers is held, directly or indirectly, by such first Person or one or more of its Subsidiaries or by such first Person and one or more of its Subsidiaries.

"Suspension Period" has the meaning set forth in Section 3.5(a)(ii).

"13D Group" means any group of Persons who, with respect to those acquiring, holding, voting or disposing of Company Common Stock would, assuming ownership of the requisite

percentage thereof, be required under Section 13(d) of the Exchange Act to file a statement on Schedule 13D with the SEC as a "person" within the meaning of Section 13(d)(3) of the Exchange Act.

SECTION 1.2. General Interpretive Principles. Whenever used in this Agreement, except as otherwise expressly provided or unless the context otherwise requires, any noun or pronoun shall be deemed to include the plural as well as the singular and to cover all genders. The name assigned this Agreement and the Section captions used herein are for convenience of reference only and shall not be construed to affect the meaning, construction or effect hereof. Unless otherwise specified, the terms "hereof," "herein" and similar terms refer to this Agreement as a whole (including the exhibits hereto), and references herein to Sections refer to Sections of this Agreement.

ARTICLE II
STOCKHOLDER RESTRICTIONS

SECTION 2.1. Standstill. During the Standstill Period and unless otherwise approved by the Board of Directors, the Investor will not, and will cause each of its controlled Affiliates not to, directly or indirectly:

(a) acquire or agree, offer, seek or propose to acquire (or request permission to do so) ownership (including, but not limited to, Beneficial Ownership) of any of the assets or businesses of the Company or any Subsidiary thereof (other than any assets or businesses that, individually or in the aggregate, are de minimis to the Company or any Subsidiary thereof), or any rights or options to acquire such ownership (including from a third party);

(b) acquire, offer or propose to acquire or agree to acquire, whether by purchase, tender or exchange offer, by joining a partnership, limited partnership, syndicate or other 13D Group or otherwise, ownership (including, but not limited to, Beneficial Ownership) of any securities issued by the Company or any Subsidiary thereof, or any rights or options to acquire such ownership (whether currently, upon lapse of time, following the satisfaction of any conditions, upon the occurrence of any event or any combination of the foregoing), other than (i) the delivery of shares of Preferred Stock pursuant to the Purchase Agreement, (ii) the acquisition of shares of Company Common Stock, or other property or assets pursuant to the terms of the Preferred Stock, (iii) the acquisition of other securities of the Company as a result of any stock splits, stock dividends or other distributions or recapitalizations or offerings made available by the C ompany to holders of Preferred Stock or Company Common Stock, including rights offerings, or (iv) any acquisition of shares of Company Common Stock approved by the Board prior to such acquisition;

(c) engage in any "solicitation" (within the meaning of the Exchange Act) of proxies or consents relating to the election of directors with respect to the Company, or become a "participant" in any "election contest" (both within the meaning of the Exchange Act) seeking to elect directors not nominated by the Board of Directors;

(d) knowingly induce or attempt to induce any other Person to initiate any stockholder proposal with respect to the Company;

(e) in any manner, agree, attempt, seek or propose to deposit any securities of the Company or any rights to acquire (whether currently, upon lapse of time, following the satisfaction of any conditions, upon the occurrence of any event or any combination of the foregoing) any securities of the Company in any voting trust or similar arrangement;

(f) publicly announce any intention, plan or arrangement inconsistent with the foregoing;

(g) form or join in the formation of a 13D Group with respect to any securities of the Company or any Subsidiary thereof, other than any such "group" consisting exclusively of the Investor and any Affiliates of the Investor;

(h) (i) finance (or arrange financing for) any Person for the purpose of enabling such Person to take an action that, if taken by the Investor, or any of its controlled Affiliates, would be prohibited under this Section 2.1 or (ii) otherwise knowingly encourage or advise another Person, in each case in connection with any of the foregoing; or

(i) seek to do any of the foregoing, request to amend or waive any provision of this Section 2.1 (including, without limitation, this clause (i)), or make or seek permission to make any public announcement with respect to any of the foregoing.

Notwithstanding the foregoing, (a) the parties hereby agree that nothing in this Section 2.1 shall apply to any portfolio company with respect to which the Investor is not the party exercising control over the decision to purchase securities or to vote any such voting securities; provided that the Investor does not provide to such entity any non-public information concerning the Company or any of its Subsidiaries and such portfolio company is not acting at the request or direction of or in coordination with the Investor, (b) nothing contained in this Section 2.1 shall restrict the Investor or its controlled Affiliates from (i) acquiring or agreeing to acquire any debt securities or bank or other debt that is not, by its express terms, convertible into any voting securities of the Company or any of its Subsidiaries and exercising any rights or remedies in connection therewith or (ii) acquiring or a greeing to acquire any voting securities of the Company or any of its Subsidiaries; provided that (A) such acquisitions are not pursuant to a tender offer or exchange offer (as such terms are used in the rules promulgated under the Exchange Act), (B) such acquisitions or agreements to acquire do not otherwise violate this Section 2.1 or United States securities laws and (C) after giving effect to such acquisitions or the consummation of such agreements to acquire, the combined aggregate Beneficial Ownership of the Company's voting securities by the Investor and its controlled Affiliates does not exceed 9.9% of the outstanding voting securities of the Company (or any of its Subsidiaries, as applicable), and (c) (A) the Investor and its Affiliates shall not be prohibited from participating in any equity or debt financing in connection with the acquisition of the Company by any third party that was approved or recommended by the Board of Directors (an "Alternative Trans action") and (B) the restrictions contained in this Section 2.1 shall terminate upon the consummation of an Alternative Transaction.

SECTION 2.2. Dispositions.

(a) The Investor agrees that during the Relevant Restricted Period, without the prior written consent of the Company, it shall not, and shall not authorize, permit or direct its Subsidiaries to, directly or indirectly, (a) offer, pledge or announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of any Shares or securities convertible into or exercisable or exchangeable for such Shares, including in any transaction that involves any common equity securities, equity-linked securities (including convertible securities) or equity forward sale agreements, relating to the Shares or (b) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of any of the Shares, whether any such transaction described in clauses (a) or (b) above is to be settled by delivery of any Shares, in cash or otherwise; provided that the Investor may (i) transfer any Shares to any of its Affiliates provided that such Affiliate agrees to be bound by the terms of this Agreement, (ii) transfer any Shares to a third party pursuant to a tender offer, exchange offer, merger, consolidation or other transaction (A) which is recommended to the stockholders of the Company by the Board or (B) in the case of a merger or other business combination transaction, which has been approved by the requisite vote of the stockholders of the Company and (iii) engage in transactions involving an index-based portfolio of securities that includes Company Common Stock (provided that the value of such Company Common Stock does not represent more than 10% of the total value of such portfolio).

(b) The restrictions set forth in this Section 2.2 shall terminate upon a Change of Control.

ARTICLE III
REGISTRATION RIGHTS

SECTION 3.1. Shelf Registration.

(a) No later than 90 days prior to the expiration of the Relevant Restricted Period (any such date, the "Shelf Date"), the Company shall prepare and file with the SEC a Registration Statement providing for registration and resale, on a continuous or delayed basis pursuant to Rule 415 under the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC, of all of the Registrable Securities; provided that such obligation shall be satisfied if the Company shall have in effect an automatically effective shelf registration statement on Form S-3ASR that will permit the registration and resale of all Registrable Securities (an "Existing Shelf Registration Statement") as of the Shelf Date (any such registration statement, a "Shelf Registration Statement"); provided, further, that, for the avoidance of dou bt, the existence of an Existing Shelf Registration Statement shall not have any effect on the restrictions set forth in Section 2.2. The Shelf Registration Statement shall be on Form S-3 (or any comparable or successor form or forms then in effect) under the Securities Act (or to the extent the Company is not eligible to use Form S-3 or any comparable or successor form or forms, on Form S-1 or any comparable or successor form or forms); provided, however, that if the Company is a well-known seasoned issuer (as defined in Rule 405 under the Securities Act) at the time of filing of the Shelf Registration Statement with the SEC, such Shelf Registration Statement shall be designated by the Company as an automatic shelf registration statement (as defined in Rule 405 under the Securities Act). In the event that the Shelf Registration Statement is not an automatic shelf registration statement,

the Company shall use commercially reasonable efforts to cause the Shelf Registration Statement to be declared effective under the Securities Act by the SEC as of the expiration of the Relevant Restricted Period. The Company shall use commercially reasonable efforts to keep the Shelf Registration Statement continuously effective under the Securities Act until the earlier of (i) the date when all of the Registrable Securities covered by such Shelf Registration Statement have been sold and (ii) the date on which the Registrable Securities covered by the Shelf Registration Statement are eligible to be sold or transferred without being subject to any holding period or volume limitations pursuant to Rule 144 under the Securities Act (the "Shelf Effective Period").

(b) The Investor agrees that if it wishes to sell Registrable Securities pursuant to a Shelf Registration Statement and related Prospectus, it will do so in accordance with this Section 3.1(b) and Section 3.5. The Investor, when wishing to sell Registrable Securities pursuant to a Shelf Registration Statement and related Prospectus, whether in an underwritten offering or otherwise, agrees to notify the Company of such intent (a "Shelf Take-Down Notice") and shall deliver a Notice and Questionnaire to the Company at least five (5) Business Days prior to any intended distribution of Registrable Securities under the Shelf Registration Statement, it being agreed that if the Investor intends to distribute any Registrable Securities by means of an underwritten offering it shall promptly so advise the Company and the Company shall take all reasonable steps to facilitate such distribution, including the actions required pursuant to Section 3.5(a)(viii). From and after the date the Shelf Registration Statement is declared effective, the Company shall, as promptly as practicable after the date a Notice and Questionnaire is delivered to it in connection with a Shelf Take-Down Notice:

(i) if required by applicable Law, file with the SEC a post-effective amendment to the Shelf Registration Statement or prepare and, if required by applicable Law, file a supplement to the related Prospectus or a supplement or amendment to any document incorporated therein by reference or file any other required document so that the Investor, upon delivering such Notice and Questionnaire, is named as a selling security holder in the Shelf Registration Statement and the related Prospectus in such a manner as to permit the Investor to deliver such Prospectus to purchasers of Registrable Securities in accordance with applicable Law and, if the Company shall file a post-effective amendment to the Shelf Registration Statement, use commercially reasonable efforts to cause such post-effective amendment to be declared effective under the Securities Act as promptly as is practicable;

(ii) provide the Investor copies of any documents filed pursuant to Section 3.1(b)(i); and

(iii) notify the Investor as promptly as practicable after the effectiveness under the Securities Act of any post-effective amendment filed pursuant to Section 3.1(b)(i);

provided, however, that if such Shelf Take-Down Notice or Notice and Questionnaire is delivered during a Suspension Period, the Company shall so inform the Investor and shall take the actions set forth in clauses (i), (ii) and (iii) above upon expiration of the Suspension Period in accordance with Section 3.5; provided, further, that the Investor shall not be entitled to deliver to the Company more than one (1) Shelf Take-Down Notice in any 12-month period and, in any

event, each Shelf Take Down Notice may only be made if the sale of the Registrable Securities covered by such Shelf Take Down Notice includes at least 25% of the shares of Company Common Stock into which the originally issued shares of the Preferred Stock may be converted or is reasonably expected to result in aggregate gross cash proceeds in excess of $50,000,000 (without regard to any underwriting discount or commission). Notwithstanding anything contained herein to the contrary, the Company shall be under no obligation to name the Investor if the Investor has not delivered a Notice and Questionnaire to the Company as a selling security holder in any Shelf Registration Statement or related Prospectus.

(c) If any of the Registrable Securities to be sold pursuant to a Shelf Registration Statement are to be sold in a firm commitment underwritten offering which underwritten offering was initially requested by the Investor pursuant to a Shelf Take-Down Notice, and the managing underwriter(s) of such underwritten offering advise the Investor in writing that it is their good faith opinion that the total number or dollar amount of Registrable Securities proposed to be sold in such offering, together with any Other Securities proposed to be included by holders thereof which are entitled to include securities in such Registration Statement, exceeds the total number or dollar amount of such securities that can be sold without having an adverse effect on the price, timing or distribution of the Registrable Securities to be so included, together with all such Other Securities, then there shall be included in such firm commitment underwritten o ffering the number or dollar amount of Registrable Securities and such Other Securities that in the opinion of such managing underwriter(s) can be sold without so adversely affecting such offering, and such number of Registrable Securities and Other Securities shall be allocated for inclusion as follows:

(i) first, the Registrable Securities for which inclusion in such underwritten offering was requested by the Investor; and

(ii) second, among any holders of Other Securities, pro rata, based on the number of Other Securities Beneficially Owned by each such holder of Other Securities.

SECTION 3.2. Demand Registration.

(a) At any time following the expiration of the Relevant Restricted Period, if the Company is unable to file, cause to be effective or maintain the effectiveness of a Shelf Registration Statement as required under Section 3.1 hereof, subject to the restrictions set forth in Section 2.2, the Investor shall have the right, by delivering a written notice to the Company (a "Demand Notice"), to require the Company to register under and in accordance with the provisions of the Securities Act the number of Registrable Securities Beneficially Owned by the Investor and requested by such Demand Notice to be so registered (a "Demand Registration"); provided, however, that the Company shall not be required to effect a Demand Registration pursuant to this Section 3.2(a) after the Company has effected two (2) Demand Registrations pursuant to this Section 3.2(a); and pro vided, further, that the Investor shall not be entitled to deliver to the Company more than one (1) Demand Registration in any 12-month period and, in any event, a Demand Notice may only be made if the sale of the Registrable Securities requested to be registered by the Investor includes at least 25% of the shares of Company Common Stock into which the originally issued shares of the Preferred Stock (which, for the avoidance of doubt,

shall include all of the shares of Preferred Stock that were issued to the Investor and LNK under the Purchase Agreements) may be converted or is reasonably expected to result in aggregate gross cash proceeds in excess of $50,000,000 (without regard to any underwriting discount or commission). For all purposes under this Section 3.2(a), any Demand Registration delivered to the Company by LNK under the LNK Stockholders Agreement shall be considered to be a Demand Registration delivered under this Section 3.2(a) and a Joint Demand Registration shall be deemed to be a single Demand Registration under this Section 3.2(a). A Demand Notice shall also specify the expected method or methods of disposition of the applicable Registrable Securities. Following receipt of a Demand Notice, the Company shall use commercially reasonable efforts to file, as promptly as reasonably practicable, but not later than 30 days after receipt by the Company of such Demand Notice, a Registration Statement relating to the offer and sale of the Registrable Securities requested to be included therein by the Investor in accordance with the methods of distribution elected by the Investor (a "Demand Registration Statement") and shall use commercially reasonable efforts to cause such Registration Statement to be declared effective under the Securities Act as promptly as practicable after the filing thereof.

(b) If any of the Registrable Securities registered pursuant to a Demand Registration are to be sold in a firm commitment underwritten offering, and the managing underwriter(s) of such underwritten offering advise the Investor in writing that it is their good faith opinion that the total number or dollar amount of Registrable Securities proposed to be sold in such offering, together with any Other Securities proposed to be included by holders thereof which are entitled to include securities in such Registration Statement, exceeds the total number or dollar amount of such securities that can be sold without having an adverse effect on the price, timing or distribution of the Registrable Securities to be so included together with all such Other Securities, then there shall be included in such firm commitment underwritten offering the number or dollar amount of Registrable Securities and such Other Securities that in the opinion of such managing underwriter(s) can be sold without so adversely affecting such offering, and such number of Registrable Securities and Other Securities shall be allocated for inclusion as follows:

(i) first, the Registrable Securities for which inclusion in such underwritten offering was requested by the Investor; and

(ii) second, among any holders of Other Securities, pro rata, based on the number of Other Securities Beneficially Owned by each such holder of Other Securities.

(c) In the event of a Demand Registration, the Company shall be required to maintain the continuous effectiveness of the applicable Registration Statement for a period of at least 180 days after the effective date thereof or such shorter period in which all Registrable Securities included in such Registration Statement have actually been sold.

(d) The Investor (or in the case of a Joint Demand Registration, the Joint Representative) shall have the right to notify the Company that it has determined that the Registration Statement relating to a Demand Registration or a Joint Demand Registration, as the case may be, be abandoned or withdrawn, in which event the Company shall promptly abandon

or withdraw such Registration Statement or Joint Demand Registration; provided, however, that the Company shall not be required to pay for expenses of any registration proceeding begun pursuant to Section 3.2(a) hereof, which has been subsequently withdrawn pursuant to this Section 3.2(d) at the request of the Investor (or in the case of a Joint Demand Registration, the Joint Representative), and shall be reimbursed by the Investor (or in the event of a Joint Demand Registration by the Investor and LNK on a pro rata basis) for reasonable and documented out-of-pocket expenses (including legal fees and printing expenses) so incurred, unless the withdrawal is based upon material adverse information concerning the Company that the Company had not publicly disclosed at least two (2) Business Days prior to the Company's receipt of such Demand Notice.

(e) Subject to Section 3.4, with the prior written consent of the Investor (which consent shall not be unreasonably withheld, conditioned or delayed), the Company shall be entitled to coordinate any offerings under this Section 3.2 with any offerings to be effected pursuant to similar agreements with the holders of Other Securities, including, if practicable, by filing one Registration Statement for all Other Securities.

SECTION 3.3. Piggyback Registration.

(a) At any time following the expiration of the Relevant Restricted Period, if, other than pursuant to Sections 3.1 a Demand Registration requested by the Investor (as defined in this Agreement), the Company proposes to file a registration statement under the Securities Act with respect to an offering by the Company for its own account (other than a registration statement (a) on Form S-4, Form S-8 or any successor forms thereto, (b) filed solely in connection with any employee benefit or dividend reinvestment plan or (c) for the purpose of effecting a rights offering relating to the Company Common Stock) or for the account of any of its security holders, the Company will give to the Investor written notice of such filing at least fifteen (15) days prior to the anticipated filing date (the "Piggyback Notice"); provided that the Company shall deliver Piggyback Notices to the Investor only if the Investor elected in writing to receive such Piggyback Notices. The Piggyback Notice shall offer the Investor, subject to the restrictions set forth in Section 2.2, the opportunity to include in such registration statement the number of Registrable Securities (for purposes of this Section 3.3, "Registrable Securities" shall be deemed to mean solely securities of the same type and class as those proposed to be offered by the Company for its own account) as they may request (a "Piggyback Registration"). Subject to Section 3.3(b), the Company shall include in each such Piggyback Registration all Registrable Securities with respect to which the Company has received written requests for inclusion therein within seven (7) days after notice has been given to the Investor. The Company shall be required to maintain the effectiveness of the Registration Statement for a Piggyback Registration for a period of 180 days after the effective date thereof or such shorter perio d in which all Registrable Securities included in such Registration Statement have actually been sold.

(b) If any of the securities to be registered pursuant to the registration giving rise to the Investor's rights under this Section 3.3 are to be sold in an underwritten offering, the Investor shall be permitted to include all Registrable Securities requested to be included in such registration in such offering on the same terms and conditions as any other shares of Capital Stock, if any, of the Company included therein; provided, however, that if such offering involves a firm commitment underwritten offering and the managing underwriter(s) of such underwritten

offering advise the Investor in writing that it is their good faith opinion that the total number or dollar amount of Registrable Securities proposed to be sold in such offering, together with all Other Securities that the Company and any other Persons having rights to participate in such registration intend to include in such offering, exceeds the total number or dollar amount of such securities that can be sold without having an adverse effect on the price, timing or distribution of the Registrable Securities to be so included together with all such Other Securities, then there shall be included in such firm commitment underwritten offering the number or dollar amount of Registrable Securities and such Other Securities that in the opinion of such managing underwriter(s) can be sold without so adversely affecting such offering, and such number of Registrable Securities and Other Securities shall be allocated for inclusio n as follows:

(i) first, all Other Securities being sold by the Company or by any Person (other than an Investor) exercising a contractual right to demand registration pursuant to which such registration statement was filed; provided that if the registration statement triggering the Piggyback Notice was for an offering for the account of LNK pursuant to the terms of the LNK Stockholders Agreement and the Investor requests a corresponding Piggyback Registration pursuant to this Section 3.3(b), then the priority in this clause (i) shall be allocated pro rata between LNK and the Investor (based on the number of Registrable Securities requested to be registered by such Person); and

(ii) second, among any other holders of Registrable Securities or Other Securities requesting such registration, pro rata, based on the aggregate number of Registrable Securities and Other Securities Beneficially Owned by each such holder.

(c) The Company shall have the right to terminate or withdraw any registration initiated by it under this Section 3.3 prior to the effectiveness of the related Registration Statement and shall have no obligation to register any Registrable Securities in connection with such registration, except to the extent provided herein. The Registration Expenses of such withdrawn Piggyback Registration shall be borne by the Company in accordance with Section 3.4 hereof.

(d) The Investor shall have the right to withdraw its request for inclusion of its Registrable Securities in any Piggyback Registration by giving written notice to the Company of its request to withdraw at least two (2) Business Days prior to the planned effective date of the related Registration Statement; provided, however, that the Company shall not be required to pay for expenses of any registration proceeding begun pursuant to this Section 3.3, which has been subsequently withdrawn pursuant to this Section 3.3(d) at the request of the Investor, and shall be reimbursed by the Investor whose Registrable Securities were intended to be included in the Piggyback Registration for reasonable and documented out-of-pocket expenses (including legal fees and printing expenses) so incurred, unless the withdrawal is based upon material adverse information concerning the Company that the Company had not publi cly disclosed at least two (2) Business Days prior to the Company's receipt of such Piggyback Notice.

SECTION 3.4. Registration Expenses. In connection with registrations pursuant to Sections 3.1, 3.2 and 3.3 hereof, the Company shall pay all of the registration expenses incurred in connection with the registration thereunder (the "Registration Expenses"), including, without

limitation, all: (a) reasonable registration and filing fees, (b) reasonable fees and expenses of compliance with securities or blue sky laws (including reasonable fees and disbursements of counsel in connection with blue sky qualifications of the Registrable Securities), (c) reasonable processing, duplicating and printing expenses, (d) internal expenses of the Company (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), (e) fees and expenses incurred in connection with the listing of the Registrable Securities, (f) fees and disbursements of counsel for the Company, fees and expenses for independent certified public accountants retained by the Company (including the expenses of any comfort letters or costs associated with the delivery by independent certified public accountants of a comfort letter or comfort letters requested but not the cost of any audit other than a year end audit) and reasonable and documented fees and expenses of one counsel (including applicable local counsel as necessary) for the Investor not in excess of $50,000 and (g) fees and expenses of any special experts retained by the Company in connection with such registration. Notwithstanding the foregoing, the Investor shall be responsible for (i) any underwriting fees, discounts or commissions, (ii) any commissions of brokers and dealers, and (iii) capital gains, income and transfer taxes, if any, relating to the sale of Registrable Securities. For purposes of this Section 3.4, the term "Investor" shall include Persons who are "Selling Investors" under the LNK Stockholders Agreement.

SECTION 3.5. Registration Procedures.

(a) In connection with the registration of any Registrable Securities pursuant to this Agreement:

(i) The Company shall prepare and file with the SEC a Registration Statement with respect to such Registrable Securities as provided herein, make all required filings with FINRA and use commercially reasonable efforts to keep each Registration Statement continuously effective during the period such Registration Statement is required to remain effective pursuant to the terms of this Agreement; upon the occurrence of any event that would cause the Registration Statement or the Prospectus contained therein (A) to contain a material misstatement or omission or (B) not to be effective and usable for resale of Registrable Securities during the period such Registration Statement is required to remain effective pursuant to the terms of this Agreement, the Company shall file promptly an appropriate amendment to the Registration Statement, a supplement to the Prospectus or a report filed with the SEC pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, in the case of clause (A), correcting any such misstatement or omission, and, in the case of either clause (A) or (B), the Company shall use commercially reasonable efforts to cause such amendment to be declared effective and the Registration Statement and the related Prospectus to become usable for their intended purposes as soon as practicable thereafter.

(ii) Notwithstanding Section 3.5(a)(i) hereof, the Company may suspend the effectiveness of a Registration Statement and the Investor's right to sell thereunder (each such period, a "Suspension Period") if the Company reasonably determines and delivers to the Investor a certificate signed by an officer of the Company stating that such Registration Statement or further sales under an effective Registration Statement would have a detrimental effect, as reasonably determined by the Company, on

the Company or a plan currently being considered by the Company or the Board of Directors. Upon such suspension, the Company shall give notice to the Investor listed in such Registration Statement that the availability of the Registration Statement is suspended and, upon actual receipt of such notice, the Investor agrees not to sell any Registrable Securities pursuant to the Registration Statement until the earlier of (1) the Investor's receipt of copies of the supplemented or amended Prospectus provided for in this Section 3.5 or (2) the Investor has been advised in writing by the Company that the sale of Registrable Securities pursuant to the Registration Statement may resume. A Suspension Period shall not exceed 90 consecutive days and the aggregate of all Suspension Periods shall not exceed 180 days in any 360-day period.

(iii) The Company shall prepare and file with the SEC such amendments and post-effective amendments to each Registration Statement as may be necessary to keep such Registration Statement effective during the periods provided herein.

(iv) The Company shall advise the Investor that has provided in writing to the Company a telephone or facsimile number and address for notice, promptly (which notice pursuant to clauses (B) through (D) below shall be accompanied by an instruction to suspend the use of the Prospectus until the Company shall have remedied the basis for such suspension):

(A) when the Prospectus or any Prospectus supplement or post-effective amendment is proposed to be or has been filed, and, with respect to the Registration Statement or any post-effective amendment thereto, when the same has become effective;

(B) of any request by the SEC or any other Governmental Entity for amendments to the Registration Statement or amendments or supplements to the Prospectus or for additional information relating thereto;

(C) of the issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement under the Securities Act or of the suspension by any state securities commission of the qualification of the Registrable Securities for offering or sale in any jurisdiction, or the threatening or initiation of any proceeding for any of the preceding purposes;

(D) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any proceeding for such purpose; or

(E) of the existence of any fact or the happening of any event, during the period in which a Registration Statement remains effective under the Securities Act, that makes any statement of a material fact made in such Registration Statement, the Prospectus, any amendment or supplement

thereto, or any document incorporated by reference therein untrue, or that requires the making of any additions to or changes in the Registration Statement or the Prospectus in order to make the statements therein not misleading.

(v) The Company shall, unless any Registrable Securities shall be in book-entry form only, cooperate with the Investor to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends (unless required by applicable securities Laws), and enable such Registrable Securities to be in such denominations and registered in such names as the Investor may request at least two (2) Business Days before any sale of Registrable Securities. In connection therewith, if reasonably required by the Company's transfer agent, the Company shall promptly deliver any authorizations, certificates and directions required by the transfer agent which authorize and direct the transfer agent to issue such Registrable Securities without legend upon sale by the holder of such shares of Registrable Securities under the Registration Statement.

(vi) The Company shall use commercially reasonable efforts to promptly register or qualify any Registrable Securities under such other securities or blue sky laws of such jurisdictions within the United States as the Investor reasonably requests and which may be reasonably necessary or advisable to enable the Investor to consummate the disposition in such jurisdictions of the Registrable Securities owned by the Investor, keep such registrations or qualifications in effect for so long as the Registration Statement remains in effect and do any and all other acts and things which may be reasonably necessary or advisable to enable the Investor to consummate the disposition in such jurisdictions of the Registrable Securities owned by the Investor; provided, however, that the Company will not be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be r equired to qualify but for this Agreement, (B) subject itself to taxation in any jurisdiction where it would not otherwise be subject to taxation but for this Agreement or (C) consent to general service of process in any jurisdiction where it would not otherwise be subject to such service but for this Agreement.

(vii) The Company shall use commercially reasonable efforts to promptly cause any Registrable Securities covered by a Registration Statement to be registered with or approved by such other Governmental Entity within the United States as may be necessary to enable the seller or sellers thereof to consummate the disposition of such Registrable Securities in accordance with the intended methods of disposition set forth in such Registration Statement.

(viii) The Company shall, in the event that the Investor advises the Company that it intends to distribute any Registrable Securities by means of an underwritten offering, whether pursuant to Section 3.1, 3.2 or 3.3, enter into an underwriting agreement in customary form, scope and substance and take all such other actions reasonably requested by the Investor or by the managing underwriter(s), if any, to expedite or facilitate the underwritten disposition of such Registrable Securities and

deliver such documents and certificates as may be reasonably requested by the Investor, its counsel and the managing underwriter(s), if any.

(ix) Use its commercially reasonable efforts to prevent, or obtain the withdrawal of, any stop order or other order suspending the use of any Prospectus.

(x) Deliver to the Investor and each underwriter, if any, without charge, as many copies of the applicable Prospectus and any amendment or supplement thereto as the Investor or underwriter may reasonably request.

(xi) Cooperate with the Investor and the underwriters, if any, of such Registrable Securities and their respective counsel in connection with any filings required by Law to be made with FINRA.

(xii) Obtain opinions of counsel to the Company and updates thereof addressed to the Investor and the underwriters or initial purchasers, if any, covering matters as are customarily requested in opinions covering secondary resale offerings of companies of comparable size, maturities and lines of business as the Company.

(xiii) Obtain "comfort" letters and updates thereof from the Company's independent certified public accountants, such letters covering matters as are customarily requested in comfort letters covering secondary resale offerings of companies of comparable size, maturities and lines of business as the Company.

(b) The Investor agrees by acquisition of a Registrable Security it shall not be entitled to sell any of such Registrable Securities pursuant to a Registration Statement, or to receive a Prospectus relating thereto, unless the Investor has furnished the Company with a Notice and Questionnaire (including the information required to be included in such Notice and Questionnaire) and the information set forth in the next sentence. The Company may require the Investor, to the extent it is selling Registrable Securities pursuant to a Registration Statement, to furnish to the Company such information regarding the Investor and the distribution of such Company Common Stock as the Company may from time to time reasonably require for inclusion in such Registration Statement and the Investor agrees promptly to furnish to the Company all information required to be disclosed in order to make the information previously furnished to the Compa ny by the Investor not misleading. Any sale of any Registrable Securities by the Investor shall constitute a representation and warranty by the Investor that the information relating to the Investor and its plan of distribution is as set forth in the Prospectus delivered in connection with such disposition, that such Prospectus does not as of the time of such sale contain any untrue statement of a material fact relating to or provided by the Investor or its plan of distribution and that such Prospectus does not as of the time of such sale omit to state any material fact relating to or provided by the Investor or its plan of distribution necessary to make the statements in such Prospectus, in light of the circumstances under which they were made, not misleading. The Company may exclude from such Registration Statement the Registrable Securities of the Investor that fails to furnish such information within a reasonable time after receiving such request. The Company shall not include in any Registra tion Statement any information regarding, relating to or referring to the Investor or its plan of distribution without the approval of the Investor in writing.

(c) The Investor shall not use any free writing prospectus (as defined in Rule 405 under the Securities Act) in connection with the sale of Registrable Securities without the prior written consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed).

(d) If any offering of Registrable Securities pursuant to a Shelf Registration Statement or any Demand Registration is an underwritten offering, it is agreed that, unless the Company otherwise consents in writing, either Barclays Capital Inc., Deutsche Bank Securities Inc., Credit Suisse Securities (USA) LLC or Banc of America Securities LLC shall be either the managing underwriter or lead book running manager.

SECTION 3.6. Indemnification.

(a) The Company shall indemnify and hold harmless, to the fullest extent permitted by Law (i) the Investor, (ii) its officers, directors, partners (limited and general), members, managers, representatives, agents and employees, (iii) each member, limited or general partner of each such member, limited or general partner of the Investor, (iv) each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) the Investor and each such Person's Affiliates, officers, directors, shareholders, employees, advisors and agents, (v) each underwriter (including the Investor if it is deemed to be an underwriter pursuant to any SEC comments or policies), if any, and (vi) each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) such underwriter (collectively, "Investor Indemnitees"), from and against all losses, claims , damages, liabilities, penalties, judgments, suits, costs and expenses (including legal fees and expenses) (collectively, "Losses") in connection with any sale of Registrable Securities pursuant to a Registration Statement arising out of or based upon (i) any violation or alleged violation of the Securities Act or any rule or regulation promulgated thereunder by the Company or any of its Affiliates, employees, officers, directors or agents or (ii) any untrue or alleged untrue statement of a material fact contained in any Registration Statement or preliminary or final Prospectus relating to the registration of such Registrable Securities or any amendment or supplement thereto or any document incorporated by reference therein or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading; provided, however, that the Company shall not be liable to such Investor Indemnitee in any such case to the extent that any such loss, claim, damage, liability or expense arises out of or is based upon (A) an untrue statement or alleged untrue statement or omission or alleged omission made in such Registration Statement or any Prospectus (including any preliminary or final Prospectus) contained therein or any such amendments or supplements thereto, or contained in any free writing prospectus (as such term is defined in Rule 405 under the Securities Act) prepared by the Company or authorized by it in writing for use by such Investor Indemnitee (or any amendment or supplement thereto), in reliance upon and in conformity with information regarding such Investor Indemnitee or its plan of distribution or ownership interests which was furnished in writing to the Company for use in connection with such Registration Statement, including any such preliminary or final Prospectus contained therein or any such amendments or supplements thereto, (B) offers or sa les effected by or on behalf of such Investor Indemnitee "by means of" (as defined in Rule 159A under the Securities Act) a "free writing prospectus" (as defined in Rule 405 under the Securities Act) that was not authorized in writing by the Company or (C) the

failure of any Investor Indemnitee to deliver or make available to a purchaser of Registrable Securities a copy of any Registration Statement, including any preliminary or final Prospectus contained therein or any amendments or supplements thereto (if the same was required by applicable Law to be delivered or made available); provided that the Company shall have delivered to such Investor Indemnitee such Registration Statement, including such preliminary or final Prospectus contained therein and any amendments or supplements thereto.

(b) In connection with any Registration Statement in which the Investor is participating by registering Registrable Securities, the Investor agrees to indemnify and hold harmless, to the fullest extent permitted by Law, severally and not jointly, the Company, the officers, directors, agents, representatives or other employees of the Company, each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) the Company, each underwriter, if any, and each Person who controls (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) such underwriter (collectively, "Company Indemnitees"), from and against all Losses, as incurred, arising out of or based on any untrue or alleged untrue statement of a material fact contained in any such Registration Statement or preliminary or final Prospectus relating to the registration of such Registrable Securities or any amendment or supplement thereto or any document incorporated by reference therein, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading, in each case solely to the extent that such untrue or alleged untrue statement or omission or alleged omission is made in such Registration Statement or in any preliminary or final Prospectus contained therein or any such amendments or supplements thereto or contained in any free writing prospectus (as such term is defined in Rule 405 under the Securities Act) in reliance upon and in conformity with written information furnished to the Company by the Investor expressly for inclusion in such document.

(c) If any Person shall be entitled to indemnity hereunder (an "Indemnified Party"), such Indemnified Party shall give prompt notice to the party from which such indemnity is sought (the "Indemnifying Party") of any claim or of the commencement of any Action with respect to which such Indemnified Party seeks indemnification or contribution pursuant hereto; provided, however, that the delay or failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party from any obligation or liability except to the extent that the Indemnifying Party has been actually prejudiced by such delay or failure. The Indemnifying Party shall have the right, exercisable by giving written notice to an Indemnified Party promptly after the receipt of written notice from such Indemnified Party of such claim or Action, to assume, at the Indemnifying Party's expense, the defense of any such Action, with counsel reasonably satisfactory to such Indemnified Party; provided, however, that an Indemnified Party shall have the right to employ separate counsel in any such Action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless: (i) the Indemnifying Party agrees to pay such fees and expenses; (ii) the Indemnifying Party fails promptly to assume, or in the event of a conflict of interest cannot assume, the defense of such Action or fails to employ counsel reasonably satisfactory to such Indemnified Party, in which case the Indemnified Party shall also have the right to employ counsel and to assume the defense of such Action or (iii) in the Indemnified Party's reasonable judgment a conflict of interest between such Indemnified Party and Indemnifying Party may exist in respect of such Action; provided, further, that the Indemnifying Party shall not, in connection with any one such

Action or separate but substantially similar or related Actions in the same jurisdiction, arising out of the same general allegations or circumstances, be liable for the fees and expenses of more than one firm of attorneys (together with appropriate local counsel) at any time for all of the Indemnified Parties, or for fees and expenses that are not reasonable. Whether or not such defense is assumed by the Indemnifying Party, neither the Indemnifying Party nor the Indemnified Party will be subject to any liability for, or otherwise effect, any settlement made without the consent of the other (but such consent shall not be unreasonably withheld, conditioned or delayed).

(d) Neither party shall settle, compromise, discharge or consent to an entry of judgment with respect to a claim or liability subject to indemnification under this Section 3.6 without the other parties' prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed); provided that the Indemnifying Party may agree without the prior written consent of the Indemnified Party to any settlement, compromise, discharge or consent to an entry of judgment, in each case that relates only to money damages and by its terms obligates the Indemnifying Party to pay the full amount of the liability in connection with such claim and which unconditionally releases the Indemnified Party from all liability in connection with such claim.

(e) If the indemnification provided for in this Section 3.6 is unavailable to hold harmless each of the Indemnified Parties against any losses, claims, damages, liabilities and expenses to which such parties may become subject under the Securities Act, then the Indemnifying Party shall, in lieu of indemnifying each party entitled to indemnification hereunder, contribute to the amount paid or payable by such party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party on the one hand and such Indemnified Parties on the other in connection with the statements or omissions or alleged statements or omissions that resulted in such losses, claims, damages, liabilities or expenses. The relative fault of such parties shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact, or omission or alleged omission to state a material fact, relates to information supplied by or concerning the Indemnifying Party on the one hand, or by such Indemnified Party on the other, and such party's relative intent, knowledge, access to information and opportunity to have corrected or prevented such statement or omission. No Person guilty of fraudulent misrepresentation (within the meaning of the Securities Act) shall be entitled to contribution from any Person that is not guilty of such fraudulent misrepresentation.

SECTION 3.7. Miscellaneous.

(a) With a view to making available the benefits of certain rules and regulations of the SEC which may at any time permit the sale of the Registrable Securities to the public without registration, the Company agrees, so long as there are outstanding Registrable Securities, to use commercially reasonable efforts to:

(i) Make and keep public information available, as those terms are understood and defined in Rule 144 under the Securities Act (as amended from time to time) or any similar or analogous rule promulgated under the Securities Act, at all times after the effective date of this Agreement;

(ii) file with the SEC in a timely manner all reports and other documents as the SEC may prescribe under the Exchange Act at any time while the Company is subject to such reporting requirements of the Exchange Act;

(iii) furnish to the Investor forthwith upon a reasonable request a written statement by the Company as to its compliance with the reporting requirements of Rule 144 and of the Securities Act (as amended from time to time) and of the Exchange Act; a copy of the most recent annual or quarterly report of the Company; and such other reports and documents as the Investor may reasonably request in availing itself of any rule or regulation of the SEC allowing it to sell any such Registrable Securities without registration; and

(iv) take such further action as the Investor may reasonably request, so as to enable the Investor to sell Registrable Securities without registration under the Securities Act within the limitations of the exemptions provided by Rule 144 under the Securities Act (as amended from time to time) or any successor or similar rule or regulation thereafter adopted by the SEC.

(b) Subject to the provisions hereof, in the event the Company proposes to enter into an underwritten public offering, the Investor, to the extent it, at such time, Beneficially Owns Preferred Stock (which for the purposes of this subsection, shall include any Company Common Stock issuable by the Company upon conversion of any shares of Preferred Stock) and Company Common Stock that, in the aggregate, is equal to at least four percent (4%) of the total number of shares of Company Common Stock then outstanding agrees to enter into a customary agreement with the managing underwriters not to effect any sale or distribution of equity securities of the Company, or any securities convertible, exchangeable or exercisable for or into such securities, during the period beginning up to two (2) days prior to the date of such offering and extending for up to 90 days following the effective date of such offering if so requested by the Company and the underwriters. The Company may impose stop-transfer restrictions with respect to the securities subject to the foregoing restriction until the end of the required stand-off period and shall lift such stop-transfer restrictions immediately upon the end of such period.

(c) Notwithstanding the foregoing, at any time after the six month anniversary of the date of this Agreement, the Investor may terminate all of its rights and obligations under this Article III; provided, that such termination shall not relieve the Investor from liability for any beach of its obligations under this Article III that accrue prior to the date of such termination.

ARTICLE IV
TERMINATION

SECTION 4.1. Termination. Other than the termination provisions applicable to particular Sections of this Agreement that are specifically provided elsewhere in this Agreement, this Agreement shall terminate (a) upon the mutual written agreement of the parties hereto and (b) at such time as the Investor ceases to hold Registrable Securities.

ARTICLE V
MISCELLANEOUS

SECTION 5.1. Amendment and Modification. This Agreement may be amended, modified and supplemented, and any of the provisions contained herein may be waived, only by a written instrument signed by each of the parties hereto. No course of dealing between or among any Persons having any interest in this Agreement will be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Person under or by reason of this Agreement.

SECTION 5.2. Assignment; No Third-Party Beneficiaries.

(a) Neither this Agreement, nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of Law or otherwise) without the prior written consent of the other party; provided, however, that (i) the Investor may assign its rights, interests and obligations under this Agreement to any Affiliate in connection with a transfer of Shares to such Person and (ii) in the event of such assignment, the assignee shall agree in writing to be bound by the provisions of this Agreement.

(b) This Agreement shall not confer any rights or remedies upon any Person other than the parties to this Agreement and their respective successors and permitted assigns.

SECTION 5.3. Binding Effect; Entire Agreement. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and executors, administrators and heirs. This Agreement, the MSD Purchase Agreement and the other agreements set forth herein, including the Certificate of Designations of the Preferred Stock, set forth the entire agreement and understanding between the parties as to the subject matter hereof and merges and supersedes all prior discussions, agreements and understandings of any and every nature among them.

SECTION 5.4. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable Law, such provision(s) shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provisions were so excluded and shall be enforceable in accordance with its terms so long as the economic or legal substance of the transactions contemplated by this Agreement are not affected in any manner materially adverse to any party.

SECTION 5.5. Notices and Addresses. Any notice, demand, request, waiver, or other communication under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service, if personally served or sent by facsimile; on the Business Day after notice is delivered to a courier or mailed by express mail, if sent by courier delivery service or express mail for next day delivery; and on the third day after mailing, if mailed to the party to whom notice is to be given, by first class mail, registered, return receipt requested, postage prepaid and addressed as follows:

If to the Company:

Phillips-Van Heusen Corporation
200 Madison Avenue

New York, New York 10016
Attention: Mark D. Fischer, Esq.
Facsimile: (212) 381-3993

with a copy (which shall not constitute notice) to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Attention: Andrew J. Nussbaum, Esq.
Gregory E. Ostling, Esq.
Facsimile: (212) 403-2000
If to the Investor:

MSD Capital, L.P.
645 Fifth Avenue, 21st Floor
New York, NY
Attention: General Counsel
Facsimile: (212) 303-1772
Telephone: (212) 303-1650

with a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022
Attention: Kim Taylor
Facsimile: (212) 446-6460

SECTION 5.6. Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of Delaware, without giving effect to any choice of law 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 the State of Delaware.

SECTION 5.7. Headings. The headings in this Agreement are for convenience of reference only and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

SECTION 5.8. Counterparts. This Agreement may be executed via facsimile or electronic mail and in any number of counterparts, each of which shall be deemed to be an original instrument and all of which together shall constitute one and the same instrument.

SECTION 5.9. Further Assurances. Each party shall cooperate and take such action as may be reasonably requested by another party in order to carry out the provisions and purposes of this Agreement and the transactions contemplated hereby.

SECTION 5.10. Remedies. In the event of a breach or a threatened breach by any party to this Agreement of its obligations under this Agreement, any party injured or to be injured by such breach will be entitled to specific performance of its rights under this Agreement or to injunctive relief, in addition to being entitled to exercise all rights provided in this Agreement and granted by Law, it being agreed by the parties that the remedy at Law, including monetary damages, for breach of any such provision will be inadequate compensation for any loss and that any defense or objection in any action for specific performance or injunctive relief for which a remedy at Law would be adequate is waived.

SECTION 5.11. Jurisdiction and Venue. The parties hereto hereby irrevocably submit to the jurisdiction of the Delaware Court of Chancery or, in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, in the United States District Court for the District of Delaware in respect of the interpretation and enforcement of the provisions of this Agreement and of the documents referred to in this Agreement, and in respect of the transactions contemplated hereby, and hereby waive, and agree not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof or of any such document, that it is not subject thereto or that such action, suit or proceeding may not be brought or is not maintainable in the Delaware Court of Chancery, or in the event (but only in the event) that such court does not have subject matt er jurisdiction over such action or proceeding, in the United States District Court for the District of Delaware, or that this Agreement or any such document may not be enforced in or by such courts, and the parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in the Delaware Court of Chancery, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, in the United States District Court for the District of Delaware. The parties hereto hereby consent to and grant the Delaware Court of Chancery, or in the event (but only in the event) that such court does not have subject matter jurisdiction over such action or proceeding, the United States District Court for the District of Delaware, jurisdiction over the person of such parties and, to the extent permitted by Law, over the subject matter of such dispute and agree that mailing of process or other papers in connection with any such action or proceeding in the manner provided in Section 5.5 or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

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IN WITNESS WHEREOF, the parties hereto have caused this Stockholder Agreement to be duly executed as of the date and year first above written.

PHILLIPS-VAN HEUSEN CORPORATION

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

MSD BRAND INVESTMENTS, LLC

By: /s/ Marcello Liguori
Name: Marcello Liguori
Title: Authorized Signatory

EXHIBIT 4.15
EXECUTION COPY

PHILLIPS-VAN HEUSEN CORPORATION

7.375% SENIOR NOTES DUE 2020

INDENTURE

Dated as of May 6, 2010

U.S. BANK NATIONAL ASSOCIATION

Trustee

CROSS-REFERENCE TABLE*

Trust Indenture Act Section	*Indenture Section*
310(a)(1)	7.10
(a)(2)	7.10
(a)(3)	N.A.
(a)(4)	N.A.
(a)(5)	7.10
(b)	7.03; 7.08; 7.10
(c)	N.A.
311(a)	7.11
(b)	7.11
(c)	N.A.
312(a)	2.07
(b)	11.03
(c)	11.03
313(a)	7.06
(b)(1)	7.06
(b)(2)	7.07
(c)	7.06; 11.02
(d)	7.06
314(a)	4.03; 11.02; 11.05
(b)	N.A.
(c)(1)	11.04
(c)(2)	11.04
(c)(3)	N.A.
(d)	N.A.
(e)	11.05
(f)	N.A.
315(a)	7.01
(b)	7.05, 11.02
(c)	7.01
(d)	7.01
(e)	6.11
316(a) (last sentence)	2.11
(a)(1)(A)	6.05
(a)(1)(B)	6.04
(a)(2)	N.A.
(b)	6.07
(c)	6.10
317(a)(1)	6.08
(a)(2)	6.09
(b)	2.06
318(a)	11.01
(b)	N.A.
(c)	11.01

N.A. means not applicable.
* This Cross Reference Table is not part of this Indenture.

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EXHIBITS

Exhibit A FORM OF SECURITY

INDENTURE, dated as of May 6, 2010, between Phillips-Van Heusen Corporation, a Delaware corporation (the "*Company*"), and U.S. Bank National Association, a national banking association, as trustee (the "*Trustee*").

The Company has duly authorized the execution and delivery of this Indenture (as defined herein) to provide for the issuance of $600,000,000 aggregate principal amount of its 7.375% Senior Notes due 2020 (the "*Initial Securities*" and, together with any Additional Securities (as defined herein), the "*Securities*") to be issued as provided in this Indenture.

For and in consideration of the premises and purchase of the Securities by the Holders (as defined herein) thereof, it is mutually covenanted and agreed, for the equal and ratable benefit of the Holders of the Securities as follows:

ARTICLE 1.
DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 Definitions.

"*2023 Debentures*" means the Company's 7¾% Debentures due 2023 issued under an indenture dated as of November 1, 1993 between the Company and The Bank of New York Mellon (formerly known as The Bank of New York), as trustee, as amended.

"*2023 Permitted Liens*" means Liens securing the Obligations in respect of the 2023 Debentures.

"*Additional Assets*" means:

(1) any property, plant or equipment used in a Related Business;

(2) the Capital Stock of a Person that becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock (including by merger with or into or consolidation with) by the Company or another Restricted Subsidiary; or

(3) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary;

provided, however, that any such Restricted Subsidiary described in clause (2) or (3) above is primarily engaged in a Related Business.

"*Additional Securities*" means, subject to the Company's compliance with Section 4.05, any additional 7.375% Senior Notes due 2020 issued from time to time after the Issue Date under the terms of this Indenture other than pursuant to 2.08, 2.09, 2.12, 3.06 or 9.05 of this Indenture.

"*Affiliate*" of any specified Person means any other Person, directly or indirectly, controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing. For purposes of Section 4.08 and 4.09 only, "Affiliate" shall also mean any beneficial owner of Capital Stock representing 10% or more of the total voting power of the Voting Stock (on a fully

diluted basis) of the Company or of rights or warrants to purchase such Capital Stock (whether or not currently exercisable).

"*Agent*" means any Registrar or Paying Agent.

"*Asset Disposition*" means (i) an Asset Swap or (ii) any sale, lease, transfer or other disposition (or series of related sales, leases, transfers or dispositions) by the Company or any Restricted Subsidiary, including any disposition by means of a merger, consolidation or similar transaction (each referred to for the purposes of this definition as a "*disposition*"), of:

(1) any shares of Capital Stock of a Restricted Subsidiary (other than directors' qualifying shares or shares required by applicable law to be held by a Person other than of the Company or a Restricted Subsidiary);

(2) all or substantially all the assets of any division or line of business of the Company or any Restricted Subsidiary; or

(3) any other assets of the Company or any Restricted Subsidiary outside of the ordinary course of business of the Company or such Restricted Subsidiary;

other than, in the case of clauses (1), (2) and (3) above,

(A) a disposition by a Restricted Subsidiary to the Company or by the Company or a Restricted Subsidiary to a Restricted Subsidiary (other than a Securitization Subsidiary);

(B) for purposes of Section 4.08 only, (x) a disposition that constitutes a Restricted Payment permitted by Section 4.06 or a Permitted Investment and (y) a disposition of all or substantially all of the assets of the Company or any Subsidiary Guarantor in accordance with Article 5;

(C) any disposition of assets with a fair market value of less than $7.5 million;

(D) disposals of obsolete, damaged or worn out equipment or property or property that is no longer useful in the conduct of the Company's or any Restricted Subsidiary's business and that, in either case, is disposed of in the ordinary course of business;

(E) any disposition of accounts receivable, licensing royalties and related assets to or of a Securitization Subsidiary pursuant to a Qualified Securitization Transaction;

(F) the sale of any property in a Sale/Leaseback Transaction within 12 months of the acquisition of such property in an amount at least equal to the cost of such property and for consideration that is at least 75% in the form of cash or cash equivalents;

(G) the disposition of accounts receivable in connection with receivables factoring arrangements in the ordinary course of business;

(H) any disposition of cash or Temporary Cash Investments in the ordinary course of business;

(I) any lease, assignment, or sublease in the ordinary course of business which does not materially interfere with the business of the Company and its Restricted Subsidiaries taken as a whole;

(J) any grant of any license of patents, trademarks, know-how or any other intellectual property in the ordinary course of business which does not materially interfere with the business of the Company and its Restricted Subsidiaries taken as a whole (for the avoidance of doubt, other than perpetual licenses of any material intellectual property); and

(K) the sale or discounting, in each case without recourse and in the ordinary course of business, of accounts receivable arising in the ordinary course of business (x) which are overdue, or (y) which the Company or any Restricted Subsidiary, as applicable, may reasonably determine are difficult to collect but only in connection with the compromise or collection thereof consistent with prudent business practice (and not as part of any bulk sale or financing of receivables).

"*Asset Swap*" means any exchange of property or assets of the Company or any Restricted Subsidiary (including shares of Capital Stock of a Restricted Subsidiary) for property or assets of another Person (including shares of Capital Stock of a Person whose primary business is a Related Business) that are intended to be used by the Company or any Restricted Subsidiary in a Related Business, including, to the extent necessary to equalize the value of the assets being exchanged, cash of any party to such asset swap.

"*Attributable Debt*" in respect of a Sale/Leaseback Transaction means, as at the time of determination, the present value (discounted at the interest rate borne by the Securities, compounded annually) of the total obligations of the lessee for rental payments during the remaining term of the lease included in such Sale/Leaseback Transaction (including any period for which such lease has been extended).

"*Average Life*" means, as of the date of determination, with respect to any Indebtedness, the quotient obtained by dividing:

(1) the sum of the products of the numbers of years from the date of determination to the dates of each successive scheduled principal payment of or redemption or similar payment with respect to such Indebtedness multiplied by the amount of such payment by

(2) the sum of all such payments.

"*Bankruptcy Law*" means Title 11 of the United States Code or any similar federal, state or foreign law for the relief of debtors.

"*Board of Directors*" means the board of directors of the Company (or any duly authorized committee thereof).

"*Board Resolution*" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee. Where any provision of this Indenture refers to action to be taken pursuant to a Board Resolution, such action may be taken by any committee, officer or employee of the Company authorized to take such action by a Board Resolution.

"*Borrowing Base*" means, as of any date of determination, an amount equal to the sum without duplication of (x) 85% of the book value of the accounts receivable of the Company and its Restricted Subsidiaries on a consolidated basis and (y) 65% of the book value of the inventory of the Company and its Restricted Subsidiaries on a consolidated basis, in each case as of the most recently ended fiscal quarter of the Company, preceding the date on which Indebtedness is Incurred under Section 4.05(b)(1)(B) (calculated on a *pro forma* basis to reflect all transactions consummated between the most recently ended fiscal quarter of the Company and such date of determination). For purposes of this definition any *pro forma* calculations shall be made in good faith by a financial or accounting Officer of the Company.

"*Business Day*" means each day that is not a Legal Holiday.

"*Capital Lease Obligation*" means an Obligation that is required to be classified and accounted for as a capital lease for financial reporting purposes in accordance with GAAP, the amount of Indebtedness represented by which shall be the capitalized amount of such Obligation determined in accordance with GAAP and the Stated Maturity of which shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be terminated by the lessee without payment of a penalty. For purposes of Section 4.10, a Capital Lease Obligation will be deemed to be secured by a Lien on the property being leased.

"*Capital Stock*" of any Person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into such equity.

"*Cash Management Agreement*" means any agreement or arrangement to provide treasury, depository, overdraft, credit or debit card, purchase card, electronic funds transfer (including automated clearinghouse transfer services) and other cash management services.

"*Change of Control*" means any of the following events:

(1) the Company becomes aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) that any *"person"* (as such term is used in Sections 13(d) and 14(d) of the Exchange Act), is or becomes the *"beneficial owner"* (as defined in Rules 13d-3 and 13d-5 under the Exchange Act, except that for purposes of this clause (1), such person shall be deemed to have "*beneficial ownership*" of all shares that any such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Company (for the purposes of this clause (1), such person shall be deemed to beneficially own any Voting Stock of a Person (the *"specified person"*) held by any other Person (the *"parent entity"*), if such person is the beneficial owner (as defined above in this clause (1)), directly or indirectly, of more than 50% of the voting power of the Voting Stock of the parent entity);

(2) the date the Continuing Directors cease for any reason to constitute a majority of the Board of Directors then in office; or

(3) the adoption of a plan relating to the liquidation or dissolution of the Company.

"*China JV*" means that certain joint venture that the Company (or any of its Subsidiaries) and certain other Persons may form in the future to operate and use the Tommy Hilfiger brands or brands of the Company in the People's Republic of China and, in certain circumstances, Hong Kong.

"*China JV Obligations*" means all obligations of the Company and any of its Restricted Subsidiaries owed to the China JV.

"*CK Amount*" for any period means the Design Services Purchase Payments (as defined in the CK Purchase Agreement) paid or payable by the Company or any of its Subsidiaries to Mr. Calvin Klein or the Klein Heirs (as defined in the CK Purchase Agreement) for such period pursuant to the CK Purchase Agreement.

"*CK Purchase Agreement*" means the Stock Purchase Agreement, dated as of December 17, 2002, among the Company, Calvin Klein, Inc., Calvin Klein (Europe), Inc., Calvin Klein (Europe II) Corp., Calvin Klein Europe S.r.l., CK Service, Calvin Klein, Barry Schwartz, Trust for the Benefit of the Issue of Calvin Klein, Trust for the Benefit of the Issue of Barry Schwartz, Stephanie Schwartz-Ferdman and Jonathan Schwartz, as the same has been or may hereafter be amended from time to time.

"*CK Service*" means CK Service Corporation, a Delaware corporation.

"*CKI*" means Calvin Klein, Inc., a New York corporation.

"*CKI Agreement and Assignment*" means that certain Agreement and Assignment, dated February 12, 2003, among the U.S. Borrower, CKI, Mr. Klein and certain other parties signatory thereto (as the same has been or may be hereafter amended from time to time).

"*CKI Agreements*" means the CK Purchase Agreement, the CKI Pledge and Security Agreement, the CKI Pledgor Guarantees, the CKI Agreement and Assignment and any other agreement related thereto.

"*CKI Companies*" means CKI and CK Service and any of their Subsidiaries.

"*CKI Obligations*" means all obligations of the Company, the CKI Companies and any Subsidiary of any CKI Company under or with respect to the CKI Agreements.

"*CKI Pledge and Security Agreement*" means that certain Amended and Restated Pledge and Security Agreement, dated as of the Issue Date, among the Company, the CKI Companies, Mr. Klein and the collateral agent party thereto (as the same has been or may hereafter be amended from time to time).

"*CKI Pledgor Guarantees*" means the Pledgor Guarantees (as the same has been or may hereafter be amended from time to time) into which each of the CKI Companies has entered, and certain Subsidiaries of the CKI Companies may enter from time to time after the date hereof, pursuant to which each CKI Company and, if any, the Subsidiaries of the CKI Companies party thereto have guaranteed the payment in full of the U.S. Borrower's obligations under the CKI Stock Purchase Agreement.

"*CKI Trust"* means that certain trust established pursuant to the Delaware Business Trust Act, as amended, and the CKI Trust Agreement.

"*CKI Trust Agreement"* means that certain Trust Agreement, dated as of March 14, 1994, between CKI and Wilmington Trust Company, relating to the CKI Trust, and the other agreements related thereto.

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

"*Commodity Agreement"* means any commodity or raw materials futures contract, commodity or raw materials option, or any other agreement designed to protect against or manage exposure to fluctuations in commodity or raw materials pricing.

"*Company"* has the meaning assigned to it in the preamble of this Indenture, until a successor replaces it and, thereafter, means the Successor Company, in accordance with Section 5.01.

"*Company Order*" means a written order signed in the name of the Company by an Officer and delivered to the Trustee or, with respect to Sections 2.04, 2.08, 2.09, 2.12 and 9.05 any other employee of the Company named in an Officers' Certificate delivered to the Trustee.

"*Consolidated Coverage Ratio"* as of any date of determination means the ratio of (x) the aggregate amount of EBITDA for the period of the most recent four consecutive fiscal quarters for which financial statements are available on or prior to the date of such determination to (y) Consolidated Interest Expense for such four fiscal quarters; *provided*, *however*, that:

(1) if the Company or any Restricted Subsidiary has Incurred any Indebtedness since the beginning of such period that remains outstanding or if the transaction giving rise to the need to calculate the Consolidated Coverage Ratio is an Incurrence of Indebtedness, or both, EBITDA and Consolidated Interest Expense for such period shall be calculated after giving effect on a *pro forma* basis to such Indebtedness as if such Indebtedness had been Incurred on the first day of such period;

(2) if the Company or any Restricted Subsidiary has repaid, repurchased, defeased or otherwise discharged any Indebtedness since the beginning of such period or if any Indebtedness is to be repaid, repurchased, defeased or otherwise discharged (in each case other than Indebtedness Incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced) on the date of the transaction giving rise to the need to calculate the Consolidated Coverage Ratio, EBITDA and Consolidated Interest Expense for such period shall be calculated on a *pro forma* basis as if such discharge had occurred on the first day of such period and as if the Company or such Restricted Subsidiary has not earned the interest income actually earned during such period in respect of cash or Temporary Cash Investments used to repay, repurchase, defease or otherwise discharge such Indebted ness;

(3) if since the beginning of such period the Company or any Restricted Subsidiary shall have made any Asset Disposition, EBITDA for such period shall be reduced by an amount equal to EBITDA (if positive) directly attributable to the assets which are the subject of such Asset Disposition for such period, or increased by an amount equal to EBITDA (if negative), directly attributable thereto for such

period and Consolidated Interest Expense for such period shall be reduced by an amount equal to the Consolidated Interest Expense directly attributable to any Indebtedness of the Company or any Restricted Subsidiary repaid, repurchased, defeased or otherwise discharged with respect to the Company and its continuing Restricted Subsidiaries in connection with such Asset Disposition for such period (or, if the Capital Stock of any Restricted Subsidiary is sold, the Consolidated Interest Expense for such period directly attributable to the Indebtedness of such Restricted Subsidiary to the extent the Company and its continuing Restricted Subsidiaries are no longer liable for such Indebtedness after such sale);

(4) if since the beginning of such period the Company or any Restricted Subsidiary (by merger or otherwise) shall have made an Investment in any Restricted Subsidiary (or any Person which becomes a Restricted Subsidiary) or an acquisition of assets (including any acquisition of assets (including Capital Stock) occurring in connection with a transaction requiring a calculation to be made hereunder, which constitutes all or substantially all of an operating unit of a business), EBITDA and Consolidated Interest Expense for such period shall be calculated after giving *pro forma* effect thereto (including the Incurrence of any Indebtedness in connection therewith) as if such Investment or acquisition occurred on the first day of such period; and

(5) if since the beginning of such period any Person (that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period) shall have made any Asset Disposition, any Investment or acquisition of assets that would have required an adjustment pursuant to clause (3) or (4) above if made by the Company or a Restricted Subsidiary during such period, EBITDA and Consolidated Interest Expense for such period shall be calculated after giving *pro forma* effect thereto as if such Asset Disposition, Investment or acquisition occurred on the first day of such period.

For purposes of this definition, in the event that the Company or any of its Restricted Subsidiaries issues, repurchases or redeems Preferred Stock subsequent to the commencement of the period for which the Consolidated Coverage Ratio is being calculated but prior to the event for which the calculation of the Consolidated Coverage Ratio is made (the *"Calculation Date"*), then the Consolidated Coverage Ratio shall be calculated giving pro forma effect to such issuance, repurchase or redemption of Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Calculation Date had been the applicable rate for the entire period (taking into account any Interest Rate Agreement applicable to such Indebtedness if such Interest Rate Agreement has a remaining term in excess of 12 months). Interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting Officer of the Company to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable peri od. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

"*Consolidated Interest Expense*" means, for any period, the consolidated interest expense (to the extent that such expense was deducted in computing Consolidated Net Income) of the Company and its consolidated Restricted Subsidiaries, minus interest income for such period, plus, to the extent not included in such consolidated interest expense, and to the extent Incurred by the Company or its Restricted Subsidiaries and deducted in computing Consolidated Net Income, without duplication in each case for such period:

(1) interest expense attributable to capital leases and the interest expense attributable to leases constituting part of a Sale/Leaseback Transaction;

(2) amortization of debt discount and debt issuance cost;

(3) capitalized interest;

(4) non-cash interest expense;

(5) commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing;

(6) net payments pursuant to Interest Rate Agreements;

(7) Except for payments in respect of the Itochu Obligations, dividends declared and paid or payable in cash or Disqualified Stock in respect of (A) all Disqualified Stock of the Company and (B) all Preferred Stock of Restricted Subsidiaries, in each case held by Persons other than the Company or a Wholly Owned Subsidiary; *provided, however,* that such dividends will be multiplied by a fraction the numerator of which is one and the denominator of which is one minus the effective combined tax rate of the issuer of such stock (expressed as a decimal) for such period (as estimated by the Chief Financial Officer of the Company in good faith);

(8) interest Incurred in connection with Investments in discontinued operations;

(9) interest accruing on any Indebtedness of any other Person to the extent such Indebtedness is Guaranteed by (or secured by the assets of) the Company or any Restricted Subsidiary; and

(10) the cash contributions to any employee stock ownership plan or similar trust to the extent such contributions are used by such plan or trust to pay interest or fees to any Person (other than the Company) in connection with Indebtedness Incurred by such plan or trust.

"*Consolidated Net Income"* means, for any period, the net income of the Company and its consolidated Subsidiaries, less the CK Amount and less the ITOCHU Amount; *provided*, *however*, that there shall not be included in such Consolidated Net Income:

(1) any net income (or loss) of any Person that is an Unrestricted Subsidiary, except that:

(A) subject to the exclusion contained in clause (4) below, the Company's equity in the net income of any such Person for such period shall be

included in such Consolidated Net Income up to the aggregate amount of cash actually distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution paid to a Restricted Subsidiary, to the limitations contained in clause (3) below); and

(B) subject to the exclusion contained in clause (4) below and without duplication, the Company's equity in a net loss of any such Person for such period shall be included in determining such Consolidated Net Income to the extent of any cash actually contributed by the Company or a Restricted Subsidiary to such Person during such period;

(2) any net income (or loss) of any Person acquired by the Company or a Restricted Subsidiary in a pooling of interests transaction for any period prior to the date of such acquisition;

(3) any net income (or loss) of any Restricted Subsidiary if such Restricted Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, which restrictions actually prohibited the payment of dividends or making of distributions by such Restricted Subsidiary on the last day of such period, directly or indirectly, to the Company, except that:

(A) subject to the exclusion contained in clause (4) below, the Company's equity in the net income of any such Restricted Subsidiary for such period shall be included in such Consolidated Net Income up to the aggregate amount of cash that could have been distributed by such Restricted Subsidiary during such period to the Company or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution paid to another Restricted Subsidiary, to the limitation contained in this clause); and

(B) subject to the exclusion contained in clause (4) below and without duplication the Company's equity in a net loss of any such Restricted Subsidiary for such period shall be included in determining such Consolidated Net Income to the extent of any cash actually contributed by the Company or a Restricted Subsidiary to such Person during such period;

(4) any gain (or loss) realized upon the sale or other disposition of any assets of the Company, its consolidated Subsidiaries or any other Person (including pursuant to any Sale/Leaseback Transaction) which is not sold or otherwise disposed of in the ordinary course of business and any gain (or loss) realized upon the sale or other disposition of any Capital Stock of any Person;

(5) extraordinary, unusual or nonrecurring gains or losses or expenses or charges, including, without limitation (in each case, for the avoidance of doubt, to the extent extraordinary, unusual or non-recurring), (a) restructuring charges, (b) any fees, expenses or charges relating to plant shutdowns and discontinued operations, (c) acquisition integration costs and (d) any expenses or charges

relating to any Equity Offering, Permitted Investment, acquisition or Indebtedness permitted to be Incurred by this Indenture (in each case under this clause (d) whether or not successful);

(6) any (a) severance, other employee termination benefits or relocation costs, expenses or charges, (b) one time non-cash compensation charges recorded from grants of stock options, restricted stock, stock appreciation rights and other equity equivalents to officers, directors and employees, (c) the costs and expenses after the Issue Date relating to the employment of terminated employees, (d) lease termination costs and (e) fees, expenses, charges or change in control payments made under the Transaction Documents or otherwise realized in connection with, resulting from, related to or in anticipation of the Transactions;

(7) restructuring charges, reserves or expenses (which, for the avoidance of doubt, shall include, without limitation, the effect of facility consolidations, retention, headcount reductions, systems establishment costs, contract termination costs and excess pension charges);

(8) the cumulative effect of a change in accounting principles; and

(9) if during any period, the Company or any of its Subsidiaries repays the ITOCHU Amount in whole, then for such period, the excess of the amount of such amounts repaid over the regularly scheduled payment of the ITOCHU Amount for such period.

Notwithstanding the foregoing, for the purposes of the Section 4.06 only, there shall be excluded from Consolidated Net Income any repurchases, repayments or redemptions of Investments, proceeds realized on the sale of Investments or return of capital to the Company or a Restricted Subsidiary to the extent such repurchases, repayments, redemptions, proceeds or returns increase the amount of Restricted Payments permitted under Section 4.06(a)(3)(D).

"*Continuing Directors*" means individuals who on the Issue Date constituted the Board of Directors (excluding any duly authorized committee thereof) (together with any new directors whose election by such Board of Directors or whose nomination for election by the stockholders of the Company was approved by a vote of a majority of the directors of the Company then still in office who were either directors on the Issue Date or whose election or nomination for election was previously so approved).

"*Corporate Trust Office of the Trustee*" shall be at US Bank Corporate Trust Services, 100 Wall Street, 16th Floor, New York, NY 10005, Facsimile: (212) 514-6841, Attention: Jack Ellerin.

"*Credit Agreement*" means that certain Credit and Guaranty Agreement, dated as of the Issue Date, among the Company, certain Subsidiaries of the Company, various lenders, Barclays Bank PLC, as Administrative Agent and Collateral Agent, and the other agents party thereto, as the same has been and may hereafter be amended, extended, renewed, restated, replaced, restructured, supplemented or otherwise modified (in whole or in part, and without limitation as to amount of Indebtedness which may be Incurred thereunder, terms, conditions, covenants and other provisions) from time to time, and any agreement (and related document) governing Indebtedness Incurred to Refinance, in whole or in part, the borrowings and commitments then outstanding or permitted to be outstanding under such Credit Agreement or a successor Credit Agreement, whether by the same or any other lender or group of lenders.

"*Credit Facility*" or "*Credit Facilities*" means one or more debt facilities, commercial paper facilities or indentures, in each case with banks, institutional or other lenders, institutional investors or a trustee providing for revolving credit loans, term loans, debt securities, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables), letters of credit or similar obligations, in each case, as amended, restated, modified, renewed, extended, refunded, replaced or refinanced in whole or in part from time to time.

"*Crown*" means the government of Canada, any provincial or territorial government therein and any of their political subdivisions.

"*Currency Agreement*" means in respect of a Person any foreign exchange contract, currency swap agreement or other similar agreement designed to protect such Person against fluctuations in currency values.

"*Default*" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"*Depositary*" means, with respect to the Securities issuable or issued in whole or in part in global form, DTC and any and all successors thereto appointed as Depositary hereunder and having become such pursuant to the applicable provision of this Indenture.

"*Disqualified Stock*" means, with respect to any Person, any Capital Stock which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder thereof) or upon the happening of any event:

(1) matures or is mandatorily redeemable (other than redeemable only for Capital Stock of such Person which is not itself Disqualified Stock) pursuant to a sinking fund obligation or otherwise;

(2) is convertible or exchangeable at the option of the holder thereof for Indebtedness or Disqualified Stock; or

(3) is mandatorily redeemable or must be purchased upon the occurrence of certain events or otherwise, in whole or in part;

in each case on or prior to the date that is 91 days after the Stated Maturity of the Securities; *provided, however*, that any Capital Stock that would not constitute Disqualified Stock but for provisions thereof giving holders thereof the right to require such Person to purchase or redeem such Capital Stock upon the occurrence of an "*asset sale*" or "*change of control*" occurring prior to the first anniversary of the Stated Maturity of the Securities shall not constitute Disqualified Stock if:

(1) the "*asset sale*" or "*change of control*" provisions applicable to such Capital Stock are not more favorable to the holders of such Capital Stock than the terms applicable to the Securities and described under Section 4.08 and Article 10; and

(2) any such requirement only becomes operative after compliance with such terms applicable to the Securities, including the purchase of any Securities tendered pursuant thereto.

The amount of any Disqualified Stock that does not have a fixed redemption, repayment or repurchase price will be calculated in accordance with the terms of such Disqualified Stock as if such Disqualified Stock were redeemed, repaid or repurchased on any date on which the amount of such Disqualified Stock is to be determined pursuant to this Indenture; *provided*, *however*, that if such Disqualified Stock could not be required to be redeemed, repaid or repurchased at the time of such determination, the redemption, repayment or repurchase price will be the book value of such Disqualified Stock as reflected in the most recent financial statements of such Person.

"*DTC*" means The Depository Trust Company or any of its successors.

"*EBITDA*" for any period means Consolidated Net Income plus, without duplication, the following to the extent deducted in calculating such Consolidated Net Income:

(1) all income tax expense of the Company and its consolidated Restricted Subsidiaries;

(2) Consolidated Interest Expense;

(3) depreciation and amortization expense of the Company and its consolidated Restricted Subsidiaries (excluding amortization expense attributable to a prepaid operating expense that was paid in cash in a prior period);

(4) all other non-cash charges of the Company and its consolidated Restricted Subsidiaries (including, without limitation, any non-cash charge related to writing up inventory in connection with the Transactions, but excluding any such non-cash charge to the extent that it represents an accrual of or reserve for cash expenditures in any future period); and

(5) the amount of any deduction in Consolidated Net Income for such period from a write-off of goodwill attributable to the payment of the CK Amount or ITOCHU Amount; *provided* that such amount shall in no event be greater than the CK Amount or ITOCHU Amount deducted in calculating Consolidated Net Income;

in each case for such period. In addition, for purposes of making the calculation referred to above, Investments, acquisitions, dispositions, mergers, consolidations and discontinued operations (as determined in accordance with GAAP) that the Company or any of its Restricted Subsidiaries has made, including through mergers or consolidations and including any related financing transactions, during the relevant period or subsequent to such period and on or prior to the date of such calculation (each, for purposes of this definition, a "*pro forma* event"), shall be given pro forma effect as if they had occurred on the first day of the relevant period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any Restricted Subsidiary since the beginning of such period shall have made any Investment, acquisition, disposition, m erger, consolidation or discontinued operation that would have required adjustment pursuant to this definition, then EBITDA shall be calculated giving *pro forma* effect thereto for such period as if such Investment, acquisition, disposition, discontinued operation, merger, or consolidation had occurred at the beginning of the applicable four-quarter period. Notwithstanding the foregoing, the provision for taxes based on the income or profits, and the depreciation and amortization and other noncash charges, of a Restricted Subsidiary shall be added to Consolidated Net Income to compute EBITDA only to the extent (and in the same proportion, including by reason of minority interest) that the net income of such Restricted Subsidiary was included in calculating Consolidated Net Income and only if a corresponding amount could have been distributed by such Restricted Subsidiary during such period to the Company or another

Restricted Subsidiary as a dividend or other distribution (which other Restricted Subsidiary could also have made such dividend or other distribution).

For purposes of this definition, whenever *pro forma* effect is to be given to any *pro forma* event, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting Officer of the Company. Any such *pro forma* calculation may include adjustments appropriate, in the reasonable good faith determination of the Company as set forth in an Officers' Certificate, to reflect (1) cost savings and other operating improvements or synergies reasonably expected to be realized within 12 months from the applicable *pro forma* event (other than in connection with the TH Acquisition) and (2) with respect to any four-fiscal quarter measurement period ending on or prior to the end of the eighth full fiscal quarter following the Issue Date, the amount of cost savings and other operating improvements and synergies projected by the Company in good faith to be re alized as a result of the TH Acquisition (calculated on a pro forma basis as though such cost savings and other operating improvements and synergies had been realized on the first day of such period), without duplication of the amount of actual benefits realized during such period from such actions to the extent already included in the Consolidated Net Income for such period, in an aggregate amount not to exceed $40,000,000.

If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Interest Rate Agreement applicable to such Indebtedness if such Interest Rate Agreement has a remaining term in excess of 12 months).

"*Equity Offering*" means a primary public or private offering of Capital Stock (excluding Disqualified Stock) of the Company.

"*Exchange Act*" means the United States Securities Exchange Act of 1934, as amended.

"*Existing Notes*" means the Company's $8^1/_8$% Senior Notes due 2013 issued under an indenture dated May 5, 2003 between the Company and U.S. Bank National Association, as trustee and the Company's 7¼% Senior Notes due 2011 issued under an indenture dated February 18, 2004 between the Company and U.S. Bank National Association, as trustee.

"*Foreign Restricted Subsidiary*" means any Restricted Subsidiary not incorporated or organized under the laws of the United States, any State thereof or the District of Columbia.

"*GAAP*" means generally accepted accounting principles in the United States as in effect as of the Issue Date, including those set forth in:

(1) the Financial Accounting Standards Board's FASB Accounting Standards Codification; and

(2) the rules and regulations of the SEC with respect to generally accepted accounting principles, including those governing the inclusion of financial statements (including pro forma financial statements) in periodic reports required to be filed pursuant to Section 13 of the Exchange Act, including opinions and pronouncements in staff accounting bulletins and similar written statements from the accounting staff of the SEC.

"*Global Security*" or "*Global Securities*" means any Security or Securities, as the case may be, in the form established pursuant to Section 2.02 hereof evidencing all or a part of the Securities issued to the Depositary or its nominee and registered in the name of such Depositary or nominee.

"*Guarantee*" means any Obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person and any Obligation, direct or indirect, contingent or otherwise, of such Person:

(1) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(2) entered into for the purpose of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, however, that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

"*Guaranty Agreement*" means a supplemental indenture, in a form reasonably satisfactory to the Trustee, pursuant to which a Subsidiary Guarantor guarantees the Company's Obligations with respect to the Securities on the terms provided for in this Indenture.

"*Hedging Obligations*" of any Person means the Obligations of such Person pursuant to any Interest Rate Agreement, Currency Agreement or Commodity Agreement entered into for non-speculative purposes.

"*Holder*" means, with respect to the Securities, the Person in whose name a Security is registered on the Registrar's books.

"*Incur*" means issue, assume, Guarantee, incur or otherwise become liable for; *provided, however*, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Restricted Subsidiary. The term "*Incurrence*" when used as a noun shall have a correlative meaning.

"*Indebtedness*" means, with respect to any Person on any date of determination (without duplication):

(1) the principal in respect of (A) indebtedness of such Person for money borrowed and (B) indebtedness evidenced by notes, debentures, bonds or other similar instruments for the payment of which such Person is responsible or liable, including, in each case, any premium on such indebtedness to the extent such premium has become due and payable;

(2) all Capital Lease Obligations of such Person and all Attributable Debt in respect of Sale/Leaseback Transactions entered into by such Person;

(3) all Obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale Obligations of such Person and all Obligations of such Person under any title retention agreement (but excluding trade accounts payable or accrued liabilities arising in the ordinary course of business which are not overdue or which are being contested in good faith);

(4) all Obligations of such Person for the reimbursement of any obligor on any letter of credit, banker's acceptance or similar credit transaction;

(5) the amount of all Obligations of such Person with respect to the redemption, repayment or other repurchase of any Disqualified Stock of such Person or, with respect to any Preferred Stock of any Subsidiary of such Person, other than a Subsidiary Guarantor;

(6) all Obligations of the type referred to in clauses (1) through (5) of other Persons and all dividends of other Persons for the payment of which, in either case, such Person is responsible or liable, directly or indirectly, as obligor, guarantor or otherwise, including by means of any Guarantee;

(7) all Obligations of the type referred to in clauses (1) through (6) of other Persons secured by any Lien on any property or asset of such Person (whether or not such Obligation is assumed by such Person), the amount of such Obligation being deemed to be the lesser of the value of such property or assets and the amount of the Obligation so secured; and

(8) to the extent not otherwise included in this definition, Hedging Obligations of such Person.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional Obligations as described above and the maximum liability, upon the occurrence of the contingency giving rise to the Obligation, of any contingent Obligations at such date; *provided*, *however*, that in the case of Indebtedness sold at a discount, the amount of such Indebtedness at any time will be the accreted value thereof at such time.

"*Indenture*" means this Indenture, as amended or supplemented from time to time.

"*Independent Qualified Party*" means an investment banking firm, accounting firm or appraisal firm of national standing; *provided*, *however*, that such firm is not an Affiliate of the Company.

"*Initial Securities*" has the meaning assigned to it in the preamble of this Indenture.

"*Interest Payment Date*" means May 15 and November 15, commencing on November 15, 2010.

"*Interest Rate Agreement*" means in respect of a Person any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or other similar financial agreement or arrangement, including, without limitation, any such arrangement whereby, directly or indirectly, such Person is entitled to receive from time to time periodic payments calculated by applying either a fixed or floating rate of interest on a stated notional amount in exchange for periodic payments made by such Person calculated by applying a floating or fixed rate of interest on the same notional amount.

"*Investment*" means, with respect to any Person, all investments by such Person in other Persons in the form of advances, loans (other than advances to customers in the ordinary course of business that are recorded as accounts receivable on the balance sheet of the lender) or other extensions of credit (including by way of Guarantee or similar arrangement) or capital contributions to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or any purchases or acquisitions of Capital Stock, Indebtedness or other similar instruments issued by such other Person. Except as otherwise provided for herein, the amount of an Investment shall

be its fair market value at the time the Investment is made and without giving effect to subsequent changes in value.

For purposes of the definition of "Unrestricted Subsidiary", the definition of "Restricted Payment" and Section 4.06:

(1) "*Investment"* shall include the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the net assets of any Subsidiary of the Company at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided*, *however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary equal to an amount (if positive) equal to (A) the Company's "Investment" in such Subsidiary at the time of such redesignation less (B) the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its fair market value at the time of such transfer, in each case as determined in good faith by the Board of Directors.

"*Investment Grade"* means (1) with respect to S&P, any of the ratings categories from and including AAA to and including BBB- and (2) with respect to Moody's, any of the ratings categories from and including Aaa to and including Baa3.

"*Issue Date*" means May 6, 2010.

"*ITOCHU Amount"* means payments to be made in accordance with the terms of a ITOCHU Stockholders' Agreement.

"*ITOCHU Guarantee"* means that certain Guarantee, dated as of January 23, 2008, by Fortis Bank (Nederland) N.V. of certain obligations of Tommy Hilfiger Group B.V. under the ITOCHU Stockholders' Agreement for the benefit of ITOCHU Corporation (as amended, amended and restated, replaced, supplemented or otherwise modified from time to time).

"*ITOCHU Obligations"* means all obligations of any Subsidiary of the Company under or with respect to the ITOCHU Guarantee, the ITOCHU Stockholders' Agreement and the preferred shares of Tommy Hilfiger Japan Corporation.

"*ITOCHU Stockholders' Agreement"* means that certain Stockholders' Agreement, dated as of December 27, 2007, among ITOCHU Corporation, Tommy Hilfiger Group B.V., Tommy Hilfiger Japan Corporation and certain other parties signatory thereto (as amended, amended and restated, replaced, supplemented or otherwise modified from time to time).

"*Legal Holiday"* means a Saturday, a Sunday or a day on which commercial banking institutions are not required to be open in the State of New York.

"*Lien"* means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof) ; *provided* that in no event shall an operating lease be deemed to constitute a Lien ..

"*Limited Originator Recourse*" means a reimbursement obligation of the Company in connection with a drawing on a letter of credit, revolving loan commitment, cash collateral account or other such credit enhancement issued to support Indebtedness of a Securitization Subsidiary that the Board of Directors determines is necessary to effectuate a Qualified Securitization Transaction; *provided* that the available amount of any such form of credit enhancement at any time shall not exceed 10% of the principal amount of such Indebtedness at such time; and *provided*, *further*, that such reimbursement obligation is permitted to be Incurred by the Company pursuant to Section 4.05 and that any Lien securing such reimbursement obligation is permitted pursuant to Section 4.10.

"*Moody's*" means Moody's Investors Service, Inc. and any successor to its rating business.

"*Net Available Cash*" from an Asset Disposition means cash payments received therefrom (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise and proceeds of the sale or other disposition of any securities received as consideration, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to such properties or assets or received in any other noncash form), in each case net of:

(1) all legal, accounting, financial advisory, title and recording tax expenses, commissions and other fees and expenses Incurred, and all Federal, state, provincial, foreign and local taxes required to be accrued as a liability under GAAP, as a consequence of such Asset Disposition;

(2) all payments made on any Indebtedness which is secured by any assets subject to such Asset Disposition, in accordance with the terms of any Lien upon or other security agreement of any kind with respect to such assets, or which must by its terms, or in order to obtain a necessary consent to such Asset Disposition, or by applicable law, be repaid out of the proceeds of such Asset Disposition;

(3) all distributions and other payments required to be made to minority interest holders in Restricted Subsidiaries as a result of such Asset Disposition;

(4) the deduction of appropriate amounts provided by the seller as a reserve, in accordance with GAAP, against any liabilities associated with the property or other assets disposed in such Asset Disposition and retained by the Company or any Restricted Subsidiary after such Asset Disposition; *provided*, *however*, that any reduction in such reserve after consummation of the Asset Disposition will be deemed a new Asset Disposition with Net Available Cash equal to the amount of such reduction; and

(5) in the case of any such Asset Disposition occurring in a jurisdiction other than the United States, the amount of all taxes paid (or reasonably estimated to be payable) by the Company and its Restricted Subsidiaries that are directly attributable to the distribution of such cash proceeds from such jurisdiction or to the repatriation of such cash proceeds into the United States, but only to the extent that the Company and its Restricted Subsidiaries have used commercially reasonable efforts to reduce or eliminate such taxes.

"*Net Cash Proceeds*", with respect to any issuance or sale of Capital Stock or Indebtedness, means (A) the cash proceeds of such issuance or sale net of attorneys' fees, accountants' fees, underwriters' or placement agents' fees, discounts or commissions and brokerage, consultant and other

fees actually Incurred in connection with such issuance or sale and net of taxes paid or payable as a result thereof and (B) solely for purposes of Section 4.06(a)(3)(B), the fair market value (as of the date of the transaction and as determined in good faith by the Board of Directors) of the Capital Stock (other than Disqualified Stock) of a Person (whose primary business is a Related Business) that thereupon becomes a Restricted Subsidiary (other than a Securitization Subsidiary), which Capital Stock constitutes the proceeds received by the Company from an issuance or sale of its Capital Stock, net of the fees and taxes described in clause (A) above.

"*Obligations*" means with respect to any Indebtedness all obligations for principal, premium, interest, penalties, fees, indemnifications, reimbursements and other amounts payable pursuant to the documentation governing such Indebtedness.

"*Officer*" means the Chairman of the Board, the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer or the Secretary of the Company.

"*Officers' Certificate*" means a certificate signed by two Officers.

"*Opinion of Counsel*" means a written opinion from legal counsel who is reasonably acceptable to the Trustee. The counsel may be an employee of or counsel to the Company or the Trustee.

"*Permitted Acquisition Indebtedness*" means Indebtedness or Disqualified Stock of a Person or any of its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary or at the time it merges or consolidates with or into the Company or any of its Restricted Subsidiaries or assumed by the Company or any of its Restricted Subsidiaries in connection with the acquisition of assets from such Person and in each case not Incurred by such Person in connection with, or in anticipation or contemplation of, such Person becoming a Restricted Subsidiary or such acquisition, merger or consolidation; *provided* that Permitted Acquisition Indebtedness shall include Indebtedness Incurred to finance such acquisition, merger or consolidation if immediately after consummation of such acquisition, merger or consolidation such Indebtedness is Indebtedness of the Company or a Subsidiary Guarantor.

"*Permitted Guarantees*" means any guarantee by a Restricted Subsidiary (i) outstanding on the Issue Date after giving effect to the use of the net proceeds of the Securities as described in the Prospectus, (ii) of Indebtedness of the Company Incurred under Section 4.05(b)(1) or (iii) of Indebtedness of the Company Incurred under a Credit Facility that is Incurred in compliance with Section 4.05 and secured in compliance with Section 4.10.

"*Permitted Investment*" means an Investment by the Company or any Restricted Subsidiary in:

(1) (a) the Company, (b) a Restricted Subsidiary (other than a Securitization Subsidiary), (c) a Person that will, upon the making of such Investment, become a Restricted Subsidiary (other than a Securitization Subsidiary) or (d) China JV (*provided* that Investments in respect of China JV shall not exceed an amount equal to $50.0 million *plus* 100% of the aggregate cash dividends and distributions received by the Company or any Restricted Subsidiary from China JV); *provided*, *however*, that in the case of clauses (b) and (c) the primary business of such Restricted Subsidiary is a Related Business;

(2) another Person if as a result of such Investment such other Person is merged or consolidated with or into, or transfers or conveys all or substantially all its assets to, the Company or a Restricted Subsidiary; *provided*, *however*, that such Person's primary business is a Related Business;

(3) cash and Temporary Cash Investments;

(4) receivables owing to the Company or any Restricted Subsidiary if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms; *provided*, *however*, that such trade terms may include such concessionary trade terms as the Company or any such Restricted Subsidiary deems reasonable under the circumstances;

(5) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;

(6) loans or advances to employees made in the ordinary course of business consistent with past practices of the Company or such Restricted Subsidiary but in any event not to exceed $15.0 million in the aggregate outstanding at any one time;

(7) stock, obligations or securities received in settlement of debts created in the ordinary course of business and owing to the Company or any Restricted Subsidiary or in satisfaction of judgments or pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of a debtor;

(8) any Person to the extent such Investment represents the non-cash portion of the consideration received for an Asset Disposition as permitted pursuant to Section 4.08;

(9) Hedging Obligations and Treasury Transactions entered into in compliance with Section 4.05;

(10) any Person to the extent such Investment is in existence on the Issue Date (after giving effect to the use of the net proceeds of the sale of the Securities as described in the Prospectus) or an Investment consisting of any extension, modification or renewal of any Investment existing on the Issue Date; *provided* that such Investment, as extended, modified or renewed, will not, in the good faith judgment of the Board of Directors adversely affect the Company's ability to make principal or interest payments on the Securities;

(11) a Securitization Subsidiary in connection with a Qualified Securitization Transaction which Investments are customary for such transaction;

(12) other Investments, at any one time outstanding, in any Person having a fair market value (measured on the date each such Investment was made), when taken together with all other Investments made pursuant to this clause (12) that are at that time outstanding, not exceeding the greater of $135.0 million and 2.00% of Total Assets at the time of such Investment, *plus*, in each case, 100% of the aggregate cash dividends and distributions received by the Company or any Restricted Subsidiary from such Investments;

(13) any Investment in connection with a transaction permitted under Section 4.09(b)(11);

(14) Guarantees issued in accordance with Section 4.05 and Section 4.12;

(15) Any Investment made pursuant to the CKI Trust Agreement; and

(16) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Company or the applicable Restricted Subsidiary thereof in the ordinary course of business.

"*Permitted Lien*" means:

(a) Liens existing on the Issue Date after giving effect to the use of the net proceeds of the sale of the Securities as described in the Prospectus and replacements, renewals or extensions of such Liens; *provided* that such Lien shall not apply to additional property other than (A) after-acquired property that is directly related to the property secured by such Lien and is required to be pledged pursuant to the agreement granting such Lien as in effect on the Issue Date, and (B) proceeds and products thereof and such Lien shall secure only those obligations it secures on the Issue Date and extensions, renewals and replacements thereof that, to the extent constituting Indebtedness, qualify as a Refinancing Indebtedness thereof;

(b) Liens securing Hedging Obligations so long as such Hedging Obligations are not incurred in violation of this Indenture;

(c) Liens securing the CKI Obligations;

(d) Liens to secure Purchase Money Indebtedness that is otherwise permitted under this Indenture; *provided* that (i) any such Lien is created solely for the purpose of securing Indebtedness representing, or Incurred to finance, the cost of the acquisition or construction that is the subject of the Purchase Money Indebtedness and (ii) such Lien is limited in the manner described in the definition of Purchase Money Indebtedness;

(e) Liens securing Capital Lease Obligations; *provided*, *however*, that such Lien does not extend to any property other than property subject to the underlying lease, after-acquired property that is required to be pledged pursuant to such underlying lease on customary terms and proceeds and products thereof;

(f) Liens granted by the Company or any Restricted Subsidiary in favor of landlords contained in leases and subleases of real property or in inventory or fixtures located on such leased real property; *provided*, *however*, that such Liens are in the ordinary course of business, are on terms customary for leases of such type and do not materially impair the use of the liened property in the operation of the business of the Company or the Restricted Subsidiary;

(g) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods and Liens in the ordinary course of business in favor of issuers of performance and surety bonds or bid bonds or with respect to health, safety and environmental regulations (other than for borrowed money) or letters of credit or bank guarantees issued to support such bonds or requirements pursuant to the request of and for the account of such Person in the ordinary course of business;

(h) Liens imposed by law, including, carriers', warehousemen's and mechanics' Liens, in each case for sums not yet due or being contested in good faith by appropriate proceedings; *provided* that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(i) Liens for taxes, assessments and governmental charges (i) not yet due and payable or (ii) not yet subject to penalties for non-payment or which are being contested in good faith and by appropriate proceedings; *provided* that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(j) Liens securing Indebtedness Incurred under Section 4.05(b)(1) and any Refinancing Indebtedness with respect thereto;

(k) Liens securing Indebtedness owed by (i) a Restricted Subsidiary to the Company or to any other Restricted Subsidiary (other than a Securitization Subsidiary) and (ii) the Company to a Subsidiary Guarantor;

(l) Liens on the property of any Restricted Subsidiary existing at the time such Person becomes a Subsidiary and not Incurred as a result of (or in connection with or in anticipation of) such Person becoming a Subsidiary; *provided*, *however*, that such Liens do not extend to or cover any property or assets of the Company or any of the Restricted Subsidiaries (other than (A) the property encumbered at the time such Person becomes a Subsidiary, (B) after-acquired property that is directly related to the property secured by such Lien and is required to be pledged pursuant to the agreement granting such Lien as in effect on the date such Person becomes a Subsidiary and (C) proceeds and products thereof) and do not secure Indebtedness with a principal amount in excess of the principal amount of such Permitted Acquisition Indebtedness secured by such Liens outstanding at such time;

(m) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Subsidiary of the Company; *provided* that such Liens were not Incurred as a result of (or in connection with or in anticipation of) such merger or consolidation and do not extend to any assets other than those of the Person merged with or into or consolidated with the Company or such Subsidiary;

(n) Liens on property of assets existing at the time such assets were acquired in connection with the purchase of all or substantially all of the assets of a Related Business by the Company or any Subsidiary of the Company; *provided* that such Liens were not Incurred as a result of (or in connection with or in anticipation of) such acquisition and do not extend to any assets other than those acquired by the Company or such Subsidiary;

(o) Liens securing the Securities;

(p) Liens securing Attributable Debt Incurred pursuant to any Permitted Sale/Leaseback;

(q) Liens securing Refinancing Indebtedness Incurred to refinance Indebtedness that was previously so secured; *provided* that such Lien extends to or covers only the same property that secures the Indebtedness being refinanced;

(r) Liens (excluding in all cases Liens securing Limited Originator Recourse obligations) on (i) accounts receivable and related assets transferred to, or on accounts receivable and related assets of, a Securitization Subsidiary in connection with a Qualified Securitization Transaction and (ii) licensing royalties and related assets transferred to, or on licensing royalties and related assets of, a Securitization Subsidiary in connection with a Qualified Securitization Transaction;

(s) Liens securing Indebtedness Incurred by a Foreign Restricted Subsidiary under Section 4.05(b)(14);

(t) Liens securing Indebtedness Incurred under any Credit Facility, so long as the Senior Secured Leverage Ratio of the Company is less than or equal to 2.5 to 1.0 (for the avoidance of doubt, all Secured Debt outstanding at the time of the calculation of the Senior Secured Leverage Ratio shall be included in such calculation);

(u) Liens in connection with attachments or judgments (including judgment or appeal bonds that do not result in an Event of Default under Section 6.01(h));

(v) Liens Incurred or deposits made by the Company or any Restricted Subsidiary in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security or to secure the performance of statutory obligations, bids, leases, performance and return-of-money bonds and other similar obligations (exclusive of Obligations for the payment of borrowed money);

(w) minor survey exceptions, minor encumbrances, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real properties or Liens incidental to the conduct of the business of the Company or the applicable Restricted Subsidiary thereof or to the ownership of its properties which were not Incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(x) Liens arising from financing statement filings under the Uniform Commercial Code or equivalent statute of another jurisdiction regarding operating leases entered into by the Company and its Restricted Subsidiaries in the ordinary course of business;

(y) any reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown, including, without limitation, the reservation of any mines and minerals in the Crown or any other Person;

(z) Liens arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to the Company and its Subsidiaries in the ordinary course of trading and on the supplier's standard or usual terms and arising as a result or omission by the Company or its Subsidiaries, including, for the avoidance of doubt, *verlängerte Eigentumsvorbehalte and erweiterte Eigentumsvorbehalte*;

(aa) any Lien created pursuant to the general conditions of a bank operating in the Netherlands based on the general conditions drawn up by the Netherlands Bankers' Association (*Nederlandse Vereniging van Banken*) and the Consumers Union (*Consumentenbond*) or pursuant to any other general conditions of, or any contractual arrangement with, any such bank to substantially the same effect;

(bb) Liens securing obligations pursuant to Cash Management Agreements and Treasury Transactions;

(cc) the 2023 Permitted Liens;

(dd) Liens, if any, consisting of leases, assignments, subleases or grants of licenses of the type described in clauses (I) and (J) of the definition of "Asset Disposition";

(ee) Liens securing obligations in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued to support performance obligations (other than Obligations in respect of Indebtedness) and trade-related letters of credit, in each case, outstanding on the Issue Date or issued thereafter in the ordinary course of business and covering the goods (or the documents of title in respect of such goods) financed by such letters of credit, banker's acceptances or bank guarantees and the proceeds and products thereof;

(ff) Liens in respect of Indebtedness Incurred pursuant to paragraph 4.05(b)(28); and

(gg) Liens (exclusive of any Lien of any type otherwise permitted under clauses (a) through (ff) above) securing Indebtedness for borrowed money of the Company or any Subsidiary Guarantor in an aggregate principal amount which does not at the time such Indebtedness is incurred exceed the amount of Indebtedness permitted to be incurred under Section 4.05(b)(30).

"*Person*" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"*Preferred Stock*", as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or distributions, or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

"*Principal Property*" means any real property or other tangible assets or group of tangible assets having a fair market value in excess of $2.5 million, in each case, owned by the Company or any of its Restricted Subsidiaries. Principal Property shall not include properties or assets consisting of inventories, furniture, office fixtures and equipment, including data processing equipment, vehicles and equipment used on, or useful with, vehicles.

"*Prospectus*" means the final Prospectus Supplement filed with the SEC dated April 23, 2010 relating to the Initial Securities.

"*Purchase Money Indebtedness*" means any Indebtedness of a Person to any seller or other Person Incurred to finance the acquisition or construction of any property or assets and which is Incurred substantially concurrently therewith, is secured only by the assets so financed, any after-acquired assets that are directly related to such assets so financed and are required to be pledged pursuant to the agreements relating to such Indebtedness and the proceeds and products thereof and the principal amount of which does not exceed the cost of the assets acquired or constructed.

"*Qualified Securitization Transaction*" means any accounts receivable or licensing royalty financing facility or arrangement pursuant to which a Securitization Subsidiary purchases or otherwise acquires accounts receivable or licensing royalties and related assets from the Company or any Restricted Subsidiary and enters into a third-party financing thereof on customary market terms that the Board of Directors has concluded are fair to the Company and its Restricted Subsidiaries.

"*Rating Agency*" means each of S&P or Moody's or if S&P or Moody's or both shall not make a rating on the Securities publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Company (as certified by a resolution of the Board of Directors) which shall be substituted for S&P or Moody's, or both, as the case may be.

"*Redemption Date*", when used with respect to any Security to be redeemed, shall mean the date specified for redemption of such Security in accordance with the terms of such Security and this Indenture.

"*Redemption Price*", when used with respect to any Security to be redeemed, means the price at which it is to be redeemed pursuant to the terms of such Security and this Indenture.

"*Refinance*" means, in respect of any Indebtedness, to refinance, extend, renew, refund, repay, prepay, redeem, defease or retire, or to issue other Indebtedness in exchange or replacement for, such Indebtedness.

"*Refinanced*" and "*Refinancing*" shall have correlative meanings.

"*Refinancing Indebtedness*" means Indebtedness that Refinances any Indebtedness of the Company or any Restricted Subsidiary existing on the Issue Date (after giving effect to the use of the net proceeds of the sale of the Securities as described in the Prospectus) or Incurred in compliance with this Indenture, including Indebtedness that Refinances Refinancing Indebtedness; *provided*, *however*, that:

(1) such Refinancing Indebtedness has a Stated Maturity that is not earlier than the earlier of (a) the Stated Maturity of the Indebtedness being Refinanced and (b) 91 days following the maturity of the Securities;

(2) such Refinancing Indebtedness has an Average Life at the time such Refinancing Indebtedness is Incurred that is equal to or greater than the Average Life of the Indebtedness being Refinanced;

(3) unless otherwise permitted to be Incurred pursuant to Section 4.05, such Refinancing Indebtedness has an aggregate principal amount (or if Incurred with original issue discount, an aggregate issue price) that is equal to or less than the aggregate principal amount (or if Incurred with original issue discount, the

aggregate accreted value) then outstanding or committed (plus fees and expenses, including any premium and defeasance costs) under the Indebtedness being Refinanced; and

(4) to the extent such Refinancing Indebtedness refinances Indebtedness that is subordinated to the Securities or the Subsidiary Guaranty of such Restricted Subsidiary, as applicable, such Refinancing Indebtedness is subordinated in right of payment to the Securities or such Subsidiary Guaranty, as applicable, on terms at least as favorable to Holders of the Securities as those contained in the documents governing the Indebtedness being Refinanced;

provided, further, however, that Refinancing Indebtedness shall not include (A) Indebtedness of a Subsidiary other than a Subsidiary Guarantor that Refinances Indebtedness of the Company or (B) Indebtedness of the Company or a Restricted Subsidiary that Refinances Indebtedness of an Unrestricted Subsidiary.

"*Regular Record Date*" means May 1 and November 1, as applicable.

"*Related Business*" means any business in which the Company or any Restricted Subsidiary was engaged on the Issue Date or any extension of such business consistent with industry developments and any business related, ancillary or complementary to any business of the Company or any Restricted Subsidiary in which the Company or any Restricted Subsidiary was engaged on the Issue Date or any extension of such business consistent with industry developments.

"*Responsible Officer*", when used with respect to the Trustee, means any officer within the Corporate Trust Services department of the Trustee (or any successor group of the Trustee) with direct responsibility for the administration of this Indenture or any other officer of the Trustee with direct responsibility for the administration of this Indenture customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his or her knowledge of and familiarity with the particular subject.

"*Restricted Payment*" with respect to any Person means:

(1) the declaration or payment of any dividends or any other distributions of any sort in respect of its Capital Stock (including any payment in connection with any merger or consolidation involving such Person) or similar payment to the direct or indirect holders of its Capital Stock (other than dividends or distributions payable solely in its Capital Stock (other than Disqualified Stock) and dividends or distributions payable solely to the Company or a Restricted Subsidiary, and other than pro rata dividends or other distributions made by a Subsidiary that is not a Wholly Owned Subsidiary to minority stockholders (or owners of an equivalent interest in the case of a Subsidiary that is an entity other than a corporation));

(2) the purchase, redemption or other acquisition or retirement for value of any Capital Stock of the Company held by any Person or of any Capital Stock of a Restricted Subsidiary held by any Affiliate of the Company (other than a Restricted Subsidiary), including in connection with any merger or consolidation and including the exercise of any option to exchange any Capital Stock (other than into Capital Stock of the Company that is not Disqualified Stock);

(3) the purchase, repurchase, redemption, defeasance or other acquisition or retirement for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment of any Subordinated Obligations of such Person (other than the purchase, repurchase or other acquisition of Subordinated Obligations (a) purchased in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of purchase, repurchase or other acquisition and (b) owed by the Company to any Restricted Subsidiary and owed by any Restricted Subsidiaries to the Company or any Restricted Subsidiary); or

(4) the making of any Investment (other than a Permitted Investment) in any Person.

"*Restricted Subsidiary*" means any Subsidiary of the Company that is not an Unrestricted Subsidiary.

"*S&P*" means Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc., and any successor to its rating business.

"*Sale/Leaseback Transaction*" means any arrangement with any Person providing for the leasing by the Company or any Restricted Subsidiary of the Company, for a period of more than three years, of any real or tangible personal property, which property has been or is to be sold or transferred by the Company or such Restricted Subsidiary to such Person in contemplation of such leasing.

"*SEC*" means the United States Securities and Exchange Commission.

"*Secured Debt*" means with respect to any specified Person for any period, the aggregate principal amount of Indebtedness of such Person and its Restricted Subsidiaries on a consolidated basis calculated in accordance with GAAP that is then secured by a Lien on property or assets of such Person and its Restricted Subsidiaries (including, without limitation, Capital Stock of another Person owned by such Person but excluding property or assets held in a defeasance or similar trust or arrangement for the benefit of the Indebtedness secured thereby), *provided*, *however*, that the CKI Obligations and ITOCHU Obligations shall not constitute Secured Debt.

"*Securities Act*" means the Securities Act of 1933, as amended.

"*Securities*" has the meaning assigned to it in the preamble to this Indenture.

"*Securitization Subsidiary*" means a Wholly Owned Subsidiary of the Company

(1) that is designated a "Securitization Subsidiary" by the Board of Directors;

(2) that does not engage in any activities other than Qualified Securitization Transactions and any activity necessary or incidental thereto;

(3) no portion of the Indebtedness or any other obligation, contingent or otherwise, of which

(A) is Guaranteed by the Company or any Restricted Subsidiary other than pursuant to Standard Securitization Undertakings or Limited Originator Recourse,

(B) is recourse to or obligates the Company or any other Restricted Subsidiary in any way other than pursuant to Standard Securitization Undertakings or Limited Originator Recourse, or

(C) subjects any property or asset of the Company or any other Restricted Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof other than pursuant to Standard Securitization Undertakings or Limited Originator Recourse; and

(4) with respect to which neither the Company nor any Restricted Subsidiary has any obligation to maintain or preserve its financial condition or cause it to achieve certain levels of operating results.

"*Senior Indebtedness*" means with respect to any Person:

(1) Indebtedness of such Person, whether outstanding on the Issue Date (after giving effect to the use of the net proceeds of the sale of the Securities as described in the Prospectus) or thereafter Incurred; and

(2) all other Obligations of such Person (including interest accruing on or after the filing of any petition in any bankruptcy, insolvency, reorganization or other similar proceeding relating to such Person whether or not post-filing interest is allowed in such proceeding) in respect of Indebtedness described in clause (1) above;

unless, in the case of clauses (1) and (2), in the instrument creating or evidencing the same or pursuant to which the same is outstanding, it is *provided* that such Indebtedness or other Obligations are subordinate in right of payment to the Securities or the Subsidiary Guaranty of such Person, as the case may be; *provided*, *however*, that Senior Indebtedness shall not include:

(1) any obligation of such Person to any Subsidiary;

(2) any liability for Federal, state, local or other taxes owed or owing by such Person;

(3) any accounts payable or other liability to trade creditors arising in the ordinary course of business (including guarantees thereof or instruments evidencing such liabilities);

(4) any Indebtedness or other Obligation of such Person which is subordinate or junior in any respect to any other Indebtedness or other Obligation of such Person;

(5) that portion of any Indebtedness which at the time of Incurrence is Incurred in violation of this Indenture; or

(6) any Capital Stock.

"*Senior Secured Leverage Ratio*" shall mean, for any Person at any date of calculation (the "*Transaction Date*"), the ratio of (x) Secured Debt of such Person as of the Transaction Date to (y) EBITDA of such Person for the most recently ended period of four fiscal quarters ending prior to the

Transaction Date for which internal financial statements are available, in each case with such *pro forma* adjustments to the amount of consolidated "Secured Debt" and "EBITDA" as are appropriate and consistent with the *pro forma* adjustment provisions set forth in the definition of "EBITDA" and "Consolidated Coverage Ratio"; *provided* that solely for the purpose of the calculation of Senior Secured Leverage Ratio and Section 4.10, the Company may elect pursuant to an Officers' Certificate delivered to the Trustee to treat all or any portion of the commitment under any Secured Debt as being Incurred at such time, in which case any subsequent Incurrence of Secured Debt under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time.

"*Series A Preferred Stock*" means the Series A Convertible Preferred Stock of the Company issued and outstanding as of the Issue Date.

"*Significant Subsidiary*" means any Restricted Subsidiary that would be a "Significant Subsidiary" of the Company within the meaning of Rule 1–02 under Regulation S–X promulgated by the SEC.

"*Special Record Date*" for the payment of any Defaulted Interest on the Securities means a date fixed by the Trustee pursuant to Section 2.14 hereof.

"*Standard Securitization Undertakings*" means representations, warranties, covenants and indemnities entered into by the Company or any Restricted Subsidiary that are reasonably customary in accounts receivable or licensing royalty securitization transactions, as the case may be.

"*Stated Maturity*" means, with respect to any security, the date specified in such security as the fixed date on which the final payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase of such security at the option of the Holder thereof upon the happening of any contingency unless such contingency has occurred).

"*Subordinated Obligation*" means, with respect to a Person, any Indebtedness of such Person (whether outstanding on the Issue Date (after giving effect to the use of the net proceeds of the sale of the Securities as described in the Prospectus) or thereafter Incurred) which is subordinate or junior in right of payment to the Securities or a Subsidiary Guaranty of such Person, as the case may be, pursuant to a written agreement to that effect.

"*Subsidiary*" means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Voting Stock is at the time owned or controlled, directly or indirectly, by:

(1) such Person;

(2) such Person and one or more Subsidiaries of such Person; or

(3) one or more Subsidiaries of such Person.

Notwithstanding anything contained herein or otherwise, CKI Trust shall not be a Subsidiary of the Company.

"*Subsidiary Guarantor*" means each Restricted Subsidiary of the Company that delivers a Guaranty Agreement pursuant to Section 4.12.

"*Subsidiary Guaranty*" means a Guarantee by a Subsidiary Guarantor of the Company's Obligations with respect to the Securities.

"*Temporary Cash Investments*" means any of the following:

(1) any investment in direct obligations of the United States or any agency thereof or obligations guaranteed by the United States or any agency thereof;

(2) investments in time deposit accounts, certificates of deposit and money market deposits maturing within 365 days of the date of acquisition thereof issued by a bank or trust company which is organized under the laws of the United States, any State thereof or any foreign country recognized by the United States, and which bank or trust company has capital, surplus and undivided profits aggregating in excess of $50.0 million (or the foreign currency equivalent thereof) and has outstanding debt which is rated "A" (or such similar equivalent rating) or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act) or any money-market fund sponsored by a registered broker dealer or mutual fund distributor;

(3) repurchase obligations with a term of not more than 30 days for underlying securities of the types described in clause (1) above entered into with a bank meeting the qualifications described in clause (2) above;

(4) investments in commercial paper, maturing not more than 270 days after the date of acquisition, issued by a corporation (other than an Affiliate of the Company) organized and in existence under the laws of the United States or any foreign country recognized by the United States with a rating at the time as of which any investment therein is made of "P-1" (or higher) according to Moody's or "A-1" (or higher) according to S&P; and

(5) investments in securities with maturities of 270 days or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States, or by any political subdivision or taxing authority thereof, and rated at least "A" by S&P or "A" by Moody's.

"*TH Acquisition*" means the acquisition by the Company of Tommy Hilfiger B.V. and certain affiliated entities pursuant to the TH Purchase Agreement.

"*TH Purchase Agreement*" means that certain Purchase Agreement, dated as of March 15, 2010, by and among Tommy Hilfiger B.V., Tommy Hilfiger Corporation, Stiching Administratiekantoor Elmira, Tommy Hilfiger Holding S.A.R.L., Asian and Western Classics B.V. and the Company.

"*TIA*" means the Trust Indenture Act of 1939 (15 U.S.C. §§ 77aaa-77bbbb) as in effect on the Issue Date.

"*Total Assets*" means, as of any date of determination, the total assets of the Company and its Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP, as set forth on the most recent consolidated balance sheet of the Company as of such date.

"*Transaction Documents*" means the TH Purchase Agreement, the Credit Agreement and the documents related thereto, the documents related to the tender offers for and redemption of the

7¼% senior notes due 2011 and the $8^1/_8$% senior notes due 2013 and the documents relating to the other Transactions.

"*Transactions*" means the TH Acquisition, the offering of the Securities on the Issue Date, the entry into the Credit Agreement, the tender offers for and redemption of the 7¼% senior notes due 2011 and the $8^1/_8$% senior notes due 2013, the sale of Series A Preferred Stock in connection with the TH Acquisition and the public offering of common stock by the Company in connection with the TH Acquisition.

"*Treasury Transaction*" means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price.

"*Trustee*" means the party named as such above until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

"*Unrestricted Subsidiary*" means:

(1) any Subsidiary of an Unrestricted Subsidiary; and

(2) any Subsidiary of the Company which is designated after the Issue Date as an Unrestricted Subsidiary by a resolution of the Board of Directors;

provided that a Subsidiary may be so designated as an Unrestricted Subsidiary only if

(A) such designation is in compliance with Section 4.06;

(B) such Subsidiary does not own any Capital Stock or Indebtedness of, or hold any Lien on any property of, the Company or any Restricted Subsidiary;

(C) no Default or Event of Default has occurred and is continuing or results therefrom;

(D) such Subsidiary is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;

(E) such Subsidiary is a Person with respect to which neither the Company nor any Restricted Subsidiaries has any direct or indirect obligation (1) to subscribe for additional Capital Stock or (2) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results;

(F) such Subsidiary has not Guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any Restricted Subsidiaries; and

(G) neither the Company nor any Restricted Subsidiary will at any time

(i) provide a guarantee of, or similar credit support to, any Indebtedness of such Subsidiary (including any undertaking, agreement or instrument evidencing such Indebtedness),

(ii) be directly or indirectly liable for any Indebtedness of such Subsidiary, or

(iii) be directly or indirectly liable for any other Indebtedness which provides that the holder thereof may (upon notice, lapse of time or both) declare a default thereon (or cause the payment thereof to be accelerated or payable prior to its final scheduled maturity) upon the occurrence of a default with respect to any other Indebtedness that is Indebtedness of such Subsidiary (including any corresponding right to take enforcement action against such Subsidiary),

except in the case of clause (i) or (ii) above to the extent

(i) that the Company or such Restricted Subsidiary could otherwise provide such a guarantee or Incur such Indebtedness pursuant to Section 4.05(a); and

(ii) the provision of such guarantee and the Incurrence of such Indebtedness otherwise would be permitted under Section 4.06.

The Board of Directors may designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided, however*, that immediately after giving effect to such designation (A) the Company could Incur $1.00 of additional Indebtedness under Section 4.05(a) and (B) no Default or Event of Default shall have occurred and be continuing.

Any such designation by the Board of Directors shall be evidenced to the Trustee by promptly filing with the Trustee a copy of the resolution of the Board of Directors giving effect to such designation and an Officers' Certificate certifying that such designation complied with the foregoing provisions.

"*U.S. Government Obligations*" means direct obligations (or certificates representing an ownership interest in such obligations) of the United States (including any agency or instrumentality thereof) for the payment of which the full faith and credit of the United States is pledged and which are not callable at the issuer's option.

"*Voting Stock*" of a Person means all classes of Capital Stock of such Person then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof.

"*Wholly Owned Subsidiary*" means a Restricted Subsidiary all the Capital Stock of which (other than directors' qualifying shares) is owned by the Company or one or more Wholly Owned Subsidiaries.

Section 1.02 Other Definitions.

Term	Defined in Section
"Affiliate Transaction"	4.09
"Asset Sale Offer"	4.08(b)
"Change of Control Offer"	10(b)
"Covenant Defeasance"	8.01(b)
"Defaulted Interest"	2.14
"Defeasance Trust"	8.02(a)
"Event of Default"	6.01
"Excess Proceeds"	4.08(b)
"Legal Defeasance"	8.01(b)
"Offer Period"	4.08(d)
"Paying Agent"	2.05
"Permitted Sale/Leaseback"	4.11
"Registrar"	2.05
"Reversion Date"	4.13
"Successor Company"	5.01(1)
"Suspended Covenants"	4.13
"Suspension Date"	4.13
"Suspension Period"	4.13

Section 1.03 Incorporation by Reference of TIA.

Whenever this Indenture refers to a provision of the TIA, the provision is incorporated by reference in and made a part of this Indenture.

The following TIA terms used in this Indenture have the following meanings:

"indenture securities" means the Securities;

"indenture security Holder" means a Holder of a Security;

"indenture to be qualified" means this Indenture;

"indenture trustee" or *"institutional trustee"* means the Trustee; and

"obligor" on the Securities and the Subsidiary Guarantees, if any, means the Company and the Subsidiary Guarantors, respectively, and any successor obligor upon the Securities and the Subsidiary Guarantees, respectively.

All other terms used in this Indenture that are defined by the TIA, defined by TIA reference to another statute or defined by SEC rule under the TIA have the meanings so assigned to them.

Section 1.04 Rules of Construction.

Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) "or" is not exclusive;

(d) words in the singular include the plural, and in the plural include the singular;

(e) provisions apply to successive events and transactions; and

(f) references to sections of or rules under the Securities Act shall be deemed to include substitute, replacement of successor sections or rules adopted by the SEC from time to time.

ARTICLE 2.
THE SECURITIES

Section 2.01 Form Generally

The Securities shall be substantially in the form of Exhibit A hereto with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the Officers executing such Securities as evidenced by their execution of the Securities.

The certificated Securities shall be printed, lithographed or engraved or produced by any combination of these methods or may be produced in any other manner; *provided* that such method is permitted by the rules of any securities exchange on which such Securities may be listed, all as determined by the Officers executing such Securities as evidenced by their execution of such Securities.

Section 2.02 Securities in Global Form

Securities issued as a Global Security shall represent such of the outstanding Securities as specified therein and may provide that it shall represent the aggregate principal amount of outstanding Securities from time to time endorsed thereon or otherwise notated on the books and records of the Registrar and that the aggregate principal amount of outstanding Securities represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Security to reflect the aggregate principal amount of any increase or decrease in the amount of outstanding Securities represented thereby shall be made by the Trustee in such manner and upon instructions given by the Holder thereof.

Global Securities may be issued in either registered or bearer form and in either temporary or permanent form. Permanent Global Securities will be issued in certificated form.

The provisions of the last sentence of Section 2.04 hereof shall apply to any Security represented by a Global Security if such Security was never issued and sold by the Company, and the Company delivers to the Trustee the Global Security together with written instructions (which need not comply with Section 11.04 or 11.05 hereof and need not be accompanied by an Opinion of Counsel) with regard to the reduction in the principal amount of Securities represented thereby, together with the written statement contemplated by the last sentence of Section 2.04 hereof.

Notwithstanding the provisions of Sections 2.02 and 2.14 hereof, payment of principal of and any interest on any Global Security shall be made to the Depositary or its nominee, as the case may be, as the sole registered owner and holder of any Global Security for all purposes under this Indenture.

Section 2.03 Amount of Securities.

On the Issue Date, the Trustee shall authenticate and deliver $600,000,000 of 7.375% Senior Notes due May 15, 2020 and, at any time and from time to time thereafter, the Trustee shall authenticate and deliver Securities for original issue in an aggregate principal amount specified in a Company Order. Such order shall specify the amount of the Securities to be authenticated and the date on which the original issue of Securities is to be authenticated and, in the case of an issuance of Additional Securities pursuant to Section 2.18 after the Issue Date, shall certify that such issuance is in compliance with Section 4.05. The aggregate principal amount of Securities which may be authenticated and delivered under this Indenture is unlimited, subject to compliance with Section 4.05 hereof. The Securities may have notations, legends or endorsements required by law, stock exchange rules or usage. The Se curities shall be in denominations of $2,000 and integral multiples of $1,000 in excess thereof.

All Securities shall be substantially identical except as to the date from which interest shall accrue and except as may otherwise be provided in any indenture supplemental hereto.

If any of the terms of the Securities are established by action taken pursuant to a Board Resolution, a copy of any appropriate record of such action shall be certified by the Secretary or an Assistant Secretary of the Company and delivered to the Trustee at or prior to the delivery of the Officers' Certificate setting forth the terms of the Securities.

The Securities, including any Additional Securities, shall be treated as a single class for all purposes under this Indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase.

Section 2.04 Execution, Authentication, Delivery and Dating

Two Officers shall sign the Securities for the Company by manual or facsimile signature. If an Officer whose signature is on a Security no longer holds that office at the time a Security is authenticated, the Security shall nevertheless be valid.

A Security shall not be valid until authenticated by the manual or facsimile signature of the Trustee. The signature shall be conclusive evidence that the Security has been authenticated under this Indenture.

At any time and from time to time after the execution and delivery of this Indenture, and subject to delivery of an Officers' Certificate, the Company may deliver Securities executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities; and the Trustee in accordance with such Company Order shall authenticate and deliver such Securities.

No Security shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein duly executed by the Trustee by manual or facsimile signature of an authorized signatory, and such certificate and signature upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder. The Trustee's certificate of authentication shall be in substantially the following form:

This is one of the Securities referred to in the within-mentioned Indenture.

U.S. Bank National Association,
as Trustee

By:
Authorized Signatory

Each Security shall be dated the date of its authentication.

Notwithstanding the foregoing, if any Security shall have been duly authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Security to the Trustee for cancellation as provided in Section 2.13 hereof together with a written statement (which need not comply with Section 11.04 or 11.05 hereof and need not be accompanied by an Opinion of Counsel) stating that such Security has never been issued and sold by the Company, for all purposes of this Indenture such Security shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

Section 2.05 Registrar and Paying Agent.

The Company shall maintain, with respect to the Securities, an office or agency where such Securities may be presented for registration of transfer or for exchange ("*Registrar*") and an office or agency where Securities may be presented for payment ("*Paying Agent*") in the Borough of Manhattan, The City of New York. The Registrar shall keep a register of the Securities and of their transfer and exchange. The Company may appoint one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrar and the term "Paying Agent" includes any additional paying agent. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company shall notify the Trustee in writing of the name and address of any Agent not a party to this Indenture. If the Company fails to app oint or maintain another entity as Registrar or Paying Agent, the Trustee shall act as such. The Company or any of its Restricted Subsidiaries may act as Paying Agent or Registrar.

The Company initially appoints the Trustee to act as the Registrar and Paying Agent.

Section 2.06 Paying Agent to Hold Money in Trust.

The Company shall require each Paying Agent (other than the Trustee) to agree in writing that the Paying Agent will hold in trust for the benefit of Holders of Securities or the Trustee all money held by the Paying Agent for the payment of principal of, premium, if any, on or interest on such Securities, and will notify the Trustee of any default by the Company in making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Company at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by such Paying Agent. Upon payment over to the Trustee, the Paying Agent (if other than the Company or a Restricted Subsidiary) shall have no further liability for the money. If the Company or a Subsidiary acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders all money held by it as Paying Agent. Upon any bankruptcy or reorganization proceedings relating to the Company, the Trustee shall serve as Paying Agent for the Securities.

Section 2.07 Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of all Holders of Securities and shall otherwise comply with TIA § 312(a). If the Trustee is not the Registrar, the Company shall furnish to the Trustee at least seven Business Days before each interest payment date and at such other times as the Trustee may reasonably request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders of the Securities and the Company shall otherwise comply with TIA § 312(a).

Section 2.08 Registration, Registration of Transfer and Exchange.

Upon surrender for registration of transfer of any Securities at an office or agency of the Company designated pursuant to Section 4.02 hereof for such purpose, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denominations, of a like aggregate principal amount. The Company shall not charge a service charge for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to pay all taxes, assessments or other governmental charges that may be imposed in connection with the transfer or exchange of the Securities from the Holder requesting such transfer or exchange (other than any exchange of a temporary Security for a permanent Security not involving any change in ownership or any exchange pursuant to Section 2.12, 3.06 or 9.05 hereof, not involvin g any transfer).

Notwithstanding any other provisions (other than the provisions set forth in the fourth paragraph) of this Section 2.08, a Global Security representing all or a portion of the Securities may not be transferred except as a whole by the Depositary to a nominee of such Depositary. Any holder of a beneficial interest in a Global Security shall, by acceptance of such beneficial interest, agree that transfers of beneficial interests in such Global Security may be effected only through a book-entry system maintained by (a) the Holder of such Global Security (or its agent) or (b) any holder of a beneficial interest in such Global Security, and that ownership of a beneficial interest in such Global Security shall be required to be reflected in a book-entry.

Each Global Security is exchangeable for Securities in certificated form only if (i) the Depositary notifies the Company that it is unwilling or unable to continue as Depositary for such Global Security or if at any time the Depositary ceases to be a clearing agency registered under the Exchange Act and the Company fails within 90 days thereafter to appoint a successor Depositary, (ii) the Company in its sole discretion determines that such Global Security shall be exchangeable or (iii) there shall have occurred and be continuing a Default with respect to the Securities represented by such Global Security. In any such event the Company will issue, and the Trustee, upon receipt of a Company Order for the authentication and delivery of certificated Securities, will authenticate and deliver, Securities in certificated form in exchange for such Global Security. In any such instance, an owner of a beneficial interest i n either Global Security will be entitled to physical delivery in certificated form of Securities equal in principal amount to such beneficial interest and to have such Securities registered in its name. Securities so issued in certificated form will be issued in denominations of $1,000 or any larger amount that is an integral multiple thereof, and will be issued in registered form only, without coupons.

Upon the exchange of a Global Security for Securities in certificated form, such Global Security shall be cancelled by the Trustee. All cancelled Global Securities held by the Trustee shall be destroyed by the Trustee and a certificate of their destruction delivered to the Company. Securities in certificated form issued in exchange for a Global Security pursuant to this Section 2.08 shall be registered in such names and in such authorized denominations as the Depositary for such Global Security, pursuant to

instructions from its direct or indirect participants or otherwise, shall instruct the Trustee in writing. The Trustee shall deliver such Securities as instructed in writing by the Depositary.

At the option of the Holders of certificated Securities, certificated Securities may be exchanged for other certificated Securities of any authorized denomination or denominations of a like aggregate principal amount and tenor, upon surrender of the certificated Securities to be exchanged at such office or agency. Whenever any certificated Securities are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the certificated Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Registrar duly executed, by the Holder thereof or his or her attorney duly authorized in writing.

The Company shall not be required (i) to issue, register the transfer of or exchange any Securities during a period beginning 15 Business Days before any selection of Securities to be redeemed and ending at the close of business on the day of the mailing of the relevant notice of redemption or (ii) to register the transfer of or exchange any Security so selected for redemption, in whole or in part, except the unredeemed portion of any Security being redeemed in part.

Section 2.09 Replacement Securities.

If any mutilated Security is surrendered to the Trustee or the Company or the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Security, the Company shall issue and the Trustee, upon receipt of a Company Order, shall authenticate a replacement Security if the Trustee's requirements are met. If required by the Trustee or the Company, an indemnity bond must be supplied by the Holder that is sufficient in the judgment of the Trustee and the Company to protect the Company, the Trustee, any Agent and any authenticating agent from any loss that any of them may suffer if a Security is replaced. The Company and the Trustee may charge the Holder for their expenses in replacing a Security (including, with limitation, attorneys' fees and disbursements in replacing such Security). In the event any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company may pay such Security instead of issuing a new Security in replacement thereof.

Every replacement Security is an additional obligation of the Company and shall be entitled to all of the benefits of this Indenture equally and proportionately with all other Securities duly issued hereunder.

The provisions of this Section 2.09 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

Section 2.10 Outstanding Securities.

The Securities outstanding at any time are all the Securities authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Security effected by the Trustee in accordance with the provisions hereof, and those described in this Section as not outstanding. Except as set forth in Section 2.11 hereof, a Security does not cease to be

outstanding because the Company or an Affiliate of the Company holds the Security. Subject to the foregoing, in determining whether the Holders of the requisite principal amount of outstanding Securities have given or concurred in any request, demand, authorization, direction, notice, consent or waiver hereunder, (including, without limitation, determinations pursuant to Articles 6 and 9 hereof), only Securities outstanding at the time of such determination shall be considered in any such determination.

If a Security is replaced pursuant to Section 2.09 hereof, it ceases to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Security is held by a bona fide purchaser.

If the principal amount of any Security is considered paid under Section 4.01 hereof, it ceases to be outstanding and interest on it ceases to accrue.

If the Paying Agent (other than the Company, a Subsidiary or an Affiliate of any thereof) holds, on a Redemption Date or maturity date, money sufficient to pay Securities payable on that date, then on and after that date such Securities shall be deemed to be no longer outstanding and shall cease to accrue interest.

Section 2.11 When Securities Disregarded.

For purposes of determining whether the Holders of the requisite principal amount of Securities have taken any action under this Indenture, Securities owned by the Company or any Affiliate of the Company shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Securities which the Trustee knows are so owned shall be so disregarded. Subject to the foregoing, only Securities outstanding at the time shall be considered in any such determination.

Section 2.12 Temporary Securities.

Until certificates representing Securities are ready for delivery, the Company may prepare and the Trustee, upon receipt of a Company Order, shall authenticate temporary Securities. Temporary Securities shall be substantially in the form of certificated Securities but may have variations that the Company considers appropriate for temporary Securities and as shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Company shall prepare and the Trustee shall authenticate definitive Securities in exchange for temporary Securities.

Holders of temporary Securities shall be entitled to all of the benefits of this Indenture as permanent Securities.

Section 2.13 Cancellation.

The Company at any time may deliver Securities to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Securities surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel all Securities surrendered for registration of transfer, exchange, payment, replacement or cancellation and shall destroy canceled Securities (subject to the record retention requirement of the Exchange Act). Certification of the destruction of all canceled Securities shall be delivered to the Company. The Company may not issue new Securities to replace Securities that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.14 Payment of Interest.

Interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the person in whose name that Security (or one or more predecessor Securities) is registered at the close of business on the Regular Record Date for such interest.

If the Company defaults in a payment of interest on the Securities which is payable ("*Defaulted Interest*"), it shall pay the Defaulted Interest in any lawful manner plus, to the extent lawful, interest payable on the Defaulted Interest, to the Persons who are Holders on a subsequent Special Record Date, in each case at the rate provided in the Securities. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on the Securities and the date of the proposed payment. The Company shall fix or cause to be fixed each such Special Record Date and payment date, *provided* that no such Special Record Date shall be less than 10 days prior to the related payment date for such Defaulted Interest. At least 15 days before the Special Record Date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) shall mail or cause to be mailed to Holders a notice that states the Special Record Date, the related payment date and the amount of such interest to be paid.

Subject to the foregoing provisions of this Section 2.14 and Section 2.08 hereof, each Security delivered under this Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

Section 2.15 Persons Deemed Owners.

Prior to due presentment of a Security for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of and (and subject to Sections 2.08 and 2.14 hereof) interest on such Security and for all other purposes whatsoever, whether or not such Security be overdue, and neither the Company, the Trustee nor any agent of the Company or the Trustee shall be affected by notice to the contrary.

None of the Company, the Trustee or any agent of the Company or the Trustee will have any responsibility or liability for any aspect of the Depositary's records relating to or payments made on account of beneficial ownership interests of a Security in global form or for maintaining, supervising or reviewing any of the Depositary's records relating to such beneficial ownership interests.

Section 2.16 Computation of Interest.

Interest on the Initial Securities will accrue from May 6, 2010. Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

Section 2.17 CUSIP Numbers.

The Company, in issuing the Securities, may use "CUSIP" numbers (if then generally in use) and, if so, the Trustee shall use "CUSIP" numbers in notices of redemption as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Securities, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company will promptly notify the Trustee of any change in the "CUSIP" numbers.

Section 2.18 Issuance of Additional Securities.

The Company shall be entitled, subject to its compliance with Section 4.05, to issue Additional Securities under this Indenture, which shall have identical terms as the Initial Securities issued on the Issue Date, other than with respect to the date of issuance, the date from which interest will accrue thereon and the issue price. The Initial Securities issued on the Issue Date and any Additional Securities shall be treated as a single class for all purposes under this Indenture.

With respect to any Additional Securities, the Company shall set forth in a resolution of the Board of Directors and an Officers' Certificate, a copy of each of which shall be delivered to the Trustee, the following information:

(1) the aggregate principal amount of such Additional Securities to be authenticated and delivered pursuant to this Indenture; and

(2) the issue price, the issue date and the CUSIP numbers of such Additional Securities.

ARTICLE 3.
REDEMPTION AND PREPAYMENT

Section 3.01 Right to Redeem; Notices to Trustee.

Except as set forth in Paragraph 5 of the Securities set forth in Exhibit A and this Article 3, the Company will not be entitled to redeem the Securities at its option prior to their Stated Maturity.

If the Company elects to redeem Securities, it shall furnish to the Trustee, at least 30 days (or such shorter period as may be acceptable to the Trustee) but not more than 60 days before a Redemption Date, written notice of such redemption accompanied with an Officers' Certificate setting forth (i) the Section of this Indenture pursuant to which the redemption shall occur, (ii) the Redemption Date, (iii) the principal amount of Securities to be redeemed and (iv) the Redemption Price. If fewer than all the Securities are to be redeemed, the record date relating to such redemption shall be selected by the Company and given to the Trustee, which record date shall be not fewer than 15 days after the date of notice to the Trustee. Any such notice may be canceled at any time prior to notice of such redemption being sent to any Holder and shall thereby be void and of no effect.

The Company is not required to make any mandatory redemption or sinking fund payments with respect to the Securities and may at any time and from time to time purchase the Securities in the open market.

Section 3.02 Selection of Securities to Be Redeemed.

If the Company is redeeming less than all of the Securities in an offer to repurchase at any time, the Trustee will select the Securities to be redeemed on a *pro rata* basis, by lot or by such other method as the Trustee in its sole discretion shall deem to be fair and appropriate. No Securities of a principal amount of $2,000 or less shall be redeemed in part.

The Trustee shall promptly notify the Company in writing of the Securities selected for redemption and, in the case of any Security selected for partial redemption, the principal amount thereof to be redeemed. Securities and portions of Securities selected will be in amounts of $2,000 or any integral multiple of $1,000. Provisions of this Indenture that apply to Securities called for redemption also apply to portions of Securities called for redemption.

Section 3.03 Notice of Redemption to Holders.

At least 30 days but not more than 60 days before a Redemption Date, the Company shall mail or cause to be mailed a notice of redemption to each Holder whose Securities are to be redeemed at its registered address.

The notice shall identify the Securities to be redeemed and shall state:

(a) the Redemption Date;

(b) the Redemption Price and the amounts of accrued and unpaid interest to the Redemption Date;

(c) if less than all the outstanding Securities are to be redeemed, the identification (and in the case of partial redemption, the principal amount) of the particular Security to be redeemed;

(d) that, after the Redemption Date upon surrender of such Security, a new Security or Securities in principal amount equal to the unredeemed portion, if any, of the original Security shall be issued in the name of the Holder thereof upon cancellation of the original Security;

(e) the name and address of the Paying Agent;

(f) that Securities called for redemption must be surrendered to the Paying Agent to collect the Redemption Price plus accrued and unpaid interest;

(g) that, unless the Company defaults in making such redemption payment, interest, if any, on Securities (or portion thereof) called for redemption ceases to accrue on and after the Redemption Date;

(h) the paragraph of the Securities and/or Section of this Indenture pursuant to which the Securities called for redemption are being redeemed; and

(i) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Securities.

At the Company's request, the Trustee shall give the notice of redemption in the Company's name and at its expense. In such event, the Company shall provide the Trustee with the information required by this Section 3.03.

Notwithstanding the foregoing, a redemption notice may be mailed more than 60 days prior to the Redemption Date if the notice is issued in connection with a defeasance of the Securities or satisfaction and discharge of this Indenture.

Section 3.04 Effect of Notice of Redemption.

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Securities called for redemption become due and payable on the Redemption Date and at the Redemption Price stated in such notice. A notice of redemption may be conditional. Upon surrender to the Paying Agent, such Securities shall be paid at the Redemption Price stated in the notice, plus accrued and unpaid interest, to, but not including, the Redemption Date; *provided, however*, that if the Redemption Date is after a Regular Record Date and on or prior to next succeeding Interest Payment Date, the accrued and unpaid interest

shall be payable to the Holder of the redeemed Securities registered on such Regular Record Date. Failure to give notice or any defect in the notice to any Holder shall not affect the validity of the notice to any other Holder.

Section 3.05 Deposit of Redemption Price.

Prior to 12:00 noon (Eastern Standard Time) on the Redemption Date, the Company shall deposit with the Trustee or with the Paying Agent (or, if the Company or any of its Restricted Subsidiaries is the Paying Agent, shall segregate and hold in trust) money sufficient to pay the Redemption Price of, and (unless the Redemption Date shall be an Interest Payment Date) accrued and unpaid interest to, but not including the Redemption Date, on all Securities or portions thereof to be redeemed on such date. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the Redemption Price of, and accrued and unpaid interest on, all Securities to be redeemed.

If the Company complies with the provisions of the preceding paragraph, on and after the Redemption Date, interest shall cease to accrue on the Securities or the portions of Securities called for redemption. If a Security is redeemed on or after a Regular Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest shall be paid to the Person in whose name such Security was registered at the close of business on such Regular Record Date. If any Security called for redemption shall not be so paid upon surrender for redemption because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal from the Redemption Date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Securities.

Section 3.06 Securities Redeemed in Part.

Upon surrender of a Security that is redeemed in part, the Company shall issue and the Trustee shall authenticate for the Holder (at the expense of the Company) a new Security equal in principal amount to the unredeemed portion of the Security surrendered.

ARTICLE 4.
COVENANTS

Section 4.01 Payment of Securities.

The Company shall pay or cause to be paid the principal of, premium, if any, on and interest on the Securities on the dates and in the manner provided in the Securities. Principal, premium, if any, and interest shall be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m. New York City Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due.

Section 4.02 Maintenance of Office or Agency.

The Company shall maintain an office or agency (which may be an office of the Trustee, an affiliate of the Trustee or Registrar) where the Securities may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Securities and this Indenture may be served. The Company shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof,

such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company also may from time to time designate one or more other offices or agencies where the Securities may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided, however*, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in each place of payment for the Securities for such purposes. The Company shall give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

With respect to any Global Security, the Corporate Trust Office for the Trustee shall be the place of payment where such Global Security may be presented or surrendered for payment or for registration of transfer or exchange, or where successor Securities may be delivered in exchange therefore; *provided, however*, that any such payment, presentation, surrender or delivery effected pursuant to the procedures of the Depositary for such Global Security shall be deemed to have been effected at the place of payment for such Global Security in accordance with the provisions of this Indenture.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 2.05 hereof.

Section 4.03 SEC Reports.

(a) So long as the Securities are outstanding the Company will deliver to the Trustee within 15 days after the filing of the same with the SEC, copies of the quarterly and annual reports and of the information, documents and other reports, if any, which the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act. Notwithstanding that the Company may not be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, so long as the Securities are outstanding the Company will file with the SEC, to the extent permitted, and provide the Trustee with such annual reports and such information, documents and other reports specified in Sections 13 and 15(d) of the Exchange Act.

(b) In addition, the Company will make such information available to the Holders of the Securities upon reasonable request.

(c) Notwithstanding the foregoing, the Company will be deemed to have furnished such reports referred to above to the Trustee and the Holders of the Securities if the Company has filed such reports with the SEC via the EDGAR filing system and such reports are publicly available.

Section 4.04 Compliance Certificate.

The Company shall deliver to the Trustee, (a) within 120 days after the end of each fiscal year, an Officers' Certificate stating that in the course of the performance by the signers of their duties as Officers of the Company they would normally have knowledge of any Default and whether the signers know of any Default that occurred during the previous fiscal year and (b) within 30 days after the occurrence thereof, written notice of any event which would constitute a Default hereunder, its status and what action the Company is taking or proposes to take in respect thereof.

Section 4.05 Limitation on Indebtedness.

(a) The Company will not, and will not permit any Restricted Subsidiary to, Incur, directly or indirectly, any Indebtedness; *provided, however*, that the Company and any future Subsidiary Guarantor

will be entitled to Incur Indebtedness if, on the date of such Incurrence and after giving effect thereto on a *pro forma* basis, no Default has occurred and is continuing and the Consolidated Coverage Ratio would be greater than 2.0 to 1.0.

(b) Notwithstanding the foregoing paragraph (a), the Company and the Restricted Subsidiaries will be entitled to Incur any or all of the following Indebtedness:

(1) Indebtedness Incurred by the Company and the Restricted Subsidiaries (including Restricted Subsidiaries that become Subsidiaries after the Issue Date) pursuant to one or more Credit Facilities, including, but not limited to, the Credit Agreement; *provided*, *however*, that, after giving effect to any such Incurrence, the aggregate principal amount of all Indebtedness Incurred under this clause (1) and then outstanding does not exceed the greater of (A) $2.70 billion and (B) the Borrowing Base, less in the case of clause (A) the sum of all mandatory principal payments with respect to such Indebtedness permitted under Section 4.08(a)(3)(A) (which principal payments in the case of revolving loans are accompanied by a corresponding permanent commitment reduction);

(2) Indebtedness of the Company owed to a Restricted Subsidiary (other than a Securitization Subsidiary) or of a Restricted Subsidiary (other than a Securitization Subsidiary) owed to the Company or a Restricted Subsidiary (other than a Securitization Subsidiary); *provided*, *however*, that any subsequent issuance or transfer of any Capital Stock which results in any Restricted Subsidiary holding such Indebtedness ceasing to be a Restricted Subsidiary or any subsequent transfer of such Indebtedness (other than to the Company or a Restricted Subsidiary (other than a Securitization Subsidiary)) shall be deemed, in each case, to constitute the Incurrence of such Indebtedness by the obligor thereon;

(3) the Securities (other than any Additional Securities);

(4) the Existing Notes and any other Indebtedness outstanding on the Issue Date after giving effect to the use of the net proceeds of the sale of the Securities as described in the Prospectus (other than Indebtedness described in clause (1), (2), (3) or (10) of this Section 4.05(b));

(5) Permitted Acquisition Indebtedness; *provided* that the Company would be permitted to Incur an additional $1.00 of Indebtedness under paragraph (a) above or the *pro forma* Consolidated Coverage Ratio for the Company and its Restricted Subsidiaries would be greater than or equal to the Consolidated Coverage Ratio for the Company and its Restricted Subsidiaries immediately prior to such transaction;

(6) Refinancing Indebtedness in respect of Indebtedness Incurred pursuant to paragraph (a) or pursuant to clause (1), (3), (4) (but not including the Company's $8^1/_8$% senior notes due 2013 or 7¼% senior notes due 2011, it being understood, however, that the satisfaction and discharge of such senior notes on the Issue Date together with the subsequent redemption of such senior notes following the Issue Date is permitted under this Indenture), (5), (11), (13), (21) (with respect to the ITOCHU Obligations only), (29) or (30) or this clause (6), in each case, of this Section 4.05(b); *provided*, *however*, that to the extent such Refinancing

Indebtedness directly or indirectly Refinances Indebtedness of a Subsidiary Incurred pursuant to clause (5), such Refinancing Indebtedness shall be Incurred only by such Subsidiary;

(7) Hedging Obligations;

(8) Obligations in respect of performance, bid and surety bonds and completion guarantees provided by the Company or any Restricted Subsidiary in the ordinary course of business;

(9) Indebtedness arising (a) 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; *provided*, *however*, that such Indebtedness is extinguished within five Business Days of its Incurrence, (b) under any customary cash pooling or Cash Management Agreement with a bank or other financial institution in the ordinary course of business or (c) pursuant to any Treasury Transaction in the ordinary course of business;

(10) Indebtedness of the Company consisting of (A) guarantees of payments of accounts payable of third-party manufacturing facilities up to an aggregate amount not to exceed $15.0 million and (B) Obligations for the payment of letters of credit in commitment amounts not to exceed $10.0 million in the aggregate, excluding commitment amounts for any letters of credit issued pursuant to the Credit Facilities;

(11) (a) Purchase Money Indebtedness and Capital Lease Obligations Incurred by the Company or a Restricted Subsidiary to acquire or construct property in the ordinary course of business and which do not in the aggregate exceed the greater of $40.0 million and 0.75% of Total Assets (calculated on a *pro forma* basis giving effect to such property acquisition or construction) at any time outstanding and (b) Indebtedness in respect of Capital Lease Obligations arising from any Permitted Sale/Leasebacks;

(12) the Subsidiary Guaranty of a Subsidiary Guarantor;

(13) (a) any Permitted Guarantee by a Restricted Subsidiary described in clause (iii) of the definition of “Permitted Guarantees” or any Indebtedness Incurred by a Restricted Subsidiary as a co-borrower of Indebtedness of the Company described in clause (iii) of the definition of “Permitted Guarantees” and (b) any Guarantee by the Company or any Restricted Subsidiary in respect of Indebtedness Incurred by the Company or any Restricted Subsidiary otherwise permitted to be Incurred pursuant to this Section 4.05 to the extent such Person would have itself been able to originally Incur such Indebtedness;

(14) Indebtedness of a Foreign Restricted Subsidiary or a CKI Company which at any time outstanding does not exceed the greater of an amount which, when taken together with all Indebtedness Incurred by all other Foreign Restricted Subsidiaries and CKI Companies pursuant to this clause (14) and then outstanding, does not exceed the greater of $125.0 million and 2.00% of Total Assets in the aggregate;

(15) Indebtedness Incurred by a Securitization Subsidiary in a Qualified Securitization Transaction;

(16) Indebtedness Incurred from the accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, and the payment of dividends on Preferred Stock (including Disqualified Stock) in the form of additional shares of the same class of Preferred Stock (including Disqualified Stock);

(17) Indebtedness arising from agreements of the Company or any of its Restricted Subsidiaries providing for indemnification, adjustment of purchase price, deferred purchase price or other compensation or similar obligations, in each case, Incurred or assumed in connection with the making of any Permitted Investment or the acquisition or disposition of a Restricted Subsidiary or any business or assets of the Company and its Restricted Subsidiaries, other than guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such Restricted Subsidiary or business or assets for the purposes of financing such acquisition; *provided*, *however*, that the maximum liability in respect of all such Indebtedness Incurred in connection with a disposition shall at no time exceed the gross proceeds including noncash proceeds (the fair market value (as determined in good faith by the Board of Dir ectors) of such noncash proceeds being measured at the time received and without giving any effect to any subsequent changes in value) actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(18) Indebtedness supported by a letter of credit, bank guarantee or similar instrument, in a principal amount not in excess of the stated amount of such letter of credit, bank guarantee or similar instrument;

(19) Attributable Debt on account of all Permitted Sale/Leasebacks;

(20) the disposition of accounts receivable in connection with receivables factoring arrangements in the ordinary course of business;

(21) Indebtedness, if any, in respect of the CKI Obligations and the ITOCHU Obligations;

(22) unsecured Indebtedness in respect of obligations of the Company or any of its Restricted Subsidiaries to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; *provided* that such obligations are Incurred in connection with open accounts extended by suppliers on customary trade terms (which require that all such payments be made within 60 days after the Incurrence of the related obligations) in the ordinary course of business and not in connection with the borrowing of money or any Hedging Obligation or Treasury Transaction;

(23) Indebtedness representing deferred compensation to employees of the Company or any of its Restricted Subsidiaries Incurred in the ordinary course of business;

(24) reimbursement obligations with respect to letters of credit, bank guarantees, warehouse receipts or similar instruments issued in the ordinary course of business, and Indebtedness of the Company in respect of letters of credit issued by the Company for its own account or for the account of any of its Restricted Subsidiaries;

(25) guarantees by the Company of Indebtedness of any of its Restricted Subsidiaries that is not a Subsidiary Guarantor incurred for working capital purposes in the ordinary course of business on ordinary business terms so long as such Indebtedness is permitted to be Incurred under clause (14) of this Section 4.05, to the extent such guarantees are permitted under Section 4.06;

(26) Indebtedness arising as a result of (the establishment of) a fiscal unity (*fiscale eenheid*) between Restricted Subsidiaries incorporated in the Netherlands;

(27) Indebtedness pursuant to a declaration of joint and several liability used for the purpose of Section 2:403 of the Dutch Civil Code (and any residual liability under such declaration arising pursuant to section 2:404(2) of the Dutch Civil Code);

(28) Indebtedness arising under any domination and/or profit transfer agreement (*Beherrschungs-und/oder Gewinnabführungsvertrag*) with a Restricted Subsidiary incorporated in Germany which is in force at the date hereof;

(29) Indebtedness on account of the 2023 Debentures; and

(30) Indebtedness of the Company and any future Subsidiary Guarantors in an aggregate principal amount which, when taken together with all other Indebtedness of the Company and its Restricted Subsidiaries outstanding on the date of such Incurrence (other than Indebtedness permitted by clauses (1) through (29) above or Section 4.05(a)) does not exceed $150.0 million.

(c) Notwithstanding the foregoing, neither the Company nor any Subsidiary Guarantor will Incur any Indebtedness pursuant to the foregoing paragraph (b) if the proceeds thereof are used, directly or indirectly, to Refinance any Subordinated Obligations of the Company or any Subsidiary Guarantor unless such Indebtedness shall be subordinated to the Securities or the applicable Subsidiary Guaranty to at least the same extent as such Subordinated Obligations.

(d) For purposes of determining compliance with this covenant:

(1) any Indebtedness outstanding under the Credit Agreement on the Issue Date will be treated as Incurred on the Issue Date under clause (1) of paragraph (b) above;

(2) in the event that an item of Indebtedness meets the criteria of more than one of the types of Indebtedness described above, the Company, in its sole discretion, will classify such item of Indebtedness at the time of Incurrence and from time to time may reclassify and will only be required to include the amount and type of such Indebtedness in one of the above clauses; and

(3) the Company will be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described above.

Notwithstanding any other provision of this Section 4.05, the maximum amount of Indebtedness that may be Incurred pursuant to this Section 4.05 will not be deemed to be exceeded with respect to any outstanding Indebtedness due solely to the result of fluctuations in the exchange rates of currencies. The amount of any particular Indebtedness Incurred in a foreign currency will be calculated based on the relevant exchange rate for such currency vis-à-vis the U.S. dollar in effect on the date such Indebtedness was Incurred, in the case of term debt, or first committed or first Incurred (whichever yields the lower U.S. dollar-denominated equivalent), in the case of revolving credit or delayed draw term debt; *provided* that if such Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable U.S. dollar-denominated restri ction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such U.S. dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount (or if Incurred with original issue discount, the aggregate issue price) of such refinancing Indebtedness does not exceed the principal amount (or if Incurred with original issue discount, the aggregate accreted value) then outstanding or committed (plus fees and expenses, including any premium and defeasance costs) of such Indebtedness being refinanced.

Guarantees of, or obligations in respect of letters of credit relating to, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included in the determination of such amount of Indebtedness; *provided* that the Incurrence of the Indebtedness represented by such guarantee or letter of credit, as the case may be, was in compliance with this Section 4.05.

Section 4.06 Limitation on Restricted Payments.

(a) The Company will not, and will not permit any Restricted Subsidiary, directly or indirectly, to make a Restricted Payment if at the time the Company or such Restricted Subsidiary makes such Restricted Payment:

(1) a Default shall have occurred and be continuing (or would result therefrom);

(2) the Company is not entitled to Incur an additional $1.00 of Indebtedness pursuant to Section 4.05(a); or

(3) the aggregate amount of such Restricted Payment and all other Restricted Payments since the Issue Date would exceed the sum of (without duplication):

(A) 50% of the Consolidated Net Income (excluding any dividends or distributions included in clauses (1)(d) or (12) of the definition of "Permitted Investment") accrued during the period (treated as one accounting period) from the beginning of the Company's fiscal quarter commencing February 1, 2010 to the end of the most recent fiscal quarter for which financial statements are available on or prior to the date of such Restricted Payment (or, in case such Consolidated Net Income shall be a deficit, minus 100% of such deficit), including, for the avoidance of doubt, 50% of the Consolidated Net Income of Tommy Hilfiger B.V. for the period commencing February 1, 2010 and ending May 5, 2010; *plus*

(B) 100% of the aggregate Net Cash Proceeds received by the Company from the issuance or sale of its Capital Stock, including Capital Stock issued pursuant to a stock option or similar plan established by the Company (other than Disqualified Stock) subsequent to the Issue Date (other than an issuance or sale to a Subsidiary of the Company and other than an issuance or sale to an employee stock ownership plan or to a

trust established by the Company or any of its Subsidiaries for the benefit of their employees) and 100% of any cash capital contribution received by the Company from its stockholders subsequent to the Issue Date; *plus*

(C) the amount by which Indebtedness of the Company is reduced on the Company's balance sheet upon the conversion or exchange subsequent to the Issue Date of any Indebtedness of the Company into Capital Stock (other than Disqualified Stock) of the Company (less the amount of any cash, or the fair market value of any other property, distributed by the Company in respect of such conversion or exchange); *provided*, *however*, that the foregoing amount shall not exceed the Net Cash Proceeds received by the Company or any Restricted Subsidiary from the sale of such Indebtedness; *plus*

(D) an amount equal to the sum of (x) the reduction, net of costs, in the Investments (other than Permitted Investments) made by the Company or any Restricted Subsidiary in any Person resulting from repurchases, repayments or redemptions of such Investments by such Person, proceeds realized on the sale of such Investment and proceeds representing the return of capital (excluding dividends and distributions), in each case received by the Company or any Restricted Subsidiary, and (y) to the extent such Person is an Unrestricted Subsidiary, the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the net assets of such Unrestricted Subsidiary at the time such Unrestricted Subsidiary is designated a Restricted Subsidiary; *provided*, *however*, that the foregoing sum shall not exceed, in the case of any such Person or Unrestricted Subsidiar y, the amount of Investments (excluding Permitted Investments) previously made (and treated as a Restricted Payment) by the Company or any Restricted Subsidiary in such Person or Unrestricted Subsidiary; *plus*

(E) $40.0 million.

(b) The preceding provisions will not prohibit:

(1) any Restricted Payment made out of the Net Cash Proceeds of the substantially concurrent sale of, or made by exchange for, Capital Stock of the Company (other than Disqualified Stock and other than Capital Stock issued or sold to a Subsidiary of the Company or an employee stock ownership plan or to a trust established by the Company or any of its Subsidiaries for the benefit of their employees) or a substantially concurrent cash capital contribution received by the Company from its stockholders; *provided*, *however*, that (A) such Restricted Payment shall be excluded in the calculation of the amount of Restricted Payments and (B) the Net Cash Proceeds of such sale or such cash capital contribution (to the extent so used for such Restricted Payment) shall be excluded from the calculation of amounts under clause (3)(B) of paragraph (a) above;

(2) any purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of Subordinated Obligations of the Company or any Subsidiary Guarantor (A) made by exchange for, or out of the proceeds of (i) the substantially concurrent sale of, Indebtedness or Disqualified Stock, in each case, which is permitted to be Incurred pursuant to Section 4.05 or (ii) the issuance, sale or exchange, within six months prior thereto, of Capital Stock (other than Disqualified Stock); *provided* that to the extent used as provided in this clause (b)(2)(A), the Net Cash Proceeds of such issuance, sale or exchange shall not

increase the amount described under clause (3)(B) of paragraph (a) above or (B) deemed to occur as a result of the conversion of all or a portion of such Subordinated Obligations into Capital Stock (other than Disqualified Stock) of the Company; *provided*, *however*, that such purchase, repurchase, redemption, defeasance or other acquisition or retirement for value shall be excluded in the calculation of the amount of Restricted Payments;

(3) dividends paid within 60 days after the date of declaration thereof if at such date of declaration such dividend would have complied with this covenant; *provided*, *however*, that at the time of payment of such dividend, no other Default shall have occurred and be continuing (or result therefrom); *provided*, *further*, *however*, that such dividend shall be included in the calculation of the amount of Restricted Payments;

(4) the payment of dividends by the Company on (a) its common stock in an annual amount of up to $0.20 per outstanding share of common stock and (b) its Series A Preferred Stock in an annual amount of up to $0.20 per share of common stock that would be issuable upon conversion of any outstanding share of Series A Preferred Stock (subject, in each case, to adjustment for any stock split or similar occurrence); *provided*, *however*, that such payment will be included in the calculation of the amount of Restricted Payments;

(5) repurchases by the Company of Capital Stock deemed to occur upon the exercise of options, warrants, restricted stock units or similar rights if such Capital Stock represents all or a portion of the exercise price thereof or is deemed to occur in connection with the satisfaction of any withholding tax obligation Incurred relating to the vesting or exercise of such options, warrants, restricted stock units or similar rights; *provided*, *however*, that such repurchases will be excluded from the calculation of the amount of Restricted Payments;

(6) the repurchase, redemption or other acquisition or retirement for value of any Capital Stock of the Company or any Restricted Subsidiary held by any current or former officer, director or employee of the Company or any Subsidiary of the Company in connection with any management equity subscription agreement, any compensation, retirement, disability, severance or benefit plan or agreement, any stock option or incentive plan or agreement, any employment agreement or any other similar plans or agreements; *provided*, *however*, that the aggregate price paid for all such repurchased, redeemed, acquired or retired Capital Stock pursuant to this clause (6) shall not exceed $15.0 million in any calendar year; *provided*, *further*, that such repurchases, redemptions or other acquisitions or retirements will be excluded in the calculation of the amount of Restricted Payments;

(7) declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of the Company or any Restricted Subsidiary issued in accordance with Section 4.05 to the extent such dividends are included in the calculation of Consolidated Interest Expense; *provided*, *however*, that such declarations and payments will be excluded from the calculation of the amount of Restricted Payments;

(8) payments or distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a consolidation, merger or transfer of all or substantially all of the assets of the Company and its Restricted Subsidiaries that complies with the provisions of this Indenture applicable to mergers, consolidations and transfers of all or substantially all of the assets of the Company; *provided* that, as a result of such consolidation, merger or transfer of assets, the Company has made a Change of Control Offer pursuant to Article 10 (if required) and any Securities tendered in connection therewith have been purchased; *provided*, *however*, that such payments or distributions will be excluded in the calculation of the amount of Restricted Payments;

(9) other Restricted Payments not to exceed the greater of $60.0 million and 1.00% of Total Assets, in the aggregate at any one time outstanding; *provided*, *however*, that (A) at the time of such Restricted Payments, no Default or Event of Default shall have occurred and be continuing (or result therefrom) and (B) such Restricted Payments will be excluded in the calculation of the amount of Restricted Payments;

(10) so long as no Default has occurred and is continuing or would be caused thereby, upon the occurrence of a Change of Control and within 60 days after the completion of the related Change of Control Offer (if required), any purchase or redemption of Indebtedness of the Company that is contractually subordinated to the Securities required pursuant to the terms thereof as a result of such Change of Control at a purchase or redemption price not to exceed 101% of the outstanding principal amount thereof, plus accrued and unpaid interest thereon, if any; *provided*, *however*, that such purchases or redemption will be excluded in the calculation of the amount of Restricted Payments; and

(11) any payment of the ITOCHU Obligations.

For purposes of determining compliance with this Section 4.06, in the event that a Restricted Payment meets the criteria of more than one of the types of Restricted Payments described above, the Company may order and classify, and from time to time may reclassify, such Restricted Payment if that classification would have been permitted at the time such Restricted Payment was made and at the time of the reclassification.

Section 4.07 Limitation on Restrictions on Distributions from Restricted Subsidiaries.

The Company will not, and will not permit any Restricted Subsidiary to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to (a) pay dividends or make any other distributions on its Capital Stock to the Company or a Restricted Subsidiary or pay any Indebtedness owed to the Company, (b) make any loans or advances to the Company or (c) transfer any of its property or assets to the Company, except:

(1) with respect to clauses (a), (b) and (c),

(i) any encumbrance or restriction pursuant to an agreement in effect at or entered into on the Issue Date (after giving effect to the use of the net proceeds of the sale of the Securities as described in the Prospectus);

(ii) any encumbrance or restriction with respect to a Restricted Subsidiary pursuant to an agreement relating to any Indebtedness Incurred by such Restricted Subsidiary on or prior to the date on which such Restricted Subsidiary was acquired by the Company (other than Indebtedness Incurred as consideration in, or to provide all or any portion of the funds or credit support utilized to consummate, the transaction or series of related transactions pursuant to which such Restricted Subsidiary became a Restricted Subsidiary or was acquired by the Company) and outstanding on such date;

(iii) any encumbrance or restriction pursuant to an agreement effecting a Refinancing of Indebtedness Incurred pursuant to an agreement referred to in clause (i) or (ii) of clause (1) of this Section 4.07 or this clause (iii); *provided*, *however*, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such refinancing agreement are no less favorable in any material respect to the Holders of the Securities than encumbrances and restrictions with respect to such Restricted Subsidiary contained in such predecessor agreements;

(iv) any encumbrance or restriction with respect to a Restricted Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Restricted Subsidiary pending the closing of such sale or disposition and so long as the consummation of such transaction would not result in a Default or Event of Default;

(v) any encumbrance or restriction under applicable corporate law or regulation relating to the payment of dividends or distributions;

(vi) any encumbrance or restriction contained in the terms of any Indebtedness or agreements relating to Liens, in each case, permitted to be Incurred under this Indenture; *provided* that the Board of Directors determines that any such encumbrance or restriction will not adversely affect the Company's ability to make principal or interest payments on the Securities;

(vii) any encumbrance or restriction with respect to Indebtedness or other contractual requirements of a Securitization Subsidiary in connection with and, in the good faith determination of the Board of Directors, necessary to effectuate, a Qualified Securitization Transaction; *provided*, *however*, that such encumbrance or restriction applies only to such Securitization Subsidiary;

(viii) any encumbrance or restriction contained in any of the CKI Agreements, ITOCHU Stockholders' Agreement or any agreement related to the China JV Obligations; *provided* that with respect to any such encumbrance or restriction created after the Issue Date, the Board of Directors determines that any encumbrance or restriction will not adversely affect the Company's ability to make principal or interest payments on the Securities;

(ix) with respect to any Restricted Subsidiary organized under the laws of Japan, any encumbrance or restriction imposed pursuant to an agreement restricting (a) the creation or assumption of any Lien upon any such Subsidiary's inventory and receivables or (b) the transfer of assets of any such Subsidiary, in each case in the ordinary course of business;

(x) any encumbrances or restrictions with respect to cash or other deposits imposed by customers under contracts entered into in the ordinary course of business; and

(xi) any encumbrance or restriction imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the

contracts, instruments or obligations referred to in this clause (1) or clause (2) below; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings will not, in the good faith judgment of the Board of Directors, adversely affect the Company's ability to make principal or interest payments on the Securities;

(2) with respect to clause (c) only,

(i) any encumbrance or restriction consisting of customary nonassignment provisions in leases governing leasehold interests, licenses, joint venture agreements and agreements similar to any of the foregoing to the extent such provisions restrict the transfer of the property subject to such leases, licenses, joint venture agreements or similar agreements; and

(ii) any encumbrance or restriction contained in security agreements or mortgages securing Indebtedness of a Restricted Subsidiary to the extent such encumbrance or restriction restricts the transfer of the property subject to such security agreements or mortgages.

Section 4.08 Limitation on Sales of Assets and Subsidiary Stock.

(a) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly, consummate any Asset Disposition unless:

(1) the Company or such Restricted Subsidiary receives consideration at the time of such Asset Disposition at least equal to the fair market value (including as to the value of all non-cash consideration) of the shares and assets subject to such Asset Disposition, as determined in good faith (i) by an Officer of the Company, as evidenced in an Officers' Certificate delivered to the Trustee, for any Asset Disposition of less than $25.0 million or (ii) by the Board of Directors for any Asset Disposition of $25.0 million or greater;

(2) in the case of an Asset Disposition other than an Asset Swap, at least 75% of the consideration thereof received by the Company or such Restricted Subsidiary is in the form of cash or cash equivalents; and

(3) an amount equal to 100% of the Net Available Cash from such Asset Disposition is applied by the Company (or such Restricted Subsidiary, as the case may be), at its option:

(A) to prepay, repay, redeem or purchase Senior Indebtedness of the Company or Indebtedness (other than any Disqualified Stock) of a Restricted Subsidiary (in each case other than Indebtedness owed to the Company or an Affiliate of the Company) within one year from the later of the date of such Asset Disposition or the receipt of such Net Available Cash;

(B) to acquire Additional Assets within one year from the later of the date of such Asset Disposition or the receipt of such Net Available Cash; and

(C) as set forth in clause (b) of this Section 4.08 to the extent required thereby;

provided, however, that in connection with any prepayment, repayment or purchase of Indebtedness pursuant to clause (A) above, the Company or such Restricted Subsidiary shall permanently retire such Indebtedness and shall cause the related loan commitment (if any) to be permanently reduced in an amount equal to the principal amount so prepaid, repaid or purchased; *provided, further, however*, that the

Company or such Restricted Subsidiary will be deemed to have complied with clause (B) above if it has entered into a binding agreement with respect to the application of such Net Available Cash; *provided* that such binding agreement shall be treated as a permitted application of the Net Available Cash from the date thereof until the earlier of (x) the date on which such acquisition is consummated and (y) 365 days.

Pending application of Net Available Cash pursuant to this Section 4.08, such Net Available Cash shall be invested in Temporary Cash Investments or applied to temporarily reduce revolving credit indebtedness.

For the purposes of this Section 4.08, the following are deemed to be cash or cash equivalents:

(1) the assumption of Indebtedness of the Company or any Restricted Subsidiary by another Person (other than by the Company or any Subsidiary of the Company) and the release of the Company or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Disposition; and

(2) securities, notes or other obligations received by the Company or any Restricted Subsidiary from the transferee to the extent converted within 180 days by the Company or such Restricted Subsidiary into cash or Temporary Cash Investments.

(b) Any Net Available Cash from any Asset Disposition that is not applied as provided in Section 4.08(a)(3) (including the proviso thereto) within the time period provided therein (it being understood that any portion of such Net Available Cash used to purchase Securities, as described in clause (a)(3)(A) of this Section 4.08, shall be deemed to have been applied as provided in clause (a)(3)(A) this Section 4.08) shall be deemed to constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds $50.0 million, the Company shall make an offer (an "*Asset Sale Offer*") to all Holders of the Securities (and, at the option of the Company, to holders of any other Senior Indebtedness of the Company) to purchase the maximum principal amount of Securities (and such other Senior Indebtedness), in minimum denominations of $2,000 principal amount and in integral multiples of $1,000 in ex cess thereof, out of the Excess Proceeds at a purchase price of 100% of their principal amount (or, in the event such other Senior Indebtedness of the Company was issued with significant original issue discount, 100% of the accreted value thereof) without premium, plus accrued but unpaid interest (or, in respect of such other Senior Indebtedness of the Company, such lesser price, if any, as may be provided for by the terms of such Senior Indebtedness) in accordance with the procedures (including prorating in the event of oversubscription) set forth in this Indenture. the Company shall not be required to make an Asset Sale Offer to purchase Securities (and other Senior Indebtedness of the Company) pursuant to this covenant if the Net Available Cash available therefor is less than $50.0 million (which amount shall be carried forward for purposes of determining whether such an offer is required with respect to the Net Available Cash from any subsequent Asset Disposition). To the extent that the aggre gate amount of Securities (and such other Senior Indebtedness) tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company may use any remaining Excess Proceeds for general corporate purposes. If the aggregate principal amount of Securities (and such other Senior Indebtedness) surrendered by Holders thereof exceeds the amount of Excess Proceeds, the Trustee shall select the Securities to be purchased in the manner described in this Indenture. Upon completion of any Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

(c) The Company will comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Securities pursuant to this Section 4.08. To the extent that the provisions of any securities laws or regulations conflict with provisions of this Section 4.08, the Company will comply with the

applicable securities laws and regulations and will not be deemed to have breached its obligations under this covenant by virtue of its compliance with such securities laws or regulations.

(d) The Company shall commence an Asset Sale Offer with respect to Excess Proceeds within 10 Business Days after the date such Excess Proceeds exceed $50.0 million by mailing the notice required by Section 4.08(f) to the Trustee. Not later than the date upon which written notice of an Asset Sale Offer is delivered to the Trustee, the Company shall deliver to the Trustee an Officers' Certificate stating (i) the amount of the Excess Proceeds, (ii) the allocation of the Net Available Cash from the Asset Dispositions pursuant to which such Asset Sale Offer is being made and (iii) the compliance of such allocation with the provisions of Section 4.08(a)(3). On such date, the Company shall also deposit with the Trustee or with the Paying Agent (or, if the Company or any of its Restricted Subsidiaries is acting as the Paying Agent, segregate and hold in trust) an amount equal to the Excess Proceeds to be invested in Temp orary Cash Investments, as directed in writing by the Company, and to be held for payment in accordance with the provisions of this Section 4.08. Upon the expiration of the period for which the Asset Sale Offer remains open (the "*Offer Period*"), the Company shall deliver to the Trustee for cancellation the Securities or portions thereof that have been properly tendered to and are to be accepted by the Company. The Trustee (or the Paying Agent, if not the Trustee) shall, on the date of purchase, mail or deliver payment to each tendering Holder (or each tendering holder of other Senior Indebtedness, if applicable) in the amount of the purchase price. In the event that the Excess Proceeds delivered by the Company to the Trustee are greater than the purchase price of the Securities (and other Senior Indebtedness, if applicable) tendered, the Trustee shall deliver the excess to the Company immediately after the expiration of the Offer Period.

(e) Holders electing to have a Security purchased shall be required to surrender the Security, with an appropriate form duly completed, to the Company at the address specified in the notice of an Asset Sale Offer at least one Business Day prior to the purchase date. If at the end of the Offer Period more Securities (and other Senior Indebtedness, as applicable) are tendered pursuant to an Asset Sale Offer than the Company is required to purchase, selection of such Securities for purchase shall be made by the Trustee on a pro rata basis, by lot or by such other method as the Trustee shall deem fair and appropriate (and in such manner as complies with applicable legal requirements); *provided* that no Securities of $2,000 or less shall be purchased in part. Selection of such other Senior Indebtedness shall be made pursuant to the terms of such other Senior Indebtedness.

(f) At the Company's request, the Trustee shall give such notice of an Asset Sale Offer in the Company's name and at its expense. Notices of an Asset Sale Offer shall be mailed or sent electronically, at least 30 but not more than 60 days before the purchase date to each Holder of Securities at such Holder's registered address. If any Security is to be purchased in part only, any notice of purchase that relates to such Security shall state the portion of the principal amount thereof that has been or is to be purchased.

Section 4.09 Limitation on Affiliate Transactions.

(a) The Company will not, and will not permit any Restricted Subsidiary to, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property, employee compensation arrangements or the rendering of any service) with, or for the benefit of, any Affiliate of the Company (an "*Affiliate Transaction*") unless:

(1) the terms of the Affiliate Transaction are no less favorable to the Company or such Restricted Subsidiary than those that could be obtained at the time of the Affiliate Transaction in arm's-length dealings with a Person who is not an Affiliate;

(2) if such Affiliate Transaction involves an amount in excess of the greater of $25.0 million and 0.50% of Total Assets, a majority of the non-employee directors of the Company disinterested with respect to such Affiliate Transaction (or a duly authorized committee of the Board of Directors consisting solely of directors disinterested with respect to such Affiliate Transaction) have determined in good faith that the criteria set forth in clause (1) are satisfied and have approved the relevant Affiliate Transaction as evidenced by a resolution of the Board of Directors (or such duly authorized committee); and

(3) if such Affiliate Transaction involves an amount in excess of the greater of $35.0 million and 0.75% of Total Assets, the terms of the Affiliate Transaction are set forth in writing and a majority of the non-employee directors of the Company disinterested with respect to such Affiliate Transaction (or a duly authorized committee of the Board of Directors consisting solely of directors disinterested with respect to such Affiliate Transaction) have determined in good faith that the criteria set forth in clause (1) are satisfied and have approved the relevant Affiliate Transaction as evidenced by a resolution of the Board of Directors (or such duly authorized committee); and the Board of Directors (excluding any duly authorized committee thereof) shall have received a written opinion from an Independent Qualified Party to the effect that such Affiliate Transaction is fair, from a financial standp oint, to the Company and its Restricted Subsidiaries or is not less favorable to the Company and its Restricted Subsidiaries than could reasonably be expected to be obtained at the time in an arm's-length transaction with a Person who was not an Affiliate.

(b) The provisions of the preceding paragraph (a) will not prohibit:

(1) any Permitted Investment;

(2) any Restricted Payment permitted to be made pursuant to Section 4.06;

(3) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock options and stock ownership plans in the ordinary course of business;

(4) loans or advances to employees in the ordinary course of business in accordance with past practices of the Company or its Restricted Subsidiaries, but in any event not to exceed $15.0 million, in the aggregate outstanding at any one time;

(5) the payment of fees and compensation to, and the provision of employee benefit arrangements, any health, disability or similar insurance plan which covers employees and indemnity for the benefit of, directors, officers and employees of the Company or any of its Restricted Subsidiaries entered into in the ordinary course of business;

(6) any transaction between the Company and a Restricted Subsidiary or between Restricted Subsidiaries (other than Securitization Subsidiaries);

(7) any transaction with a Restricted Subsidiary or joint venture or similar entity which would constitute an Affiliate Transaction solely because the Company or a Restricted Subsidiary owns an equity interest in or otherwise controls such Restricted Subsidiary, joint venture or similar entity;

(8) the issuance or sale of any Capital Stock (other than Disqualified Stock) of the Company to any Person;

(9) any agreement or arrangement in effect on the Issue Date (after giving effect to the use of the net proceeds of the sale of the Securities as described in the Prospectus) and any amendment or replacement thereof and, in each case, the transactions pursuant thereto; *provided*, *however*, that any such amendment or replacement is not less favorable in any material respect to the Company or any of its Restricted Subsidiaries than that in effect on the Issue Date;

(10) sales or other dispositions of accounts receivable or licensing royalties and related assets to a Securitization Subsidiary in a Qualified Securitization Transaction which are customarily transferred in such a transaction;

(11) any transactions between the Company or any Restricted Subsidiary and China JV or any of its Affiliates;

(12) any transactions between the Company or any Restricted Subsidiary and (A) Apax Partners L.P. (i) in the ordinary course of business or (ii) in respect of China JV or (B) any funds or portfolio companies of Apax Partners L.P. in the ordinary course of business which satisfy clause (a)(1) of this Section 4.09;

(13) any employment agreements entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business and the transactions pursuant thereto;

(14) any satisfaction or discharge of the ITOCHU Obligations;

(15) any transactions between the Company or any Restricted Subsidiary and ITOCHU Corporation or any joint venture of the Company or any Restricted Subsidiary, in each case in the ordinary course of business;

(16) transactions entered into by a Person prior to the time such Person becomes a Restricted Subsidiary or is merged or consolidated into the Company or a Restricted Subsidiary (provided such transaction is not entered into in contemplation of such event);

(17) any transactions between the Company or any Restricted Subsidiary and the CKI Trust pursuant to the CKI Trust Agreement; and

(18) any transactions between the Company or any Restricted Subsidiary and Pepe Jeans SL (or any successor or replacement sales and collection agent and franchisee in Spain and Portugal) in the ordinary course of business.

Section 4.10 Limitation on Liens.

The Company will not, and will not permit any Restricted Subsidiary to, issue, assume or guarantee any Indebtedness for borrowed money secured by any Lien (other than a Permitted Lien) on any property or asset now owned or hereafter acquired by the Company or such Restricted Subsidiary without making effective provision whereby any and all Securities then or thereafter outstanding will be secured by a Lien equally and ratably with or prior to any and all Indebtedness for borrowed money thereby secured for so long as any such Indebtedness for borrowed money shall be so secured. Any Lien created for the benefit of the Holders of the Securities pursuant to the preceding sentence shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the initial Lien.

Section 4.11 Limitation on Sale/Leaseback Transactions.

The Company will not, and will not permit any Restricted Subsidiary to, enter into any Sale/Leaseback Transaction other than (a) a Sale/Leaseback Transaction in respect of which the Attributable Debt does not, when taken together with the Attributable Debt as of such date with respect to all other Sale/Leaseback Transactions entered into pursuant to this clause (a), exceed $35.0 million (each such Sale/Leaseback Transaction entered into pursuant to this clause (a), a "*Permitted Sale/Leaseback*"); and (b) any other Sale/Leaseback Transaction so long as (i) the Company or such Subsidiary would be entitled to (A) Incur Indebtedness in an amount equal to the Attributable Debt with respect to such Sale/Leaseback Transaction pursuant to Section 4.05 and (B) create a Lien on such property securing such Attributable Debt without equally and ratably securing the Securities purs uant to Section 4.10, (ii) the net proceeds received by the Company or any Restricted Subsidiary in connection with such Sale/Leaseback Transaction are at least equal to the fair market value (as determined by the Board of Directors) of such property and (iii) the Company applies the proceeds of such transaction in compliance Section 4.08.

Section 4.12 Future Subsidiary Guarantors.

The Company will not permit any Restricted Subsidiary, directly or indirectly, (i) to Guarantee any Indebtedness of the Company (other than Permitted Guarantees and Guarantees in respect of the 2023 Debentures) or (ii) to Incur any Indebtedness (other than Permitted Guarantees) under Section 4.05(a) or Section 4.05(b)(30) unless such Restricted Subsidiary promptly executes and delivers a Guaranty Agreement providing for the unconditional and irrevocable Guarantee of the Securities by such Restricted Subsidiary, jointly and severally with all other Subsidiary Guarantors. If the Indebtedness to be Guaranteed is subordinated to the Securities, the Guarantee of such Indebtedness will be subordinated to such Subsidiary Guaranty to the same extent as the Indebtedness to be Guaranteed is subordinated to the Securities.

Notwithstanding the foregoing, any such Subsidiary Guaranty by a Restricted Subsidiary of the Securities will provide by its terms that it will be automatically and unconditionally released and discharged:

(1) upon the release or discharge of (x) such Guarantee of such other Indebtedness or (y) such Indebtedness Incurred pursuant to Section 4.05(a) or Section 4.05(b)(30);

(2) upon any sale, disposition, exchange or other transfer (including through merger, consolidation or otherwise), other than to the Company or a Subsidiary of the Company, of all of the Company's capital stock in, or all or substantially all of the assets of, such Restricted Subsidiary, which sale, disposition, exchange or transfer is made in compliance with the applicable provisions of this Indenture;

(3) upon the Company designating such Subsidiary Guarantor to be an Unrestricted Subsidiary in accordance with the definition of "Unrestricted Subsidiary"; and

(4) upon the Company's exercise of its Legal Defeasance option, Covenant Defeasance option or if the Company's obligations under this Indenture and Securities are discharged, in each case as described in Article 8 and in accordance with the terms of this Indenture.

Section 4.13 Covenant Removal.

Following the first day (the "*Suspension Date*") that both (1) the Securities are rated Investment Grade by Moody's and S&P and (2) no Default or Event of Default shall have occurred and be

continuing, the Company and its Restricted Subsidiaries will not be subject to the covenants described in Sections 4.05, 4.06, 4.07, 4.08, 4.09, 4.10 and 5.01(3) (together, the *"Suspended Covenants"*); *provided* that, during the Suspension Period (as defined below), the Company and its Restricted Subsidiaries will be subject to Section 4.14.

As a result of the foregoing, the Securities will be entitled to substantially reduced covenant protection during any Suspension Period (as defined below). In the event that the Company and its Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the foregoing, and on any subsequent date (the *"Reversion Date"*) one or both of the Rating Agencies withdraws its Investment Grade rating or downgrades the rating assigned to the Securities below an Investment Grade rating, then the Company and its Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants with respect to future events. The period of time between the Suspension Date and the Reversion Date is the *"Suspension Period."* Notwithstanding that the Suspended Covenants may be reinstated, no Default will occur or be deemed to have occurred solely as a resu lt of a failure to comply with the Suspended Covenants during the Suspension Period or the continued existence of circumstances or obligations that occurred without complying with the Suspended Covenants during the Suspension Period.

On the Reversion Date, all Indebtedness Incurred during the Suspension Period will be classified to have been Incurred pursuant to Section 4.05(a) or one of the clauses set forth in Section 4.05(b) (to the extent such Indebtedness would be permitted to be Incurred thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred prior to the Suspension Period and outstanding on the Reversion Date). To the extent such Indebtedness would not be so permitted to be Incurred pursuant Section 4.05(a) or (b), such Indebtedness will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under Section 4.05(b)(4). Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 4.06 will be made as though such covenant had been in effect since the Issue Date and during the Suspension Period. For purposes of Section 4.07, on the Reversion Date, any encumbrance or restriction on the ability of any Restricted Subsidiary described under clauses (a), (b) or (c) of the first paragraph of Section 4.07 created, otherwise caused or permitted to exist or become effective during the Suspension Period shall be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under Section 4.07(1)(i) . For purposes of Section 4.08, on the Reversion Date, the unutilized Net Available Cash amount will be reset to zero. For purposes of Section 4.09, on the Reversion Date, any Affiliate Transaction entered into or permitted to exist during the Suspension Period shall be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under Section 4.09(b)(9). For purposes of Section 4.10, on the Reversion Date, any Lien created during the Suspension Period shall be deemed to have been outstanding on the Issue Date, so that it is classified as a "*Permitted Lien*& #148; under clause (a) of the definition thereof.

Section 4.14 Limitation on Secured Indebtedness.

During any Suspension Period, the Company will not, and will not permit any Restricted Subsidiary to, Incur any Indebtedness secured by a Lien (other than a Permitted Lien) on any Principal Property or on any share of stock or Indebtedness of a Subsidiary without making effective provisions whereby the Company or such Restricted Subsidiary, as the case may be, will secure the Securities equally and ratably with (or, if the Indebtedness to be secured by such Lien is subordinated in right of payment to the Securities, prior to) the Indebtedness so secured until such time as such Indebtedness is no longer secured by a Lien, unless the aggregate amount of all Indebtedness secured by all such Liens (excluding any Permitted Lien) would not exceed 2.50% of Total Assets.

ARTICLE 5.
SUCCESSORS

Section 5.01 Merger, Consolidation, or Sale of Assets.

The Company will not consolidate with or merge with or into, or convey, transfer, lease or otherwise dispose of, in one transaction or a series of transactions, directly or indirectly, all or substantially all of its assets to, any Person, unless:

(1) the resulting, surviving or transferee Person (the "*Successor Company*") shall be a Person organized and existing under the laws of the United States, any State thereof or the District of Columbia and the Successor Company (if not the Company) shall expressly assume, by an indenture supplemental thereto, executed and delivered to the Trustee, in form reasonably satisfactory to the Trustee, all of the obligations of the Company under the Securities and this Indenture;

(2) immediately after giving pro forma effect to such transaction (and treating any Indebtedness which becomes an Obligation of the Successor Company or any Subsidiary as a result of such transaction as having been Incurred by such Successor Company or such Subsidiary at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(3) immediately after giving *pro forma* effect to such transaction, (x) the Successor Company would be able to Incur an additional $1.00 of Indebtedness pursuant to Section 4.05(a) or (y) the Successor Company would have a Consolidated Coverage Ratio that is greater than or equal to the Consolidated Coverage Ratio of the Company immediately prior to such transaction; and

(4) the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and such supplemental indenture (if any) comply with this Indenture;

provided, however, that clauses (3) and (4) will not be applicable to the Company merging, consolidating or amalgamating with an Affiliate of the Company solely for the purpose and with the sole effect of reincorporating the Company in another jurisdiction.

For purposes of this Section 5.01, the conveyance, transfer, lease or other disposition of all or substantially all of the assets of one or more Subsidiaries of the Company, which assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the assets of the Company on a consolidated basis, shall be deemed to be the conveyance, transfer, lease or other disposition, as applicable, of all or substantially all of the assets of the Company.

Section 5.02 Successor Corporation Substituted.

The Successor Company, if not the Company, will be the successor to the Company and shall succeed to and be substituted for the Company, and may exercise every right and power of the Company under this Indenture, and the Company, except in the case of a lease, shall be released from all obligations under the Securities and this Indenture, including, without limitation, the Obligation to pay the principal of and interest on the Securities.

Section 5.03 Successor Subsidiary Guarantor.

Except as permitted under Section 4.08, the Company will not permit any Subsidiary Guarantor to consolidate with or merge with or into, or convey, transfer, lease or otherwise dispose of in one transaction or a series of transactions, all or substantially all of its assets to any Person unless:

(1) the resulting, surviving or transferee Person (if not such Subsidiary) shall be a Person organized and existing under the laws of the jurisdiction under which such Subsidiary was organized or under the laws of the United States, or any State thereof or the District of Columbia, and such Person shall expressly assume, by a Guaranty Agreement, in a form reasonably satisfactory to the Trustee, all the obligations of such Subsidiary, if any, under its Subsidiary Guaranty;

(2) immediately after giving effect to such transaction or transactions on a *pro forma* basis (and treating any Indebtedness which becomes an Obligation of the resulting, surviving or transferee Person as a result of such transaction as having been issued by such Person at the time of such transaction), no Default or Event of Default shall have occurred and be continuing; and

(3) the Company delivers to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such Guaranty Agreement, if any, complies with this Indenture.

Notwithstanding the foregoing, (1) a Subsidiary Guarantor may merge, consolidate or amalgamate with an Affiliate thereof solely for the purpose and with the sole effect of reincorporating such Subsidiary Guarantor in another jurisdiction (which jurisdiction shall, in the case of a Subsidiary Guarantor that is not a Foreign Restricted Subsidiary, be a jurisdiction in the United States, any State thereof or the District of Columbia); *provided* that such Affiliate must become a Subsidiary Guarantor in accordance with the terms of this Indenture and (2) a Subsidiary Guarantor may consolidate with or merge with or into, or convey, transfer, lease or otherwise dispose of, in one transaction or a series of transactions, all or substantially all of its assets to, another Subsidiary Guarantor or the Company.

The successor Subsidiary Guarantor will be the successor to the Subsidiary Guarantor and shall succeed to and be substituted for such Subsidiary Guarantor, and may exercise every right and power of such Subsidiary Guarantor under this Indenture, and such Subsidiary Guarantor, except in the case of a lease, shall be released from all obligations under this Indenture and the Securities.

Notwithstanding anything to the contrary provided herein, this Article 5 shall not apply to a conveyance, transfer or lease of assets between or among the Company and any Subsidiary Guarantor.

ARTICLE 6.
DEFAULTS AND REMEDIES

Section 6.01 Events of Default.

Each of the following is an "*Event of Default*":

(a) a default in the payment of interest on the Securities when due, continued for 30 days;

(b) a default in the payment of principal of or premium, if any, on any Security when due at its Stated Maturity, upon optional redemption, upon required purchase, upon declaration of acceleration or otherwise;

(c) the Company fails to comply with its obligations under Article 5;

(d) the failure by the Company to comply for 30 days after notice with any of its obligations under Article 10 (other than a failure to purchase Securities) or Sections 4.03, 4.05, 4.06, 4.07, 4.08 (other than a failure to purchase Securities), 4.09, 4.10, 4.11, 4.12 and 4.14;

(e) the failure by the Company or any Restricted Subsidiary to comply for 60 days after notice with its other covenants, obligations, warranties or agreements contained in this Indenture;

(f) Indebtedness of the Company, any Subsidiary Guarantor or any Significant Subsidiary is not paid within any applicable grace period after final maturity or is accelerated by the holders thereof because of a default and the total amount of such Indebtedness unpaid or accelerated exceeds $50.0 million;

(g) (A) the Company, any Subsidiary Guarantor or any Significant Subsidiary, pursuant to or within the meaning of Bankruptcy Law (i) commences a voluntary case, (ii) consents to the entry of an order for relief against it in an involuntary case, (iii) consents to the appointment of a custodian of it or for all or substantially all of its assets or (iv) makes a general assignment for the benefit of its creditors, or (B) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that: (i) is for relief against the Company, any Subsidiary Guarantor or any Significant Subsidiary in an involuntary case, (ii) appoints a custodian of the Company, any Subsidiary Guarantor or any Significant Subsidiary or for all or substantially all of the assets of the Company, any Subsidiary Guarantor or any Significant Subsidiary, or (iii) orders the liquidation of the Company, any Subsidiary Guarantor or any Significan t Subsidiary;

(h) a final, non-appealable judgment or order is rendered against the Company, a Subsidiary Guarantor or any Significant Subsidiary, which requires the payment in money by the Company, a Subsidiary Guarantor or any Significant Subsidiary either individually or in the aggregate, of an amount (to the extent not covered by insurance) in excess of $50.0 million and such judgment or order remains unsatisfied, undischarged, unvacated, unbonded and unstayed for 60 days; or

(i) a Subsidiary Guaranty ceases to be in full force and effect (other than in accordance with the terms of such Subsidiary Guaranty or this Indenture) or a Subsidiary Guarantor denies or disaffirms its Obligations under its Subsidiary Guaranty.

However, a default under clauses (d) and (e) will not constitute an Event of Default until the Trustee or the Holders of 25% in principal amount of the outstanding Securities notify the Company of the default and the Company does not cure such default within the time specified in clauses (d) and (e) after receipt of such notice.

Section 6.02 Acceleration.

If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Securities may declare the principal of and accrued but unpaid interest on all the Securities to be due and payable. Upon such a declaration, such principal and interest shall be due and payable immediately. Notwithstanding the foregoing, if an Event of Default specified in clause (g) of Section 6.01 hereof occurs and is continuing, the principal of and interest on all the

Securities will *ipso facto* become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders of the Securities. The Holders of a majority in aggregate principal amount of the then outstanding Securities by written notice to the Trustee may on behalf of all of the Holders of Securities rescind an acceleration and its consequences if all existing Events of Default (except nonpayment of principal, interest or premium that has become due solely because of the acceleration) have been cured or waived.

Section 6.03 Other Remedies.

If an Event of Default with respect to Securities occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of, premium, if any, on and interest on the Securities or to enforce the performance of any provision of the Securities or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Securities or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Security in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 Waiver of Past Defaults.

Holders of not less than a majority in aggregate principal amount of the then outstanding Securities by notice to the Trustee may on behalf of the Holders of all of the Securities waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal of, premium, if any, on or interest on the Securities (including in connection with an offer to repurchase) (*provided*, *however*, that pursuant to Section 6.02 of this Indenture the Holders of a majority in aggregate principal amount of the then outstanding Securities may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration). Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no suc h waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 Control by Majority.

Holders of a majority in principal amount of the then outstanding Securities are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines may be unduly prejudicial to the rights of other Holders of such Securities or that may involve the Trustee in personal liability.

Section 6.06 Limitation on Suits.

Except to enforce the right to receive payment of principal, premium (if any) or interest when due, no Holder of any Security may pursue a remedy with respect to this Indenture or Securities unless:

(a) the Holder of a Security has previously given the Trustee notice that an Event of Default is continuing;

(b) the Holders of at least 25% in principal amount of the outstanding Securities have requested in writing the Trustee to pursue the remedy;

(c) the Holders of Securities have offered the Trustee reasonable security or indemnity satisfactory to the Trustee against any loss, liability or expense;

(d) the Trustee has not complied with such request within 60 days after receipt thereof and the offer of security or indemnity; and

(e) Holders of a majority in principal amount of the outstanding Securities have not given the Trustee a direction inconsistent with such request within such 60-day period.

A Holder of any Security may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder.

Section 6.07 Rights of Holders of Securities to Receive Payment.

Notwithstanding any other provision of this Indenture, the Holder of any Security shall have the right to receive payment of principal of, premium, if any, on and interest on such Security, on or after the respective due dates expressed in such Security (including in connection with an offer to repurchase), or to bring suit for the enforcement of any such payment on or after such respective dates shall not be impaired or affected without the consent of such Holder.

Section 6.08 Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a) or (b) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any on, and interest remaining unpaid on the Securities and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 Trustee May File Proofs of Claim.

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Securities allowed in any judicial proceedings relative to the Company (or any other obligor upon the Securities), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursement s and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder, or to authorize the Trustee to vote in respect of the cla im of any Holder in any such proceeding.

Section 6.10 Priorities.

If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order:

First: to the Trustee, its agents and attorneys for amounts due under Section 7.07 hereof, including payment of all compensation, expense and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Securities for amounts due and unpaid on the Securities for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Securities for principal, premium, if any and interest, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Securities pursuant to this Section 6.10.

Section 6.11 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder of a Security pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in principal amount of the then outstanding Securities.

ARTICLE 7.
TRUSTEE

Section 7.01 Duties of Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent Person would exercise or use under the circumstances in the conduct of such Person's own affairs. Other than with respect to an Event of Default in the payment when due of interest or an Event of Default in the payment when due of principal of or premium, the Trustee shall not be deemed to have knowledge of Events of Default unless a Responsible Officer has actual knowledge or receives written notice of such Event of Default in accordance with Section 11.02 and such notice references the Securities and this Indenture. If an Event of Default has occurred and is continuing, the Trustee shall be under no obligation to exercise any of its rights and powers under this Indenture at the request or direct ion of any Holders of the Securities, unless such Holders shall have offered to the Trustee reasonable security or indemnity satisfactory to it against any loss, liability or expense and then only to the extent required by the terms of this Indenture.

(b) With respect to the Securities, except during the continuance of an Event of Default with respect to Securities:

(i) the duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(i) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.

(f) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

Section 7.02 Rights of Trustee.

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture; *provided, however,* that the Trustee's conduct does not constitute willful misconduct or gross negligence.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company shall be sufficient if signed by an Officer of the Company.

(f) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders of the Securities unless such Holders shall have offered to the Trustee reasonable security or indemnity satisfactory to the Trustee against the loss, liability or expense that might be incurred by it in compliance with such request or direction.

(g) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(h) In no event shall the Trustee be responsible or liable for special, indirect or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

Section 7.03 Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest, it must either eliminate such conflict within 90 days, apply to the SEC for permission to continue as Trustee or resign. Any Agent may do the same with like rights and duties. The Trustee must also comply with Sections 7.10 and 7.11 hereof.

Section 7.04 Trustee's Disclaimer.

The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Securities, it shall not be accountable for the Company's use of the proceeds from the Securities or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Securities or any other document in connection with the sale of the Securities or pursuant to this Indenture other than its certificate of authentication.

Section 7.05 Notice of Defaults.

If a Default occurs and is continuing with respect to the Securities and the Trustee has notice of such Default as described in Section 7.01(a) hereof, the Trustee shall mail to Holders of the Securities a notice of the Default within 90 days after it occurs; *provided, however,* that in any event the Trustee shall not be required to mail such notice until 10 days after a Responsible Officer of the Trustee receives notice of such Default as described in Section 7.01(a) hereof. Except in the case of a Default or Event of Default in payment of principal of or interest on any Security, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers determines that withholding the notice is in the best interests of the Holders of the Securities.

Section 7.06 Reports by Trustee to Holders of the Securities.

Within 60 days after each January 31 beginning with the January 31 following the date of this Indenture, and for so long as the Securities remain outstanding, the Trustee shall mail to the Holders of the Securities a brief report dated as of such reporting date that complies with TIA § 313(a) (but if no event described in TIA § 313(a) has occurred within the twelve months preceding the reporting date, no report need be transmitted). The Trustee also shall comply with TIA § 313(b)(1). The Trustee also shall transmit by mail all reports as required by TIA § 313(c).

A copy of each report at the time of its mailing to the Holders of Securities shall be mailed to the Company and filed with the SEC and each stock exchange on which the Securities are listed in accordance with TIA § 313(d). The Company shall promptly notify the Trustee when the Securities are listed on any stock exchange.

Section 7.07 Compensation and Indemnity.

The Company shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon request for all reasonable out-of-pocket disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses shall include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

Except as otherwise provided in this Section 7.07, the Company shall indemnify the Trustee against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company (including this Section 7.07) and defending itself against any claim (whether asserted by the Company or any Holder or any other person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its willful misconduct or gross negligence or bad faith. The Trustee shall notify the Company promptly of any claim for which a Responsible Officer has received notice and for which it may seek indemnity. Failure by the Trustee to so notify the Company shall not relieve the Company of its obligations hereunder except to the extent that the Company has been materially prejudiced by such failure. The Company shall defend the claim and the Trustee shall cooperate in the defense. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld.

The obligations of the Company under this Section 7.07 shall survive the satisfaction and discharge of this Indenture.

To secure the Company's payment obligations in this Section 7.07, the Trustee shall have a Lien prior to the Securities on all money or property held or collected by the Trustee, except that held in trust to pay principal of, premium, if any, on and interest on particular Securities.

When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(g) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

The Trustee shall comply with the provisions of TIA § 313(b)(2) to the extent applicable.

Section 7.08 Replacement of Trustee.

A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

The Trustee may resign in writing at any time by notifying the Company in writing at least 10 days prior to the date of the proposed resignation and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in principal amount of the then outstanding Securities may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

(a) the Trustee fails to comply with Section 7.10 hereof;

(b) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(c) a custodian or public officer takes charge of the Trustee or its property; or

(d) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Securities may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of at least 10% in principal amount of the then outstanding Securities may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, provided all sums owing to the retiring Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof shall continue for the benefit of the retiring Trustee.

Section 7.09 Successor Trustee by Merger, etc.

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act shall be the successor Trustee.

Section 7.10 Eligibility; Disqualification.

There shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $100 million as set forth in its most recent published annual report of condition.

This Indenture shall always have a Trustee who satisfies the requirements of TIA § 310(a)(1), (2) and (5). The Trustee is subject to TIA § 310(b).

Section 7.11 Preferential Collection of Claims Against Company.

The Trustee is subject to TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b). A Trustee who has resigned or been removed shall be subject to TIA § 311(a) to the extent indicated therein.

ARTICLE 8.
DISCHARGE OF INDENTURE; DEFEASANCE

Section 8.01 Discharge of Liability on Securities; Defeasance.

(a) This Indenture shall be discharged and will cease to be of further effect as to all outstanding Securities when:

(i) either (A) all the Securities theretofore authenticated and delivered (other than Securities pursuant to Section 2.09 which have been replaced or paid and Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust) have been delivered to the Trustee for cancellation or (B) all of the Securities not theretofore delivered to the Trustee for cancellation (1) have been called for redemption by reason of the mailing of a notice of redemption or otherwise and (2) will become due and payable at their Stated Maturity within one year, and the Company has irrevocably deposited or caused to be deposited with the Trustee cash in U.S. dollars, U.S. Government Obligations or a combination thereof in an amount sufficient to pay and discharge the entire Indebtedness on the Securities not thereto fore delivered to the Trustee for cancellation, for principal of, premium, if any, on and interest on the Securities to the date of deposit together with irrevocable instructions from the Company directing the Trustee to apply such funds to the payment thereof at redemption or maturity, as the case may be;

(ii) the Company has paid all other sums payable under this Indenture; and

(iii) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture relating to the satisfaction and discharge of this Indenture have been satisfied or waived.

(b) Subject to Sections 8.01(c), the Company at any time may terminate (i) all of its obligations under the Securities and this Indenture ("*Legal Defeasance*") or (ii) its obligations under Article 10, Sections 4.03, 4.05, 4.06, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.14, 5.01(3) and 5.03 and Sections 6.01(f), 6.01(g) (with respect to Significant Subsidiaries of the Company and Subsidiary Guarantors only) and 6.01(h) ("*Covenant Defeasance*") for the benefit of the Securities. The Company

may exercise its Legal Defeasance option notwithstanding its prior exercise of its Covenant Defeasance option.

If the Company exercises its Legal Defeasance option, payment of the Securities may not be accelerated because of an Event of Default. If the Company exercises its Covenant Defeasance option, payment of the Securities may not be accelerated because of an Event of Default specified in Section 6.01(d), 6.01(e) (with respect to all obligations described in Sections 4.03, 4.05, 4.06, 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.14, but not those described under Article 5), 6.01(f), 6.01(g) (with respect to Significant Subsidiaries of the Company and Subsidiary Guarantors only), 6.01(h) or because of the failure of the Company to comply with Section 5.01(3). If the Company exercises its Legal Defeasance option or its Covenant Defeasance option, each Subsidiary Guarantor will be released from all of its obligations with respect to its Subsidiary Guarantee.

Upon satisfaction of the conditions set forth herein and upon request of the Company, the Trustee shall acknowledge in writing the discharge of those obligations that the Company terminates.

(c) Notwithstanding clauses (a) and (b) above, the Company's obligations in Sections 2.05, 2.06, 2.07, 2.08, 2.09, 2.10, 7.07, 7.08 and in this Article 8 shall survive until the Securities have been paid in full. Thereafter, the Company's obligations in Sections 7.07, 8.05 and 8.06 shall survive such satisfaction and discharge.

Section 8.02 Conditions to Legal or Covenant Defeasance.

The following shall be the conditions to the application of Section 8.01 hereof to the Securities:

In order to exercise either Legal Defeasance or Covenant Defeasance:

(a) the Company must irrevocably deposit in trust (the "*Defeasance Trust*") with the Trustee, for the benefit of the Holders, U.S. dollars, U.S. Government Obligations, or a combination thereof, in such amounts as will be sufficient, as evidenced by an Officers' Certificate, for the payment of the principal of, premium, if any, on and interest on the outstanding Securities to the applicable Redemption Date or Stated Maturity, as the case may be;

(b) in the case of an exercise of Legal Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States of America to the effect that (A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling or (B) since the date this Indenture was first executed, there has been a change in the applicable Federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Securities will not recognize income, gain or loss for Federal income tax purposes as a result of such Defeasance Trust and Legal Defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Defeasance Trust and Legal Defeasance had not occurred;

(c) in the case of an exercise of Covenant Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel in the United States of America to the effect that the Holders of the outstanding Securities will not recognize income, gain or loss for Federal income tax purposes as a result of such Defeasance Trust and Covenant Defeasance and will be subject to Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Defeasance Trust and Covenant Defeasance had not occurred; and

(d) the Legal Defeasance or Covenant Defeasance, as applicable, shall not result in or constitute a Default or Event of Default under this Indenture.

Section 8.03 Deposited U.S. Dollars and U.S. Government Obligations to be Held in Trust.

Subject to Section 8.04 hereof, all U.S. dollars and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee pursuant to this Article 8 shall be held in trust and applied by the Trustee, in accordance with the provisions of the Securities and this Indenture, to the payment, either directly or through any Paying Agent (including the Company or any of Restricted Subsidiaries acting as Paying Agent) as the Trustee may determine, to the Holders of such discharged or defeased Securities, as the case may be, of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

Section 8.04 Repayment to Company.

Anything in this Article 8 to the contrary notwithstanding, the Trustee shall deliver or pay to the Company from time to time upon the request of the Company any U.S. dollars or U.S. Government Obligations held by it as provided in Section 8.02 hereof which in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee are in excess of the amount thereof that would then be required to be deposited to effect an equivalent discharge or defeasance in accordance with this Article 8.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, on or interest on any Securities and remaining unclaimed for two years after such principal, and premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) shall be discharged from such trust; and the Holder of such Securities shall thereafter look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; *provided*, *however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in The New York Times and The Wall Street Journal (national edition), notice that su ch money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 8.05 Indemnity for U.S. Government Obligations.

The Company shall pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the U.S. dollars or U.S. Government Obligations deposited pursuant to this Article 8 or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Securities so discharged or defeased.

Section 8.06 Reinstatement.

If the Trustee or Paying Agent is unable to apply any U.S. dollars or U.S. Government Obligations in accordance with this Article 8 by reason of any legal proceeding or order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company’s obligations under this Indenture and the Securities so discharged or defeased shall be revived and reinstated as though no deposit had occurred pursuant to this Article 8 until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with this Article 8; *provided*,

however, that, if the Company makes any payment of principal of, premium, if any, on or interest on any such Securities following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Securities to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9.
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 Without Consent of Holders of Securities.

Notwithstanding Section 9.02 hereof, the Company and the Trustee at any time and from time to time may amend this Indenture or enter into one or more indentures supplemental hereto without the consent of any Holder of a Security for any of the following purposes:

(a) to cure any ambiguity, omission, defect or inconsistency;

(b) to provide for uncertificated Securities in addition to or in place of certificated Securities (*provided* that the uncertificated Securities are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that the uncertificated Securities are described in Section 163(f)(2)(B) of the Code);

(c) to provide for the assumption by (i) a Successor Company of the obligations of the Company or (ii) a successor Subsidiary Guarantor of the obligations of any Subsidiary Guarantors, in each case under this Indenture and the Securities;

(d) to add to the covenants of the Company or any Restricted Subsidiary for the benefit of the Holders of the Securities or to surrender any right or power herein conferred on the Company or any Restricted Subsidiary;

(e) to add any additional Events of Default with respect to the Securities;

(f) to supplement any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the defeasance or discharge of the Securities pursuant to Article 8; *provided, however,* that any such action shall not adversely affect the interests of the Holders of the Securities;

(g) to comply with any requirement of the SEC in connection with the qualification of this Indenture under the TIA;

(h) to add Guarantees with respect to the Securities, including any Subsidiary Guarantees, or to secure the Securities;

(i) to evidence and provide for the acceptance of appointment hereunder by a successor Trustee with respect to the Securities and to add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one trustee;

(j) to release a Subsidiary Guarantor from its Subsidiary Guaranty pursuant to the terms of this Indenture when permitted or required pursuant to the terms of this Indenture;

(k) to make any change that does not adversely affect the rights of any Holder of the Securities; or

(l) to provide for the issuance of Additional Securities in accordance with the limitations set forth in this Indenture.

Upon the request of the Company accompanied by a Board Resolution authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

After an amendment under this Section 9.01 becomes effective, the Company shall mail to the Holders of Securities a notice briefly describing such amendment. Any failure of the Company to mail such notice, or any defect therein, shall not in any way impair or affect the validity of the amendment.

Section 9.02 With Consent of Holders of Securities.

Except as provided below in this Section 9.02, the Company and the Trustee may amend this Indenture or the Securities with the consent of the Holders of a majority in principal amount of the Securities then outstanding (including consents obtained in connection with a tender offer or exchange for the Securities), and, subject to Sections 6.04 and 6.07 hereof and except as otherwise provided below in this Section 9.02, any existing Default or Event of Default with respect to the Securities (other than a Default or Event of Default in the payment of the principal of, premium, if any, on or interest on such Securities, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture or such Securities may be waived with the consent of the Holders of a majority in principal amount of the then outstanding Securities (including consents obtained in conne ction with a tender offer or exchange for the Securities).

Upon the request of the Company accompanied by a Board Resolution authorizing the execution of any such amended or supplemental indenture, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Securities as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee shall join with the Company in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

The consent of the Holders of Securities under this Section 9.02 is not necessary to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment under this Section 9.02 becomes effective, the Company shall mail to the Holders of Securities a notice briefly describing such amendment. Any failure of the Company to mail such notice, or any defect therein, shall not in any way impair or affect the validity of the amendment.

Notwithstanding anything provided herein or otherwise, without the consent of each Holder of an outstanding Security adversely affected thereby, an amendment or waiver under this Section 9.02 may not:

(a) reduce the aggregate principal amount of Securities the Holders of which must consent to an amendment or waiver;

(b) reduce the rate of or extend the time for payment of interest on any Security;

(c) reduce the principal of or extend the Stated Maturity of any Security;

(d) reduce the amount payable upon the redemption of any Security or change the time at which any Security may be redeemed as described under Paragraph 5 of the Securities set forth on Exhibit A and Article 3 above; *provided* that the notice period for redemption may be reduced to not less than three (3) Business Days with the consent of the Holders of a majority in principal amount of the Securities then outstanding if a notice of redemption has not prior thereto been sent to such Holders;

(e) make any Security payable in money other than that stated in the Security;

(f) impair the right of any Holder of the Securities to receive payment of principal of, premium, if any, on and interest on such Holder's Securities on or after the due date therefor or to institute suit for the enforcement of any payment on or with respect to such Holder's Securities;

(g) make any change in the ranking or priority of any Security that would adversely affect the Holders of the Securities; or

(h) make any change in any Subsidiary Guaranty that would adversely affect the Holders of the Securities.

Notwithstanding anything herein or otherwise, the provisions under this Indenture relative to the Company's obligation to make any offer to repurchase the Securities as a result of a Change of Control pursuant to Article 10 hereof may be waived or modified with the written consent of the Holders of a majority in principal amount of the Securities.

Section 9.03 Compliance with TIA.

Every amendment or waiver to this Indenture or the Securities shall be set forth in an amended or supplemental indenture that complies with the TIA as then in effect.

Section 9.04 Revocation and Effect of Consents.

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Security is a continuing consent by the Holder of a Security and every subsequent Holder of a Security or portion of a Security that evidences the same debt as the consenting Holder's Security, even if notation of the consent is not made on any Security. However, any such Holder of a Security or subsequent Holder of a Security may revoke the consent as to its Securities if the Trustee receives written notice of revocation before the date the waiver, supplement or amendment becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.05 Notation on or Exchange of Securities.

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Security thereafter authenticated. The Company in exchange for all Securities may issue and the Trustee shall, upon receipt of a Company Order, authenticate new Securities that reflect the amendment, supplement or waiver. Failure to make the appropriate notation or issue a new Security shall not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 Trustee to Sign Amendments, etc.

The Trustee shall sign any amended or supplemental indenture authorized pursuant to this Article 9 if the amendment, supplement or waiver does not adversely affect the rights, duties, liabilities or immunities of the Trustee. In executing any amended or supplemental indenture, the Trustee shall be entitled to receive and (subject to Section 7.01 hereof) shall be fully protected in relying upon, an Officers' Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

Section 9.07 Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article 9, this Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby, except to the extent otherwise set forth thereon.

ARTICLE 10.

CHANGE OF CONTROL

(a) Upon the occurrence of a Change of Control, unless the Company has exercised its right to redeem the Securities as set forth in Paragraph 5 of the Securities set forth in Exhibit A and Article 3 above, each Holder of the Securities shall have the right to require that the Company repurchase such Holder's Securities at a purchase price in cash equal to 101% of the principal amount thereof on the date of purchase, plus accrued and unpaid interest, if any, to but not including the date of purchase (subject to the right of registered Holders of the Securities on the relevant record date to receive interest due on the relevant date of purchase).

(b) Within 30 days following any Change of Control (unless the Company has exercised its right to redeem the Securities as set forth in Paragraph 5 of the Securities set forth in Exhibit A and Article 3 above), the Company will cause a notice to be mailed to each Holder of the Securities at its registered address (the *"Change of Control Offer"*) stating:

(1) that a Change of Control has occurred, the transaction or transactions that constitute the Change of Control and that such Holder has the right to require the Company to purchase such Holder's Securities at a purchase price in cash equal to 101% of the principal amount thereof on the date of purchase, plus accrued and unpaid interest, if any, to but not including the date of purchase (subject to the right of registered Holders of the Securities on the relevant record date to receive interest due on the relevant date of purchase);

(2) the purchase date (which shall be no earlier than 30 days nor later than 60 days from the date such notice is mailed); and

(3) the instructions, as determined by the Company, consistent with this Article 10, that a Holder of Securities must follow in order to have its Securities purchased.

(c) The Company will not be required to make a Change of Control Offer following a Change of Control if (i) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Company and purchases all Securities validly tendered and not withdrawn

under such Change of Control Offer or (ii) the Company has exercised its right to redeem the Securities as described in Paragraph 5 of the Securities set forth on Exhibit A and Article 3 above unless and until there is a default in payment of the applicable Redemption Price.

(d) A Change of Control Offer may be made in advance of a Change of Control, and be conditional upon such Change of Control, if a definitive agreement is in place in respect of the Change of Control at the time of making of the Change of Control Offer.

(e) The Company will comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of Securities as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Article 10, the Company will comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under this Article 10 by virtue of its compliance with such securities laws or regulations.

(f) In the event a Change of Control occurs at a time when the Credit Agreement or any other Credit Facility restricts or prohibits the Company from purchasing Securities, then prior to the mailing of the notice to Holders of the Securities provided for above but in any event within 45 days following any Change of Control, the Company shall (a) repay in full all Indebtedness Incurred under the Credit Agreement and/or such other Credit Facility or, if doing so will allow the purchase of Securities, offer to repay in full all Indebtedness Incurred under the Credit Agreement and/or such other Credit Facility and repay the Indebtedness of each lender or holder that has accepted such offer or (b) obtain the requisite consent under the agreements governing such Indebtedness Incurred under the Credit Agreement and/or such other Credit Facility to permit the repurchase of the Securities as provided for above.

(g) Holders electing to have a Security purchased shall be required to surrender the Security, with an appropriate form duly completed, to the Company at the address specified in the notice prior to the purchase date. The Holders shall be entitled to withdraw their election if the Trustee or the Company receives not later than one Business Day prior to the purchase date a telegram, telex, facsimile transmission or letter sent to the address specified in Section 11.02 or set forth in the notice described in Section 10(b) setting forth the name of the Holder, the principal amount of the Security which was delivered for purchase by the Holder and a statement that such Holder is withdrawing his election to have such Security purchased. Holders whose Securities are purchased only in part shall be issued new Securities equal in principal amount to the unpurchased portion of the Securities surrendered.

(h) Securities repurchased by the Company pursuant to a Change of Control Offer will have the status of Securities issued but not outstanding or will be retired and canceled at the option of the Company. Securities purchased by a third party pursuant to the preceding clause (c)(i) will have the status of Securities issued and outstanding.

ARTICLE 11.
MISCELLANEOUS

Section 11.01 TIA Controls.

If any provision of this Indenture limits, qualifies or conflicts with the duties imposed by TIA §318(c), the imposed duties shall control. If any provision of this Indenture modifies or excludes any provision of the TIA that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or excluded, as the case may be.

Section 11.02 Notices.

Any notice or communication by the Company or the Trustee to the other is duly given if in writing and sent electronically or delivered in Person or mailed by first class mail (registered or certified, return receipt requested), telex, telecopier or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company:

Phillips-Van Heusen Corporation
200 Madison Avenue
New York, NY 10016
Facsimile: (212) 381-3970
Attention: General Counsel

If to the Trustee:

U.S. Bank National Association
Two Midtown Plaza
1349 W. Peachtree Street, Suite 1050
Atlanta, GA 30309
Facsimile: (404) 898-2467
Attention: Jack Ellerin

The Company or the Trustee, by notice to the other may designate additional or different addresses for subsequent notices or communications.

Any notice or communication to a Holder shall be mailed or sent electronically or by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Any notice or communication also shall be so mailed to any Person described in TIA § 313(c), to the extent required by the TIA. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

If the Company mails a notice or communication to Holders, it shall mail a copy to the Trustee and each Agent at the same time.

Section 11.03 Communication by Holders of Securities with Other Holders of Securities.

Holders may communicate pursuant to TIA § 312(b) with other Holders with respect to their rights under this Indenture or the Securities. The Company, the Trustee, the Registrar and anyone else shall have the protection of TIA § 312(c).

Section 11.04 Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee at the request of the Trustee:

(a) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 11.05 hereof) stating that, in the opinion of the

signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 11.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 11.05 Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture (other than a certificate provided pursuant to TIA § 314(a)(4)) shall comply with the provisions of TIA § 314(e) and shall include:

(a) a statement that the Person making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer of the Company may be based insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such Officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion or representations is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 11.06 Rules by Trustee and Agents.

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 11.07 No Personal Liability of Directors, Officers, Employees and Stockholders.

No director, officer, employee, incorporator or stockholder of the Company or any Subsidiary will have any liability for any obligations of the Company or any Subsidiary under the Securities, any Subsidiary Guaranty or this Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Securities by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Securities.

Section 11.08 Governing Law.

THIS INDENTURE AND THE SECURITIES WILL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 11.09 No Adverse Interpretation of Other Agreements.

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 11.10 Successors.

All agreements of the Company in this Indenture and the Securities shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 11.11 Severability.

In case any provision in this Indenture or in the Securities shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 11.12 Counterpart Originals.

The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

Section 11.13 Table of Contents, Headings, etc.

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

[Signatures on following page]

SIGNATURES

Dated as of May 6, 2010

PHILLIPS-VAN HEUSEN CORPORATION

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President and Secretary

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Jack Ellerin
Name: Jack Ellerin
Title: Vice President

[Signature Page to Indenture]

EXHIBIT A

[Form of Face of Security]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO., OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC) ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

CUSIP 718592AK4

$_____

GLOBAL NOTE

7.375% Senior Notes Due 2020

No.___

PHILLIPS-VAN HEUSEN CORPORATION

promises to pay to CEDE & CO. or registered assigns, the principal sum set forth on the Schedule of Exchanges of Interests in the Global Note attached hereto on May 15, 2020.

Interest Payment Dates: May 15 and November 15, commencing on November 15, 2010.

Regular Record Dates: May 1 and November 1.

Dated: May 6, 2010.

PHILLIPS VAN-HEUSEN CORPORATION

By:

Name:

Title:

By:

Name:

Title:

This is one of the Securities referred to in the within-mentioned Indenture:

U.S. BANK NATIONAL ASSOCIATION,
as Trustee

By:

Authorized Signatory

Capitalized terms used herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. *Interest*.

Phillips-Van Heusen Corporation, a Delaware corporation (herein the *"Company"*, which term includes any Successor Company under the Indenture hereinafter referred to), for value received, hereby promises to pay to Cede & Co. the principal sum of $_____ dollars on May 15, 2020, and to pay interest thereon from May 6, 2010 or from the most recent Interest Payment Date to which interest has been paid or duly provided for, semiannually at a fixed rate, on May 15 and November 15 in each year, commencing November 15, 2010, and at the Stated Maturity thereof, at the rate of 7.375% per annum, until the principal hereof is paid or made available for payment, and (to the extent that the payment of such interest shall be legally enforceable) at the rate borne by the Securities on any overdue principal and premium and on any overdue installment of interest from the dates such amounts are due until they are paid or made available for payment. Interest shall be computed on the basis of a 360-day year comprised of twelve 30-day months.

2. *Method of Payment*.

The Company will pay interest on the Securities on each May 15 and November 15 to the Persons who are registered Holders of the relevant Securities at the close of business on the May 1 or November 1 immediately preceding the applicable Interest Payment Date, even if such Securities are canceled after such applicable Regular Record Date and on or before such applicable Interest Payment Date, except as provided in Section 2.14 of the Indenture with respect to Defaulted Interest. The Securities will be payable as to principal, premium, if any, and interest at the office or agency of the Company maintained for such purpose, *provided, further,* that payment may be made pursuant to the applicable procedures of the Depositary as permitted in the Indenture. Such payment shall be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and p rivate debts.

3. *Paying Agent and Registrar*.

Initially, the Trustee will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Restricted Subsidiaries may act in any such capacity.

4. *Indenture*.

This Security is one of a duly authorized issue of Securities of the Company issued and to be issued under an Indenture, dated as of May 6, 2010 (herein called the *"Indenture"*), between the Company and U.S. Bank National Association, as trustee (herein called the "*Trustee*" which term includes any successor trustee under the Indenture), to which the Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Securities and of the terms upon which the Securities are, and are to be, authenticated and delivered. The Securities are unsecured unsubordinated obligations of the Company. The terms of the Securities include those stated in the Indenture and those made part of the Indenture by reference to the TIA. &nb sp;The Securities are subject to all such terms, and Holders are referred to the Indenture and the TIA for a statement of such

terms. To the extent any provision of this Security conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

5. *Redemption*.

At any time prior to May 15, 2015, the Securities will be redeemable, in whole or in part, from time to time, at the Company's option upon not less than 30 nor more than 60 days' notice at a Redemption Price equal to 100% of the principal amount of the Securities to be redeemed plus the Applicable Premium, plus accrued and unpaid interest, if any, to but not including the Redemption Date (subject to the right of registered Holders of the Securities on the related record date to receive interest due on the relevant Redemption Date).

"*Applicable Premium*" means, with respect to any Securities on any Redemption Date, the greater of:

(1) 1.0% of the principal amount of the Security; and

(2) the excess, if any, of

(a) the present value at such Redemption Date of (i) the Redemption Price of the Security at May 15, 2015 (such Redemption Price being set forth in the table appearing below), plus (ii) all required interest payments due on such Security through May 15, 2015 (excluding accrued but unpaid interest to but not including the Redemption Date), computed using a discount rate equal to the Treasury Yield, as of such Redemption Date, plus 50 basis points; over

(b) the principal amount of such Security.

"*Comparable Treasury Issue*" means the United States Treasury security selected, in accordance with customary financial practice, by an Independent Investment Banker as having a constant maturity most nearly equal to the period from such Redemption Date to May 15, 2015; *provided* that if the period from such Redemption Date to May 15, 2015 is less than one year, a fixed maturity of one year shall be used.

"*Comparable Treasury Price*" means, with respect to any Redemption Date, (i) the average of the applicable Reference Treasury Dealer Quotations for such Redemption Date, after excluding the highest and lowest such applicable Reference Treasury Dealer Quotations, or (ii) if the Trustee obtains fewer than four such Reference Treasury Dealer Quotations, the average of all such Reference Treasury Dealer Quotations.

"*Independent Investment Banker*" means Barclays Capital Inc. or, if such firm is unwilling or unable to select the applicable Comparable Treasury Issue, an independent investment banking institution of national standing appointed by the Company.

"*Reference Treasury Dealer*" means (i) Barclays Capital Inc. and its successors; *provided however*, that if the foregoing shall cease to be a primary United States Government securities dealer in New York City (a "*Primary Treasury Dealer*"), the Company shall substitute therefor another Primary Treasury Dealer and (ii) any other Primary Treasury Dealer selected by the Company.

"*Reference Treasury Dealer Quotation*" means, with respect to the Reference Treasury Dealer and Redemption Date, the average, as determined by the Trustee, of the bid and ask prices for the Comparable Treasury Issue for the Securities (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 3:00 p.m., New York City time, on the third Business Day preceding such Redemption Date.

"Treasury Yield" means, with respect to any Redemption Date, the rate per annum equal to the yield to maturity of the Comparable Treasury Issue for the Securities, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the applicable Comparable Treasury Price for such Redemption Date. The Treasury Yield shall be calculated by the Company on the third Business Day preceding such Redemption Date.

On and after May 15, 2015, the Company will be entitled at its option to redeem all or a portion of the Securities upon not less than 30 nor more than 60 days' notice, at the Redemption Prices (expressed in percentages of principal amount on the Redemption Date), plus accrued and unpaid interest, if any, to but not including the Redemption Date (subject to the right of registered Holders of the Securities on the related record date to receive interest due on the relevant Redemption Date), if redeemed during the 12-month period commencing on May 15 of the years set forth below:

Period	**Redemption price of Securities**
2015	103.688%
2016	102.458%
2017	101.229%
2018 and thereafter	100.000%

Prior to May 15, 2013, the Company may at its option on one or more occasions redeem the Securities in an aggregate principal amount not to exceed 35% of the aggregate principal amount of the Securities originally issued at a Redemption Price (expressed as a percentage of principal amount) of 107.375%, plus accrued and unpaid interest, if any, to but not including the Redemption Date (subject to the right of registered Holders of the Securities on the related record date to receive interest due on the relevant Redemption Date), with the net cash proceeds from one or more Equity Offerings; *provided* that

(1) at least 65% of the aggregate principal amount of the Securities outstanding immediately prior to the occurrence of each such redemption (other than Securities held, directly or indirectly, by the Company or its Subsidiaries), remains outstanding immediately after the occurrence of each such redemption; and

(2) each such redemption occurs within 90 days after the closing date of the related Equity Offering.

6. *Denominations, Transfer, Exchange.*

The Securities will be issued in fully registered book-entry form, without coupons and in minimum denominations of $2,000 and integral multiples of $1,000 in excess thereof.

The Securities will be represented by one or more Global Securities registered in the name of Depositary or a nominee of the Depositary. So long as the Depositary, or its nominee, is the registered Holder and owner of this Global Security, the Depositary or such nominee, as the case may be, will be considered the sole owner and Holder of the Securities for all purposes under the Indenture. The Global Security may not be transferred except as a whole by the Depositary to a nominee of the Depositary. The Depositary will credit, on its book-entry registration and transfer system, the respective principal amounts

of the Securities represented by such Global Security to the accounts of institutions that have accounts with the Depositary or its nominee ("*participants*"). Ownership of beneficial interests in a Global Security will be shown on, and the transfer of those ownership interests will be effected through, records maintained by the Depositary (with respect to participants' interests) and such participants (with respect to the owners of beneficial interests in such Global Security).

Each Global Security is exchangeable for Securities in certificated form only if (i) the Depositary notifies the Company that it is unwilling or unable to continue as Depositary for such Global Security or if at any time the Depositary ceases to be a clearing agency registered under the Exchange Act and the Company fails within 90 days thereafter to appoint a successor Depositary, (ii) the Company in its sole discretion determines that such Global Security shall be exchangeable or (iii) there shall have occurred and be continuing a Default with respect to the Securities represented by such Global Security. In any such event the Company will issue, and the Trustee, upon receipt of a Company Order for the authentication and delivery of certificated Securities, will authenticate and deliver, Securities in certificated form in exchange for such Global Security. In any such instance, an owner of a beneficial interest i n either Global Security will be entitled to physical delivery in certificated form of Securities equal in principal amount to such beneficial interest and to have such Securities registered in its name. Securities so issued in certificated form will be issued in denominations of $1,000 or any larger amount that is an integral multiple thereof, and will be issued in registered form only, without coupons.

No service charge shall be made for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to pay all taxes, assessments or other governmental charges that may be imposed in connection therewith from the Holder requesting such transfer or exchange.

7. *Persons Deemed Owners*.

The registered Holder of a Security may be treated as its owner for all purposes.

8. *Amendment, Supplement and Waiver*.

Subject to certain exceptions, (a) the Indenture and the Securities may be amended with the consent of the Holders of a majority in principal amount of the Securities then outstanding and (b) any existing Default or compliance with any provision may be waived with the consent of the Holders of a majority in principal amount of the Securities then outstanding (including, in each case, consents obtained in connection with a tender offer or exchange for the Securities).

Without the consent of any Holder of the Securities, the Company and the Trustee may amend the Indenture to, among other things, (a) cure any ambiguity, omission, defect or inconsistency; (b) provide for uncertificated Securities in addition to or in place of certificated Securities (*provided* that the uncertificated Securities are issued in registered form for purposes of Section 163(f) of the Code, or in a manner such that the uncertificated Securities are described in Section 163(f)(2)(B) of the Code); (c) to provide for the assumption by (i) a Successor Company of the obligations of the Company or (ii) a successor Subsidiary Guarantor of the obligations of any Subsidiary Guarantors, in each case under the Indenture and the Securities; (d) add to the covenants of the Company or any Restricted Subsidiary for the benefit of the Holders of the Securities or to surrender any right or power herein conferred on the Company or any Restricted Subsidiary; (e) add any additional Events of Default with respect to the Securities; (f) supplement any of the provisions of the Indenture to such extent as shall be necessary to permit or facilitate the defeasance or discharge of the Securities pursuant to Article 8; *provided, however,* that any such action shall not adversely affect the interests of the Holders of the Securities; (g) comply with any requirement of the SEC in connection with the qualification of the Indenture under the TIA; (h) add Guarantees with respect to the Securities, including any Subsidiary Guarantees, or to secure the

Securities; (i) evidence and provide for acceptance of appointment under the Indenture by a successor Trustee with respect to the Securities and to add to or change any of the provisions of the Indenture as shall be necessary to provide for or facilitate the administration of the trusts thereunder by more than one trustee; (j); release a Subsidiary Guarantor from its Subsidiary Guaranty pursuant to the terms of the Indenture when permitted or required pursuant to the terms of the Indenture; (k) make any change that does not adversely affect the rights of any Holder of the Securities; or (l) provide for the issuance of Additional Securities in accordance with the limitations set forth in the Indenture.

9. *Defaults and Remedies*.

Events of Default include: (a) a default in the payment of interest on the Securities when due, continued for 30 days; (b) a default in the payment of principal of or premium, if any, on any Security when due at its Stated Maturity, upon optional redemption, upon required purchase, upon declaration of acceleration or otherwise; (c) the Company fails to comply with its obligations under Article 5 of the Indenture; (d) the failure by the Company to comply for 30 days after notice with any of its obligations under Article 10 (other than a failure to purchase Securities) or Sections 4.03, 4.05, 4.06, 4.07, 4.08 (other than a failure to purchase Securities), 4.09, 4.10, 4.11, 4.12 and 4.14; (e) failure by the Company or any Restricted Subsidiary to comply for 60 days after notice with its other covenants, obligations, warranties or agreements contained in the Indenture; (f) Indebtedness of the Company, any S ubsidiary Guarantor or any Significant Subsidiary is not paid within any applicable grace period after final maturity or is accelerated by the holders thereof because of a default and the total amount of such Indebtedness unpaid or accelerated exceeds $50.0 million; (g) certain events of bankruptcy, insolvency or reorganization of the Company, a Subsidiary Guarantor or any Significant Subsidiary; (h) a final, non-appealable judgment or order is rendered against the Company, a Subsidiary Guarantor or any Significant Subsidiary, which requires the payment in money by the Company, a Subsidiary Guarantor or any Significant Subsidiary either individually or in the aggregate, of an amount (to the extent not covered by insurance) in excess of $50.0 million and such judgment or order remains unsatisfied, undischarged, unvacated, unbonded and unstayed for 60 days; or (i) a Subsidiary Guaranty ceases to be in full force and effect (other than in accordance with the terms of such Subsidiary Guaranty or the Indenture) or a Subsidiary Guarantor denies or disaffirms its Obligations under its Subsidiary Guaranty.

If any Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the then outstanding Securities may declare the principal of and accrued but unpaid interest on all the Securities to be due and payable. Upon such a declaration, such principal and interest shall be due and payable immediately. Notwithstanding the foregoing, if an Event of Default arising from certain events of bankruptcy, insolvency or reorganization of the Company occurs and is continuing, the principal of and interest on all the Securities will *ipso facto* become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders of the Securities.

Except to enforce the right to receive payment of principal, premium (if any) or interest when due, no Holder of a Security may pursue a remedy with respect to the Indenture or the Securities except as provided in the Indenture. Subject to certain restrictions, the Holders of a majority in principal amount of the then outstanding Securities are given the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. The Trustee may withhold from Holders of the Securities notice of any continuing Default or Event of Default (except in the case of a Default in the payment of principal of or interest on any Security) if and so long as a committee of its Responsible Officers determines that withholding notice is in the best interest of the Holders of the Securities. Holders of not less than a majori ty in aggregate principal amount of the then outstanding Securities by notice to the Trustee may on behalf of the Holders of all of the Securities waive an existing Default or Event of Default and its consequences under the Indenture, except a continuing Default or Event of Default in the payment of the principal of, premium, if

any, on or interest on the Securities (including in connection with an offer to repurchase). The Company shall deliver to the Trustee, within 120 days after the end of each fiscal year, an Officers' Certificate stating that in the course of the performance by the signers of their duties as Officers of the Company they would normally have knowledge of any Default and whether the signers know of any Default that occurred during the previous fiscal year. The Company shall deliver to the Trustee, within 30 days after the occurrence thereof, written notice of any event which would constitute a Default under the Indenture, its status and what action the Company is taking or proposes to take in respect thereof.

10. *Trustee Dealings with Company*.

The Trustee, in its individual or any other capacity may become the owner or pledgee of Securities and may otherwise deal with the Company or any Affiliates of the Company with the same rights it would have if it were not Trustee.

11. *No Recourse Against Others*.

No director, officer, employee, incorporator or stockholder of the Company or any Subsidiary will have any liability for any obligations of the Company or any Subsidiary under the Securities, any Subsidiary Guaranty or the Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder of the Securities by accepting a Security waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Securities.

12. *Governing Law.*

THE INDENTURE AND THIS SECURITY WILL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

13. *Authentication*.

This Security shall not be valid until authenticated by the manual or facsimile signature of the Trustee.

14. *Abbreviations*.

Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with rights of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

15. *CUSIP Numbers*.

The Company has caused CUSIP numbers to be printed on the Securities and the Trustee shall use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the correctness of such numbers either as printed on the Securities or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Phillips-Van Heusen Corporation
200 Madison Avenue
New York, NY 10016
Attention: General Counsel

ASSIGNMENT FORM

To assign this Security, fill in the form below:

(I) or (we) assign and transfer this Security to:

(Insert assignee's legal name)

(Insert assignee's soc. sec. or tax I.D. no.)

(Print or type assignee's name, address and zip code)

and irrevocably appoint
agent to transfer this Security on the books of the Company. The agent may substitute another to act for him or her.

Date: _____

Your Signature:
(Sign exactly as your name appears on the face of this Security)

Signature Guarantee*: _____

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL SECURITY

The initial outstanding principal amount of this Global Security is $_____. The following exchanges of a part of this Global Security for an interest in another Global Security or for a certificated Security, or exchanges of a part of another Global Security or certificated Security for an interest in this Global Security, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Security	Amount of increase in Principal Amount of this Global Security	Principal Amount of this Global Security following such decrease (or increase)	Signature of authorized officer of Trustee or Security Custodian

EXHIBIT 4.16
EXECUTION COPY

THIRD SUPPLEMENTAL INDENTURE

Dated as of May 6, 2010

to

INDENTURE

Dated as of November 1, 1993

between

PHILLIPS-VAN HEUSEN CORPORATION

AND

THE BANK OF NEW YORK MELLON, AS TRUSTEE

$100,000,000

7 3/4% Debentures Due 2023

This THIRD SUPPLEMENTAL INDENTURE (this "***Supplemental Indenture***"), dated as of May 6, 2010, is entered into by and between Phillips-Van Heusen Corporation, a Delaware corporation (the "***Company***"), and The Bank of New York Mellon (formerly known as The Bank of New York), a New York banking corporation, as trustee (the "***Trustee***") for the Holders.

W I T N E S S E T H:

WHEREAS, the Company and the Trustee have entered into that certain Indenture dated as of November 1, 1993 (the "***Indenture***") which provides for, among other things, the issuance by the Company of 7-3/4% Debentures due 2023 (the "***Securities***"); and

WHEREAS, the Company has entered into that certain Credit and Guaranty Agreement, dated as of the date hereof, among the Company, certain subsidiaries of the Company from time to time party thereto, the lenders from time to time party thereto (the "***Lenders***"), Barclays Bank PLC, as administrative agent and collateral agent (the "***Credit Agreement Collateral Agent***"), and the other agents party thereto, as the same has been and may hereafter be amended or extended from time to time (the "***Credit Agreement***"), pursuant to which, among other things, the Lenders will make certain loans and other financial accommodations to the Company (the "***Domestic Credit Agreement Obligations***") and certain foreign borrowers (the "***Foreign Credit Agreement Obligations***" and, together with the Domestic Credit Agreement Obligations, the 47;***Credit Agreement Obligations***") thereunder on the terms and conditions set forth therein; and

WHEREAS, the Company and U.S. Bank National Association have entered into that certain indenture, dated as of the date hereof, which provides for, among other things, the issuance by the Company of $600,000,000 of unsecured unsubordinated notes due 2020 (the "***2020 Notes***"); and

WHEREAS, the Company will use the proceeds of borrowings under the Credit Agreement and of the 2020 Notes (together with cash on hand and proceeds from the issuance of shares of the Company's common stock and shares of Series A preferred stock) to fund the acquisition of Tommy Hilfiger B.V., repurchase or redeem the Company's 7¼% senior notes due 2011 and $8^{1}/_{8}$% senior notes due 2013 and pay related fees and expenses; and

WHEREAS, the Company has entered into that certain U.S. Pledge and Security Agreement, dated as of the date hereof (the "***U.S. Pledge and Security Agreement***"), between the Company, certain domestic subsidiaries of the Company from time to time party thereto (together with the Company, the "***Credit Agreement Grantors***") and the Credit Agreement Collateral Agent, pursuant to which the Credit Agreement Grantors granted to the Credit Agreement Collateral Agent, for the equal and ratable benefit of the Secured Parties (as such term is defined in the Credit Agreement) and the Trustee, a security interest in and continuing lien on all of such Credit Agreement Grantors' right, title and interest in, to and under the Collateral (as such term is defined in the U.S. Pledge and Security Agreement) (the "***U.S. Pledge and Security Agreement Liens***"); and

WHEREAS, the Company has entered into that certain Stock Purchase Agreement, dated as of December 17, 2002 (the "***CK Purchase Agreement***"), among the Company, Calvin Klein, Inc. ("***CKI***"), Calvin Klein (Europe), Inc., Calvin Klein (Europe II) Corp., Calvin Klein Europe S.r.l., CK Service Corp. ("***CK Service***" and together with CKI, the "***CK Companies***"), Calvin Klein ("***Mr. Klein***"), Barry Schwartz, Trust for the Benefit of the Issue of Calvin Klein, Trust for the Benefit of the Issue of Barry Schwartz, Stephanie Schwartz-Ferdman and Jonathan Schwartz; and

WHEREAS, the Company has entered into that certain Amended and Restated Pledge and Security Agreement, dated as of the date hereof (the "***CK Pledge and Security Agreement***"), by the Company and the CK Companies, in favor of Mr. Klein or his heirs, successors and assigns (the "***Klein Heirs***" and together with Mr. Klein, the "***Klein Secured Parties***"), and The Bank of New York Mellon Trust Company, N.A., as collateral agent (the "***CK Collateral Agent***") for the equal and ratable benefit of the Klein Secured Parties and the Trustee (collectively, the "***CK Secured Parties***"); and

WHEREAS, the CK Collateral Agent and the Credit Agreement Collateral Agent have entered into that certain CK Intercreditor Agreement, dated as of the date hereof (the "***CK Intercreditor Agreement***"); and

WHEREAS, pursuant to the CK Pledge and Security Agreement, (a) the Company pledged to the CK Collateral Agent for the equal and ratable benefit of the CK Secured Parties, and granted to the CK Collateral Agent equal and ratable for the benefit of the CK Secured Parties, a lien upon and security interest in all of the Company's right, title and interest in and to the CK Equity Interests Collateral (as defined in the CK Pledge and Security Agreement) and (b) the CK Companies (together with each domestic subsidiary of a CK Company which becomes (or is required to become) an additional pledgor under the CK Pledge and Security Agreement after the date hereof, the "***CK Grantors***") pledged to the CK Collateral Agent for the equal and ratable benefit of the CK Secured Parties, and granted to the CK Collateral Agent for the equal and ratable benefit of the CK Secured Parties, a lien upon and security interest in all of its right, title and interest in and to the CK Collateral (as defined in the CK Pledge and Security Agreement, and together with the CK Equity Interests Collateral, the "***CK Pledge and Security Agreement Collateral***") (such liens, collectively, the "***CK Pledge and Security Agreement Liens***"); and

WHEREAS, the Company has entered into that certain U.S. CKI Related Assets Pledge and Security Agreement, dated as of the date hereof (the "***U.S. CKI Related Assets Pledge and Security Agreement***"), between the Company, the CK Companies and the Credit Agreement Collateral Agent, pursuant to which (a) the Company pledged and granted (i) to the Credit Agreement Collateral Agent, for the benefit of the Secured Parties, and (ii) to the Credit Agreement Collateral Agent, for the equal and ratable benefit of the Trustee (such pledge and grant for the equal and ratable benefit of the Trustee to be automatically effective to the extent (and only to the extent) the CK Pledge and Security Agreement Liens are terminated in the future and at such time the Credit Agreement Obligations remain outstanding), a security interest in and continuing lien on all of the Company's right, title and interest in and to the CK Eq uity Interests Collateral and (b) the CK Companies granted (i) to the Credit Agreement Collateral Agent, for the benefit of the Secured Parties, and (ii) to the Credit Agreement Collateral Agent, for the

equal and ratable benefit of the Trustee (such pledge and grant for the equal and ratable benefit of the Trustee to be automatically effective to the extent (and only to the extent) the CK Pledge and Security Agreement Liens are terminated in the future and at such time the Credit Agreement Obligations remain outstanding), a security interest in and continuing lien on all of its right, title and interest in and to all of the CK Collateral (such liens, collectively, the "***U.S. CKI Related Assets Pledge and Security Agreement Liens***"); and

WHEREAS, certain of the Company's foreign subsidiaries (together with the Credit Agreement Grantors and the CK Grantors, the "***Grantors***"), including, without limitation, Tommy Hilfiger Canada Inc., Tommy Hilfiger Canada Retail Inc., Hilfiger Beteiligungsgesellschaft GmbH (formerly known as Hilfiger Holdings GmbH), Hilfiger Holdings Germany GmbH & Co. KG, Hilfiger Stores GmbH, TH Deutschland GmbH, Tommy Hilfiger Footwear Europe GmbH, Trumpet C.V., Prince 1 B.V., Prince 2 B.V., Tommy Hilfiger B.V., Tommy Hilfiger Group B.V., Tommy Hilfiger Europe B.V., Hilfiger Stores B.V. and TH Monument B.V., have executed on the date hereof or may execute, after the date hereof, to the extent required under the Credit Agreement, pledges and/or security agreements in Canada, Germany and the Netherlands, as applicable (collectively, the "***Foreign Pledge and Security Agreements***"), pledging and granting to the Credit Agreement Collateral Agent, for the equal and ratable benefit of the Secured Parties and the Trustee, a security interest in and continuing lien on certain of such foreign subsidiaries' right, title and interest in, to and under all personal and other property of such foreign subsidiaries (the "***Foreign Grantor Collateral***" and such liens, collectively, the "***Foreign Grantor Liens***"); and

WHEREAS, the Company, the Credit Agreement Collateral Agent and the Trustee have entered into that certain Intercreditor Agreement, dated as of the date hereof (the "***Foreign Obligor Intercreditor Agreement***" and together with the Foreign Pledge and Security Agreements, the "***Foreign Collateral Documents***"); and

WHEREAS, the Company, PVH Foreign Holdings Corp. and Tomcan Investments Inc. (collectively, together with the domestic subsidiaries of the Company party thereto from time to time, the "***Pledgors***") and the Credit Agreement Collateral Agent have entered into that certain U.S. Pledge Agreement, dated as of the date hereof (the "***U.S. Pledge Agreement***"), pursuant to which the Pledgors granted to the Credit Agreement Collateral Agent, for the equal and ratable benefit of the Foreign Obligations Secured Parties (as such term is defined in the Credit Agreement) and the Trustee, a security interest in and continuing lien on all of each such Pledgor's right, title and interest in, to and under all outstanding capital stock of, or interest in, any Foreign Subsidiary (as defined in the Credit Agreement) of the applicable Pledgor other than any such interests that are pledged p ursuant to the U.S. Pledge and Security Agreement and all proceeds, products, accessions, rents and profits of or in respect of any of the foregoing, in each case whether now or hereafter existing or in which any such Pledgor now has or hereafter acquires an interest and wherever the same may be located, except as such may be excluded pursuant to Section 2.2 of the U.S. Pledge Agreement (the "***Other Pledged Equity***" and such liens, collectively, the "***Other Pledged Equity Liens***" and together with the U.S. Pledge and Security Agreement Liens, U.S. CKI Related Assets Pledge and Security Agreement Liens and Foreign Grantor Liens, the "***Credit Agreement Liens***"); and

WHEREAS, the granting of the Credit Agreement Liens and CK Pledge and Security Agreement Liens, as applicable, is permitted by Section 1008 of the Indenture, provided that the Company and the other Grantors grant to the Trustee, on behalf of the Holders, liens on and security interests in the Collateral, Foreign Grantor Collateral, Other Pledged Equity and CK Pledge and Security Agreement Collateral, as applicable, in order to equally and ratably secure the obligations under the Securities with the Credit Agreement Obligations and the CK First Lien Obligations (as defined below), as applicable; and

WHEREAS, the U.S. Pledge and Security Agreement Liens shall equally and ratably secure the Credit Agreement Obligations and the obligations under the Securities; and

WHEREAS, the Foreign Grantor Liens shall equally and ratably secure the Foreign Credit Agreement Obligations and the obligations under the Securities; and

WHEREAS, the Other Pledged Equity Liens shall equally and ratably secure the Foreign Credit Agreement Obligations and the obligations under the Securities; and

WHEREAS, the CK Pledge and Security Agreement Liens shall equally and ratably secure (a) the obligations under the Securities, (b) all guarantee obligations, fees, expenses and all other obligations under the First Lien Documents (as such term is defined in the CK Intercreditor Agreement), whether now existing or hereinafter incurred, created or arising, direct or indirect, absolute or contingent, due or to become due and (c) any other Klein Obligations (as such term is defined in the CK Intercreditor Agreement) (collectively, the "***CK First Lien Obligations***"); and

WHEREAS, the U.S. CKI Related Assets Pledge and Security Agreement Liens shall secure the Credit Agreement Obligations and, to the extent the CK Pledge and Security Agreement Liens are terminated in the future and at such time the Credit Agreement Obligations remain outstanding, shall equally and ratably secure the Credit Agreement Obligations and the obligations under the Securities; and

WHEREAS, pursuant to the CK Intercreditor Agreement, the CK Pledge and Security Agreement Liens securing the CK First Lien Obligations shall be senior in all respect and prior to the U.S. CKI Related Assets Pledge and Security Agreement Liens securing the Credit Agreement Obligations; and

WHEREAS, Section 901(3) of the Indenture provides, among other things, that the Company and the Trustee may enter into indentures supplemental to the Indenture without the consent of the Holders for, among other things, the purpose of securing the Securities as required pursuant to Section 1008 of the Indenture; and

WHEREAS, the parties hereto desire to enter into this Supplemental Indenture in accordance with Section 901(3) of the Indenture; and

WHEREAS, the Company has been duly authorized by its Board of Directors to enter into, execute and deliver, and hereby authorizes and directs the Trustee on behalf of the Holders to execute and deliver, this Supplemental Indenture:

NOW, THEREFORE, for and in consideration of the premises and covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Trustee agree as follows:

SECTION 1. Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed thereto in the Indenture.

SECTION 2. The Trustee hereby acknowledges the granting of the U.S. Pledge and Security Agreement Liens as collateral security for the payment of principal and interest and all other amounts due and owing pursuant to the terms of the Securities on an equal and ratable basis with the Credit Agreement Obligations until such time as (a) the Credit Agreement Obligations have been paid in full and all commitments of the Lenders under the Credit Agreement have terminated or (b) the sum, without duplication, of the Credit Agreement Obligations and the Attributable Value of all Sale and Leaseback Transactions no longer exceeds the Lien Limitation (a "***U.S. Pledge and Security Agreement Lien Limitation Event***"). Further, the Trustee hereby agrees on behalf of the Holders, and only if so directed by the Company, to execute and deliver the U.S. Pledge and Security Agreement.

SECTION 3. The Trustee hereby acknowledges the pledge and granting of the CK Pledge and Security Agreement Liens as collateral security for the payment of principal and interest and all other amounts due and owing pursuant to the terms of the Securities on an equal and ratable basis with the other CK First Lien Obligations until such time as (a) the other CK First Lien Obligations have been paid in full or (b) the sum, without duplication, of the other CK First Lien Obligations and the Attributable Value of all Sale and Leaseback Transactions no longer exceeds the Lien Limitation (a "***CK Pledge and Security Agreement Lien Limitation Event***"). Further, the Trustee hereby agrees on behalf of the Holders, and only if so directed by the Company, to execute and deliver (A) the CK Pledge and Security Agreement and (B) an acknowledgement of the CK Intercreditor Agreement.

SECTION 4. The Trustee hereby acknowledges that the Foreign Grantor Liens that have been pledged and granted on the date hereof or that will be pledged and granted after the date hereof are or will be pledged and granted as collateral security for the payment of principal and interest and all other amounts due and owing pursuant to the terms of the Securities on an equal and ratable basis with the Foreign Credit Agreement Obligations until such time as (a) the Foreign Credit Agreement Obligations have been paid in full and all commitments of the Lenders under the Credit Agreement in respect of the Foreign Credit Agreement Obligations have terminated or (b) the sum, without duplication, of the Foreign Credit Agreement Obligations and the Attributable Value of all Sale and Leaseback Transactions no longer exceeds the Lien Limitation (a "***Foreign Grantor Lien Limitation Event***"). Further, the Truste e hereby agrees on behalf of the Holders, and only if so directed by the Company, to execute and deliver the Foreign Collateral Documents and the Company hereby directs the Trustee to execute on behalf of the Holders and the Trustee hereby agrees to so execute the Foreign Obligor Intercreditor Agreement. With respect to Foreign Collateral Documents to be executed in the future, the Trustee shall be entitled to the protections of the last sentence of Section 903 of the Indenture as if that Section related to such Foreign Collateral Documents.

SECTION 5. The Trustee hereby acknowledges the granting of the Other Pledged Equity Liens as collateral security for the payment of principal and interest and all other amounts due and owing pursuant to the terms of the Securities on an equal and ratable basis with the Foreign Credit Agreement Obligations until such time as (a) the Foreign Credit Agreement Obligations have been paid in full and all commitments of the Lenders under the Credit Agreement in respect of the Foreign Credit Agreement Obligations have terminated or (b) the sum, without duplication, of the Foreign Credit Agreement Obligations and the Attributable Value of all Sale and Leaseback Transactions no longer exceeds the Lien Limitation (a "***U.S. Pledge Agreement Lien Limitation Event***"). Further, the Trustee hereby agrees on behalf of the Holders, and only if so directed by the Company, to execute and deliver the U.S. Pledge Agreement.

SECTION 6. To the extent the CK Pledge and Security Agreement Liens are terminated in the future and at such time the Credit Agreement Obligations remain outstanding, (a) the Trustee hereby acknowledges that the pledge and grant to the Credit Agreement Collateral Agent by the Company and CK Companies, for the benefit of the Trustee, of the US CKI Related Assets Pledge and Security Agreement Liens as collateral security for the payment of principal and interest and all other amounts due and owing pursuant to the terms of the Securities on an equal and ratable basis with the Credit Agreement Obligations shall automatically become effective and shall remain effective until such time as (i) the Credit Agreement Obligations have been paid in full or (ii) the sum, without duplication, of the Credit Agreement Obligations and the Attributable Value of all Sale and Leaseback Transactions no longer exceeds the Lien Limitation (a 7;***US CKI Related Assets Pledge and Security Agreement Lien Limitation Event***"); and (b) the Trustee hereby agrees on behalf of the Holders, and only if so directed by the Company, to execute and deliver the U.S. CKI Related Assets Pledge and Security Agreement.

SECTION 7. The Company hereby consents to the granting of the U.S. Pledge and Security Agreement Liens as collateral security for the payment of principal and interest and all other amounts due and owing pursuant to the terms of the Securities on an equal and ratable basis with the Credit Agreement Obligations until such time as the Credit Agreement Obligations have been paid in full and all commitments of the Lenders under the Credit Agreement have terminated or a U.S. Pledge and Security Agreement Lien Limitation Event has occurred.

SECTION 8. The Company hereby consents to the pledge and granting of the CK Pledge and Security Agreement Liens as collateral security for the payment of principal and interest and all other amounts due and owing pursuant to the terms of the Securities on an equal and ratable basis with the other CK First Lien Obligations until such time as the other CK First Lien Obligations have been paid in full or a CK Pledge and Security Agreement Lien Limitation Event has occurred.

SECTION 9. The Company hereby consents to the pledge and granting of the Foreign Grantor Liens as collateral security for the payment of principal and interest and all other amounts due and owing pursuant to the terms of the Securities on an equal and ratable basis with the Foreign Credit Agreement Obligations until such time as the Foreign Credit Agreement Obligations have been paid in full and all commitments of the Lenders under the Credit Agreement in respect of the Foreign Credit Agreement Obligations have terminated or a Foreign Grantor Lien Limitation Event has occurred.

SECTION 10. The Company hereby consents to the granting of the Other Pledge Equity Liens as collateral security for the payment of principal and interest and all other amounts due and owing pursuant to the terms of the Securities on an equal and ratable basis with the Foreign Credit Agreement Obligations until such time as the Foreign Credit Agreement Obligations have been paid in full and all commitments of the Lenders under the Credit Agreement in respect of the Foreign Credit Agreement Obligations have terminated or a U.S. Pledge Agreement Lien Limitation Event has occurred.

SECTION 11. The Company hereby consents to the pledge and granting (effective in accordance with Section 5 hereof) of the U.S. CKI Related Assets Pledge and Security Agreement Liens as collateral security for the payment of principal and interest and all other amounts due and owing pursuant to the terms of the Securities on an equal and ratable basis with the Credit Agreement Obligations until such time as the Credit Agreement Obligations have been paid in full and all commitments of the Lenders under the Credit Agreement have terminated or a U.S. CKI Related Assets Pledge and Security Agreement Lien Limitation Event has occurred.

SECTION 12. Except as expressly supplemented by this Supplemental Indenture, the Indenture and the Securities issued thereunder are in all respects ratified and confirmed and all of the rights, remedies, terms, conditions, covenants and agreements of the Indenture and the Securities issued thereunder shall remain in full force and effect.

SECTION 13. This Supplemental Indenture is executed and shall constitute an indenture supplemental to the Indenture and shall be construed in connection with and as part of the Indenture. This Supplemental Indenture shall be governed by and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of law.

SECTION 14. This Supplemental Indenture may be executed in any number of counterparts, each of which shall be deemed to be an original for all purposes; such counterparts shall together be deemed to constitute one and the same instrument.

SECTION 15. Any and all notices, requests, certificates and other instruments executed and delivered after the execution and delivery of this Supplemental Indenture may refer to the Indenture without making specific reference to this Supplemental Indenture, but nevertheless all such references shall include this Supplemental Indenture unless the context otherwise requires.

SECTION 16. This Supplemental Indenture shall be deemed to have become effective upon the date first written above.

SECTION 17. In the event of a conflict between the terms of this Supplemental Indenture and the Indenture, this Supplemental Indenture shall control.

SECTION 18. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Company.

[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the parties have caused this Supplemental Indenture to be duly executed as of the day and year first set forth above.

PHILLIPS-VAN HEUSEN CORPORATION

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

THE BANK OF NEW YORK MELLON, as Trustee

By: /s/ Kimberly Agard
Name: Kimberly Agard
Title: Vice President

[Signature Page to Third Supplemental Indenture]

EXHIBIT 10.1
EXECUTION VERSION

CREDIT AND GUARANTY AGREEMENT

dated as of May 6, 2010

among

PHILLIPS-VAN HEUSEN CORPORATION, as U.S. Borrower,

TOMMY HILFIGER B.V., as Foreign Borrower,

**CERTAIN SUBSIDIARIES OF PHILLIPS-VAN HEUSEN CORPORATION,
as Guarantors,**

VARIOUS LENDERS,

**BARCLAYS CAPITAL and DEUTSCHE BANK SECURITIES INC.,
as Joint Lead Arrangers,**

BARCLAYS CAPITAL, DEUTSCHE BANK SECURITIES INC., BANC OF AMERICA SECURITIES LLC, CREDIT SUISSE SECURITIES (USA) LLC and RBC CAPITAL MARKETS, as Joint Lead Bookrunners,

**BARCLAYS BANK PLC,
as Administrative Agent and Collateral Agent,**

DEUTSCHE BANK SECURITIES INC., as Syndication Agent,

and

**BANC OF AMERICA SECURITIES LLC, CREDIT SUISSE SECURITIES (USA) LLC and RBC CAPITAL MARKETS,
as Co-Documentation Agents**

Senior Secured Credit Facilities

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CREDIT AND GUARANTY AGREEMENT

This **CREDIT AND GUARANTY AGREEMENT**, dated as of May 6, 2010, is entered into by and among **PHILLIPS-VAN HEUSEN CORPORATION**, a Delaware corporation (the "U.S. Borrower"), **TOMMY HILFIGER B.V.**, a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), **CERTAIN SUBSIDIARIES OF THE U.S. BORROWER**, as Guarantors, the Lenders party hereto from time to time, and **BARCLAYS BANK PLC** ("Barclays Bank"), as Administrative Agent (together with its permitted successors in such capacity, the "Administrative Agent") and as Collateral Agent (together with its permitted successors in such capacity, the "Collateral Agent"), with Deutsche Bank Securities Inc. ("DBSI"), as S yndication Agent (together with its permitted successors in such capacity, the "Syndication Agent"), and Banc of America Securities LLC ("BAS"), Credit Suisse Securities (USA) LLC ("CS Securities") and Royal Bank of Canada ("RBC"), as Co-Documentation Agents (the "Co-Documentation Agents").

RECITALS:

WHEREAS, capitalized terms used in these Recitals have the respective meanings set forth for such terms in Section 1.01 hereof;

WHEREAS, pursuant to that certain Purchase Agreement, dated as of March 15, 2010 (the "Acquisition Agreement"), by and among the U.S. Borrower, Tommy Hilfiger Corporation, a British Virgin Islands corporation ("Seller BVI"), Tommy Hilfiger Holding S.a.r.l., a Luxembourg limited liability company (together with Seller BVI, the "Seller"), Tommy Hilfiger B.V., a Dutch limited liability company (the "Acquired Business"), and the other parties thereto**,** the U.S. Borrower has acquired all of the equity interests (the "Acquisition") of Tommy Hilfiger U.S.A., Inc. and the Acquired Business;

WHEREAS, in connection with the Acquisition, the U.S. Borrower shall receive at least $400,000,000 in exchange for common equity issued to the public market or to private investors (the "Equity Contribution");

WHEREAS, the Lenders have agreed to extend certain credit facilities to the Borrowers named herein, consisting of $367,700,000 aggregate principal amount of U.S. Tranche A Term Loans, €100,000,000 aggregate principal amount of Foreign Tranche A Term Loans, $1,003,100,000 aggregate principal amount of U.S. Tranche B Term Loans, €300,000,000 aggregate principal amount of Foreign Tranche B Term Loans, up to $265,000,000 aggregate principal amount of U.S. Revolving Commitments, up to $10,000,000 aggregate principal amount of Canadian Revolving Commitments and up to €132,275,132.28 aggregate principal amount of Foreign Revolving Commitments, the proceeds of which shall be used to fi nance, in part, the Acquisition (including refinancing or retiring certain existing Indebtedness of the U.S. Borrower, the Acquired Business and their respective Subsidiaries and paying Transaction Costs);

WHEREAS, the Borrowers have agreed to secure all of their Obligations by granting to the Collateral Agent, for the benefit of the Secured Parties, a First Priority Lien on substantially

all of their respective assets, including a pledge of all of the Equity Interests of each of their respective Subsidiaries, subject to the exceptions and limitations described herein; and

WHEREAS, subject to the terms hereof and the limitations described herein, (i) the U.S. Guarantors have agreed to guarantee the obligations of the Borrowers hereunder and to secure their respective Obligations by granting to the Collateral Agent, for the benefit of the Secured Parties, a First Priority Lien on substantially all of their respective assets, including a pledge of all of the Equity Interests of each of their respective U.S. Subsidiaries and limited to 66% of all the Equity Interests of certain of their respective first tier Foreign Subsidiaries and U.S.-Owned DREs with respect to any grant of security in respect of the guarantee of obligations of the U.S. Borrower (*provided*, that if a U.S.-Owned DRE owns less than 100% of a Foreign Subsidiary, the granting of the securities in the Equity Interests of such U.S.-Owned DRE shall be adjusted so that the Equity Interests representing 66% (but n ot more than 66%) of the Equity Interests in such Foreign Subsidiary (in the aggregate) are pledged), but all of the Equity Interests of each of their Foreign Subsidiaries in respect of the guarantee of obligations of the Foreign Borrower, and (ii) the Foreign Guarantors have agreed to guarantee the obligations of the Foreign Borrower hereunder and to secure their respective Obligations by granting to the Collateral Agent, for the benefit of the Foreign Obligations Secured Parties, a First Priority Lien on certain of their respective assets, including a pledge of all of the Equity Interests of each of their respective Subsidiaries in each case of clauses (i) and (ii) subject to certain exceptions and limitations.

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

ARTICLE I.
DEFINITIONS AND INTERPRETATION

Section 1.01 Definitions

. The following terms used herein, including in the preamble, recitals, exhibits and schedules hereto, shall have the following meanings:

"2020 Notes" means the 7.375% senior unsecured notes due 2020 issued by the U.S. Borrower pursuant to the 2020 Notes Indenture.

"2020 Notes Documents" means the 2020 Notes, the 2020 Notes Indenture and all other instruments, agreements and other documents evidencing or governing the 2020 Notes or providing for any guarantee or other right in respect thereof

"2020 Notes Indenture" means that certain Indenture dated as of the date hereof, between the U.S. Borrower and U.S. Bank National Association, as trustee.

"2023 Debentures" means the 7-3/4% debentures due 2023 issued by the U.S. Borrower pursuant to the 2023 Debentures Indenture.

"2023 Debentures Indenture" means that certain Indenture dated as of November 1, 1993, between the U.S. Borrower and the 2023 Debentures Trustee.

"2023 Debentures Intercreditor Agreement" means that certain Intercreditor Agreement dated as of the date hereof between the U.S. Borrower, the Collateral Agent and The Bank of New York Mellon, as trustee under the 2023 Debentures Indenture.

"2023 Debentures Obligations" means all obligations of every nature of any Group Member under or with respect to the 2023 Debentures.

"2023 Debentures Trustee" means The Bank of New York, as trustee under the 2023 Debentures Indenture, and its successors in such capacity.

"Acceptable Bank" means (i) any bank or financial institution that has a rating for its long-term unsecured and non credit-enhanced debt obligations of A or higher by S&P or Fitch or A2 or higher by Moody's or a comparable rating from an internationally recognized credit rating agency or (ii) any bank that is credit insured by a United States, United Kingdom, Swiss, Danish, Japanese or Canadian or member state of the European Union government agency (including the Federal Deposit Insurance Company in the United States).

"Acquired Business" has the meaning specified in the recitals hereto.

"Acquired Permitted CapEx Amount" has the meaning set forth in Section 6.07(c).

"Acquisition" has the meaning specified in the recitals hereto.

"Acquisition Agreement" has the meaning specified in the recitals hereto.

"Acquisition Consideration" means the purchase consideration for any Permitted Acquisition and all other payments by any Group Member in exchange for, or as part of, or in connection with, any Permitted Acquisition, whether paid in cash or by exchange of Equity Interests or of properties or otherwise and whether payable at or prior to the consummation of such Permitted Acquisition or deferred 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, "earn-outs" and 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.

"Acquisition Documents" means the Acquisition Agreement together with all other instruments and agreements entered into by any Group Member in connection therewith.

"Additional Assets" means (a) any property, plant or equipment used in any business in which any Group Member was engaged on the Closing Date and any extension of such businesses consistent with industry developments and any business ancillary, complementary or related to any of the foregoing, (b) the Equity Interests of a Person that becomes a Subsidiary as a result of the acquisition of such Equity Interests by (including by merger or consolidation with or into) any Group Member or (c) Equity Interests constituting a minority interest in any Person that at such time is a Subsidiary.

"Adjusted Eurocurrency Rate" means, for any Interest Rate Determination Date with respect to an Interest Period for a Eurocurrency Rate Loan, the greater of (I) 1.75% per annum and (II) the rate per annum obtained by dividing (and rounding upward to the next whole multiple of 1/16 of 1.00%) (i) (a) the rate per annum (rounded to the nearest 1/100 of 1.00%) equal to the rate determined by the Administrative Agent to be the applicable Screen Rate for deposits (for delivery on the first day of such period) with a term equivalent to such period in the relevant currency, determined as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, or (b) in the event the rates referenced in the preceding clause (a) are not available, the rate per annum (rounded to the nearest 1/100 of 1.00%) equal to the offered quotation rate to first class banks in the London interban k market by the Administrative Agent for deposits (for delivery on the first day of the relevant period) in such currency of amounts in same day funds comparable to the principal amount of the applicable Loan of the Administrative Agent, in its capacity as a Lender, for which the Adjusted Eurocurrency Rate is then being determined with maturities comparable to such period as of approximately 11:00 a.m. (London, England time) on such Interest Rate Determination Date, by (ii) an amount equal to (a) one minus (b) the Applicable Reserve Requirement.

"Administrative Agent" has the meaning specified in the preamble hereto.

"Adverse Proceeding" means any action, suit or proceeding at law or in equity or, to the knowledge of any Authorized Officer of any Borrower, any hearing (whether administrative, judicial or otherwise), investigation before or by any Governmental Authority or arbitration (whether or not purportedly on behalf of any Group Member) against or affecting any Group Member or any property of any Group Member.

"Affected German Guarantor" has the meaning set forth in Section 7.13(a).

"Affected Lender" has the meaning set forth in Section 2.18(b).

"Affiliate" means, as applied to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, that Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlling", "controlled by" and "under common control with"), as applied to any Person, means the possession, directly or indirectly, of the power (i) to vote 10.0% or more of the Securities having ordinary voting power for the election of directors of such Person or (ii) to direct or cause the direction of the management and policies of that Person, whether through the ownership of voting Securities or by contract or otherwise; provided, that no Agent or Lender shall be deemed to be an Affiliate of any Loan Party.

"Agent" means each of the Administrative Agent, the Syndication Agent, the Collateral Agent and the Co-Documentation Agents.

"Agent Affiliates" has the meaning set forth in Section 10.01(b)(iii).

"Aggregate Amounts Due" has the meaning set forth in Section 2.17.

"Aggregate Payments" has the meaning set forth in Section 7.02(b).

"Agreed Security Principles" means the security principles applicable to Foreign Loan Parties as set forth on Schedule 1.01(e).

"Agreement" means this Credit and Guaranty Agreement, dated as of May 6, 2010, as it may be amended, restated, supplemented or otherwise modified from time to time.

"Agreement Currency" has the meaning set forth in Section 10.25.

"ALTA" means American Land Title Association, and any successor thereto.

"Ancillary Borrower" means, with respect to an Ancillary Facility, any Borrower or any Group Member that shall have acceded as a Borrower to this Agreement and become a Borrower under the Ancillary Facility pursuant to Section 10.26.

"Ancillary Commencement Date" means, in relation to an Ancillary Facility, the date on which that Ancillary Facility is first made available, which date shall be a Business Day within the Foreign Revolving Commitment Period.

"Ancillary Commitment" means, in relation to an Ancillary Lender and an Ancillary Facility, the Euro Equivalent of the maximum amount of Approved Currency which that Ancillary Lender has agreed (whether or not subject to satisfaction of conditions precedent) to make available from time to time under an Ancillary Facility and which has been authorized as such under Section 2.26, to the extent that amount is not cancelled or reduced under this Agreement or the Ancillary Documents relating to that Ancillary Facility.

"Ancillary Document" means each document relating to or evidencing the terms of an Ancillary Facility.

"Ancillary Facility" means any ancillary facility made available by any Ancillary Lender in accordance with Section 2.26.

"Ancillary Lender" means each Lender (or Affiliate of a Lender) that makes available an Ancillary Facility in accordance with Section 2.26.

"Ancillary Outstandings" means, at any time, in relation to an Ancillary Lender and an Ancillary Facility then in force, the aggregate of the Euro Equivalent of the following amounts outstanding under such Ancillary Facility: (a) the principal amount under each overdraft facility and on-demand short term loan facility (net of any credit balances on any account of any Borrower of an Ancillary Facility with the Ancillary Lender making available such Ancillary Facility to the extent that the credit balances are freely available to be set off by such Ancillary Lender against liabilities owed to it by that Borrower under such Ancillary Facility); (b) the face amount of each guaranty, bond and letter of credit under such Ancillary Facility and (c) the amount fairly representing the aggregate exposure (excluding interest and similar charges) of such Ancillary Lender under each other type of accommodation p rovided under such Ancillary Facility, in each of clauses (a) through (c), as determined by such Ancillary Lender, acting reasonably in accordance with its normal banking practice and in accordance with the relevant Ancillary Document.

"Applicable Margin" means (i) (a) with respect to U.S. Tranche B Term Loans that are Eurocurrency Rate Loans, 3.00% per annum, (b) with respect to U.S. Tranche B Term Loans that are Base Rate Loans, 2.00% per annum and (c) with respect to Foreign Tranche B Term Loans, 3.25% per annum, (ii) with respect to Tranche A Term Loans and Revolving Loans that are Eurocurrency Rate Loans, (a) from the Closing Date until the date of delivery of the Compliance Certificate and the financial statements for the second full Fiscal Quarter after the Closing Date, a percentage, per annum, determined by reference to the following table as if the Leverage Ratio then in effect were 3.00:1.00; and (b) thereafter, a percentage, per annum, determined by reference to the Leverage Ratio in effect from time to time as set forth below:

Leverage Ratio	**Applicable Margin for U.S. Tranche A Term Loans and U.S. Revolving Loans and Canadian Revolving Loans that are Eurocurrency Rate Loans**	**Applicable Margin for Foreign Tranche A Term Loans and Foreign Revolving Loans**
≥3.00:1.00	3.00%	3.25%
<3.00:1.00 ≥2.50:1.00	2.75%	3.00%
<2.50:1.00	2.50%	2.75%

and (iii) with respect to Swing Line Loans and U.S. Tranche A Term Loans and Revolving Loans that are Base Rate Loans or Canadian Prime Rate Loans, an amount equal to (a) the Applicable Margin for Eurocurrency Rate Loans as set forth in clause (ii)(a) or (ii)(b) above, as applicable, minus (b) 1.00% per annum. No change in the Applicable Margin for Tranche A Term Loans and Revolving Loans shall be effective until three (3) Business Days after the date on which the Administrative Agent has received the applicable financial statements and a Compliance Certificate pursuant to Section 5.01(c) calculating the Leverage Ratio. At any time the Borrower Representative has not submitted to the Administrative Agent the applicable information as and when required under Section 5.01(c), the Applicable Margin for Tranche A Term Loans and Revolving Loans shall be determined as if the Leverage Ratio were in excess of 3.00: 1.00. Promptly following receipt of the applicable information under Section 5.01(c), the Administrative Agent shall give each Lender telefacsimile or telephonic notice (confirmed in writing) of the Applicable Margin for Tranche A Term Loans and Revolving Loans in effect from such date. In the event that any financial statement or certificate delivered pursuant to Section 5.01 is shown to be inaccurate, and such inaccuracy, if corrected, would have led to the application of a higher Applicable Margin for Tranche A Term Loans and Revolving Loans for any period (an "Applicable Period") than the Applicable Margin for Tranche A Term Loans and Revolving Loans applied for such Applicable Period, then (i) the Borrower Representative shall immediately deliver to the Administrative Agent a correct certificate required by Section 5.01 for

such Applicable Period, (ii) the Applicable Margin for Tranche A Term Loans and Revolving Loans shall be recalculated with the Leverage Ratio at the corrected level and (iii) each applicable Borrower shall immediately pay to the Administrative Agent the accrued additional interest owing as a result of such increased Applicable Margin for Tranche A Term Loans and Revolving Loans for such Applicable Period. Nothing in this definition shall limit the right of the Administrative Agent or any Lender under Section 2.10 or Article VIII and the provisions of this definition shall survive the termination of this Agreement.

"Applicable Reserve Requirement" means, at any time, for any Eurocurrency Rate Loan, the maximum rate, expressed as a decimal, at which reserves (including any basic marginal, special, supplemental, emergency or other reserves) are required to be maintained with respect thereto against "Eurocurrency liabilities" (as such term is defined in Regulation D) under regulations issued from time to time by the Board of Governors or other applicable banking regulator. The rate of interest on Eurocurrency Rate Loans shall be adjusted automatically on and as of the effective date of any change in the Applicable Reserve Requirement.

"Applicable Revolving Commitment Fee Percentage" means (a) from the Closing Date until the date of delivery of the Compliance Certificate and the financial statements for the second full Fiscal Quarter after the Closing Date, a percentage, per annum, determined by reference to the following table as if the Leverage Ratio then in effect were 3.00:1.00; and (b) thereafter, a percentage, per annum, determined by reference to the Leverage Ratio in effect from time to time as set forth below:

Leverage Ratio	**Applicable Revolving Commitment Fee Percentage for U.S. Revolving Loans and Canadian Revolving Loans**	**Applicable Revolving Commitment Fee Percentage for Foreign Revolving Loans**
≥3.00:1.00	0.75%	1.30%
<3.00:1.00 ≥2.50:1.00	0.75%	1.20%
<2.50:1.00	0.50%	1.10%

No change in the Applicable Revolving Commitment Fee Percentage shall be effective until three (3) Business Days after the date on which the Administrative Agent has received the applicable financial statements and a Compliance Certificate pursuant to Section 5.01(c) calculating the Leverage Ratio. At any time the Borrower Representative has not submitted to the Administrative Agent the applicable information as and when required under Section 5.01(c), the Applicable Revolving Commitment Fee Percentage shall be determined as if the Leverage Ratio were in excess of 3.00:1.00. Promptly following receipt of the applicable information under Section 5.01(c), the Administrative Agent shall give each Lender telefacsimile or telephonic notice (confirmed in writing) of the Applicable Revolving Commitment Fee Percentage in effect from such date. In the event that any financial statement or certificate

delivered pursuant to Section 5.01 is shown to be inaccurate, and such inaccuracy, if corrected, would have led to the application of a higher Applicable Revolving Commitment Fee Percentage for any Applicable Period than the Applicable Revolving Commitment Fee Percentage applied for such Applicable Period, then (i) the Borrower Representative shall immediately deliver to the Administrative Agent a correct certificate required by Section 5.01 for such Applicable Period, (ii) the Applicable Revolving Commitment Fee Percentage shall be recalculated with the Leverage Ratio at the corrected level and (iii) each applicable Borrower shall immediately pay to the Administrative Agent the accrued additional fees owing as a result of such increased Applicable Revolving Commitment Fee Percentage for such Applicable Period. Nothing in this definition shall limit the right of the Administrative Agent or any Lender under Section 2.10 or Artic le VIII and the provisions of this definition shall survive the termination of this Agreement.

"Appointer" has the meaning set forth in Section 9.13.

"Approved Currency" means each of Dollars, Euros, Canadian Dollars or any Other Foreign Currency.

"Approved Electronic Communications" means any notice, demand, communication, information, document or other material that any Loan Party provides to the Administrative Agent pursuant to any Loan Document or the transactions contemplated therein which is distributed to Agents or to Lenders by means of electronic communications pursuant to Section 10.01(b).

"Arrangers" means each of Barclays Capital and DBSI, in its capacity as joint lead arranger under the Commitment Letter.

"Asset Sale" means a sale, lease or sub-lease (as lessor or sublessor), sale and leaseback, assignment, conveyance, exclusive license (as licensor or sublicensor), transfer or other disposition to, or any exchange of property with, any Person (other than (a) any Loan Party or (b) any Restricted Subsidiary in the ordinary course of business), in one transaction or a series of transactions, of all or any part of any Group Member's businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired, leased or licensed, including the Equity Interests of any of the U.S. Borrower's Subsidiaries, other than (i) inventory (or other assets) sold, leased, licensed out or otherwise disposed of in the ordinary course of business, (ii) sales, leases, licenses out or other dispositions of worn out, obsolete, scrap or surplus assets or assets no longer useful in the conduct of the business of any Group Member, in each case, in the ordinary course of business and (iii) sales, leases, licenses out or other dispositions of other assets for aggregate consideration of less than $7,500,000 with respect to any transaction or series of related transactions.

"Assignment Agreement" means an assignment agreement in the form agreed to by the Administrative Agent and the Lenders on the Closing Date, with such amendments or modifications solely to reflect market practice as may be approved in writing by the Administrative Agent.

"Assignment Effective Date" has the meaning set forth in Section 10.06(b).

"Attributable Indebtedness" means, in respect of any Sale and Lease-Back, as at the time of determination, the present value (discounted at the interest rate borne by the 2020 Notes, compounded annually) of the total obligations of the lessee for rental payments during the remaining term of the Capital Lease included in such Sale and Lease-Back (including any period for which such Capital Lease has been extended).

"Auditor's Determination" has the meaning set forth in Section 7.13(f).

"Authorized Officer" means, as applied to any Person, the chairman of the board (if an officer), principal executive officer, president or any corporate vice presidents (or the equivalent thereof), principal financial officer, principal accounting officer or any director of such Person. Unless otherwise specified, an Authorized Officer shall refer to an Authorized Officer of the Borrower Representative.

"Available Amount" means, as of any date, the sum, without duplication, of: (i) the aggregate cumulative amount of any Consolidated Excess Cash Flow to the extent not otherwise required to be applied pursuant to Section 2.14(d), beginning with the Fiscal Year ending January 30, 2011, (ii) the Net Cash Proceeds received after the Closing Date and on or prior to the date of such determination of the Available Amount, of any sale of Equity Interests by, or capital contribution to, the U.S. Borrower (which, in the case of any such sale of Equity Interests is not Disqualified Equity Interests and are not issued in connection with the Transactions), and (iii) an amount equal to any returns (including dividends, interest, distributions, returns on principal, profits on sale, repayments, income and similar amounts) actually received in cash and Cash Equivalents by any Loan Party in respect of any Investment s made pursuant to Section 6.06(m), less, the sum of any Available Amount used to make (w) Restricted Payments pursuant to Section 6.04(f) and 6.04(g), (x) Investments permitted by Section 6.06(m) and (y) below par purchases of Term Loans in accordance with Section 2.13(c). For the avoidance of doubt, any Net Cash Proceeds from the sale of Equity Interests or any cash returns received in respect of any Investment pursuant to Section 6.06(m)(ii) or (n)(ii) received by any Group Member shall not be included in the Available Amount to the extent such Net Cash Proceeds or cash returns are utilized to make Restricted Payments pursuant to Section 6.04(f)(ii) or Investments pursuant to Section 6.06(m)(ii) or (n)(ii) as applicable, which are not specifically tied to the Available Amount.

"Bank Guarantee" means a direct guaranty issued for the account of the Foreign Borrower pursuant to this Agreement by an Issuing Bank, in form acceptable to such Issuing Bank, ensuring that a liability of the Foreign Borrower acceptable to such Issuing Bank and owing to a third party will be met.

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," as now and hereafter in effect, or any successor statute.

"Barclays Bank" has the meaning specified in the preamble hereto.

"Barclays Capital" means Barclays Capital, the investment banking division of Barclays Bank.

"BAS" has the meaning specified in the preamble hereto.

"Base Rate" means, for any day, a rate per annum equal to the greater of (i) the Prime Rate in effect on such day, (ii) the Federal Funds Effective Rate in effect on such day plus ½ of 1.00%, (iii) 2.75% and (iv) the Adjusted Eurocurrency Rate that would be payable on such day for a Eurocurrency Rate Loan with a one-month Interest Period plus 1.00%. Any change in the Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective on the effective day of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"Base Rate Loan" means a Loan bearing interest at a rate determined by reference to the Base Rate.

"Board of Directors" means with respect to any Person, the board of directors, the board of managers or similar governing body of such Person, or if such Person is owned and/or managed by a single entity, the board of directors or similar governing body of such entity.

"Board of Governors" means the Board of Governors of the United States Federal Reserve System, or any successor thereto.

"Bookrunners" means each of Barclays Capital, DBSI, BAS, CS Securities and RBC Capital Markets, in its capacity as joint bookrunner under the Commitment Letter.

"Borrower Financial Advisor" has the meaning set forth in Section 10.24.

"Borrower Representative" means the U.S. Borrower in its capacity as representative of the other Borrowers as set forth in Section 2.25.

"Borrowers" means the Persons identified as the "Borrowers" in the preamble hereto or any other Person that may accede to this Agreement as an Ancillary Borrower hereunder.

"Borrowing Notice" means a notice substantially in the form of Exhibit A-1.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, the state where the Administrative Agent's Principal Office with respect to the Obligations denominated in Dollars is located and:

(a) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such Eurocurrency Rate Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market;

(b) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in Euro, any fundings, disbursements, settlements and payments in Euro in respect of any such Eurocurrency Rate Loan, or any other dealings in Euro to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any day on

which the Trans-European Automated Real-time Gross Settlement Express Transfer which utilizes a single shared platform and which was launched on 19 November 2007 (TARGET 2) payment system (or, if such payment system ceases to be operative, such other payment system (if any) determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euro;

(c) if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in a currency other than Dollars or Euro, means any such day on which dealings in deposits in the relevant currency are conducted by and between banks in the London or other applicable offshore interbank market for such currency;

(d) if such day relates to any fundings, disbursements, settlements and payments in a currency other than Dollars or Euro in respect of a Eurocurrency Rate Loan denominated in a currency other than Dollars or Euro, or any other dealings in any currency other than Dollars or Euro to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan (other than any interest rate settings), means any such day on which banks are open for foreign exchange business in the principal financial center of the country of such currency;

(e) if such date relates to any interest rate settings, funding, disbursement, settlements and payments in Canadian Dollars, means any day other than a Saturday, Sunday or other day on which commercial banks in Toronto, Ontario are authorized or required by law to close; and

(f) if such day relates to any actions, omissions or obligations pursuant to Section 7.13, means any day other than a Saturday, Sunday or other day on which banks in Düsseldorf, Germany, are closed.

"Canadian Dollars" means the lawful money of Canada.

"Canadian Issuing Bank" means an Issuing Bank that has agreed to issue Canadian Letters of Credit.

"Canadian Letter of Credit" means any commercial or standby letter of credit issued or to be issued by an Issuing Bank for the account of the U.S. Borrower or any of its Subsidiaries pursuant to Section 2.04(a)(iii) of this Agreement, and any letter of credit listed on Schedule 1.01(i) issued and outstanding as of the Closing Date. Each such letter of credit listed on Schedule 1.01(i) shall be deemed to constitute a Canadian Letter of Credit and a Letter of Credit issued hereunder on the Closing Date for all purposes under this Agreement and the other Loan Documents.

"Canadian Letter of Credit Sublimit" means the lesser of (a) $5,000,000 and (b) the aggregate unused amount of the Canadian Revolving Commitments then in effect.

"Canadian Letter of Credit Usage" means, as at any date of determination, the sum of (i) the Dollar Equivalent of the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Canadian Letters of Credit then outstanding, and (ii) the Dollar Equivalent of the aggregate amount of all drawings under

Canadian Letters of Credit honored by the Issuing Bank and not theretofore reimbursed by or on behalf of the U.S. Borrower.

"Canadian Loan Party" means any Loan Party organized under the laws of Canada or any province or territory thereof.

"Canadian Prime Rate" means, at any time, the greater of (i) the average of the rates of interest per annum equal to the per annum rate of interest quoted, published and commonly known in Canada as the "prime rate" or which Royal Bank of Canada establishes at its main office in Toronto, Ontario as the reference rate of interest in order to determine interest rates for loans in Canadian Dollars to its Canadian borrowers, adjusted automatically with each quoted or published change in such rate, all without the necessity of any notice to the U.S. Borrower or any other Person and (ii) the sum of (x) the average of the rates per annum for Canadial Dollar bankers' acceptances having a term of one month that appears on the Reuters Screen CDOR Page as of 10:00 a.m. (Toronto time) on the date of determination, as reported by the Administrative Agent (and if such screen is not available, any su ccessor or similar service as may be selected by the Administrative Agent), and (y) 1.00%.

"Canadian Prime Rate Loans" means Loans for which the applicable rate of interest is based upon the Canadian Prime Rate.

"Canadian Refunded Swing Line Loans" has the meaning set forth in Section 2.03(b)(iv).

"Canadian Revolving Commitment" means the commitment of a Lender to make or otherwise fund any Canadian Revolving Loan and to acquire participations in Canadian Letters of Credit and Swing Line Loans hereunder and "Canadian Revolving Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's Canadian Revolving Commitment, if any, is set forth on Schedule 1.01(c) or in the applicable Assignment Agreement or Joinder Agreement, as applicable, subject to any adjustment or reduction pursuant to the terms and conditions hereof. The aggregate amount of the Canadian Revolving Commitments as of the Closing Date is $10,000,000.

"Canadian Revolving Commitment Period" means the period from the Closing Date to but excluding the Canadian Revolving Commitment Termination Date.

"Canadian Revolving Commitment Termination Date" means the earliest to occur of (i) the fifth anniversary of the Closing Date, (ii) the date the Canadian Revolving Commitments are permanently reduced to zero pursuant to Section 2.13(b) or 2.14 and (iii) the date of the termination of the Canadian Revolving Commitments pursuant to Section 8.01.

"Canadian Revolving Exposure" means, with respect to any Lender as of any date of determination, (i) prior to the termination of the Canadian Revolving Commitments, that Lender's Canadian Revolving Commitment; and (ii) after the termination of the Canadian Revolving Commitments, the sum of (a) the Dollar Equivalent of the aggregate outstanding principal amount of the Canadian Revolving Loans of that Lender, (b) in the case of an Issuing Bank, the Dollar Equivalent of the aggregate Canadian Letter of Credit Usage in respect of all Canadian Letters of Credit issued by such Issuing Bank (net of any participations by Lenders in

such Canadian Letters of Credit), (c) the Dollar Equivalent of the aggregate amount of all participations by that Lender in any outstanding Canadian Letters of Credit or any unreimbursed drawing under any Canadian Letter of Credit, (d) in the case of the Canadian Swing Line Lender, the aggregate outstanding principal amount of all Canadian Swing Line Loans (net of any participations therein by other Lenders), and (e) the aggregate amount of all participations therein by that Lender in any outstanding Canadian Swing Line Loans.

"Canadian Revolving Loan" means Loans made by a Lender in respect of its Canadian Revolving Commitment to the U.S. Borrower pursuant to Section 2.02(c) and/or Section 2.24.

"Canadian Security Documents" means (i) the Ontario law governed general security agreements entered into by Tommy Hilfiger Canada Inc. and Tommy Hilfiger Retail Canada, Inc.; (ii) the Quebec law governed deeds of hypothec, bonds, delivery orders and bond pledges entered into by Tommy Hilfiger Canada Inc. and Tommy Hilfiger Retail Canada Inc., (iii) the New York law governed share pledge agreements over the shares in Tommy Hilfiger Canada Inc. entered into by Tomcan Investments Inc. as pledgor; and (iv) the Ontario law governed share pledge agreement over the shares in Tommy Hilfiger Retail Canada Inc. entered into by Tommy Hilfiger Canada Inc. as pledgor.

"Canadian Swing Line Lender" means Barclays Bank in its capacity as the Canadian Swing Line Lender hereunder, together with its permitted successors and assigns in such capacity.

"Canadian Swing Line Loan" means a Loan made by the Canadian Swing Line Lender to the U.S. Borrower pursuant to Section 2.03(a)(ii).

"Canadian Swing Line Sublimit" means the lesser of (i) $5,000,000 and (ii) the aggregate unused amount of Canadian Revolving Commitments then in effect.

"Capital Lease" means, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

"Cash Collateralize" means either (a) the delivery of cash to the Collateral Agent as security for the payment of Obligations in respect of Letters of Credit in an amount equal to 102.0% of the aggregate face amount of such outstanding Letters of Credit or (b) the delivery to the applicable Issuing Bank of a customary back-to-back letter of credit in an amount equal to 102.0% of the aggregate face amount of the outstanding Letters of Credit issued by such Issuing Bank. "Cash Collateralization" has a correlative meaning.

"Cash Equivalents" means, as at any date of determination, any of the following: (i) marketable securities (a) issued or directly and unconditionally guaranteed as to interest and principal by the United States or Canadian Government or (b) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States or Canada, in each case maturing within one year after such date; (ii) marketable direct obligations issued by any state or province of the United States of America or Canada, as the case may be, or any political subdivision of any such state, province or any public

instrumentality thereof, in each case maturing within one year after such date and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody's or the equivalent rating from any other internationally recognized rating agency; (iii) certificates of deposit or bankers' acceptances maturing within one year after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof or the District of Columbia or Canada that (a) is at least "adequately capitalized" (as defined in the regulations of its primary Federal banking regulator), (b) has Tier 1 capital (as defined in such regulations) of not less than $500,000,000 and (c) has a rating of at least AA- from S&P and Aa3 from Moody's or the equivalent rating from any other internationally recognized rating agency; and (iv) shares of any money market mutual fund that (a) has substantially all of its assets invested continuously in the types of investments referred to in clauses (i) and (ii) above, (b) has net assets of not less than $5,000,000,000 and (c) has the highest rating obtainable from either S&P or Moody's or the equivalent rating from any other internationally recognized rating agency; provided, that, in the case of any Investment by a Subsidiary that is not a U.S. Subsidiary, "Cash Equivalents" shall also include: (x) direct obligations of the sovereign nation (or any agency thereof) in which such Foreign Subsidiary is organized and is conducting business or in obligations fully and unconditionally guaranteed by such sovereign nation (or any agency thereof), in each case maturing within a year after such date, (y) investments of the type and maturity described in clauses (i) through (iv) above of Subsidiaries that are not U.S. Subsidiaries, which Investments have ratings described in such cl auses or equivalent ratings from comparable foreign rating agencies and (z) shares of money market mutual or similar funds which invest exclusively in assets otherwise satisfying the requirements of this definition (including this proviso).

"Cash Management Agreement" means any agreement or arrangement to provide treasury, depository, overdraft, credit or debit card, purchase card, electronic funds transfer (including automated clearinghouse transfer services) and other cash management services entered into with a Lender Counterparty.

"Certificate re Non-Bank Status" means a certificate substantially in the form of Exhibit D.

"Change of Control" means, (i) any Person or "group" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act) (a) shall have acquired beneficial ownership or control of 35.0% or more on a fully diluted basis of the voting interest in the Equity Interests of the U.S. Borrower or (b) shall have obtained the power (whether or not exercised) to elect a majority of the members of the Board of Directors of the U.S. Borrower, (ii) the majority of the seats (other than vacant seats) on the Board of Directors of the U.S. Borrower cease to be occupied by Continuing Directors, (iii) the U.S. Borrower shall cease to own, directly or indirectly, 100% of the Equity Interests of the Foreign Borrower or (iv) any "change of control" (or similar event, however denominated) shall occur under and as defined in any indenture or agreement in respect of Material Indebtedness of any Borrower .

"China JV" means that certain joint venture that the U.S. Borrower (or any of its Subsidiaries) and certain other persons may form after the date hereof to operate and use the Tommy Hilfiger brands or brands of the U.S. Borrower in the People's Republic of China and, in certain circumstances, Hong Kong.

"CK Distribution" means a CK Distribution as such term is defined in the CKI Intercreditor Agreement.

"CK Letter Agreement" means that certain letter agreement, dated April 7, 2010 by and between the U.S. Borrower and Mr. Calvin Klein.

"CKI" means Calvin Klein, Inc., a New York corporation.

"CKI Affiliates" means CK Service Corp. and any Person that becomes a Subsidiary of CKI or CK Service Corp. after the date hereof.

"CKI Amount" means, for any period, the Design Services Purchase Payments, as defined in and paid or payable by any Group Member to Mr. Calvin Klein or the Klein heirs for such period pursuant to the CKI Stock Purchase Agreement.

"CKI and Debenture Obligations" means the "First Lien Obligations" as defined in the CKI Intercreditor Agreement.

"CKI Blockage Event" means the commencement of a Blockage Period, as defined in the CKI Intercreditor Agreement.

"CKI Collateral Agent" means The Bank of New York Mellon Trust Company, N.A., as collateral agent under the CKI Security Agreement, and its successors in such capacity.

"CKI Documents" means the CKI Stock Purchase Agreement, the CKI Security Agreement, the CKI Pledgor Guarantees and the CKI Intercreditor Agreement

"CKI Intercreditor Agreement" means that certain Intercreditor Agreement dated May 6, 2010, among the Collateral Agent and the CKI Collateral Agent, as such agreement may be amended, restated, supplemented or otherwise modified from time to time in accordance with the terms hereof.

"CKI Liquidated Damages Amount" means the Liquidated Damages Amount as such term is defined in the CKI Stock Purchase Agreement as of the date hereof.

"CKI Obligations" means all obligations of every nature of the U.S. Borrower, CKI and the CKI Affiliates under or with respect to the CKI Documents.

"CKI Pledgor Guarantees" means the Pledgor Guarantees, as the same may be amended, restated, supplemented or otherwise modified from time to time, into which each of CKI and CK Service Corp. has entered, and certain CKI Affiliates may enter from time to time after the date hereof, pursuant to which CKI and CK Service Corp. and, if any, the CKI Affiliates party thereto have guaranteed the payment in full of the U.S. Borrower's obligations under the CKI Stock Purchase Agreement.

"CKI Related Assets Pledge and Security Agreement" means the CKI Related Assets Pledge and Security Agreement to be executed by the U.S. Borrower, CKI and the CKI

Affiliates in favor of the Collateral Agent substantially in the form of Exhibit G, as it may be amended, restated, supplemented or otherwise modified from time to time.

"CKI Security Agreement" means that certain Amended and Restated Pledge and Security Agreement, dated as of the date hereof, among the U.S. Borrower, CKI, the CKI Affiliates, the CKI Collateral Agent and Mr. Calvin Klein, pursuant to which a First Priority Lien shall have been granted to the CKI Collateral Agent on the Equity Interests in CKI and the CKI Affiliates and on any other assets of CKI and the CKI Affiliates named therein, to secure the CKI Obligations as it may be amended, restated, supplemented or otherwise modified from time to time.

"CKI Stock Purchase Agreement" means the Stock Purchase Agreement dated as of December 17, 2002, among the U.S. Borrower, CKI, the CKI Affiliates and the sellers named therein, as it may be amended, restated, supplemented or otherwise modified from time to time.

"CKI Trust" means the trust established pursuant to the Delaware Business Trust Act, as amended, and the CKI Trust Agreement.

"CKI Trust Agreement" means the Trust Agreement dated as of March 14, 1994, between CKI and Wilmington Trust Company, relating to the CKI Trust, and the other agreements related thereto.

"Class" means (i) with respect to Lenders, each of the following classes of Lenders: (a) Lenders having U.S. Tranche A Term Loan Exposure, (b) Lenders having Foreign Tranche A Term Loan Exposure, (c) Lenders having U.S. Tranche B Term Loan Exposure, (d) Lenders having Foreign Tranche B Term Loan Exposure, (e) Lenders having U.S. Revolving Exposure (including U.S. Swing Line Lender), (f) Lenders having Foreign Revolving Exposure, (g) Lenders having Canadian Revolving Exposure (including the Canadian Swing Line Lender) and (h) Lenders having Incremental Term Loan Exposure of each applicable Series, and (ii) with respect to Loans, each of the following classes of Loans: (a) U.S. Tranche A Term Loans, (b) Foreign Tranche A Term Loans, (c) U.S. Tranche B Term Loans, (d) Foreign Tranche B Term Loans, (e) U.S. Revolving Loans (including U.S. Swing Line Loans), (f) Foreign Revo lving Loans, (g) Canadian Revolving Loans (including Canadian Swing Line Loans) and (h) each Series of Incremental Term Loans.

"Closing Date" means the date on which the Term Loans are made, which occurred on May 6, 2010.

"Closing Date Ancillary Facility" means that facility made available to the Foreign Borrower, Tommy Hilfiger Group B.V. and Tommy Hilfiger Europe B.V. pursuant to that certain Ancillary Facility Agreement, dated as of May 6, 2010, among the Foreign Borrower, Tommy Hilfiger Group B.V., Tommy Hilfiger Europe B.V. and Fortis Bank (Nederland) N.V.

"Closing Date Certificate" means a Closing Date Certificate substantially in the form of Exhibit E-1.

"Closing Date Mortgaged Property" has the meaning set forth in Section 3.01(g)(1).

"Co-Documentation Agents" has the meaning specified in the preamble hereto.

"Collateral" means, collectively, all of the real, personal and mixed property (including Equity Interests) in which Liens are purported to be granted pursuant to the Security Documents as security for the Obligations.

"Collateral Agent" has the meaning specified in the preamble hereto.

"Commitment" means any Revolving Commitment or Term Loan Commitment.

"Commitment Letter" has the meaning set forth in Section 10.20.

"Compliance Certificate" means a Compliance Certificate substantially in the form of Exhibit C-1.

"Confidential Information Memorandum" means the Confidential Information Memorandum of the Borrowers dated as of April 14, 2010.

"Consolidated Adjusted EBITDA" means, for any period, an amount determined for the Group on a consolidated basis equal to (i) Consolidated Net Income, plus, to the extent reducing Consolidated Net Income, the sum, without duplication, of amounts for (a) consolidated interest expense, (b) provisions for taxes based on income, profits or capital, (c) total depreciation expense, (d) total amortization expense, (e) other non-cash charges (including, without limitation, any non-cash charges related to writing up inventory in connection with the Acquisition, but excluding any non-cash charge to the extent that it represents an accrual of or reserve for cash expenditures in any future period), (f) net cash charges associated with or related to any contemplated restructurings related to the Acquisition in an aggregate amount not to exceed $90,000,000, (g) all amounts in respe ct of extraordinary, unusual or non-recurring losses, expenses or charges (including, without limitation, (A) restructuring charges (other than those described in clause (f)), (B) any fees, expenses or charges relating to plant shutdowns and discontinued operations, (C) acquisition integration costs and (D) any expenses or charges relating to any offering of Equity Interests, Permitted Acquisition, or any Investment or Indebtedness permitted under this Agreement, in each case under this clause (D), whether or not successful), (h) any financial advisory fees, accounting fees, legal fees and other similar advisory and consulting fees and related out-of-pocket expenses incurred by any Group Member as a result of the Acquisition, in an aggregate amount not to exceed $55,000,000, (i) with respect to any four-Fiscal Quarter measurement period ending on or prior to the end of the eighth full Fiscal Quarter following the Closing Date, the amount of cost savings and other operating improvements and synergies projecte d by the U.S. Borrower in good faith to be realized as a result of the Acquisition (calculated on a pro forma basis as though such cost savings and other operating improvements and synergies had been realized on the first day of such period), without duplication of the amount of actual benefits realized during such period from such actions to the extent already included in the Consolidated Net Income for such period, in an aggregate amount not to exceed $40,000,000, (j) losses on agreements with respect to Hedge Agreements and any related tax gains, in each case incurred in connection with or as a result of the Acquisition, and

(k) non-cash losses on agreements with respect to Hedge Agreements, minus, (ii) to the extent included in calculating Consolidated Net Income, the sum of (a) all amounts in respect of extraordinary, unusual or nonrecurring gains, (b) gains on agreements with respect to Hedge Agreements and any related tax gains, in each case incurred in connection with or as a result of the Acquisition, (c) non-cash gains on agreements with respect to Hedge Agreements, (d) cash payments made during such period with respect to non-cash charges that were added back pursuant to clause (e) above in a prior period, and (e) other non-cash gains increasing Consolidated Net Income for such period (excluding any such non-cash gain to the extent it represents the reversal of an accrual or reserve for potential cash gain in any prior period). For the avoidance of doubt, Consolidated Adjusted EBITDA shall be calculated to exclude any gain resulting from any debt repurchase (including, for the avoidance of doubt, repurchases of Loans under Section 2.13(c) or repurchases of the 2023 Debentures).

In addition, for purposes of making the calculation referred to above, acquisitions (including the Acquisition), Investments, dispositions, mergers, consolidations, operational improvements and discontinued operations (as determined in accordance with GAAP) that have been made by any Group Member, including through mergers or consolidations and including any related financing transactions, during the relevant period or subsequent to such period and on or prior to the date of such calculation (the "relevant transaction"), shall be deemed to have occurred on the first day of the relevant period and (without duplication of the pro forma adjustments provided for in the immediately preceding paragraph with respect to the Acquisition) such calculation shall be made giving pro forma effect to any cost savings and other operating improvements and synergies in connection with such relevant transaction (witho ut duplication of actual benefits realized during such period from the same) that are (a) factually supportable and determined in good faith by the U.S. Borrower, as certified in an officer's certificate signed by an Authorized Officer and (b) do not exceed the actual cost savings expected in good faith to be realized by the Group over the twelve-month period following such relevant transaction.

"Consolidated Capital Expenditures" means, for any period, the aggregate of all expenditures of the Group during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of the Group; provided, that Consolidated Capital Expenditures shall not include any expenditures (i) for replacements and substitutions for fixed assets, capital assets or equipment to the extent made with Net Cash Proceeds invested pursuant to Section 2.14(a) or Section 2.14(b) or (ii) which constitute a Permitted Acquisition permitted under Section 6.08.

"Consolidated Cash Interest Expense" means, for any period, total interest expense payable in cash in such period (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) of the Group on a consolidated basis with respect to all outstanding Indebtedness of the Group (net of cash interest income), excluding, however, any one time financing fees (to the extent included in such Person's consolidated interest expense for such period).

"Consolidated Current Assets" means, as at any date of determination, the total assets of the Group on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and Cash Equivalents.

"Consolidated Current Liabilities" means, as at any date of determination, the total liabilities of the Group on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding the current portion of long term debt.

"Consolidated Excess Cash Flow" means, for any period, an amount (if positive) equal to:

(i) the sum, without duplication, of the amounts for such period of (a) Consolidated Net Income, (b) to the extent reducing Consolidated Net Income, the sum, without duplication, of amounts for non-cash charges reducing Consolidated Net Income, including for depreciation and amortization (excluding any such non-cash charge to the extent that it represents an accrual or reserve for potential cash charge in any future period or amortization of a prepaid cash charge that was paid in a prior period) and (c) the Consolidated Working Capital Adjustment, minus

(ii) the sum, without duplication, of (a) the amounts for such period paid in cash of (1) scheduled repayments of Indebtedness to the extent actually made (excluding for the avoidance of doubt, repayments of revolving loans or swing line loans except to the extent the related revolving commitments are permanently reduced in connection with such repayments and any purchases (or repayments in connection therewith) of Loans pursuant to Section 2.13(c)) and scheduled repayments of obligations under Capital Leases (excluding any interest expense portion thereof), (2) Consolidated Capital Expenditures, and (3) to the extent actually declared, Restricted Payments permitted by Section 6.04(d), and (b) other non-cash gains increasing Consolidated Net Income for such period (excluding any such non-cash gain to the extent it represents the reversal of an accrual or reserve for potential cash gain in any prior period) .

"Consolidated Net Income" means, for any period, (i) the net income (or loss) of the Group on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP, minus (ii) (a) the income (or loss) of any Person (other than a Group Member) in which any other Person (other than a Group Member) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to any Group Member by such Person during such period, (b) to the extent included in net income, the income (or loss) of any Person accrued prior to the date it becomes a Group Member or is merged into or consolidated with the Group or that Person's assets are acquired by any Group Member, (c) the income of any Subsidiary of the U.S. Borrower to the extent that the declaration or payment of dividends or similar distributions by that S ubsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, (d) any after-tax non-cash gains (or losses) attributable to Asset Sales or returned surplus assets of any Pension Plan, (e) the CKI Amount and the Itochu Amount to the extent not already reducing net income; provided that, if during any period, the U.S. Borrower or any of its Subsidiaries repays the Itochu Amount in whole, then for such period, the excess of the amount of such amounts repaid over the regularly scheduled payment of the Itochu Amount for such period shall not reduce net income,

and (f) (to the extent not included in clauses (a) through (e) above) any net extraordinary gains or net extraordinary losses. For the avoidance of doubt, cash amounts used by the Borrowers to make purchases of debt (including purchases of Loans under Section 2.13(c) and purchases of the 2023 Debentures) shall not reduce Consolidated Net Income, nor will any non-cash gain associated with the cancellation of such purchased debt increase Consolidated Net Income.

"Consolidated Total Assets" means as of any date of determination, the total assets of the Group, determined in accordance with GAAP, as set forth on the consolidated balance sheet of the U.S. Borrower as of such date.

"Consolidated Total Debt" means, as at any date of determination, (a) the aggregate stated balance sheet amount of all Indebtedness of the Group (or, if higher, the par value or stated face amount of all such Indebtedness (other than zero coupon Indebtedness) determined on a consolidated basis in accordance with GAAP, exclusive of any contingent liability in respect of any Letter of Credit, plus (b) to the extent not included in clause (a), Indebtedness relating to securitization of receivables generated by the Group (whether or not such Indebtedness is on the balance sheet of the Group). For the avoidance of doubt, Consolidated Total Debt will be calculated to exclude all Indebtedness of the Group to ITOCHU Corporation pursuant to the Itochu Agreement or otherwise related to such agreement and all Indebtedness of the Group pursuant to the CKI Documents.

"Consolidated Working Capital" means, as at any date of determination, the excess of Consolidated Current Assets of the Group over Consolidated Current Liabilities of the Group.

"Consolidated Working Capital Adjustment" means, for any period on a consolidated basis, the amount (which may be a negative number) by which Consolidated Working Capital as of the beginning of such period exceeds (or is less than) Consolidated Working Capital as of the end of such period. In calculating the Consolidated Working Capital Adjustment there shall be excluded the effect of reclassification during such period of current assets to long term assets and current liabilities to long term liabilities and the effect of any Permitted Acquisition during such period; provided, that there shall be included with respect to any Permitted Acquisition during such period an amount (which may be a negative number) by which the Consolidated Working Capital acquired in such Permitted Acquisition as at the time of such acquisition exceeds (or is less than) Consolidated Working Capital at the end of such period.

"Contingent Liability" means any agreement, undertaking or arrangement by which any Person guarantees, endorses or otherwise becomes or is contingently liable upon (by direct or indirect agreement, contingent or otherwise, to provide funds for payment, to supply funds to, or otherwise to invest in, a debtor, or otherwise to assure a creditor against loss) the Indebtedness of any other Person (other than by endorsements of instruments in the course of collection), or guarantees the payment of dividends or other distributions upon the Equity Interests of any other Person. The amount of any Person's obligation under any Contingent Liability shall (subject to any limitation with respect thereto) be deemed to be the outstanding principal amount of the debt, obligation or other liability guaranteed thereby.

"Continuing Directors" means individuals who on the Closing Date constituted the Board of Directors of the U.S. Borrower (together with any new directors whose election by such Board of Directors or whose nomination for election by the stockholders of the U.S. Borrower was approved by a vote of a majority of the directors of the U.S. Borrower then still in office who were either directors on the Closing Date or whose election or nomination for election was previously so approved).

"Contractual Obligation" means, as applied to any Person, any provision of any Security issued by that Person or of any indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its properties is subject.

"Contributing Guarantors" has the meaning set forth in Section 7.02(b).

"Conversion/Continuation Date" means the effective date of a continuation or conversion, as the case may be, as set forth in the applicable Conversion/Continuation Notice.

"Conversion/Continuation Notice" means a Conversion/Continuation Notice substantially in the form of Exhibit A-2.

"Copyrights" has the meaning set forth in the U.S. Pledge and Security Agreement.

"Corresponding Debt" means, in respect of a Loan Party, its Foreign Corresponding Debt or its U.S. Corresponding Debt.

"Counterpart Agreement" means a Counterpart Agreement substantially in the form of Exhibit F-1 or Exhibit F-2, as applicable, delivered by a Loan Party pursuant to Section 5.12 or by an Ancillary Borrower pursuant to Section 10.26.

"Covenant Transaction" has the meaning set forth in Section 1.04(c).

"Credit Date" means the date of a Credit Extension.

"Credit Extension" means the making of a Loan or the issuing of a Letter of Credit.

"Crown" means the government of Canada, any provincial or territorial government therein and any of their political subdivisions.

"CS Securities" has the meaning specified in the preamble hereto.

"Currency Agreement" means any foreign exchange contract, currency swap agreement, futures contract, option contract, synthetic cap or other similar agreement or arrangement, each of which is for the purpose of hedging the foreign currency risk of the Group and not for speculative purposes.

"DBSI" has the meaning specified in the preamble hereto.

"Debtor Relief Law" means the Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, examinership, reorganization or similar debtor relief laws of the United States or other Relevant Jurisdiction from time to time in effect and affecting the rights of creditors generally.

"Default" means a condition or event that, after notice or lapse of time or both, would constitute an Event of Default.

"Default Rate" has the meaning set forth in Section 2.10.

"Defaulting Lender" means any Lender that has (a) failed to fund any portion of its Revolving Commitment within three (3) Business Days of the date required to be funded by it hereunder, (b) notified the Borrower Representative, the Administrative Agent or any Lender in writing, or has otherwise indicated through a public statement, that it does not intend to comply with its funding obligations hereunder and generally under agreements in which it commits to extend credit, (c) failed, within three Business Days after receipt of a written request from the Administrative Agent, to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Revolving Commitments, (d) otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless the s ubject of a good faith dispute or (e) become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, custodian, administrator, examiner, liquidator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or has a parent company that has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, custodian, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment, provided that a Lender shall not qualify as a Defaulting Lender solely as a result of the acquisition or maintenance of a n ownership interest in such Lender or its parent company, or of the exercise of control over such Lender or any Person controlling such Lender, by a Governmental Authority or instrumentality thereof; provided that if the Borrower Representative, the Administrative Agent, the applicable Swing Line Lender and the applicable Issuing Bank agree in writing in their sole discretion that a Defaulting Lender should no longer be deemed to be 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 Collateralization of Letters of Credit and/or Swing Line Loans), that Lender will, to the extent applicable, purchase that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the obligations of the Swing Line Lender and/or the Issuing Bank and the funded and unfunded participations in Letters of Credit and Swing Line Loans to be held on a pro rata basis by the Lenders in accordance with their Pro Rata Shares (without giving effect to Section 2.22), whereupon that 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's having been a Defaulting Lender.

"Defaulting Revolving Lender" has the meaning set forth in Section 2.22.

"Designated Gross Amount" has the meaning set forth in Section 2.26(b)(ii)

"Designated Net Amount" has the meaning set forth in Section 2.26(b)(ii)

"Disqualified Equity Interests" means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (i) matures or is mandatorily redeemable (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests), pursuant to a sinking fund obligation or otherwise, (ii) is redeemable at the option of the holder thereof (other than solely for Equity Interests which are not otherwise Disqualified Equity Interests), in whole or in part, (iii) provides for scheduled payments of dividends in cash or (iv) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date th at is 91 days after the Term Loan Maturity Date, except, in the case of clauses (i) and (ii), if as a result of a change of control or asset sale, so long as any rights of the holders thereof upon the occurrence of such a change of control or asset sale event are subject to the prior Payment in Full of all Obligations.

"Dollar Equivalent" means, with respect to an amount denominated in Dollars, such amount, and with respect to an amount denominated in any other Approved Currency, the equivalent in Dollars of such amount determined at the Exchange Rate on the applicable Valuation Date. In making the determination of the Dollar Equivalent for purposes of determining the aggregate available U.S. Revolving Commitments on any Credit Date, the Administrative Agent shall use the Exchange Rate in effect at the date on which any U.S. Borrower requests the extension of credit for such Credit Date pursuant to the provisions of this Agreement.

"Dollars" and the sign "$" mean the lawful money of the United States of America.

"Dutch Closing Security Documents" means:

(i) the Foreign Law Partnership Pledge Agreement;

(ii) the Dutch law deed of pledge of shares in Prince 1 B.V. by, *inter alios*, Trumpet C.V. as pledgor, as well as the updated shareholders' register in which the pledge of shares has been registered;

(iii) the Dutch law deed of pledge of shares in Prince 2 B.V. by, *inter alios*, Prince 1 B.V. as pledgor, as well as the updated shareholders' register in which the pledge of shares has been registered;

(iv) the Dutch law deed of pledge of shares in the Foreign Borrower by, *inter alios*, Prince 2 B.V. as pledgor, as well as the updated shareholders' register in which the pledge of shares has been registered;

(v) the Dutch law deed of pledge of shares in Tommy Hilfiger Group B.V. by, *inter alios*, the Foreign Borrower as pledgor, as well as the updated shareholders' register in which the pledge of shares has been registered;

(vi) the Dutch law deed of disclosed pledge bank accounts by, *inter alios*, Trumpet C.V., Prince 1 B.V., Prince 2 B.V. and the Foreign Borrower as pledgors, as well as fully executed notices to the respective account banks;

(vii) the Dutch law deed of disclosed pledge of intercompany receivables by, *inter alios*, Trumpet C.V., Prince 1 B.V., Prince 2 B.V. and the Foreign Borrower as pledgors, as well as fully executed notices to the respective debtors;

(viii) the Dutch law deed of disclosed pledge of insurance claims by, *inter alios*, Trumpet C.V., Prince 1 B.V., Prince 2 B.V. and the Foreign Borrower as pledgors, as well as fully executed notices to the respective debtors;

(ix) the Dutch law deed of undisclosed pledge of third party receivables by, *inter alios*, Trumpet C.V., Prince 1 B.V., Prince 2 B.V. and the Foreign Borrower as pledgors; and

(x) the Dutch law deed of pledge of moveable assets by, *inter alios*, Trumpet C.V., Prince 1 B.V., Prince 2 B.V. and the Foreign Borrower as pledgors.

"Dutch Loan Party" means any Loan Party incorporated in The Netherlands.

"Dutch Security" means the Collateral that is the subject of any Security Document governed by the laws of The Netherlands.

"Dutch Security Documents" means, in relation to each applicable Dutch Loan Party (or (a) in the case of a share pledge, each shareholder of the applicable Dutch Loan Party, or (b) in case of a pledge of an Intellectual Property Asset registered in The Netherlands (or, in respect of any trademark or design, the Benelux), the Loan Party that is the holder of that Intellectual Property Asset): (i) Dutch law notarial deeds of pledge of shares over the shares in each Dutch Loan Party as well as the updated shareholders' register in which the pledge of shares has been registered; (ii) Dutch law disclosed deeds of pledge of bank accounts as well as fully executed notices to the respective account banks; (iii) Dutch law disclosed deeds of pledge of intercompany receivables as well as fully executed notices to the respective debtors; (iv) Dutch law disclosed deeds of pledge of insurance receivables as well as fully executed notices to the respective debtors; (v) Dutch law undisclosed deeds of pledge of third party receivables (other than receivables subject to any Lien interest pursuant to another Security Document); (vi) Dutch law undisclosed deeds of pledge over movable assets; (vii) Dutch law notarial deeds of mortgage over any Real Estate Assets located in The Netherlands, and (viii) Dutch law deed of pledge over any Intellectual Property Assets registered in The Netherlands (or, in respect of any trademark or design, the Benelux).

"Eligible Assignee" means any Person other than a natural Person that is (i) a Lender, an Affiliate of any Lender or a Related Fund (any two or more Related Funds being treated as a single Eligible Assignee for all purposes hereof), or (ii) a commercial bank, insurance company, investment or mutual fund, European Credit Management Limited (ECM) programmes or other entity that is an "accredited investor" (as defined in Regulation D under the Securities Act) and which extends credit or buys loans in the ordinary course of business; provided, that neither any Loan Party nor any Affiliate thereof, nor any Defaulting Lender, shall be an Eligible Assignee.

"Employee Benefit Plan" means any "employee benefit plan" as defined in Section 3(3) of ERISA which is or was sponsored, maintained or contributed to by, or required to be contributed by, the Group or any of their respective ERISA Affiliates or with respect to which the Group or any of their respective ERISA Affiliates has or would reasonably be expected to have liability, contingent or otherwise, under ERISA.

"Environmental Claim" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order, decree or directive (conditional or otherwise) by any Governmental Authority or any other Person, arising (i) pursuant to any Environmental Law, (ii) in connection with any actual or alleged violation of, or liability pursuant to, any Environmental Law, (iii) in connection with any Hazardous Material, including the presence or Release of, or exposure to, any Hazardous Materials and any abatement, removal, remedial, corrective or other response action related to Hazardous Materials or (iv) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

"Environmental Laws" means any and all current or future foreign or domestic, federal, state or local laws (including any common law), statutes, ordinances, orders, rules, regulations, judgments or any other requirements of Governmental Authorities relating to or imposing liability or standards of conduct with respect to (i) environmental matters, (ii) the generation, use, storage, transportation or disposal of, or exposure to, Hazardous Materials; or (iii) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health or welfare, in any manner applicable to any Group Member or any Facility.

"Equity Contribution" has the meaning set forth in the recitals hereto.

"Equity Interests" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, the regulations promulgated thereunder and any successor thereto.

"ERISA Affiliate" means, as applied to any Person, (i) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Internal Revenue Code of which that Person is a member; (ii) any trade or business (whether or

not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Internal Revenue Code of which that Person is a member; and (iii) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Internal Revenue Code of which that Person, any corporation described in clause (i) above or any trade or business described in clause (ii) above is a member. Any former ERISA Affiliate of any Group Member shall continue to be considered an ERISA Affiliate of such Group Member within the meaning of this definition with respect to the period such entity was an ERISA Affiliate of such Group Member and with respect to liabilities arising after such period for which such Group Member could be liable under the Internal Revenue Code or ERISA.

"ERISA Event" means (i) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the provision for 30-day notice to the PBGC has been waived by a regulation in effect on the date hereof); (ii) the failure to meet the minimum funding standard of Sections 412 or 430 of the Internal Revenue Code or Sections 302 or 303 of ERISA with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Internal Revenue Code or Section 302(c) of ERISA) or the failure to make by its due date a required installment under Section 430(j) of the Internal Revenue Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (iii) a determination by the Pension Plan's actuary that any Pension Plan is, or is expected to be, in "at risk" status (as defined in Section 430 of the Internal Revenue Code or Section 303 of ERISA); (iv) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (v) a determination under and in accordance with said sections that any Multiemployer Plan is, or is expected to be, in "critical" or "endangered" status under Section 432 of the Internal Revenue Code or Section 305 of ERISA; (vi) the withdrawal by any Group Member or any of its ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability to any Group Member or any of its Affiliates pursuant to Section 4063 or 4064 of ERISA; (vii) the institution by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition which is reasonably likely to constitute gr ounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (viii) the imposition of liability on any Group Member or any of its ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (ix) the withdrawal of any Group Member or any of its ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefor, or the receipt by any Group Member or any of its ERISA Affiliates of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; (x) the imposition of a Lien pursuant to Section 430(k) of the Internal Revenue Code or Section 303(k) of ERISA or a violation of Section 436 of the Internal Revenue Code with respect to any Pension Plan; (xi) the occurrence of any Foreign Plan Event or (xii) any other event or condition with respect to an Employee Benefit Plan with respect to which any Group Member is likely to incur liability other than in the ordinary course.

"Euro" or "€" means the single currency of the European Union as constituted by the Treaty on European Union and as referred to in the legislative measures of the European Union for the introduction of, changeover to or operation of the Euro in one or more member states, being in part legislative measures to implement the European and Monetary Union as contemplated in the Treaty on European Union.

"Euro Equivalent" means, with respect to an amount denominated in Euros, such amount, and with respect to an amount denominated in Dollars or any Other Foreign Currency, the equivalent in Euros of such amount determined at the Exchange Rate on the applicable Valuation Date. In making the determination of the Euro Equivalent for purposes of determining the aggregate available Foreign Revolving Commitments on any Credit Date, the Administrative Agent shall use the Exchange Rate in effect at the date on which the Foreign Borrower requests the extension of credit for such Credit Date pursuant to the provisions of this Agreement.

"Eurocurrency Rate Loan" means a Loan bearing interest at a rate determined by reference to the Adjusted Eurocurrency Rate.

"Event of Default" means any of the conditions or events set forth in Section 8.01.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and any successor statute.

"Exchange Rate" means the rate at which any currency (the "Original Currency") may be exchanged into Dollars, Euros or another currency (the "Exchanged Currency"), as set forth on such date on the relevant Reuters screen at or about 11:00 a.m. (London, England time) on such date. In the event that such rate does not appear on the Reuters screen, the "Exchange Rate" with respect to such Original Currency into such Exchanged Currency shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower Representative or, in the absence of such agreement, such "Exchange Rate" shall instead be the Administrative Agent's spot rate of exchange in the interbank market where its foreign currency exchange operations in respe ct of such Original Currency are then being conducted, at or about 11:00 a.m., local time, on such date for the purchase of the Exchanged Currency, with such Original Currency for delivery two Business Days later; provided, that if at the time of any such determination, no such spot rate can reasonably be quoted, the Administrative Agent may use any reasonable method as it deems applicable to determine such rate, and such determination shall be conclusive absent manifest error.

"Excluded Taxes" means (i) any Tax imposed on the overall net income of a Person (or franchise tax or minimum tax imposed in lieu thereof) by the jurisdiction in which that Person is organized or in which that Person's principal office (and/or, in the case of a Lender, its applicable lending office) is located or with which that Person has a present or former connection (other than any connection arising solely from the acquisition and holding of any Loan and/or Commitment (including entering into or being a party to this Agreement), the receipt of payments relating thereto, and/or the exercise of rights and remedies under this Agreement or any other Loan Document); (ii) with respect to any Lender to a U.S. Loan (other than a Lender that becomes a Lender pursuant to Section 2.23), any Tax imposed pursuant to the

laws of the United States of America or any political subdivision thereof or therein that would apply if any payment were made under any of the Loan Documents to such Lender on the day such Lender becomes a Lender (or designates a new lending office), except to the extent such Lender's assignor (or such Lender, when it designates a new lending office) was entitled to receive additional amounts pursuant to Section 2.20; (iii) with respect to any Lender, any withholding Tax that is imposed on any payment to such Lender on the day that such Lender becomes a Lender (or designates a new lending office) by any jurisdiction, excluding any jurisdiction (other than the United States of America or any political subdivision thereof, which shall be governed by clause (ii) hereof) that would not have imposed such Tax but for the fact that any of the Loan Parties is organized or has its principal office located in such jurisdiction, or has a present or former connection with, or makes or causes to be made any payment under any Loan Document through, such jurisdiction on behalf of any Loan Party, except to the extent such Lender's assignor (or such Lender, when it designates a new lending office) was entitled to receive additional amounts pursuant to Section 2.20; (iv) any Tax that is attributable to a Lender's failure to comply with Section 2.20(c) of this Agreement or (v) any U.S. federal Tax imposed by reason of a Lender's failure to comply with the requirements of Sections 1471 through 1474 of the Code and any regulations promulgated thereunder (the "FATCA").

"Existing Credit Facilities Indebtedness" means (i) Indebtedness and other obligations outstanding under that certain Second Amended and Restated Credit Agreement, dated as of July 10, 2007, among the U.S. Borrower and certain of its Subsidiaries, as borrowers or guarantors, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, the lenders party thereto and the other agents party thereto, as amended prior to the Closing Date and (ii) the Existing Tommy Facilities.

"Existing Notes" means the U.S. Borrower's 8-1/8% Senior Notes due 2013 issued pursuant to that certain Indenture dated as of May 5, 2003 between the U.S. Borrower and U.S. Bank, National Association, as trustee and the U.S. Borrower's 7-1/4% Senior Notes due 2011 issued pursuant to that certain Indenture dated as of February 18, 2004 between the U.S. Borrower and U.S. Bank National Association, as trustee.

"Existing Tommy Facilities" means that certain (i) Senior Facilities Agreement, dated as of April 27, 2006, as amended and restated on May 9, 2006, among the Acquired Business (formerly known as Elmira 1 B.V.) and certain Subsidiaries of the Acquired Business, as borrowers or guarantors, Citibank International PLC, as agent for certain financial institutions party thereto as lenders, and the other parties thereto and (ii) Mezzanine Facilities Agreement, dated as of April 28, 2006, as amended and restated on May 9, 2006, among the Acquired Business (formerly known as Elmira 1 B.V.) and certain Subsidiaries of the Acquired Business, as guarantors, Credit Suisse, London Branch, as agent for certain financial institutions party thereto as lenders, and the other parties thereto.

"Facility" means any real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or heretofore owned, leased, operated or used by any Group Member or any of its predecessors or Affiliates.

"Fair Share" has the meaning set forth in Section 7.02(b).

"Fair Share Contribution Amount" has the meaning set forth in Section 7.02(b).

"FATCA" has the meaning set forth in the definition of "Excluded Taxes".

"FDIC" means the Federal Deposit Insurance Corporation, and any successor thereto.

"Federal Funds Effective Rate" means for any day, the rate per annum (expressed, as a decimal, rounded upwards, if necessary, to the next higher 1/100 of 1.00%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, that (i) if such day is not a Business Day, the Federal Funds Effective 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 (ii) if no such rate is so published on such next succeeding Business Day, the Federal Funds Effective Rate for such day shall be the average rate charged to the Administrative Agent, in its capacity as a Lender, on s uch day on such transactions as determined by the Administrative Agent.

"Financial Officer Certification" means, with respect to the financial statements for which such certification is required, the certification of the principal financial officer of the U.S. Borrower that such financial statements fairly present, in all material respects, the financial condition of the Group at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments.

"Financial Plan" has the meaning set forth in Section 5.01(h).

"First Priority" means, with respect to any Lien purported to be created in any Collateral pursuant to any Security Document, that such Lien is the only Lien to which such Collateral is subject, other than any Permitted Lien.

"Fiscal Quarter" means a fiscal quarter of any Fiscal Year.

"Fiscal Year" means the fiscal year of the Group ending on the Sunday closest to February 1 of each calendar year.

"Fitch" means Fitch, Inc.

"Flood Certificate" means a "Standard Flood Hazard Determination Form" of the Federal Emergency Management Agency and any successor Governmental Authority performing a similar function.

"Flood Program" means the National Flood Insurance Program created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994 and the Flood Insurance Reform Act of 2004, in each case as amended from time to time, and any successor statutes.

"Flood Zone" means areas having special flood hazards as described in the National Flood Insurance Act of 1968, as amended from time to time, and any successor statute.

"Foreign Borrower" has the meaning specified in the preamble hereto.

"Foreign Collateral Perfection Certificate" means a certificate to be provided in respect of foreign Collateral, in a form reasonably acceptable to the Administrative Agent.

"Foreign Contributing Guarantors" has the meaning set forth in Section 7.02(b).

"Foreign Currency Equivalent" means, with respect to an amount denominated in Canadian Dollars or any Other Foreign Currency, such amount, and with respect to an amount denominated in Dollars or Euros, the equivalent in Canadian Dollars or such Other Foreign Currency of such amount determined at the Exchange Rate on the applicable Valuation Date.

"Foreign Corresponding Debt" has the meaning set forth in Section 9.14(a)(i).

"Foreign Guaranteed Obligations" has the meaning set forth in Section 7.01(b).

"Foreign Guarantor" means any Guarantor that is not a U.S. Guarantor.

"Foreign Issuing Bank" means an Issuing Bank that has agreed to issue Foreign Letters of Credit.

"Foreign Law Partnership Pledge Agreement" means the Dutch law governed deed of pledge of partnership interests in Trumpet C.V. by, *inter alios*, BassNet, Inc. and PVH Prince C.V. Holding Corporation, as pledgors, in support of the Foreign Guaranteed Obligations.

"Foreign Law Security Documents" means each of the Dutch Security Documents, the German Security Documents, the Canadian Security Documents and each Foreign Law Partnership Pledge Agreement.

"Foreign Letter of Credit" means any Bank Guarantee or any commercial or standby letter of credit issued or to be issued by an Issuing Bank for the account of the Foreign Borrower or any of its Subsidiaries pursuant to Section 2.04(a)(ii) of this Agreement, and any letter of credit listed on Schedule 1.01(j) issued and outstanding as of the Closing Date. Each such letter of credit listed on Schedule 1.01(j) shall be deemed to constitute a Foreign Letter of Credit and a Letter of Credit issued hereunder on the Closing Date for all purposes under this Agreement and the other Loan Documents.

"Foreign Letter of Credit Sublimit" means the lesser of (a) €75,585,790 and (b) the aggregate unused amount of the Foreign Revolving Commitments then in effect.

"Foreign Letter of Credit Usage" means, as at any date of determination, the sum of (i) the Euro Equivalent of the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Foreign Letters of Credit then outstanding, and (ii) the Euro Equivalent of the aggregate amount of all drawings under Foreign Letters of Credit

honored by an Issuing Bank and not theretofore reimbursed by or on behalf of the Foreign Borrower.

"Foreign Loan" means a Foreign Tranche A Term Loan, a Foreign Tranche B Term Loan and/or a Foreign Revolving Loan.

"Foreign Loan Party" means any Loan Party other than a U.S. Loan Party.

"Foreign Obligations" means the Obligations in respect of any Foreign Loan and any other Obligations of the Foreign Borrower and Foreign Guarantors.

"Foreign Obligations Secured Parties" means the Agents, Lenders, Issuing Banks, the Lender Counterparties and the Ancillary Lenders in respect of any Foreign Obligations, and shall include, without limitation, all former Agents, Lenders, Issuing Banks, Lender Counterparties and Ancillary Lenders to the extent that any Foreign Obligations owing to such Persons were incurred while such Persons were Agents, Lenders, Issuing Banks, Lender Counterparties or Ancillary Lenders and such Foreign Obligations have not been paid or satisfied in full.

"Foreign Offer" has the meaning set forth in Section 2.13(c).

"Foreign Offer Loans" has the meaning set forth in Section 2.13(c).

"Foreign Parallel Debt" means, in respect of a Foreign Loan Party, any amount which that Foreign Loan Party owes to the Collateral Agent under Section 9.14.

"Foreign Plan" shall mean any Employee Benefit Plan, program, policy, arrangement or agreement maintained or contributed to by any Foreign Loan Party or any of their respective Subsidiaries with respect to employees employed outside the United States.

"Foreign Plan Event" shall mean, with respect to any Foreign Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any applicable law, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (b) the failure to make the required contributions or payments, under any applicable law, on or before the due date for such contributions or payments, (c) the receipt of a notice from a Governmental Authority relating to the intention to terminate any such Foreign Plan or to appoint a trustee or similar official to administer any such Foreign Plan, or alleging the insolvency of any such Foreign Plan, in each case which is reasonably likely to result, directly or indirectly, in material liability to a Loan Party, (d) the incurrence of any material liability by any Loan Party or any their respective Subsidiaries under applicable law on ac count of the complete or partial termination of such Foreign Plan or the complete or partial withdrawal of any participating employer therein, or (e) the occurrence of any transaction that is prohibited under any applicable law and that would reasonably be expected to result in the incurrence of any liability by any Loan Party or any of their respective Subsidiaries, or the imposition on any Loan Party or any of their respective Subsidiaries of any fine, excise tax or penalty resulting from any noncompliance with any applicable law.

"Foreign Revolving Commitment" means the commitment of a Lender to make or otherwise fund any Foreign Revolving Loan and to acquire participations in Foreign Letters of Credit hereunder, as reduced by the amount of any Ancillary Commitment, and "Foreign Revolving Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's Foreign Revolving Commitment, if any, is set forth on Schedule 1.01(c) or in the applicable Assignment Agreement or Joinder Agreement, as applicable, subject to any adjustment or reduction pursuant to the terms and conditions hereof. The aggregate amount of the Foreign Revolving Commitments as of the Closing Date is €132,275,132.28.

"Foreign Revolving Commitment Period" means the period from the Closing Date to but excluding the Foreign Revolving Commitment Termination Date

"Foreign Revolving Commitment Termination Date" means the earliest to occur of (i) the fifth anniversary of the Closing Date, (ii) the date the Foreign Revolving Commitments are permanently reduced to zero pursuant to Section 2.13(b) or 2.14 and (iii) the date of the termination of the Foreign Revolving Commitments pursuant to Section 8.01.

"Foreign Revolving Exposure" means, with respect to any Lender as of any date of determination, (i) prior to the termination of the Foreign Revolving Commitments, that Lender's Foreign Revolving Commitment; and (ii) after the termination of the Foreign Revolving Commitments, the sum of (a) the Euro Equivalent of the aggregate outstanding principal amount of the Foreign Revolving Loans of that Lender, (b) in the case of an Issuing Bank, the Euro Equivalent of the aggregate Foreign Letter of Credit Usage in respect of all Foreign Letters of Credit issued by such Issuing Bank (net of any participations by Lenders in such Foreign Letters of Credit), (c) the Euro Equivalent of the aggregate amount of all participations by that Lender in any outstanding Foreign Letters of Credit or any unreimbursed drawing under any Foreign Letter of Credit and (d) the Euro Equivalent of the aggregate amoun t of all amounts borrowed from such Lender under any Ancillary Facility pursuant to Section 2.26.

"Foreign Revolving Loan" means Loans made by a Lender in respect of its Foreign Revolving Commitment to the Foreign Borrower pursuant to Section 2.02(b) and/or Section 2.24.

"Foreign Subsidiary" means (i) any Restricted Subsidiary that is not organized under the laws of the United States, any State thereof or the District of Columbia (other than any such Subsidiary that is treated as a partnership or disregarded as an entity separate from its owner for U.S. federal tax purposes and all of whose partners or whose owner (as the case may be) is (or are) treated as a domestic corporation(s) for U.S. federal tax purposes) and (ii) any Restricted Subsidiary of a Subsidiary described in clause (i).

"Foreign Tranche A Term Loan" means a Tranche A Term Loan denominated in Euros and made by a Lender to the Foreign Borrower pursuant to Section 2.01(a)(i).

"Foreign Tranche A Term Loan Commitment" means the commitment of a Lender to make or otherwise fund a Foreign Tranche A Term Loan and "Foreign Tranche A Term Loan Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's Foreign Tranche A Term Loan Commitment, if any, is set forth on

Schedule 1.01(a) or in the applicable Assignment Agreement, subject to any adjustment or reduction pursuant to the terms and conditions hereof. The aggregate amount of the Foreign Tranche A Term Loan Commitments as of the Closing Date is €100,000,000.

"Foreign Tranche A Term Loan Exposure" means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Foreign Tranche A Term Loans of such Lender; provided, that at any time prior to the making of the Foreign Tranche A Term Loans, the Foreign Tranche A Term Loan Exposure of any Lender shall be equal to such Lender's Foreign Tranche A Term Loan Commitment.

"Foreign Tranche B Term Loan" means a Tranche B Term Loan denominated in Euros and made by a Lender to the Foreign Borrower pursuant to Section 2.01(a)(ii).

"Foreign Tranche B Term Loan Commitment" means the commitment of a Lender to make or otherwise fund a Foreign Tranche B Term Loan and "Foreign Tranche B Term Loan Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's Foreign Tranche B Term Loan Commitment, if any, is set forth on Schedule 1.01(b) or in the applicable Assignment Agreement, subject to any adjustment or reduction pursuant to the terms and conditions hereof. The aggregate amount of the Foreign Tranche B Term Loan Commitments as of the Closing Date is €300,000,000.

"Foreign Tranche B Term Loan Exposure" means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Foreign Tranche B Term Loans of such Lender; provided, that at any time prior to the making of the Foreign Tranche B Term Loans, the Foreign Tranche B Term Loan Exposure of any Lender shall be equal to such Lender's Foreign Tranche B Term Loan Commitment.

"FQ1", "FQ2", "FQ3" and "FQ4" mean, when used with a numerical year designation, the first, second, third or fourth Fiscal Quarters, respectively, of the designated Fiscal Year of any Borrower (e.g., FQ4 2010 means the fourth Fiscal Quarter of a Borrower's 2010 Fiscal Year, which ends January 30, 2011).

"Funding Guarantor" has the meaning set forth in Section 7.02(b).

"GAAP" means, subject to the limitations on the application thereof set forth in Section 1.02, United States generally accepted accounting principles in effect as of the date of determination thereof consistently applied.

"German Group Member" has the meaning set forth in Section 6.16(a).

"German Loan Party" means any Loan Party incorporated in Germany.

"German Security" means the Collateral that is subject of any Security Document governed by the laws of Germany.

"German Security Documents" means:

(i) the German law governed share pledge agreements over the shares in T.H. Deutschland GmbH, Tommy Hilfiger Footwear Europe GmbH and Hilfiger Stores GmbH entered into by, *inter alios*, Hilfiger Holdings Germany GmbH & Co. KG as pledgor;

(ii) the German law governed share pledge agreement over the shares in Hilfiger Beteiligungsgesellschaft mbH, entered into by, *inter alios*, Tommy Hilfiger Europe B.V. as pledgor;

(iii) the German law governed interest pledge agreement over the interests in Hilfiger Holdings Germany GmbH & Co. KG, entered into by, *inter alios*, Tommy Hilfiger Europe B.V. and Hilfiger Beteiligungsgesellschaft mbH as pledgors;

(iv) the German law governed account pledge agreements entered into by, *inter alios*, Tommy Hilfiger Footwear Europe GmbH, Hilfiger Stores GmbH, Hilfiger Holdings Germany GmbH & Co. KG, Hilfiger Beteiligungsgesellschaft mbH and T.H. Deutschland GmbH as pledgor;

(v) the German law governed global assignment agreements entered into by, *inter alios*, Tommy Hilfiger Footwear Europe GmbH, Hilfiger Stores GmbH, Hilfiger Holdings Germany GmbH & Co KG, Hilfiger Beteiligungsgesellschaft mbH and T.H. Deutschland GmbH as assignor; and

(vi) the German law governed security transfer agreements over fixed and current assets entered into by, *inter alios*, Tommy Hilfiger Footwear Europe GmbH, Hilfiger Stores GmbH, Hilfiger Holdings Germany GmbH & Co. KG, Hilfiger Beteiligungsgesellschaft mbH and T.H. Deutschland GmbH as transferor.

"Governmental Acts" means any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority.

"Governmental Authority" means any federal, state, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity, officer or examiner exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state of the United States, the United States, or a foreign entity or government.

"Governmental Authorization" means any permit, license, authorization, certification, registration, approval, plan, directive, consent order or consent decree of or from any Governmental Authority.

"Group" means, collectively, the U.S. Borrower and its Restricted Subsidiaries; provided that, as used in Sections 5.01(a) and (b) with respect to the financial statements required to be delivered thereunder, it shall mean the U.S. Borrower and its consolidated Subsidiaries in accordance with GAAP.

"Group Member" means any of the U.S. Borrower or any of its Restricted Subsidiaries.

"Group Member Adjusted EBITDA" means, for any period for any Group Member, the amount of Consolidated Adjusted EBITDA attributable to such Group Member for such period, calculated on an unconsolidated basis and by excluding all intercompany items (provided that, for the purpose of the determination of a Material Company solely as such term is used in Section 8.01(f), (g), (h) or (l), Group Member Adjusted EBITDA shall be calculated on a consolidated basis for such Group Member and its Subsidiaries).

"Group Member Assets" means, for any Group Member, as of any date of determination, the total assets of such Group Member, determined in accordance with GAAP, calculated on an unconsolidated basis and by excluding all intercompany items (provided that, for the purpose of the determination of a Material Company solely as such term is used in Section 8.01(f), (g), (h) or (l), Group Member Assets shall be calculated on a consolidated basis for such Group Member and its Subsidiaries).

"Guaranteed Obligations" has the meaning set forth in Section 7.01(b).

"Guarantor" means (i) with respect to the Obligations of the U.S. Borrower, each U.S. Subsidiary and (ii) with respect to the Obligations of the Foreign Borrower, (v) the U.S. Borrower, (w) each U.S. Subsidiary, (x) any other Borrower (other than the U.S. Borrower), (y) each Foreign Subsidiary set forth on Schedule 1.01(h) and (z) each other Foreign Subsidiary guaranteeing the Obligations of the Foreign Borrower after the Closing Date. For the avoidance of doubt, no Foreign Guarantor shall guarantee the Obligations of the U.S. Borrower or any other U.S. Loan Party.

"Guarantor Coverage Certificate" means a Guarantor Coverage Certificate substantially in the form of Exhibit C-2.

"Guaranty" means the guaranty of each Guarantor set forth in Article VII.

"Hazardous Materials" means any pollutant, contaminant, chemical, waste, material or substance, exposure to which or Release of which is prohibited, limited or regulated by any Governmental Authority or which may or could pose a hazard to human health and safety or to the indoor or outdoor environment, including petroleum, petroleum products, asbestos, urea formaldehyde, radioactive materials, polychlorinated biphenyls ("PCBs") and toxic mold.

"Hedge Agreement" means an Interest Rate Agreement or a Currency Agreement entered into with a Lender Counterparty.

"Highest Lawful Rate" means the maximum lawful interest rate, if any, that at any time or from time to time may be contracted for, charged, or received under the laws applicable to any Lender which are presently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than applicable laws now allow.

"Historical Financial Statements of the Acquired Business" means as of the Closing Date, (i) audited special purpose consolidated financial statements of the Acquired Business for the Fiscal Years ended March 31, 2008 and 2009 and an unqualified audit report relating thereto; (ii) audited special purpose consolidated financial statements of the Acquired Business for the Fiscal Years ended March 31, 2007 and 2008 and an unqualified audit report relating thereto; (iii) unaudited special purpose consolidated interim financial statements of the Acquired Business for the nine months ended December 31, 2009, and (iii) unaudited financial statements of the Acquired Business for the twelve-month period ended December 31, 2009.

"Historical Financial Statements of the U.S. Borrower" means as of the Closing Date, audited consolidated financial statements of the U.S. Borrower consisting of balance sheets as of February 1, 2009 and January 31, 2010 and income statements and statements of stockholders' equity and cash flows for Fiscal Years 2007, 2008 and 2009 and an unqualified audit report relating thereto.

"IFRS" has the meaning set forth in Section 4.07.

"Increased Amount Date" has the meaning set forth in Section 2.24.

"Increased-Cost Lender" has the meaning set forth in Section 2.23.

"Incremental Revolving Commitments" has the meaning set forth in Section 2.24.

"Incremental Revolving Loan" has the meaning set forth in Section 2.24.

"Incremental Revolving Loan Lender" has the meaning set forth in Section 2.24.

"Incremental Term Loan" has the meaning set forth in Section 2.24.

"Incremental Term Loan Commitments" has the meaning set forth in Section 2.24.

"Incremental Term Loan Exposure" means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the Incremental Term Loans of such Lender.

"Incremental Term Loan Lender" has the meaning set forth in Section 2.24.

"Incremental Term Loan Maturity Date" means the date on which Incremental Term Loans of a Series shall become due and payable in full hereunder, as specified in the applicable Joinder Agreement, including by acceleration or otherwise.

"Incremental Term Loan Note" means a promissory note in the form of Exhibit B-5, as it may be amended, restated, supplemented or otherwise modified from time to time.

"Incurrence Test" means that, as of the applicable test date, the Leverage Ratio as of such date, based on Consolidated Adjusted EBITDA for the most recently ended period of

four consecutive Fiscal Quarters of the Group for which internal financial statements are available and Consolidated Total Debt as of the applicable test date, shall be 3.00:1.00 or less.

"Indebtedness" means, as applied to any Person, without duplication, (i) all indebtedness for borrowed money; (ii) that portion of obligations with respect to Capital Leases that is properly classified as a capitalized liability on a balance sheet in conformity with GAAP; (iii) obligations evidenced by bonds, debentures, notes or other similar instruments; (iv) any obligation owed for all or any part of the deferred purchase price of property or services (excluding trade accounts payable and accrued expenses in the ordinary course of business which are not overdue for a period of more than 90 days or, if overdue for more than 90 days, as to which a dispute exists and adequate reserves in conformity with GAAP have been established on the books of such Person and any such obligations incurred under ERISA), which purchase price is (a) due more than six (6) months from the date of incurrence of the obligation in respect thereof or (b) evidenced by a note or similar written instrument in each case to the extent that the same would be required to be shown as a long term liability on a balance sheet prepared in accordance with GAAP; (v) all indebtedness secured by any Lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby shall have been assumed by that Person or is nonrecourse to the credit of that Person (provided that if the recourse to such Person in respect of such indebtedness is limited solely to the property subject to such Lien, the amount of such indebtedness shall be deemed to be the fair market value (as determined in good faith by such Person) of the property subject to such Lien or the amount of such indebtedness if less); (vi) the face amount of any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (vii) Disqualified Equ ity Interests, (viii) the net payments that such Person would have to make in the event of any early termination, on the date Indebtedness of such Person is being determined, in respect of any exchange traded or over the counter derivative transaction, including any Interest Rate Agreement and any Currency Agreement, in each case, whether entered into for hedging or speculative purposes; provided, that in no event shall obligations under any derivative transaction be deemed "Indebtedness" for any purpose under Section 6.07 or for the purpose of calculating the Incurrence Test or Leverage Ratio unless such obligations relate to a derivatives transaction which has been terminated, (ix) the full outstanding balance of trade receivables, notes or other instruments sold with full recourse in a factoring or similar transaction, other than in any such case any thereof sold solely for purposes of collection of delinquent accounts and (x) any Contingent Liability with respect to the foregoing. The Indebtedness of any Person shall include the Indebtedness of any other Person (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such Person, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnified Liabilities" means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages), penalties, claims (including Environmental Claims), actions, judgments, suits, costs (including the costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other necessary response action related to the Release or presence of any Hazardous Materials), expenses and disbursements of any kind or nature whatsoever (including any of the foregoing in connection with any investigative, administrative or judicial proceeding or hearing commenced or threatened by any Group Member, its Affiliates or any other Person, whether or not any such Indemnitee

shall be designated as a party or a potential party thereto, and any fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect, special or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and Environmental Laws), on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnitee, in any manner relating to or arising out of (i) this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby (including the Lenders' agreement to make Credit Extensions, the syndication of the credit facilities provided for herein or the use or intended use of the proceeds thereof, or any enforcement of any of the Loan Documents (including any sale of, collection from, or other realizatio n upon any of the Collateral or the enforcement of the Guaranty)); (ii) the Commitment Letter (and any related fee or engagement letter) delivered by any Agent or any Lender to the U.S. Borrower with respect to the transactions contemplated by this Agreement; (iii) any Environmental Claim relating to or arising from, directly or indirectly, any past or present activity, operation, land ownership, or practice of any Group Member; or (iv) any Loan or the use of proceeds thereof.

"Indemnified Taxes" means any Taxes other than Excluded Taxes.

"Indemnitee" has the meaning set forth in Section 10.03(a).

"Installment" has the meaning set forth in Section 2.12(a).

"Installment Date" has the meaning set forth in Section 2.12(a).

"Intellectual Property" means the collective reference to all rights, priorities and privileges relating to intellectual property, whether arising under the United States, multinational or foreign laws or otherwise, including without limitation, Copyrights, Copyright Licenses, Patents, Patent Licenses, Trademarks, Trademark Licenses, Trade Secrets, and Trade Secret Licenses (as each such term is defined in the U.S. Pledge and Security Agreement), and the right to sue or otherwise recover for any past, present and future infringement, dilution, misappropriation, or other violation or impairment thereof, including the right to receive all Proceeds therefrom, including without limitation license fees, royalties, income, payments, claims, damages and proceeds of suit, now or hereafter due and/or payable with respect thereto.

"Intellectual Property Asset" means, at the time of determination, any interest (fee, license or otherwise) then owned by any Loan Party in any Intellectual Property.

"Intellectual Property Security Agreements" has the meaning set forth in the U.S. Pledge and Security Agreement and the CKI Related Assets Pledge and Security Agreement, as applicable.

"Interest Coverage Ratio" means the ratio as of the last day of any Fiscal Quarter of (i) Consolidated Adjusted EBITDA for the four-Fiscal-Quarter period then ended to (ii) Consolidated Cash Interest Expense for such four-Fiscal-Quarter period.

"Intercreditor Agreements" means the CKI Intercreditor Agreement and the 2023 Debentures Intercreditor Agreement.

"Interest Payment Date" means with respect to (i) any Loan that is a Base Rate Loan (including any Swing Line Loan), each March 31, June 30, September 30 and December 31 of each year, commencing on the first such date to occur after the Closing Date and the final maturity date of such Loan; and (ii) any Loan that is a Eurocurrency Rate Loan, the last day of each Interest Period applicable to such Loan; provided, that in the case of each Interest Period of longer than three (3) months "Interest Payment Date" shall also include each date that is three (3) months, or an integral multiple thereof, after the commencement of such Interest Period.

"Interest Period" means, in connection with a Eurocurrency Rate Loan, an interest period of one-, two-, three- or six-months (or, if available to all of the Lenders, nine or twelve months and for the first twenty-eight (28) days following the Closing Date, such other period as the Administrative Agent and the Borrower Representative shall agree), as selected by the Borrowers in the applicable Borrowing Notice or Conversion/Continuation Notice, (i) initially, commencing on the Credit Date or Conversion/Continuation Date thereof, as the case may be; and (ii) thereafter, commencing on the day on which the immediately preceding Interest Period expires; provided, that (a) if an Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day unless no further Business Day occurs in such month, in which case such Interest Period shall expire on the immediately preceding Business Day; (b) any Interest Period in respect of a Eurocurrency Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to clauses (c) and (d), of this definition, end on the last Business Day of a calendar month; (c) no Interest Period with respect to any portion of any Class of Term Loans shall extend beyond such Class's Term Loan Maturity Date; and (d) no Interest Period with respect to any portion of any Class of Revolving Loans shall extend beyond such Class's Revolving Commitment Termination Date.

"Interest Rate Agreement" means any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedging agreement or other similar agreement or arrangement, each of which is for the purpose of hedging the interest rate exposure associated with the operations of the Group and not for speculative purposes.

"Interest Rate Determination Date" means, with respect to any Interest Period, the date that is two (2) Business Days prior to the first day of such Interest Period.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended to the date hereof and from time to time hereafter, and any successor statute.

"Investment" means (i) any direct or indirect purchase or other acquisition by any Group Member of, or of a beneficial interest in, any of the Securities of any other Person (other than a Loan Party); (ii) any direct or indirect loan, advance (other than advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business) or capital contributions by any Group Member to any other Person (other than a Loan Party), including all Indebtedness and accounts receivable from that other Person that are not current assets or did not arise from sales to that other Person in the ordinary course of business and (iii) all investments consisting of any exchange traded or over the counter derivative transaction, including any Interest Rate Agreement and Currency Agreement, whether

entered into for hedging or speculative purposes. The amount of any Investment of the type described in clauses (i) and (ii) shall be the original cost of such Investment plus the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect to such Investment.

"Issuance Notice" means a notice substantially in the form of Exhibit A-3.

"Issuing Bank" means each of Barclays Bank PLC, Bank of America, N.A., JPMorgan Chase Bank, N.A. and Fortis Bank (Nederland) N.V., as Issuing Bank hereunder and any other Lender that has notified the Administrative Agent that it has agreed to a request by the Borrower Representative to become an Issuing Bank hereunder with respect to U.S. Letters of Credit, Foreign Letters of Credit or Canadian Letters of Credit, as applicable, together with their respective permitted successors and assigns in such capacity. Unless otherwise specified, in respect of any Letters of Credit, "Issuing Bank" shall refer to the applicable Issuing Bank which has issued such Letter of Credit. An Issuing Bank may perform its obligations hereunder through any applicable branch thereof and such branch shall be treated as the applicable Issuing Bank where applicable.

"Itochu Agreement" means that certain Stockholders' Agreement, dated as of December 27, 2007, among ITOCHU Corporation, Tommy Hilfiger Group B.V., Tommy Hilfiger Japan Corporation and certain other parties signatory thereto.

"Itochu Amount" means, for any period, the payments paid or payable by any Group Member for such period pursuant to the Itochu Agreement.

"Itochu Guarantee" means that certain Guarantee, dated as of January 23, 2008, by Fortis Bank (Nederland) N.V. of certain obligations of Tommy Hilfiger Group B.V. under the Itochu Agreement for the benefit of ITOCHU Corporation.

"Itochu Obligations" means all obligations of any nature of any Subsidiary of the U.S. Borrower under or with respect to the Itochu Guarantee, the Itochu Agreement and the preferred shares of Tommy Hilfiger Japan Corporation.

"Japanese Yen" means the lawful currency of Japan.

"Joinder Agreement" means an agreement substantially in the form of Exhibit J.

"Joint Venture" means a joint venture, partnership or other similar arrangement, whether in corporate, partnership or other legal form; provided, that in no event shall any corporate Subsidiary of any Person be considered to be a Joint Venture to which such Person is a party.

"Judgment Currency" has the meaning set forth in Section 10.25.

"Landlord Consent" means, with respect to any Leasehold Property for which a landlord's consent is required prior to a Loan Party's granting of a Mortgage on such Leasehold Property, a letter, certificate or other instrument in writing from the lessor under the related lease, pursuant to which, among other things, the landlord consents to the granting of a Mortgage on

such Leasehold Property by the Loan Party tenant, such Landlord Consent to be in form and substance acceptable to the Collateral Agent in its reasonable discretion and sufficient for the Collateral Agent to obtain a Title Policy with respect to such Mortgage.

"Landlord Personal Property Collateral Access Agreement" means a Landlord Waiver and Consent Agreement substantially in the form of Exhibit I with such amendments or modifications as may be approved by the Collateral Agent.

"Leasehold Property" means any leasehold interest of any Loan Party as lessee under any lease of real property, other than any lease with respect to retail store locations and any such leasehold interest designated from time to time by the Collateral Agent in its sole discretion as not being required to be included in the Collateral.

"Lender" means each financial institution listed on the signature pages hereto as a Lender, and any other Person that becomes a party hereto pursuant to an Assignment Agreement or a Joinder Agreement. Unless the context clearly indicates otherwise, the term "Lenders" shall include the Swing Line Lender.

"Lender Counterparty" means each Person counterparty to a Hedge Agreement, Cash Management Agreement or Treasury Transaction (who is (or at the time such Hedge Agreement, Cash Management Agreement or Treasury Transaction was entered into, was) a Lender, an Agent or an Affiliate of any thereof (including, for the avoidance of doubt, any Person who is an Agent or a Lender (and any Affiliate thereof) as of the Closing Date but subsequently, whether before or after entering into a Hedge Agreement, Cash Management Agreement or Treasury Transaction, ceases to be an Agent or a Lender, as the case may be).

"Letter of Credit" means a U.S. Letter of Credit, a Canadian Letter of Credit and/or a Foreign Letter of Credit, as applicable.

"Letter of Credit Sublimit" means the U.S. Letter of Credit Sublimit, the Canadian Letter of Credit Sublimit or the Foreign Letter of Credit Sublimit, as applicable.

"Leverage Ratio" means the ratio as of the last day of any Fiscal Quarter of (i) Consolidated Total Debt as of such day to (ii) Consolidated Adjusted EBITDA for the four-Fiscal-Quarter period ending on such date.

"Lien" means any lien, mortgage, pledge, assignment or transfer for security purpose, security interest, charge or similar encumbrance of any kind (including any agreement to give any of the foregoing, any conditional sale or other title (or extended title) retention agreement, and any lease or license in the nature thereof) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing; provided that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien.

"Loan" means a Tranche A Term Loan, a Tranche B Term Loan, a Revolving Loan, a Swing Line Loan and an Incremental Term Loan, which (i) in the case of Loans denominated in Dollars, may be a Base Rate Loan or a Eurocurrency Rate Loan, (ii) in the case of Loans denominated in Euros or an Other Foreign Currency, shall be a Eurocurrency Rate

Loan and (iii) in the case of Loans denominated in Canadian Dollars, may be a Canadian Prime Rate Loan or a Eurocurrency Rate Loan.

"Loan Document" means any of this Agreement, the Notes, if any, the Security Documents, the Intercreditor Agreements, each Joinder Agreement, any accession or joinder agreement to the 2023 Debentures Intercreditor Agreement, any documents or certificates executed by the Borrowers in favor of any Issuing Bank relating to Letters of Credit, any Ancillary Document, and all other documents, instruments or agreements executed and delivered by a Loan Party for the benefit of any Agent, any Issuing Bank or any Lender in connection herewith on or after the date hereof.

"Loan Party" means each Borrower and each Guarantor; provided that each Subsidiary set forth on Schedule 1.01(h) shall be deemed on and after the Closing Date to be a "Loan Party", a "Guarantor" and a "Foreign Guarantor" for purposes of the provisions contained in Article VI of this Agreement until such Subsidiary becomes a Guarantor hereunder by executing a Counterpart Agreement, upon which execution such Subsidiary shall become a Guarantor.

"Management Determination" has the meaning set forth in Section 7.13(f).

"Mandatory Costs" means the % rate per annum calculated by the Administrative Agent in accordance with Schedule 1.01(f) hereto.

"Margin Stock" has the meaning given in Regulation U of the Board of Governors as in effect from time to time.

"Market Disruption" means any Interest Rate Determination Date on which (i) the Administrative Agent shall have determined (which determination shall be final and conclusive and binding upon all parties hereto), with respect to any Eurocurrency Rate Loans, that by reason of circumstances affecting the London interbank market adequate and fair means do not exist for ascertaining the interest rate applicable to such Loans on the basis provided for in the definition of Adjusted Eurocurrency Rate, or (ii) before the close of business in London on such Interest Rate Determination Date, the Administrative Agent receives notifications from a Lender or Lenders (whose aggregate exposure in respect of any Class of Loans exceeds 50% of that Class of Loans) that the cost to it of obtaining matching deposits in the London interbank market would be in excess of the Adjusted Eurocurrency Rate.

"Material Adverse Effect" means any event, development or circumstance that has had or would reasonably be expected to have a material adverse effect on (i) the business, assets, operations or financial condition of the Group (other than any Securitization Subsidiary) taken as a whole; (ii) the ability of any Loan Party to fully and timely perform its Obligations, (iii) the legality, validity, binding effect or enforceability against the Loan Parties of the Loan Documents in a manner which would be prejudicial to the interests of the Secured Parties taken as a whole; or (iv) the rights and remedies available to, or conferred upon, any Agent and any Lender or any other Secured Party under any Loan Document in any manner that would be prejudicial to the interests of the Secured Parties, taken as a whole.

"Material Company" means (i) any Loan Party, (ii) any Group Member that is listed in Schedule 1.01(g) or (iii) any Group Member that has (x) Group Member Adjusted EBITDA or (y) Group Member Assets representing, respectively, 5% or more of Consolidated Adjusted EBITDA or Consolidated Total Assets. For this purpose:

(a) the (i) Group Member Adjusted EBITDA and (ii) Group Member Assets will be determined from its financial statements upon which the latest audited financial statements of the Group have been based;

(b) if a Subsidiary becomes a Group Member after the date on which the latest audited financial statements of the Group have been prepared, the (i) Group Member Adjusted EBITDA or (ii) Group Member Assets of that Subsidiary will be determined from its latest financial statements;

(c) the (i) Consolidated Adjusted EBITDA and (ii) Consolidated Total Assets will be determined from its latest audited financial statements, adjusted (where appropriate), in the case of Consolidated Adjusted EBITDA, taking into account pro forma adjustments of the type described in the definition of "Consolidated Adjusted EBITDA" and, in the case of Consolidated Total Assets, to reflect the assets of any company or business subsequently acquired or disposed of; and

(d) if a Material Company disposes of all or substantially all of its assets to another Group Member, it will immediately cease to be a Material Company and the other Group Member (if it is not already) will immediately become a Material Company.

"Material Indebtedness" means Indebtedness (other than the Loans and Letters of Credit or, for the avoidance of doubt, any CKI Obligations) of any one or more of the Borrowers or any Subsidiary in an individual principal amount (or Net Mark-to-Market Exposure) of $50,000,000 or more.

"Material Intellectual Property" means any Intellectual Property included in the Collateral that is material to the business of any Group Member.

"Material Real Estate Asset" means any Real Estate Asset in respect of which a Loan Party has an ownership interest with a fair market value in excess of $10,000,000 as of the date of the acquisition thereof, but excluding all Leasehold Properties (i) that are retail store locations, (ii) with respect to which the aggregate payments under the terms of the applicable lease are less than $10,000,000 per annum or whose termination dates under the terms of the applicable lease are not greater than 5 years after the date of the acquisition thereof, (iii) that, by the terms of their respective leases are prohibited from, or the respective landlord does not otherwise grant consent to, recording a Record Document, or (iv) with respect to which, notwithstanding the U.S. Borrower's commercially reasonable efforts to secure a Landlord Consent pursuant to the terms of Section 3.01(g)(3), such Lan dlord Consent shall not be forthcoming from the applicable Landlord.

"Moody's" means Moody's Investor Services, Inc.

"Mortgage" means one or more instruments of mortgage or leasehold mortgage substantially in the form of Exhibit H, as it may be amended, restated, supplemented or otherwise modified from time to time.

"Multiemployer Plan" means any Employee Benefit Plan which is a "multiemployer plan" as defined in Section 3(37) or Section 4001(a)(3) of ERISA.

"NAIC" means The National Association of Insurance Commissioners, and any successor thereto.

"Narrative Report" means, with respect to the financial statements for which such narrative report is required, a narrative report describing the operations of the Group for the applicable Fiscal Quarter or Fiscal Year and for the period from the beginning of the then current Fiscal Year to the end of such period to which such financial statements relate.

"Net Assets" has the meaning set forth in Section 7.13(h).

"Net Cash Proceeds" means (a) with respect to any Asset Sale, an amount equal to: (i) cash payments (including any cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) received by any Group Member from such Asset Sale, minus (ii) any bona fide direct costs incurred in connection with such Asset Sale, including (1) taxes paid or payable as a result thereof including transfer taxes and income or gains taxes payable as a result of any gain recognized in connection with such Asset Sale, (2) payment of the outstanding principal amount of, premium or penalty, if any, and interest on any Indebtedness (other than the Loans) that is secured by a Lien on the stock or assets in question and that is required to be repaid under the terms thereof as a result of such Asset Sale, (3) a reasonable reserve established in accordance with GAAP retained by the applicable Group Member, including, without limitation for any indemnification payments (fixed or contingent) attributable to seller's indemnities and representations and warranties to purchaser in respect of such Asset Sale undertaken by any Group Member in connection with such Asset Sale, (4) attorneys' fees, accountants' fees, investment banking fees, survey costs, title insurance premiums and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees incurred in connection therewith and (5) in case of any such Asset Sale occurring in a jurisdiction other than the United States, the amount of all taxes paid (or reasonably estimated to be payable) by the Group Members that are directly attributable to the distribution of such cash proceeds from such jurisdiction or to the repatriation of such cash proceeds into the United States or The Netherlands, but only to the extent the Group Members have used commercially reasonable efforts to reduce or eliminate such taxes, including by electing to prepay Loans in such a manner that would result in the lowest possible amount of such taxes; (b) (i) any cash payments or proceeds received by any Group Member (1) under any casualty insurance policy in respect of a covered loss thereunder or (2) as a result of the taking of any assets of any Group Member by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, minus (ii) (1) any actual and reasonable costs incurred by any Group Member in connection with the adjustment or settlement of any claims of such Group Member in respect thereof, (2) any bona fide direct costs incurred in connection with any sale of such assets as referred to in preceding

clause (i)(2), including income taxes payable as a result of any gain recognized in connection therewith and (3) in case of any such event occurring in a jurisdiction other than the United States, the amount of all taxes paid (or reasonably estimated to be payable) by the Group Members that are directly attributable to the distribution of such cash proceeds from such jurisdiction or to the repatriation of such cash proceeds into the United States or The Netherlands, but only to the extent the Group Members have used commercially reasonable efforts to reduce or eliminate such taxes, including by electing to prepay Loans in such a manner that would result in the lowest possible amount of such taxes; (c) with respect to any issuance or incurrence of Indebtedness (other than in connection with a Qualified Securitization Financing) or any sale of Equity Interests, the cash proceeds thereof, net of underwriting discounts and commissio ns and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses; and (d) with respect to any issuance or incurrence of Indebtedness in connection with a Qualified Securitization Financing, the cash proceeds thereof, net of any related Securitization Fees and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses, received directly or indirectly from time to time in connection with such Qualified Securitization Financing from Persons that are not Securitization Subsidiaries, including any such cash proceeds received in connection with an increase in the outstanding program or facility amount with respect to such Qualified Securitization Financing, but excluding any cash collections from the Securitization Assets backing such Qualified Securitization Financing that are reinvested (or deemed to be reinvested) by such Persons in additional Securitization Assets without any increase in the Indebtedness outstanding in con nection with such Qualified Securitization Financing.

"Net Mark-to-Market Exposure" of a Person means, as of any date of determination, the excess (if any) of all unrealized losses over all unrealized profits of such Person arising from Hedge Agreements or other Indebtedness of the type described in clause (viii) of the definition thereof. As used in this definition, "unrealized losses" means the fair market value of the cost to such Person of replacing such Hedge Agreement or such other Indebtedness as of the date of determination (assuming the Hedge Agreement or such other Indebtedness were to be terminated as of that date), and "unrealized profits" means the fair market value of the gain to such Person of replacing such Hedge Agreement or such other Indebtedness as of the date of determination (assuming such Hedge Agreement or such other Indebtedness were to be terminated as o f that date).

"Non-Consenting Lender" has the meaning set forth in Section 2.23.

"Non-Public Information" means information which has not been disseminated in a manner making it available to investors generally, within the meaning of Regulation FD.

"Non-U.S. Lender" has the meaning set forth in Section 2.20(c).

"Note" means a Tranche A Term Loan Note, a Tranche B Term Loan Note, an Incremental Term Loan Note, a Revolving Loan Note or a Swing Line Note.

"Notice" means a Borrowing Notice, an Issuance Notice, or a Conversion/ Continuation Notice.

"Obligations" means all obligations of every nature of each Loan Party, including obligations from time to time owed to Secured Parties, under any Loan Document, Hedge Agreement, Cash Management Agreement or Treasury Transaction whether for principal, interest (including interest which, but for the filing of a petition in bankruptcy with respect to such Loan Party, would have accrued on any Obligation, whether or not a claim is allowed against such Loan Party for such interest in the related bankruptcy proceeding), reimbursement of amounts drawn under Letters of Credit, payments for early termination of Hedge Agreements, fees, expenses, indemnification or otherwise.

"Offer" has the meaning set forth in Section 2.13(c).

"Offer Loans" has the meaning set forth in Section 2.13(c).

"Organizational Documents" means with respect to any Person all formation, organizational and governing documents, instruments and agreements, including (i) with respect to any corporation, its certificate or articles of incorporation or organization, its by-laws, any memorandum of incorporation or other constitutional documents, (ii) with respect to any limited partnership, its certificate of limited partnership and its partnership agreement, (iii) with respect to any general partnership, its partnership agreement and (iv) with respect to any limited liability company, its certificate of incorporation or formation (and any amendments thereto), certificate of incorporation on change of name (if any), its memorandum and articles of association (if any), its articles of organization (if any), the shareholders' list (if any) and its limited liability company agreement or operating agreement. ;In the event any term or condition of this Agreement or any other Loan Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such "Organizational Document" shall only be to a document of a type customarily certified by such governmental official.

"Other Foreign Currencies" means Japanese Yen and Pounds Sterling.

"Other Taxes" means any and all present or future stamp or documentary Taxes or any other excise or property Taxes, charges or similar levies (and interest, fines, penalties and additions related thereto) arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

"Parallel Debt" means, in respect of a Loan Party, its Foreign Parallel Debt or its U.S. Parallel Debt.

"Participant Register" has the meaning set forth in Section 10.06(g)(iv).

"Patents" has the meaning set forth in the U.S. Pledge and Security Agreement.

"PATRIOT Act" has the meaning set forth in Section 3.01(u).

"Payment in Full" or "Paid in Full" means the payment in full of all Obligations (other than obligations under Hedge Agreements, Cash Management Agreements or Treasury Transactions not yet due and payable and contingent obligations not yet due and payable) and

cancellation, expiration or Cash Collateralization of all Letters of Credit and termination of all Commitments to lend under this Agreement.

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

"Pension Plan" means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to Section 412 or Section 430 of the Internal Revenue Code or Section 302 or Section 303 of ERISA.

"Perfection Certificate" means a certificate in form satisfactory to the Collateral Agent that provides information with respect to the personal or mixed property of each U.S. Loan Party.

"Permitted Acquisition" means any acquisition by the U.S. Borrower and/or any of its Wholly-Owned Restricted Subsidiaries of, or any transaction that results in the U.S. Borrower and/or any of its Wholly-Owned Restricted Subsidiaries owning, whether by purchase, merger, exclusive inbound license, transfer of rights under Copyright or otherwise, all or substantially all of the assets of, all of the Equity Interests of, or a business line or unit or a division of, any Person; provided, that:

(a) immediately prior to, and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing or would result therefrom;

(b) all transactions in connection therewith shall be consummated, in all material respects, in accordance with all applicable laws and in conformity with all applicable Governmental Authorizations;

(c) in the case of the acquisition of Equity Interests, all of the Equity Interests (except for any such Securities in the nature of directors' qualifying shares required pursuant to applicable law) acquired or otherwise issued by such Person or any newly formed Subsidiary of the U.S. Borrower in connection with such acquisition shall be owned 100.0% by the Loan Parties;

(d) the Group shall be in compliance with the financial covenants set forth in Section 6.07(a) and (b) on a pro forma basis after giving effect to such acquisition as of the last day of the Fiscal Quarter most recently ended;

(e) the acquisition shall not result in the Group acquiring any interest, direct or indirect, in any Loan; and

(f) in the case of an acquisition involving consideration in excess of $25,000,000, the Borrower Representative shall have delivered to the Administrative Agent at least five (5) Business Days prior to such acquisition, a Compliance Certificate evidencing compliance with Sections 6.07(a) and 6.07(b) as required under clause (d) above.

"Permitted Capital Expenditure Amount" has the meaning set forth in Section 6.07(c).

"Permitted Liens" means each of the Liens permitted pursuant to Section 6.02.

"Permitted Refinancing" means, with respect to any Person, any modification, refinancing, refunding, renewal or extension of any Indebtedness of such Person; provided, that (i) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed or extended except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees and expenses reasonably incurred, in connection with such modification, refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder; (ii) (A) such modification, refinancing, refunding, renewal or extension has a final maturity date equal to or later than the earlier of (x) the final maturity date of the Indebtedness being modified, re financed, refunded, renewed or extended and (y) the date that is 90 days after the final maturity date of the Term Loans, and (B) has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the earlier of (x) the Indebtedness being modified, refinanced, refunded, renewed or extended and (y) the Term Loans; (iii) at the time thereof, no Default or Event of Default shall have occurred and be continuing; (iv) to the extent such Indebtedness being modified, refinanced, refunded, renewed or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, renewal or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being modified, refinanced, refunded, renewed or extended and (v) the obligors in respect of such Indebtedness being modified, refinanced, refunded, renewed or extended are the obligors th ereon and to the extent an additional obligor would otherwise be permitted to incur such Indebtedness under another provision of Section 6.01, such additional obligor may be an obligor thereon.

"Permitted Sale and Lease-Back" has the meaning set forth in Section 6.10.

"Person" means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, Joint Ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and Governmental Authorities.

"Platform" has the meaning set forth in Section 5.01(n).

"Pounds Sterling" means the lawful currency of the United Kingdom.

"Prime Rate" means the rate of interest publicly announced from time to time by the Administrative Agent as its prime rate in effect at its principal office in New York City. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. The Administrative Agent or any other Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

"Principal Office" means, for each of the Administrative Agent, each Swing Line Lender and each Issuing Bank, such Person's "Principal Office" which, in the case of the Administrative Agent, may include one or more separate offices with respect to Approved

Currencies as set forth on Schedule 1.01(d), or such other office or office of a third party or sub-agent, as appropriate, as such Person may from time to time designate in writing to the Borrowers, the Administrative Agent and each Lender.

"Projections" has the meaning set forth in Section 4.08.

"Pro Rata Share" means (i) with respect to all payments, computations and other matters relating to the Tranche A Term Loans of any Lender, as the context requires, the percentage obtained by dividing (x) (1) the U.S. Tranche A Term Loan Exposure of that Lender by (2) the aggregate U.S. Tranche A Term Loan Exposure of all Lenders or (y) (1) the Foreign Tranche A Term Loan Exposure of that Lender by (2) the aggregate Foreign Tranche A Term Loan Exposure of all Lenders; (ii) with respect to all payments, computations and other matters relating to all of the Tranche B Term Loans of any Lender, as the context requires, the percentage obtained by dividing (x) (1) the U.S. Tranche B Term Loan Exposure of that Lender by (2) the aggregate U.S. Tranche B Term Loan Exposure of all Lenders or (y) (1) the Foreign Tranche B Term Loan Exposure of that Lender by (2) the aggregate Foreign Tranch e B Term Loan Exposure of all Lenders; (iii) with respect to all payments, computations and other matters relating to the Revolving Commitment or Revolving Loans of any Lender or any Letters of Credit issued or participations purchased therein by any Lender or any participations in any Swing Line Loans purchased by any Lender, as the context requires, the percentage obtained by dividing (x) (1) the U.S. Revolving Exposure of that Lender by (2) the aggregate U.S. Revolving Exposure of all Lenders, (y) (1) the Foreign Revolving Exposure of that Lender by (2) the aggregate Foreign Revolving Exposure of all Lenders or (z) (1) the Canadian Revolving Exposure of that Lender by (2) the aggregate Canadian Revolving Exposure of all Lenders; and (iv) with respect to all payments, computations, and other matters relating to Incremental Term Loan Commitments or Incremental Term Loans of a particular Series, the percentage obtained by dividing (x) the Incremental Term Loan Exposure of that Lender with respect to tha t Series by (y) the aggregate Incremental Term Loan Exposure of all Lenders with respect to that Series. For all other purposes with respect to each Lender, "Pro Rata Share" means the percentage obtained by dividing (i) an amount equal to the sum of the Tranche A Term Loan Exposure, the Tranche B Term Loan Exposure, the Revolving Exposure and the Incremental Term Loan Exposure of that Lender, by (ii) an amount equal to the sum of the aggregate Tranche A Term Loan Exposure, the aggregate Tranche B Term Loan Exposure, the aggregate Revolving Exposure and the aggregate Incremental Term Loan Exposure of all Lenders.

"Qualified Securitization Financing" means any transaction or series of transactions entered into by a Group Member pursuant to which such Group Member, sells, conveys, contributes, assigns, grants an interest in or otherwise transfers to a Securitization Subsidiary, Securitization Assets (and/or grants a security interest in such Securitization Assets transferred or purported to be transferred to such Securitization Subsidiary), and which Securitization Subsidiary funds the acquisition of such Securitization Assets (i) with cash, (ii) through the issuance to such Group Member of Seller's Retained Interests or an increase in such Seller's Retained Interests, and/or (iii) with proceeds from the sale, pledge or collection of Securitization Assets.

"RBC" has the meaning specified in the preamble hereto.

"Real Estate Asset" means, at any time of determination, any interest (fee or leasehold) then owned by any Loan Party in any real property.

"Record Document" means, with respect to any Leasehold Property, (i) the lease evidencing such Leasehold Property or a memorandum thereof, executed and acknowledged by the owner of the affected real property, as lessor, or (ii) if such Leasehold Property was acquired or subleased from the holder of a Recorded Leasehold Interest, the applicable assignment or sublease document, executed and acknowledged by such holder, in each case in form sufficient to give such constructive notice upon recordation and otherwise in form reasonably satisfactory to the Collateral Agent.

"Recorded Leasehold Interest" means a Leasehold Property with respect to which a Record Document has been recorded in all places necessary or desirable, in the Collateral Agent's reasonable judgment, to give constructive notice of such Leasehold Property to third-party purchasers and encumbrances of the affected real property.

"Refunded Swing Line Loans" has the meaning set forth in Section 2.03(b)(iv).

"Register" has the meaning set forth in Section 2.07(b).

"Regulation" has the meaning set forth in Section 4.23.

"Regulation D" means Regulation D of the Board of Governors, as in effect from time to time.

"Regulation FD" means Regulation FD as promulgated by the SEC under the Securities Act and Exchange Act.

"Regulation U" means Regulation U of the Board of Governors, as in effect from time to time.

"Reimbursement Date" has the meaning set forth in Section 2.04(d)(i).

"Related Fund" means, with respect to any Lender that is an investment fund, any other investment fund that invests in commercial loans and that is managed or advised by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

"Release" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Material into the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including the movement of any Hazardous Material through the air, soil, surface water or groundwater.

"Relevant Jurisdiction" means, in relation to a Loan Party: (i) its jurisdiction of organization; (ii) any jurisdiction where any asset subject to or intended to be subject to the Security Documents to be created by it is situated; and (iii) any jurisdiction where it conducts its business.

"Relevant Restrictive Covenants" has the meaning set forth in Section 6.16(a).

"Replacement Lender" has the meaning set forth in Section 2.23.

"Required Lenders" means one or more Lenders having or holding Tranche A Term Loan Exposure, Tranche B Term Loan Exposure, Incremental Term Loan Exposure and/or Revolving Exposure and representing more than 50.0% of the sum of (i) the aggregate Tranche A Term Loan Exposure of all Lenders, (ii) the aggregate Tranche B Term Loan Exposure of all Lenders, (iii) the aggregate Revolving Exposure of all Lenders and (iv) the aggregate Incremental Term Loan Exposure of all Lenders.

"Required Prepayment Date" has the meaning set forth in Section 2.15(c).

"Restricted Payment" means (i) any dividend or other distribution, direct or indirect, on account of any shares of any class of stock of any Group Member now or hereafter outstanding, except a dividend payable solely in shares of Equity Interests (other than Disqualified Equity Interests); (ii) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value, direct or indirect, of any shares of any class of stock of any Group Member now or hereafter outstanding, except any such payment, purchase or acquisition payable solely in shares of Equity Interests (other than Disqualified Equity Interests); (iii) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of stock of any Group Member now or hereafter outstanding, (iv) any payment or prepayment of principal of, pr emium, if any, or interest on, or redemption, purchase, retirement, defeasance (including in-substance or legal defeasance), sinking fund or similar payment with respect to, the 2020 Notes and (v) any payment or prepayment of principal of, premium, if any, or interest on, or redemption, purchase, retirement or similar payment with respect to Subordinated Indebtedness (other than if such Subordinated Indebtedness is owed by the U.S. Borrower to any Restricted Subsidiary or owed by any Restricted Subsidiary to the U.S. Borrower or any other Restricted Subsidiary and, with respect to amounts owing to Restricted Subsidiaries that are not Loan Parties, in the ordinary course of business).

"Restricted Subsidiary" means any Subsidiary of the U.S. Borrower other than an Unrestricted Subsidiary.

"Revolving Commitment" means a U.S. Revolving Commitment, a Canadian Revolving Commitment and/or a Foreign Revolving Commitment, as applicable.

"Revolving Commitment Period" means the U.S. Revolving Commitment Period, the Canadian Revolving Commitment Period or the Foreign Revolving Commitment Period, as applicable.

"Revolving Commitment Termination Date" means the U.S. Revolving Commitment Termination Date, the Canadian Revolving Commitment Termination Date or the Foreign Revolving Commitment Termination Date, as applicable.

"Revolving Exposure" means, with respect to any Lender as of any date of determination, the sum of such Lender's U.S. Revolving Exposure, Canadian Revolving Exposure and Foreign Revolving Exposure.

"Revolving Loan" means a U.S. Revolving Loan, a Canadian Revolving Loan and/or a Foreign Revolving Loan, as applicable.

"Revolving Loan Note" means a promissory note substantially in the form of Exhibit B-3, as it may be amended, restated, supplemented or otherwise modified from time to time.

"S&P" means Standard & Poor's, a Division of The McGraw-Hill Companies, Inc.

"Sale and Lease-Back" has the meaning set forth in Section 6.10.

"Screen Rate" means, in relation to a Loan denominated in Dollars or Other Foreign Currency, the British Bankers' Association Interest Settlement Rate for the relevant currency and Interest Period, in relation to a Loan denominated in Canadian Dollars, the British Bankers' Association Canadian Dollar Rate for the relevant Interest Period and in relation to a Loan denominated in Euros, the percentage rate per annum determined by the Banking Federation of the European Union for the relevant period, in each case, displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, the Administrative Agent may specify another page or service displaying the appropriate rate.

"SEC" means the United States Securities and Exchange Commission and any successor Governmental Authority performing a similar function.

"Secured Parties" means the Agents, Lenders, Issuing Banks, the Lender Counterparties and the Ancillary Lenders and shall include, without limitation, all former Agents, Lenders, Issuing Banks, Lender Counterparties and Ancillary Lenders to the extent that any Obligations owing to such Persons were incurred while such Persons were Agents, Lenders, Issuing Banks, Lender Counterparties or Ancillary Lenders and such Obligations have not been paid or satisfied in full.

"Securities" means any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of Indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"Securities Act" means the Securities Act of 1933, as amended from time to time, and any successor statute.

"Securitization Assets" means any accounts receivable owed to a Group Member (whether now existing or arising or acquired in the future) arising in the ordinary course of business from the sale of goods or services, all collateral securing such accounts receivable, all contracts and contract rights and all guarantees or other obligations in respect of such accounts receivable, all proceeds of such accounts receivable and other assets (including contract rights) which are of the type customarily transferred or in respect of which security interests are customarily granted in connection with securitizations of accounts receivable and which are sold, conveyed, contributed, assigned, pledged or otherwise transferred by such Group Member to a Securitization Subsidiary.

"Securitization Fees" means, with respect to any Qualified Securitization Financing, distributions or payments made, or fees paid, directly or by means of discounts with respect to any Indebtedness issued or sold in connection with such Qualified Securitization Financing, to a Person that is not a Securitization Subsidiary in connection with such Qualified Securitization Financing.

"Securitization Repurchase Obligation" means any obligation of a seller of Securitization Assets in a Qualified Securitization Financing to repurchase Securitization Assets arising as a result of a breach of a representation, warranty or covenant with respect to such Securitization Assets, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, off set, counterclaim or other dilution of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller, but in each case, not as a result of such receivable being or becoming uncollectible for credit reasons.

"Securitization Subsidiary" means a wholly owned Subsidiary of the U.S. Borrower (or another Person formed for the purposes of engaging in a Qualified Securitization Financing in which any Group Member makes an Investment and to which such Group Member transfers, contributes, sells, conveys or grants a security interest in Securitization Assets) that engages in no activities other than in connection with the acquisition and/or financing of Securitization Assets of the Group, all proceeds thereof and all rights (contingent and other), collateral and other assets relating thereto, and any business or activities incidental or related to such business, and which is designated by the Board of Directors of the U.S. Borrower (or a duly authorized committee thereof) or such other Person (as provided below) as a Securitization Subsidiary and (a) no portion of the Indebtedness or any other obligati ons (contingent or otherwise) of which (i) is guaranteed by any Group Member, other than another Securitization Subsidiary (excluding guarantees of obligations (other than the principal of, and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (ii) is recourse to or obligates any Group Member, other than another Securitization Subsidiary, in any way other than pursuant to Standard Securitization Undertakings or (iii) subjects any property or asset (other than Securitization Assets) of any Group Member, other than another Securitization Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings, (b) with which no Group Member, other than another Securitization Subsidiary, has any material contract, agreement, arrangement or understanding other than (i) the applicable receivables purchase agreements and related agreements, in each case, having reasonably customary terms, or (ii) on terms which the U.S. Borrower reasonably believes to be no less favorable to the applicable Group Member than those that might be obtained at the time from Persons that are not Affiliates of the Group and (c) to which no Group

Member other than another Securitization Subsidiary, has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results. Any such designation by the Board of Directors of the U.S. Borrower (or a duly authorized committee thereof) or such other Person shall be evidenced to the Administrative Agent by delivery to the Administrative Agent of a certified copy of the resolution of the Board of Directors of the U.S. Borrower (or a duly authorized committee thereof) or such other Person giving effect to such designation and a certificate executed by an Authorized Officer certifying that such designation complied with the foregoing conditions.

"Security Documents" means the U.S. Security Agreements, the Mortgages, the Intellectual Property Security Agreements, the Landlord Personal Property Collateral Access Agreements, if any, each Foreign Law Security Document, if any, and all other instruments, documents and agreements delivered by any Loan Party pursuant to this Agreement or any of the other Loan Documents in order to grant to the Collateral Agent, for the benefit of Secured Parties, a Lien on any assets or property of that Loan Party as security for all or certain of the Obligations, including UCC financing statements and amendments thereto and filings with the United States Patent and Trademark Office and the United States Copyright Office.

"Seller" has the meaning specified in the recitals hereto.

"Seller BVI" has the meaning specified in the recitals hereto.

"Seller's Retained Interest" means the debt or equity interests held by any Group Member in a Securitization Subsidiary to which Securitization Assets have been transferred, including any such debt or equity received as consideration for or as a portion of the purchase price for the Securitization Assets transferred, or any other instrument through such Group Member has rights to or receives distributions in respect of any residual or excess interest in the Securitization Assets.

"Series" has the meaning set forth in Section 2.24.

"Series A Preferred Stock" means the Series A Convertible Preferred Stock of the U.S. Borrower issued and outstanding as of the Closing Date.

"Software" means computer software of whatever kind or purpose, including code, tools, developers kits, utilities, graphical user interfaces, menus, images, icons, and forms, and all software stored or contained therein or transmitted thereby, and related documentation.

"Solvency Certificate" means a Solvency Certificate of the principal financial officer of the Borrower Representative substantially in the form of Exhibit E-2.

"Solvent" means, with respect to the Group on a consolidated basis, that as of the date of determination, (a) the sum of such Group's debt (including contingent liabilities) does not exceed the present fair saleable value of such Group's present assets; (b) such Group's capital is not unreasonably small in relation to its business as of the date of determination; and (c) such Group has not incurred and does not intend to incur, or believe (nor should it reasonably believe) that it will incur, debts beyond its ability to pay such debts as they become due (whether at maturity or otherwise). For purposes of this definition, the amount of any contingent liability at

any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

"Standard Securitization Undertakings" means representations, warranties, covenants, Securitization Repurchase Obligations and indemnities entered into by any Group Member that are reasonably customary in accounts receivable securitization transactions.

"Subordinated Foreign Intercompany Obligations" has the meaning set forth in Section 7.07(b).

"Subordinated Indebtedness" means, with respect to the Obligations, any Indebtedness of any Loan Party that is by its terms subordinated in right of payment to any of the Obligations.

"Subordinated U.S. Intercompany Obligations" has the meaning set forth in Section 7.07(a).

"Subsidiary" means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than 50.0% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof; provided, that in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a "qualifying share" of the former Per son shall be deemed to be outstanding; provided, further, that for purposes of Article IV and V, no Securitization Subsidiary shall be considered a Subsidiary of the U.S. Borrower; provided, further, that, notwithstanding anything contained herein or otherwise, for purposes of this Agreement and any other Loan Document, the CKI Trust shall not be considered a Subsidiary of the U.S. Borrower; and provided, further, that unless the context otherwise requires, a Subsidiary shall mean a direct or indirect Subsidiary of the U.S. Borrower.

"Swing Line Lender" means each of the Canadian Swing Line Lender and the U.S. Swing Line Lender.

"Swing Line Loan" means a Canadian Swing Line Loan or a U.S. Swing Line Loan, as applicable.

"Swing Line Note" means a promissory note substantially in the form of Exhibit B-4, as it may be amended, restated, supplemented or otherwise modified from time to time.

"Syndication Agent" has the meaning set forth in the preamble.

"Tax" means any present or future tax, levy, impost, duty, assessment, charge, fee, deduction or withholding (and interest, fines, penalties and additions related thereto) of any nature and whatever called, by whomsoever, on whomsoever and wherever imposed, levied, collected, withheld or assessed.

"Term Lenders" means the Lenders having Tranche A Term Loan Exposure, Tranche B Exposure and Incremental Term Loan Exposure of each applicable Series.

"Term Loan" means a Tranche A Term Loan, a Tranche B Term Loan and an Incremental Term Loan.

"Term Loan Commitment" means the Tranche A Term Loan Commitment, the Tranche B Term Loan Commitment or the Incremental Term Loan Commitment of a Lender, and "Term Loan Commitments" means such commitments of all Lenders.

"Term Loan Maturity Date" means the Tranche A Term Loan Maturity Date, the Tranche B Term Loan Maturity Date and the Incremental Term Loan Maturity Date of any Series of Incremental Term Loans.

"Terminated Lender" has the meaning set forth in Section 2.23.

"TH Acknowledgment and Consent" means that certain Irrevocable Acknowledgment and Consent Agreement dated as of May 8, 2006 among Mr. Tommy Hilfiger, Tommy Hilfiger Licensing LLC, Tommy Hilfiger U.S.A., Inc. and Elmira (BVI) Unlimited (as the same shall have been amended, restated, supplemented or modified prior to the Closing Date).

"TH Documents" means the TH Employment Agreements and the TH Acknowledgment and Consent.

"TH Employment Agreements" means (i) that certain Amended and Restated Employment Agreement dated as of May 9, 2006 between Tommy Hilfiger U.S.A., Inc. and Mr. Tommy Hilfiger (as the same shall have been amended, restated, supplemented or modified prior to the Closing Date) and (ii) that certain Employment Agreement dated as of May 9, 2006 between the Acquired Business and Mr. Tommy Hilfiger (as the same shall have been amended, restated, supplemented or modified prior to the Closing Date).

"Title Company" has the meaning set forth in Section 3.01(g)(4).

"Title Policy" has the meaning set forth in Section 3.01(g)(4).

"Total Utilization of Canadian Revolving Commitments" means, as at any date of determination, the Dollar Equivalent of the sum of (i) the aggregate principal amount of all outstanding Canadian Revolving Loans (other than Canadian Revolving Loans made for the purpose of repaying any Refunded Swing Line Loans or reimbursing the applicable Issuing Bank for any amount drawn under any Canadian Letter of Credit, but not yet so applied), (ii) the aggregate principal amount of all outstanding Canadian Swing Line Loans and (iii) the Canadian Letter of Credit Usage.

"Total Utilization of Foreign Revolving Commitments" means, as at any date of determination, the Euro Equivalent of the sum of (i) the aggregate principal amount of all outstanding Foreign Revolving Loans (other than Foreign Revolving Loans made for the purpose of reimbursing the applicable Issuing Bank for any amount drawn under any Foreign Letter of Credit, but not yet so applied) and (ii) the Foreign Letter of Credit Usage.

"Total Utilization of U.S. Revolving Commitments" means, as at any date of determination, the Dollar Equivalent of the sum of (i) the aggregate principal amount of all outstanding U.S. Revolving Loans (other than U.S. Revolving Loans made for the purpose of repaying any Refunded Swing Line Loans or reimbursing the applicable Issuing Bank for any amount drawn under any U.S. Letter of Credit, but not yet so applied), (ii) the aggregate principal amount of all outstanding U.S. Swing Line Loans and (iii) the U.S. Letter of Credit Usage.

"Total Utilization of Revolving Commitments" means, as at any date of determination, the sum of (i) the Total Utilization of U.S. Revolving Commitments, (ii) the Total Utilization of Canadian Revolving Commitments and (iii) the Total Utilization of Foreign Revolving Commitments.

"Trademarks" has the meaning set forth in the U.S. Pledge and Security Agreement.

"Tranche A Term Loan" means a U.S. Tranche A Term Loan and/or a Foreign Tranche A Term Loan, as applicable.

"Tranche A Term Loan Commitment" means a U.S. Tranche A Term Loan Commitment and/or a Foreign Tranche A Term Loan Commitment, as applicable.

"Tranche A Term Loan Exposure" means, with respect to any Lender, as of any date of determination, the sum of such Lender's Foreign Tranche A Term Loan Exposure and U.S. Tranche A Term Loan Exposure.

"Tranche A Term Loan Maturity Date" means the earlier of (i) the fifth anniversary of the Closing Date and (ii) with respect to the Foreign Tranche A Term Loans or the U.S. Tranche A Term Loans, as applicable, the date on which all such Tranche A Term Loans shall become due and payable in full hereunder, whether by acceleration or otherwise.

"Tranche A Term Loan Note" means a promissory note substantially in the form of Exhibit B-1, as it may be amended, restated, supplemented or otherwise modified from time to time.

"Tranche B Term Loan" means a U.S. Tranche B Term Loan and/or a Foreign Tranche B Term Loan, as applicable.

"Tranche B Term Loan Commitment" means a U.S. Tranche B Term Loan Commitment and/or a Foreign Tranche B Term Loan Commitment, as applicable.

"Tranche B Term Loan Exposure" means, with respect to any Lender, as of any date of determination, the sum of such Lender's Foreign Tranche B Term Loan Exposure and U.S. Tranche B Term Loan Exposure.

"Tranche B Term Loan Maturity Date" means the earlier of (i) the sixth anniversary of the Closing Date and (ii) with respect to the Foreign Tranche B Term Loans or the U.S. Tranche B Term Loans, as applicable, the date on which all such Tranche B Term Loans shall become due and payable in full hereunder, whether by acceleration or otherwise.

"Tranche B Term Loan Note" means a promissory note substantially in the form of Exhibit B-2, as it may be amended, restated, supplemented or otherwise modified from time to time.

"Transactions" means the Acquisition, the refinancing of the Existing Credit Facilities Indebtedness, the tender for and satisfaction and discharge of the Existing Notes, the issuance of the 2020 Notes, the entry into this Agreement and the initial borrowing of the Loans hereunder on the Closing Date, the Equity Contribution and the issuance of common equity of the U.S. Borrower to the Seller as required by the terms of the Acquisition Agreement.

"Transaction Costs" means the fees, costs and expenses payable by any Group Member on or before the Closing Date in connection with the Transactions.

"Treasury Transaction" means any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and not for speculative purposes.

"Type of Loan" means (i) with respect to either Term Loans or Revolving Loans, a Base Rate Loan, a Eurocurrency Rate Loan or a Canadian Prime Rate Loan and (ii) with respect to Swing Line Loans, a Base Rate Loan or a Canadian Prime Rate Loan.

"UCC" means the Uniform Commercial Code (or any similar or equivalent legislation, including Personal Property Security legislation in Canada) as in effect in any applicable jurisdiction.

"UK" means the United Kingdom.

"Unrestricted Subsidiary" means any Subsidiary of the U.S. Borrower designated by the Board of Directors of the U.S. Borrower (or a duly authorized committee thereof) as an Unrestricted Subsidiary pursuant to Section 6.03 hereof subsequent to the date hereof, and any Subsidiary formed or acquired by an Unrestricted Subsidiary following such Unrestricted Subsidiary's designation.

"Up-Stream or Cross-Stream Security" has the meaning set forth in Section 7.13(a).

"U.S. Borrower" has the meaning specified in the preamble hereto.

"U.S. Contributing Guarantors" has the meaning set forth in section 7.02(b).

"U.S. Corresponding Debt" has the meaning set forth in Section 9.14(a)(ii).

"U.S. Guaranteed Obligations" has the meaning set forth in Section 7.01(a).

"U.S. Grantor" has the meaning specified in the U.S. Pledge and Security Agreement or the CKI Related Assets Pledge and Security Agreement, as applicable.

"U.S. Guarantor" means each Guarantor that is a U.S. Subsidiary.

"U.S. Issuing Bank" means an Issuing Bank that has agreed to issue U.S. Letters of Credit.

"U.S. Lender" has the meaning set forth in Section 2.20(c).

"U.S. Letter of Credit" means any commercial or standby letter of credit issued or to be issued by an Issuing Bank for the account of the U.S. Borrower or any of its Subsidiaries pursuant to Section 2.04(a)(i) of this Agreement, and any letter of credit listed on Schedule 1.01(k) issued and outstanding as of the Closing Date. Each such letter of credit listed on Schedule 1.01(k) shall be deemed to constitute a U.S. Letter of Credit and a Letter of Credit issued hereunder on the Closing Date for all purposes under this Agreement and the other Loan Documents.

"U.S. Letter of Credit Sublimit" means the lesser of (a) $220,000,000 and (b) the aggregate unused amount of the U.S. Revolving Commitments then in effect.

"U.S. Letter of Credit Usage" means, as at any date of determination, the sum of (i) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all U.S. Letters of Credit then outstanding, and (ii) the aggregate amount of all drawings under U.S. Letters of Credit honored by an Issuing Bank and not theretofore reimbursed by or on behalf of the U.S. Borrower.

"U.S. Loan" means a U.S. Tranche A Term Loan, a U.S. Tranche B Term Loan and/or a U.S. Revolving Loan.

"U.S. Loan Party" means the U.S. Borrower and each U.S. Guarantor.

"U.S. Offer" has the meaning set forth in Section 2.13(c).

"U.S. Offer Loans" has the meaning set forth in Section 2.13(c).

"U.S.-Owned DRE" means any entity that (A) is disregarded as an entity separate from its owner for U.S. federal tax purposes and is directly owned by the U.S. Borrower or a U.S. Subsidiary or (B) is treated as a partnership for U.S. federal tax purposes and all of the partners of which are domestic corporations for U.S. federal tax purposes, and, in the case of clause (A) or (B), that directly owns Equity Interests in a Foreign Subsidiary and does not own any significant asset other than Equity Interests and Securities of Foreign Subsidiaries.

"U.S. Parallel Debt" means in respect of a Loan Party (other than a Foreign Loan Party), any amount which that Loan Party owes to the Collateral Agent under Section 9.14.

"U.S. Pledge Agreement" means the U.S. Pledge Agreement to be executed by the U.S. Borrower and certain U.S. Guarantors (other than CKI and the CKI Affiliates), as it may be amended, restated, supplemented or otherwise modified from time to time, pursuant to which certain U.S. Loan Parties pledge shares in the stock of Foreign Subsidiaries in support of the Foreign Obligations.

"U.S. Pledge and Security Agreement" means the U.S. Pledge and Security Agreement to be executed by the U.S. Borrower and each U.S. Guarantor (other than CKI and the CKI Affiliates) substantially in the form of Exhibit G, as it may be amended, restated, supplemented or otherwise modified from time to time.

"U.S. Refunded Swing Line Loans" has the meaning set forth in Section 2.03(b)(iv).

"U.S. Revolving Commitment" means the commitment of a Lender to make or otherwise fund any U.S. Revolving Loan and to acquire participations in U.S. Letters of Credit and Swing Line Loans hereunder and **"**U.S. Revolving Commitments**"** means such commitments of all Lenders in the aggregate. The amount of each Lender's U.S. Revolving Commitment, if any, is set forth on Schedule 1.01(c) or in the applicable Assignment Agreement or Joinder Agreement, as applicable, subject to any adjustment or reduction pursuant to the terms and conditions hereof. The aggregate amount of the U.S. Revolving Commitments as of the Closing Date is $265,000,000.

"U.S. Revolving Commitment Period" means the period from the Closing Date to but excluding the U.S. Revolving Commitment Termination Date

"U.S. Revolving Commitment Termination Date" means the earliest to occur of (i) the fifth anniversary of the Closing Date, (ii) the date the U.S. Revolving Commitments are permanently reduced to zero pursuant to Section 2.13(b) or 2.14 and (iii) the date of the termination of the U.S. Revolving Commitments pursuant to Section 8.01.

"U.S. Revolving Exposure" means, with respect to any Lender as of any date of determination, (i) prior to the termination of the U.S. Revolving Commitments, that Lender's U.S. Revolving Commitment; and (ii) after the termination of the U.S. Revolving Commitments, the sum of (a) the aggregate outstanding principal amount of the U.S. Revolving Loans of that Lender, (b) in the case of an Issuing Bank, the aggregate U.S. Letter of Credit Usage in respect of all U.S. Letters of Credit issued by such Issuing Bank (net of any participations by Lenders in such U.S. Letters of Credit), (c) the aggregate amount of all participations by that Lender in any outstanding U.S. Letters of Credit or any unreimbursed drawing under any U.S. Letter of Credit, (d) in the case of the U.S. Swing Line Lender, the aggregate outstanding principal amount of all U.S. Swing Line Loans (net of any participations therein by other Lenders), and (e) the aggregate amount of all participations therein by that Lender in any outstanding U.S. Swing Line Loans.

"U.S. Revolving Loan" means Loans made by a Lender in respect of its U.S. Revolving Commitment to the U.S. Borrower pursuant to Section 2.02(a) and/or Section 2.24.

"U.S. Security Agreements" means the U.S. Pledge and Security Agreement, the U.S. Pledge Agreement and the CKI Related Assets Pledge and Security Agreement.

"U.S. Subsidiary" means any Restricted Subsidiary other than a Foreign Subsidiary.

"U.S. Swing Line Lender" means Barclays Bank in its capacity as the U.S. Swing Line Lender hereunder, together with its permitted successors and assigns in such capacity.

"U.S. Swing Line Loan" means a Loan made by the U.S. Swing Line Lender to the U.S. Borrower pursuant to Section 2.03(a)(i).

"U.S. Swing Line Sublimit" means the lesser of (i) $25,000,000 and (ii) the aggregate unused amount of U.S. Revolving Commitments then in effect.

"U.S. Tranche A Term Loan" means a Tranche A Term Loan denominated in Dollars and made by a Lender to the U.S. Borrower pursuant to Section 2.01(a)(i).

"U.S. Tranche A Term Loan Commitment" means the commitment of a Lender to make or otherwise fund a U.S. Tranche A Term Loan and "U.S. Tranche A Term Loan Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's U.S. Tranche A Term Loan Commitment, if any, is set forth on Schedule 1.01(a) or in the applicable Assignment Agreement, subject to any adjustment or reduction pursuant to the terms and conditions hereof. The aggregate amount of the U.S. Tranche A Term Loan Commitments as of the Closing Date is $367,700,000.

"U.S. Tranche A Term Loan Exposure" means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the U.S. Tranche A Term Loans of such Lender; provided, that at any time prior to the making of the U.S. Tranche A Term Loans, the U.S. Tranche A Term Loan Exposure of any Lender shall be equal to such Lender's U.S. Tranche A Term Loan Commitment.

"U.S. Tranche B Term Loan" means a Tranche B Term Loan denominated in Dollars and made by a Lender to the U.S. Borrower pursuant to Section 2.01(a)(ii).

"U.S. Tranche B Term Loan Commitment" means the commitment of a Lender to make or otherwise fund a U.S. Tranche B Term Loan and "U.S. Tranche B Term Loan Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's U.S. Tranche B Term Loan Commitment, if any, is set forth on Schedule 1.01(b) or in the applicable Assignment Agreement, subject to any adjustment or reduction pursuant to the terms and conditions hereof. The aggregate amount of the U.S. Tranche B Term Loan Commitments as of the Closing Date is $1,003,100,000.

"U.S. Tranche B Term Loan Exposure" means, with respect to any Lender, as of any date of determination, the outstanding principal amount of the U.S. Tranche B Term Loans of such Lender; provided, that at any time prior to the making of the U.S. Tranche B Term Loans, the U.S. Tranche B Term Loan Exposure of any Lender shall be equal to such Lender's U.S. Tranche B Term Loan Commitment.

"Valuation Date" means (i) the date two (2) Business Days prior to the making, continuing or converting of any Revolving Loan or the date of issuance or continuation of any Letter of Credit and (ii) any other date designated by the Administrative Agent or Issuing Bank.

"Waivable Mandatory Prepayment" has the meaning set forth in Section 2.15(c).

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (ii) the then outstanding principal amount of such Indebtedness.

"Wholly-Owned Restricted Subsidiary" means, with respect to any Person, any other Person all of the Equity Interests of which (other than (x) directors' qualifying shares and (y) shares issued to foreign nationals to the extent required by applicable law) are owned by such Person directly and/or through other wholly-owned Restricted Subsidiaries of such Person.

Section 1.02 Accounting Terms

. Except as otherwise expressly provided herein, all accounting terms not otherwise defined herein shall have the meanings assigned to them in conformity with GAAP. Financial statements and other information required to be delivered by the Borrower Representative to Lenders pursuant to Section 5.01(a) and 5.01(b) shall be prepared in accordance with GAAP as in effect at the time of such preparation (and delivered together with the reconciliation statements provided for in Section 5.01(d), if applicable). Subject to the foregoing, calculations in connection with the definitions, covenants and other provisions hereof shall utilize accounting principles and policies in conformity with those used to prepare the Historical Financial Statements of the U.S. Borrower; provided that if a change in GAAP would materially change the calculation of the financial covenants, standards or terms of this Agreement, (i) the Borrower Representative shall provide prompt notice of such change to the Administrative Agent and (ii) the Borrower Representative or the Administrative Agent may request that such calculations continue to be made in accordance with GAAP without giving effect to such change (in which case the Borrower Representative, the Administrative Agent and the Lenders agree to negotiate in good faith to amend the provisions hereof to eliminate the effect of such change in GAAP, but until such amendment is entered into, the calculations shall be made in accordance with those used to prepare the Historical Financial Statements of the U.S. Borrower without giving effect to such change).

Section 1.03 Interpretation, Etc.

Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. References herein to any Article, Section, Schedule or Exhibit shall be to an Article, a Section, a Schedule or an Exhibit, as the case may be, hereof unless otherwise specifically provided. The use herein of the word "include" or "including", when following any general statement, term or matter, shall not be construed to

limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter. The word "will" shall be construed to have the same meaning and effect as the word "shall"; and the words "asset" and "property" shall be construed as having 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. The terms lease and license shall include sub-lease and sub-license, as applicable. Whenever the context ma y require, any pronoun shall include the corresponding masculine, feminine and neuter forms. Except as otherwise expressly provided herein or therein, any reference in this Agreement or any other Loan Document to any agreement, document or instrument shall mean such agreement, document or instrument as amended, restated, supplemented or otherwise modified from time to time, in each case, in accordance with the express terms of this Agreement or such Loan Document.

Section 1.04 Exchange Rates; Currency Equivalents.

(a) The Administrative Agent or the Issuing Bank, as applicable, shall determine the Exchange Rates as of each Valuation Date to be used for calculating Euro Equivalent and Dollar Equivalent amounts of Credit Extensions and amounts outstanding hereunder denominated in other Approved Currencies. Such Exchange Rates shall become effective as of such Valuation Date and shall be the Exchange Rates employed in converting any amounts between the applicable currencies until the next Valuation Date to occur. Except for purposes of financial statements delivered by the Borrower Representative hereunder or except as otherwise provided herein, the applicable amount of any currency (other than Dollars) for purposes of the Loan Documents shall be the Dollar Equivalent of such currency as so determined by the Administrative Agent or the Issuing Bank, as applicable.

(b) Whenever 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 or Euros, but such borrowing, Eurocurrency Rate Loan or Letter of Credit is denominated in another Approved Currency, such amount shall be the relevant Foreign Currency Equivalent of such Dollar or Euro amount (rounded to the nearest unit of such other Approved Currency, with 0.5 or a unit being rounded upward), as determined by the Administrative Agent or the Issuing Bank, as the case may be.

(c) Notwithstanding the foregoing, for purposes of determining compliance with Sections 5.17, 6.01, 6.02, 6.04, 6.06, 6.07(c), 6.08 and 6.10, (i) with respect to any amount of cash on deposit, Indebtedness, Investment, Restricted Payment, Lien, Asset Sale or Attributable Indebtedness (each, a "Covenant Transaction") in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Covenant Transaction is incurred or made, and (ii) with respect to any Covenant Transaction incurred or made in reliance on a provision that makes reference to a percentage of Consolidated Total Assets, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in the amount of Consolidated

Total Assets occurring after the time such Covenant Transaction is incurred or made in reliance on such provision.

(d) For purposes of determining compliance with the Leverage Ratio, the amount of any Indebtedness denominated in any currency other than Dollars will be converted into Dollars based on the relevant currency exchange rate in effect on the date of the financial statements on which the applicable Consolidated Adjusted EBITDA is calculated. For purposes of determining compliance with Sections 5.17, 6.01, 6.02, 6.04, 6.06, 6.07(c), 6.08 and 6.10, with respect to the amount of any Covenant Transaction in a currency other than Dollars, such amount (i) if incurred or made in reliance on a fixed Dollar basket, will be converted into Dollars based on the relevant currency exchange rate in effect on the Closing Date, and (ii) if incurred in reliance on a percentage basket, will be converted into Dollars based on the relevant currency exchange rate in effect on the date such Covenant Transaction is incurred or made and such percentage basket will be measured at the time such Covenant Transaction is incurred or made.

(e) For the avoidance of doubt, in the case of a Loan denominated in an Approved Currency other than Dollars, except as expressly provided herein, all interest and fees shall accrue and be payable thereon based on the actual amount outstanding in such Approved Currency (without any translation into the Dollar Equivalent thereof).

Section 1.05 Dutch Terms

. In this Agreement, where it relates to a Dutch Loan Party, a reference to:

(a) a necessary action to authorize where applicable, includes without limitation: any action requires to comply with the Dutch Works Councils Act (*Wet op de ondernemingsraden*);

(b) gross negligence means *grove schuld*;

(c) a Lien includes any mortgage (*hypotheek*), pledge (*pandrecht*), retention of title arrangement (*eigendomsvoorbehoud*), right of retention (*recht van retentie*), right to reclaim goods (*recht van reclame*), and, in general, any right in rem, created for the purpose of granting security (*goederenrechtelijk zekerheidsrecht*);

(d) willful misconduct means *opzet*;

(e) a dissolution includes a Dutch entity being dissolved (*ontbonden*);

(f) a moratorium includes *surseance van betaling* and granted a moratorium includes *surseance verleend*;

(g) any step or procedure taken in connection with insolvency proceedings includes a Dutch entity having filed a notice under section 36 of the 1990 Dutch Tax Collection Act (*Invorderingswet* 1990);

(h) a receiver includes a *curator*;

(i) an administrator includes a *bewindvoerder*; and

(j) an attachment includes a *beslag*.

ARTICLE II.
LOANS AND LETTERS OF CREDIT

Section 2.01 Term Loans

.

(a) Loan Commitments. Subject to the terms and conditions hereof,

(i) each Lender severally agrees to make, on the Closing Date, (x) a U.S. Tranche A Term Loan to the U.S. Borrower in an amount equal to such Lender's U.S. Tranche A Term Loan Commitment and (y) a Foreign Tranche A Term Loan to the Foreign Borrower in an amount equal to such Lender's Foreign Tranche A Term Loan Commitment; and

(ii) each Lender severally agrees to make, on the Closing Date, (x) a U.S. Tranche B Term Loan to the U.S. Borrower in an amount equal to such Lender's U.S. Tranche B Term Loan Commitment and (y) a Foreign Tranche B Term Loan to the Foreign Borrower in an amount equal to such Lender's Foreign Tranche B Term Loan Commitment.

the Borrowers may make only one borrowing under each of the Tranche A Term Loan Commitments and Tranche B Term Loan Commitments which shall be on the Closing Date. Any amount borrowed under this Section 2.01(a) and subsequently repaid or prepaid may not be reborrowed. Subject to Sections 2.13(a) and 2.14, all amounts owed hereunder with respect to the Tranche A Term Loans and the Tranche B Term Loans shall be paid in full no later than the Tranche A Term Loan Maturity Date and the Tranche B Term Loan Maturity Date, respectively. Each Lender's Tranche A Term Loan Commitments and Tranche B Term Loan Commitments shall terminate immediately and without further action on the Closing Date after giving effect to the funding of such Lender's Tranche A Term Loan Commitments and Tranche B Term Loan Commitments on such date.

(b) Borrowing Mechanics for Term Loans.

(i) The Borrower Representative shall deliver to the Administrative Agent a fully executed Borrowing Notice no later than one (1) Business Days prior to the Closing Date, which notice may be conditional upon the occurrence of the consummation of the Acquisition. Promptly upon receipt by the Administrative Agent of such Borrowing Notice, the Administrative Agent shall notify each Lender of the proposed borrowing.

(ii) Each Lender shall make its Tranche A Term Loans and/or Tranche B Term Loans, as the case may be, available to the Administrative Agent not later than 12:00 p.m. (New York City time) and, with respect to Foreign Tranche B Term

Loans and Foreign Tranche A Term Loans, 12:00 P.M. (London time) on the Closing Date, by wire transfer of same day funds in Dollars or Euros, as the case may be, at the Principal Office designated by the Administrative Agent. Upon satisfaction or waiver of the conditions precedent specified herein, the Administrative Agent shall make the proceeds of the Term Loans available to the applicable Borrower on the Closing Date by causing an amount of same day funds in Dollars equal to the proceeds of all such Loans received by the Administrative Agent from Lenders to be credited to the account of the applicable Borrower at the Principal Office designated by the Administrative Agent or to such other account as may be designated in writing to the Administrative Agent by the applicable Borrower.

Section 2.02 Revolving Loans

.

(a) U.S. Revolving Commitments. During the U.S. Revolving Commitment Period, subject to the terms and conditions hereof, each Lender severally agrees to make U.S. Revolving Loans to the U.S. Borrower in an aggregate amount up to but not exceeding such Lender's U.S. Revolving Commitment; provided, that after giving effect to the making of any U.S. Revolving Loans in no event shall the Total Utilization of U.S. Revolving Commitments exceed the U.S. Revolving Commitments then in effect. Loans in respect of the U.S. Revolving Commitments may be drawn in Dollars. Amounts borrowed pursuant to this Section 2.02(a) may be repaid and reborrowed during the applicable Revolving Commitment Period. Each Lender's U.S. Revolving Commitments shall expire on the U.S. Revolving Commitment Termination Date and all U.S. Revolving Loans and all other amounts owed hereunder with respect to the U.S. Revolving Loans and the U.S. Revolving Commitments shall be paid in full no later than such date.

(b) Foreign Revolving Commitments. During the Foreign Revolving Commitment Period, subject to the terms and conditions hereof, each Lender severally agrees to make Foreign Revolving Loans to the Foreign Borrower in an aggregate amount up to but not exceeding such Lender's Foreign Revolving Commitment; provided, that after giving effect to the making of any Foreign Revolving Loans in no event shall the Total Utilization of Foreign Revolving Commitments exceed the Foreign Revolving Commitments then in effect. Loans in respect of the Foreign Revolving Commitments may be drawn in Euros, Japanese Yen or Pounds Sterling, as specified in the Borrowing Notice. Amounts borrowed pursuant to this Section 2.02(b) may be repaid and reborrowed during the applicable Revolving Commitment Period. Each Lender's Foreign Revolving Commitments shall expire on the Foreign Revolving Commitment T ermination Date and all Foreign Revolving Loans and all other amounts owed hereunder with respect to the Foreign Revolving Loans and the Foreign Revolving Commitments shall be paid in full no later than such date. Subject to the terms of this Agreement and the Ancillary Documents, an Ancillary Lender may make available an Ancillary Facility to the Foreign Borrower or an Ancillary Borrower in place of all or part of its Foreign Revolving Commitments.

(c) Canadian Revolving Commitments. During the Canadian Revolving Commitment Period, subject to the terms and conditions hereof, each Lender severally agrees to

make Canadian Revolving Loans to the U.S. Borrower in an aggregate amount up to but not exceeding such Lender's Canadian Revolving Commitment; provided, that after giving effect to the making of any Canadian Revolving Loans in no event shall the Total Utilization of Canadian Revolving Commitments exceed the Canadian Revolving Commitments then in effect. Loans in respect of the Canadian Revolving Commitments may be drawn in Dollars or Canadian Dollars. Amounts borrowed pursuant to this Section 2.02(c) may be repaid and reborrowed during the applicable Revolving Commitment Period. Each Lender's Canadian Revolving Commitments shall expire on the Canadian Revolving Commitment Termination Date and all Canadian Revolving Loans and all other amounts owed hereunder with respect to the Canadian Revolving Loans and the Canadian Revolving Commitments shall be paid in full no later than such date.

(d) Borrowing Mechanics for Revolving Loans.

(i) Except pursuant to 2.04(d), (x) U.S. Revolving Loans that are Base Rate Loans and Canadian Revolving Loans that are Base Rate Loans or Canadian Prime Rate Loans shall be made in a minimum amount of $5,000,000 and integral multiples of $1,000,000 in excess of that amount, (y) U.S. Revolving Loans and Canadian Revolving Loans that are Eurocurrency Rate Loans shall be in a minimum amount of $1,000,000 (or, with regard to Loans denominated in Canadian Dollars, the applicable Foreign Currency Equivalent) and integral multiples of $1,000,000 (or, with regard to Loans denominated in Canadian Dollars, the applicable Foreign Currency Equivalent) in excess of that amount and (z) Foreign Revolving Loans shall be in a minimum amount of €1,000,000 (or, with regard to Loans denominated in Other Foreign Currencies, the applicable Foreign Cur rency Equivalent) and integral multiples of €1,000,000 (or, with regard to Loans denominated in Other Foreign Currencies, the applicable Foreign Currency Equivalent) in excess of that amount.

(ii) Whenever the U.S. Borrower desires that Lenders make Revolving Loans to it, it shall deliver to the Administrative Agent a fully executed and delivered Borrowing Notice no later than 10:00 a.m. (New York City time) (x) at least three (3) Business Days in advance of the proposed Credit Date in the case of a Eurocurrency Rate Loan denominated in Dollars or Canadian Dollars and (y) at least one Business Day in advance of the proposed Credit Date in the case of a Revolving Loan that is a Base Rate Loan denominated in Dollars or a Revolving Loan that is a Canadian Prime Rate Loan denominated in Canadian Dollars. Whenever the Foreign Borrower desires that Lenders make Foreign Revolving Loans, it shall deliver to the Administrative Agent a fully executed and delivered Borrowing Notice no later than 10:00 a.m. (London, England time) at least three (3) Business Days in advance of the proposed Credit Date. Except as otherwise provided herein, a Borrowing Notice for a Revolving Loan that is a Eurocurrency Rate Loan shall be irrevocable on and after the related Interest Rate Determination Date, and the applicable Borrower shall be bound to make a borrowing in accordance therewith.

(iii) Notice of receipt of each Borrowing Notice in respect of U.S. Revolving Loans or Canadian Revolving Loans, together with the amount of each Lender's Pro Rata Share thereof, if any, together with the applicable interest rate, shall be provided by the Administrative Agent to each applicable Lender by telefacsimile with

reasonable promptness, but (provided the Administrative Agent shall have received such notice by 10:00 a.m. (New York City time)) not later than 2:00 p.m. (New York City time) on the same day as the Administrative Agent's receipt of such Notice from the U.S. Borrower. Each Lender shall make the amount of its U.S. Revolving Loan or Canadian Revolving Loan, as applicable, available to the Administrative Agent not later than 12:00 p.m. (New York City time) on the applicable Credit Date by wire transfer of same day funds in the requested Approved Currency, at the Principal Office designated by the Administrative Agent.

(iv) Notice of receipt of each Borrowing Notice in respect of Foreign Revolving Loans, together with the amount of each Lender's Pro Rata Share thereof, if any, together with the applicable interest rate, shall be provided by the Administrative Agent to each applicable Lender by telefacsimile with reasonable promptness, but (provided the Administrative Agent shall have received such notice by 10:00 a.m. (London, England time)) not later than 2:00 p.m. (London, England time) on the same day as the Administrative Agent's receipt of such Notice from the applicable Foreign Borrower. Each Lender shall make the amount of its Foreign Revolving Loan available to the Administrative Agent not later than 12:00 p.m. (London, England time) on the applicable Credit Date by wire transfer of same day funds in the requested Approved Currency, at the Principal Office designated by the Administrative Agent.

(v) Except as provided herein, upon satisfaction or waiver of the conditions precedent specified herein, the Administrative Agent shall make the proceeds of Revolving Loans available to the applicable Borrower on the applicable Credit Date by causing an amount of same day funds in the requested Approved Currency equal to the proceeds of all such Revolving Loans received by the Administrative Agent from Lenders to be credited to the account of the applicable Borrower at the Principal Office designated by the Administrative Agent or such other account as may be designated in writing to the Administrative Agent by the applicable Borrower or the Borrower Representative.

Section 2.03 Swing Line Loans

.

(a) Swing Line Loans Commitments.

(i) From time to time during the U.S. Revolving Commitment Period, subject to the terms and conditions hereof, the U.S. Swing Line Lender hereby agrees to make U.S. Swing Line Loans to the U.S. Borrower in the aggregate amount up to but not exceeding the U.S. Swing Line Sublimit; provided, that after giving effect to the making of any U.S. Swing Line Loan, in no event shall the Total Utilization of U.S. Revolving Commitments exceed the U.S. Revolving Commitments then in effect. Amounts borrowed pursuant to this Section 2.03(a)(i) may be repaid and reborrowed during the U.S. Revolving Commitment Period. The U.S. Swing Line Lender's Revolving Commitment shall expire on the U.S. Revolving Commitment Termination Date. All U.S. Swing Line Loans and all other amounts owed hereunder with respect to the U.S.

Swing Line Loans shall be paid in full on the earlier of (i) the date which is three days after the incurrence thereof and (ii) the U.S. Revolving Commitment Termination Date; and

(ii) From time to time during the Canadian Revolving Commitment Period, subject to the terms and conditions hereof, the Canadian Swing Line Lender hereby agrees to make Canadian Swing Line Loans to the U.S. Borrower in the aggregate amount up to but not exceeding the Canadian Swing Line Sublimit; provided, that after giving effect to the making of any Canadian Swing Line Loan, in no event shall the Total Utilization of Canadian Revolving Commitments exceed the Canadian Revolving Commitments then in effect. Amounts borrowed pursuant to this Section 2.03(a)(ii) may be repaid and reborrowed during the Canadian Revolving Commitment Period. The Canadian Swing Line Lender's Canadian Revolving Commitment shall expire on the Canadian Revolving Commitment Termination Date. All Canadian Swing Line Loans and all other amounts owed hereunder with respect to the Canadian Swing Line Loa ns shall be paid in full on the earlier of (i) the date which is three days after the incurrence thereof and (ii) the Canadian Revolving Commitment Termination Date.

(b) Borrowing Mechanics for Swing Line Loans.

(i) Swing Line Loans shall be made in a minimum amount of $500,000 and integral multiples of $100,000 in excess of that amount.

(ii) Whenever the U.S. Borrower desires that the U.S. Swing Line Lender make a U.S. Swing Line Loan, the U.S. Borrower shall deliver to the Administrative Agent a Borrowing Notice no later than 10:30 a.m. (New York City time) on the proposed Credit Date. Whenever the U.S. Borrower desires that the Canadian Swing Line Lender make a Canadian Swing Line Loan, the U.S. Borrower shall deliver to the Administrative Agent a Borrowing Notice no later than 10:00 a.m. (New York City time) on the proposed Credit Date.

(iii) The applicable Swing Line Lender shall make the amount of its Swing Line Loan available to the Administrative Agent not later than 1:00 p.m.(New York City time) on the applicable Credit Date by wire transfer of same day funds in Dollars or Canadian Dollars, at the Administrative Agent's Principal Office. Except as provided herein, upon satisfaction or waiver of the conditions precedent specified herein, the Administrative Agent shall make the proceeds of such Swing Line Loans available to the U.S. Borrower promptly upon receipt from such Swing Line Lender on the applicable Credit Date by causing an amount of same day funds in Dollars or Canadian Dollars equal to the proceeds of all such Swing Line Loans received by the Administrative Agent from the applicable Swing Line Lender to be credited to the account of the U.S. Borrower at the Administrative Agent's Principal Office, or to s uch other account as may be designated in writing to the Administrative Agent by the U.S. Borrower.

(iv) With respect to any Swing Line Loans which have not been voluntarily prepaid by the U.S. Borrower pursuant to Section 2.13(a) or repaid pursuant to clause (a) above, the applicable Swing Line Lender may at any time in its sole and

absolute discretion, deliver to the Administrative Agent (with a copy to the U.S. Borrower), no later than 11:00 a.m. (New York City time) at least one Business Day in advance of the proposed Credit Date, a notice (which shall be deemed to be a Borrowing Notice given by the U.S. Borrower) requesting that (x) with regard to any U.S. Swing Line Loan, each Lender holding a U.S. Revolving Commitment make U.S. Revolving Loans that are Base Rate Loans to the U.S. Borrower on such Credit Date in an amount equal to the amount of such U.S. Swing Line Loans (the "U.S. Refunded Swing Line Loans") outstanding on the date such notice is given which the U.S. Swing Line Lender requests Lenders to prepay, and (y) with regard to any Canadian Swing Line Loan, each Lender holding a Canadian Revolving Commitment make Canadian Revolving Loans that are Base Rate Loans or Canadian Prime Rate Loans, as applicable, to the U.S. Borrower on such Credit Date in an amount equal to the amount of such Canadian Swing Line Loans (the "Canadian Refunded Swing Line Loans" and, together with the U.S. Refunded Swing Line Loans, the "Refunded Swing Line Loans") outstanding on the date such notice is given which the Canadian Swing Line Lender requests Lenders to prepay. Anything contained in this Agreement to the contrary notwithstanding, (1) the proceeds of such Revolving Loans made by the Lenders other than the applicable Swing Line Lender shall be immediately delivered by the Administrative Agent to the applicable Swing Line Lender (and not to the U.S. Borrower) and applied to repay a corresponding portion of the applicable Refunded Swing Line Loans and (2) on the day such Revolving Loans are made, the applicable Swing Line Lender's Pro Rata Share of the Refunded Swing Line Loans shall be deemed to be paid with the proceeds of a Revolving Loan made by the applicable Swing Line Lender to the U.S. Bo rrower, and such portion of the Swing Line Loans deemed to be so paid shall no longer be outstanding as Swing Line Loans and shall no longer be due under the applicable Swing Line Note of the applicable Swing Line Lender but shall instead constitute part of the applicable Swing Line Lender's outstanding Revolving Loans to the U.S. Borrower and shall be due under the applicable Revolving Loan Note issued by the U.S. Borrower to the applicable Swing Line Lender. If any portion of any such amount paid (or deemed to be paid) to the applicable Swing Line Lender should be recovered by or on behalf of the U.S. Borrower from the applicable Swing Line Lender in bankruptcy, by assignment for the benefit of creditors or otherwise, the loss of the amount so recovered shall be ratably shared among all Lenders in the manner contemplated by Section 2.17.

(v) If for any reason Revolving Loans are not made pursuant to Section 2.03(b)(iv) in an amount sufficient to repay any amounts owed to the applicable Swing Line Lender in respect of any outstanding Swing Line Loans on or before the third Business Day after demand for payment thereof by the applicable Swing Line Lender, (x) each Lender holding a U.S. Revolving Commitment shall be deemed to, and hereby agrees to, have purchased a participation in such outstanding U.S. Swing Line Loans in an amount equal to its Pro Rata Share of the applicable unpaid amount together with accrued interest thereon, and (y) each Lender holding a Canadian Revolving Commitment shall be deemed to, and hereby agrees to, have purchased a participation in such outstanding Canadian Swing Line Loans in an amount equal to its Pro Rata Share of the applicable unpaid amount together with accrued interest thereon. Upon one Business Da y's notice from the applicable Swing Line Lender, each Lender holding a U.S. Revolving Commitment or a Canadian Revolving Commitment, as applicable, shall

deliver to the applicable Swing Line Lender an amount equal to its respective participation in the applicable unpaid amount in same day funds at the Principal Office of such Swing Line Lender. In order to evidence such participation each Lender holding such a Revolving Commitment agrees to enter into a participation agreement at the request of the applicable Swing Line Lender in form and substance reasonably satisfactory to the applicable Swing Line Lender. In the event any Lender holding such a Revolving Commitment fails to make available to the applicable Swing Line Lender the amount of such Lender's participation as provided in this paragraph, the applicable Swing Line Lender shall be entitled to recover such amount on demand from such Lender together with interest thereon for three (3) Business Days at the rate customarily used by the applicable Swing Line Lender for the correction of errors among ba nks and thereafter at the Base Rate or the Canadian Prime Rate, as applicable.

(vi) Notwithstanding anything contained herein to the contrary, (1) each Lender's obligation to make Revolving Loans for the purpose of repaying any Refunded Swing Line Loans pursuant to Section 2.03(b)(iv) and each Lender's obligation to purchase a participation in any unpaid Swing Line Loans pursuant to the immediately preceding paragraph shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the applicable Swing Line Lender, any Loan Party or any other Person for any reason whatsoever; (B) the occurrence or continuation of a Default or Event of Default; (C) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of any Loan Party; (D) any breach of this Agreement or any other Loan Document by a ny party thereto; or (E) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing; provided, that such obligations of each Lender are subject to the condition that the applicable Swing Line Lender had not received prior notice from the U.S. Borrower or the Required Lenders that any of the conditions under Section 3.02 to the making of the applicable Refunded Swing Line Loans or other unpaid Swing Line Loans were not satisfied at the time such Refunded Swing Line Loans or unpaid Swing Line Loans were made; and (2) no Swing Line Lender shall be obligated to make any Swing Line Loans (A) if it has elected not to do so after the occurrence and during the continuation of a Default or Event of Default, (B) it does not in good faith believe that all conditions under Section 3.02 to the making of such Swing Line Loan have been satisfied or waived by the Required Lenders or (C) at a time when any Lender is a Defaulting Revolving Lender with U.S. Revolving Commitment s or Canadian Revolving Commitments, as applicable, unless the applicable Swing Line Lender has entered into arrangements satisfactory to it and the U.S. Borrower to eliminate the applicable Swing Line Lender's risk with respect to the Defaulting Revolving Lender's participation in such Swing Ling Loan, including by the U.S. Borrower cash collateralizing such Defaulting Revolving Lender's Pro Rata Share of the outstanding Swing Line Loans.

Section 2.04 Issuance of Letters of Credit and Purchase of Participations Therein

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(a) Letters of Credit.

(i) During the U.S. Revolving Commitment Period, subject to the terms and conditions hereof, each U.S. Issuing Bank agrees to issue U.S. Letters of Credit for the account of the U.S. Borrower or any Restricted Subsidiary thereof in the aggregate amount up to but not exceeding the U.S. Letter of Credit Sublimit; provided, that (i) each U.S. Letter of Credit shall be denominated in Dollars; (ii) the stated amount of each U.S. Letter of Credit shall not be less than $2,000 or such lesser amount as is acceptable to the applicable Issuing Bank; (iii) after giving effect to such issuance, in no event shall the Total Utilization of U.S. Revolving Commitments exceed the U.S. Revolving Commitments then in effect; (iv) after giving effect to such issuance, in no event shall the U.S. Letter of Credit Usage exceed the U.S. Letter of Credit Sublimit then in effect; (v) in no event shall any standby U.S. Let ter of Credit have an expiration date later than the earlier of (1) the U.S. Revolving Commitment Termination Date and (2) the date which is one year from the date of issuance of such standby Letter of Credit; and (vi) in no event shall any commercial U.S. Letter of Credit have an expiration date later than the earlier of (1) the U.S. Revolving Commitment Termination Date and (2) the date which is 180 days from the date of issuance of such commercial Letter of Credit.

(ii) During the Foreign Revolving Commitment Period, subject to the terms and conditions hereof, each Foreign Issuing Bank agrees to issue Foreign Letters of Credit for the account of the Foreign Borrower or any Restricted Subsidiary thereof in the aggregate amount up to but not exceeding the Foreign Letter of Credit Sublimit; provided, that (i) each Foreign Letter of Credit shall be denominated in Euros, Japanese Yen or Pounds Sterling; (ii) the stated amount of each Foreign Letter of Credit shall not be less than €1500 (or the applicable Foreign Currency Equivalent) or such lesser amount as is acceptable to the applicable Issuing Bank; (iii) after giving effect to such issuance, in no event shall the Total Utilization of Foreign Revolving Commitments exceed the Foreign Revolving Commitments then in effect; (iv) after givin g effect to such issuance, in no event shall the Foreign Letter of Credit Usage exceed the Foreign Letter of Credit Sublimit then in effect; (v) in no event shall any standby Foreign Letter of Credit have an expiration date later than the earlier of (1) the Foreign Revolving Commitment Termination Date and (2) the date which is one year from the date of issuance of such standby Letter of Credit; and (vi) in no event shall any commercial Foreign Letter of Credit have an expiration date later than the earlier of (1) the Foreign Revolving Commitment Termination Date and (2) the date which is 180 days from the date of issuance of such commercial Letter of Credit.

(iii) During the Canadian Revolving Commitment Period, subject to the terms and conditions hereof, each Canadian Issuing Bank agrees to issue Canadian Letters of Credit for the account of the U.S. Borrower or any Restricted Subsidiary thereof in the aggregate amount up to but not exceeding the Canadian Letter of Credit Sublimit; provided, that (i) each Canadian Letter of Credit shall be denominated in Dollars or Canadian Dollars; (ii) the stated amount of each Canadian Letter of Credit shall not be less than $2,000 (or the applicable Foreign Currency Equivalent) or such lesser amount as is acceptable to the applicable Issuing Bank; (iii) after giving effect to such issuance, in no event shall the Total Utilization of Canadian Revolving

Commitments exceed the Canadian Revolving Commitments then in effect; (iv) after giving effect to such issuance, in no event shall the Canadian Letter of Credit Usage exceed the Canadian Letter of Credit Sublimit then in effect; (v) in no event shall any standby Canadian Letter of Credit have an expiration date later than the earlier of (1) the Canadian Revolving Commitment Termination Date and (2) the date which is one year from the date of issuance of such standby Letter of Credit; and (vi) in no event shall any commercial Canadian Letter of Credit have an expiration date later than the earlier of (1) the Canadian Revolving Commitment Termination Date and (2) the date which is 180 days from the date of issuance of such commercial Letter of Credit.

Subject to the foregoing, (i) an Issuing Bank may agree that a standby Letter of Credit shall automatically be extended for one or more successive periods not to exceed one year each; provided, that no Issuing Bank shall extend any such Letter of Credit if it has received written notice that an Event of Default has occurred and is continuing at the time such Issuing Bank must elect to allow such extension; (ii) if the applicable Issuing Bank and the Administrative Agent each consent in their sole discretion, the expiration date on any Letter of Credit may extend beyond the applicable Revolving Commitment Termination Date; provided, that if any such Letter of Credit is outstanding or the expiration date is extended to a date after the date that is five (5) Business Days prior to the applicable Revolving Commitment Termination Date, the applicable Borrower shall Cash Collateralize such Letter of Credit on or prior to the date that is five (5) Business Days prior to the applicable Revolving Commitment Termination Date; and (iii) in the event that any Lender is a Defaulting Revolving Lender, the applicable Issuing Bank shall not be required to issue any Letter of Credit under the applicable Revolving Commitment unless such Issuing Bank has entered into arrangements satisfactory to it and the applicable Borrower to eliminate such Issuing Bank's risk with respect to the participation in Letters of Credit of the Defaulting Revolving Lender, including by cash collateralizing such Defaulting Revolving Lender's Pro Rata Share of the applicable Letter of Credit Usage. Notwithstanding the foregoing, Barclays Bank shall have no obligation to issue commercial Letters of Credit unless separately agreed to by Barclays Bank and the Borrower Representative.

(b) Notice of Issuance.

(i) Whenever the U.S. Borrower or any Restricted Subsidiary thereof desires the issuance of a Letter of Credit, the U.S. Borrower shall (x) in the case of standby Letters of Credit, deliver to the Administrative Agent and the applicable Issuing Bank an Issuance Notice (or such other notice as may be agreed by such Issuing Bank) no later than 12:00 p.m. (New York City time) at least three (3) Business Days in advance of the proposed date of issuance, or such shorter period as may be agreed to by the Issuing Bank in any particular instance and (y) in the case of commercial Letters of Credit, deliver to the applicable Issuing Bank an application therefor on the proposed date of issuance. Such Issuance Notice shall specify if such Letter of Credit is requested under the U.S. Revolving Commitments or the Canadian Revolving Commitments. Upon satisfaction or waiver of the conditions set forth in Sectio n 3.02, the Issuing Bank shall issue the requested Letter of Credit only in accordance with the Issuing Bank's standard operating procedures. Upon the issuance of any U.S. Letter of Credit or amendment or modification to a U.S. Letter of Credit, the Issuing Bank shall promptly notify the Administrative Agent, and the Administrative Agent shall promptly notify each Lender

with a U.S. Revolving Commitment, of such issuance, or amendment or modification and the amount of such Lender's respective participation in such U.S. Letter of Credit pursuant to Section 2.04(e). Upon the issuance of any Canadian Letter of Credit or amendment or modification to a Canadian Letter of Credit, the Issuing Bank shall promptly notify the Administrative Agent, and the Administrative Agent shall promptly notify each Lender with a Canadian Revolving Commitment, of such issuance, amendment or modification to such Canadian Letter of Credit and the amount of such Lender's respective participation in such Canadian Letter of Credit pursuant to Section 2.04(e).

(ii) Whenever the Foreign Borrower or any Restricted Subsidiary thereof desires the issuance of a Letter of Credit, the Foreign Borrower or the Borrower Representative shall (x) in the case of standby Letters of Credit, deliver to the Administrative Agent and the applicable Issuing Bank an Issuance Notice (or such other notice as may be agreed by such Issuing Bank) no later than 12:00 p.m. (London, England time) at least three (3) Business Days in advance of the proposed date of issuance, or such shorter period as may be agreed to by the Issuing Bank in any particular instance and (y) in the case of commercial Letters of Credit, deliver to the applicable Issuing Bank an application therefor on the proposed date of issuance. Upon satisfaction or waiver of the conditions set forth in Section 3.02, the Issuing Bank shall issue the requested Letter of Credit only in accordance with the Issuing Bank&# 146;s standard operating procedures. Upon the issuance of any Foreign Letter of Credit or amendment or modification to a Foreign Letter of Credit, the Issuing Bank shall promptly notify the Administrative Agent and each Lender with a Foreign Revolving Commitment of such issuance, or amendment or modification and the amount of such Lender's respective participation in such Letter of Credit pursuant to Section 2.04(e).

(c) Responsibility of the Issuing Bank With Respect to Requests for Drawings and Payments. In determining whether to honor any drawing under any Letter of Credit by the beneficiary thereof, the applicable Issuing Bank shall be responsible only to examine the documents delivered under such Letter of Credit with reasonable care so as to ascertain whether they appear on their face to be in accordance with the terms and conditions of such Letter of Credit. As between the Borrowers and the applicable Issuing Bank, each Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit issued by the applicable Issuing Bank by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, the Issuing Bank shall not be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) failure of the beneficiary of any such Letter of Credit to comply fully with any conditions required in order to draw upon such Letter of Credit; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Let ter of Credit

or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of the Issuing Bank, including any Governmental Acts; none of the above shall affect or impair, or prevent the vesting of, any of the Issuing Bank's rights or powers hereunder. Without limiting the foregoing and in furtherance thereof, no action taken or omitted by an Issuing Bank under or in connection with the Letters of Credit or any documents and certificates delivered thereunder, if taken or omitted in good faith and in the absence of gross negligence or willful misconduct (as determined by a final, non-appealable judgment of a court of competent jurisdiction), shall give rise to any liability on the part of such Issuing Bank to any Borrower; provided that the foregoing shall not be const rued to excuse such Issuing Bank from liability to the Borrowers to the extent of any direct damages suffered by the Borrowers or any of their Subsidiaries that are determined by a final, non-appealable judgment of a court of competent jurisdiction to have been caused by such Issuing Bank's gross negligence or willful misconduct.

(d) Reimbursement by the Borrowers of Amounts Drawn or Paid Under Letters of Credit.

(i) In the event an Issuing Bank has determined to honor a drawing under a U.S. Letter of Credit or Canadian Letter of Credit, it shall immediately notify the U.S. Borrower and the Administrative Agent, and the U.S. Borrower shall reimburse the applicable Issuing Bank on or before the Business Day immediately following the date on which such notice is received by the U.S. Borrower (the "Reimbursement Date") in an amount in the Approved Currency in which such Letter of Credit was issued and in same day funds equal to the amount of such honored drawing; provided, that anything contained herein to the contrary notwithstanding, (x) unless the U.S. Borrower shall have notified the Administrative Agent and the applicable Issuing Bank prior to 10:00 a.m. (New York City time) on the Reimbursement Date that the U.S. Borrower intends to reimburse the applicable Issuing Bank for the amoun t of such honored drawing with funds other than the proceeds of Revolving Loans, the Borrower Representative shall be deemed to have given a timely Borrowing Notice to the Administrative Agent requesting (A) in the case of a U.S. Letter of Credit, Lenders with U.S. Revolving Commitments to make U.S. Revolving Loans that are Base Rate Loans on the Reimbursement Date in an amount in Dollars equal to the amount of such honored drawing and (B) in the case of a Canadian Letter of Credit, Lenders with Canadian Revolving Commitments to make Canadian Revolving Loans that are Canadian Prime Rate Loans on the Reimbursement Date in an amount in Canadian Dollars or Dollars, as applicable, equal to the amount of such honored drawing (provided that, in respect of any honored drawing in an amount less than $250,000 (or the Canadian Dollar equivalent), the U.S. Borrower shall reimburse the applicable Issuing Bank for such amount in cash and shall not be entitled to reimburse such drawing in accordance with this clause (x)) and (y) subject to satisfaction or waiver of the conditions specified in Section 3.02, (A) Lenders with U.S. Revolving Commitments shall, on the Reimbursement Date for any U.S. Letter of Credit, make U.S. Revolving Loans that are Base Rate Loans in the amount of such honored drawing and (B) Lenders with Canadian Revolving Commitments shall, on the Reimbursement Date for any Canadian Letter of Credit, make Canadian Revolving Loans that are Canadian Prime Rate Loans in an amount of such honored drawing, in each case, the proceeds of

which shall be applied directly by the Administrative Agent to reimburse the applicable Issuing Bank for the amount of such honored drawing; provided, further, that if for any reason proceeds of Revolving Loans are not received by the applicable Issuing Bank on the Reimbursement Date in an amount equal to the amount of such honored drawing, the U.S. Borrower shall reimburse the Issuing Bank, on demand, in an amount in same day funds equal to the excess of the amount of such honored drawing over the aggregate amount of such Revolving Loans, if any, which are so received.

(ii) In the event the Issuing Bank has determined to honor a drawing under a Foreign Letter of Credit, it shall immediately notify the applicable Foreign Borrower and the Administrative Agent, and the applicable Foreign Borrower shall reimburse the Issuing Bank on or before the Reimbursement Date in an amount in the Approved Currency in which such Letter of Credit was issued and in same day funds equal to the amount of such honored drawing; provided, that anything contained herein to the contrary notwithstanding, (i) unless the applicable Foreign Borrower shall have notified the Administrative Agent and the Issuing Bank prior to 10:00 a.m. (London, England time) on the Reimbursement Date that the Foreign Borrower intends to reimburse the Issuing Bank for the amount of such honored drawing with funds other than the proceeds of Revolving Loans, the Borrower Representative shall be deemed to have g iven a timely Borrowing Notice to the Administrative Agent requesting Lenders with Foreign Revolving Commitments to make Foreign Revolving Loans that are Eurocurrency Rate Loans with an Interest Period of one month on the Reimbursement Date in an amount in the applicable Approved Currency equal to the amount of such honored drawing (provided that, in respect of any honored drawing in an amount less than €250,000, the Foreign Borrower shall reimburse the applicable Issuing Bank for such amount in cash and shall not be entitled to reimburse such drawing in accordance with this clause (i)), and (ii) subject to satisfaction or waiver of the conditions specified in Section 3.02, Lenders with Foreign Revolving Commitments shall, on the Reimbursement Date for any Foreign Letter of Credit, make Foreign Revolving Loans that are Eurocurrency Rate Loans with an Interest Period of one month in the amount of such honored drawing, the proceeds of whic h shall be applied directly by the Administrative Agent to reimburse the Issuing Bank for the amount of such honored drawing; provided, further, that if for any reason proceeds of Foreign Revolving Loans are not received by the Issuing Bank on the Reimbursement Date in an amount equal to the amount of such honored drawing, the applicable Foreign Borrower shall reimburse the Issuing Bank, on demand, in an amount in same day funds equal to the excess of the amount of such honored drawing over the aggregate amount of such Foreign Revolving Loans, if any, which are so received

Nothing in this Section 2.04(d) shall be deemed to relieve any Lender with a Revolving Commitment from its obligation to make Revolving Loans on the terms and conditions set forth herein, and each Borrower shall retain any and all rights it may have against any such Lender resulting from the failure of such Lender to make such Revolving Loans under this Section 2.04(d).

(e) Lenders' Purchase of Participations in Letters of Credit. Immediately upon the issuance of each U.S. Letter of Credit, each Lender having a U.S. Revolving

Commitment shall be deemed to have purchased, and hereby agrees to irrevocably purchase, from the applicable Issuing Bank a participation in such U.S. Letter of Credit and any drawings honored thereunder in an amount equal to such Lender's Pro Rata Share (with respect to the U.S. Revolving Commitments) of the maximum amount which is or at any time may become available to be drawn thereunder. Immediately upon the issuance of each Canadian Letter of Credit, each Lender having a Canadian Revolving Commitment shall be deemed to have purchased, and hereby agrees to irrevocably purchase, from the applicable Issuing Bank a participation in such Canadian Letter of Credit and any drawings honored thereunder in an amount equal to such Lender's Pro Rata Share (with respect to the Canadian Revolving Commitments) of the maximum amount which is or at any time may become available to be drawn thereunder. Immediately upon the i ssuance of each Foreign Letter of Credit, each Lender having a Foreign Revolving Commitment shall be deemed to have purchased, and hereby agrees to irrevocably purchase, from the applicable Issuing Bank a participation in such Foreign Letter of Credit and any drawings honored thereunder in an amount equal to such Lender's Pro Rata Share (with respect to the Foreign Revolving Commitments) of the maximum amount which is or at any time may become available to be drawn thereunder. In the event that the applicable Borrower shall fail for any reason to reimburse the applicable Issuing Bank as provided in Section 2.04(d), such Issuing Bank shall promptly notify each Lender with an applicable Revolving Commitment of the unreimbursed amount of such honored drawing and of such Lender's respective participation therein based on such Lender's Pro Rata Share of the applicable Revolving Commitments. Each Lender with a U.S. Revolving Commitment shall make available to the applicable Issuing Bank an amount equal to its respective participation, in Dollars and in same day funds, at the office of the Issuing Bank specified in such notice, not later than 12:00 p.m. (New York City time) on the first Business Day (under the laws of the jurisdiction in which such office of the Issuing Bank is located) after the date notified by the Issuing Bank. Each Lender with a Canadian Revolving Commitment shall make available to the applicable Issuing Bank an amount equal to its respective participation, in Dollars or Canadian Dollars, as applicable, and in same day funds, at the office of the Issuing Bank specified in such notice, not later than 12:00 p.m. (New York City time) on the first Business Day (under the laws of the jurisdiction in which such office of the Issuing Bank is located) after the date notified by the Issuing Bank. Each Lender with a Foreign Revolving Commitment shall make available to the applicable Issuing Bank an amount equal to its respective participation, in Euros or such Other Fo reign Currency, as applicable, and in same day funds, at the office of the Issuing Bank specified in such notice, not later than 12:00 p.m. (London, England time) on the first Business Day (under the laws of the jurisdiction in which such office of the Issuing Bank is located) after the date notified by the Issuing Bank. In the event that any Lender with a U.S. Revolving Commitment, Canadian Revolving Commitment or Foreign Revolving Commitment, as applicable, fails to make available to the applicable Issuing Bank on such Business Day the amount of such Lender's participation in such Letter of Credit as provided in this Section 2.04(e), the applicable Issuing Bank shall be entitled to recover such amount on demand from such Lender together with interest thereon for three (3) Business Days at the rate customarily used by the Issuing Bank for the correction of errors among banks and thereafter, in respect of U.S. Letters of Credit, at the Base Rate, in respect of Canadian Letters of Credit denominate d in Canadian Dollars, at the Canadian Prime Rate, in respect of Canadian Letters of Credit denominated in Dollars, at the Base Rate, and in respect of Foreign Letters of Credit, at the Eurocurrency Rate for an Interest Period of one month. In the event the applicable Issuing Bank

shall have been reimbursed by other Lenders pursuant to this Section 2.04(e) for all or any portion of any drawing honored by the Issuing Bank under a Letter of Credit, the Issuing Bank shall distribute to each Lender which has paid all amounts payable by it under this Section 2.04(e) with respect to such honored drawing such Lender's Pro Rata Share (with respect to the applicable Revolving Commitments) of all payments subsequently received by the applicable Issuing Bank from the applicable Borrower in reimbursement of such honored drawing when such payments are received. Any such distribution shall be made to a Lender at its primary address set forth below its name on Schedule 1.01(d) or at such other address as such Lender may request.

(f) Obligations Absolute. The obligation of (i) the U.S. Borrower to reimburse each applicable Issuing Bank for drawings honored under the U.S. Letters of Credit or Canadian Letters of Credit issued by it and to repay any U.S. Revolving Loans or Canadian Revolving Loans made by Lenders pursuant to Section 2.04(d), (ii) the Foreign Borrower to reimburse the Issuing Bank for drawings honored under the Foreign Letters of Credit issued by it to the Foreign Borrower and to repay any Foreign Revolving Loans made by Lenders pursuant to Section 2.04(d) and (iii) the Lenders under Section 2.04(e), in each case shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms hereof under all circumstances including any of the following circumstances: (i) any lack of validity or enforceability of any Letter of Credit; (ii) the existence of any claim, set-off, defense or other right which any Borrower or any Lender may have at any time against a beneficiary or any transferee of any Letter of Credit (or any Persons for whom any such transferee may be acting), Issuing Bank, Lender or any other Person or, in the case of a Lender, against any Borrower, whether in connection herewith, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between any Borrower or one of its Subsidiaries and the beneficiary for which any Letter of Credit was procured); (iii) any draft or other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (iv) payment by the applicable Issuing Bank under any Letter of Credit against presentation of a draft or other document which does not substantially comply with the terms of such Letter of Credit; (v) any adverse change in the business, general affairs, assets, liabilities, operations, manageme nt, condition (financial or otherwise), stockholders' equity, results of operations or value of any Loan Party; (vi) any breach hereof or any other Loan Document by any party thereto; (vii) the fact that an Event of Default or a Default shall have occurred and be continuing; or (viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing; provided that in each case payment by the Issuing Bank under the applicable Letter of Credit shall not have been determined by a final, non-appealable judgment of a court of competent jurisdiction to have constituted gross negligence, bad faith or willful misconduct of the Issuing Bank under the circumstances in question.

(g) Indemnification. Without duplication of any obligation of the Borrowers under Section 10.02 or 10.03, in addition to amounts payable as provided herein, each Borrower hereby agrees to protect, indemnify, pay and save harmless the Issuing Bank from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable fees, expenses and disbursements of counsel) which any Issuing Bank may incur or be subject to as a consequence, direct or indirect, of (i) the issuance of any Letter of Credit by such Issuing Bank for the account of such Borrower, other than as a result of (1) the gross

negligence, bad faith or willful misconduct of the Issuing Bank or (2) the dishonor by the Issuing Bank of a demand for payment made in compliance with the provisions hereunder or under the Letter of Credit, in each case, as determined by a final, non-appealable judgment of court of competent jurisdiction, or (ii) the failure of such Issuing Bank to honor a drawing under any such Letter of Credit as a result of any Governmental Act.

(h) Resignation and Removal of Issuing Bank. An Issuing Bank may resign as Issuing Bank upon 60 days prior written notice to the Administrative Agent, the Lenders and the Borrower Representative. An Issuing Bank may be replaced at any time by written agreement among the Borrower Representative, the Administrative Agent, the replaced Issuing Bank (provided that no consent of the replaced Issuing Bank will be required if the replaced Issuing Bank has no Letters of Credit or reimbursement Obligations with respect thereto outstanding) and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of such Issuing Bank. At the time any such replacement or resignation shall become effective, the applicable Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank. From and after the effective date of any such re placement or resignation, (i) any successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement or resignation of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto to the extent that Letters of Credit issued by it remain outstanding and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement or resignation, but shall not be required to issue additional Letters of Credit or to renew existing Letters of Credit.

Section 2.05 Pro Rata Shares; Availability of Funds

.

(a) Pro Rata Shares. All Loans shall be made, and all participations purchased, by Lenders simultaneously and proportionately to their respective Pro Rata Shares of the applicable Class of Loans, it being understood that no Lender shall be responsible for any default by any other Lender in such other Lender's obligation to make a Loan requested hereunder or purchase a participation required hereby nor shall any Term Loan Commitments or any Revolving Commitments of any Lender be increased or decreased as a result of a default by any other Lender in such other Lender's obligation to make a Loan requested hereunder or purchase a participation required hereby.

(b) Availability of Funds. Unless the Administrative Agent shall have been notified by any Lender prior to the applicable Credit Date that such Lender does not intend to make available to the Administrative Agent the amount of such Lender's Loan requested on such Credit Date, the Administrative Agent may assume that such Lender has made such amount available to the Administrative Agent on such Credit Date and the Administrative Agent may, in its sole discretion, but shall not be obligated to, make available to the Borrowers a corresponding amount on such Credit Date. If such corresponding amount is not in fact made available to the

Administrative Agent by such Lender, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Lender together with interest thereon, for each day from such Credit Date until the date such amount is paid to the Administrative Agent, at the customary rate set by the Administrative Agent for the correction of errors among banks for three (3) Business Days and thereafter, if such Loan is in Dollars, at the Base Rate, if such Loan is in Canadian Dollars, at the Canadian Prime Rate, and if such Loan is in Euros or any Other Foreign Currency, at the rate certified by the Administrative Agent to be its cost of funds (from any source which it may reasonably select). If such Lender does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent shall promptly notify the Borrower Representative and the applicable Borrower shall immed iately pay such corresponding amount to the Administrative Agent together with interest thereon, for each day from such Credit Date until the date such amount is paid to the Administrative Agent at the Base Rate if such Loan is in Dollars, at the Canadian Prime Rate if such Loan is in Canadian Dollars, and at the rate certified by the Administrative Agent to be its cost of funds (from any source which it may reasonably select) if such Loan is in Euros or any Other Foreign Currency. Nothing in this Section 2.05(b) shall be deemed to relieve any Lender from its obligation to fulfill its Term Loan Commitments and Revolving Commitments hereunder or to prejudice any rights that the Borrowers may have against any Lender as a result of any default by such Lender hereunder.

Section 2.06 Use of Proceeds

. The proceeds of the Term Loans shall be applied by the Borrowers to fund the Transactions. The proceeds of the Revolving Loans, Swing Line Loans, Letters of Credit and any loans under any Ancillary Facility made after the Closing Date shall be applied by the applicable Borrower for working capital or general corporate purposes of such Borrower or any of its Subsidiaries, including Permitted Acquisitions. The proceeds of the Incremental Term Loans shall be applied by the applicable Borrower for working capital or general corporate purposes of such Borrower and its Subsidiaries, including Permitted Acquisitions. No portion of the proceeds of any Credit Extension shall be used in any manner that causes or might cause such Credit Extension or the application of such proceeds to violate Regulation T, Regulation U or Regulation&nbs p;X of the Board of Governors or any other regulation thereof or to violate the Exchange Act.

Section 2.07 Evidence of Debt; Register; Notes

.

(a) Lenders' Evidence of Debt. Each Lender shall maintain on its internal records an account or accounts evidencing the Obligations of each Borrower to such Lender, including the amounts of the Loans made by it and each repayment and prepayment in respect thereof.

(b) Register. The Administrative Agent (or its agent or sub-agent appointed by it) acting for this purpose as an agent of the Borrowers shall maintain at its Principal Office a register for the recordation of the names and addresses of Lenders and the Revolving Commitment and Loans of each Lender from time to time (the "Register"). The Register shall

be available for inspection by the Borrower Representative at any reasonable time and from time to time upon reasonable prior notice and upon request (which may not be made more than once per month) the Administrative Agent shall provide a copy of the information in the Register to the Borrower. The Administrative Agent shall record, or shall cause to be recorded, in the Register the Revolving Commitments and the Loans in accordance with the provisions of Section 10.06, and each repayment or prepayment in respect of the principal amount of the Loans, and any such recordation shall be conclusive and binding on each Borrower and each Lender, absent manifest error. Each Borrower hereby designates the Administrative Agent to serve as such Borrower's agent solely for purposes of maintaining the Register as provided in this Section 2.07, and each Borrower hereby agrees that, to the extent the Administrative Agent serves in such capacity, the Administrative Agent and its officers, directors, employees, agents, sub-agents and Affiliates shall constitute "Indemnitees."

(c) Notes. If so requested by any Lender by written notice to the Borrower Representative (with a copy to the Administrative Agent) at least five (5) Business Days prior to the Closing Date, or at any time thereafter, each applicable Borrower shall execute and deliver to such Lender (and/or, if applicable and if so specified in such notice, to any Person who is an assignee of such Lender pursuant to Section 10.06) on the Closing Date (or, if such notice is delivered after the Closing Date, promptly after such Borrower's receipt of such notice) a Note or Notes to evidence such Lender's Tranche A Term Loans, Tranche B Term Loans, Incremental Term Loan, Revolving Loans or Swing Line Loan, as the case may be.

Section 2.08 Interest on Loans

.

(a) Except as otherwise set forth herein, each Class of Loan shall bear interest on the unpaid principal amount thereof from the date made through repayment (whether by acceleration or otherwise) thereof as follows:

(i) in the case of Tranche A Term Loans and Revolving Loans:

(A) if a Base Rate Loan, at the Base Rate plus the Applicable Margin;

(B) if a Eurocurrency Rate Loan, at the Adjusted Eurocurrency Rate plus the Applicable Margin and plus Mandatory Costs, if any; or

(C) if a Canadian Prime Rate Loan, at the Canadian Prime Rate plus the Applicable Margin;

(ii) in the case of Swing Line Loans, at the Base Rate or the Canadian Prime Rate, as applicable, plus the Applicable Margin; and

(iii) in the case of Tranche B Term Loans:

(A) if a Base Rate Loan, at the Base Rate plus the Applicable Margin; or

(B) if a Eurocurrency Rate Loan, at the Adjusted Eurocurrency Rate plus the Applicable Margin and plus Mandatory Costs, if any.

(b) The Type of Loan (except a Swing Line Loan, which can be made and maintained as a Base Rate Loan or Canadian Prime Rate Loan only), and the Interest Period with respect to any Eurocurrency Rate Loan shall be selected by the applicable Borrower and notified to the Administrative Agent and Lenders pursuant to the applicable Borrowing Notice or Conversion/Continuation Notice, as the case may be; provided, that until the date on which the Arrangers notify the Borrower Representative that the primary syndication of the Loans and Revolving Commitments has been completed (which date shall be not later than twenty-eight (28) days after the Closing Date), the Term Loans shall be maintained as either (1) Eurocurrency Rate Loans having an Interest Period of no longer than one month or (2) Base Rate Loans (or Canadian Prime Rate Loans) or such shorter period as the U.S. Borrower and the Administrative Agent may agre e. If on any day a Loan is outstanding with respect to which a Borrowing Notice or Conversion/Continuation Notice has not been delivered to the Administrative Agent in accordance with the terms hereof specifying the applicable basis for determining the rate of interest, then for that day such Loan, if a Loan denominated in Dollars or Canadian Dollars, shall be a Base Rate Loan or a Canadian Prime Rate Loan, as applicable, and, if a Loan denominated in any other Approved Currency, shall be a Eurocurrency Rate Loan having an Interest Period of one month.

(c) In connection with Eurocurrency Rate Loans there shall be no more than five (5) Interest Periods outstanding at any time in respect of each of the Tranche A Term Loans and the Tranche B Term Loans, no more than ten (10) Interest Periods outstanding at any time in respect of the U.S. Revolving Loans, no more than five (5) Interest Periods outstanding at any time in respect of the Canadian Revolving Loans, and no more than ten (10) Interest Periods outstanding at any time in respect of the Foreign Revolving Loans. In the event the Borrower Representative fails to specify between a Base Rate Loan or a Eurocurrency Rate Loan in the applicable Borrowing Notice or Conversion/Continuation Notice for any Loan denominated in Dollars, such Loan (if outstanding as a Eurocurrency Rate Loan) shall be automatically converted into a Base Rate Loan on the last day of the then-current Interest Period for such Loan (or if outst anding as a Base Rate Loan shall remain as, or (if not then outstanding) shall be made as, a Base Rate Loan). In the event the Borrower Representative fails to specify an Interest Period for any Eurocurrency Rate Loan in the applicable Borrowing Notice or Conversion/Continuation Notice, such Borrower shall be deemed to have selected an Interest Period of one month. As soon as practicable after 10:00 a.m. (New York City time) or, with respect to Loans in respect of Foreign Revolving Commitments, 10:00 a.m. (London, England time), on each Interest Rate Determination Date, the Administrative Agent shall determine (which determination shall, absent manifest error, be final, conclusive and binding upon all parties) the interest rate that shall apply to the Eurocurrency Rate Loans for which an interest rate is then being determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to the Borrower Representative and each Lender. & nbsp;In the event that the Borrower Representative fails to specify between a Canadian Prime Rate Loan and a Eurocurrency Rate Loan in the applicable Borrowing Notice or Conversion/Continuation Notice for any Loan denominated in Canadian Dollars, such Loan (if outstanding as a Eurocurrency Rate Loan) shall be automatically converted into a Canadian Prime Rate Loan on the last day of the then-current Interest Period for such Loan (or if

outstanding as a Canadian Prime Rate Loan shall remain as, or (if not then outstanding) shall be made as, a Canadian Prime Rate Loan).

(d) Interest payable pursuant to Section 2.08(a) shall be computed (i) in the case of Base Rate Loans and Canadian Prime Rate Loans on the basis of a 365-day or 366-day year, as the case may be and (ii) in the case of Eurocurrency Rate Loans, on the basis of a 360-day year, in each case for the actual number of days elapsed in the period during which it accrues. In computing interest on any Loan, the date of the making of such Loan or the first day of an Interest Period applicable to such Loan or, with respect to a Term Loan, the last Interest Payment Date with respect to such Term Loan or, with respect to a Base Rate Loan being converted from a Eurocurrency Rate Loan, the date of conversion of such Eurocurrency Rate Loan to such Base Rate Loan, as the case may be, shall be included, and the date of payment of such Loan or the expiration date of an Interest Period applicable to such Loan or, with respect to a Base Rate Loan being converted to a Eurocurrency Rate Loan, the date of conversion of such Base Rate Loan to such Eurocurrency Rate Loan, as the case may be, shall be excluded; provided, that if a Loan is repaid on the same day on which it is made, one day's interest shall be paid on that Loan.

(e) Except as otherwise set forth herein, interest on each Loan shall accrue on a daily basis and shall be payable in arrears (i) on each Interest Payment Date with respect to interest accrued on and to each such payment date; (ii) upon any prepayment of such Loan, whether voluntary or mandatory, to the extent accrued on the amount being prepaid; provided, that with respect to any voluntary prepayment of a Base Rate Loan and a Canadian Prime Rate Loans, accrued interest shall instead be payable on the applicable Interest Payment Date and (iii) at maturity of such Loan, including final maturity of such Loan.

(f) The applicable Borrower agrees to pay to the Issuing Bank, with respect to drawings honored under a Letter of Credit, interest on the amount paid by the Issuing Bank in respect of each such honored drawing from the date such drawing is honored to but excluding the date such amount is reimbursed by or on behalf of the applicable Borrower at a rate equal to (i) for the period from the date such drawing is honored to but excluding the applicable Reimbursement Date, the rate of interest otherwise payable hereunder with respect to Revolving Loans that are Base Rate Loans (or if such Letter of Credit is denominated in Canadian Dollars, the Canadian Prime Rate) or, with respect to Letters of Credit denominated in a currency other than Dollars or Canadian Dollars, Eurocurrency Rate Loans with an Interest Period of one month, and (ii) thereafter, a rate which is 2.00% per annum in excess of the rate of interest otherwise pay able hereunder with respect to such Revolving Loans.

(g) Interest payable pursuant to Section 2.08(f) shall be computed on the basis of a 365/366-day year for the actual number of days elapsed in the period during which it accrues, and shall be payable on demand or, if no demand is made, on the date on which the related drawing under a Letter of Credit is reimbursed in full. Promptly upon receipt by the Issuing Bank of any payment of interest pursuant to Section 2.08(f), the Issuing Bank shall distribute to each Lender, out of the interest received by the Issuing Bank in respect of the period from the date such drawing is honored to but excluding the date on which the Issuing Bank is reimbursed for the amount of such drawing (including any such reimbursement out of the proceeds of any Revolving Loans), the amount that such Lender would have been entitled to

receive in respect of the letter of credit fee that would have been payable in respect of such Letter of Credit for such period if no drawing had been honored under such Letter of Credit. In the event the Issuing Bank shall have been reimbursed by Lenders for all or any portion of such honored drawing, the Issuing Bank shall distribute to each Lender which has paid all amounts payable by it under Section 2.04(e) with respect to such honored drawing such Lender's Pro Rata Share of any interest received by the Issuing Bank in respect of that portion of such honored drawing so reimbursed by Lenders for the period from the date on which the Issuing Bank was so reimbursed by Lenders to but excluding the date on which such portion of such honored drawing is reimbursed by the applicable Borrower.

(h) The rate and time of payment of interest in respect of any Ancillary Facility shall be determined by agreement between the relevant Ancillary Lender and the Borrower under such Ancillary Facility based on normal market rates and terms.

(i) For purposes of disclosure pursuant to the *Interest Act* (Canada), (i) whenever any interest under this Agreement is calculated using a rate based on a year of 360 days or 365 days, as the case may be, the rate determined pursuant to such calculation, when expressed as an annual rate, is equivalent to (x) the applicable rate based on a year of 360 days or 365 days, as the case may be, (y) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends, and (z) divided by 360 or 365, as the case may be, (ii) the principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement, and (iii) the rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

Section 2.09 Conversion/Continuation

.

(a) Subject to Section 2.18 and so long as no Default or Event of Default shall have occurred and then be continuing, the Borrowers shall have the option:

(i) to convert at any time all or any part of any Term Loan or Revolving Loan denominated in Dollars or Canadian Dollars equal to $5,000,000 and integral multiples of $1,000,000 in excess of that amount from one Type of Loan to another Type of Loan; provided, that a Eurocurrency Rate Loan may only be converted on the expiration of the Interest Period applicable to such Eurocurrency Rate Loan unless the U.S. Borrower shall pay all amounts due under Section 2.18 in connection with any such conversion; or

(ii) upon the expiration of any Interest Period applicable to any Eurocurrency Rate Loan, to continue all or any portion of such Loan equal to $5,000,000 and integral multiples of $1,000,000 in excess of that amount as a Eurocurrency Rate Loan;

provided that, for the avoidance of doubt, no conversion or continuation of any Loan pursuant to this Section shall affect the currency in which such Loan is denominated prior to any such conversion or continuation and each such Loan shall remain outstanding denominated in the currency originally issued.

(b) The Borrower Representative shall deliver a Conversion/Continuation Notice to the Administrative Agent no later than 10:00 a.m. (New York City time) or, with respect to Loans in respect of Foreign Revolving Commitments, 10:00 a.m. (London, England time), at least one Business Day in advance of the proposed conversion date (in the case of a conversion to a Base Rate Loan or Canadian Prime Rate Loan) and at least three (3) Business Days in advance of the proposed Conversion/Continuation Date (in the case of a conversion to, or a continuation of, a Eurocurrency Rate Loan). Except as otherwise provided herein, a Conversion/Continuation Notice for conversion to, or continuation of, any Eurocurrency Rate Loans, shall be irrevocable on and after the related Interest Rate Determination Date, and each Borrower shall be bound to effect a conversion or continuation in accordance therewith.

Section 2.10 Default Interest

. Upon the occurrence and during the continuance of an Event of Default under Section 8.01(a), (c) (in the case of a failure to perform or comply with any term or condition contained in Section 6.07(a) or (b)), (f), (g), or (h) and, at the request of the Required Lenders, any other Event of Default, the principal amount of all Loans outstanding and, to the extent permitted by applicable law, any interest payments on the Loans or any fees or other amounts owed hereunder, shall thereafter bear interest (including post-petition interest in any proceeding under the Bankruptcy Code or other applicable bankruptcy laws) payable on demand at a rate (the "Default Rate") that is 2.00% per annum in excess of the interest rate otherwise payable hereunder with respect to the applicable Loans (or, in the case of any such fees and other amounts, at a rate which is 2.00% per annum in excess of the interest rate otherwise payable hereunder for Base Rate Loans that are Revolving Loans); provided, that in the case of Eurocurrency Rate Loans denominated in Dollars and Canadian Dollars, upon the expiration of the Interest Period in effect at the time any such increase in interest rate is effective such Eurocurrency Rate Loans shall thereupon become Base Rate Loans or Canadian Prime Rate Loans, as applicable, and shall thereafter bear interest payable upon demand at a rate which is 2.00% per annum in excess of the interest rate otherwise payable hereunder for Base Rate Loans. Payment or acceptance of the increased rates of interest provided for in this Section 2.10 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 the Administrative Agent or any Lender.

Section 2.11 Fees

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(a) The U.S. Borrower agrees to pay to Lenders (other than Defaulting Lenders) having U.S. Revolving Exposure and Canadian Revolving Exposure, as applicable:

(i) commitment fees equal to (1) the average of the daily difference between (a) the U.S. Revolving Commitments and (b) the aggregate principal amount of (x) all outstanding U.S. Revolving Loans plus (y) the U.S. Letter of Credit Usage, times (2) the Applicable Revolving Commitment Fee Percentage;

(ii) commitment fees equal to (1) the average of the daily difference between (a) the Canadian Revolving Commitments and (b) the Dollar Equivalent of the

aggregate principal amount of (x) all outstanding Canadian Revolving Loans plus (y) the Canadian Letter of Credit Usage, times (2) the Applicable Revolving Commitment Fee Percentage;

(iii) letter of credit fees equal to (1) the Applicable Margin for U.S. Revolving Loans that are Eurocurrency Rate Loans, times (2) the average aggregate daily maximum amount available to be drawn under all such U.S. Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination); and

(iv) letter of credit fees equal to (1) the Applicable Margin for Canadian Revolving Loans that are Eurocurrency Rate Loans, times (2) the Dollar Equivalent of the average aggregate daily maximum amount available to be drawn under all such Canadian Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination).

All fees referred to in this Section 2.11(a) shall be paid in Dollars to the Administrative Agent at its Principal Office and upon receipt, the Administrative Agent shall promptly distribute to each Lender that has Revolving Exposure its Pro Rata Share thereof.

(b) The Foreign Borrower agrees to pay to Lenders (other than Defaulting Lenders) having Foreign Revolving Exposure:

(i) commitment fees equal to (1) the average of the daily difference between (a) the Foreign Revolving Commitments and (b) the Euro Equivalent of the aggregate principal amount of (x) all outstanding Foreign Revolving Loans plus (y) the Foreign Letter of Credit Usage, times (2) the Applicable Revolving Commitment Fee Percentage; and

(ii) letter of credit fees equal to (1) the Applicable Margin for Foreign Revolving Loans, times (2) the Euro Equivalent of the average aggregate daily maximum amount available to be drawn under all such Foreign Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination).

All fees referred to in this Section 2.11(b) shall be paid in Euros to the Administrative Agent at its applicable Principal Office and upon receipt, the Administrative Agent shall promptly distribute to each Lender that has Revolving Exposure its Pro Rata Share thereof.

(c) Letter of Credit Fees.

(i) The U.S. Borrower agrees to pay directly to the applicable Issuing Bank, for its own account, with respect to any standby U.S. Letters of Credit and standby Canadian Letters of Credit a fronting fee in Dollars equal to 0.250%, per annum, times the average aggregate daily maximum amount available to be drawn under all such U.S. Letters of Credit and Canadian Letters of Credit (determined as of the close of business on any date of determination).

(ii) The Foreign Borrower agrees to pay directly to the applicable Issuing Bank, for its own account, with respect to any standby Foreign Letters of Credit a fronting fee in Euros equal to 0.250%, per annum, times the average aggregate daily maximum amount available to be drawn under all such Foreign Letters of Credit (determined as of the close of business on any date of determination).

(iii) The applicable Borrower agrees to pay fees to be agreed with the applicable Issuing Bank in respect of all commercial Letters of Credit.

(iv) The applicable Borrower agrees to pay such documentary and processing charges for any issuance, amendment, transfer or payment of a Letter of Credit as are in accordance with the applicable Issuing Bank's standard schedule for such charges and as in effect at the time of such issuance, amendment, transfer or payment, as the case may be.

(d) All fees referred to in Section 2.11(a), 2.11(b), 2.11(c)(i) and 2.11(c)(ii) shall be calculated on the basis of a 360-day year and the actual number of days elapsed and shall be payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year during the applicable Revolving Commitment Period, commencing on the first such date to occur after the Closing Date, and on the applicable Revolving Commitment Termination Date.

(e) In addition to any of the foregoing fees, the Borrowers agree to pay to Agents such other fees (such as administrative agency fees) in the amounts and at the times separately agreed upon. The rate and timing of fees in respect of any Ancillary Facility shall be determined by agreement between the relevant Ancillary Lender and the Borrower under such Ancillary Facility based on normal market rates and terms. Certain fees separately agreed shall be payable to the Lenders on the Closing Date as fee compensation for the funding of such Lender's Loans as availability of such Lender's unfunded Revolving Commitment. Such closing fees shall be in all respect earned, due and payable on the Closing Date and non-refundable and non-creditable thereafter.

Section 2.12 Scheduled Payments/Commitment Reductions

.

(a) The principal amounts of the U.S. Tranche A Term Loans shall be repaid in consecutive quarterly installments (each, an "Installment") in the aggregate amounts set forth below on the dates set forth below (each, an "Installment Date"), commencing on September 30, 2010:

Amortization Date	**U.S. Tranche A Term Loan Installments**
September 30, 2010	$4,596,250
December 31, 2010	$4,596,250
March 31, 2011	$4,596,250
June 30, 2011	$4,596,250

September 30, 2011	$9,192,500
December 31, 2011	$9,192,500
March 31, 2012	$9,192,500
June 30, 2012	$9,192,500
September 30, 2012	$13,788,750
December 31, 2012	$13,788,750
March 31, 2013	$13,788,750
June 30, 2013	$13,788,750
September 30, 2013	$22,981,250
December 31, 2013	$22,981,250
March 31, 2014	$22,981,250
June 30, 2014	$22,981,250
September 30, 2014	$41,366,250
December 31, 2014	$41,366,250
March 31, 2015	$41,366,250
Tranche A Term Loan Maturity Date	Remainder

(b) The principal amounts of the Foreign Tranche A Term Loans shall be repaid in Installments in the aggregate amounts set forth below on the Installment Dates set forth below, commencing on September 30, 2010:

Amortization Date	**Foreign Tranche A Term Loan Installments**
September 30, 2010	€1,250,000
December 31, 2010	€1,250,000
March 31, 2011	€1,250,000
June 30, 2011	€1,250,000
September 30, 2011	€2,500,000
December 31, 2011	€2,500,000
March 31, 2012	€2,500,000
June 30, 2012	€2,500,000
September 30, 2012	€3,750,000
December 31, 2012	€3,750,000
March 31, 2013	€3,750,000
June 30, 2013	€3,750,000

September 30, 2013	€6,250,000
December 31, 2013	€6,250,000
March 31, 2014	€6,250,000
June 30, 2014	€6,250,000
September 30, 2014	€11,250,000
December 31, 2014	€11,250,000
March 31, 2015	€11,250,000
Tranche A Term Loan Maturity Date	Remainder

(c) The principal amounts of the U.S. Tranche B Term Loans shall be repaid in Installments in the aggregate amounts set forth below on the Installment Dates set forth below, commencing on September 30, 2010:

Amortization Date	**U.S. Tranche B Term Loan Installments**
September 30, 2010	$2,507,750
December 31, 2010	$2,507,750
March 31, 2011	$2,507,750
June 30, 2011	$2,507,750
September 30, 2011	$2,507,750
December 31, 2011	$2,507,750
March 31, 2012	$2,507,750
June 30, 2012	$2,507,750
September 30, 2012	$2,507,750
December 31, 2012	$2,507,750
March 31, 2013	$2,507,750
June 30, 2013	$2,507,750
September 30, 2013	$2,507,750
December 31, 2013	$2,507,750
March 31, 2014	$2,507,750
June 30, 2014	$2,507,750
September 30, 2014	$2,507,750
December 31, 2014	$2,507,750
March 31, 2015	$2,507,750

June 30, 2015	$2,507,750
September 30, 2015	$2,507,750
December 30, 2015	$2,507,750
March 31, 2016	$2,507,750
Tranche B Term Loan Maturity Date	Remainder

(d) The principal amounts of the Foreign Tranche B Term Loans shall be repaid in Installments in the aggregate amounts set forth below on the Installment Dates set forth below, commencing on September 30, 2010:

Amortization Date	**Foreign Tranche B Term Loan Installments**
September 30, 2010	€750,000
December 31, 2010	€750,000
March 31, 2011	€750,000
June 30, 2011	€750,000
September 30, 2011	€750,000
December 31, 2011	€750,000
March 31, 2012	€750,000
June 30, 2012	€750,000
September 30, 2012	€750,000
December 31, 2012	€750,000
March 31, 2013	€750,000
June 30, 2013	€750,000
September 30, 2013	€750,000
December 31, 2013	€750,000
March 31, 2014	€750,000
June 30, 2014	€750,000
September 30, 2014	€750,000
December 31, 2014	€750,000
March 31, 2015	€750,000
June 30, 2015	€750,000
September 30, 2015	€750,000
December 30, 2015	€750,000

March 31, 2016	€750,000
Tranche B Term Loan Maturity Date	Remainder

(e) Notwithstanding the foregoing, (x) such Installments shall be reduced in connection with any voluntary or mandatory prepayments of the Tranche A Term Loans or the Tranche B Term Loans, as the case may be, in accordance with Sections 2.13, 2.14 and 2.15, as applicable; and (y) the Tranche A Term Loans and the Tranche B Term Loans, together with all other amounts owed hereunder with respect thereto, shall, in any event, be paid in full no later than the Tranche A Term Loan Maturity Date and the Tranche B Term Loan Maturity Date, respectively.

Section 2.13 Voluntary Prepayments/Commitment Reductions

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(a) Voluntary Prepayments.

(i) Any time and from time to time (1) with respect to Base Rate Loans or Canadian Prime Rate Loans, the U.S. Borrower may prepay any such Loans on any Business Day in whole or in part, in an aggregate minimum amount of $5,000,000 and integral multiples of $1,000,000 in excess of that amount; (2) with respect to Eurocurrency Rate Loans, the applicable Borrower may prepay any such Loans on any Business Day in whole or in part in an aggregate minimum amount of, with respect to Loans denominated in Dollars or Canadian Dollars and U.S. Revolving Loans or Canadian Revolving Loans, $5,000,000 and integral multiples of $1,000,000 in excess of that amount, and, with respect to Loans denominated in Euros and all Foreign Revolving Loans, €5,000,000 and integral multiples of €1,000,000 in excess of that amount; and (3) with respect to Swing Line Loans, the U.S. Borrower may prepay any such Loans on any Business Day in whole or in part in an aggregate minimum amount of $500,000, and in integral multiples of $100,000 in excess of that amount.

(ii) All such prepayments shall be made (1) upon not less than one Business Day's prior written notice in the case of Base Rate Loans or Canadian Prime Rate Loans; (2) upon not less than three (3) Business Days' prior written notice in the case of Eurocurrency Rate Loans and (3) upon written notice on the date of prepayment, in the case of Swing Line Loans;

in each case given to the Administrative Agent or applicable Swing Line Lender, as the case may be, by 12:00 p.m. (New York City time) (or, with respect to repayments of Foreign Loans, 12:00 p.m. London, England time) on the date required (and the Administrative Agent or such Swing Line Lender, as the case may be, shall promptly transmit such original notice by telefacsimile or telephone to each Lender). Upon the giving of any such notice, the principal amount of the

Loans specified in such notice shall become due and payable on the prepayment date specified therein; provided that such a notice may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower Representative if such condition is not satisfied. Any such voluntary prepayment shall be applied as specified in Section 2.15(a).

(b) Voluntary Commitment Reductions.

(i) The Borrower Representative may, upon not less than three (3) Business Days' prior written notice confirmed in writing to the Administrative Agent (which original written notice the Administrative Agent shall promptly transmit by telefacsimile or telephone to each applicable Lender), at any time and from time to time terminate in whole or permanently reduce in part, without premium or penalty, the U.S. Revolving Commitments, the Canadian Revolving Commitments and/or the Foreign Revolving Commitments in an amount up to the amount by which (x) the U.S. Revolving Commitments exceed the Total Utilization of U.S. Revolving Commitments, (y) the Canadian Revolving Commitments exceed the Total Utilization of Canadian Revolving Commitments or (z) the Foreign Revolving Commitments exceed the Total Utilization of Foreign Revolving Commitments, as applicable, at the time of such proposed termination or r eduction; provided, that any such partial reduction of the Revolving Commitments shall be in an aggregate minimum amount of, with respect to U.S. Revolving Commitments and Canadian Revolving Commitments, $5,000,000 and integral multiples of $1,000,000 in excess of that amount, and, with respect to Foreign Revolving Commitments, €5,000,000 and integral multiples of €1,000,000 in excess of that amount.

(ii) The Borrower Representative's notice to the Administrative Agent shall designate the date (which shall be a Business Day) of such termination or reduction and the amount of any partial reduction, and such termination or reduction of the Revolving Commitments shall be effective on the date specified in the Borrower Representative's notice and shall reduce the applicable Revolving Commitments of each Lender proportionately to its Pro Rata Share thereof; provided that such a notice may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower Representative if such conditions is not satisfied.

(c) Below-Par Purchases. Notwithstanding anything to the contrary contained in this Section 2.13 or any other provision of this Agreement and without otherwise limiting the rights in respect of prepayments of the Loans of the U.S. Borrower and its Subsidiaries, so long as no Default or Event of Default has occurred and is continuing, either Borrower may repurchase outstanding Term Loans pursuant to this Section 2.13(c) on the following basis:

(i) The U.S. Borrower may make one or more offers (each, a "U.S. Offer") to repurchase all or any portion of the U.S. Tranche A Term Loans and U.S. Tranche B Term Loans (such Term Loans, the "U.S. Offer Loans"), and the Foreign Borrower may make one or more offers (each, a "Foreign Offer" and, together with each U.S. Offer, an "Offer") to repurchase all or any portion of the Foreign Tranche A Term Loans and Foreign Tranche B Term Loans (such Term Loans, the "Foreign Offer Loans"

and, together with the U.S. Offer Loans, the "Offer Loans"); provided that, (A) the applicable Borrower delivers notice of its intent to make such Offer to the Administrative Agent at least five Business Days in advance of the launch of any proposed Offer, (B) upon the launch of such proposed Offer, the applicable Borrower delivers an irrevocable notice of such Offer to all applicable Term Lenders (with a copy to the Administrative Agent) indicating (1) the last date on which such Offer may be accepted, (2) the maximum dollar amount of such U.S. Offer or maximum Euro amount of such Foreign Offer, as applicable, and (3) the repurchase price per dollar of principal amount of such U.S. Offer Loans or the repurchase price per Euro of principal amount of such Foreign Offer Loans, as applicable, at which the applicable Borrower is willing to repurchase such Offer Loans (which price shall be below par), (C) the maximum dollar amount of each U.S. Offer and the maximum Euro amount of each Foreign Offer shall be an amount reasonably determined by the applicable Borrower in consultation with the Administrative Agent prior to the making of any such Offer; (D) the Borrower shall hold such Offer open for a minimum period of days to be reasonably determined by the Administrative Agent and the applicable Borrower prior to the making of any such Offer; (E) a Term Lender who elects to participate in the Offer may choose to sell all or part of such Term Lender's Offer Loans; (F) such Offer shall be made to all Term Lenders holding the Offer Loans on a pro rata basis in accordance with the respective principal amount then due and owing to the Term Lenders; provided, further that, if any Term Lender elects not to participate in the Offer, either in whole or in part, the amount of such Term Lender's Offer Loans not being tendered shall be excluded in calculating the pro rata amount applicable to the balance of such Offer Loans and (G) such Offer shall be conducted pursuant to such procedures the Administrative Agent may establish in consultation with the applicable Borrower (which shall be consistent with this Section 2.13(c)) and that a Lender must follow in order to have its Offer Loans repurchased, which procedures may include a requirement that that the applicable Borrower represent and warrant that it does not have any material non-public information with respect to any Loan Party (or its Subsidiaries) that could be material to a Lender's decision to participate in such Offer;

(ii) With respect to all repurchases made by the applicable Borrower such repurchases shall be deemed to be voluntary prepayments pursuant to this Section 2.13 in an amount equal to the aggregate principal amount of such Term Loans, provided that such repurchases shall not be subject to the provisions of paragraphs (a) and (b) of this Section 2.13 or Section 2.17;

(iii) Upon the purchase by the applicable Borrower of any Term Loans, (A) automatically and without the necessity of any notice or any other action, all principal and accrued and unpaid interest on the Term Loans so repurchased shall be deemed to have been paid for all purposes and shall be cancelled and no longer outstanding for all purposes of this Agreement and all other Loan Documents (and in connection with any Term Loan purchased pursuant to this Section 2.13(c), the Administrative Agent is authorized to make appropriate entries in the Register to reflect such cancellation) and (B) the applicable Borrower will promptly advise the Administrative Agent of the total amount of Offer Loans that were repurchased from each Lender who elected to participate in the Offer;

(iv) Failure by the Borrowers to make any payment to a Lender required by an agreement permitted by this Section 2.13(c) shall not constitute an Event of Default under Section 8.01(a);

(v) No proceeds of any Revolving Loans may be used to purchase any Offer Loans, and all amounts used to purchase Offer Loans shall be deemed to be a use of the Available Amount; and

(vi) The amount of such repurchases (based on the face value of the Term Loans purchased thereby) shall be applied on a pro rata basis to reduce the remaining Installments on the applicable Class of Term Loans pursuant to Section 2.12.

Section 2.14 Mandatory Prepayments/Commitment Reductions

.

(a) Asset Sales. No later than ten (10) Business Days following the date of receipt by any Group Member of any Net Cash Proceeds in respect of any Asset Sale pursuant to Section 6.08(d), 6.08(j)(ii) or 6.08(k), the Term Loans shall be repaid as set forth in Section 2.15(b) in an aggregate amount equal to such Net Cash Proceeds; provided, that so long as no Default or Event of Default shall have occurred and be continuing, the Borrower Representative shall have the option, upon written notice to the Administrative Agent, directly or through one or more of its Subsidiaries, to invest such Net Cash Proceeds within three hundred sixty-five (365) days of receipt thereof in Additional Assets, which investment may include the repair, restoration or replacement of the applicable assets thereof, to the extent such investments are otherwise permitted under this Agreement.

(b) Insurance/Condemnation Proceeds. No later than ten (10) Business Days following the date of receipt by any Group Member, or the Administrative Agent as loss payee, of any Net Cash Proceeds of the type described in clause (b) of the definition thereof, the Term Loans shall be repaid as set forth in Section 2.15(b) in an aggregate amount equal to such Net Cash Proceeds; provided, that so long as no Default or Event of Default shall have occurred and be continuing, the Borrower Representative shall have the option, upon written notice to the Administrative Agent, directly or through one or more of its Subsidiaries to invest such Net Cash Proceeds within three hundred sixty-five (365) days of receipt thereof in Additional Assets, which Investment may include the repair, restoration or replacement of the applicable assets thereof.

(c) Issuance or Incurrence of Debt. No later than one (1) Business Day following the date of receipt by any Group Member of any Net Cash Proceeds from the issuance or incurrence of any Indebtedness of any Group Member (other than with respect to any Indebtedness permitted to be incurred pursuant to Section 6.01, but including Indebtedness permitted to be incurred pursuant to Sections 6.01(d)(1)(ii) (except for Indebtedness incurred for the purpose of repaying Revolving Loans), 6.01(n)(i) and 6.01(n)(ii), the Net Cash Proceeds of which are required to prepay Term Loans, which Net Cash Proceeds shall be applied not later than five (5) Business Days after receipt to the extent necessary to allow the Borrowers to

comply with Section 2.15(c)), the Term Loans shall be prepaid by the applicable Borrower as set forth in Section 2.15(b) in an aggregate amount equal to 100.0% of such Net Cash Proceeds.

(d) Consolidated Excess Cash Flow. In the event that there shall be Consolidated Excess Cash Flow for any Fiscal Year (commencing with the Fiscal Year ending January 30, 2011), no later than ninety (90) days after the end of such Fiscal Year, the Term Loans shall be prepaid by the applicable Borrower as set forth in Section 2.15(b) in an aggregate amount equal to (i) 50% of such Consolidated Excess Cash Flow minus (ii) voluntary repayments of the Term Loans pursuant to Section 2.13(a); provided, that if, as of the last day of the most recently ended Fiscal Year, the Leverage Ratio (determined for any such period by reference to the Compliance Certificate delivered pursuant to Section 5.01(c) calculating the Leverage Ratio as of the last day of such Fiscal Year) shall be (x) less than 2.50:1.00 but at least 2.00:1.00, the U.S. Borrower shall only be required to make the prepayments and/or reductions otherwise required hereby in an amount equal to (i) 25% of such Consolidated Excess Cash Flow minus (ii) voluntary repayments of the Loans (excluding repayments of Revolving Loans or Swing Line Loans except to the extent the Revolving Commitments are permanently reduced in connection with such repayments) or (y) less than 2.00:1.00, no such payment shall be required.

(e) Revolving Loans, Swing Line Loans and Letters of Credit. The applicable Borrower shall from time to time (i) prepay *first*, the Swing Line Loans, and *second*, the Revolving Loans and (ii) if all such Loans are prepaid without exhausting the excess referred to below, Cash Collateralize outstanding Letters of Credit, in each case, to the extent necessary so that (x) the Total Utilization of U.S. Revolving Commitments shall not at any time exceed the U.S. Revolving Commitments then in effect, (y) the Total Utilization of Canadian Revolving Commitments shall not at any time exceed the Canadian Revolving Commitments then in effect and (z) the Total Utilization of Foreign Revolving Commitments shall not at any time exceed the Foreign Revolving Commitments then in effect. Notwithstanding the foregoing, mandatory prepayments of Swing Line Loans and Revolving Loans and Cash Collateralization of Letters of Credit that would otherwise be required pursuant to this Section 2.14(e) solely as a result of fluctuations in Exchange Rates from time to time shall only be required to be made on the last Business Day of each month on the basis of the Exchange Rate in effect on such Business Day.

(f) Prepayment Certificate. Concurrently with any prepayment of the Term Loans pursuant to Sections 2.14(a) through 2.14(d), the Borrower Representative shall deliver to the Administrative Agent a certificate of an Authorized Officer demonstrating the calculation of the amount of the applicable Net Cash Proceeds or Consolidated Excess Cash Flow, as the case may be. In the event that the Borrower Representative shall subsequently determine that the actual amount received exceeded the amount set forth in such certificate, the applicable Borrower shall promptly make an additional prepayment of the Term Loans in an amount equal to such excess, and the Borrower Representative shall concurrently therewith deliver to the Administrative Agent a certificate of an Authorized Officer describing such excess.

Section 2.15 Application of Prepayments/Reductions; Application of Proceeds of Collateral

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(a) Application of Voluntary Prepayments by Type of Loans. Any prepayment of any Loan pursuant to Section 2.13(a) shall be applied as specified by the applicable Borrower in the applicable notice of prepayment; provided that any voluntary prepayment pursuant to Section 2.13(a) of Term Loans must be made pro rata to all Term Loans (but may be applied to the Installments thereof as determined by the Borrower Representative); provided, further, that in the event the applicable Borrower fails to specify the Loans to which any such prepayment shall be applied, such prepayment shall be applied as follows:

first, to repay outstanding Swing Line Loans to the full extent thereof;

second, to repay outstanding Revolving Loans to the full extent thereof; and

third, to prepay the Term Loans on a pro rata basis (in accordance with the respective outstanding principal amounts thereof); and applied to reduce in direct order of maturity the next four scheduled Installments of the Tranche A Term Loans and Tranche B Term Loans due and thereafter on a pro rata basis to reduce the scheduled remaining Installments of the Tranche A Term Loans and Tranche B Term Loans;

in each case, for the avoidance of doubt, allocated on a pro rata basis among the applicable U.S. Loans and Foreign Loans.

(b) Application of Mandatory Prepayments by Type of Loans. Any amount required to be paid pursuant to Sections 2.14(a) through 2.14(d) shall be applied to prepay Term Loans on a pro rata basis in accordance with the respective outstanding principal amounts thereof and further applied to reduce in direct order of maturity the next four scheduled Installments due and thereafter on a pro rata basis to the remaining scheduled Installments of principal of the Tranche A Term Loans and Tranche B Term Loans, in each case, for the avoidance of doubt, allocated on a pro rata basis among the applicable U.S. Loans and Foreign Loans.

(c) Waivable Mandatory Prepayment. Anything contained herein to the contrary notwithstanding, so long as any Tranche A Term Loans are outstanding, in the event the Borrower Representative is required to make any mandatory prepayment (a "Waivable Mandatory Prepayment") of the Tranche B Term Loans, pursuant to Section 2.14, not less than five (5) Business Days prior to the date (the "Required Prepayment Date") on which the Borrower Representative is required to make such Waivable Mandatory Prepayment, the Borrower Representative shall notify the Administrative Agent of the amount of such prepayment, and the Administrative Agent shall promptly thereafter notify each Lender holding an outstanding Tranche B Term Loan of the amount of such Lender's Pro Rata Share of such Waivable Mandatory Prepayment and such Lender's option to refuse such amount. Each s uch Lender may exercise such option by giving written notice to the Borrower Representative and the Administrative Agent of its election to do so on or before the third Business Day prior to the Required Prepayment Date (it being understood that any Lender which does not notify the Borrower Representative and the Administrative Agent of its election to exercise such option on or before the third Business Day prior to the Required Prepayment Date shall be deemed to have elected, as of such date, not to exercise such option). On the Required Prepayment Date, the applicable Borrower shall pay to the Administrative Agent the amount of the Waivable

Mandatory Prepayment, which amount shall be applied (i) in an amount equal to that portion of the Waivable Mandatory Prepayment payable to those Lenders that have elected not to exercise such option, to prepay the Tranche B Term Loans of such Lenders (which prepayment shall be applied to the scheduled Installments of principal of the Tranche B Term Loans in accordance with Section 2.15(b)), and (ii) in an amount equal to that portion of the Waivable Mandatory Prepayment otherwise payable to those Lenders that have elected to exercise such option, to prepay the Tranche A Term Loans (which prepayment shall be applied to the scheduled Installments of principal of the Tranche A Term Loans in accordance with Section 2.15(b) and further applied to the scheduled Installments of principal of the Tranche B Term Loans in accordance with Section 2.15(b)).

(d) Application of Prepayments of Loans to Base Rate Loans and Eurocurrency Rate Loans. Considering each Class of Loans being prepaid separately, any prepayment of U.S. Loans shall be applied first to Base Rate Loans and Canadian Prime Rate Loans to the full extent thereof before application to Eurocurrency Rate Loans, in each case in a manner which minimizes the amount of any payments required to be made by the U.S. Borrower pursuant to Section 2.18(c).

(e) Application of Proceeds of Collateral.

(i) Except as expressly set forth in clause (ii) below, all proceeds received by the Administrative Agent from the Collateral Agent in respect of any sale of, any collection from, or other realization upon all or any part of the Collateral shall be applied in full or in part by the Administrative Agent against, the Obligations in the following order of priority: first, to the payment of all costs and expenses of such sale, collection or other realization, including reasonable compensation to the Administrative Agent and its agents and counsel, and all other expenses, liabilities and advances made or incurred by the Administrative Agent in connection therewith, and all amounts for which the Administrative Agent is entitled to indemnification hereunder (in its capacity as the Administrative Agent and not as a Lender) and all advances made by the Administrative Agent hereunder for the accoun t of the applicable Loan Party, and to the payment of all costs and expenses paid or incurred by the Administrative Agent in connection with the exercise of any right or remedy hereunder or under the Credit Agreement, all in accordance with the terms hereof or thereof; second, to the extent of any excess of such proceeds, to repay any outstanding Swing Line Loans and amounts drawn under Letters of Credit and not reimbursed by the applicable Borrower or the applicable Revolving Lenders; third, to the extent of any excess of such proceeds, to the payment of all other Obligations for the ratable benefit of the Lenders and the Lender Counterparties holding such Obligations; and fourth, to the extent of any excess of such proceeds, to the payment to or upon the order of the applicable Loan Party or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

(ii) All proceeds received by the Administrative Agent from the Collateral Agent in respect of any sale of, any collection from, or other realization upon all or any part of the Collateral of the Foreign Borrower or Foreign Guarantors shall be applied in full or in part by the Administrative Agent against, the Foreign Obligations in the following order of priority: first, to the payment of all costs and expenses of such

sale, collection or other realization, including reasonable compensation to the Administrative Agent and its agents and counsel, and all other expenses, liabilities and advances made or incurred by the Administrative Agent in connection therewith, and all amounts for which the Administrative Agent is entitled to indemnification hereunder (in its capacity as the Administrative Agent and not as a Lender) and all advances made by the Administative Agent hereunder for the account of the applicable Loan Party, and to the payment of all costs and expenses paid or incurred by the Administrative Agent in connection with the exercise of any right or remedy hereunder or under the Credit Agreement, all in accordance with the terms hereof or thereof; second, to the extent of any excess of such proceeds, to repay any outstanding amounts drawn under Foreign Letters of Credit and not reimbursed by the applicable Borrower o r the applicable Revolving Lenders; third, to the extent of any excess of such proceeds, to the payment of all other Foreign Obligations for the ratable benefit of the Lenders and the Lender Counterparties holding such Foreign Obligations; and fourth, to the extent of any excess of such proceeds, to the payment to or upon the order of the applicable Loan Party or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

(iii) It is acknowledged and agreed that the Collateral Agent will distribute proceeds of Collateral to the Administrative Agent and, as applicable, the 2023 Debentures Trustee, as required by the terms of the Security Documents or the 2023 Debentures Intercreditor Agreement.

Section 2.16 General Provisions Regarding Payments

.

(a) All payments by the Borrowers of principal, interest, fees and other Obligations shall be made, with respect to the U.S. Loans or the U.S. Revolving Commitments, in Dollars, and, with respect to the Foreign Loans or the Foreign Revolving Commitments, in Euros, in each case in same day funds, without defense, setoff or counterclaim, free of any restriction or condition, and delivered to the Administrative Agent not later than 12:00 p.m. (New York City time) or, with respect to Foreign Loans or Foreign Revolving Commitments, 12:00 p.m. (London, England time), on the date due at the Principal Office designated by the Administrative Agent for the account of Lenders. For purposes of computing interest and fees, funds received by the Administrative Agent after that time on such due date shall be deemed to have been paid by the Borrowers on the next succeeding Business Day.

(b) All payments in respect of the principal amount of any Loan (other than voluntary prepayments of Revolving Loans, Base Rate Loans or Canadian Prime Rate Loans) shall be accompanied by payment of accrued interest on the principal amount being repaid or prepaid, and all such payments (and, in any event, any payments in respect of any Loan on a date when interest is due and payable with respect to such Loan) shall be applied to the payment of interest then due and payable before application to principal.

(c) The Administrative Agent (or its agent or sub-agent appointed by it) shall promptly distribute to each Lender at such address as such Lender shall indicate in writing, such

Lender's applicable Pro Rata Share of all payments and prepayments of principal and interest due hereunder, together with all other amounts due thereto, including all fees payable with respect thereto, to the extent received by the Administrative Agent.

(d) Notwithstanding the foregoing provisions hereof, if any Conversion/ Continuation Notice is withdrawn as to any Affected Lender or if any Affected Lender makes Base Rate Loans in lieu of its Pro Rata Share of any Eurocurrency Rate Loans, the Administrative Agent shall give effect thereto in apportioning payments received thereafter.

(e) Subject to the provisos set forth in the definition of "Interest Period" as they may apply to Revolving Loans, whenever any payment to be made hereunder with respect to any Loan shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and, with respect to Revolving Loans only, such extension of time shall be included in the computation of the payment of interest hereunder or of the Revolving Commitment fees hereunder.

(f) The Administrative Agent shall deem any payment by or on behalf of any Borrower hereunder that is not made in same day funds prior to 12:00 p.m. (New York City time) or, with respect to Foreign Loans or Foreign Revolving Commitments, 12:00 p.m. (London, England time), to be a non-conforming payment. Any such payment shall not be deemed to have been received by the Administrative Agent until the later of (i) the time such funds become available funds, and (ii) the applicable next Business Day. The Administrative Agent shall give prompt telephonic notice to the Borrower Representative and each applicable Lender (confirmed in writing) if any payment is non-conforming. Any non-conforming payment may constitute or become a Default or Event of Default in accordance with the terms of Section 8.01(a).

(g) If an Event of Default shall have occurred and not otherwise been waived, and the maturity of the Obligations shall have been accelerated pursuant to Section 8.01, all payments or proceeds received by Agents hereunder in respect of any of the Obligations, shall be applied in accordance with the application arrangements described in Section 2.15(e).

(h) If a CKI Blockage Event has occurred and is continuing, any payment, including any prepayments or distribution of any kind or character (whether required by this Agreement or optionally made by any Loan Party) shall be accompanied by a certificate, duly executed by an Authorized Officer of the U.S. Borrower stating that no part of such payment or distribution constitutes a CK Distribution, and such reasonable evidence as the Administrative Agent may reasonably request supporting such certification.

Section 2.17 Ratable Sharing

. The Lenders to the U.S. Borrower agree among themselves, on the one hand, and the Lenders to the Foreign Borrower hereby agree among themselves, on the other hand, that, except as otherwise provided in the Security Documents with respect to amounts realized from the exercise of rights with respect to Liens on the Collateral, if any of them shall, whether by voluntary payment (other than a voluntary prepayment of Loans made and applied in accordance with the terms hereof), through the exercise of any right of set-off or banker's lien, by

counterclaim or cross action or by the enforcement of any right under the Loan Documents or otherwise, or as adequate protection of a deposit treated as cash collateral under the Bankruptcy Code, receive payment or reduction of a proportion of the aggregate amount of principal, interest, amounts payable in respect of Letters of Credit, fees and other amounts then due and owing to such Lender hereunder or under the other Loan Documents (collectively, the "Aggregate Amounts Due" to such Lender) which is greater than the proportion received by any other Lender in respect of the Aggregate Amounts Due to such other Lender, then the Lender receiving such proportionately greater payment shall (a) notify the Administrative Agent and each other Lender of the receipt of such payment and (b) apply a portion of such payment to purchase participations (which it shall be deemed to have purchased from each seller of a par ticipation simultaneously upon the receipt by such seller of its portion of such payment) in the Aggregate Amounts Due to the other Lenders so that all such recoveries of Aggregate Amounts Due shall be shared by all Lenders in proportion to the Aggregate Amounts Due to them; provided, that if all or part of such proportionately greater payment received by such purchasing Lender is thereafter recovered from such Lender upon the bankruptcy or reorganization of any Borrower or otherwise, those purchases shall be rescinded and the purchase prices paid for such participations shall be returned to such purchasing Lender ratably to the extent of such recovery, but without interest. The provisions of this Section 2.17 shall not be construed to apply to (a) any payment made by any Borrower pursuant to and in accordance with the express terms of this Agreement or payments made with proceeds of Collateral applied as set forth in Section 2.15(e) or (b) any payment obtained by any Lender as consideration for the assignment or sale of a participation in any of its Loans or other Obligations owed to it. For the avoidance of doubt no Lender to the Foreign Borrower shall make payments to a Lender to the U.S. Borrower pursuant to this Section 2.17.

Section 2.18 Making or Maintaining Eurocurrency Rate Loans

.

(a) Inability to Determine Applicable Interest Rate. In the event of any Market Disruption, the Administrative Agent shall on such date give notice (by telefacsimile or by telephone confirmed in writing) to the Borrower Representative and each Lender of such determination, whereupon (i) with respect to Loans denominated in Dollars or Canadian Dollars, (x) no Loans may be made as, or converted to, Eurocurrency Rate Loans until such time as the Administrative Agent notifies the Borrower Representative and Lenders that the circumstances giving rise to such notice no longer exist and (y) any Borrowing Notice or Conversion/Continuation Notice given by the Borrower Representative with respect to the Loans in respect of which such determination was made shall be deemed to be rescinded by the Borrower Representative, and (ii) with respect to Loans denominated in Euros or Other Foreign Currency, if the Administ rative Agent or the Borrower Representative so require, the Administrative Agent and the Borrower Representative will negotiate in good faith for a period of not more than 30 days in order to agree on a mutually acceptable substitute basis for calculating the interest payable on the affected Eurocurrency Rate Loans and, (x) if a substitute basis is agreed within that period between the Administrative Agent and the Borrower Representative, then it shall apply in accordance with its terms (and may be retrospective to the beginning of the relevant Interest Period) and (y) unless and until a substitute basis is so agreed, the interest payable to such Lenders on the applicable Eurocurrency Rate Loans for the relevant

Interest Period will be the rate notified to the Administrative Agent by that Lender to be its cost of funds (from any source which it may reasonably select) plus the Applicable Margin and, if applicable, Mandatory Costs.

(b) Illegality. Notwithstanding any other provision herein, if the adoption of or any change in any law, treaty, governmental rules, regulation or guideline or order, or in the interpretation or application thereof shall make it unlawful for any Lender to make or maintain Eurocurrency Rate Loans as contemplated by this Agreement (such Lender an "Affected Lender"), (i) the Commitment of such Lender hereunder to make Eurocurrency Rate Loans, continue Eurocurrency Rate Loans as such and convert Base Rate Loans or Canadian Prime Rate Loans to Eurocurrency Rate Loans shall forthwith be canceled until such time as it shall no longer be unlawful for such Lender to make or maintain the affected Loan and (ii) with respect to any such Lender's Loans then outstanding as Eurocurrency Rate Loans denominated in Dollars or Canadian Dollars, if any, shall be converted automatically to Base R ate Loans or Canadian Prime Rate Loans, respectively, on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a Eurocurrency Rate Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the applicable Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 2.18(c).

(c) Compensation for Breakage or Non-Commencement of Interest Periods. The applicable Borrower shall compensate each Lender, upon written request by such Lender (which request shall set forth the basis for requesting such amounts), for all reasonable losses, expenses and liabilities (including any interest paid by such Lender to Lenders of funds borrowed by it to make or carry its Eurocurrency Rate Loans and any loss, expense or liability sustained by such Lender in connection with the liquidation or re-employment of such funds but excluding loss of anticipated profits) which such Lender actually sustains as a direct result of any of the following circumstances: (i) if for any reason (other than a default by such Lender) a borrowing of any Eurocurrency Rate Loan does not occur on a date specified therefor in a Borrowing Notice, or a conversion to or continuation of any Eurocurrency Rate Loan does not occur on a date specified therefor in a Conversion/Continuation Notice; (ii) if any prepayment or other principal payment of, or any conversion of, any of its Eurocurrency Rate Loans occurs on a date prior to the last day of an Interest Period applicable to that Loan; or (iii) if any prepayment of any of its Eurocurrency Rate Loans is not made on any date specified in a notice of prepayment given by the applicable Borrower or the Borrower Representative.

(d) Booking of Eurocurrency Rate Loans. Any Lender may make, carry or transfer Eurocurrency Rate Loans at, to or for the account of any of its branch offices or the office of an Affiliate of such Lender.

(e) Assumptions Concerning Funding of Eurocurrency Rate Loans. Calculation of all amounts payable to a Lender under this Section 2.18 and under Section 2.19 shall be made as though such Lender had actually funded each of its relevant Eurocurrency Rate Loans through the purchase of a Eurocurrency deposit bearing interest at the rate obtained pursuant to clause (i) of the definition of Adjusted Eurocurrency Rate in an amount equal to the amount of such Eurocurrency Rate Loan and having a maturity comparable to the relevant Interest Period and through the transfer of such Eurocurrency deposit from an offshore office of

such Lender to the relevant office of such Lender; provided, that each Lender may fund each of its Eurocurrency Rate Loans in any manner it sees fit and the foregoing assumptions shall be utilized only for the purposes of calculating amounts payable under this Section 2.18 and under Section 2.19.

Section 2.19 Increased Costs; Capital Adequacy

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(a) Compensation For Increased Costs. In the event that any Lender (which term shall include the Issuing Bank for purposes of this Section 2.19(a)) shall determine (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) that any law, treaty or governmental rule, regulation or order, or any change therein or in the interpretation, administration or application thereof (including the introduction of any new law, treaty or governmental rule, regulation or order), or any determination of a court or Governmental Authority, in each case that becomes effective after the date hereof, or compliance by such Lender with any guideline, request or directive issued or made after the date hereof by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law): (i) imposes, modifies or holds applicable any reserve (inc luding any marginal, emergency, supplemental, special or other reserve), special deposit, compulsory loan, FDIC insurance or similar requirement against assets held by, or deposits or other liabilities in or for the account of, or advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Lender (other than any such reserve or other requirements with respect to Eurocurrency Rate Loans that are reflected in the definition of Adjusted Eurocurrency Rate); or (ii) imposes any other condition on or affecting such Lender (or its applicable lending office) or its obligations hereunder or the London interbank market or the relevant off-shore interbank market for any Approved Currency; and the result of any of the foregoing is to increase the cost to such Lender of agreeing to make, making or maintaining Loans hereunder or acquiring participations in, issuing or maintaining Letters of Credit hereunder or to reduce any amount received or receivable by such Lender (or it s applicable lending office) with respect thereto; then, in any such case, the applicable Borrower shall promptly pay to such Lender, upon receipt of the statement referred to in the next sentence, such additional amount or amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its sole discretion shall determine) as may be necessary to compensate such Lender for any such increased cost or reduction in amounts received or receivable hereunder. Such Lender shall deliver to the Borrower Representative (with a copy to the Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to such Lender under this Section 2.19(a), which statement shall be conclusive and binding upon all parties hereto absent manifest error. For the avoidance of doubt, this Section 2.19(a) shall not apply to any Taxes, which shall be governed by Section 2.20.

(b) Capital Adequacy Adjustment. In the event that any Lender (which term shall include the Issuing Bank for purposes of this Section 2.19(b)) shall have determined that the adoption, effectiveness, phase-in or applicability after the Closing Date of any law, rule or regulation (or any provision thereof) regarding capital adequacy, or any change therein or in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof in each case that

becomes effective after the date hereof, or compliance by any Lender (or its applicable lending office) with any guideline, request or directive issued or made after the date hereof regarding capital adequacy (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of, or with reference to, such Lender's Loans or Revolving Commitment or Letters of Credit, or participations therein or other obligations hereunder with respect to the Loans or the Letters of Credit, to a level below that which such Lender or such controlling corporation could have achieved but for such adoption, effectiveness, phase-in, applicability, change or compliance (taking into consideration the policies of such Lender or such controlling corporation with re gard to capital adequacy), then from time to time, within five (5) Business Days after receipt by the Borrower Representative from such Lender of the statement referred to in the next sentence, the applicable Borrower shall pay to such Lender such additional amount or amounts as shall compensate such Lender or such controlling corporation on an after-tax basis for such reduction. Such Lender shall deliver to the Borrower Representative (with a copy to the Administrative Agent) a written statement, setting forth in reasonable detail the basis for calculating the additional amounts owed to such Lender under this Section 2.19(b), which statement shall be conclusive and binding upon all parties hereto absent manifest error.

Section 2.20 Taxes; Withholding, Etc.

(a) Payments to Be Free and Clear. All sums payable by or on behalf of any Loan Party hereunder and under any other Loan Document shall (except to the extent required by law) be paid free and clear of, and without any deduction or withholding for or on account of, any Indemnified Tax or Other Tax imposed, levied, collected, withheld or assessed by any Governmental Authority.

(b) Withholding of Taxes. If any Loan Party or any other Person is required by law to make any deduction or withholding for or on account of any Indemnified Tax from any sum paid or payable by or on behalf of any Loan Party to the Administrative Agent or any Lender (which term shall include the Issuing Bank for purposes of this Section 2.20(b)) under any of the Loan Documents: (i) the applicable Loan Party shall notify the Administrative Agent in writing of any such requirement or any change in any such requirement as soon as the applicable Loan Party becomes aware of it; (ii) the applicable Borrower shall pay any such Indemnified Tax before the date on which penalties attach thereto, such payment to be made (if the liability to pay is imposed on any Loan Party) for its own account or (if that liability is imposed on the Administrative Agent or such Lender) on behalf of and in the name of the Administr ative Agent or such Lender, as the case may be; (iii) the sum payable by such Loan Party in respect of which the relevant deduction, withholding or payment is required shall be increased to the extent necessary to ensure that, after the making of that deduction, withholding or payment, the Administrative Agent or such Lender, as the case may be, receives on the due date a net sum equal to what it would have received had no such deduction, withholding or payment been required or made (after taking into account any additional deduction, withholding or payment of any Indemnified Taxes on such increased payment); and (iv) within thirty (30) days after the due date of payment of any Indemnified Tax which it is required by clause (ii)

above to pay, the applicable Loan Party shall deliver to the Administrative Agent evidence satisfactory to the Administrative Agent and other affected parties of such deduction, withholding or payment and of the remittance thereof to the relevant taxing or other authority.

(c) Evidence of Exemption From Withholding Tax. Any Lender (which term shall include the Issuing Bank for purposes of this Section 2.20(c)) that is entitled to an exemption from or reduction of withholding Tax under the law of the jurisdiction in which any Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Loan Document shall, to the extent it may lawfully do so, deliver to such Borrower and the Administrative Agent, at the time or times prescribed by applicable requirements of law and reasonably requested by such Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable requirements of law and any other information (including whether such Lender has complied with the FATCA) as will permit such payments to be made without withholding or at a reduced rate of w ithholding. Without limiting the generality of the foregoing, each Lender that is not a United States person (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code) for U.S. federal income tax purposes and that is a Lender to a U.S. Loan (a "Non-U.S. Lender") (for this purpose, including any Commitment with respect thereto) shall, to the extent it is legally entitled to do so, deliver to the Administrative Agent for transmission to the Borrower Representative, on or prior to the Closing Date (in the case of each Lender listed on the signature pages hereof on the Closing Date) or on or prior to the date of the Assignment Agreement pursuant to which it becomes a Lender (in the case of each other Lender), and at such other times as may be prescribed by law or as may be necessary in the determination of the Borrower Representative or the Administrative Agent (each in the reasonable exercise of its discretion), (i) two (2) original copies of Internal Revenue Service Fo rm W-8BEN (claiming the benefits of any applicable income tax treaty), W-8ECI, W-8EXP and/or W-8IMY (or, in each case, any successor forms), properly completed and duly executed by such Lender, and such other documentation required under the Internal Revenue Code or reasonably requested by the Borrower Representative or the Administrative Agent to establish that such Lender is not subject to (or is subject to a reduced rate of) deduction or withholding of United States federal income tax with respect to any payments to such Lender of principal, interest, fees or other amounts payable under any of the Loan Documents or (ii) if such Lender is not a "bank" or other Person described in Section 881(c)(3) of the Internal Revenue Code and is relying on the so-called "portfolio interest exemption," a Certificate re Non-Bank Status together with two (2) original copies of Internal Revenue Service Form W-8BEN (or any successor form), properly completed and duly executed by such Lender, and suc h other documentation required under the Internal Revenue Code or reasonably requested by the Borrower Representative or the Administrative Agent to establish that such Lender is not subject to deduction or withholding of United States federal income tax with respect to any payments to such Lender of interest payable under any of the Loan Documents. Each Lender that is a United States person (as such term is defined in Section 7701(a)(30) of the Internal Revenue Code) for United States federal income tax purposes (a "U.S. Lender") shall deliver to the Administrative Agent and the Borrower Representative on or prior to the Closing Date (or, if later, on or prior to the date on which such Lender becomes a party to this Agreement) two (2) original copies of Internal Revenue Service Form W-9 (or any successor form), properly completed and duly executed by such Lender, certifying that such U.S. Lender is entitled to an exemption from United States backup withholding tax, or otherwise prove that it is entitled to such an exemption. Each Lender required to deliver any forms,

certificates or other evidence with respect to United States federal income tax withholding matters pursuant to this Section 2.20(c) hereby agrees, from time to time after the initial delivery by such Lender of such forms, certificates or other evidence, whenever a lapse in time or change in circumstances renders such forms, certificates or other evidence obsolete or inaccurate in any material respect, that such Lender shall promptly deliver to the Administrative Agent and the Borrower Representative two (2) new original copies of Internal Revenue Service Form W-8BEN, W-8ECI, W-8IMY, W-8EXP and/or W-9 (or, in each case, any successor form), or a Certificate re Non-Bank Status, as the case may be, properly completed and duly executed by such Lender, and such other documentation required under the Internal Revenue Code and reasonably requested by the Borrower Representative or the Administrative Agent to confirm or establish that such Lender is not subject to (or is subject to a reduced rate of) deduction or withholding of United States federal income tax with respect to payments to such Lender under the Loan Documents, or notify the Administrative Agent and the Borrower Representative of its inability to deliver any such forms, certificates or other evidence. No Borrower shall be required to pay any additional amount to any Non-U.S. Lender under Section 2.20(b)(iii) with respect to Indemnified Taxes imposed by reason of such Lender's failure (1) to deliver the forms, certificates or other evidence required by this Section 2.20(c) or (2) to notify the Administrative Agent and the Borrower Representative of its inability to deliver any such forms, certificates or other evidence, as the case may be; provided, that if such Lender shall have satisfied the requirements to deliver forms, certificates or other evidence under this Section 2.20(c) on the Closing Date or on the date of the Assignment Agreement pursuant to which it became a Lender, as applicable, nothing in this last sentence of Section 2.20(c) shall relieve any Loan Party of its obligation to pay any additional amounts pursuant to this Section 2.20 in the event that, as a result of any change in any applicable law, treaty or governmental rule, regulation or order, or any change in the interpretation, administration or application thereof that becomes effective after such date, such Lender is no longer properly entitled to deliver forms, certificates or other evidence at a subsequent date establishing the fact that such Lender is not subject to withholding as described herein.

(d) Without limiting the provisions of Section 2.20(b), each Loan Party shall timely pay all Other Taxes to the relevant Governmental Authorities in accordance with applicable law. Each Loan Party or the Borrower Representative shall deliver to the Administrative Agent official receipts or other evidence of such payment reasonably satisfactory to the Administrative Agent in respect of any Other Taxes payable hereunder promptly after payment of such Other Taxes.

(e) If the Administrative Agent or a Lender (which term shall include the Issuing Bank for purposes of this Section 2.20(e)) receives a refund of any amount as to which a Borrower has made any payments pursuant to this Section 2.20, the Administrative Agent or such Lender shall pay over any such refund to such Borrower, net of such Lender's expenses and out-of-pocket costs; provided that such Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower (including any applicable interest, fees and penalties) in the event that the Administrative Agent or such Lender is required to repay such refund to the relevant Governmental Authority.

(f) The Loan Parties shall jointly and severally indemnify the Administrative Agent and any Lender (which term shall include Issuing Bank for purposes of this Section

2.20(f)) for the full amount of Indemnified Taxes for which additional amounts are required to be paid pursuant to Section 2.20(b) and Other Taxes, in each case arising in connection with this Agreement or any other Loan Document (including any such Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.20) paid by the Administrative Agent or Lender or any of their respective Affiliates and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other 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 such Loan Party shall be conclusive absent manifest error. Such payment shall be due within thirty (30) days of such Loan Party's receipt of such certificate.

Section 2.21 Obligation to Mitigate

. Each Lender (which term shall include the Issuing Bank for purposes of this Section 2.21) agrees that, as promptly as practicable after the officer of such Lender responsible for administering its Loans or Letters of Credit, as the case may be, becomes aware of the occurrence of an event or the existence of a condition that would cause such Lender to become an Affected Lender or that would entitle such Lender to receive payments under Section 2.18, 2.19 or 2.20, it shall, to the extent not inconsistent with the internal policies of such Lender and any applicable legal or regulatory restrictions, use reasonable efforts to (a) make, issue, fund or maintain its Credit Extensions through another office of such Lender or (b) take such other measures as such Lender may deem reasonable, if as a result thereof the circumstances which would cause such Lender to be an Affected Lender would cease to exist or the additional amounts which would otherwise be required to be paid to such Lender pursuant to Section 2.18, 2.19 or 2.20 would be materially reduced and if, as determined by such Lender in its sole discretion, the making, issuing, funding or maintaining of such Revolving Commitments, Loans or Letters of Credit through such other office or in accordance with such other measures, as the case may be, would not otherwise adversely affect the interests of such Lender in any material respect; provided, that such Lender shall not be obligated to utilize such other office pursuant to this Section 2.21 unless the Borrower Representative agrees to pay all incremental expenses incurred by such Lender as a result of utilizing such other office as described above. A certificate as to the amount of any such expenses payable by the Borrower Representative pursuant to this Section 2.21 (setting forth in reasonable detail the basis for requesting such amount) submitted by such Lender to the Bor rower Representative (with a copy to the Administrative Agent) shall be conclusive absent manifest error. For the avoidance of doubt, nothing in this Section 2.21 shall relieve any Lender from its obligations pursuant to Section 2.20(c) of this Agreement.

Section 2.22 Defaulting Lenders

. Notwithstanding anything to the contrary contained in this Agreement, if any obligations of any Lender to purchase participations in or otherwise refinance or support any Swing Line Loans or Letters of Credit exist at the time any Lender having a Revolving Commitment becomes a Defaulting Lender (such Lender, a "Defaulting Revolving Lender") then:

(a) all obligations of the applicable Defaulting Revolving Lender to purchase participations in or otherwise refinance or support such Swing Line Loans and Letters of Credit shall be reallocated among the non-Defaulting Revolving Lenders of the applicable Class in accordance with their respective Pro Rata Share thereof, but only to the extent (i) (x) with respect to U.S. Swing Line Loans and U.S. Letters of Credit, the sum of the non-Defaulting Revolving Lenders' Pro Rata Shares of the Total Utilization of U.S. Revolving Commitments plus such Defaulting Revolving Lender's Pro Rata Share of U.S. Revolving Exposure do not exceed the total of all non-Defaulting Revolving Lenders' U.S. Revolving Commitments, (y) with respect to Canadian Swing Line Loans and Canadian Letters of Credit, the sum of the non-Defaulting Revolving Lenders' Pro Rata Shares of the Total Utilization of Canadian Revolving Co mmitments plus such Defaulting Revolving Lender's Pro Rata Share of Canadian Revolving Exposure do not exceed the total of all non-Defaulting Revolving Lenders' Canadian Revolving Commitments and (z) with respect to Foreign Letters of Credit, the sum of the non-Defaulting Revolving Lenders' Pro Rata Shares of the Total Utilization of Foreign Revolving Commitments plus such Defaulting Revolving Lender's Pro Rata Share of Foreign Revolving Exposure do not exceed the total of all non-Defaulting Revolving Lenders' Foreign Revolving Commitments and (ii) in each case, the conditions set forth in Section 3.02 are satisfied at such time;

(b) if the reallocation described in clause (a) above cannot, or can only partially, be effected, the applicable Borrower shall (i) first, within one Business Day following notice by the Administrative Agent, prepay any outstanding Swing Line Loans to the extent the obligations of the applicable Defaulting Revolving Lender to purchase participations in or otherwise refinance or support Swing Line Loans have not been reallocated pursuant to clause (a) above and (ii) second, within three Business Days following notice by the Administrative Agent, Cash Collateralize such Defaulting Revolving Lender's Pro Rata Share of the obligations to purchase participations in or otherwise refinance or support Letters of Credit (after giving effect to any partial reallocation pursuant to clause (a) above) for so long as such obligations are outstanding; and

(c) if the obligations of the applicable Defaulting Revolving Lender to purchase participations in or otherwise refinance or support Letters of Credit are reallocated among the non-Defaulting Revolving Lenders pursuant to clause (a) above, then the fees payable to the Lenders pursuant to Section 2.11 shall be adjusted in accordance with such non-Defaulting Revolving Lenders' Pro Rata Shares.

Section 2.23 Removal or Replacement of a Lender

. Anything contained herein to the contrary notwithstanding, in the event that: (a) (i) any Lender (an "Increased-Cost Lender") shall give notice to the Borrower Representative that such Lender is an Affected Lender or that such Lender is entitled to receive payments under Section 2.18, 2.19 or 2.20, (ii) the circumstances which have caused such Lender to be an Affected Lender or which entitle such Lender to receive such payments remain in effect, and (iii) such Lender shall fail to withdraw such notice within five (5) Business Days after the Borrower Representative's request for such withdrawal; or (b) (i) any Lender shall become a Defaulting Lender, (ii) such Defaulting Lender's default remains in effect and (iii) such Defaulting Lender shall fail to cure the default as a result of which it has become a Defaulting Lender within five (5) Business Days thereafte r; or (c) in connection with any proposed amendment, modification,

termination, waiver or consent with respect to any of the provisions hereof as contemplated by Section 10.05(b), the consent of Required Lenders shall have been obtained but the consent of one or more of such other Lenders (each, a "Non-Consenting Lender") whose consent is required shall not have been obtained; then, with respect to each such Increased-Cost Lender, Defaulting Lender or Non-Consenting Lender (the "Terminated Lender"), the Borrower Representative may, by giving written notice to the Administrative Agent and any Terminated Lender of its election to do so, elect to cause such Terminated Lender (and such Terminated Lender hereby irrevocably agrees) to assign its outstanding Loans and its Revolving Commitments, if any, in full to one or more Eligible Assignees (each, a "Replacement Lender") in accordance with the provisions of Section 10.06 and the applicable Borrower shal l pay the fees, if any, payable thereunder in connection with any such assignment from an Increased-Cost Lender, a Non-Consenting Lender or a Defaulting Lender; provided, that (1) on the date of such assignment, the Replacement Lender shall pay to the Terminated Lender an amount equal to the sum of (A) an amount equal to the principal of, and all accrued interest on, all outstanding Loans of the Terminated Lender, (B) an amount equal to all unreimbursed drawings on Letters of Credit that have been funded by such Terminated Lender, together with all then unpaid interest with respect thereto at such time and (C) an amount equal to all accrued but theretofore unpaid fees owing to such Terminated Lender pursuant to Section 2.11, such amounts to be calculated based on the Dollar Equivalent thereof with respect to the U.S. Term Loans, U.S. Revolving Commitments or Canadian Revolving Commitments and based on the Euro Equivalent thereof with respect to the Foreign Term Loans or Foreign Revolving Commitments; (2) on the date of such assignment, the applicable Borrower shall pay any amounts payable to such Terminated Lender pursuant to Section 2.18(c), 2.19 or 2.20; or otherwise as if it were a prepayment and (3) in the event such Terminated Lender is a Non-Consenting Lender, each Replacement Lender shall consent, at the time of such assignment, to each matter in respect of which such Terminated Lender was a Non-Consenting Lender; provided, that the applicable Borrower may not make such election with respect to any Terminated Lender that is also the Issuing Bank unless, prior to the effectiveness of such election, the applicable Borrower shall have caused each outstanding Letter of Credit issued thereby to be cancelled, replaced or Cash Collateralized. Upon the prepayment of all amounts owing to any Terminated Lender and the termination of such Terminated Lender's Revolving Commitments, if any, such Terminated Lender shall no longer constitute a "Lender" for purposes hereof; provided, that any rights of such Terminated Lender to indemnification hereunder shall survive as to such Terminated Lender. Each Lender agrees that if a Borrower exercises its option hereunder to cause an assignment by such Lender as a Terminated Lender, such Lender shall, promptly after receipt of written notice of such election, execute and deliver all documentation necessary to effectuate such assignment in accordance with Section 10.06. In the event that a Lender does not comply with the requirements of the immediately preceding sentence within one Business Day after receipt of such notice, each Lender hereby authorizes and directs the Administrative Agent to execute and deliver such documentation as may be required to give effect to an assignment in accordance with Section 10.06 on behalf of a Terminated Lender and any such documentation so executed by the Administrative Agent shall be effective for purposes of documenting an assignment pursuant to Sect ion 10.06.

Section 2.24 Incremental Facilities

. The Borrower Representative may by written notice to the Administrative Agent at any time more than 90 days after the Closing Date elect to request (A) prior to the Revolving

Commitment Termination Date, an increase to the existing Revolving Commitments (any such increase, the "Incremental Revolving Commitments") and/or (B) the establishment of one or more new term loan commitments (the "Incremental Term Loan Commitments"), by an amount not in excess of $250,000,000 in the aggregate and not less than $25,000,000 individually (or such lesser amount which shall be approved by the Administrative Agent or such lesser amount that shall constitute the difference between $250,000,000 and all such Incremental Revolving Commitments and Incremental Term Loan Commitments obtained prior to such date), and integral multiples of $10,000,000 in excess of that amount. Each such notice shall specify (A) the date (each, an "Increased Amount Date") on which the Borrower Representative proposes that the Incremental Revolving Commitments or Incremental Term Loan Commitm ents, as applicable, shall be effective, which shall be a date not less than 10 Business Days after the date on which such notice is delivered to the Administrative Agent and (B) the identity of each Lender or other Person that is an Eligible Assignee (each, an "Incremental Revolving Loan Lender" or "Incremental Term Loan Lender", as applicable) to whom the Borrower Representative proposes any portion of such Incremental Revolving Commitments or Incremental Term Loan Commitments, as applicable, be allocated and the amounts of such allocations; provided that the Administrative Agent may elect or decline to arrange such Incremental Revolving Commitments or Incremental Term Loan Commitments in its sole discretion and any Lender approached to provide all or a portion of the Incremental Revolving Commitments or Incremental Term Loan Commitments may elect or decline, in its sole discretion, to provide an Incremental Revolving Commitment or an Incremental Term Loan Commitmen t. Such Incremental Revolving Commitments or Incremental Term Loan Commitments shall become effective as of such Increased Amount Date; provided that (1) no Default or Event of Default shall exist on such Increased Amount Date before or after giving effect to such Incremental Revolving Commitments or Incremental Term Loan Commitments, as applicable; (2) both before and after giving effect to the making of any Series of Incremental Term Loans, each of the conditions set forth in Section 3.02 shall be satisfied; (3) the U.S. Borrower shall be in pro forma compliance with each of the covenants set forth in Section 6.07 as of the last day of the most recently ended Fiscal Quarter after giving effect to such Incremental Revolving Commitments or Incremental Term Loan Commitments, as applicable; (4) the Incremental Revolving Commitments or Incremental Term Loan Commitments, as applicable, shall be effected pursuant to one or more Joinder Agreements executed and delivered by the applicabl e Borrower, the Incremental Revolving Loan Lender or Incremental Term Loan Lender, as applicable, and the Administrative Agent, and each of which shall be recorded in the Register and each Incremental Revolving Loan Lender and Incremental Term Loan Lender shall be subject to the requirements set forth in Section 2.20(c); (5) the applicable Borrower shall make any payments required pursuant to Section 2.18(c) in connection with the Incremental Revolving Commitments; (6) the applicable Borrower shall deliver or cause to be delivered any legal opinions or other documents (including modifications of Mortgages and title insurance endorsements or policies) as reasonably requested by the Administrative Agent in connection with any such transaction and (7) the applicable Borrower shall have paid all fees and expenses owing to the Agents and the Lenders in respect of such Incremental Revolving Commitments or Incremental Term Loan Commitments. Any Incremental Term Loans made on an Increased Amount Date shal l be designated a separate series (a "Series") of Incremental Term Loans for all purposes of this Agreement.

On any Increased Amount Date on which Incremental Revolving Commitments are effected, subject to the satisfaction of the foregoing terms and conditions, (a) each of the Lenders with Revolving Commitments of the same Class shall assign to each of the Incremental Revolving Loan Lenders, and each of the Incremental Revolving Loan Lenders shall purchase from each of such Lenders, at the principal amount thereof (together with accrued interest), such interests in the applicable Revolving Loans outstanding on such Increased Amount Date as shall be necessary in order that, after giving effect to all such assignments and purchases, such Revolving Loans will be held by existing Lenders with Revolving Commitments of the same Class and Incremental Revolving Loan Lenders ratably in accordance with their Revolving Commitments after giving effect to the addition of such Incremental Revolving Commitments to the Revolving Commitmen ts of the applicable Class, (b) each Incremental Revolving Commitment shall be deemed for all purposes a Revolving Commitment of the applicable Class and each Loan made thereunder (an "Incremental Revolving Loan") shall be deemed, for all purposes, a Revolving Loan of the applicable Class and (c) each Incremental Revolving Loan Lender shall become a Lender with respect to the Incremental Revolving Commitment and all matters relating thereto.

On any Increased Amount Date on which any Incremental Term Loan Commitments of any Series are effective, subject to the satisfaction of the foregoing terms and conditions, (i) each Incremental Term Loan Lender of any Series shall make a Loan to the Borrowers (an "Incremental Term Loan") in an amount equal to its Incremental Term Loan Commitment of such Series and (ii) each Incremental Term Loan Lender of any Series shall become a Lender hereunder with respect to the Incremental Term Loan Commitment of such Series and the Incremental Term Loans of such Series made pursuant thereto.

The Administrative Agent shall notify the Lenders promptly upon receipt of the Borrower Representative's notice of each Increased Amount Date and in respect thereof (y) the Incremental Revolving Commitments and the Incremental Revolving Loan Lenders or the Series of Incremental Term Loan Commitments and the Incremental Term Loan Lenders of such Series, as applicable and (z) in the case of each notice to any applicable Lender with Revolving Commitments, the respective interests in such Lender's Revolving Loans, in each case subject to the assignments contemplated by this Section.

The terms and provisions of the Incremental Term Loans and Incremental Term Loan Commitments of any Series shall be, except as otherwise set forth herein or in the Joinder Agreement, identical to the Tranche B Term Loans of the same Class. The terms and provisions of the Incremental Revolving Loans shall be identical to the Revolving Loans of the same Class. In the case of any Incremental Term Loans, (i) the Weighted Average Life to Maturity of all Incremental Term Loans of any Series shall be no shorter than the Weighted Average Life to Maturity of the Tranche B Terms Loans, (ii) the applicable Incremental Term Loan Maturity Date of each Series shall be no earlier than the final maturity of the Term Loans, and (iii) the yield and all other terms applicable to the Incremental Term Loans of each Series shall be determined by the Borrower Representative and the applicable new Lenders and shall be set forth in each applicable Joinder Agreement; provided, however, that the yield applicable to the Incremental Term Loans (after giving effect to all rate floors and all fees or original issue discount payable with respect to such Incremental Term Loans), as reasonably determined by the Administrative Agent, shall not be greater than the applicable interest rate (including the

Applicable Margin and rate floor) payable pursuant to the terms of this Agreement as amended through the date of such calculation with respect to the Tranche B Term Loans, plus 0.25% per annum unless (i) the interest rate with respect to the Tranche B Term Loans is increased so as to cause the then applicable interest rate under this Agreement on the Tranche B Term Loans to be not more than 0.25% less than the yield then applicable to the Incremental Term Loans (after giving effect to all rate floors and all fees or original issue discount payable with respect to such Incremental Term Loans) and (ii) the interest rate with respect to Tranche A Term Loans is increased by an amount equal to the amount of any increase in the interest rate for Tranche B Term Loans pursuant to clause (i). Any Incremental Revolving Loans will be documented solely as an increase to the Revolving Commitments of the same Class without any change in term s, other than any change that is more favorable to the Revolving Lenders and applies equally to all Revolving Loans and Revolving Commitments of the same Class. Each Joinder Agreement may, without the consent of any Lender other than the applicable Incremental Revolving Loan Lender or Incremental Term Loan Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent to effect the provisions of this Section 2.24.

Section 2.25 Appointment of Borrower Representative

. Each Borrower hereby appoints the Borrower Representative as its agent, attorney-in-fact and representative for the purpose of (i) making any borrowing requests or other requests required under this Agreement, (ii) the giving and receipt of notices by and to Borrowers under this Agreement, (iii) the delivery of all documents, reports, financial statements and written materials required to be delivered by Borrowers under this Agreement, and (iv) all other purposes incidental to any of the foregoing. Each Borrower agrees that any action taken by the Borrower Representative as the agent, attorney-in-fact and representative of the Borrowers shall be binding upon each Borrower to the same extent as if directly taken by such Borrower.

Section 2.26 Ancillary Facilities.

(a) Type of Facility. An Ancillary Facility may be by way of: (i) an overdraft facility; (ii) a guarantee, bonding, documentary or stand-by letter of credit facility; (iii) a term loan facility; (iv) a derivatives facility; (v) a foreign exchange facility; or (vi) any other facility or accommodation reasonably necessary or useful in connection with the business of the Group or any member thereof and which is agreed by the Borrower Representative with an Ancillary Lender.

(b) Availability.

(i) If the Foreign Borrower or any other Ancillary Borrower and a Lender agree and except as otherwise provided in this Agreement, such Lender may provide an Ancillary Facility on a bilateral basis in place of all or part of that Lender's unutilized Foreign Revolving Commitment (which, except for the purposes of determining the Required Lenders and for the purpose of Section 2.23, shall be reduced by the amount of the Ancillary Commitment under that Ancillary Facility).

(ii) An Ancillary Facility shall not be made available unless, not later than five (5) Business Days prior to the Ancillary Commencement Date for such Ancillary Facility, the Administrative Agent has been notified in writing by the Borrower Representative that such Ancillary Facility has been established and specifying (1) the proposed Ancillary Commencement Date and expiration date of the Ancillary Facility; (2) the proposed type of Ancillary Facility to be provided, (3) the proposed Ancillary Lender and Ancillary Borrower, (4) the proposed Ancillary Commitment, the maximum amount of the Ancillary Facility and, if the Ancillary Facility is an overdraft facility comprising more than one account, its maximum gross amount (that amount being the "Designated Gross Amount") and its maximum net amount (that amount being the "Designated Net Amount"); and (5) the proposed curr ency of the Ancillary Facility (if not denominated in Euros).

(iii) The Administrative Agent shall promptly notify the Ancillary Lender and the other Lenders of the establishment of an Ancillary Facility. Subject to compliance with clause (b)(ii) above, (x) the Lender concerned will become an Ancillary Lender and (y) the Ancillary Facility will be available, with effect from the date agreed by the Borrower Representative, the applicable Ancillary Borrower and the Ancillary Lender.

(iv) No amendment or waiver of a term of any Ancillary Facility shall require the consent of any Lender other than the relevant Ancillary Lender unless such amendment or waiver itself relates to or gives rise to a matter which would require an amendment of or under this Agreement (including, for the avoidance of doubt, under this Section 2.26). In such a case, the provisions of this Agreement with regard to amendments and waivers will apply.

(c) Terms of Ancillary Facilities.

(i) Except as provided below, the terms of any Ancillary Facility will be those agreed by the applicable Ancillary Lender and the applicable Ancillary Borrower; provided that such terms (1) must be based upon normal commercial terms at that time (except as varied by this Agreement); (2) may allow only the applicable Ancillary Borrower to use the Ancillary Facility; (3) may not allow the Ancillary Outstandings to exceed the Ancillary Commitment; (4) may not allow the Ancillary Commitment of a Lender to exceed the Foreign Revolving Commitment of that Lender; and (5) shall require that the Ancillary Commitment shall be reduced to zero, and that all Ancillary Outstandings shall be repaid (or cash collateralized in a manner acceptable to the applicable Ancillary Lender) not later than the Foreign Revolving Commitment Termination Date (or such earlier date as the Foreign Revolving Commitment of the relevant Ancillary Lender is reduced to zero).

(ii) If there is any inconsistency between any term of an Ancillary Facility and any term of this Agreement, this Agreement shall prevail except for (x) Sections 2.08(d), 2.08(g), and 2.11(d) which shall not prevail for the purposes of calculating fees, interest or commission relating to an Ancillary Facility; (y) an Ancillary Facility comprising more than one account where the terms of the Ancillary Documents

shall prevail to the extent required to permit the netting of balances on those accounts; and (z) where the relevant term of this Agreement would be contrary to, or inconsistent with, the law governing the relevant Ancillary Document, in which case that term of this Agreement shall not prevail.

(iii) Interest, commission and fees on Ancillary Facilities are dealt with in Sections 2.08(h) and 2.11(e).

(d) Repayment of Ancillary Facility.

(i) An Ancillary Facility shall cease to be available on the Foreign Revolving Commitment Termination Date or such earlier date on which its expiration occurs or on which it is cancelled in accordance with the terms of this Agreement or the applicable Ancillary Facility.

(ii) If an Ancillary Facility expires in accordance with its terms, the Ancillary Commitment of the Ancillary Lender shall be reduced to zero (and such Lender's Foreign Revolving Commitment shall be increased accordingly).

(iii) No Ancillary Lender may demand repayment or prepayment of any amounts or demand cash collateralization for any liabilities made available or incurred by it under its Ancillary Facility (except where the Ancillary Facility is provided on a net limit basis to the extent required to bring any gross outstandings down to the net limit) unless (x) the Foreign Revolving Commitments have been cancelled in full, or all outstanding Foreign Revolving Loans have become due and payable in accordance with the terms of this Agreement, or the Administrative Agent has declared all outstanding Foreign Revolving Loans immediately due and payable, or the expiration date of the Ancillary Facility occurs; (y) it becomes unlawful in any applicable jurisdiction for the Ancillary Lender to perform any of its obligations as contemplated by this Agreement or to fund, issue or maintain its participation in its Ancillary Faci lity; or (z) the Ancillary Outstandings (if any) under that Ancillary Facility can be refinanced by a Foreign Revolving Loan and the Ancillary Lender gives sufficient notice to enable a Foreign Revolving Loan to be made to refinance those Ancillary Outstandings.

(iv) For the purposes of determining whether or not the Ancillary Outstandings under an Ancillary Facility mentioned in clause (c)(iii)(z) above can be refinanced by a Foreign Revolving Loan, (x) the Foreign Revolving Commitment of the Ancillary Lender will be increased by the amount of its Ancillary Commitment; and (y) the Foreign Revolving Loan may (so long as clause (c)(iii)(x) above does not apply) be made irrespective of whether a Default is outstanding or any other applicable condition precedent is not satisfied (but only to the extent that the proceeds are applied in refinancing those Ancillary Outstandings) and irrespective of whether the applicable Foreign Borrower or the Borrower Representative shall have delivered a Borrowing Notice.

(v) On the making of a Foreign Revolving Loan to refinance Ancillary Outstandings, (x) each Lender will participate in such Foreign Revolving Loan on a pro

rata basis in accordance with its respective Foreign Revolving Commitment (as determined by the Administrative Agent); and (y) the relevant Ancillary Facility shall be cancelled.

(vi) In relation to an Ancillary Facility which comprises an overdraft facility where a Designated Net Amount has been established, the Ancillary Lender providing that Ancillary Facility shall only be obliged to take into account for the purposes of calculating compliance with the Designated Net Amount those credit balances which it is permitted to take into account by the then current law and regulations in relation to its reporting of exposures to applicable regulatory authorities as netted for capital adequacy purposes.

(e) Ancillary Outstandings. Each Ancillary Borrower and each Ancillary Lender agrees with and for the benefit of each Lender that (i) the Ancillary Outstandings under any Ancillary Facility provided by that Ancillary Lender shall not exceed the Ancillary Commitment applicable to that Ancillary Facility and where the Ancillary Facility is an overdraft facility comprising more than one account, Ancillary Outstandings under that Ancillary Facility shall not exceed the Designated Net Amount in respect of that Ancillary Facility; and (ii) where all or part of the Ancillary Facility is an overdraft facility comprising more than one account, the Ancillary Outstandings (calculated on the basis that the words in parentheses in paragraph (a) of the definition of that term were deleted) shall not exceed the Designated Gross Amount applicable to that Ancillary Facility.

(f) Information. Each Ancillary Borrower and each Ancillary Lender shall, promptly upon request by the Administrative Agent, supply the Administrative Agent with any information relating to the operation of an Ancillary Facility (including the Ancillary Outstandings) as the Administrative Agent may reasonably request from time to time. The Ancillary Borrowers consents to all such information being released to the Administrative Agent and the Lenders.

(g) Foreign Revolving Facility Commitment Amounts. Notwithstanding any other term of this Agreement, each Lender shall ensure that at all times its Foreign Revolving Commitment (excluding for these purposes any reduction in a Lender's Foreign Revolving Commitment attributable to the relevant Ancillary Commitment) is not less than its Ancillary Commitment.

(h) Affiliates of Lenders as Ancillary Lenders.

(i) Subject to the terms of this Agreement, an Affiliate of a Lender may become an Ancillary Lender. In such case, the Lender and its Affiliate shall be treated as a single Lender having a Foreign Revolving Commitment of the relevant Lender.

(ii) To become an Ancillary Lender hereunder, an Affiliate of a Lender must be designated in the notice required in respect of the applicable Ancillary Facility pursuant to Section 2.26(b)(ii) hereof or otherwise in a writing signed by an Authorized Officer of the applicable Ancillary Borrower and delivered to the Administrative Agent,

and shall deliver to the Administrative Agent such documentation as the Administrative Agent shall reasonably require.

(iii) Each Lender shall ensure that each of its Affiliates that becomes an Ancillary Lender will comply with any obligations imposed upon it pursuant to this Agreement. Where this Agreement imposes an obligation on an Ancillary Lender and the relevant Ancillary Lender is an Affiliate of a Lender which is not a party to this Agreement, the relevant Lender shall ensure that the obligation is performed by its Affiliate.

(i) Closing Date Ancillary Facility. The parties agree, notwithstanding anything herein to the contrary, that (i) on the Closing Date, the Closing Date Ancillary Facility shall be an Ancillary Facility, the Foreign Borrower shall be an Ancillary Borrower and Fortis Bank (Nederland) N.V. shall be an Ancillary Lender, in each case for all purposes hereunder, and (ii) upon becoming a Guarantor hereunder pursuant to the execution and delivery of a Counterpart Agreement, each of Tommy Hilfiger Group B.V. and Tommy Hilfiger Europe B.V. shall be an Ancillary Borrower for all purposes hereunder.

ARTICLE III.
CONDITIONS PRECEDENT

Section 3.01 Closing Date

. The obligation of each Lender to make a Credit Extension on the Closing Date is subject to the satisfaction, or waiver of the following conditions on or before the Closing Date:

(a) Loan Documents. The Administrative Agent shall have received each of the Credit Agreement, the U.S. Security Agreements, the Dutch Closing Security Documents, the Intercreditor Agreements, a Mortgage in respect of each Closing Date Mortgaged Property and the Intellectual Property Security Agreements, in each case, executed and delivered by each applicable Loan Party.

(b) Organizational Documents; Incumbency. The Administrative Agent shall have received in relation to each U.S. Loan Party, the Foreign Borrower, Tommy Hilfiger Group B.V. (but solely with respect to clause (1) and (4) below), Trumpet C.V., Prince 1 B.V. and Prince 2 B.V. (1) copies of each Organizational Document and, to the extent applicable, certified as of a recent date by the appropriate governmental official; (2) corporate or entity certificates incorporating, without limitation, signature and incumbency certificates of the officers, managers, members and/or directors of such Person executing the Loan Documents to which it is a party; (3) to the extent applicable, resolutions of the Board of Directors (which, in the case of each Dutch Loan Party other than Trumpet C.V., shall be its board of managing directors) approving and authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party or by which it or its assets may be bound as of the Closing Date, certified (to the extent required under applicable law or customary in accordance with local law or practice) as of the Closing Date by its secretary, its assistant secretary, director or any other competent officer or appropriate person as being in full force and effect without modification or amendment; (4) to the extent required under applicable law, the relevant entity's

Organizational Documents or internal regulations or, customary in accordance with local law or practice, a copy of resolutions from the general meeting of shareholders or its partners approving and authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party or by which it or its assets may be bound as of the Closing Date, certified as of the Closing Date by its secretary or an assistant secretary as being in full force and effect without modification or amendment and (5) to the extent required under applicable law or customary in accordance with local law or practice, a good standing certificate from the applicable Governmental Authority of its jurisdiction of incorporation, organization or formation, dated a recent date prior to the Closing Date.

(c) Organizational and Capital Structure Chart. The organizational structure and capital structure of the Group, after giving effect to the Acquisition, shall be as set forth on Schedule 3.01(c).

(d) Capitalization of the Group; Concurrent Transactions. On or before the Closing Date:

(i) the Administrative Agent shall have received evidence that the Equity Contribution shall have been made and that the U.S. Borrower shall have received the proceeds of the Equity Contribution (or, with respect to the equity issued to private investors, all conditions precedent to the initial funding of such Equity Contribution shall have been satisfied);

(ii) the 2020 Note Documents and all other agreements and documents contemplated thereby shall have been entered into and shall be effective and the U.S. Borrower shall have received, or substantially concurrently with the initial borrowings under this Agreement shall receive, gross proceeds of the 2020 Notes on the Closing Date in an aggregate amount of not less than $600,000,000 (or the conditions to the issuance of the 2020 Notes, other than the funding of the initial borrowings under this Agreement or the satisfaction of the conditions set forth in this Section 3.01, shall have been satisfied or substantially concurrently with the initial borrowings under this Agreement shall be satisfied);

(iii) (x) the aggregate proceeds of the Equity Contribution, together with the proceeds of the 2020 Notes, the initial borrowings under this Agreement and available cash of the U.S. Borrower and the Acquired Business shall be sufficient to consummate the Acquisition, refinance all Existing Credit Facilities Indebtedness, tender for and satisfy and discharge the Existing Notes and to pay the Transaction Costs, (y) the Acquisition shall have been consummated, or shall be consummated substantially concurrently with the initial borrowings under this Agreement, including the issuance of common equity to the Seller as required by the terms of the Acquisition Agreement, in accordance with the terms of the Acquisition Documents and (z) all conditions to the Acquisition set forth in the Acquisition Agreement shall have been satisfied or duly waived; provided, that no material amendment, modification or wa iver of any term of the Acquisition Agreement or any condition to the U.S. Borrower's obligation to consummate the Acquisition thereunder shall be made or granted, as the case may be, without the prior written consent of the Administrative Agent (it being understood that

any change in the price (including any price decrease) or structure of the Acquisition and any changes to the waiver of jury trial, jurisdiction or third party beneficiary language affecting the Lenders shall be deemed to be material and shall require the prior written consent of the Administrative Agent);

(e) Existing Indebtedness. On the Closing Date, substantially concurrently with the initial borrowings under this Agreement, the Group shall have (1) repaid in full all Existing Credit Facilities Indebtedness, (2) terminated any commitments to lend or make other extensions of credit thereunder (in the cases of clauses (1) and (2), other than the ancillary facilities thereunder as set forth on Schedule 3.01(e) that will become Ancillary Facilities hereunder), (3) delivered to the Administrative Agent all documents or instruments necessary to release all Liens securing Existing Credit Facilities Indebtedness or other obligations of the Group thereunder being repaid on the Closing Date, and (4) made arrangements satisfactory to the Administrative Agent with respect to any letters of credit outstanding thereunder. The Existing Notes shall have substantially all restrictive covenants contained in su ch Existing Notes removed therefrom and a notice of redemption shall have been irrevocably delivered for such Existing Notes and all funds necessary for such redemption shall have been irrevocably deposited into escrow to fund such redemption.

(f) Governmental Authorizations and Consents. Each Loan Party (other than the Foreign Guarantors) shall have obtained all material Governmental Authorizations and all material consents of other Persons, in each case that are necessary in connection with the transactions contemplated by the Loan Documents and the Acquisition Agreement, and each of the foregoing shall be in full force and effect.

(g) U.S. Real Estate Assets. In order to create in favor of the Collateral Agent, for the benefit of Secured Parties, a valid and, subject to any filing and/or recording referred to herein, perfected First Priority security interest in certain Real Estate Assets located in the United States, the Collateral Agent shall have received from each applicable Loan Party:

(1) fully executed and notarized Mortgages, in proper form for recording in all appropriate places in all applicable jurisdictions, encumbering each Real Estate Asset listed in Schedule 3.01(g) (each, a "Closing Date Mortgaged Property");

(2) an opinion of counsel (which counsel shall be reasonably satisfactory to the Collateral Agent) in each state in which a Closing Date Mortgaged Property is located with respect to the enforceability of the form(s) of Mortgages to be recorded in such state and such other matters as the Collateral Agent may reasonably request, in each case in form and substance reasonably satisfactory to the Collateral Agent;

(3) in the case of each Leasehold Property that is a Closing Date Mortgaged Property, (A) a Landlord Consent if the applicable landlord has delivered such Landlord Consent (it being agreed that the U.S. Borrower shall use commercially reasonable efforts to obtain a Landlord Consent; provided that the U.S. Borrower shall not be required to expend any funds or grant any concession

to obtain such Landlord Consent), and (B) evidence that such Leasehold Property is a Recorded Leasehold Interest;

(4) ALTA mortgagee title insurance policies or unconditional commitments therefor issued by one or more title companies (the "Title Company") reasonably satisfactory to the Collateral Agent with respect to each Closing Date Mortgaged Property (each, a "Title Policy"), in amounts not less than 110% of the fair market value of each Closing Date Mortgaged Property insuring the title to each of the Closing Date Mortgaged Properties vested in the applicable Loan Party and insuring the Collateral Agent that the relevant Mortgage creates a valid and enforceable First Priority mortgage Lien on the Closing Date Mortgaged Property encumbered thereby, each of which Title Policy (A) shall include all endorsements reasonably requested by the Collateral Agent and (B) shall provide for affirmative insurance and such reinsurance as the Collateral Agent may reasonably request, all of the foregoing in form and substance reasonably satisfactory to the Collateral Agent; and evidence satisfactory to the Collateral Agent that the applicable Loan Party has (i) delivered to the Title Company all certificates, consents and affidavits required by the Title Company in connection with the issuance of the applicable Title Policy and (ii) paid to the Title Company or to the appropriate Governmental Authorities all expenses and premiums of the Title Company and all other sums required in connection with the issuance of the Title Policies and all recording and stamp taxes (including mortgage recording and intangible taxes) payable in connection with recording the Mortgages in the applicable real property records; together with a title report issued by a title company with respect thereto, dated not more than thirty (30) days prior to the Closing Date (or such earlier date as the Collateral Agent may agree) and copies of all recorded documents listed as exceptions to title or otherwise referred to therein, each in form and substance reasonably satisfactory to the Collateral Agent; and

(5) (A) a completed Flood Certificate with respect to each Closing Date Mortgaged Property, which Flood Certificate shall (i) be addressed to the Collateral Agent, (ii) be completed by a company which has guaranteed the accuracy of the information contained therein, and (iii) otherwise comply with the Flood Program; (B) evidence describing whether the community in which each Closing Date Mortgaged Property is located participates in the Flood Program; (C) if any Flood Certificate states that a Closing Date Mortgaged Property is located in a Flood Zone, the Borrower Representative's written acknowledgement of receipt of written notification from the Collateral Agent (i) as to the existence of each such Closing Date Mortgaged Property, and (ii) as to whether the community in which each such Closing Date Mortgaged Property is located is participating in the Flood Program; and (D) if any Closing Date Mortgaged Property is located in a Flood Zone and is located in a community that participates in the Flood Program, evidence that the applicable Loan Party has obtained a policy of flood insurance that is in compliance with all applicable regulations of the Board of Governors.

(h) U.S. Personal Property Collateral. In order to create in favor of the Collateral Agent, for the benefit of Secured Parties, a valid, perfected First Priority security interest in the personal property Collateral of each U.S. Loan Party, each U.S. Loan Party shall have delivered to the Collateral Agent:

(1) evidence satisfactory to the Collateral Agent of the compliance by each such Loan Party of their obligations under the U.S. Security Agreements (including their obligations to execute and deliver UCC financing statements and originals of securities, instruments and chattel paper as provided therein); provided that in no event shall more than 66% of the Equity Interests in a U.S-Owned DRE be pledged by any Loan Party, except that if such U.S.-Owned DRE owns less than 100% of the Equity Interests of a Foreign Subsidiary, appropriate adjustments shall be made such that 66% of the Equity Interests of such Foreign Subsidiary (but no more than 66%) are pledged;

(2) a completed Perfection Certificate dated the Closing Date and executed by an Authorized Officer of each such Loan Party, together with all attachments contemplated thereby; and

(3) fully executed and notarized Intellectual Property Security Agreements, in proper form for filing or recording in the United States Copyright Office or the United States Patent and Trademark Office, as applicable, memorializing and recording the encumbrance of the registrations and applications for United States Trademarks, Copyrights and Patents listed in Schedule 4.21 (excluding, for the avoidance of doubt, those Trademarks, Copyrights and Patents, if any, in the name of the CKI Trust).

(i) Dutch Security. The Collateral Agent shall have received a fully executed copy of each Dutch Closing Security Document (other than any notarial deed of pledge of shares), fully executed notices and/or other documents required to be delivered in order to ensure the validity and perfection of each Dutch Closing Security Document.

(j) [Reserved].

(k) Financial Statements. The Administrative Agent shall have received from the U.S. Borrower (1) the Historical Financial Statements of the U.S. Borrower and the Historical Financial Statements of the Acquired Business and (2) pro forma consolidated balance sheets of the Group as filed with the SEC on April 26, 2010.

(l) Evidence of Insurance. The Collateral Agent shall have received a certificate from the Borrower's insurance broker or other evidence satisfactory to it that all insurance required to be maintained pursuant to Section 5.05 is in full force and effect, together with endorsements to the extent required under Section 5.05.

(m) Opinions of Counsel to Loan Parties. The Agents and the Lenders and their respective counsel shall have received originally executed copies of the favorable written opinions of Wachtell, Lipton, Rosen & Katz, as New York counsel to the Loan Parties, Prickett, Jones & Elliot, P.A. as Delaware counsel to the Loan Parties, Katten Muchin Rosenman, as

California counsel to the Loan Parties, De Brauw Blackstone Westbroek N.V., as Dutch counsel to the Loan Parties, and Loyens & Loeff (USA) B.V., as Dutch counsel to the Administrative Agent, the Lenders and the other Secured Parties, as to such matters as the Administrative Agent may reasonably request, dated as of the Closing Date and otherwise in form and substance reasonably satisfactory to the Administrative Agent (and each Loan Party hereby instructs such counsel to deliver such opinions to the Agents and the Lenders).

(n) Fees. The Borrowers shall have paid to the Agents, concurrent with the consummation of the Acquisition on the Closing Date, the fees payable on the Closing Date pursuant to that certain Fee Letter, dated March 15, 2010, between the Arrangers, the Bookrunners and the U.S. Borrower, including expenses to the extent invoiced at least one (1) Business Day prior to the Closing Date.

(o) Solvency Certificate. The Administrative Agent shall have received a Solvency Certificate from the U.S. Borrower in the form of Exhibit E-2.

(p) Closing Date Certificate. The Borrower Representative shall have delivered to the Administrative Agent an executed Closing Date Certificate, together with all attachments thereto, and which shall include certifications to the effect that:

(i) since (i) January 31, 2010 with respect to the U.S. Borrower and its Subsidiaries (taken as a whole) and (ii) March 31, 2009 with respect to the Acquired Business, no event, circumstance or change has occurred that has caused, either individually or in the aggregate, a Material Adverse Effect;

(ii) each of the conditions precedent described in this Section 3.01 shall have been satisfied on the Closing Date (except that no opinion need be expressed as to Administrative Agent's or Required Lenders' satisfaction with any document, instrument or other matter); and

(iii) no terms or conditions of the Acquisition Agreement have been amended, waived or terminated without the consent of the Administrative Agent, except to the extent it does not materially affect the interests of the Lenders.

(q) Ancillary Documents. The Administrative Agent shall have received true and correct copies of the CKI Documents, the TH Documents, the Acquisition Agreement and the 2020 Notes Documents.

(r) Credit Rating. The U.S. Borrower shall have been assigned a public corporate family rating from Moody's and a public corporate credit rating from S&P and the credit facilities hereunder shall have been assigned a public credit rating from each of Moody's and S&P.

(s) No Litigation. There shall not exist any Adverse Proceeding pending or, to the knowledge of any Authorized Officer of any Borrower, threatened in writing, that, singly or in the aggregate, materially impairs the Acquisition, the financing thereof or any of the other transactions contemplated by the Acquisition Agreement or the Loan Documents.

(t) Flow of Funds; Letter of Direction. The Administrative Agent shall have received a funds flow memorandum and duly executed letter of direction from the Borrower Representative addressed to the Administrative Agent, on behalf of itself and Lenders, directing the disbursement on the Closing Date of the proceeds of the Loans made on such date.

(u) Bank Regulatory Information. To the extent requested in writing to the U.S. Borrower at least 20 days prior to the Closing Date, the Lenders shall have received at least 5 days prior to the Closing Date all documentation and other information required by bank regulatory authorities under applicable "know-your-customer" and anti-money laundering rules and regulations, including the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Pub. L. No. 107-56 the "PATRIOT Act").

(v) Base Case Model. The Lenders shall have received the base case model included in the Confidential Information Memorandum or with such amendments or modifications as do not materially and adversely affect the interests of the Lenders or which have been made with the consent of the Administrative Agent, such consent not to be unreasonably withheld.

(w) Structure Diagram. The Lenders shall have received a structure diagram prepared by the U.S. Borrower describing the Group and the Acquisition, in a form reasonably satisfactory to the Administrative Agent.

Section 3.02 Conditions to Each Credit Extension

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(a) Conditions Precedent. The obligation of each Lender to make any Loan, or each Issuing Bank to issue any Letter of Credit, on any Credit Date, including the Closing Date, are subject to the satisfaction, or waiver in accordance with Section 10.05, of the following conditions precedent:

(i) the Administrative Agent shall have received a fully executed and delivered Borrowing Notice or Issuance Notice, as the case may be;

(ii) after making the Credit Extensions requested on such Credit Date, (x) the Total Utilization of U.S. Revolving Commitments shall not exceed the U.S. Revolving Commitments then in effect, (y) the Total Utilization of Foreign Revolving Commitments shall not exceed the Foreign Revolving Commitments then in effect and (z) the Total Utilization of Canadian Revolving Commitments shall not exceed the Canadian Revolving Commitments then in effect;

(iii) as of such Credit Date, the representations and warranties contained herein and in the other Loan Documents shall be true and correct in all material respects on and as of that Credit Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date; provided, that to the extent

any such representation or warranty is already qualified by materiality or Material Adverse Effect, such representation or warranty shall be true and correct in all respects;

(iv) as of such Credit Date, no event shall have occurred and be continuing or would result from the consummation of the applicable Credit Extension that would constitute a Default or an Event of Default; and

(b) Notices. Any Notice shall be executed by an Authorized Officer of the Borrower Representative or the applicable Borrower in a writing delivered to the Administrative Agent.

ARTICLE IV.
REPRESENTATIONS AND WARRANTIES

In order to induce the Lenders and the Issuing Bank to enter into this Agreement and to make each Credit Extension to be made thereby, each Borrower and each other Loan Party (in the case of each Loan Party, solely with respect to itself) represents and warrants to each Lender and the Issuing Bank, on the Closing Date and on each Credit Date that the following statements are true and correct:

Section 4.01 Organization; Structure Chart; Requisite Power and Authority; Qualification

. Each Group Member (a) is duly organized, duly incorporated or formed, validly existing and, if applicable, in good standing under the laws of its jurisdiction of organization, (b) has all requisite power and authority to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated thereby and, except where failure to have such power and authority would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, to own and operate its properties and assets, to carry on its business as now conducted and as proposed to be conducted, and (c) is qualified to do business and, if applicable, in good standing in every jurisdiction where any material portion of its assets are located and wherever necessary to carry out its material business and operations, except where the failure to be so qualified would not, individually or in t he aggregate, reasonably be expected to have a Material Adverse Effect.

Section 4.02 Equity Interests and Ownership

. The Equity Interests of each Group Member have been duly authorized and validly issued and are fully paid and non-assessable. Except as set forth on Schedule 4.02, as of the date hereof, there is no existing option, warrant, call, right, commitment or other agreement to which any Group Member is a party requiring, and there is no membership interest or other Equity Interests of any Group Member outstanding which upon conversion or exchange would require, the issuance by any Group Member of any additional membership interests or other Equity Interests of any Group Member or other Securities convertible into, exchangeable for or evidencing the right to subscribe for or purchase, a membership interest or other Equity Interests of any Group Member. Schedule 4.02 sets forth the ownership interest of each Group Member in their respective Subsidiaries as of the Closing Dat e after giving effect to the Acquisition.

Section 4.03 Due Authorization

. The execution, delivery and performance by each Loan Party of the Loan Documents to which it is a party have been duly authorized by all necessary action on the part of each such Loan Party.

Section 4.04 No Conflict

. The execution, delivery and performance by each Loan Party of the Loan Documents to which it is a party and the consummation of the transactions contemplated by the Loan Documents do not and will not (a) violate (i) any provision of any law or any governmental rule or regulation applicable to any such Loan Party, (ii) any of the Organizational Documents of any such Loan Party or (iii) any order, judgment or decree of any court or other agency of government binding on such Loan Party, except to the extent any such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; (b) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contractual Obligation of such Loan Party except to the extent such conflict, breach or default would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; (c) result in or require the creation or imposition of any Lien upon any of the properties or assets of such Loan Party (other than any Permitted Liens); or (d) require any approval or consent of the stockholders, members or partners, except for such approvals or consents which have been obtained and except for any such approvals or consents the failure of which to obtain would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 4.05 Governmental Consents

. The execution, delivery and performance by each Loan Party of the Loan Documents to which it is a party and the incurrence by the Loan Parties of their Obligations thereunder, the issuance of Letters of Credit and the granting of security with respect to their Obligations thereunder do not and will not require any registration with, consent or approval of, or notice to, or other action to, with or by, any Governmental Authority except for (i) filings and recordings with respect to the Collateral to be made, or otherwise delivered to the Collateral Agent for filing and/or recordation, as of the Closing Date, (ii) the registration with the Dutch tax authorities of any Security Documents providing for the creation of Dutch Security in the form of an undisclosed pledge of receivables or an undisclosed pledge of movable assets, (iii) the registration with the appropriate Dutch registry of any Security Document providing for the creation of Dutch Security in the form of a mortgage over any Real Estate Asset, (iv) such has been obtained or made and are in full force and effect and (v) those the failure of which to obtain or make, would not individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 4.06 Binding Obligation

. Each Loan Document has been duly executed and delivered by each Loan Party that is a party thereto and, assuming due execution by each of the other parties to such Loan Agreement, is the legally valid and binding obligation of such Loan Party, enforceable against

such Loan Party in accordance with its respective terms, except as may be limited by (i) bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally, (ii) equitable principles relating to enforceability or (iii) any general rules of law referred to in any legal opinion provided to any Agent or any Lender (or its respective counsel) with respect to such Loan Document pursuant to the Agreement or any other Loan Document.

Section 4.07 Historical Financial Statements

. The Historical Financial Statements of the U.S. Borrower were prepared in conformity with GAAP and fairly present, in all material respects, the consolidated financial position, of the U.S. Borrower and its consolidated Subsidiaries as of the dates thereof and their consolidated results of operations and cash flows, for the periods then ended. To the knowledge of any Authorized Officer of the U.S. Borrower, the Historical Financial Statements of the Acquired Business were prepared in conformity with International Financial Reporting Standards ("IFRS") as issued by the International Accounting Standards Board (or, with respect to December 31, 2008, follow IFRS principles) and have been prepared by management of the Acquired Business in a manner consistent with the principles applied to the nine-month period as of and ending on December 31, 2009, and fairly present in all material respect s the consolidated financial position of the Acquired Business as of the dates thereof and its consolidated results of operations and cash flows for the periods then ended (subject in the case of the unaudited financial statements, to the absence of footnotes and to normal year-end adjustments not expected to be material in amount and to any other adjustments described therein including the notes thereto). As of the Closing Date, no Group Member has any contingent liability or liability for Taxes, long-term lease or unusual forward or long-term commitment that is not reflected in the Historical Financial Statements of the U.S. Borrower or Historical Financial Statements of the Acquired Business, respectively, or the notes thereto and which in any such case is material in relation to the business, operations, properties, assets, or financial condition of the Group taken as a whole.

Section 4.08 Projections

. On and as of the Closing Date, the projections of the Group for each Fiscal Quarter of Fiscal Year 2010 and each Fiscal Year thereafter through and including Fiscal Year 2016 (the "Projections") are based on good faith estimates by the management of the U.S. Borrower and the assumptions set forth therein; provided, that the Projections are not to be viewed as facts and that actual results during the period or periods covered by the Projections may differ from such Projections and that the differences may be material.

Section 4.09 No Material Adverse Change

. Since (i) January 31, 2010 with respect to the U.S. Borrower and any Subsidiary of the U.S. Borrower prior to giving effect to the Acquisition and (ii) March 31, 2009 with respect to the Acquired Business, no event, circumstance or change has occurred that has caused, either individually or in the aggregate, a Material Adverse Effect.

Section 4.10 Adverse Proceedings, Etc.

There are no Adverse Proceedings pending or, to the knowledge of any Authorized Officer of any Borrower, threatened in writing, individually or in the aggregate, that would reasonably be expected to have a Material Adverse Effect. No Group Member (a) is in violation of any applicable laws (but excluding any Environmental Laws, which are subject to Section 4.13) that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect or (b) is in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

Section 4.11 Payment of Taxes

. All material Tax returns and reports of the Group required to be filed by any of them have been accurately and timely filed, and all material Taxes due and payable and all assessments, fees, Taxes and other governmental charges upon any Group Members and their respective properties, assets, income, businesses and franchises which are due and payable have been paid when due and payable, except Taxes that are being contested in good faith by appropriate proceedings and for which reserves or other appropriate provisions, if any, have been made in accordance with GAAP.

Section 4.12 Properties

.

(a) Title. Each Group Member 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), (iii) valid licensed rights in (in the case of licensed interests in Material Intellectual Property) and (iv) good title to (in the case of all other personal property), all of their respective properties and assets reflected in the Historical Financial Statements of the U.S. Borrower or, to the knowledge of any Authorized Officer of any Borrower, the Historical Financial Statements of the Acquired Business, as applicable, referred to in Section 4.07 and in the most recent financial statements delivered pursuant to Section 5.01, in each case except for (A) assets disposed of since the date of such financial statements in the ordinary course of business or as otherwise permitted under Sect ion 6.08, (B) minor defects in title that do not materially interfere with its ability to conduct its business as currently conducted or to utilized such properties for their intended purposes or (C) where the failure to have such title, interest or rights would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as permitted by this Agreement, all such properties and assets are free and clear of Liens other than Permitted Liens.

(b) Real Estate. As of the Closing Date, Schedule 4.12 contains a true and complete list of all material Real Estate Assets (other than retail store locations) and a description of each material lease or sublease affecting each Closing Date Mortgaged Property of any Loan Party, of which such Loan Party is the landlord.

(c) Flood Zone Properties. No Mortgage on a Closing Date Mortgaged Property encumbers improved real property that is located in a Flood Zone (except any such property as to which flood insurance has been obtained and is in full force and effect as required by this Agreement).

Section 4.13 Environmental Matters

. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (a) each Group Member is in compliance with all applicable Environmental Laws; (b) each Group Member has obtained and maintained in full force and effect all Governmental Authorizations required pursuant to Environmental Laws for the operation of their respective business; (c) there are no conditions, occurrences, violations of Environmental Law, or presence or Releases of Hazardous Materials which would reasonably be expected to form the basis of an Environmental Claim against any Group Member or related to any Real Estate Assets; (d) there are no pending Environmental Claims against any Group Member, and no Group Member has received any written notification of any alleged violation of, or liability pursuant to, Environmental Law or responsibility for the Release or threatened Release of, or exposure to, any Hazardous Materials; and (e) no Lien (other than a Permitted Lien) imposed pursuant to any Environmental Law has attached to any Collateral and, to the knowledge of any Authorized Officer of any Borrower, no conditions exist that would reasonably be expected to result in the imposition of such a Lien on any Collateral.

Section 4.14 No Defaults

. No Group Member is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any of its Contractual Obligations, except where the consequences, direct or indirect, of such default or defaults, if any, would not reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing or would reasonably be expected to occur as a result of any Credit Extension or performance of any transaction under the Loan Documents.

Section 4.15 Governmental Regulation

. No Group Member is subject to regulation under the Investment Company Act of 1940. No Group Member is a "registered investment company" or a company "controlled" by a "registered investment company" or a "principal underwriter" of a "registered investment company" as such terms are defined in the Investment Company Act of 1940.

Section 4.16 Margin Stock

. No Group Member is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No part of the proceeds of the Loans 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 for any purpose that violates, or is inconsistent with, the provisions of Regulation T, U or X of the Board of Governors.

Section 4.17 Employee Benefit Plans

. Each Group Member and each of their respective ERISA Affiliates are in compliance with all applicable provisions and requirements of ERISA and the Internal Revenue Code and the regulations and published interpretations thereunder with respect to each Employee Benefit Plan, and have performed all their obligations under each Employee Benefit Plan, other than as would not reasonably be expected to have a Material Adverse Effect. Each Employee Benefit Plan which is intended to qualify under Section 401(a) of the Internal Revenue Code has received a favorable determination letter from the Internal Revenue Service indicating that such Employee Benefit Plan is so qualified and nothing has occurred subsequent to the issuance of such determination letter which would cause such Employee Benefit Plan to lose its qualified status, in each case, other than as would not reasonably be expected to have a Material Adv erse Effect. No material liability to the PBGC (other than required premium payments), the Internal Revenue Service, any Employee Benefit Plan (other than in the ordinary course) or any trust established under Title IV of ERISA has been or is expected to be incurred by any Group Member or any of their respective ERISA Affiliates with respect to any Employee Benefit Plan. No ERISA Event or Foreign Plan Event has occurred or is reasonably expected to occur where such ERISA Event or Foreign Plan Event would reasonably be expected to have a Material Adverse Effect. The present value of the aggregate benefit liabilities under each Pension Plan sponsored, maintained or contributed to by any Group Member or any of their respective ERISA Affiliates (determined as of the end of the most recent plan year on the basis of the actuarial assumptions specified for funding purposes in the most recent actuarial valuation for such Pension Plan) did not exceed the aggregate current fair market value of the assets o f such Pension Plan, where such circumstance would reasonably be expected to have a Material Adverse Effect. As of the most recent valuation date for each Multiemployer Plan, the potential liability of the Group and its ERISA Affiliates for a complete withdrawal from such Multiemployer Plan (within the meaning of Section 4203 or Section 4205 of ERISA), when aggregated with such potential liability for a complete withdrawal from all Multiemployer Plans, does not exceed $25,000,000. Each Group Member and each of their ERISA Affiliates have materially complied with the requirements of Section 515 of ERISA with respect to each Multiemployer Plan and are not in material “default” (as defined in Section 4219(c)(5) of ERISA) with respect to payments to a Multiemployer Plan. To the extent applicable, each Foreign Plan has been maintained in substantial compliance with its terms and with the requirements of any and all applicable all laws, rules, regulations and orders of any Governmental Author ity and has been maintained, where required, in good standing with applicable regulatory authorities, other than as would reasonably be expected to have a Material Adverse Effect. Each Foreign Plan which is required under all applicable laws, rules, regulations and orders of any Governmental Authority to be funded satisfies in all material respects any applicable funding standard under all applicable laws, rules, regulations and orders of any Governmental Authority. For each Foreign Plan which is not funded or which is not required to be fully funded under all applicable laws, rules regulations and orders of any Governmental Authority, the unfunded obligations of such Foreign Plan are properly accrued in all material respects. Neither any Loan Party nor any of its Subsidiaries is or has at any time been the employer, or connected or associated with the employer (as those terms are used in the UK Pensions Act 2004) in relation to a UK defined benefit pension plan.

Section 4.18 Solvency

. The Group Members are and, upon the incurrence of any Obligation on any date on which this representation and warranty is made, shall be, on a consolidated basis, Solvent.

Section 4.19 Compliance with Statutes, Etc.

Each Group Member is in compliance with all applicable statutes, regulations and orders of, and all applicable restrictions imposed by, all Governmental Authorities, in respect of the conduct of its business and the ownership of its assets and property (but excluding any Environmental Laws, which are subject to Section 4.13), except such non-compliance that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. To the extent applicable, each Loan Party is in compliance, in all material respects, with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto. No part of the proceeds of the Loans shall be used, directly or indirectl y, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended.

Section 4.20 Disclosure

. No representation or warranty of any Loan Party contained in any Loan Document or in any other documents, certificates or written statements furnished to any Agent or Lender by any Group Member (or by its agents on its behalf) for use in connection with the transactions contemplated hereby contains any untrue statement of a material fact or omits to state a material fact (known to it, or to the Borrower Representative in the case of any document not furnished by it) necessary in order to make the statements contained herein or therein (when furnished and taken as a whole) not materially misleading in light of the circumstances in which the same were made. Any projections and pro forma financial information contained in such materials are based upon good faith estimates and assumptions believed by the U.S. Borrower to be reasonable at the time made, it being recognized by Lenders that such p rojections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results and such differences may be material.

Section 4.21 Intellectual Property

.

(a) Except where the failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect or except where the failure to do so is a result of a transaction or transactions permitted by this Agreement, each of the Loan Parties (i) is the sole and exclusive owner of the entire right, title, and interest in and to all of the Intellectual Property listed on Schedule 4.21 (as such schedule may be amended or supplemented from time to time pursuant to a Counterpart Agreement or pursuant to Section 5.01(k)(ii), 5.14 or otherwise), and possesses all rights to sue at law or in equity for any infringement, misappropriation or other impairment thereof, including the right to receive all royalties, license fees, proceeds and damages therefrom, free and clear of all Liens, claims and licenses, except for Permitted Liens and (ii) owns or, pursuant to written agreement, has the v alid right to use and, where such Loan Party does so, sublicense others to use, all other Intellectual Property used in or

necessary to conduct its business (including granting of outbound licenses of such rights). All Material Intellectual Property of each Loan Party is subsisting and has not been adjudged invalid or unenforceable, in whole or in part, nor, in the case of Patents, is any of the Intellectual Property the subject of a reexamination proceeding, and each Loan Party has performed all acts and has paid all renewal, maintenance, and other fees and taxes required to maintain each and every registration and application of Copyrights, Patents and Trademarks of such Loan Party constituting Material Intellectual Property in full force and effect. No holding, decision, ruling, or judgment has been rendered in any action or proceeding before any court or administrative authority challenging the validity, enforceability, or scope of, or any Loan Party's right to register, own or use, any Material Intellectual Property of such Loan Par ty, and no such action or proceeding is pending or, to the knowledge of any Authorized Officer of any Borrower, threatened, nor does any Loan Party know of any valid basis for any such action, except as would not reasonably be expected to have a Material Adverse Effect. Except where the failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) all registrations, issuances and applications for Copyrights, Patents and Trademarks of each Loan Party are standing in the name of such Loan Party (or the CKI Trust), and (ii) all exclusive Copyright Licenses constituting Material Intellectual Property in respect of registered Copyrights, if any, have been properly recorded in the United States Copyright Office or, where appropriate, any foreign counterpart. To the knowledge of any Authorized Officer of any Borrower, the use of Material Intellectual Property by such Loan Party does not infringe or misappropriate the rights of any person, exc ept as would not reasonably be expected to have a Material Adverse Effect.

(b) Except where the failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each Loan Party has been using appropriate statutory notice of registration in connection with its use of registered Trademarks, proper marking practices in connection with its use of Patents, and appropriate notice of copyright in connection with the publication of Copyrights. Except where the failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each Loan Party has taken commercially reasonable steps to protect the confidentiality of its Trade Secrets in accordance with industry standards. Except where the failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each Loan Party controls the nature and quality of all products so ld and all services rendered by it under or in connection with its Trademarks, in each case consistent with industry practices, and has taken all commercially reasonable actions necessary to ensure that all licensees of the Trademarks owned by such Loan Party comply with such Loan Party's standards of quality, in each case, to the extent such Trademarks constitute Material Intellectual Property.

(c) To the knowledge of any Authorized Officer of any Borrower, (i) the conduct of such Loan Party's business does not infringe, misappropriate, dilute or otherwise violate any Intellectual Property right of any other Person, except where such infringement, misappropriation, dilution or other violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, and (ii) no claim exists that the use of any Material Intellectual Property owned or used by any Loan Party (or any of its respective licensees) infringes, misappropriates, dilutes or otherwise violates the asserted rights of any other Person. To the knowledge of any Authorized Officer of any Borrower, no Person is infringing,

misappropriating, diluting or otherwise violating any rights in any Intellectual Property owned, licensed or used by such Loan Party, or any of its respective licensees, except where such infringement, misappropriation, dilution or other violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. No settlement or consents, covenants not to sue, co-existence agreements, non-assertion assurances, or releases have been entered into by any Loan Party or bind any Loan Party in a manner that could adversely affect such Loan Party's rights to own, license, transfer, or use any of the Material Intellectual Property in a manner consistent with the way such Loan Party conducts its business as of the date hereof.

(d) Except as may be provided under the CKI Documents, neither the execution, delivery or performance of this Agreement and the other Loan Documents, nor the consummation of the Transactions and the other transactions contemplated hereby and thereby, will alter, impair or otherwise affect or require the consent, approval or other authorization of any other person in respect of any ownership, contractual or other right of any Loan Party in any Material Intellectual Property.

(e) Except where the failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, each Loan Party has taken commercially reasonable actions to maintain the secrecy and security of its and its Subsidiaries material Software, networks and databases, and to the knowledge of any Authorized Officer of any Borrower, none of the Software owned by the Loan Party or its Subsidiaries and material to their businesses contains any open source code where the consequences of containing such code would reasonably be expected to have a Material Adverse Effect.

Section 4.22 Ranking; Security

.

(a) Each Loan Party's obligations under the Loan Documents ranks at least equally in right of payment with all of its unsecured and unsubordinated obligations, other than those that are mandatorily preferred by law applying to companies generally and other than with respect to the CKI Obligations and the 2023 Debentures Obligations to the extent set forth in the CKI Intercreditor Agreement.

(b) Each Security Document creates the security interest that it purports to create and such security interests are valid and effective in all material respects to the extent required therein.

Section 4.23 Centre of Main Interests and Establishments

. Each Loan Party whose jurisdiction of incorporation is in a member state of the European Union has its "centre of main interest" (as that term is used in Article 3(l) of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "Regulation") in its jurisdiction of incorporation and has no "establishment" (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

Section 4.24 Dutch Loan Parties

. As of the Closing Date, no Dutch Loan Party has established a Works Council (ondernemingsraad) nor has it received any request to establish a Works Council, nor is it in the process of establishing one.

Section 4.25 Shares

.

(a) The shares of any Group Member which are subject to the German Security are fully paid in and not subject to any option to purchase or similar rights. The constitutional documents of companies whose shares are subject to the German Security do not restrict or inhibit any transfer of those shares on creation or enforcement of the German Security, unless appropriate resolutions to overcome such restrictions and/or inhibitions are taken to the satisfaction of the Collateral Agent. There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any member of the Group (including any option or right of pre-emption or conversion).

(b) The shares of any Group Member which are subject to the Dutch Security are fully paid in and not subject to any option to purchase or similar rights. The constitutional documents of companies whose shares are subject to the Dutch Security do not restrict or inhibit any transfer of those shares on creation or enforcement of the Dutch Security save for any share transfer restrictions (*blokkeringsregeling*) pursuant to section 2:195 of the Dutch Civil Code, unless appropriate resolutions to overcome such restrictions and/or inhibitions are taken to the satisfaction of the Collateral Agent. There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any member of the Group (including any option or right of pre-emption or conversion).

ARTICLE V.
AFFIRMATIVE COVENANTS

Each Loan Party covenants and agrees that, so long as any Commitment is in effect and until Payment in Full of the Obligations, such Loan Party shall, and shall cause each of its Restricted Subsidiaries to:

Section 5.01 Financial Statements and Other Reports

. In the case of the Borrower Representative, deliver to the Administrative Agent (which shall furnish to each Lender):

(a) Quarterly Financial Statements. As soon as available, and in any event within 45 days after the end of each Fiscal Quarter of each Fiscal Year (or, if earlier, the date required to be filed with the SEC, giving effect to any extension permitted by the SEC), commencing with the Fiscal Quarter in which the Closing Date occurs, the consolidated balance sheets of the Group as at the end of such Fiscal Quarter and the related consolidated statements of income, stockholders' equity and cash flows of the Group for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter,

setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year, commencing with the first Fiscal Quarter for which such corresponding figures are available, and a Narrative Report with respect thereto, and the corresponding figures from the Financial Plan for the current Fiscal Year, all in reasonable detail, together with a Financial Officer Certification (the Borrower Representative being permitted to satisfy the requirements of this clause (a) (other than the requirement for a comparison to the Financial Plan) by delivery of the U.S. Borrower's quarterly report on Form 10-Q (or any successor form), and all supplements or amendments thereto, as filed with the SEC);

(b) Annual Financial Statements. As soon as available, and in any event within 90 days after the end of each Fiscal Year (or, if earlier, the date required to be filed with the SEC, giving effect to any extension permitted by the SEC), commencing with the Fiscal Year in which the Closing Date occurs, (i) the consolidated balance sheets of the Group as at the end of such Fiscal Year and the related consolidated statements of income, stockholders' equity and cash flows of the Group for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year, commencing with the first Fiscal Year for which such corresponding figures are available, and a Narrative Report with respect thereto, and the corresponding figures from the Financial Plan for the Fiscal Year covered by such financial statements, in reasonable detail, together with a Financial Offic er Certification (the Borrower Representative being permitted to satisfy the requirements of this clause (i) (other than the requirement for a comparison to the Financial Plan) by delivery of the U.S. Borrower's annual report on Form 10-K (or any successor form), and all supplements or amendments thereto, as filed with the SEC); and (ii) with respect to such consolidated financial statements a report thereon of Ernst & Young LLP or another independent certified public accountant of recognized national standing selected by the U.S. Borrower (which report and/or the accompanying financial statements shall be unqualified as to going concern and scope of audit, and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of the Group as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP applied on a basis consistent with prior years (except as otherwise disclosed in such financial statements) and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards) together, to the extent available pursuant to such accountant's internal policies, with a written statement by such independent certified public accountants (which statement may be limited to accounting matters and disclaim responsibility for legal interpretations) that to the best of such accountant's knowledge, as of the dates of the financial statements being furnished, no Default has occurred under the covenants set forth in Section 6.07 and if such a Default has occurred, specifying the nature and extent thereof.

(c) Compliance Certificate; Guarantor Coverage Certificate. (i) On the date that is 60 days following the Closing Date, a duly executed and completed Guarantor Coverage Certificate, (ii) together with each delivery of financial statements of the Group pursuant to Section 5.01(a), a duly executed and completed Compliance Certificate, (iii) together with each delivery of financial statements of the Group pursuant to Section 5.01(b), a duly executed and completed Compliance Certificate, (iv) together with each delivery of financial statements pursuant to Section 5.01(a) and (b), consolidated financial statements of income and cash flows and the related consolidated balance sheet covering the same periods reflecting adjustments

necessary to eliminate the accounts of Unrestricted Subsidiaries, if any, from such financial statements delivered pursuant to Section 5.01(a) and (b), (v) within fifteen (15) days following each delivery of financial statements of the Group pursuant to Section 5.01(b), a duly executed and completed Guarantor Coverage Certificate and (vi) within ten (10) Business Days following any CKI Blockage Event, a duly executed and completed Compliance Certificate with respect to the most recently ended Fiscal Quarter for which a Compliance Certificate has been delivered that shall, in the case of this clause (vi), exclude CKI and any CKI Affiliate from any calculation of Consolidated Adjusted EBITDA;

(d) Statements of Reconciliation after Change in Accounting Principles. If, as a result of any change in accounting principles and policies from those used in the preparation of the Historical Financial Statements of the U.S. Borrower prior to giving effect to the Transactions, the consolidated financial statements of the Group delivered pursuant to Section 5.01(a) or 5.01(b) shall differ in any material respect from the consolidated financial statements that would have been delivered pursuant to such subdivisions had no such change in accounting principles and policies been made, then, together with the first delivery of such financial statements after such change (or as promptly as practicable thereafter), one or more statements of reconciliation for all such prior financial statements in form and substance reasonably satisfactory to the Administrative Agent;

(e) Notice of Default. Promptly upon any Authorized Officer of any Borrower obtaining knowledge (i) of any condition or event that constitutes a Default or an Event of Default or that notice has been given to any Loan Party with respect thereto; (ii) that any Person has given any notice to any Loan Party or any of its Subsidiaries or taken any other action with respect to any event or condition set forth in Section 8.01(b); (iii) of the occurrence of any event or change that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect, a certificate of an Authorized Officer specifying the nature and period of existence of such condition, event or change, or specifying the notice given and action taken by any such Person and the nature of such claimed Event of Default, Default, default, event or condition, and what action the applicable Group Member has taken, is taking and proposes to take with respect thereto; or (iv) the occurrence of any CKI Blockage Event;

(f) Notice of Litigation. Promptly upon any Authorized Officer of any Borrower obtaining knowledge of (i) any Adverse Proceeding not previously disclosed in writing by the Borrower Representative to the Lenders or (ii) any development in any Adverse Proceeding that, in the case of either clause (i) or (ii), would be reasonably expected to have a Material Adverse Effect, or seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, the transactions contemplated hereby, or the exercise of rights or performance of obligations under any Loan Document written notice thereof together with such other information as may be reasonably available to the U.S. Borrower to enable the Lenders and their counsel to evaluate such matters;

(g) Pension Plans; ERISA. Promptly (but in any event within three (3) days) upon the occurrence of or upon any Authorized Officer of any Loan Party becoming aware of the forthcoming occurrence of (A) any material ERISA Event, (B) the adoption of any new Pension Plan or Foreign Plan that provides pension benefits by any Loan Party, any of its Subsidiaries or any of their respective ERISA Affiliates, (C) the adoption of an amendment to a Pension Plan or

Foreign Plan that provides pension benefits if such amendment results in a material increase in benefits or unfunded liabilities or (D) the commencement of contributions by any Loan Party, any of its Subsidiaries or any of their respective ERISA Affiliates to a Multiemployer Plan or Pension Plan or Foreign Plan that provides pension benefits, a written notice specifying the nature thereof, what action any Loan Party, any of its Subsidiaries or any of their respective ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, the Department of Labor or the PBGC with respect thereto; (ii) with reasonable promptness (but in any event within three (3) days after filing), copies of all notices received by any Loan Party, any of its Subsidiaries or any of their respective ERISA Affiliates from a Multiemployer Plan sponsor concerning an ERIS A Event; and (iii) copies of such other documents or governmental reports or filings relating to any Employee Benefit Plan as the Administrative Agent shall reasonably request;

(h) Financial Plan. As soon as practicable and in any event no later than sixty (60) days after the beginning of each Fiscal Year, a consolidated plan and financial forecast for such Fiscal Year and each Fiscal Year (or portion thereof) thereafter through the final maturity date of the Loans (a "Financial Plan"), including a forecasted consolidated balance sheet and forecasted consolidated statements of income and cash flows of the Group for each Fiscal Quarter of such Fiscal Year and each other Fiscal Year, and an explanation of the assumptions on which such forecasts are based;

(i) Insurance Report. As soon as practicable and in any event within 90 days after the end of each Fiscal Year, a certificate from the Loan Parties' insurance broker(s) in form and substance reasonably satisfactory to the Administrative Agent outlining all material insurance coverage maintained as of the date of such certificate by the Loan Parties and their Restricted Subsidiaries;

(j) Notice Regarding CKI Documents. Promptly, and in any event within ten (10) Business Days after any CKI Document is amended in any material respect, provide copies of such amendment to the Administrative Agent;

(k) Information Regarding Collateral.

(i) the Borrower Representative shall furnish to the Collateral Agent prompt written notice of any change (A) in any Loan Party's corporate or entity name, (B) in any Loan Party's type of organization, (C) in any Loan Party's jurisdiction of organization or (D) in any Loan Party's Federal Taxpayer Identification Number or state organizational identification number. Each Loan Party agrees not to effect or permit any change referred to in the preceding sentence unless all filings have been made (or will be made under any statutory period) under the UCC or otherwise that are required in order for the Collateral Agent to continue at all times following such change to have a valid, legal and perfected security interest in all the Collateral as contemplated in the Security Documents;

(ii) at the time of delivery of annual financial statements pursuant to Section 5.01(b), each Loan Party shall deliver (which delivery may be by electronic means) to the Collateral Agent a supplement to Schedule 4.21 which shall list any

registrations or applications for registration of Intellectual Property that was acquired after the later of the Closing Date and the date of the most recent supplement (if any) delivered pursuant to this Section by any Group Member that is, or pursuant to Section 5.12 becomes, a Loan Party; provided that this Section shall not limit the requirements of Section 5.14; and

(iii) each Loan Party also agrees promptly to notify (or to have the Borrower Representative notify on its behalf) the Collateral Agent if any material portion of the Collateral is damaged or destroyed;

(l) Annual Collateral Verification. Each year, at the time of delivery of annual financial statements with respect to the preceding Fiscal Year pursuant to Section 5.01(b), each Loan Party shall deliver to the Collateral Agent a certificate of its Authorized Officer confirming that there has been no change in the information set forth in the Foreign Collateral Perfection Certificate or in the Perfection Certificate since the Closing Date or the date of the most recent certificate delivered pursuant to this Section and/or identifying such changes;

(m) Management Letters. Promptly after the receipt thereof by the U.S. Borrower, a copy of any "management letter" received by the U.S. Borrower from its certified public accountants and the management's response thereto;

(n) Certification of Public Information. Each Borrower and each Lender acknowledge that certain of the Lenders may be "public-side" Lenders (Lenders that do not wish to receive material non-public information with respect to any Group Member or its Securities) and, if documents or notices required to be delivered pursuant to this Section 5.01 or otherwise are being distributed through IntraLinks/IntraAgency, SyndTrak or another relevant website or other information platform (the "Platform"), any document or notice that the Borrower Representative has indicated contains Non-Public Information shall not be posted on that portion of the Platform designated for such public-side Lenders. The Borrower Representative agrees to clearly designate all Information provided to the Administrative Agent by or on behalf of the Borrowers which is suitable to make available to Public Lenders . If the Borrower Representative has not indicated whether a document or notice delivered pursuant to this Section 5.01 contains Non-Public Information, the Administrative Agent reserves the right to post such document or notice solely on that portion of the Platform designated for Lenders who wish to receive material non-public information with respect to any Group Member and its Securities; and

(o) Other Information. (A) Promptly upon their becoming available, copies of (i) all financial statements, reports, notices and proxy statements sent or made available generally by any Group Member to their security holders acting in such capacity and (ii) all regular, periodic and current reports and all registration statements and prospectuses, if any, filed by any Group Member with any Securities exchange or with the SEC; provided that to the extent such information is filed with the SEC such information shall be deemed to have been provided under this subclause and (B) such other information and data with respect to any Group Member as from time to time may be reasonably requested by the Administrative Agent or any Lender through the Administrative Agent.

Section 5.02 Existence

. Except as otherwise permitted under Section 6.08, at all times preserve and keep in full force and effect its existence and all rights and franchises, licenses and permits material to its business; provided, that no Loan Party (other than any Borrower with respect to existence) or any of its Subsidiaries shall be required to preserve any such existence, right or franchise, licenses and permits if (a) failure to do so would not reasonably be expected to result in a Material Adverse Effect, or (b) such Person's management shall determine that the preservation thereof is no longer desirable in the conduct of the business of such Person.

Section 5.03 Payment of Taxes and Claims

. Pay all Taxes imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises before any penalty or fine accrues thereon, and all claims (including claims for labor, services, materials and supplies) for sums that have become due and payable and that by law have or may become a Lien upon any of its properties or assets, prior to the time when any penalty or fine shall be incurred with respect thereto; provided, that no such Tax or claim need be paid to the extent it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as adequate reserves or other appropriate provisions as shall be required in conformity with GAAP shall have been made therefor.

Section 5.04 Maintenance of Properties

. (a) In the case of material tangible properties used in the business of the Loan Parties and their Restricted Subsidiaries, maintain or cause to be maintained such tangible properties in good repair, working order and condition, ordinary wear and tear excepted, and from time to time shall make or cause to be made all appropriate repairs, renewals and replacements thereof; and (b) in the case of intangible material properties that are used or useful in the business of the Loan Parties and their Restricted Subsidiaries, maintain such intangible properties as valid and enforceable, in each case except as would not reasonably be expected to result in a Material Adverse Effect.

Section 5.05 Insurance

.

(a) In the case of the Borrower Representative, maintain or cause to be maintained, with financially sound and reputable insurers, such public liability insurance, third party property damage insurance, business interruption insurance and casualty insurance with respect to liabilities, losses or damage in respect of the assets, properties and businesses of the Loan Parties and their Restricted Subsidiaries as may customarily be carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as are customary for such Persons. Without limiting the generality of the foregoing, the Borrower Representative shall maintain or cause to be maintained (i) flood insurance that covers each Real Estate Asset subject to a mortg age in favor of Collateral Agent, for the benefit of Secured Parties, that is located in a Flood Zone, in each case in compliance with any applicable regulations of the Board of Governors, (ii) replacement

value casualty insurance on the Collateral under such policies of insurance, with such insurance companies, in such amounts, with such deductibles, and covering such risks as are at all times carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses. Each such policy of insurance with respect to a Loan Party shall (i) name the Secured Parties as additional insured parties thereunder as their interests may appear, (ii) in the case of each casualty insurance policy, contain a loss payable clause or endorsement, satisfactory in form and substance to the Collateral Agent, that names the Collateral Agent, on behalf of the Secured Parties, as the loss payee thereunder and (iii) provide that the insurer affording coverage (with respect to property and liability insurance) will provide for at least thirty (30) days' prior written notice to the Collateral Agent of any material modification or cancellation of such policy.

Section 5.06 Books and Records; Inspections

. Maintain proper books of record and accounts in conformity in all material respects with GAAP. Each Loan Party shall, and shall cause each of its Subsidiaries to, permit any authorized representatives designated by the Administrative Agent to visit and inspect any of the properties of any Loan Party and any of its respective Subsidiaries, to examine and inspect, its and their financial and accounting records and, with the prior consent of an Authorized Officer of the Loan Party, to discuss its and their affairs, finances and accounts with its and their officers and independent public accountants, all upon reasonable notice and at such reasonable times during normal business hours and as often as may reasonably be requested (but, so long as no Default or Event of Default shall have occurred or be continuing, no more often than once per Fiscal Quarter).

Section 5.07 Lenders' Calls

. In the case of the Borrowers, upon the request of the Administrative Agent or the Required Lenders, participate in a conference call with the Administrative Agent and the Lenders once during each Fiscal Year at such time as may be agreed to by the Borrower Representative and the Administrative Agent.

Section 5.08 Compliance with Material Contractual Obligations and Laws

. Comply with the requirements of all material Contractual Obligations (including the Acquisition Documents) and all applicable laws, rules, regulations and orders of any Governmental Authority (including all Environmental Laws), noncompliance with which would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.09 Environmental

.

(a) Environmental Disclosure. In the case of the Borrower Representative, deliver to the Administrative Agent and the Lenders:

(i) as soon as practicable following receipt thereof, copies of all environmental assessments, audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of any Group Member or by any independent consultants, Governmental Authorities or other Persons, with respect to significant environmental matters at any Facility or with respect to any Environmental Claims;

(ii) promptly upon knowledge of any Authorized Officer of any Borrower thereof, written notice relating to (1) any Release required to be reported to Governmental Authority under any applicable Environmental Laws, (2) any remedial action taken by any Loan Party or any other Person in response to (A) any Hazardous Materials the existence of which has a reasonable possibility of resulting in one or more Environmental Claims having, individually or in the aggregate, a Material Adverse Effect or (B) any Environmental Claims that, individually or in the aggregate, have a reasonable possibility of resulting in a Material Adverse Effect, (3) any occurrence or condition on any real property adjoining or in the vicinity of any Facility that could cause such Facility or any part thereof to be subject to any material restrictions on the ownership, occupancy, transferability or use thereof under any Environmental Laws in a manner that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect or (4) the imposition or written threat of any imposition of any Lien (other than a Permitted Lien) on any Collateral pursuant to any Environmental Law;

(iii) as soon as practicable following the sending or receipt thereof by any Group Member, a copy of (1) any and all material written communications with respect to any Environmental Claims that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect, (2) any report sent to any Governmental Authority or other material written communications regarding a Release required to be reported to such Governmental Authority that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect and (3) any material written communications responding to any request for information from any Governmental Authority that suggests such Governmental Authority is investigating whether any Group Member may be potentially responsible for any Hazardous Materials Activity that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect;

(iv) written notice (delivered in each instance as soon as practicable) describing in reasonable detail (1) any proposed acquisition of stock, assets, or other property by any Group Member that would reasonably be expected to expose any Group Member to, or result in, Environmental Claims that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and (2) any proposed action to be taken by any Group Member to modify current operations in a manner that would reasonably be expected to subject any Group Member to Environmental Claims that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect; and

(v) with reasonable promptness, such other documents and information as from time to time may be reasonably requested by the Administrative Agent in relation to any matters disclosed pursuant to this Section 5.09(a).

(b) Environmental Claims, Etc. Promptly take any and all actions necessary to (i) cure any violation of applicable Environmental Laws by such Group Member that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (ii) conduct any investigative or remedial action that may be required pursuant to applicable Environmental Laws by such Group Member that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (iii) make an appropriate response to any Environmental Claim against such Group Member and discharge any obligations it may have to any Person thereunder where failure to do so would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(c) Environmental Compliance. Use and operate all of its Facilities in compliance with all Environmental Laws, keep all necessary Governmental Authorizations required pursuant to any Environmental Laws, and handle all Hazardous Materials in compliance with all Environmental Laws, in each case except where the failure to comply with the terms of this clause would not reasonably be expected to have a Material Adverse Effect.

Section 5.10 Maintenance of Ratings.

In the case of the U.S. Borrower, at all times use commercially reasonable efforts to maintain public corporate family and public corporate credit ratings issued by Moody's and S&P and public ratings issued by Moody's and S&P with respect to the credit facilities hereunder.

Section 5.11 Intellectual Property

.

(a) No Loan Party shall do any act or omit to do any act which would reasonably be expected to cause any Material Intellectual Property, so long as it remains Material Intellectual Property, to lapse, or become abandoned, canceled, dedicated to the public, forfeited, unenforceable or otherwise impaired, or which would adversely affect the validity, grant, or enforceability of the security interest granted therein. No Loan Party shall, with respect to any Trademarks constituting Material Intellectual Property, cease the use of any of such Trademarks, except in the ordinary course of business, or fail to maintain the level of the quality of products sold and services rendered under any of such Trademark at a level at least substantially consistent with the quality of such products and services as of the date hereof, and such Loan Party shall take all commercially reasonable steps necessary to insure that licensees o f such Trademarks use such consistent standards of quality. Each Loan Party shall, within thirty (30) days of the creation or acquisition or exclusive license of any copyrightable work that is included in the Material Intellectual Property, apply to register the Copyright in the United States Copyright Office or, where appropriate, any foreign counterpart and, in the case of an exclusive Copyright License in respect of a registered Copyright constituting Material Intellectual Property, record such license, in the United States Copyright Office or, where appropriate, any foreign counterpart. Each Loan Party shall take all reasonable steps, including in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office, any state registry or any foreign counterpart of the foregoing, to pursue any application and maintain any registration or issuance of each Trademark, Patent, and Copyright owned by any Loan Party and constituting Material Intellectual Property.< /P>

(b) Each Loan Party shall promptly notify the Collateral Agent if it knows that any item of Material Intellectual Property, so long as it remains Material Intellectual Property, has become (i) abandoned or dedicated to the public or placed in the public domain, (ii) invalid or unenforceable, (iii) subject to any adverse determination or development regarding any Loan Party's ownership, registration or use or the validity or enforceability of such item of Intellectual Property (including any adverse development with respect to any action or proceeding in the United States Patent and Trademark Office, the United States Copyright Office, any state registry, any foreign counterpart of the foregoing, or any court) or (iv) the subject of any reversion or termination rights.

(c) Except as provided in or permitted under Section 6.02, each Loan Party shall use best efforts so as not to permit the inclusion in any contract to which it hereafter becomes a party of any provision that could or may in any way materially impair or prevent the creation of a security interest in, or the assignment of, such Loan Party's ownership interests in any Intellectual Property acquired under such contracts that would become Material Intellectual Property.

(d) In the event that any Material Intellectual Property owned by any Loan Party is infringed, misappropriated, diluted or otherwise violated by a third party and such infringement, misappropriation, dilution or other violation would reasonably be expected to have a Material Adverse Effect, such Loan Party shall promptly take all commercially reasonable actions to stop such infringement, misappropriation, dilution or other violation and protect its rights in such Material Intellectual Property including, but not limited to, the initiation of a suit for injunctive relief and to recover damages.

Section 5.12 Subsidiaries

.

(a) In the case of the Borrower Representative, in the event that any Person becomes a U.S. Subsidiary of the U.S. Borrower after the date hereof, (a) promptly cause such U.S. Subsidiary to become a Guarantor hereunder and a U.S. Grantor under the U.S. Pledge and Security Agreement or the CKI Related Assets Pledge and Security Agreement, as applicable, by executing and delivering to the Administrative Agent and the Collateral Agent a Counterpart Agreement, and (b) promptly take all such actions and execute and deliver, or cause to be executed and delivered, all such documents, instruments, agreements, and certificates as are similar to those described in Sections 3.01(b) and 3.01(h), and the Borrower Representative shall promptly take or cause to be taken all of the actions referred to in Section 3.01(h) necessary to grant and to perfect a First Priority Lien in favor of the Collateral Agent, for the benefit of the Secured Parties, under the applicable Security Documents, in the Equity Interests of any such new U.S. Subsidiary (provided that in no event shall (1) more than 66% of the voting Equity Interests of any Foreign Subsidiary directly owned by a U.S. Subsidiary or more than 66% of the Equity Interests of any U.S.-Owned DRE be required to be so pledged as security for the Obligations of the U.S. Borrower and (2) no pledge of the Equity Interests of any other Foreign Subsidiary shall be required as security for the Obligations of the U.S. Borrower).

(b) In the case of the Borrower Representative, with respect to any Foreign Subsidiary formed or acquired after the Closing Date that is, or any Foreign Subsidiary acquired pursuant to the Acquisition that becomes, after the Closing Date (but, for the avoidance of doubt, excluding any Subsidiary of the U.S. Borrower prior to the Acquisition as listed on Schedule 5.12(b)), (i) a Material Company (excluding any Material Company organized under the laws of Japan), (ii) the direct or indirect parent of any Borrower or Material Company or (iii) to the extent required in order to comply with Section 5.18, any other Foreign Subsidiary that the U.S. Borrower shall select in its sole discretion, including, if so selected, any Material Company organized under the laws of Japan, (x) subject to the Agreed Security Principles, promptly cause such Foreign Subsidiary to become a Guarantor hereunder solely in respect of the Obliga tions of the Foreign Borrower by executing and delivering to the Administrative Agent a Counterpart Agreement and a party to any applicable Foreign Law Security Document (provided that any Material Company organized under the laws of Japan shall not be under an obligation to provide any Foreign Law Security Document) and (y) subject to the Agreed Security Principles, promptly take all such actions and execute and deliver, or cause to be executed and delivered, all such documents, instruments, agreements, and certificates as are necessary to grant a perfected First Priority Lien in favor of the Collateral Agent, for the benefit of the applicable Foreign Obligations Secured Parties, in substantially all of such Foreign Subsidiary's assets (subject always to the Agreed Security Principles), and the Borrower Representative shall promptly take or shall cause the applicable Group Member to take all of the actions necessary to grant and to perfect a First Priority Lien in favor of the Collateral Agent, for the benefit of the Foreign Obligations Secured Parties, under the applicable Security Documents, in the Equity Interests of any such new Foreign Subsidiary. In addition, if any Foreign Subsidiary becomes an Ancillary Borrower hereunder, subject to the Agreed Security Principles, it shall take all such actions and execute and deliver, or cause to be executed and delivered, all such documents, instruments, agreements and certificates as are necessary to grant a perfected First Priority Lien in favor of the Collateral Agent, for the benefit of the Foreign Obligations Secured Parties, in substantially all of such Foreign Subsidiary's assets (subject to the Agreed Security Principles). Notwithstanding the foregoing, any Obligations with respect to Real Estate Assets shall be governed by Section 5.13.

(c) With respect to each new Restricted Subsidiary, the Borrower Representative shall promptly send to the Collateral Agent written notice setting forth with respect to such Person (i) the date on which such Person became a Group Member and (ii) all of the data required to be set forth in Schedules 3.01(c) and 4.02 with respect to all Subsidiaries of the U.S. Borrower; and such written notice shall be deemed to supplement Schedule 3.01(c) and 4.02 for all purposes hereof.

(d) No Subsidiary listed on Schedule 5.12(b) shall under any circumstance be required to become a Guarantor or otherwise guaranty the Obligations of any Borrower, it being understood and agreed that nothing in this Section 5.12(d) shall affect the obligation of the Loan Parties to comply with the requirements of Section 5.18.

Section 5.13 Additional Material Real Estate Assets

. In the event that any Loan Party acquires a Material Real Estate Asset or a Real Estate Asset owned or leased on the Closing Date becomes a Material Real Estate Asset and such

interest has not otherwise been made subject to the Lien of the Security Documents in favor of the Collateral Agent, for the benefit of Secured Parties, in the case of such Loan Party, promptly take to the fullest extent commercially practical all such actions and execute and deliver, or cause to be executed and delivered, all such mortgages, documents, instruments, agreements, opinions and certificates similar to those described in Section 3.01(g) with respect to each such Material Real Estate Asset that the Collateral Agent shall reasonably request to create in favor of the Collateral Agent, for the benefit of Secured Parties, a valid and, subject to any filing and/or recording referred to herein, perfected First Priority security interest in such Material Real Estate Assets.

Section 5.14 Additional Collateral

. With respect to any assets or property acquired after the Closing Date by any Group Member that is, or pursuant to Section 5.12 becomes, a Loan Party (other than (x) any assets or property described in Section 5.12 or Section 5.13 and (y) any assets or property subject to a Lien expressly permitted by Section 6.02) as to which the Collateral Agent, for the benefit of the Secured Parties, does not have a perfected First Priority Lien, promptly (i) execute and deliver to the Collateral Agent such amendments to the Security Documents or such new Security Documents as the Collateral Agent deems necessary or advisable to grant to the Collateral Agent, for the benefit of the applicable Secured Parties, a perfected First Priority Lien in such assets or property and (ii) take all actions necessary or advisable to grant to the Collateral Agent, for the benefit of the applicable Secured Parties, a perfecte d First Priority Lien in such assets or property, including without limitation, authorizing the Collateral Agent to file UCC financing statements in such jurisdictions as may be required by the U.S. Security Agreements, or by law or as may be requested by the Collateral Agent (subject, in the case of Foreign Loan Parties, to the Agreed Security Principles). Notwithstanding anything in this Section 5.14 or in Sections 5.12, 5.13 or 5.16 to the contrary, Sections 5.12, 5.13, 5.14 and 5.16 shall not (x) apply to any property or Subsidiary created or acquired after the Closing Date, as applicable, as to which the Administrative Agent has determined in its sole discretion that the collateral value thereof is insufficient to justify the difficulty, time and/or expense of obtaining a perfected security interest therein or (y) require a grant or perfection of a security interest (i) in any asset excluded by the applicable security document, or (ii) in violation of the Agreed Security Principles.

Section 5.15 Interest Rate Protection

. In the case of the U.S. Borrower, no later than ninety (90) days following the Closing Date and at all times thereafter until the third anniversary of the Closing Date, obtain and cause to be maintained protection against fluctuations in interest rates pursuant to one or more Interest Rate Agreements in form and substance reasonably satisfactory to the Administrative Agent, in order to ensure that no less than 25% of the aggregate principal amount of the total Indebtedness for borrowed money of the Group then outstanding is either (i) subject to such Interest Rate Agreements or (ii) Indebtedness that bears interest at a fixed rate.

Section 5.16 Further Assurances

. At any time or from time to time upon the request of the Administrative Agent, at the expense of the Loan Parties, promptly execute, acknowledge and deliver such further documents

and do such other acts and things as the Administrative Agent or the Collateral Agent may reasonably request in order to effect fully the purposes of the Loan Documents or to more fully perfect or renew the rights of the Administrative Agent or the Lenders with respect to the Collateral (or with respect to any additions thereto or replacements or proceeds thereof or with respect to any other property or assets hereafter acquired by any Group Member which may be deemed to be part of the Collateral), subject, in the case of Foreign Loan Parties, to the Agreed Security Principles. In furtherance and not in limitation of the foregoing, each Loan Party shall take such actions as the Administrative Agent or the Collateral Agent may reasonably request from time to time to ensure that the Obligations are guarantied by the Guarantors and are secured by the assets of each Loan Party in each case, to the extent otherwise required by this Agreement and subject to the Agreed Security Principles. Upon the exercise by the Administrative Agent or the Collateral Agent of any power, right, privilege or remedy pursuant to this Agreement or the other Loan Documents which required any consent, approval, recording, qualification or authorization of any Governmental Authority, the U.S. Borrower or the applicable Loan Party will execute and deliver, or will cause the execution and delivery of, all applications, certifications, instruments and other documents and papers that the Administrative Agent or the Collateral Agent may be required to obtain from such Loan Party for such consent, approval, recording, qualification or authorization.

Section 5.17 Foreign Bank Accounts and Cash held by Foreign Group Member

.

(a) Subject to paragraph (b) below, no Foreign Loan Party will or will permit any of its Subsidiaries to maintain, at any time, any cash in excess of $7,500,000 in the aggregate on deposit with a bank other than an Acceptable Bank.

(b) No Foreign Loan Party shall be required to cause any Subsidiary to transfer any cash under clause (a) if doing so would cause such Foreign Loan Party or such Subsidiary to (i) incur a material U.S. federal income Tax liability by reason of Section 956 of the Internal Revenue Code (except to the extent such liability is avoidable through use of commercially reasonable efforts) or other material cost or expense or (ii) breach any applicable law or Contractual Obligation or result in personal liability for such Foreign Loan Party or such Subsidiary or any of their respective directors (managing or otherwise) or management (except to the extent such breach or liability is avoidable through use of commercially reasonable efforts).

Section 5.18 Guarantor Coverage Test

. As of (i) any one date between the Closing Date and the date that is 60 days after the Closing Date, and (ii) any one date between the date that financial statements are delivered pursuant to Section 5.01(b) and the date that is 45 days following such date, in each case, as demonstrated by a Guarantor Coverage Certificate dated as of such date,

(i) the aggregate (without duplication) Group Member Adjusted EBITDA attributable to the Loan Parties as a group is no less than 80% of Consolidated Adjusted EBITDA; and

(ii) the aggregate (without duplication) Group Member Assets of the Loan Parties as a group is no less than 80% of Consolidated Total Assets.

Section 5.19 Post-Closing Obligations

. Satisfy the requirements set forth on Schedule 5.19 on the earlier of (i) the date specified for such requirement and (ii) 60 days after the Closing Date (or, in each case, such later date as the Administrative Agent shall agree in its reasonable discretion).

ARTICLE VI.
NEGATIVE COVENANTS

Each Loan Party covenants and agrees that, so long as any Commitment is in effect and until Payment in Full of the Obligations, such Loan Party shall not, nor shall it cause or permit any of its Restricted Subsidiaries to:

Section 6.01 Indebtedness

. Create, incur, assume or guaranty, or otherwise become or remain liable with respect to any Indebtedness, except:

(a) the Obligations;

(b) (i) Indebtedness in respect of the 2023 Debentures, (ii) Indebtedness of the U.S. Borrower in respect of the 2020 Notes in an aggregate principal amount not to exceed $600,000,000 and guaranty obligations of any U.S. Guarantor in respect of such Indebtedness, (iii) any Permitted Refinancing of the Indebtedness described in clause (i) or (ii), and (iv) Indebtedness in respect of the Existing Notes to the extent such Existing Notes remain outstanding after consummation of the tender offer therefor;

(c) Indebtedness of any Restricted Subsidiary owed to any Borrower or to any other Restricted Subsidiary, or of any Borrower owed to any Restricted Subsidiary or any other Borrower; provided, that (i) all such Indebtedness shall be evidenced by an intercompany note, and, if owed to a Loan Party, shall (subject to the Agreed Security Principles) be subject to a First Priority Lien pursuant to the Security Documents, (ii) all such Indebtedness shall be unsecured and subordinated in right of payment to the payment in full of the Obligations in a manner consistent with the subordination provisions set forth in Section 7.07 and shall be Subordinated Indebtedness hereunder, (iii) any payment by any such Guarantor under any guaranty of the Obligations shall result in a pro tanto reduction of the amount of any Indebtedness owed by such Subsidiary to such Borrower or to any of its Subsidiaries for whose benefit such payment is made and (iv) such Indebtedness is permitted as an Investment under Section 6.06;

(d) (1) unsecured Indebtedness of U.S. Borrower, the net proceeds of which are used solely to (i) consummate Permitted Acquisitions or (ii) repay the Term Loans (or repay Revolving Loans with a permanent equivalent reduction in the Revolving Commitments); provided, in each case, that such Indebtedness (a) matures at least three months after the maturity date of the Term Loans, (b) has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of the Term Loans, (c) does not contain maintenance covenants that are more restrictive than Sections 6.07(a) and (b) and (d) if guaranteed, is guaranteed only by U.S. Guarantors; provided, that both immediately prior and after giving effect to the incurrence thereof, (x) no Default or Event of Default shall exist or result therefrom and (y) the U.S. Borrower shall be in compliance with the covenants set forth in Sections 6.07(a) and (b) after giving pro forma effect to the incurrence of such Indebtedness and the consummation of such Permitted Acquisition or repayment of such Loans, as applicable and (2) any Permitted Refinancings of such Indebtedness;

(e) Indebtedness incurred by any Group Member arising from agreements providing for indemnification, adjustment of purchase price, other compensation or similar obligations (including, Indebtedness consisting of the deferred purchase price of assets or property acquired in a Permitted Acquisition), in connection with Permitted Acquisitions, permitted Investments or permitted dispositions of any business, assets or Subsidiary of any Group Member;

(f) Indebtedness which may be deemed to exist pursuant to any guaranties, performance, surety, statutory, appeal bonds or similar obligations incurred in the ordinary course of business;

(g) Indebtedness in respect of netting services, overdraft protections and otherwise in connection with deposit accounts;

(h) guaranties in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of any Group Member;

(i) guaranties by (i) any Borrower of Indebtedness of a Guarantor or any other Borrower or guaranties by a Guarantor of Indebtedness of any Borrower or any other Guarantor with respect, in each case, to Indebtedness otherwise permitted to be incurred by such Borrower or such Guarantor pursuant to this Section 6.01 (other than clauses (b) and (c) of this Section); provided, that if the Indebtedness that is being guarantied is unsecured and/or subordinated to the Obligations, the guaranty shall also be unsecured and/or subordinated to the Obligations, (ii) any Group Member that is not a Loan Party of Indebtedness of any other Group Member that is not a Loan Party and (iii) the U.S. Borrower of Indebtedness of any Group Member that is not a Loan Party incurred in the ordinary course of business on ordinary business terms so long as such Indebtedness is otherwise permitted to be incurred under Section 6.01(r) to the extent such guaranties are unsecured and otherwise permitted as an Investment under Section 6.06 (other than Section 6.06(q));

(j) Indebtedness existing on the Closing Date which is described in Schedule 6.01 and any Permitted Refinancing thereof;

(k) Indebtedness (i) in an amount not to exceed at any one time outstanding $40,000,000 (or, if the Incurrence Test is satisfied on a pro forma basis, 0.75% of Consolidated Total Assets, if greater), which is incurred with respect to Capital Leases or constitutes purchase money Indebtedness to finance the acquisition, lease, construction or improvement of assets or property and any Permitted Refinancing in respect thereof; provided, that any such Indebtedness shall be secured only by the asset acquired, leased, constructed or improved in connection with the incurrence of such Indebtedness, be incurred within 270 days of the acquisition, lease, construction or improvement of the relevant equipment or other asset and constitute not less than 75.0% of the aggregate consideration paid with respect to such acquisition, lease, construction or improvement and (ii) constituting Attributable Ind ebtedness with respect to any Sale and Lease-Back permitted under Section 6.10 in an amount not to exceed at any one time outstanding $35,000,000;

(l) (i) (1) Indebtedness of a Person or Indebtedness attaching to assets of a Person that, in either case, becomes a Loan Party or becomes or is merged into or consolidated with a Subsidiary after the Closing date or (2) Indebtedness attaching to assets that are acquired by any Group Member after the Closing Date as the result of a Permitted Acquisition; provided, that (x) such Indebtedness existed at the time such Person became a Loan Party or became or was merged into or consolidated with a Subsidiary or at the time such assets were acquired and, in each case, was not created in contemplation thereof and (y) such Indebtedness is not guaranteed in any respect by any Group Member (other than (A) by any such Person that so becomes a Subsidiary or (B) to the extent any Group Member is otherwise permitted to guaranty such Indebtedness under another provision under this Section 6.01) and (ii) any Permitted Refinancing thereof;

(m) Indebtedness of the type described in clause (viii) of the definition thereof with respect to interest rates or foreign exchange rates, or any Treasury Transaction; provided that in each case such Indebtedness shall not have been entered into for speculation purposes;

(n) (i) Indebtedness incurred by a Securitization Subsidiary in a Qualified Securitization Financing that is not recourse (except for Standard Securitization Undertakings) to any of the Borrowers or the Guarantors, (ii) Indebtedness of a Group Member consisting of Standard Securitization Undertakings provided that, in each case, the Net Cash Proceeds with respect to such Indebtedness are used to repay Term Loans and will be applied as set forth in Section 2.15(b) and (iii) Indebtedness incurred with respect to any disposition of accounts receivable in connection with receivables factoring arrangements in the ordinary course of business;

(o) Indebtedness owing to any insurance company in connection with the financing of any insurance premiums permitted by such insurance company in the ordinary course of business;

(p) Indebtedness incurred in the ordinary course of business with respect to surety and appeal bonds, performance and insurance bonds and similar obligations;

(q) 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 other cash management services in the ordinary course of business; provided that such Indebtedness (i) is extinguished within five Business Days of its incurrence or (ii) if in respect of credit or purchase cards, is extinguished within 60 days of its incurrence;

(r) other Indebtedness of Subsidiaries (other than a Securitization Subsidiary) that are not Loan Parties and Indebtedness incurred on behalf of or representing guaranties of Indebtedness of Joint Ventures in an amount not to exceed at any one time outstanding $125,000,000 (or, if the Incurrence Test is satisfied on a pro forma basis, 2.0% of Consolidated Total Assets, if greater);

(s) other Indebtedness of any Group Member (other than a Securitization Subsidiary) in an aggregate amount not to exceed at any one time outstanding $150,000,000;

(t) Indebtedness arising as a result of (the establishment of) a fiscal unity (*fiscale eenheid*) between the Dutch Loan Parties;

(u) Indebtedness pursuant to a declaration of joint and several liability used for the purpose of Section 2:403 of the Dutch Civil Code (and any residual liability under such declaration arising pursuant to section 2:404(2) of the Dutch Civil Code);

(v) Indebtedness representing the deferred obligation to purchase common stock or common stock options permitted under Section 6.04(c);

(w) Indebtedness arising under any domination and/or profit transfer agreement (*Beherrschungs und/oder Gewinnabführungsvertrag*) with a German Loan Party which is in force on the Closing Date;

(x) Indebtedness in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued to support performance obligations and trade-related letters of credit (other than obligations in respect of other Indebtedness) in the ordinary course of business;

(y) Indebtedness of the U.S. Borrower in respect of letters of credit issued by the U.S. Borrower for its own account or for the account of any other Group Member; provided that neither the Administrative Agent nor any Lender shall have any direct or indirect liability with respect to any such letter of credit, whether as a guarantor, confirming bank or otherwise;

(z) Indebtedness, if any, in respect of the CKI Obligations and the Itochu Obligations and any Permitted Refinancing of the Itochu Obligations;

(aa) unsecured Indebtedness in respect of obligations of any Group Member to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms (which require that all such payments be made within 60 days after the incurrence of the related obligations) in the ordinary course of business, and not in connection with the borrowing of money or any Currency Agreement, Interest Rate Agreement or Treasury Transaction;

(bb) Indebtedness representing deferred compensation to employees of any Group Member incurred in the ordinary course of business; and

(cc) all premium (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in paragraphs (a) through (bb) above.

Section 6.02 Liens

. Create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in respect of goods or accounts receivable) of any Loan Party or any of its Restricted Subsidiaries, whether now owned or hereafter acquired or licensed, or any income, profits or royalties therefrom, except:

(a) Liens granted pursuant to any Loan Document in favor of the Collateral Agent for the benefit of Secured Parties;

(b) Liens for Taxes to the extent obligations with respect to such Taxes are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted and so long as adequate reserves or other appropriate provisions as shall be required in conformity with GAAP shall have been made therefore and Liens for Taxes not yet due and payable;

(c) statutory Liens of landlords, banks (and rights of set-off), of carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by law (other than any such Lien imposed pursuant to Section 430(k) of the Internal Revenue Code or Section 303(k) of ERISA or a violation of Section 436 of the Internal Revenue Code), in each case incurred in the ordinary course of business (i) for amounts not yet overdue or (ii) for amounts that are overdue and that (in the case of any such amounts overdue for a period in excess of ten (10) days) are being contested in good faith by appropriate proceedings, so long as such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made for any such contested amounts;

(d) Liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money or other Indebtedness), so long as no foreclosure, sale or similar proceedings have been commenced with respect to any portion of the Collateral on account thereof;

(e) easements, rights-of-way, restrictions, encroachments, and other defects or irregularities in title, in each case which do not and will not interfere in any material respect with the ordinary conduct of the business of any Group Member;

(f) any interest or title of a lessor or sublessor under any lease of real estate permitted hereunder and covering only the assets so leased;

(g) Liens solely on any cash earnest money deposits made by any Group Member in connection with any letter of intent or purchase agreement permitted hereunder;

(h) Liens evidenced by the filing of precautionary UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;

(i) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(j) any zoning or similar law or right reserved to or vested in any governmental office or agency to control or regulate the use of any real property;

(k) any reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown, including, without limitation, the reservation of any mines and minerals in the Crown or in any other Person;

(l) licenses or sublicenses (including licenses or sublicenses of Patents, Copyrights, Trademarks and other Intellectual Property rights), leases or subleases granted by any Group Member in the ordinary course of business which does not materially interfere with the business of the Group Members taken as a whole;

(m) Liens in favor of vendors of goods arising as a matter of law securing the payment of the purchase price therefor so long as such Liens attach only to the purchased goods or, where customary in the local market, Liens arising from a contract securing (i) the payment of the purchase price of goods, (ii) the performance of any work or (iii) the fulfillment of any obligation arising out of the non-compliance with such contract;

(n) Liens existing on the Closing Date which are described in Schedule 6.02 and replacements, renewals or extensions of such Liens; provided, that such Lien shall not apply to additional property other than (A) after-acquired property that is related to the property covered by such Lien and (B) proceeds and products thereof and such Lien shall secure only those obligations it secures on the Closing Date and extensions, renewals and replacements thereof that, to the extent constituting Indebtedness, qualify as a Permitted Refinancing thereof;

(o) Liens arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a Group Member in the ordinary course of trading and on the supplier's standard or usual terms and arising as a result or omission by any Group Member, including, for the avoidance of doubt, *verlängerte Eigentumsvorbehalte* and *erweiterte Eigentumsvorbehalte*;

(p) Liens securing Indebtedness permitted pursuant to Section 6.01(k); provided, that any such Lien shall encumber only the property subject to the underlying lease, after-acquired property that is required to be pledged pursuant to such underlying lease on customary terms and proceeds and products thereof;

(q) Liens securing Indebtedness permitted by Section 6.01(l) and any extensions, renewals and replacements thereof that, to the extent constituting Indebtedness,

qualify as a Permitted Refinancing thereof, provided, that any such Lien shall encumber only assets and property of the Person so acquired or only attach to those assets which secured such Indebtedness at the time such assets were acquired by the Group other than (A) after-acquired property that is directly related to the property secured by such Lien and (B) proceeds and products thereof;

(r) Liens arising from judgments in circumstances not constituting an Event of Default under Section 8.01(i);

(s) Liens on Securitization Assets or a Securitization Subsidiary's other assets arising in connection with a Qualified Securitization Financing;

(t) Liens arising by virtue of any statutory, contractual or common law provision relating to banker's liens, rights of set-off or similar rights (i) relating to the establishment of depository relations in the ordinary course of business with banks not given in connection with the issuance of Indebtedness and (ii) relating to pooled deposit or sweep accounts of any Group Member to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Group;

(u) any Lien created pursuant to the general conditions of a bank operating in The Netherlands based on the general conditions drawn up by the Netherlands Bankers' Association (*Nederlandse Vereniging van Banken*) and the Consumers Union (*Consumentenbond*) or pursuant to any other general conditions of, or any contractual arrangement with, any such bank to substantially the same effect;

(v) Liens arising out of consignment or similar arrangements for the sale by any Group Member of goods through third parties in the ordinary course of business;

(w) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(x) Liens granted pursuant to the CKI Security Agreement to secure the CKI Obligations, which are senior to the Lien in favor of the Collateral Agent pursuant to the terms of the CKI Intercreditor Agreement;

(y) Liens that are disclosed in (i) a Title Policy or (ii) any other title insurance policies delivered to the Collateral Agent in connection with mortgages on Material Real Estate Assets executed pursuant to Section 5.13 after the Closing Date (unless the Lien described in this clause (ii) is otherwise prohibited under this Agreement and is capable of being discharged by a Loan Party in a commercially practicable manner) and any replacement, extension or renewal of any such Lien; provided, that such replacement, extension or renewal Lien shall not cover any property other than the property that was subject to such Lien prior to such replacement, extension or renewal; provided, further, that the Indebtedness and other obligations secured by such replacement, extension or renewal Lien are permitted by this Agreement;

(z) Liens securing Attributable Indebtedness incurred under Section 6.01(k) pursuant to any Sale and Lease-Back permitted under Section 6.10;

(aa) Liens securing obligations in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued to support performance obligations (other than Obligations in respect of Indebtedness) and trade-related letters of credit, in each case, outstanding on the Closing Date or issued thereafter in the ordinary course of business and covering the goods (or the documents of title in respect of such goods) financed by such letters of credit, banker's acceptances or bank guarantees and the proceeds and products thereof;

(bb) Liens securing Indebtedness permitted by Section 6.01(r); provided that any such Liens shall only attach to the assets of the entity incurring such Indebtedness;

(cc) Liens in favor of the U.S. Borrower or any other Loan Party; provided that if any such Lien shall cover any Collateral, the holder of such Lien shall execute and deliver to the Administrative Agent a subordination agreement in form and substance reasonably satisfactory to the Administrative Agent;

(dd) (i) solely to the extent equal and ratable Liens are required pursuant to the terms of the 2023 Debentures Indenture, Liens securing the 2023 Debentures Obligations which Liens are granted pursuant to the Loan Documents, the CKI Security Agreement or any other security agreement the terms of which are no more favorable to the holders of the 2023 Debentures Obligations than the terms of the U.S. Pledge and Security Agreement and (ii) Liens securing any Permitted Refinancing of the 2023 Debentures Obligations, which Liens are granted pursuant to the Loan Documents, the CKI Security Agreement or any other security agreement the terms of which are no more favorable to the holders of the 2023 Debentures Obligations than the terms of the U.S. Pledge and Security Agreement; it being agreed that in the case of clauses (i) and (ii), with respect to such Loan Documents or other security agreements contemplated by such clauses entered into after the date hereof, the Administrative Agent and the Collateral Agent shall enter into intercreditor agreements as may be reasonably requested by the Borrower Representative and acceptable to the Administrative Agent and the Collateral Agent to give effect to the requirements of clause (i) or (ii) above, as applicable; and

(ee) other Liens securing Indebtedness or other obligations in an aggregate amount not to exceed at any one time outstanding $150,000,000; provided that if such Liens secure Indebtedness and are on assets constituting Collateral, such Liens are subordinated to the Liens securing the Obligations pursuant to intercreditor agreement(s) reasonably satisfactory to the Administrative Agent.

Section 6.03 Designation of Subsidiaries

. Designate any Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary, except that the U.S. Borrower may at any time designate any Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that:

(a) immediately after such designation, no Default or Event of Default shall have occurred and be continuing or shall be caused thereby and the Group shall be in compliance with the financial covenants set forth in Section 6.07(a) and (b) on a pro forma basis;

(b) with respect to any Subsidiary to be designated as an Unrestricted Subsidiary, such Subsidiary or any of its Subsidiaries does not own any Equity Interests or Indebtedness of or have any Investment in, or own or hold any Lien on any property of, any other Subsidiary of the U.S. Borrower which is not a Subsidiary of the Subsidiary to be so designated or otherwise an Unrestricted Subsidiary,

(c) such Subsidiary is not party to any agreement, contract, arrangement or understanding with any Borrower or any Restricted Subsidiary unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to such Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Borrowers;

(d) such Subsidiary is a Person with respect to which neither any Borrower nor any Restricted Subsidiaries has any direct or indirect obligation (1) to subscribe for additional Equity Interests or (2) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results;

(e) such Subsidiary has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of any Borrower or any Restricted Subsidiaries;

(f) neither any Borrower nor any Restricted Subsidiary will at any time (i) provide a guarantee of, or similar credit support to, any Indebtedness of such Subsidiary (including any undertaking, agreement or instrument evidencing such Indebtedness), (ii) be directly or indirectly liable for any Indebtedness of such Subsidiary or (iii) be directly or indirectly liable for any other Indebtedness which provides that the holder thereof may (upon notice, lapse of time or both) declare a default thereon (or cause the payment thereof to be accelerated or payable prior to its final scheduled maturity) upon the occurrence of a default with respect to any other Indebtedness that is Indebtedness of such Subsidiary (including any corresponding right to take enforcement action against such Subsidiary);

(g) no Restricted Subsidiary may be designated as an Unrestricted Subsidiary if it was previously designated as an Unrestricted Subsidiary;

(h) at no time shall any Subsidiary be designated as an Unrestricted Subsidiary or maintained as an Unrestricted Subsidiary more than ten (10) Business Days after the time of delivery of the quarterly financial statements pursuant to Section 5.01(a) if (x) the Consolidated Adjusted EBITDA attributable to such Subsidiary, calculated on an unconsolidated basis, exceeds 5.0% of Consolidated Adjusted EBITDA or (y) the total assets of such Subsidiary, determined in accordance with GAAP and calculated on an unconsolidated basis, exceeds 5.0% of Consolidated Total Assets; and

(i) any designation of a Restricted Subsidiary to an Unrestricted Subsidiary shall be deemed an Investment under Section 6.06 in an amount equal to the fair market value of the Subsidiary so designated.

(j) Any such designation shall be evidenced by providing notice to the Administrative Agent of the copy of the resolution of the U.S. Borrower's Board or Directors (or duly authorized committee thereof) giving effect to such designation and a certificate of an

Authorized Officer certifying that such designation complies with the foregoing requirements. Any designation of an Unrestricted Subsidiary as a Restricted Subsidiary solely as a result of the application of Section 6.03(h), for purposes of determining compliance with Article VI, shall be treated as a Permitted Acquisition (without any requirement to satisfy the definition thereof and without utilizing any portion of the amount specified in the proviso to Section 6.08(i)), and all Indebtedness, Liens, Investments and any consensual encumbrance or restriction of the type described in Section 6.05 of such Unrestricted Subsidiary shall be treated as Indebtedness, Liens, Investments and consensual encumbrances and restrictions of the type described in Section 6.05 of an entity acquired in a Permitted Acquisition. For the avoidance of doubt, such designation shall not reduce the Group's ability to consummate Permitted Acquisiti ons.

Section 6.04 Restricted Payments

. Directly or indirectly declare, order, pay, make or set apart any sum for any Restricted Payment except that:

(a) any Subsidiary of any Borrower may declare and pay dividends, repurchase its Equity Interests, or make other distributions to each direct owner of Equity Interests of such Subsidiary; provided that, in the case of a Subsidiary that is a not a Wholly-Owned Restricted Subsidiary, such dividends, repurchases or other distributions are made to all owners of such Subsidiary's Equity Interests on a pro rata basis (or more favorable basis from the perspective of the Group Members) based on their relative ownership interests;

(b) the U.S. Borrower may make regularly scheduled payments of principal and interest in respect of the 2020 Notes and any Subordinated Indebtedness in accordance with the terms of and only to the extent required by the 2020 Notes Documents or the documentation governing such Subordinated Indebtedness, as applicable, and the 2020 Notes and any Subordinated Indebtedness may be refinanced pursuant to a Permitted Refinancing thereof;

(c) the U.S. Borrower may purchase, repurchase, retire, redeem or otherwise acquire its common stock or common stock options from present or former officers, directors or employees of the Group in connection with any management equity subscription agreement, any compensation, retirement, disability, severance or benefit plan or agreement, any employment agreement or any other similar plans or agreements, provided, that the aggregate amount of payments under this paragraph (net of any proceeds received by the U.S. Borrower subsequent to the Closing Date in connection with resales of any common stock or common stock options so purchased or acquired) shall not exceed $15,000,000 in any calendar year;

(d) so long as no Default or Event of Default shall have occurred and be continuing or shall be caused thereby, the U.S. Borrower may declare and pay cash dividends with respect to (i) its common stock in an annual amount not to exceed $0.20 per outstanding share of common stock and (ii) its Series A Preferred Stock in an annual amount of up to $0.20 per share of common stock that would be issuable upon conversion of any outstanding share of Series A Preferred Stock (subject, in the case of each of clause (i) and (ii), to adjustment for any stock split, reverse stock split, stock dividend or similar occurrence so that the aggregate amount of dividends payable after such transaction is the same as the amount payable immediately prior to such transaction);

(e) the U.S. Borrower may pay any dividend or distribution within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Agreement (including the other provisions of this Section 6.04);

(f) the U.S. Borrower may make Restricted Payments in respect of the 2020 Notes and Subordinated Indebtedness; provided that (i) the amount of such Restricted Payments pursuant to this clause (f) does not exceed (x) $50,000,0000 during the term of this Agreement (or, if the Incurrence Test is satisfied on a pro forma basis, 1.0% of Consolidated Total Assets, if greater) plus (y) if the Incurrence Test is satisfied on a pro forma basis, an amount equal to the Available Amount, (ii) such Restricted Payments are made from proceeds from the substantially concurrent issuance, sale or exchange by the U.S. Borrower of Equity Interests, or (iii) such Restricted Payment results from the conversion of all or any portion of the 2020 Notes or Subordinated Indebtedness, as applicable, to Equity Interests of the U.S. Borrower;

(g) so long as no Default or Event of Default shall have occurred and be continuing or shall be caused thereby, other Restricted Payments in an aggregate amount not to exceed (i) $100,000,000 (or, if the Incurrence Test is satisfied on a pro forma basis, 1.75% of Consolidated Total Assets, if greater) during the term of this Agreement plus (ii) if the Incurrence Test is satisfied on a pro forma basis, an amount equal to the Available Amount, provided that after giving effect to the consummation of such Restricted Payment and any financing thereof, the Group shall be in compliance with the financial covenants set forth in Sections 6.07(a) and (b); and

(h) any Group Member may make Restricted Payments in respect of the Itochu Obligations; and

(i) the U.S. Borrower may make repurchases of Equity Interests deemed to occur upon exercise of options, warrants, restricted stock units or similar rights if such Equity Interests represents all or a portion of the exercise price thereof or deemed to occur in connection with the satisfaction of any withholding tax obligation incurred relating to the vesting or exercise of such options, warrants, restricted stock units or similar rights.

Section 6.05 Restrictions on Subsidiary Distributions; No Further Negative Pledges

. Except as arising under any Loan Document, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Restricted Subsidiary of any Borrower to (a) pay dividends or make any other distributions on any of such Subsidiary's Equity Interests owned by such Borrower or any other Restricted Subsidiary of any Borrower, (b) repay or prepay any Indebtedness owed by such Restricted Subsidiary to any Borrower or any other Restricted Subsidiary of any Borrower, (c) make loans or advances to any Borrower or any other Restricted Subsidiary of any Borrower, (d) transfer, lease or license any of its property or assets to any Borrower or any other Restricted Subsidiary of any Borrower or (e) create or assume any Lien upon any of its properties or assets, whether now owned or hereafter acquired, to secure the Oblig ations, other than encumbrances and restrictions (i) in agreements evidencing Indebtedness permitted by Section 6.01 and agreements

relating to Liens permitted by Section 6.02 that impose restrictions on the property subject to such Liens, (ii) by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, licenses, joint venture agreements and agreements similar to any of the foregoing (provided that such restrictions are limited to the assets or property subject to such leases, licenses, joint venture or similar agreements), (iii) created by virtue of any sale, transfer, lease or other disposition of, or any agreement with respect thereto, any specific property, assets or Equity Interests permitted to be so transferred under this Agreement, (iv) contained in the 2023 Debentures Indenture, the CKI Documents, the Itochu Agreement, and any agreement related to the China JV Obligations, (v) with respect to any Restricted Subsidiary organized under the laws of Japan, imposed pursuant to an agreement restricting (A) the creation or assumption of any Lien upon such Restricted Subsidiary's inventory and receivables or (B) the transfer of assets of any such Restricted Subsidiary, in each case in the ordinary course of business, (vi) existing under or by reason of applicable law, rule or regulation, (vii) on the use of cash or other deposits imposed by customers under contracts entered into in the ordinary course of business, (viii) in any agreement in effect at the time a Person becomes a Subsidiary of the U.S. Borrower, provided that the agreement in which such restrictions are contained was not entered into in contemplation of such Person becoming a Subsidiary of the U.S. Borrower, (ix) contained in agreements in effect on the Closing Date and described in Schedule 6.05 and (x) in any amendment s, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (i) through (ix) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the U.S. Borrower, no more restrictive with respect to the restrictions referred to in clauses (a) through (e) above than prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.06 Investments

. Make or own any Investment in any Person, including any Joint Venture, except:

(a) Investments in cash and Cash Equivalents and Investments that were Cash Equivalents when made;

(b) Investments owned as of the Closing Date in any Restricted Subsidiary and Investments made after the Closing Date in any Loan Party;

(c) deposits, prepayments, advances in the form of a prepayment of expenses and other credits to suppliers made in the ordinary course of business consistent with the past practices of the Group;

(d) Investments to the extent that payment for such Investments is made with Equity Interests of the U.S. Borrower;

(e) Investments that are acquired by any Group Member as a result of a Permitted Acquisition; provided that such Investments existed at the time of the Permitted Acquisition and were not made in contemplation thereof;

(f) Consolidated Capital Expenditures with respect to the Loan Parties permitted by Section 6.07(c);

(g) loans and advances to employees, consultants or directors (managing or otherwise) of the Group made in the ordinary course of business in an aggregate principal amount at any one time outstanding not to exceed $15,000,000;

(h) Permitted Acquisitions permitted pursuant to Section 6.08;

(i) Investments in existence on, or pursuant to legally binding written commitments in existence on, the Closing Date as described in Schedule 6.06 and, in each case, any extensions, modifications or renewals thereof so long as the amount of any Investment made pursuant to this clause (i) is not increased at any time above the amount of such Investment existing or committed, as applicable, on the Closing Date;

(j) Currency Agreements, Interest Rate Agreements and Treasury Transactions which constitute Investments;

(k) accounts, chattel paper and notes receivable arising from the sale or lease of goods or the performance of services in the ordinary course of business;

(l) Investments received in the ordinary course of business by any Group Member in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, suppliers and customers arising in the ordinary course of business;

(m) so long as no Default or Event of Default shall have occurred and be continuing or shall be caused thereby, other Investments in an aggregate amount not to exceed at any one time outstanding (i) $135,000,000 (or, if the Incurrence Test is satisfied on a pro forma basis, 2.25% of Consolidated Total Assets, if greater), plus (ii) to the extent not included in the Available Amount, 100.0% of the aggregate cash dividends and distributions received by any Group Member from such Investments, plus (iii) if the Incurrence Test is satisfied on a pro forma basis, an amount equal to the Available Amount at such time;

(n) Investments in the China JV in an aggregate amount not to exceed at any one time outstanding (i) $50,000,000, plus, (ii) to the extent not included in the Available Amount, 100.0% of the aggregate cash dividends and distributions received by any Group Member from the China JV;

(o) Investments arising out of the receipt by any Group Member of noncash consideration for the sale of assets permitted under Section 6.08;

(p) guaranties by any Group Member of operating leases (other than obligations with respect to Capital Leases) or of other obligations, that do not constitute Indebtedness, in each case entered into by the applicable Group Member in the ordinary course of business;

(q) guaranties permitted under Section 6.01 (except to the extent such guaranty is expressly subject to Section 6.06);

(r) Investments made pursuant to the CKI Trust Agreement; and

(s) Investments consisting of the redemption, purchase, repurchase or retirement of any Equity Interests permitted under Section 6.04.

Section 6.07 Financial Covenants

. In the case of the U.S. Borrower:

(a) Interest Coverage Ratio. Permit the Interest Coverage Ratio as of the last day of any Fiscal Quarter, beginning with the Fiscal Quarter ending October 31, 2010, to be less than the correlative ratio indicated:

Fiscal Quarter	**Interest Coverage Ratio**
FQ3 2010	3.00:1.00
FQ4 2010	3.00:1.00
FQ1 2011	3.00:1.00
FQ2 2011	3.00:1.00
FQ3 2011	3.00:1.00
FQ4 2011	3.00:1.00
FQ1 2012	3.50:1.00
FQ2 2012	3.50:1.00
FQ3 2012	3.50:1.00
FQ4 2012	3.50:1.00
FQ1 2013	3.75:1.00
FQ2 2013	3.75:1.00
FQ3 2013	3.75:1.00
FQ4 2013	3.75:1.00
FQ1 2014	4.00:1.00
FQ2 2014	4.00:1.00
FQ3 2014	4.00:1.00
FQ4 2014	4.00:1.00
FQ1 2015 and thereafter	4.50:1.00

(b) Leverage Ratio. Permit the Leverage Ratio as of the last day of any Fiscal Quarter, beginning with the Fiscal Quarter ending October 31, 2010, to exceed the correlative ratio indicated:

Fiscal Quarter	Leverage Ratio
FQ3 2010	4.90:1.00
FQ4 2010	4.90:1.00
FQ1 2011	4.75:1.00
FQ2 2011	4.75:1.00
FQ3 2011	4.75:1.00
FQ4 2011	4.75:1.00
FQ1 2012	4.00:1.00
FQ2 2012	4.00:1.00
FQ3 2012	4.00:1.00
FQ4 2012	4.00:1.00
FQ1 2013	3.50:1.00
FQ2 2013	3.50:1.00
FQ3 2013	3.50:1.00
FQ4 2013	3.50:1.00
FQ1 2014 and thereafter	3.00:1.00

(c) Maximum Consolidated Capital Expenditures.

Make or incur Consolidated Capital Expenditures, in any Fiscal Year indicated below, in an aggregate amount for the Group in excess of the corresponding amount set forth below opposite such Fiscal Year (the **"**Permitted Capital Expenditure Amount**"**); provided, that such amount for any Fiscal Year shall be increased by (i) an amount equal to the excess, if any, of such amount for the immediately preceding Fiscal Year (with the amount of any rollover from the prior Fiscal Year being deemed to be used first) over the actual amount of Consolidated Capital Expenditures for such previous Fiscal Year and (ii) to the extent that a Permitted Acquisition is consummated during or prior to such Fiscal Year (but after the Closing Date), an amount equal to 5% of the Acquisition Consideration paid with respect to such Permitted Acquisition (the "Acquired Permitted CapEx Amount ") (provided, however, that with respect to the Fiscal Year during which any such Permitted Acquisition occurs, the amount of additional Consolidated Capital Expenditures permitted as a result of this clause (ii) shall be an amount equal to the product of (x) the Acquired Permitted CapEx Amount and (y) a fraction, the numerator of which is the number of days remaining in such Fiscal Year after the date such

Permitted Acquisition is consummated and the denominator of which is the actual number of days in such Fiscal Year):

Fiscal Year	Consolidated Capital Expenditures
2010	$215,000,000
2011	$220,000,000
2012	$210,000,000
2013	$240,000,000
2014	$250,000,000
2015	$270,000,000
2016	$280,000,000

Notwithstanding the foregoing, for purposes of determining compliance with this Section 6.07(c) for any given Fiscal Year, the actual amount of Consolidated Capital Expenditures that are made or incurred in such Fiscal Year and that are denominated in any currency other than Dollars will be converted into Dollars based on the relevant currency exchange rate in effect on the Closing Date.

Section 6.08 Fundamental Changes; Disposition of Assets; Acquisitions

. Enter into any transaction of merger or consolidation, or liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution) or convey, sell, lease or license, exchange, transfer or otherwise dispose of, in one transaction or a series of transactions, all or any part of its business, assets or property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, whether now owned or hereafter acquired, leased or licensed, or acquire by purchase or otherwise (other than purchases or other acquisitions of inventory, materials and equipment and Consolidated Capital Expenditures in the ordinary course of business) all or substantially all of the assets of, all of the Equity Interests of, or a business line or unit or a division of, any Person, except:

(a) (i) any Group Member may be merged or consolidated with or into any other Group Member, or be liquidated, wound up or dissolved, or all or any part of its business, assets or property may be conveyed, sold, leased, transferred or otherwise disposed of, in one transaction or a series of transactions, to any other Group Member; provided, that (x) in the case of a merger or consolidation of a Group Member that is not a Loan Party with or into a Borrower or Guarantor, such Borrower or such Guarantor, as applicable, shall be the continuing or surviving Person, (y) in the case of a merger or consolidation of a Guarantor with or into another Guarantor, a Guarantor shall be the continuing or surviving Person and (z) in the case of a merger or consolidation of a Guarantor with or into a Borrower, such Borrower shall be the continuing or surviving Person, and (ii) any Restricted Subsidiary may merge with any other pers on in order to effect an Investment permitted pursuant to Section 6.06 so long as the continuing or surviving person shall be a Restricted Subsidiary, which shall be a Loan Party if

the merging Restricted Subsidiary was a Loan Party and which together with each of its Restricted Subsidiaries shall have complied with the requirements of Section 5.12, 5.13 and 5.14, as applicable and if such transaction involves the U.S. Borrower, the U.S. Borrower shall be the continuing or surviving Person;

(b) any Group Member (other than the U.S. Borrower in the case of a disposition of all of its assets) may dispose of any or all of its assets (upon voluntary liquidation or otherwise) to a Borrower or any other Loan Party, and any Group Member that is not a Loan Party may dispose of any or all of its assets (upon voluntary liquidation or otherwise) to another Group Member that is not a Loan Party;

(c) sales or other dispositions of assets that do not constitute Asset Sales;

(d) (i) Asset Sales, the proceeds of which (valued at the principal amount thereof in the case of non-cash proceeds consisting of notes or other debt Securities and valued at fair market value in the case of other non-cash proceeds) when aggregated with the proceeds of all other Asset Sales made pursuant to this clause (d)(i) in any Fiscal Year, are less than (x) 2.0% of Consolidated Total Assets plus (y) an amount equal to any unutilized portion of the amount permitted under subclause (x) for any preceding Fiscal Year; provided that in no event shall the proceeds of any Asset Sale, when aggregated with the proceeds of all other Asset Sales made pursuant to this clause (d)(i) in any Fiscal Year, exceed 5.0% of Consolidated Total Assets; and (ii) the Asset Sale described on Schedule 6.08(d); provided that, in the case of each of clause (i) and (ii), (1) the consideration received for such asse ts shall be in an amount at least equal to the fair market value thereof (determined in good faith by the Board of Directors of the U.S. Borrower (or a duly authorized committee thereof)), (2) except in the case of any Asset Sale to any Restricted Subsidiary, no less than 75.0% thereof shall be paid in cash or Cash Equivalents, and (3) except in the case of any Asset Sale to any Restricted Subsidiary, the Net Cash Proceeds thereof shall be applied as required by Section 2.14(a);

(e) any Group Member may sell or discount, in each case without recourse and in the ordinary course of business, accounts receivable arising in the ordinary course of business (x) which are overdue, or (y) which such Group Member may reasonably determine are difficult to collect but only in connection with the compromise or collection thereof consistent with prudent business practice (and not as part of any bulk sale or financing of receivables);

(f) any Group Member may enter into licenses or sublicenses of Software, Trademarks and other Intellectual Property and general intangibles in the ordinary course of business and which do not materially interfere with the business of the Group Members taken as a whole;

(g) (i) any disposition of Securitization Assets to a Securitization Subsidiary in connection with a Qualified Securitization Financing and (ii) any disposition of accounts receivable in connection with receivables factoring arrangements in the ordinary course of business;

(h) dispositions of cash and Cash Equivalents;

(i) Permitted Acquisitions; provided, that in respect of acquisitions of Persons which do not become Loan Parties or of assets which are not acquired by Loan Parties, the consideration for such Persons or assets shall not exceed an aggregate amount of 5.0% of Consolidated Total Assets over the term of this Agreement; and

(j) (i) Permitted Sale and Lease-Backs and (ii) Sale and Lease-Backs otherwise permitted by Section 6.10(ii), provided that the Net Cash Proceeds of Sale and Lease-Backs (other than Permitted Sale and Lease-Backs) shall be applied as required by Section 2.14(a); provided, further, that, the case of clause (ii), the net proceeds received by the applicable Group Member are at least equal to the fair market value of such asset or Investment (as determined by the U.S. Borrower's Board of Directors (or a duly authorized committee thereof));

(k) sales or other dispositions of the Equity Interests of, or other ownership interests in or assets or property, including Indebtedness, or other securities of, any Joint Venture (including the China JV); provided that, in each case, the net proceeds received by the applicable Group Member are at least equal to the fair market value of such asset or Investment (as determined by the U.S. Borrower's Board of Directors (or a duly authorized committee thereof);

(l) any lease, assignment or sublease in the ordinary course of business which does not materially interfere with the business of the Group Members taken as a whole; and

(m) Investments made in accordance with Section 6.06 and Restricted Payments made in accordance with Section 6.04.

Section 6.09 Disposal of Subsidiary Interests

. Except for any sale of all of its interests in the Equity Interests of any of its Subsidiaries in compliance with the provisions of Section 6.08, or any transfer to a Group Member otherwise permitted under Section 6.08, (a) sell, assign, or otherwise dispose of any Equity Interests of any of its Restricted Subsidiaries, except to qualify directors if required by applicable law; or (b) permit any of its Restricted Subsidiaries to sell, assign, or otherwise dispose of any Equity Interests of any of its Restricted Subsidiaries, except to qualify directors if required by applicable law.

Section 6.10 Sales and Lease-Backs

. Become or remain liable as lessee or as a guarantor or other surety with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which such Loan Party (a) has sold or transferred or is to sell or to transfer to any other Person (other than to any Group Member), (b) intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by such Loan Party to any Person (other than to any Group Member) in connection with such lease or (c) is to be sold or transferred by such Loan Party to such Person or to any other Person to whom funds have been or are to be advanced by such Person on the security of such property or rental obligations of such Loan Party (a "Sale and Lease-Back"), excluding (i) any such arrangement to the extent that any Attributable Indebtedness incurred i n connection therewith does not exceed $35,000,000 (such transaction, a "Permitted Sale and Lease-Back") and (ii) any other Sale and Lease-Back so long as such Group Member would be entitled to incur the Attributable Indebtedness with

respect to such Sale and Lease-Back under Section 6.01, create a Lien on the property securing such Attributable Indebtedness under Section 6.02 and the proceeds of such transaction are applied in accordance with Section 2.14(a).

Section 6.11 Transactions with Shareholders and Affiliates

. Enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property, the rendering of any service or the payment of any management, advisory or similar fees) with any Affiliate of any Group Member on terms that are less favorable to such Group Member than those that might be obtained in a comparable arm's length transaction at the time from a Person who is not such a holder or Affiliate; provided, that the foregoing restriction shall not apply to (a) any transaction between or among any Group Members; (b) reasonable and customary fees and indemnities paid to directors, officers and employees of any Group Member and compensation arrangements for directors, officers and other employees of any Group Member entered into in the ordinary course of business; (c) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, stock options and stock ownership plans in the ordinary course of business; (d) (x) any employment agreements entered into by any Group Member in the ordinary course of business and any transaction pursuant thereto and (y) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract and transaction pursuant thereto; (e) any Restricted Payment permitted by Section 6.04; (f) any Investment permitted under Section 6.06; (g) any transactions pursuant to agreements in existence on the Closing Date and set forth in Schedule 6.11 and any amendment thereto to the extent such amendment is not adverse to the Lenders in any material respect, (h) any transactions between any Group Member and the China JV or any of its Affiliates; (i) any transaction between any Group Member and Apax Partners L.P. or any of its Affiliates; (j) any transactio n with a Joint Venture for the purchase or sale of goods, equipment and services entered into in the ordinary course of business and in a manner consistent with past practice, (k) any transaction entered into by a Person prior to the time such Person becomes a Group Member or is merged or consolidated into a Group Member (provided such transaction is not entered into in contemplation of such event); (l) any transactions between any Group Member and Pepe Jeans SL (or any successor or replacement sales and collection agent and franchisee in Spain and Portugal); (m) any transaction between a Group Member and a Securitization Subsidiary pursuant to a Qualified Securitization Financing; (n) any satisfaction or discharge of the Itochu Obligations; (o) any transactions between any Group Member and ITOCHU Corporation or any Joint Venture of any Group Member, in each case in the ordinary course of business; (p) any transactions between any Group Member and the CKI Trust pursuant to the CKI Trust Agreement; and (q) co st sharing arrangements deemed appropriate by the U.S. Borrower to allocate properly the costs of future maintenance and development of Intellectual Property of any Group Member.

Section 6.12 Conduct of Business

. From and after the Closing Date, engage in any business (either directly or through a Restricted Subsidiary) other than the businesses engaged in by the Group Members on the

Closing Date or any extension of such businesses consistent with industry developments and any business ancillary, complementary or related thereto.

Section 6.13 Amendments or Waivers of Organizational Documents and Certain Other Documents

. Agree to (a) any material amendment, restatement, supplement or other modification to or waiver of any of its Organizational Documents which would be materially adverse to the interests of the Lenders, taken as a whole, (b) any amendment, restatement, supplement or other modification to or waiver (other than any such amendment, restatement, supplement or other modification or waiver as may be required pursuant to the CK Letter Agreement as in effect on the Closing Date) (i) of Section 4.17(c)(iv) or Section 4.18 of the CKI Security Agreement (or any definition in the CKI Security Agreement that would have the effect of amending, supplementing or otherwise modifying such Sections or the effect or existence of a CKI Blockage Event), in each case that would be materially adverse to the interests of the U.S. Borrower and its Subsidiaries, taken as a whole, or (ii) of any provision of any CKI Document that has the effect of (w) requiring any Person to become a CK Grantor (as defined in the CKI Intercreditor Agreement as of the date hereof) that would not be required to become a CK Grantor in accordance with the terms of the First Lien Collateral Documents (as defined in the CKI Intercreditor Agreement as of the date hereof), (x) adding additional CK Collateral (as defined in the CKI Intercreditor Agreement as of the date hereof) that would not be required to become CK Collateral (as defined in the CKI Intercreditor Agreement as of the date hereof) pursuant to the terms of the First Lien Collateral Documents (as defined in the CKI Intercreditor Agreement as of the date hereof), (y) increasing the amount of, or adjusting the calculation of, the Klein Obligations (as defined in the CKI Intercreditor Agreement as of the date hereof) in any manner unless such adjustment could only decrease the amount of the Klein Obligations as of such date (it being understood that this Section 6.13 shall not prohibit the ma king of any one-time consent payment by any Group Member in respect of any amendment, restatement, supplement or other modification or waiver to any CKI Documents) or (z) decreasing the amount of the Maximum Second Lien Amount (as defined in the CKI Intercreditor Agreement as of the date hereof), or (c) any amendment, restatement, supplement, waiver or other modification of the terms of the 2020 Notes which would be materially adverse to the Lenders.

Section 6.14 Fiscal Year

. Change its Fiscal Year-end from the Sunday closest to February 1 of each calendar year or change its method of determining Fiscal Quarters; provided that the Loan Parties may, at any time prior to the end of FQ4 2011, change their Fiscal Year-end upon prior notice to the Administrative Agent; provided, further, that (i) the U.S. Borrower will provide to the Administrative Agent such audited financials as are required to be submitted to the SEC and at the times required thereby, (ii) such change in Fiscal Year end shall not relieve the U.S. Borrower from its obligation to provide to the Lenders comparative figures to the corresponding periods from the prior Fiscal Year or to the Financial Plan previously provided to the Lenders for such Fiscal Year and (iii) notwithstanding any change in Fiscal Year end, the U.S. Borr ower will make a payment on or prior to April 30, 2011 pursuant to Section 2.14(d), calculated as if no change in Fiscal Year had occurred, and, without duplication of any amounts already paid with respect to such period, an additional payment pursuant to Section 2.14(d) payable at the time the

audited financial statements are delivered for the transition period as set forth in clause (i) of this Section (it being understood and agreed that subsequent to such payment (or in the event that no such financial statements are required to be delivered), further payments pursuant to Section 2.14(d) will occur with the delivery of annual financial statements).

Section 6.15 Centre of Main Interests and Establishments

. No Loan Party whose jurisdiction is in a member state of the European Union shall deliberately change its "centre of main interest" (as that term is used in the Regulation) in a manner that would reasonably be expected to result in a Material Adverse Effect.

Section 6.16 Limitation in Relation to German Loan Parties

.

(a) The provisions of Sections 6.02, 6.03, 6.04, 6.05, 6.08, 6.11, 6.12 and 6.13 (the "Relevant Restrictive Covenants") shall not apply to any German Loan Party or any of its Subsidiaries from time to time which is incorporated in Germany (a "German Group Member").

(b) With respect to any transactions not permitted under the Relevant Restrictive Covenants (ignoring for this purpose clause (a) above), each German Loan Party shall give the Administrative Agent notice in writing and in good time of the intention of it or of any German Group Member to carry out any of the acts or take any of the steps referred to in the Relevant Restrictive Covenant, explaining if and how such steps might affect the financial situation of the company or the Group, or the Lenders' risk and security position. Any such notification shall not be made later than twenty (20) Business Days before such measure shall be implemented, or in case of urgent matters requiring an implementation on shorter notice immediately after the need for the relevant measure arises, provided that, the reasons for such urgent implementation are described in the notification.

(c) The Administrative Agent shall be entitled within ten (10) Business Days of receipt of the relevant German Loan Party's notice under clause (b) above to request the relevant German Loan Party to supply to the Administrative Agent in sufficient copies for the Lenders any relevant information in connection with the proposed action or steps referred to in such notice.

(d) The Administrative Agent shall notify the relevant German Loan Party, within ten (10) Business Days of receipt of the relevant German Loan Party's notice under clause (b) above or, if additional information has been requested by the Administrative Agent under clause (c) above, within ten (10) Business Days of receipt of such information, whether the proposed action or steps under clause (b) above is, or is in the reasonable opinion of the Administrative Agent (acting on the instructions of the Required Lenders), likely to have a Material Adverse Effect or a material adverse consequences for the Lenders' risk or security position.

(e) If the proposed action or steps under clause (b) above is considered by the Administrative Agent (acting reasonably and in accordance with clause (d) above) to have a Material Adverse Effect or a material adverse consequences for the Lenders' risk or security position and the relevant German Loan Party or German Group Member nevertheless takes such action or steps, this shall constitute an Event of Default pursuant to clause (m) of Section 8.01 and the Administrative Agent shall consequently be entitled to take (and, if so instructed by the Required Lenders, shall take) any of the steps set out in Section 8.01.

Section 6.17 UK Defined Benefit Pension Plan

. Within the meaning of the UK Pensions Act 2004: (a) Become the employer in relation to a UK defined benefit pension plan irrespective of the funded status of such pension plan, or (b) become connected or associated with the employer in relation to a UK defined benefit pension plan if, at the time of connection or association, the liabilities of such pension plan, as calculated using the actuarial methods and assumptions used for funding as set forth on the most recent actuarial report for such pension plan, exceed the fair market value of the assets of such plan by more than $50 million.

Section 6.18 Financial Assistance

. Each Loan Party shall comply, where applicable, in all respects with any financial assistance legislation in any Relevant Jurisdiction, including as related to execution of the Security Documents and payment of amounts due under this Agreement.

ARTICLE VII.
GUARANTY

Section 7.01 Guaranty of the Obligations

.

(a) Subject to the provisions of Section 7.02, each U.S. Guarantor jointly and severally hereby irrevocably and unconditionally guaranties to the Administrative Agent for the ratable benefit of the Secured Parties the due and punctual payment in full of all Obligations of the Borrowers (or, in the case of the U.S. Borrower, all Obligations of the Foreign Borrower) when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a) or any comparable provision of any other Debtor Relief Law) (the "U.S. Guaranteed Obligations").

(b) Subject to the provisions of Sections 7.02, 7.13 and 7.14, each Foreign Guarantor, jointly and severally hereby irrevocably and unconditionally guaranties to the Administrative Agent for the ratable benefit of the Secured Parties the due and punctual payment in full of all Obligations of the Foreign Borrower on demand when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay

under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)) (the "Foreign Guaranteed Obligations" and, together with the U.S. Guaranteed Obligations, the **"**Guaranteed Obligations").

Section 7.02 Limitation on Liability; Contribution by Guarantors

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(a) Notwithstanding the foregoing, each Guarantor, and by acceptance of the benefits hereof, the Administrative Agent and each other Secured Party hereby confirms that it is the intention of all such Persons that each Guaranty and the Guaranteed Obligations of each Guarantor hereunder not constitute a fraudulent conveyance for purposes of the Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar foreign, federal or state law to the extent applicable to each Guaranty and the Guaranteed Obligations of each Guarantor hereunder. To effectuate the foregoing intention, the Administrative Agent and the Secured Parties hereby irrevocably agree that the Guaranteed Obligations of each Guarantor hereunder at any time shall be limited to the maximum amount as will result in the Guaran teed Obligations of such Guarantor hereunder not constituting a fraudulent transfer or conveyance.

(b) The U.S. Guarantors (the "U.S. Contributing Guarantors") and Foreign Guarantors (the "Foreign Contributing Guarantors," and collectively with the U.S. Contributing Guarantors, the "Contributing Guarantors") desire to allocate among themselves, in a fair and equitable manner, the U.S. Guaranteed Obligations and Foreign Guaranteed Obligations, respectively, arising under this Guaranty; provided that nothing in this Section 7.02 shall operate or be construed to allocate to any Foreign Contributing Guarantor any Obligation of the U.S. Borrower or to permit any payment by a Foreign Guarantor to reduce any Obligations of the U.S. Borrower. Accordingly, in the event any payment or distribution is made on any date by a Guarantor (a "Funding Guarantor") under this Guaranty such that its Aggregate Payments exceed its Fair Share as of such date, such Fun ding Guarantor shall be entitled to a contribution from each of the other applicable Contributing Guarantors in an amount sufficient to cause each such Contributing Guarantor's Aggregate Payments to equal its Fair Share as of such date. "Fair Share" means, with respect to a Contributing Guarantor as of any date of determination, an amount equal to (a) the ratio of (i) the Fair Share Contribution Amount with respect to such Contributing Guarantor to (ii) the aggregate of the Fair Share Contribution Amounts with respect to all Contributing Guarantors multiplied by (b) the aggregate amount paid or distributed on or before such date by all Funding Guarantors under this Guaranty in respect of the U.S. Guaranteed Obligations or Foreign Guaranteed Obligations, as applicable. "Fair Share Contribution Amount" means, with respect to a Contributing Guarantor as of any date of determination, the maximum aggregate amount of the obligations of such Contributing Guara ntor under this Guaranty that would not render its obligations hereunder or thereunder subject to avoidance as a fraudulent transfer or conveyance under Section 548 of Title 11 of the United States Code or any comparable applicable provisions of any Debtor Relief Law; provided, that solely for purposes of calculating the Fair Share Contribution Amount with respect to any Contributing Guarantor for purposes of this Section 7.02, any assets or liabilities of such Contributing Guarantor arising by virtue of any rights to subrogation, reimbursement or indemnification or any rights to or obligations of contribution hereunder shall not be considered

as assets or liabilities of such Contributing Guarantor. "Aggregate Payments" means, with respect to a Contributing Guarantor as of any date of determination, an amount equal to (1) the aggregate amount of all payments and distributions made on or before such date by such Contributing Guarantor in respect of this Guaranty (including in respect of this Section 7.02), minus (2) the aggregate amount of all payments received on or before such date by such Contributing Guarantor from the other applicable Contributing Guarantors as contributions under this Section 7.02. The amounts payable as contributions hereunder shall be determined as of the date on which the related payment or distribution is made by the applicable Funding Guarantor. The allocation among the applicable Contributing Guarantors of their obligations as set forth in this Section 7.02 shall not be construed in any way to limit the lia bility of any Contributing Guarantor hereunder. Each Guarantor is a third party beneficiary to the contribution agreement set forth in this Section 7.02.

Section 7.03 Payment by Guarantors

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(a) Subject to Sections 7.02, 7.13 and 7.14, the U.S. Guarantors hereby jointly and severally agree, in furtherance of the foregoing and not in limitation of any other right which any Secured Party may have at law or in equity against any U.S. Guarantor by virtue hereof, that upon the failure of any Borrower to pay any of the U.S. Guaranteed Obligations when and as the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a) or any comparable provision of any other Debtor Relief Law), the U.S. Guarantors shall upon demand pay, or cause to be paid, in cash, to the Administrative Agent for the ratable benefit of the Secured Parties, an amount equal to the sum of the unpaid principal amount of all U.S. Guaranteed Obligations then due as aforesaid, accrued and unpaid interest on such U.S. Guaranteed Obligations (including interest which, but for any Borrower's becoming the subject of a case under the Bankruptcy Code or any other Debtor Relief Law, would have accrued on such U.S. Guaranteed Obligations, whether or not a claim is allowed against such Borrower for such interest in the related bankruptcy case or analogous proceeding under any Debtor Relief Law) and all other U.S. Guaranteed Obligations then owed to the Secured Parties as aforesaid.

(b) Subject to Sections 7.02, 7.13 and 7.14, the Foreign Guarantors hereby jointly and severally agree, in furtherance of the foregoing and not in limitation of any other right which any Secured Party may have at law or in equity against any Foreign Guarantor by virtue hereof, that upon the failure of the Foreign Borrower to pay any of the Foreign Guaranteed Obligations when and as the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a) or any comparable provision of any other Debtor Relief Law), the Foreign Guarantors shall upon demand pay, or cause to be paid, in cash, to the Administrative Agent for the ratable benefit of the Secured Parties, an amount equal to the sum of the unpaid principal amount of all Foreign Guaranteed Obligations then due as aforesaid, accrued and unpaid interest on such Foreign Guaranteed Obligations (including interest which, but for the Foreign Borrower's becoming the subject of a case under the Bankruptcy Code or any other

Debtor Relief Law, would have accrued on such Foreign Guaranteed Obligations, whether or not a claim is allowed against the Foreign Borrower for such interest in the related bankruptcy case or analogous proceeding under any Debtor Relief Law) and all other Foreign Guaranteed Obligations then owed to the Secured Parties as aforesaid.

Section 7.04 Liability of Guarantors Absolute

. Each Guarantor agrees that, to the maximum extent permitted by applicable law, its obligations hereunder are irrevocable, absolute, independent and unconditional and shall not be affected by any circumstance which constitutes a legal or equitable discharge of a Guarantor or surety other than Payment in Full of the applicable Guaranteed Obligations. In furtherance of the foregoing and without limiting the generality thereof, each Guarantor agrees, to the maximum extent permitted by applicable law, as follows:

(a) this Guaranty is a guaranty of payment when due and not of collectability. This Guaranty is a primary obligation of each Guarantor and not merely a contract of surety;

(b) the Administrative Agent may enforce this Guaranty upon the occurrence of an Event of Default notwithstanding the existence of any dispute between any Borrower and any Secured Party with respect to the existence of such Event of Default;

(c) the obligations of each Guarantor hereunder are independent of the obligations of each Borrower and the obligations of any other Guarantor (including any other Guarantor) of the obligations of each Borrower, and a separate action or actions may be brought and prosecuted against such Guarantor whether or not any action is brought against such Borrower or any of such other Guarantors and whether or not such Borrower is joined in any such action or actions;

(d) payment by any Guarantor of a portion, but not all, of the applicable Guaranteed Obligations shall in no way limit, affect, modify or abridge any Guarantor's liability for any portion of the applicable Guaranteed Obligations which has not been paid. Without limiting the generality of the foregoing, if the Administrative Agent is awarded a judgment in any suit brought to enforce any Guarantor's covenant to pay a portion of the applicable Guaranteed Obligations, such judgment shall not be deemed to release such Guarantor from its covenant to pay the portion of the applicable Guaranteed Obligations that is not the subject of such suit, and such judgment shall not, except to the extent satisfied by such Guarantor, limit, affect, modify or abridge any other Guarantor's liability hereunder in respect of the applicable Guaranteed Obligations;

(e) any Secured Party, upon such terms as it deems appropriate, without notice or demand and without affecting the validity or enforceability hereof or giving rise to any reduction, limitation, impairment, discharge or termination of any Guarantor's liability hereunder, from time to time may (i) renew, extend, accelerate, increase the rate of interest on, or otherwise change the time, place, manner or terms of payment of the Guaranteed Obligations; (ii) settle, compromise, release or discharge, or accept or refuse any offer of performance with respect to, or substitutions for, the Guaranteed Obligations or any agreement relating thereto and/or subordinate the payment of the same to the payment of any other obligations; (iii) request

and accept other guaranties of the Guaranteed Obligations and take and hold security for the payment hereof or the Guaranteed Obligations; (iv) release, surrender, exchange, substitute, compromise, settle, rescind, waive, alter, subordinate or modify, with or without consideration, any security for payment of the Guaranteed Obligations, any other guaranties of the Guaranteed Obligations, or any other obligation of any Person (including any other Guarantor) with respect to the Guaranteed Obligations; (v) enforce and apply any security now or hereafter held by or for the benefit of such Secured Party in respect hereof or the Guaranteed Obligations and direct the order or manner of sale thereof, or exercise any other right or remedy that such Secured Party may have against any such security, in each case as such Secured Party in its discretion may determine consistent herewith, the applicable Hedge Agreement, Cash Management A greement or Treasury Transaction and any applicable security agreement, including foreclosure on any such security pursuant to one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable, and even though such action operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against any Borrower or any security for the Guaranteed Obligations; and (vi) exercise any other rights available to it under the Loan Documents or any Hedge Agreements, Cash Management Agreements or Treasury Transactions; and

(f) this Guaranty and the obligations of Guarantors hereunder shall be valid and enforceable and shall not be subject to any reduction, limitation, impairment, discharge or termination for any reason (other than Payment in Full of the applicable Guaranteed Obligations), including the occurrence of any of the following, whether or not any Guarantor shall have had notice or knowledge of any of them: (i) any failure or omission to assert or enforce or agreement or election not to assert or enforce, or the stay or enjoining, by order of court, by operation of law or otherwise, of the exercise or enforcement of, any claim or demand or any right, power or remedy (whether arising under the Loan Documents, any Hedge Agreements, any Cash Management Agreements or any Treasury Transactions, at law, in equity or otherwise) with respect to the Guaranteed Obligations or any agreement relating thereto, or with respect to any othe r guaranty of or security for the payment of the Guaranteed Obligations; (ii) any rescission, waiver, amendment or modification of, or any consent to departure from, any of the terms or provisions (including provisions relating to events of default) hereof, any of the other Loan Documents, any of the Hedge Agreements, Cash Management Agreements or Treasury Transactions or any agreement or instrument executed pursuant thereto, or of any other guaranty or security for the Guaranteed Obligations, in each case whether or not in accordance with the terms hereof or such Loan Document, such Hedge Agreement, such Cash Management Agreement, such Treasury Transaction or any agreement relating to such other guaranty or security; (iii) the Guaranteed Obligations, or any agreement relating thereto, at any time being found to be illegal, invalid or unenforceable in any respect (other than with respect to defense of payment or performance in full); (iv) the application of payments received from any source (o ther than payments received pursuant to the other Loan Documents, any of the Hedge Agreements, any of the Cash Management Agreements, any Treasury Transaction or from the proceeds of any security for the Guaranteed Obligations, except to the extent such security also serves as Collateral for Indebtedness other than the Guaranteed Obligations) to the payment of Indebtedness other than the Guaranteed Obligations, even though any Secured Party might have elected to apply such payment to any part or all of the Guaranteed Obligations; (v) any Secured Party's consent to the change, reorganization or termination of the corporate structure or existence of any Group Member and to any corresponding restructuring of the Guaranteed

Obligations; (vi) any failure to perfect or continue perfection of a security interest in any collateral which secures any of the Guaranteed Obligations; (vii) any defenses (other than defense of payment or performance in full), set-offs or counterclaims which any Borrower may allege or assert against any Secured Party in respect of the Guaranteed Obligations, including failure of consideration, breach of warranty, payment, statute of frauds, statute of limitations, accord and satisfaction and usury; and (viii) any other act or omission, or delay to do any other act, which may or might in any manner or to any extent vary the risk of any Guarantor as an obligor in respect of the Guaranteed Obligations.

Section 7.05 Waivers by Guarantors

. Each Guarantor hereby waives, for the benefit of the Secured Parties: (a) any right to require any Secured Party, as a condition of payment or performance by such Guarantor, to (i) proceed against any Borrower, any other Guarantor (including any other Guarantor) of the applicable Guaranteed Obligations or any other Person, (ii) proceed against or exhaust any security held from any Borrower, any such other Guarantor or any other Person, (iii) proceed against or have resort to any balance of any deposit account or credit on the books of any Secured Party in favor of any Borrower or any other Person, or (iv) pursue any other remedy in the power of any Secured Party whatsoever; (b) any defense arising by reason of the incapacity, lack of authority or any disability or other defense of any Borrower or any other Guarantor including any defense based on or arising out of the lack of validity or the unen forceability of the Guaranteed Obligations or any agreement or instrument relating thereto or by reason of the cessation of the liability of any Borrower or any other Guarantor from any cause other than Payment in Full of the applicable Guaranteed Obligations; (c) any defense based upon any statute or rule of law which provides that the obligation of a surety must be neither larger in amount nor in other respects more burdensome than that of the principal; (d) any defense based upon any Secured Party's errors or omissions in the administration of the Guaranteed Obligations, except behavior which amounts to bad faith; (e) (i) any principles or provisions of law, statutory or otherwise, which are or might be in conflict with the terms hereof and any legal or equitable discharge of such Guarantor's obligations hereunder, (ii) the benefit of any statute of limitations affecting such Guarantor's liability hereunder or the enforcement hereof, (iii) any rights to set-offs, recoupments and counterclai ms, and (iv) promptness, diligence and any requirement that any Secured Party protect, secure, perfect or insure any security interest or Lien or any property subject thereto; (f) notices, demands, presentments, protests, notices of protest, notices of dishonor and notices of any action or inaction, including acceptance hereof, notices of default hereunder, or under any agreement or instrument related thereto, notices of any renewal, extension or modification of the Guaranteed Obligations or any agreement related thereto, notices of any extension of credit to any Borrower and notices of any of the matters referred to in Section 7.04 and any right to consent to any thereof; and (g) any defenses (other than defense of payment or performance in full) or benefits that may be derived from or afforded by law which limit the liability of or exonerate Guarantors or sureties, or which may conflict with the terms hereof.

Section 7.06 Guarantors' Rights of Subrogation, Contribution, Etc.

Until the applicable Guaranteed Obligations shall have been Paid in Full, each Guarantor hereby waives any claim, right or remedy, direct or indirect, that such Guarantor now

has or may hereafter have against any applicable Borrower or any other Guarantor or any of its assets in connection with this Guaranty or the performance by such Guarantor of its obligations hereunder, in each case whether such claim, right or remedy arises in equity, under contract, by statute, under common law or otherwise and including (a) any right of subrogation, reimbursement or indemnification that such Guarantor now has or may hereafter have against any applicable Borrower with respect to the Guaranteed Obligations, (b) any right to enforce, or to participate in, any claim, right or remedy that any Secured Party now has or may hereafter have against any Borrower, and (c) any benefit of, and any right to participate in, any collateral or security now or hereafter held by any Secured Party. In addition, until the applicable Guaranteed Obligations shall have been Paid in Full, each Guarantor shall withhold exercise of any right of contribution such Guarantor may have against any other Guarantor (including any other Guarantor) of the applicable Guaranteed Obligations, including any such right of contribution as contemplated by Section 7.02. Each Guarantor further agrees that, to the extent the waiver or agreement to withhold the exercise of its rights of subrogation, reimbursement, indemnification and contribution as set forth herein is found by a court of competent jurisdiction to be void or voidable for any reason, any rights of subrogation, reimbursement or indemnification such Guarantor may have against any Borrower or against any collateral or security, and any rights of contribution such Guarantor may have against any such other Guarantor, shall be junior and subordinate to any rights any Secured Party may have against any Borrower, to all right, title and interest any Secured Party may have in any such collateral or security, and to any right any Secured Party may have against such other Guarantor. If any am ount shall be paid to any Guarantor on account of any such subrogation, reimbursement, indemnification or contribution rights at any time when all applicable Guaranteed Obligations shall not have been finally and Paid in Full, such amount shall be held in trust for the Administrative Agent on behalf of the Secured Parties and shall forthwith be paid over to the Administrative Agent for the benefit of the Secured Parties to be credited and applied against the applicable Guaranteed Obligations, whether matured or unmatured, in accordance with the terms hereof.

Section 7.07 Subordination of Other Obligations

(a) Each U.S. Guarantor hereby subordinates any and all debts, liabilities and other obligations owed to such U.S. Guarantor by each other Loan Party (the "Subordinated U.S. Intercompany Obligations") to the Guaranteed Obligations to the extent and in the manner hereinafter set forth in this Section 7.07(a):

(i) Prohibited Payments, Etc. So long as no Event of Default shall have occurred and be continuing, each U.S. Guarantor may receive payments from any other Loan Party on account of the Subordinated U.S. Intercompany Obligations (provided that the making of such payments by the applicable obligor are not prohibited by the terms of this Agreement) and demand, accept or take any action to collect any payment on account of the Subordinated U.S. Intercompany Obligations.

(ii) Prior Payment of Guarantied Obligations. In any proceeding under the Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law relating to any other Loan Party, each U.S. Guarantor agrees that the Secured Parties shall be entitled to receive Payment in Full in cash of all

Guaranteed Obligations before such U.S. Guarantor receives payment of any Subordinated U.S. Intercompany Obligations.

(iii) Turn-Over. After the occurrence and during the continuation of any Event of Default, each U.S. Guarantor shall, if the Administrative Agent so requests, collect, enforce and receive payments on account of the Subordinated U.S. Intercompany Obligations as trustee for the Secured Parties and deliver such payments to the Administrative Agent (for the benefit of the applicable Secured Parties) on account of the Guaranteed Obligations, together with any necessary endorsements or other instruments of transfer, but without reducing or affecting in any manner the liability of such U.S. Guarantor under the other provisions of this Agreement.

(iv) Administrative Agent Authorization. After the occurrence and during the continuation of any Event of Default, the Administrative Agent is authorized and empowered (but under no obligation), in its discretion, (i) in the name of each U.S. Guarantor, to collect and enforce, and to submit claims in respect of, the Subordinated U.S. Intercompany Obligations and to apply any amounts received thereon to the Guaranteed Obligations, and (ii) to require each U.S. Guarantor to (A) collect and enforce, and to submit claims in respect of, the Subordinated Intercompany U.S. Obligations and (B) pay any amounts received on such Subordinated Intercompany U.S. Obligations to the Administrative Agent for application to the Guaranteed Obligations.

(b) Each Foreign Guarantor hereby subordinates any and all debts, liabilities and other obligations owed to such Foreign Guarantor by each other Loan Party (the "Subordinated Foreign Intercompany Obligations") to the Guaranteed Obligations to the extent and in the manner hereinafter set forth in this Section 7.07(b):

(i) Prohibited Payments, Etc. So long as no Event of Default shall have occurred and be continuing, each Foreign Guarantor may receive payments from any other Loan Party on account of the Subordinated Foreign Intercompany Obligations (provided that the making of such payments by the applicable obligor are not prohibited by the terms of this Agreement) and demand, accept or take any action to collect any payment on account of the Subordinated Foreign Intercompany Obligations.

(ii) Prior Payment of Guarantied Obligations. In any proceeding under the Bankruptcy Code or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law relating to any other Loan Party, each Foreign Guarantor agrees that the Secured Parties shall be entitled to receive Payment in Full in cash of all Guaranteed Obligations before such Guarantor receives payment of any Subordinated Foreign Intercompany Obligations.

(iii) Turn-Over. After the occurrence and during the continuation of any Event of Default, each Foreign Guarantor shall, if the Administrative Agent so requests, collect, enforce and receive payments on account of the Subordinated Foreign Intercompany Obligations as trustee for the Secured Parties and deliver such payments to the Administrative Agent (for the benefit of the applicable Secured Parties) on account of the Guaranteed Obligations, together with any necessary endorsements or other

instruments of transfer, but without reducing or affecting in any manner the liability of such Foreign Guarantor under the other provisions of this Agreement.

(iv) Administrative Agent Authorization. After the occurrence and during the continuation of any Event of Default, the Administrative Agent is authorized and empowered (but under no obligation), in its discretion, (i) in the name of each Foreign Guarantor, to collect and enforce, and to submit claims in respect of, the Subordinated Foreign Intercompany Obligations and to apply any amounts received thereon to the Guaranteed Obligations, and (ii) to require each Foreign Guarantor to (A) collect and enforce, and to submit claims in respect of, the Subordinated Intercompany Foreign Obligations and (B) pay any amounts received on such Subordinated Intercompany Foreign Obligations to the Administrative Agent for application to the Guaranteed Obligations.

Section 7.08 Continuing Guaranty

. This Guaranty is a continuing guaranty and shall remain in effect until all of the U.S. Guaranteed Obligations and Foreign Guarantee Obligations, respectively, shall have been Paid in Full. Each Guarantor hereby irrevocably waives any right to revoke this Guaranty as to future transactions giving rise to any Guaranteed Obligations.

Section 7.09 Authority of Guarantors or the Borrowers

. It is not necessary for any Secured Party to inquire into the capacity or powers of any Guarantor or any Borrower or the officers, directors or any agents acting or purporting to act on behalf of any of them.

Section 7.10 Financial Condition of the Borrowers

. Any Credit Extension may be made to any Borrower or continued from time to time, and any Hedge Agreements, Cash Management Agreements and Treasury Transactions may be entered into from time to time, in each case without notice to or authorization from any Guarantor regardless of the financial or other condition of such Borrower at the time of any such grant or continuation or at the time such Hedge Agreement is entered into, as the case may be. No Secured Party shall have any obligation to disclose or discuss with any Guarantor its assessment, or any Guarantor's assessment, of the financial condition of such Borrower. Each Guarantor has adequate means to obtain information from each Borrower on a continuing basis concerning the financial condition of each Borrower and its ability to perform its obligations under the Loan Documents, any Hedge Agreements, any Cash Management Agreem ents or any Treasury Transactions, and each Guarantor assumes the responsibility for being and keeping informed of the financial condition of each Borrower and of all circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations. Each Guarantor hereby waives and relinquishes any duty on the part of any Secured Party to disclose any matter, fact or thing relating to the business, operations or conditions of any Borrower now known or hereafter known by any Secured Party.

Section 7.11 Bankruptcy, Etc.

(a) The obligations of the Guarantors hereunder shall not be reduced, limited, impaired, discharged, deferred, suspended or terminated by any case or proceeding (or analogous proceeding under any Debtor Relief Law), voluntary or involuntary, involving the bankruptcy, insolvency, examinership, receivership, reorganization, liquidation or arrangement of any Borrower or any other Guarantor or by any defense which any Borrower or any other Guarantor may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding.

(b) Each Guarantor acknowledges and agrees that any interest on any portion of the applicable Guaranteed Obligations which accrues after the commencement of any case or proceeding referred to in clause (a) above (or, if interest on any portion of the applicable Guaranteed Obligations ceases to accrue by operation of law by reason of the commencement of such case or proceeding, such interest as would have accrued on such portion of the applicable Guaranteed Obligations if such case or proceeding had not been commenced) shall be included in the applicable Guaranteed Obligations because it is the intention of Guarantors and Secured Parties that the Guaranteed Obligations which are guaranteed by Guarantors pursuant hereto should be determined without regard to any rule of law or order which may relieve any Borrower of any portion of such Guaranteed Obligations. Guarantors shall permit any trustee in bankruptcy, r eceiver, debtor in possession, assignee for the benefit of creditors or similar Person under any Debtor Relief Law to pay the Administrative Agent, or allow the claim of the Administrative Agent in respect of, any such interest accruing after the date on which such case or proceeding is commenced.

(c) In the event that all or any portion of the Guaranteed Obligations are paid by any Borrower, the obligations of the Guarantors with respect to such amounts hereunder shall be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered directly or indirectly from any Secured Party as a preference, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute Guaranteed Obligations for all purposes hereunder.

Section 7.12 Discharge of Guaranty Upon Sale of Guarantor

. If all of the Equity Interests of any Guarantor or any of its successors in interest hereunder shall be sold or otherwise disposed of or such Guarantor ceases to be a Restricted Subsidiary, in each case in accordance with the terms hereof or as otherwise consented to by the Required Lenders (or such other Lenders as may be required to give such consent under Section 10.05), the Guaranty of such Guarantor or such successor in interest, as the case may be, hereunder shall automatically be discharged and released without any further action by any Secured Party or any other Person effective as of the time of such transaction. Upon request of the Borrower Representative, the Administrative Agent and the Collateral Agent shall take, and the Lenders hereby authorize the Administrative Agent and the Collateral Agent to take, such actions as shall be reasonably requested to evidence the termination and release of such Guaranty.

Section 7.13 German Guarantor Limitations.

(a) To the extent a Guarantor which is a German limited liability company (*Gesellschaft mit beschränkter Haftung* – GmbH) (the "Affected German Guarantor") guarantees Obligations of the Foreign Borrower under the Agreement (such guarantee an "Up-Stream or Cross-Stream Security"), the parties hereto agree that enforcement of that guaranty shall be limited to the extent that such payment under this guaranty has the effect of (i) reducing the Affected German Guarantor's Net Assets (*Reinvermögen)* to an amount less than its share capital (*Stammkapital)* (*Begründung einer Unterbilanz)* or (ii) if its Net Assets are already an amount less than its share capital (*Stammkapital)*, causing such Net Assets to be further reduced (*Vertiefung einer Unterbilanz)*, and, as a result, cause a violations of sections 30 and 31 German Limited Liability Companies Act (*GmbH-Gesetz*) (as amended from time to time).

(b) No reduction of the amount enforceable under this guarantee in accordance with this Section 7.13 will prejudice the rights of the Collateral Agent or any Lender to claim to continue enforcing this guaranty until full satisfaction of the guaranteed claims (subject always to the operation of the limitation set out above at the time of such enforcement).

(c) For the purposes of the calculation of the amount to be paid under Section 7.13(a) the following balance sheet items shall be adjusted as follows:

(i) the amount of any increase of the Affected German Guarantor's share capital (*Stammkapital)* effected in violation of the Agreement shall be deducted from the share capital (*Stammkapital)*;

(ii) loans provided to the Affected German Guarantor after the date hereof by any Group Member shall be disregarded insofar as such loans are or will in an insolvency scenario be subordinated by law or by contract at least to the rank pursuant to Section 39 (1) Nr. 5 of the German Insolvency Code (InsO);

(iii) loans and other contractual liabilities incurred by the Affected German Guarantor in violation of the provisions of the Agreement shall be disregarded;

(iv) the Net Assets shall take into account the costs of the Auditor's Determination (as defined below), either as a reduction of assets or an increase of liabilities; and

(v) for the determination of Net Assets, the assets and liabilities of the Affected German Guarantor shall be calculated on the basis of liquidation values (*Liquidationsbewertung)* unless a continuation of the Affected German Guarantor's business, taking into account, for the avoidance of doubt, any payments to be made by the Affected German Guarantor under the guaranty, is deemed more likely than not pursuant to Section 19(2)1 of the German Insolvency Code (InsO) (*positive Fortführungsprognose*) and justifies a valuation as going concern at book values (*Buchwerten*).

(d) The Affected German Guarantor shall realize, to the extent legally permitted and commercially reasonable, in a situation where it does not have sufficient Net Assets to maintain its stated share capital, any and all of its assets that are shown in its balance

sheet with a book value (*Buchwert*) that is significantly lower than the market value of the assets if the relevant asset is not necessary for its business (*betriebsnotwendig*).

(e) Notwithstanding the above, this Section 7.13 shall not apply to any amounts due and payable relating to funds made available and still outstanding under the Agreement which have been made available by a Borrower or another member of the Group to the Affected German Guarantor or its Subsidiaries in any form (including, without limitation, by way of on-lending under an intercompany-loan (*weitergeleitetes Gesellschafterdarlehen*), a capital infusion or otherwise.

(f) The limitations set out in this Section 7.13 shall not apply:

(i) if and to the extent that within 10 Business Days following the demand against an Affected German Guarantor under this guarantee (the "Guarantee Demand") the managing directors of the Affected German Guarantor have not confirmed in writing to the Collateral Agent (x) to what extent this guarantee is an Up-Stream or Cross-Stream Security and (y) the amount which can be enforced without causing the Net Assets of the Affected German Guarantor to fall below its stated share capital, such confirmation to be supported by evidence reasonably satisfactory to the Collateral Agent including unaudited interim financial statements up to the end of the last completed calendar month (taking into account the adjustments set out in Section 7.13(c)) (the "Management Determination"); or

(ii) if the Collateral Agent notifies the Affected German Guarantor that he contests the Management Determination within ten Business Days of the Collateral Agent's receipt of the Management Determination and the Affected German Guarantor does not deliver, or cause to be delivered, to the Collateral Agent within 30 Business Days from receipt of such notification a determination by auditors of international standard and reputation as appointed by the Affected German Guarantor of the amount that can be enforced without causing the Net Assets of the Affected German Guarantor to fall below its stated share capital based on a financial statement up to the end of the last completed calendar month which shall be based on the same accounting principles that were applied when establishing the previous year's financial statement and calculated and adjusted in accordance with Section 7.13(a) and (c) (the 47;Auditor's Determination").

(g) If the Collateral Agent disagrees with the Management Determination and/or the Auditor's Determination, this guarantee shall be enforceable up to the amount which is undisputed. In relation to the amount which is disputed, the Collateral Agent shall be entitled to further pursue its claims and enforce this guarantee always subject to Section 7.13(a) up to and including Section 7.13(e) above if it determines in good faith that the financial condition of the Affected German Guarantor as set forth in the Auditor's Determination and/or the Management Determination has substantially improved (in particular, if the Affected German Guarantor has performed any actions in accordance with Section 7.13(d) which have not been taken into account in the Management Determination and/or the Auditor's Determination) and that all or part of the amount which is disputed is no longer necessary for maintaining the stated share capital o f the Affected German Guarantor (calculated as of the date the Guarantee Demand was made), and notifies the Affected German Guarantor of such amount setting out in reasonable

detail the reasons why this amount is no longer necessary for maintaining the stated share capital of the Affected German Guarantor, for the avoidance of doubt it being understood that the Affected German Guarantor shall not be obliged to pay such amount on demand. From receipt of such notification by the Affected German Guarantor, Section 7.13(f) and Section 7.13(g) shall apply accordingly to the enforcement of the relevant amount. Furthermore, in relation to the amount which is disputed, the Collateral Agent or any Lender shall be entitled to further pursue (including, but not limited in court) their payment claims under the guarantee granted by the Affected German Guarantor (if any) in excess of the amounts paid or payable pursuant to Section 7.13(g) above, for the avoidance of doubt it being understood that the Affected German Guarantor shall not be obliged to pay such amount on demand.

(h) For purposes of this Section 7.13, "Net Assets" shall mean the assets pursuant to section 266 (2) (A), (B) and (C) of German Commercial Code (*Handelsgesetzbuch)* less the sum of the non-subordinated liabilities pursuant to section 266 (3) (B), (C) and (D) of German Commercial Code (*Handelsgesetzbuch)*, taking into account the items set out in Section 7.13(c).

(i) The provisions set out in this Section 7.13 shall apply *mutatis mutandis* to any security granted by an Affected German Guarantor being a German limited partnership (Kommanditgesellschaft, "GmbH & Co. KG") if the enforcement would lead to a violation of Sections 30, 31 German Limited Liability Companies Act (*GmbH-Gesetz*) with regard to its general partner (*Komplementär*).

Section 7.14 Dutch Guarantor Limitations

. In respect of a Dutch Loan Party, the guarantee under this Article VII (including the contribution requirements under Section 7.02) does not apply to (or, in the case of Section 7.02, will not create) any liability to the extent that it would result in this guarantee constituting unlawful financial assistance prohibited by section 2:98c or 2:207c of the Dutch Civil Code.

Section 7.15 Subordination of the Guaranteed Obligations

. Notwithstanding anything herein to the contrary, the Collateral Agent, for itself and on behalf of each Secured Party, and each Guarantor hereby agrees that the Guaranteed Obligations of CKI and the CKI Affiliates shall be subordinated in right of payment to the CKI and Debenture Obligations to the extent set forth in Section 2.3 of the CKI Intercreditor Agreement.

ARTICLE VIII.
EVENTS OF DEFAULT

Section 8.01 Events of Default

. If any one or more of the following conditions or events occur:

(a) Failure to Make Payments When Due. Failure by any Borrower to pay (i) when due any installment of principal of any Loan, whether at stated maturity, by acceleration,

by notice of voluntary prepayment, by mandatory prepayment or otherwise unless the failure to make such a payment is caused solely by administrative or technical error and payment is made within 3 Business Days of the due date therefor; (ii) within five (5) Business Days after the date when due any amount payable to the Issuing Bank in reimbursement of any drawing under a Letter of Credit; or (iii) any interest on any Loan or any fee or any other amount due hereunder within five (5) Business Days after the date due; or

(b) Default Under Other Agreements. (i) Failure of any Loan Party or any of their respective Subsidiaries (other than a Securitization Subsidiary or an Unrestricted Subsidiary) to pay when due any principal of or interest on or any other amount (other than customary reimbursement of fees and expenses), including any payment in settlement, payable in respect of one or more items of Material Indebtedness (other than Indebtedness referred to in Section 8.01(a), or the CKI Obligations, which are the subject of Section 8.01(o)) beyond the grace period, if any, provided therefor; or (ii) breach or default by any Loan Party with respect to any other material term of (1) one or more items of Material Indebtedness or (2) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Material Indebtedness, in each case beyond the grace period, if any, provided therefor, if the effect of s uch breach or default is to cause, or to permit the holder or holders of that Indebtedness (or a trustee on behalf of such holder or holders), to cause, that Indebtedness to become or be declared due and payable (or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; or

(c) Breach of Certain Covenants. (i) Failure of any Loan Party to perform or comply with any term or condition contained in Section 2.06, Section 5.01(e), Section 5.02 (solely as to the existence of any Borrower) or Article VI, or (ii) failure of any Loan Party to perform or comply with any term or condition in Sections 5.01(a), 5.01(b) or 5.01(c), and in the case of this clause (ii), such default shall not have been remedied or waived within fifteen (15) days; or

(d) Breach of Representations, Etc. Any representation, warranty, certification or other statement made or deemed made by any Loan Party in any Loan Document or in any statement or certificate at any time given by any Loan Party or any of its Subsidiaries in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect as of the date made or deemed made; or

(e) Other Defaults Under Loan Documents. Any Loan Party shall default in the performance of or compliance with any term contained herein or any of the other Loan Documents, other than any such term referred to in any other subsection of this Section 8.01, and such default shall not have been remedied or waived within thirty (30) days after receipt by the Borrower Representative of notice from the Administrative Agent or any Lender of such default; or

(f) Involuntary Bankruptcy, Appointment of Receiver, Creditor's Process, Etc. (i) A court of competent jurisdiction shall enter a decree or order for relief in respect of any Material Company, other than any Material Company organized under the laws of Germany, in an involuntary case (or analogous proceeding under any Debtor Relief Law) under the Bankruptcy Code or under any other Debtor Relief Law now or hereafter in effect, which decree

or order is not stayed; or any other similar relief shall be granted under any applicable federal or state law; (ii) (x) an involuntary case (or analogous proceeding under any Debtor Relief Law) shall be commenced against any Material Company (other than any Material Company organized under the laws of Germany) under the Bankruptcy Code or under any other applicable Debtor Relief Law now or hereafter in effect; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, examiner, liquidator, conservator, custodian or other officer having similar powers over any Material Company (other than any Material Company organized under the laws of Germany), or over all or a substantial part of its property, shall have been entered; or (y) there shall have occurred the involuntary appointment of an interim receiver, trustee, examiner, liquidator, conservator or o ther custodian of any Material Company (other than any Material Company organized under the laws of Germany) for all or a substantial part of its property; or a warrant of or order for attachment, execution or similar process shall have been issued against any substantial part of the property of any Material Company (other than any Material Company organized under the laws of Germany), and any such event described in this clause (ii) shall continue for sixty (60) days without having been dismissed or discharged; or (iii) any expropriation, attachment, sequestration, distress or execution (including by way of executory attachment (*executioriaal beslag*) or interlocutory attachment (*conservatoir beslag*) or any analogous process in any jurisdiction affects any asset or assets of a Material Company (other than any Material Company organized under the laws of Germany) exceeding an aggregate value of €37,792,895 (or its equivalent) unless such process is either being contested in good faith and/or proven to be frivolous or vexatious and is discharged within twenty (20) Business Days after commencement; or

(g) Voluntary Bankruptcy; Appointment of Receiver, Etc. (i) Any Material Company shall have an order for relief entered with respect to it or shall commence a voluntary case (or analogous proceeding under any Debtor Relief Law) under the Bankruptcy Code or under any other Debtor Relief Law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case (or analogous proceeding under any Debtor Relief Law), or to the conversion of an involuntary case to a voluntary case (or analogous proceeding under any Debtor Relief Law), under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee, examiner, liquidator, conservator or other custodian for all or a substantial part of its property; or any Material Company shall make a general assignment for the benefit of creditors; (ii) any Material Company shall be unable, or shall fail gene rally, or shall admit in writing its inability, to pay its debts as such debts become due; or the Board of Directors (or similar governing body) or shareholders of any Loan Party or any of its Subsidiaries, or any committee thereof shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to herein or in Section 8.01(f); or (iii) a Dutch Loan Party shall have filed a notice under Section 36 of the Dutch Tax Collection Act (*Invorderingswet 1990*); or

(h) German Proceedings. Without limitation of clauses (f) and (g) of this Article VIII, with respect to any Material Company organized under the laws of Germany: (i) an involuntary petition for insolvency proceedings in respect of its assets (*Antrag auf Eröffnung eines Insolvenzverfahrens*) is filed and not dismissed within 60 days; (ii) any event occurs which constitutes a cause for the initiation of insolvency proceedings (*Eröffnungsgrund*) as set forth in Section 17 (*Zahlungsunfähigkeit*) or 19 (*Überschuldung*) of the German Insolvency Act (*Insolvenzordnung*); (iii) the commencing of negotiations with one or more of its creditors with a

view to the general readjustment or rescheduling of its Indebtedness (other than customary adjustments of payment terms with suppliers); (iv) an insolvency court taking steps as set out in Section 21 of the German Insolvency Act (*Insolvenzordnung*); or (v) a court order for commencement of insolvency proceedings (*Insolvenzeröffnungsbeschluss*) or for rejection of insolvency proceedings due to lack of funds (*Abweisungsbeschluss mangels Masse*) is made; or

(i) Judgments and Attachments. Any money judgment, writ or warrant of attachment or similar process involving (i) in any individual case an amount in excess of $50,000,000 or (ii) in the aggregate at any time an amount in excess of $50,000,000 (in either case to the extent not covered by insurance by a solvent and unaffiliated insurance company) shall be entered or filed against any Loan Party or any of its Restricted Subsidiaries or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed for a period of sixty (60) days thereafter (or in any event later than five (5) days prior to the date of any proposed sale thereunder); or

(j) Employee Benefit Plans. (i) There shall occur one or more ERISA Events which individually or in the aggregate results in or would reasonably be expected to result in a Material Adverse Effect; or (ii) there exists any fact or circumstance that reasonably could be expected to result in the imposition of a Lien or security interest pursuant to Section 430(k) of the Internal Revenue Code or Section 303(k) of ERISA or a violation of Section 436 of the Internal Revenue Code; or

(k) Change of Control. A Change of Control occurs; or

(l) Guaranties, Security Documents and other Loan Documents. At any time after the execution and delivery thereof, (i) the Guaranty for any reason, other than the satisfaction in full of all Obligations, shall cease to be in full force and effect with respect to a Material Company (other than in accordance with its terms) or, with respect to a Material Company, shall become null and void or any Guarantor shall repudiate its obligations thereunder, (ii) this Agreement or any Security Document ceases to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the satisfaction in full of the Obligations in accordance with the terms hereof) or shall become null and void, or the Collateral Agent shall not have or shall cease to have a valid and perfected Lien in any Collateral purported to be covered by the Security Documents with the priority required by the relevant Security Document, in each case for any reason other than the failure of the Collateral Agent or any Secured Party to take any action within its control; provided that this clause (ii) shall not apply to any Security Document the invalidity of which would not reasonably be considered prejudicial to the interests of the Secured Parties taken as a whole, or (iii) any Loan Party shall contest the validity or enforceability of any Loan Document in writing or deny in writing that it has any further liability, including with respect to future advances by Lenders, under any Loan Document to which it is a party or shall contest the validity or perfection of any Lien in any Collateral purported to be covered by the Security Documents; or

(m) German Loan Parties' Breach of Relevant Restrictive Covenants. A German Loan Party or German Group Member does not comply with a Relevant Restrictive Covenant after the Collateral Agent has confirmed in accordance with Section 6.16 that it

considers the relevant action or step to have a Material Adverse Effect or material adverse consequences for the Lenders' risk or security position; or

(n) Expropriation. There occurs any seizure, expropriation, nationalization, intervention or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to any Group Member or any of its assets that would reasonably be expected to have a Material Adverse Effect; or

(o) CKI Related Matters. (i) An event described in subsections (f) or (g) shall occur with respect to the CKI Trust, (ii) the CKI Trust or the CKI Trust Agreement or other operative documents with respect to the CKI Trust shall be modified, amended or altered in any manner which would have a material adverse effect on the CKI Trust or otherwise be materially disadvantageous to the interests of the Lenders, taken as a whole, (iii) the CKI Intercreditor Agreement shall cease to be in full force and effect (other than in accordance with its terms or with the consent of the Required Lenders), (iv) the Design Services Purchase Payment (as defined in the CKI Stock Purchase Agreement) shall not be paid when due (beyond any applicable grace period) or the CKI Liquidated Damages Amount under the CKI Stock Purchase Agreement shall become due and payable (provided that, if such CKI Liquidated Damages Amount has become due a nd payable solely arising from an Event of Default under the CKI Security Agreement with respect to which no cure period applies, such acceleration of the CKI Liquidated Damages Amount shall not be an Event of Default hereunder unless such amount remains unpaid for thirty (30) days); or (v) a CKI Blockage Event shall have occurred and pro forma for such occurrence, the U.S. Borrower would not be in compliance with the financial covenants set forth in Section 6.07 after excluding CKI and the CKI Affiliates from Consolidated Adjusted EBTIDA (provided that such Event of Default may be cured upon delivery by the Borrower Representative of a Compliance Certificate in accordance with Section 5.01(c)(vi) demonstrating compliance with the financial covenants set forth in Section 6.07 after excluding CKI and the CKI Affiliates from Consolidated Adjusted EBITDA);

THEN, (1) upon the occurrence of any Event of Default described in Sections 8.01(f), (g) or (h), automatically, and (2) upon the occurrence and during the continuance of any other Event of Default, at the request of (or with the consent of) Required Lenders, (A) the Revolving Commitments, if any, of each Lender having such Revolving Commitments, the obligation of each Issuing Bank to issue any Letter of Credit, the obligation of the Swing Line Lender to make any Swing Line Loan and the obligation to make loans under any Ancillary Facility shall immediately terminate; (B) each of the following shall immediately become due and payable, in each case without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by each Loan Party: (I) the unpaid principal amount of and accrued interest on the Loans, (II) an amount equal to the maximum amount that may at any time be dra wn under all Letters of Credit then outstanding (regardless of whether any beneficiary under any such Letter of Credit shall have presented, or shall be entitled at such time to present, the drafts or other documents or certificates required to draw under such Letters of Credit), (III) all amounts due under any Ancillary Facility and (IV) all other Obligations; provided, that the foregoing shall not affect in any way the obligations of Lenders under Section 2.03(b)(v) or Section 2.04(e); (C) the Administrative Agent may cause the Collateral Agent to enforce any and all Liens and security interests created pursuant to Security Documents; (D) the Administrative Agent shall direct the Borrower Representative to pay (and each Borrower hereby agrees upon

receipt of such notice, or upon the occurrence of any Event of Default specified in Sections 8.01(f), (g) and (h) to pay) to the Administrative Agent such additional amounts of cash as reasonably requested by the Issuing Bank, to be held as security for each Borrower's reimbursement Obligations in respect of Letters of Credit then outstanding; and (E) the Administrative Agent and the Collateral Agent may exercise on behalf of themselves, the Lenders, the Issuing Bank and the other Secured Parties all rights and remedies available to the Administrative Agent, the Collateral Agent, the Lenders and the Issuing Bank under the Loan Documents or under applicable law or in equity.

ARTICLE IX.
AGENTS

Section 9.01 Appointment of Agents

. DBSI is hereby appointed the Syndication Agent hereunder, and each Lender hereby authorizes DBSI to act as the Syndication Agent in accordance with the terms hereof and the other Loan Documents. Barclays Bank is hereby appointed the Administrative Agent and the Collateral Agent hereunder and under the other Loan Documents and each Lender hereby authorizes Barclays Bank to act as the Administrative Agent and the Collateral Agent in accordance with the terms hereof and the other Loan Documents. Each of BAS, CS Securities and RBC is hereby appointed a Co-Documentation Agent hereunder, and each Lender hereby authorizes each of BAS, CS Securities and RBC to act as a Co-Documentation Agent in accordance with the terms hereof and the other Loan Documents. Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the ot her Loan Documents, as applicable. The provisions of this Article IX (other than as expressly provided herein) are solely for the benefit of the Agents and the Lenders and no Loan Party shall have any rights as a third party beneficiary of any of the provisions of this Article IX (other than as expressly provided herein). In performing its functions and duties hereunder, each Agent shall act solely as an agent of the Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for any Group Member. Each of the Syndication Agent and each Co-Documentation Agent, without consent of or notice to any party hereto, may assign any and all of its rights or obligations hereunder to any of its Affiliates. Each of the Syndication Agent and each Co-Documentation Agent shall be released from the restrictions of Section 181 German Civil Code (*BGB - Bürgerliches Gesetzbuch*), and similar restrictions under any o ther applicable law, and shall be authorized to delegate this power of attorney, including the release from such restrictions. Notwithstanding any other provision of this Agreement or any provision of any other Loan Document, each of the Arrangers, the Bookrunners, the Syndication Agent and the Co-Documentation Agents are named as such for recognition purposes only, and in their respective capacities as such shall have no duties, responsibilities or liabilities with respect to this Agreement or any other Loan Document; it being understood and agreed that each of the Arrangers, the Bookrunners, the Syndication Agent and the Co-Documentation Agent shall be entitled to all indemnification and reimbursement rights in favor of the Agents provided herein and in the other Loan Documents and all of the other benefits of this Article IX.

Section 9.02 Powers and Duties

. Each Lender irrevocably authorizes each Agent to take such action on such Lender's behalf and to exercise such powers, rights and remedies hereunder and under the other Loan Documents as are specifically delegated or granted to such Agent by the terms hereof and thereof, together with such powers, rights and remedies as are reasonably incidental thereto. In the event that any obligations (other than the Obligations) are permitted to be incurred hereunder and secured by Liens permitted to be incurred hereunder on all or a portion of the Collateral, each Lender authorizes the Administrative Agent and the Collateral Agent to enter into Intercreditor Agreements, subordination agreements and amendments to the Security Documents to reflect such arrangements on terms acceptable to the Administrative Agent and Collateral Agent. Each Agent shall have only those duties and responsibilities that are ex pressly specified herein and the other Loan Documents. Each Agent may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. No Agent shall have, by reason hereof or any of the other Loan Documents, a fiduciary relationship or other implied duties in respect of any Lender, any Loan Party or any other Person; and nothing herein or any of the other Loan Documents, expressed or implied, is intended to or shall be so construed as to impose upon any Agent any obligations in respect hereof or any of the other Loan Documents except as expressly set forth herein or therein. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Agreement and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under the agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custo m, and is intended to create or reflect only an administrative relationship between independent contracting parties.

Section 9.03 General Immunity

.

(a) No Responsibility for Certain Matters. No Agent shall be responsible to any Lender for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency hereof or any other Loan Document, or for the creation, perfection or priority of any Lien, or for any representations, warranties, recitals or statements made herein or therein or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by any Agent to the Lenders or by or on behalf of any Loan Party or to any Agent or Lender in connection with the Loan Documents and the transactions contemplated thereby or for the financial condition or business affairs of any Loan Party or any other Person liable for the payment of any Obligations, nor shall any Agent be required to ascertain or inquire as to the performance or observa nce of any of the terms, conditions, provisions, covenants or agreements contained in any of the Loan Documents or as to the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Default or as to the value or sufficiency of any Collateral or as to the satisfaction of any condition set forth in Article III or elsewhere herein (other than confirm receipt of items expressly required to be delivered to such Agent) or to inspect the properties, books or records of any Group Member or to make any disclosures with respect to the foregoing. Anything contained herein to the contrary notwithstanding, the Administrative Agent shall not have any liability arising from confirmations of the amount of outstanding Loans or the Letter of Credit Usage or the component amounts thereof.

(b) Exculpatory Provisions. No Agent nor any of its officers, partners, directors, employees or agents shall be liable to the Lenders (i) for any action taken or omitted by any Agent (A) under or in connection with any of the Loan Documents or (B) with the consent or at the request of the Required Lenders (or, if so specified by this Agreement, all Lenders or any other instructing group of Lenders specified by this Agreement) except to the extent caused by such Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction or (ii) for any failure of any Loan Party to perform its obligations under this Agreement or any other Loan Document. No Agent shall, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose or be liable for the failure to disclose, any information relating to any Borr ower or any of its Affiliates that is communicated to or obtained by such Agent or any of its Affiliates in any capacity. Each Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection herewith or any of the other Loan Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until such Agent shall have received instructions in respect thereof from Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.05) and, upon receipt of such instructions from Required Lenders (or such other Lenders, as the case may be), such Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions and shall not 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 contrar y to any Loan Document or applicable law. Without prejudice to the generality of the foregoing, (i) each Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication, instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons, and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for a Group Member), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have any right of action whatsoever against any Agent as a result of such Agent acting or (where so instructed) refraining from acting hereunder or any of the other Loan Documents in accordance with the instructions of Required Lenders (or such other Lenders as may be required to give such instructions under Section 10.05).

(c) Delegation of Duties. Each of the Administrative Agent and the Collateral Agent may perform any and all of its duties and exercise its rights and powers under this Agreement or under any other Loan Document by or through any one or more sub-agents appointed by it and to grant an exemption from any restrictions to any sub-delegate. Each of the Administrative Agent, the Collateral 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 Affiliates. The exculpatory, indemnification and other provisions of this Section 9.03 and of Section 9.06 shall apply to any of the Affiliates of the Administrative Agent or the Collateral Agent and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent or Collateral Agent, as appl icable. All of the rights, benefits, and privileges (including the exculpatory and indemnification provisions) of this Section 9.03 and of Section 9.06 shall apply to any such sub-agent and to the Affiliates of any such sub-agent, and shall apply to their respective activities as sub-agent as if such sub-agent and Affiliates were named herein. Notwithstanding anything herein to the contrary, with respect to each sub-agent appointed by the Administrative Agent or the Collateral Agent, (i) such sub-agent shall be a third party beneficiary under this Agreement with respect to

all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub-agent, and (iii) such sub-agent shall only have obligations to the Administrative Agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub-agent; provided, that the Administr ative Agent and Collateral Agent shall be responsible for all acts of each of their respective sub-agents, and each Loan Party, Secured Party and other Person shall have the same rights against the Administrative Agent or Collateral Agent, as applicable, as if the Administrative Agent or Collateral Agent, as applicable, had performed the duties and exercised the rights and powers under this Agreement or any other Loan Document that its sub-agent performed or exercised.

(d) Notice of Default or Event of Default. No Agent shall be deemed to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default is given to such Agent by a Loan Party or a Lender. In the event that the Administrative Agent shall receive such a notice, the Administrative Agent shall give notice thereof to the Lenders, provided that failure to give such notice shall not result in any liability on the part of the Administrative Agent.

Section 9.04 Agents Entitled to Act as Lender

. The agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, any Agent in its individual capacity as a Lender hereunder. With respect to its participation in the Loans and the Letters of Credit, each Agent shall have the same rights and powers hereunder in its capacity as a Lender as any other Lender and may exercise the same as if it were not performing the duties and functions delegated to it hereunder, and the term “Lender” shall, unless the context clearly otherwise indicates, include each Agent in its individual capacity. Any Agent and its Affiliates may accept deposits from, lend money to, own securities of, and generally engage in any kind of banking, trust, financial advisory or other business with the U.S. Borrower or any of its Affiliates as if it were not performing the duties specified herei n, and may accept fees and other consideration from the U.S. Borrower for services in connection herewith and otherwise without having to account for the same to Lenders. The Lenders acknowledge that pursuant to such activities, the Agents or their Affiliates may receive information regarding any Loan Party or any Affiliate of any Loan Party (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Agents and their Affiliates shall be under no obligation to provide such information to them.

Section 9.05 Lenders’ Representations, Warranties and Acknowledgment

.

(a) Each Lender represents and warrants that it has made its own independent investigation of the financial condition and affairs of the Group in connection with Credit Extensions hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of the Group. No Agent shall have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of Lenders or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders.

(b) Each Lender, by delivering its signature page to this Agreement, an Assignment Agreement or a Joinder Agreement and funding its Tranche A Term Loan, Tranche B Term Loan and/or Revolving Loans on the Closing Date or by the funding of any Incremental Term Loans or Incremental Revolving Loans, as the case may be, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, Required Lenders or Lenders, as applicable on the Closing Date or as of the date of funding of such Loans.

Section 9.06 Right to Indemnity

. Each Lender, in proportion to its Pro Rata Share, severally agrees to indemnify each Agent to the extent that such Agent shall not have been reimbursed by any Loan Party (and without limiting its obligation to do so), for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against such Agent in exercising its powers, rights and remedies or performing its duties hereunder or under the other Loan Documents or otherwise in its capacity as Agent in any way relating to or arising out of this Agreement or the other Loan Documents; provided, that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expense s or disbursements resulting from such Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction. If any indemnity furnished to any Agent for any purpose shall, in the opinion of such Agent, be insufficient or become impaired, such Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; provided, that in no event shall this sentence require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement in excess of such Lender's Pro Rata Share thereof; and provided, further, that this sentence shall not be deemed to require any Lender to indemnify any Agent against any liability, obligation, loss, damage, penalty, action, judgment, suit, cost, expense or disbursement described in the proviso in the immediately preceding sen tence.

Section 9.07 Successor Administrative Agent, Collateral Agent and Swing Line Lender

.

(a) The Administrative Agent shall have the right to resign at any time by giving prior written notice thereof to the Lenders and the Borrower Representative. The Administrative Agent shall have the right to appoint a financial institution to act as the Administrative Agent and/or the Collateral Agent hereunder, subject to the reasonable satisfaction of the Borrower Representative and the Required Lenders, and the Administrative Agent's resignation shall become effective on the earlier of (i) the acceptance of such successor Administrative Agent by the Borrower Representative and the Required Lenders or (ii) the thirtieth day after such notice of resignation. Upon any such notice of resignation, if a successor Administrative Agent has not already been appointed by the retiring Administrative Agent, Required Lenders shall have the right, upon five (5) Business Days' notice to the Borrower Representa tive, to appoint a successor Administrative Agent. If neither Required Lenders nor the Administrative Agent have appointed a successor Administrative Agent, then the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided, that until a successor Administrative Agent is so appointed by Required Lenders or the Administrative Agent, the Administrative Agent, by notice to the Borrower Representative and Required Lenders, may retain its role as the Collateral Agent under any Security Document. Except as provided in the preceding sentence, any resignation of Barclays Bank or its successor as the Administrative Agent pursuant to this Section shall also constitute the resignation of Barclays Bank or its successor as the Collateral Agent. After any retiring Administrative Agent's resignation hereunder as the Administrative Agent, the provisions of this Section 9 .07 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent hereunder. Upon the acceptance of any appointment as the Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent and the retiring Administrative Agent shall promptly (i) transfer to such successor Administrative Agent all sums, Securities and other items of Collateral held under the Security Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Administrative Agent under the Loan Documents, and (ii) execute and deliver to such successor Administrative Agent such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor A dministrative Agent of the security interests created under the Security Documents, whereupon such retiring Administrative Agent shall be discharged from its duties and obligations hereunder. If the Administrative Agent is retaining its role as Collateral Agent, the actions enumerated in the preceding sentence will be modified to account for such retained role. Any successor Administrative Agent appointed pursuant to this Section shall, upon its acceptance of such appointment, become the successor Collateral Agent for all purposes hereunder. If Barclays Bank or its successor as the Administrative Agent pursuant to this Section has resigned as the Administrative Agent but retained its role as the Collateral Agent and no successor Collateral Agent has become the Collateral Agent pursuant to the immediately preceding sentence, Barclays Bank or its successor may resign as the Collateral Agent upon notice to the Borrower Representative and Required Lenders at any time.

(b) In addition to the foregoing, the Collateral Agent may resign at any time by giving thirty (30) days' prior written notice thereof to Lenders and the Loan Parties. The Administrative Agent shall have the right to appoint a financial institution as the Collateral

Agent hereunder, subject to the reasonable satisfaction of the Borrower Representative and the Required Lenders and the Collateral Agent's resignation shall become effective on the earlier of (i) the acceptance of such successor Collateral Agent by the Borrower Representative and the Required Lenders or (ii) the thirtieth day after such notice of resignation. Upon any such notice of resignation, Required Lenders shall have the right, upon five (5) Business Days' notice to the Administrative Agent, to appoint a successor Collateral Agent. Upon the acceptance of any appointment as the Collateral Agent hereunder by a successor Collateral Agent, the successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Collateral Agent under this Agreement and the Security Documents, and the retiring Collateral Agent under this Agreement shall promp tly (i) transfer to such successor Collateral Agent all sums, Securities and other items of Collateral held hereunder or under the Security Documents, together with all records and other documents necessary or appropriate in connection with the performance of the duties of the successor Collateral Agent under this Agreement and the Security Documents, and (ii) execute and deliver to such successor Collateral Agent or otherwise authorize the filing of such amendments to financing statements, and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Collateral Agent of the security interests created under the Security Documents, whereupon such retiring Collateral Agent shall be discharged from its duties and obligations under this Agreement and the Security Documents. After any retiring Collateral Agent's resignation hereunder as the Collateral Agent, the provisions of this Agreement and the Security Documents shall inure to its ben efit as to any actions taken or omitted to be taken by it under this Agreement or the Security Documents while it was the Collateral Agent hereunder.

(c) Any resignation of Barclays Bank or its successor as the Administrative Agent pursuant to this Section shall also constitute the resignation of Barclays Bank or its successor as the Swing Line Lender and Issuing Bank, and any successor Administrative Agent appointed pursuant to this Section shall, upon its acceptance of such appointment, become the successor the Swing Line Lender and an Issuing Bank (in accordance with Section 2.04(h)) for all purposes hereunder. In such event (i) the U.S. Borrower shall prepay any outstanding Swing Line Loans made by the retiring Administrative Agent in its capacity as Swing Line Lender, (ii) upon such prepayment, the retiring Administrative Agent and Swing Line Lender shall surrender any Swing Line Note held by it to the U.S. Borrower for cancellation and (iii) the U.S. Borrower shall issue, if so requested by the successor Administrative Agent a nd the Swing Line Lender, a new Swing Line Note to the successor Administrative Agent and the successor Swing Line Lender, in the principal amount of the Swing Line Sublimit then in effect and with other appropriate insertions.

Section 9.08 Security Documents and Guaranty

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(a) Agents under Security Documents and Guaranty. Each Secured Party hereby further authorizes the Administrative Agent or the Collateral Agent, as applicable, on behalf of and for the benefit of Secured Parties, to be the agent for and representative of Secured Parties with respect to the Guaranty, the Collateral and the Security Documents which are not German Security Documents; provided, that, except as expressly set forth herein, neither the Administrative Agent nor the Collateral Agent shall owe any fiduciary duty, duty of loyalty, duty

of care, duty of disclosure or any other obligation whatsoever to any holder of Obligations. Subject to Section 10.05, without further written consent or authorization from any Secured Party, the Administrative Agent or the Collateral Agent, as applicable may execute any documents or instruments necessary (i) in connection with a sale or disposition of assets permitted by this Agreement, to release any Lien encumbering any item of Collateral that is the subject of such sale or other disposition of assets or to which Required Lenders (or such other Lenders as may be required to give such consent under Section 10.05) have otherwise consented or (ii) to release any Guarantor from the Guaranty pursuant to Section 7.12 or with respect to which Required Lenders (or such other Lenders as may be required to give such consent under Section 10.05) have otherwise consented.

(b) Right to Realize on Collateral and Enforce Guaranty. Anything contained in any of the Loan Documents to the contrary notwithstanding, the Borrowers, the Administrative Agent, the Collateral Agent and each Secured Party hereby agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights and remedies under the Security Documents may be exercised solely by the Collateral Agent and (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Agent or any Lender may be the purchaser or licensor of any or all of such Collater al at any such sale or other disposition and the Collateral Agent, as agent for and representative of Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition.

(c) Rights under Hedge Agreements. No Hedge Agreement shall create (or be deemed to create) in favor of any Lender Counterparty that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Guarantor under the Loan Documents except as expressly provided in Sections 2.15(e) and 10.05(c)(v) of this Agreement. By accepting the benefits of the Collateral, such Lender Counterparty shall be deemed to have appointed the Collateral Agent as its agent and agreed to be bound by the Loan Documents as a Secured Party, subject to the limitations set forth in this clause (c).

(d) Release of Collateral and Guarantees, Termination of Loan Documents.

(i) Notwithstanding anything to the contrary contained herein or any other Loan Document, when all Obligations have been Paid in Full, this Agreement and all other Loan Documents, all guarantee obligations provided for in any Loan Document and all security interests granted pursuant to any Loan Document shall automatically terminate, and upon request of the Borrower Representative, the Administrative Agent and the Collateral Agent shall (without notice to, or vote or consent of, any Lender or any Lender Counterparty) take such actions as shall be reasonably requested to evidence the

release of its security interest in all Collateral, and to evidence the release of all guarantee obligations provided for in any Loan Document. Any such release of guarantee obligations shall be deemed subject to the provision that such guarantee obligations shall be reinstated if after such release any portion of any payment in respect of the Obligations guaranteed thereby shall be rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation, examinership, receivership or reorganization of any Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor, liquidator, examiner or conservator of, or trustee or similar officer for, any Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made.

(ii) Upon any disposition of property permitted by this Agreement, any security interest in such property provided for in any Security Document shall be deemed to be automatically released and such property shall automatically revert to the applicable Loan Party with no further action on the part of any Person. The Collateral Agent shall, at the applicable Loan Party's expense, execute and deliver or otherwise authorize the filing of such documents as such Loan Party shall reasonably request, in form and substance reasonably satisfactory to the Collateral Agent, including financing statement amendments to evidence such release.

Section 9.09 Withholding Taxes

. To the extent required by any applicable law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If any payment has been made to any Lender by the Administrative Agent without the applicable withholding Tax being withheld from such payment and the Administrative Agent has paid over the applicable withholding Tax to the Internal Revenue Service or any other Governmental Authority, or the Internal Revenue Service or any other Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding Tax ineffective or for any other reason, such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred, provided that nothing in this Section 9.09 shall impose any obligation on any Loan Party.

Section 9.10 Administrative Agent May File Proofs of Claim

. In case of the pendency of any proceeding under the Bankruptcy Code or other applicable law or any other judicial proceeding relative to any Borrower, the Administrative Agent (irrespective of whether the principal of any Loan 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 any 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 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 and the other Secured Parties (including fees, disbursements and other expenses of counsel) 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. Any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and other Secured Party to make such payments to the Administrative Agent. Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or other Secured Party any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or other Secured Par ty to authorize the Administrative Agent to vote in respect of the claim of such Person or in any such proceeding.

Section 9.11 Administrative Agent's "Know Your Customer" Requirements

. Each Lender shall promptly, upon the request of the Administrative Agent, provide such documentation and other evidence as is reasonably requested by the Administrative Agent (for itself) in order for the Administrative Agent to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Loan Documents.

Section 9.12 German Collateral Agent

. Notwithstanding the generality of this Article IX:

(a) Each of the Secured Parties confirms the appointment of the Collateral Agent as agent, administrator and trustee (*Treuhänder*) for the purpose of accepting, holding on trust (*Treuhand*), administering and enforcing remedies with respect to the German Security that is subject of any German Security Document for and on behalf of the Secured Parties pursuant to the provisions of this Agreement.

(b) The Collateral Agent accepts such appointments and, in particular, accepts its appointment as a trustee (*Treuhänder*), agent and administrator of the German Security on the terms and subject to the conditions set forth in this Agreement.

(c) The Collateral Agent, as applicable, shall:

(i) hold, administer and, as the case may be, enforce any German Security which is security assigned or otherwise transferred (*Sicherungsübereignung/ Sicherungsabtretung*) under the laws of Germany under a non-accessory security right (*nicht akzessorische Sicherheit*) to it as a trustee (*Treuhänder*) in its own name but for the benefit of the Secured Parties; and

(ii) as applicable, administer and, as the case may be, enforce, any German Security which is pledged under the laws of Germany (*Verpfändung*) or otherwise transferred in accordance with the laws of Germany to (i) it in its own name but for the benefit of the Secured Parties as well as (ii) any of the Secured Parties under

an accessory security right (*akzessorische Sicherheit*) in the name and for and on behalf of the Secured Parties.

(d) Each Secured Party hereby authorizes the Collateral Agent to accept, as its representative (*Stellvertreter*), any German Security created in favor of such Secured Party.

(e) Each Secured Party hereby authorizes (*bevollmächtigt*) the Collateral Agent (with the right of sub-delegation) to enter into any Security Document evidencing German Security and to make and accept all declarations and take all actions as it considers necessary or useful in connection with such German Security on behalf of such Secured Party. The Collateral Agent shall further be entitled to rescind, amend and/or execute new and different documents securing such German Security.

(f) For the purposes of performing its rights and obligations as Collateral Agent hereunder, each Secured Party hereby authorizes the Collateral Agent to act as its agent (*Stellvertreter*), and releases the Collateral Agent from the restrictions imposed by Section 181 German Civil Code (*BGB*), and similar restrictions under any other applicable law. The Collateral Agent is hereby authorized to delegate this power of attorney, including the release from such restrictions. At the request of the Collateral Agent, each Secured Party shall provide the Collateral Agent with a separate written power of attorney (*Spezialvollmacht*) for the purposes of executing any relevant agreements and documents on their behalf.

(g) Each Secured Party hereby ratifies and approves all acts previously done by the Collateral Agent on such Secured Party's behalf.

Section 9.13 Certain Canadian Matters

. For greater certainty, and without limiting the powers of the Administrative Agent, the Collateral Agent or any other person acting as an agent or mandatary for such agent hereunder or under any of the other Loan Documents, each of the Loan Parties, including each of the Canadian Loan Parties, hereby acknowledges that, for purposes of holding any security granted by any Loan Party on property pursuant to the laws of the Province of Quebec to secure obligations of any Borrower or any other Loan Party under any bond or debenture issued by any Borrower or any other Loan Party, the Collateral Agent is and shall be the holder of an irrevocable power of attorney (*fondé de pouvoir* within the meaning of Article 2692 of the Civil Code of Quebec) for all present and future Secured Parties, and in particular for all present and future holders of any such bond or debenture. ; Each Secured Party, on its own behalf and on behalf of its Affiliates that may from time to time be Secured Parties (each, an "Appointer") hereby: (i) irrevocably constitutes, ratifies and confirms, to the extent necessary, the Collateral Agent as the holder of an irrevocable power of attorney (*fondé de pouvoir* within the meaning of Article 2692 of the Civil Code of Québec) in order to hold hypothecs and security granted by any Borrower or any other Loan Party on property pursuant to the laws of the Province of Quebec to secure obligations of any Borrower or any other Loan Party under any bond issued by any Borrower or any other Loan Party; and (ii) appoints, ratifies and confirms and agrees that the Collateral Agent may act as the bondholder or debentureholder and mandatary, custodian and depository with respect to any bond or debenture that may be issued by any Borrower or any Loan Party and pledged in their favour from time to time. Each assignee of an Appointer on its

own behalf and on behalf of its Affiliates that may from time to time be Secured Parties shall be deemed to have confirmed and ratified the constitution of the Collateral Agent as the holder of such irrevocable power of attorney (*fondé de pouvoir*) and shall be deemed to have confirmed and ratified the constitution of the Collateral Agent as bondholder or debentureholder and mandatary, custodian and depositary with respect to any bond or debenture that may be issued by any Borrower or any Loan Party and pledged from time to time in favour of the Collateral Agent by the execution of an Assignment and Acceptance or by otherwise becoming a party hereto. Notwithstanding the provisions of Section 32 of the An Act respecting the special powers of legal persons (Quebec), the Collateral Agent may acquire and be the holder of any bond or debenture issued by any Borrower or any other Loan P arty (i.e., the *fondé de pouvoir* may acquire and hold the first bond or debenture issued under any deed of hypothec by any Borrower or any Loan Party). Each Borrower and each Loan Party hereby acknowledges that such bond or debenture constitutes a title of indebtedness, as such term is used in Article 2692 of the Civil Code of Quebec. The Collateral Agent, acting as fondé de pouvoir shall have the same rights, powers, immunities and exclusions from liability as are prescribed in favor of the Collateral Agent in this Agreement, which shall apply mutatis mutandis to the Collateral Agent acting as fondé de pouvoir.

Section 9.14 Parallel Debt

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(a) For the purpose of establishing a valid Lien pursuant to any Security Document governed by Dutch or German law:

(i) each Foreign Loan Party irrevocably and unconditionally undertakes (and to the extent necessary undertakes in advance (*bij voorbaat*)) (where applicable, by way of an abstract acknowledgement of debt (*abstraktes Schuldanerkenntnis*)) to pay to the Collateral Agent amounts equal to any amounts owing from time to time by that Foreign Loan Party to any Foreign Obligations Secured Party under the Loan Documents, any Hedge Agreement, any Cash Management Agreement or any Treasury Transaction (as each may be amended, varied, supplemented or extended from time to time) whether for principal, interest, (including interest which, but for the filing of a petition in bankruptcy with respect to such Foreign Loan Party, would have accrued on any Obligation, whether or not a claim is allowed against such Foreign Loan Party for such interest in the related bankruptcy proceeding), reimbursement of amou nts drawn under Letters of Credit, payments for early termination of Hedge Agreements, fees, expenses, indemnification or otherwise, as and when those amounts are due (its "Foreign Corresponding Debt"), and each Foreign Obligations Secured Party consents to each Foreign Loan Party's undertaking pursuant to this paragraph (i); and

(ii) each Loan Party (other than any Foreign Loan Party) irrevocably and unconditionally undertakes (and to the extent necessary undertakes in advance (*bij voorbaat*)) (where applicable, by way of an abstract acknowledgement of debt (*abstraktes Schuldanerkenntnis*)) to pay to the Collateral Agent amounts equal to any amounts owing from time to time by that Loan Party to any Secured Party (other than any Foreign Obligations Secured Party) under the Loan Documents, any Hedge Agreement, any Cash

Management Agreement or any Treasury Transaction (as each may be amended, varied, supplemented or extended from time to time) whether for principal, interest, (including interest which, but for the filing of a petition in bankruptcy with respect to such Loan Party, would have accrued on any Obligation, whether or not a claim is allowed against such Loan Party for such interest in the related bankruptcy proceeding), reimbursement of amounts drawn under Letters of Credit, payments for early termination of Hedge Agreements, fees, expenses, indemnification or otherwise, as and when those amounts are due (its "U.S. Corresponding Debt"), and each Secured Party (other than any Foreign Obligations Secured Party) consents to the undertaking of each Loan Party (other than any Foreign Loan Party) pursuant to this paragraph (ii).

(b) Each party to this Agreement acknowledges that the obligations of each Loan Party under a Parallel Debt are several and are separate and independent (*eigen zelfstandige verplichting)* from, and shall not in any way limit or affect, the relevant Corresponding Debt under any Loan Document, any Hedge Agreement, any Cash Management Agreement or any Treasury Transaction nor shall the amounts for which each Loan Party is liable under a Parallel Debt be limited or affected in any way by its relevant Corresponding Debt provided that:

(i) a Parallel Debt of a Loan Party shall be decreased to the extent that its relevant Corresponding Debt has been irrevocably paid or (in the case of guarantee obligations) discharged;

(ii) a Corresponding Debt of a Loan Party shall be decreased to the extent its relevant Parallel Debt has been irrevocably paid or (in the case of guarantee obligations) discharged; and

(iii) the amount of a Parallel Debt of a Loan Party shall at all times be equal to the amount of its relevant Corresponding Debt.

(c) For the purpose of this Section 9.14, the Collateral Agent acts in its own name and on behalf of itself and not as agent, representative or trustee of any other Secured Party and its claims in respect of a Parallel Debt shall not be held on trust. Any Lien granted to the Collateral Agent to secure a Parallel Debt is granted to the Collateral Agent in its capacity as sole creditor of a Parallel Debt and shall not be held on trust.

(d) All monies received or recovered by the Collateral Agent pursuant to this Section 9.14, and all amounts received or recovered by the Collateral Agent from or by the enforcement of any Liens granted to secure a Parallel Debt, shall be applied in accordance with the terms of this Agreement.

(e) Without limiting or affecting the Collateral Agent’s rights against any Loan Party (whether under this Section 9.14 or under any other provision of the Loan Documents), the Collateral Agent agrees with each other Secured Party (on a several and divided basis) that, subject as set out in the next sentence, it will not exercise its rights under any Parallel Debt in relation to a Secured Party except with the consent of the relevant Secured Party. However, for the avoidance of doubt, nothing in the previous sentence shall in any way limit the Collateral Agent’s right to act in the protection or preservation of rights under or to enforce any

Security Document as contemplated by this Agreement, the relevant Security Document or any other Loan Document, any Hedge Agreement, any Cash Management Agreement or any Treasury Transaction (or to do any act reasonably incidental to the foregoing).

(f) Without limiting or affecting the Collateral Agent's rights against a Loan Party (whether under this Section 9.14 or under any other provision of this Agreement), each Loan Party acknowledges that:

(i) nothing in this Section 9.14 shall impose any obligation on the Collateral Agent to advance any sum to a Loan Party or otherwise under a Loan Document, except in its capacity as Lender; and

(ii) for the purpose of any vote taken under a Loan Document, the Collateral Agent shall not be regarded as having any participation or commitment other than those which it has in its capacity as a Lender.

(g) For the avoidance of doubt, a Parallel Debt will become due and payable (*opeisbaar*) at the same time the relevant Corresponding Debt becomes due and payable.

(h) For the purpose of any Security Document governed by Dutch law, each party to this Agreement confirms that, in accordance with this Section 9.14 a claim of the Collateral Agent against a Loan Party in respect of a Parallel Debt does not constitute common property (*een gemeenschap*) within the meaning of Section 3:166 of the Dutch Civil Code and that the provisions relating to such common property shall not apply. If, however, it shall be held that such claim of the Collateral Agent does constitute such common property and such provisions do apply, the parties to this Agreement agree that this Agreement shall constitute the administration agreement (*beheersregeling*) within the meaning of Section 3:168 of the Dutch Civil Code.

(i) For the purpose of any Security Document governed by German law, the Collateral Agent, the Loan Parties and each of the other Secured Parties agree that the Collateral Agent shall be the joint and several creditor (*Gesamtgläubiger*) (together with the relevant other Secured Party) of each and every obligation of the Loan Parties towards that other Secured Party under any Loan Document, any Hedge Agreement, any Cash Management Agreement or any Treasury Transaction, and that accordingly the Collateral Agent will have its own and independent right to demand performance by the Loan Parties of those obligations (*Gesamtgläubigerschaft*) in full.

(j) Notwithstanding anything to the contrary herein, nothing in this Section 9.14 shall impose any obligation on any Foreign Loan Party to make any payment, or provide any security for, any Obligation of a U.S. Loan Party, or be construed as a guaranty by any Foreign Loan Party of any Obligation of a U.S. Loan Party.

ARTICLE X.
MISCELLANEOUS

Section 10.01 Notices

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(a) Notices Generally. Any notice or other communication herein required or permitted to be given to a Loan Party, the Collateral Agent, the Administrative Agent, the Swing Line Lender or the Issuing Bank, shall be sent to such Person's address as set forth on Schedule 1.01(d) or in the other relevant Loan Document, and in the case of any Lender, the address as indicated on Schedule 1.01(d) or otherwise indicated to the Administrative Agent in writing. Except as otherwise set forth in paragraph (b) below, each notice hereunder shall be in writing and may be personally served or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof, upon receipt of telefacsimile, ordinary or registered post, or three (3) Business Days after depositing it in the ordinar y or prepaid post or United States mail with postage prepaid and properly addressed; provided, that no notice to any Agent shall be effective until received by such Agent; provided, further, that any such notice or other communication shall at the request of the Administrative Agent be provided to any sub-agent appointed pursuant to Section 9.03(c) hereto as designated by the Administrative Agent from time to time.

(b) Electronic Communications.

(i) Notices and other communications to the Administrative Agent, the Collateral Agent, the Swing Line Lender, the Lenders and any Issuing Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites, including the Platform) pursuant to procedures approved by the Administrative Agent, the Collateral Agent, the Swing Line Lender, each Lender and each Issuing Bank, as applicable; provided, that the foregoing shall not apply to notices to any Lender or the Issuing Bank pursuant to Article II if such Lender or the Issuing Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent, each other Agent and the Borrower Representative hereby agree to accept notices and other communications to it hereunder by electroni c communications pursuant to procedures approved by it; provided, that any Borrowing Notice or notice of an Event of Default shall be promptly confirmed by fascimile. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided, that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient and (ii) notices or communications posted to an internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its

e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(ii) Each Loan Party understands that the distribution of material through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution and agrees and assumes the risks associated with such electronic distribution, except to the extent caused by the willful misconduct or gross negligence of the Administrative Agent, as determined by a final, non-appealable judgment of a court of competent jurisdiction.

(iii) The Platform and any Approved Electronic Communications are provided "as is" and "as available". None of the Agents nor any of their respective officers, directors, employees, agents, advisors or representatives (the "Agent Affiliates") warrant the accuracy, adequacy, or completeness of the Approved Electronic Communications or the Platform and each expressly disclaims liability for errors or omissions in the Platform and the Approved Electronic Communications. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third party rights or freedom from viruses or other code defects is made by the Agent Affiliates in connection with the Platform or the Approved Electronic Communications. Each party hereto agrees that no Agent has any responsibility fo r maintaining or providing any equipment, Software, services or any testing required in connection with any Approved Electronic Communication or otherwise required for the Platform. In no event shall any Agent nor any of the Agent Affiliates have any liability to any Loan Party, any Lender or any other Person for damages of any kind, whether or not based on strict liability and including (A) direct damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Loan Party's or any Agent's transmission of communications through the internet, except to the extent the liability of any such Person if found in a final ruling by a court of competent jurisdiction to have resulted from such Person's gross negligence or willful misconduct or (B) indirect, special, incidental or consequential damages.

(iv) Each Loan Party, each Lender, the Issuing Bank and each Agent agrees that the Administrative Agent may, but shall not be obligated to, store any Approved Electronic Communications on the Platform in accordance with the Administrative Agent's customary document retention procedures and policies.

(v) All uses of the Platform shall be governed by and subject to, in addition to this Section 10.01, separate terms and conditions posted or referenced in such Platform and related agreements executed by the Lenders and their Affiliates in connection with the use of such Platform.

(c) Change of Address. Any party hereto may changes its address or telecopy number for notices and other communications hereunder by written notice to the other parties hereto.

Section 10.02 Expenses

. Whether or not the transactions contemplated hereby are consummated, each Borrower agrees to pay promptly (a) all the actual and reasonable out-of-pocket costs and expenses incurred by the Agents and the Arrangers in connection with the negotiation, preparation and execution of the Loan Documents and any consents, amendments, supplements, waivers or other modifications thereto; (b) the reasonable fees, expenses and disbursements of counsel to the Agents (in each case including allocated costs of internal counsel) in connection with the negotiation, preparation, execution and administration of the Loan Documents and any consents, amendments, supplements, waivers or other modifications thereto and any other documents or matters requested by any Borrower; provided that so long as a Default or Event of Default shall not have occurred and be continuing, reasonable attorney's fees shall be limited to o ne primary counsel and, if reasonably required by the Administrative Agent, one local counsel per jurisdiction and one specialist counsel per specialty, provided, further, that no such limitation shall apply if counsel for the Administrative Agent determines in good faith that there is a conflict of interest that requires separate representation for any Agent or Lender; (c) all the actual costs and reasonable out-of-pocket expenses of creating, perfecting, recording, maintaining and preserving Liens in favor of the Collateral Agent, for the benefit of Secured Parties, including filing and recording fees, expenses and Taxes, stamp or documentary Taxes, search fees, title insurance premiums and reasonable fees, expenses and disbursements of counsel to the Collateral Agent and the Administrative Agent; (d) all the actual costs and reasonable out-of-pocket expenses (including the reasonable fees, expenses and disbursements of any appraisers, consultants, advisors and agents employed or retained by the Collateral Agent and its counsel) in connection with the custody or preservation of any of the Collateral; (e) all other actual costs and reasonable out-of-pocket expenses incurred by each Agent in connection with the syndication of the Loans and Commitments and the transactions contemplated by the Loan Documents and any consents, amendments, supplements, waivers or other modifications thereto; and (f) all actual costs and reasonable out-of-pocket expenses, including reasonable attorneys' fees (including allocated costs of internal counsel) and costs of settlement, incurred by any Agent or any Lender in enforcing any Obligations of or in collecting any payments due from any Loan Party hereunder or under the other Loan Documents (including in connection with the sale, lease or license of, collection from, or other realization upon any of the Collateral or the enforcement of the Guaranty) or in connection with any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out" or pursuant to any insolvency or bankruptcy cases or proceedings. All amounts due under this Section 10.02 shall be due and payable promptly after demand therefor.

Section 10.03 Indemnity

.

(a) In addition to the payment of expenses pursuant to Section 10.02, whether or not the transactions contemplated hereby are consummated, each Loan Party agrees to defend (subject to Indemnitees' rights to selection of counsel), indemnify, pay and hold harmless, each Agent, Arranger, Bookrunner, Issuing Bank, Swing Line Lender and Lender and the officers, partners, members, directors, trustees, shareholders, advisors, employees, representatives, attorneys, controlling persons, agents, sub-agents and Affiliates of each Agent, Arranger, Bookrunner, Issuing Bank, Swing Line Lender and Lender, as well as the respective heirs, successors and assigns of the foregoing (each, an **"**Indemnitee**"**), from and against any and all

Indemnified Liabilities; provided, that no Loan Party shall have any obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities (a) arise from the gross negligence, bad faith or willful misconduct of such Indemnitee, in each case, as determined by a final, non-appealable judgment of a court of competent jurisdiction or (b) arise out of any dispute among Indemnified Persons (other than a dispute involving claims against the Administrative Agent, the Collateral Agent, the Arrangers or any other agent or co-agent (if any) designated by the Arrangers with respect to the Facilities, in each case in their respective capacities as such, or any Arranger, solely in connection with its syndication activities as contemplated hereunder) that a court of competent jurisdiction has determined in a final and non-appealable decision did not involve actions or omissions of the L oan Parties; and provided, further, that in respect of a Dutch Loan Party, the Guaranty of such Dutch Loan Party (including the contribution requirements in respect of the indemnity in this Section 10.03) does not apply to any Indemnified Liability to the extent that it would result in this indemnity constituting unlawful financial assistance prohibited by section 2:98c or 2:207c of the Dutch Civil Code. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this Section 10.03 may be unenforceable in whole or in part because they are violative of any law or public policy, the applicable Loan Party shall to the extent permitted by law contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

(b) To the extent permitted by applicable law, no Loan Party shall assert, and each Loan Party hereby waives, any claim against each Agent, Arranger, Bookrunner, Issuing Bank, Swing Line Lender and Lender and their respective Affiliates, officers, partners, members, directors, trustees, shareholders, advisors, employees, representatives, attorneys, controlling persons, agents and sub-agents on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) (whether or not the claim therefor is based on contract, tort or duty imposed by any applicable legal requirement) arising out of, in connection with, as a result of or in any way related to this Agreement or any Loan Document or any agreement or instrument contemplated hereby or thereby or referred to herein or therein, the transactions contemplated hereby or thereby, the transmission of information through t he Internet, any Loan or the use of the proceeds thereof or any act or omission or event occurring in connection therewith, and each Loan Party hereby waives, releases and agrees not to sue upon any such claim or any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(c) All amounts due under this Section 10.03 shall be due and payable within five days after demand therefor.

Section 10.04 Set-Off

. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuation of any Event of Default each Lender is hereby authorized by each Loan Party at any time or from time to time to the fullest extent permitted by law and subject to the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed), without notice to any Loan Party or to any other Person (other than the Administrative Agent), any such notice being hereby expressly waived to the fullest extent permitted by applicable law, to set off and to appropriate and to apply

any and all deposits (time or demand, provisional or final, general or special, including Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Indebtedness at any time held or owing by such Lender to or for the credit or the account of any Loan Party against and on account of the obligations and liabilities of any Loan Party to such Lender hereunder, the Letters of Credit and participations therein and under the other Loan Documents, including all claims of any nature or description arising out of or connected hereto, the Letters of Credit and participations therein or with any other Loan Document, irrespective of whether or not (a) such Lender shall have made any demand hereunder or (b) such obligations and liabilities, or any of them, may be contingent or unmatured.

Section 10.05 Amendments and Waivers

.

(a) Required Lenders' Consent. Subject to the additional requirements of Sections 10.05(b) and 10.05(c), no amendment, supplement, modification, termination or waiver of any provision of the Loan Documents, or consent to any departure by any Loan Party therefrom, shall in any event be effective without the written concurrence of the Required Lenders and the U.S. Borrower (delivery of an executed counterpart of a signature page to the applicable amendment, supplement, modification, termination or waiver by facsimile or other electronic transmission will be effective as delivery of a manually executed counterpart thereof); provided that any Defaulting Lender shall be deemed not to be a "Lender" for purposes of calculating the Required Lenders (including the granting of any consents or waivers) with respect to any of the Loan Documents.

(b) Affected Lenders' Consent. Without the written consent of each Lender (other than a Defaulting Lender) that would be directly and adversely affected thereby, no amendment, supplement, modification, termination, or consent shall be effective if the effect thereof would:

(i) extend the scheduled final maturity of any Loan or Note;

(ii) waive, reduce or postpone any scheduled repayment (but not prepayment) of principal;

(iii) [reserved];

(iv) reduce the rate of interest on any Loan (other than any waiver of any increase in the interest rate applicable to any Loan pursuant to Section 2.10) or any fee or any premium payable hereunder (it being understood that any change to the definition of Leverage Ratio or in the component definitions thereof shall not constitute a reduction in the rate of interest); provided, further, that only the consent of the Required Lenders shall be necessary to amend the Default Rate in Section 2.10 or to waive any obligation of any Borrower to pay interest at the Default Rate;

(v) waive or extend the time for payment of any such interest, fees or premiums, it being understood that only the consent of the Required Lenders shall be

necessary to rescind an acceleration of Obligations after acceleration thereof pursuant to Section 8.01 hereof;

(vi) reduce or forgive the principal amount of any Loan or any reimbursement Obligation in respect of any Letter of Credit;

(vii) amend, modify, terminate or waive any provision of Section 2.13(b)(ii), Section 2.13(c)(i) to the extent relating to the requirement to make Offers to all Lenders in a Class, Section 2.15 (except to the extent provided for in 10.05(c)(iii)), Section 2.16(c), Section 2.17, this Section 10.05(b), Section 10.05(c) or any other provision of this Agreement that expressly provides that the consent of all Lenders is required;

(viii) consent to the assignment or transfer by any Loan Party of any of its rights and obligations under any Loan Document except as expressly provided in any Loan Document;

(ix) amend the definition of "Required Lenders" or amend Section 10.5(a) in a manner that has the same effect as an amendment to such definition or the definition of "Pro Rata Share"; provided that with the consent of Required Lenders, additional extensions of credit pursuant hereto may be included in the determination of "Required Lenders" or "Pro Rata Share" on substantially the same basis as the Term Loan Commitments, the Term Loans, the Revolving Commitments and the Revolving Loans are included on the Closing Date;

(x) release all or substantially all of the Collateral or all or substantially all of the Guarantors (by value) from the Guaranty except as expressly provided in the Loan Documents or any Intercreditor Agreement;

(xi) amend or modify any provision of Section 10.06 in a manner that further restricts assignments thereunder;

(xii) amend or modify any Intercreditor Agreement in a manner that would adversely affect the priority of the Liens of the Collateral Agent or the Subordination of any Indebtedness to the Obligations; or

(xiii) change the stated currency in which any Borrower is required to make payments of principal, interest, fees or other amounts hereunder or under any other Loan Document;

provided that, for the avoidance of doubt, all Lenders shall be deemed directly and adversely affected thereby with respect to any amendment described in clauses (vii), (viii), (ix), (x) and (xii).

(c) Other Consents. No amendment, modification, termination or waiver of any provision of the Loan Documents, or consent to any departure by any Loan Party therefrom, shall:

(i) increase any Commitment of any Lender over the amount thereof then in effect or extend the outside date for such Commitment without the consent of such Lender; provided that no amendment, modification or waiver of any condition precedent, covenant, Default or Event of Default shall be deemed to constitute an increase in any Commitment of any Lender;

(ii) amend, modify, terminate or waive any provision hereof relating to (x) the U.S. Swing Line Sublimit or the U.S. Swing Line Loans without the consent of the U.S. Swing Line Lender, or (y) the Canadian Swing Line Sublimit or the Canadian Swing Line Loans without the consent of the Canadian Swing Line Lender;

(iii) alter the required application of any repayments or prepayments as between Classes pursuant to Section 2.15 without the consent of Lenders holding more than 50.0% of the aggregate Tranche A Term Loan Exposure of all Lenders, Tranche B Term Loan Exposure of all Lenders, Revolving Exposure of all Lenders or Incremental Term Loan Exposure of all Lenders, as applicable, of each Class which is being allocated a lesser repayment or prepayment as a result thereof; provided, that Required Lenders may waive, in whole or in part, any prepayment so long as the application, as between Classes, of any portion of such prepayment which is still required to be made is not altered;

(iv) amend, modify, terminate or waive any obligation of Lenders relating to the purchase of participations in Letters of Credit as provided in Section 2.04(e) without the written consent of the Administrative Agent and of the Issuing Bank;

(v) amend, modify or waive this Agreement or any Security Document so as to alter the ratable treatment of Obligations arising under the Loan Documents and Obligations arising under Hedge Agreements or the definition of "Lender Counterparty," "Hedge Agreement," "Obligations," or "Secured Obligations" (as defined in any applicable Security Document) in each case in a manner adverse to any Lender Counterparty with Obligations then outstanding without the written consent of any such Lender Counterparty;

(vi) amend, modify, terminate or waive any provision of Article IX as the same applies to any Agent, or any other provision hereof as the same applies to the rights or obligations of any Agent, in each case without the consent of such Agent;

(vii) amend any condition for Credit Extensions set forth in Section 3.02 without the consent of Lenders holding more than 50% of the aggregate Revolving Exposure of all Lenders;

(viii) without limiting the provisions of Section 10.05(b), amend, modify, terminate or waive any provision hereof that would materially, disproportionately and adversely affect the obligation of any Borrower to make any payment of Revolving Loans without the consent of Lenders holding more than 50% of the aggregate Revolving Exposure of all Lenders (or if such amendment, modification or

waiver affects only the Foreign Revolving Loans or only the U.S. Revolving Loans, 50% of the aggregate Revolving Exposure of the relevant Class);

(ix) without limiting the provisions of Section 10.05(b), amend, modify, terminate or waive any provision hereof that would materially, disproportionately and adversely affect the obligation of any Borrower to make payment of Term Loans without the consent of Lenders holding more than 50.0% of the aggregate Term Loans of all Lenders (or if such amendment, modification or waiver affects only the Foreign Tranche A Term Loans. the Foreign Tranche B Term Loans, the U.S. Tranche A Term Loans or the U.S. Tranche B Term Loans, 50% of the aggregate Term Loans of the relevant Class); and

(x) (i) the Commitment or Loan of any Defaulting Lender may not be increased or extended and the principal of any Loan of a Defaulting Lender may not be reduced, in each case without the consent of such Lender and (ii) 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 each such Defaulting Lender.

(d) Execution of Amendments, Etc. The Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, supplements, modifications, waivers or consents on behalf of such Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. In the case of any waiver, subject to any conditions or qualifications set forth therein, the parties hereto shall be restored to their former positions and rights hereunder and under the other Loan Documents, and, subject to any conditions or qualifications set forth therein, any Default or Event of Default waived shall be deemed to be cured and not continuing, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right or consequence in respect thereof. No notice to or demand on any Loan Party in any ca se shall entitle any Loan Party to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 10.05 shall be binding upon each Lender at the time outstanding, each future Lender and, if signed by a Loan Party, on such Loan Party.

Notwithstanding anything to the contrary provided herein, no consent of any Lender shall be required in connection with the marking of any amendment to any Loan Document of the type described in Section 2.24 hereof which states in such Section that no consent of any Lender, other than the applicable Incremental Revolving Loan Lender or Incremental Term Loan Lender, is required.

Section 10.06 Successors and Assigns; Participations

.

(a) Generally. This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and the successors and assigns of Lenders. No Loan Party’s rights or obligations hereunder nor any

interest therein may be assigned or delegated by any Loan Party without the prior written consent of all Lenders (and any purported assignment or delegation without such consent shall be null and void) and no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section 10.06.

(b) Register. Each Borrower, each Guarantor, the Administrative Agent and Lenders shall deem and treat the Persons listed as Lenders in the Register as the holders and owners of the corresponding Commitments and Loans listed therein for all purposes hereof, and no assignment or transfer of any such Commitment or Loan shall be effective, in each case, unless and until recorded in the Register following receipt of a fully executed Assignment Agreement effecting the assignment or transfer thereof, together with the required forms and certificates regarding Tax matters and any fees payable in connection with such assignment, in each case, as provided in Section 10.06(d). Each assignment shall be recorded in the Register promptly following receipt by the Administrative Agent of the fully executed Assignment Agreement and all other necessary documents and approvals, prompt notice thereof shall be provided t o the Borrower and a copy of such Assignment Agreement shall be maintained, as applicable. The date of such recordation of a transfer shall be referred to herein as the "Assignment Effective Date." Any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is listed in the Register as a Lender shall be conclusive and binding on any subsequent holder, assignee or transferee of the corresponding Commitments or Loans.

(c) Right to Assign. Each Lender shall have the right at any time to sell, assign or transfer all or a portion of its rights and obligations under this Agreement, including all or a portion of its Commitment or Loans owing to it or other Obligations (provided, that pro rata assignments shall not be required and each assignment shall be of a uniform, and not varying, percentage of all rights and obligations under and in respect of any applicable Loan and any related Commitments):

(i) to any Person meeting the criteria of clause (i) of the definition of the term of "Eligible Assignee" upon the giving of notice to the Administrative Agent; and

(ii) to any Person meeting the criteria of clause (ii) of the definition of the term of "Eligible Assignee" upon giving of notice to the Borrower Representative and the Administrative Agent and, in the case of assignments of Revolving Loans or Revolving Commitments to any such Person, consented to by the Borrower Representative (provided that the Borrower Representative shall be deemed to have consented to assignments made during the initial syndication of the Revolving Commitments to Lenders previously approved by the Borrower Representative and to any other such assignment unless it shall object thereto by written notice to the Administrative Agent within 5 Business Days after having received notice thereof, the Administrative Agent, the applicable Issuing Bank and the applicable Swing Line Lender (each such consent not to be (x) unreasonably withheld or delayed or (y) in the case of the Bo rrower Representative, required at any time an Event of Default described in clause (a), (f), (g) or (h) of Section 8.01 has occurred and is continuing); provided, that each such assignment pursuant to this Section 10.06(c)(ii) shall be in an aggregate amount of

not less than (A) $2,500,000 (or such lesser amount as may be agreed to by the Borrower Representative and the Administrative Agent or as shall constitute the aggregate amount of the Revolving Commitments and Revolving Loans of the assigning Lender) with respect to the assignment of the Revolving Commitments and Revolving Loans and (B) $1,000,000 (or such lesser amount as may be agreed to by the Borrower Representative and the Administrative Agent or as shall constitute the aggregate amount of the Tranche A Term Loan, Tranche B Term Loan or Incremental Term Loans of a Series of the assigning Lender) with respect to the assignment of Term Loans; provided, that the Related Funds of any individual Lender may aggregate their Loans for purposes of determining compliance with such minimum assignment amounts.

(d) Mechanics. Assignments and assumptions of Loans and Commitments by Lenders shall be effected by manual execution and delivery to the Administrative Agent of an Assignment Agreement. Assignments made pursuant to the foregoing provision shall be effective as of the Assignment Effective Date. In connection with all assignments there shall be delivered to the Administrative Agent such forms, certificates or other evidence, if any, with respect to United States federal income Tax withholding matters as the assignee under such Assignment Agreement may be required to deliver pursuant to Section 2.20(c), together with payment to the Administrative Agent of a registration and processing fee of $3,500 (except that no such registration and processing fee shall be payable (x) in connection with an assignment elected or caused by a Borrower pursuant to Section 2.23, (y) in connection with an assignment b y or to Barclays Bank or any Affiliate thereof or (z) in the case of an assignee which is already a Lender or is an Affiliate or Related Fund of a Lender or a Person under common management with a Lender).

(e) Representations and Warranties of Assignee. Each Lender, upon execution and delivery hereof or upon succeeding to an interest in the Commitments and Loans, as the case may be, represents and warrants as of the Closing Date or as of the Assignment Effective Date that (i) it is an Eligible Assignee; (ii) it has experience and expertise in the making of or investing in commitments or loans such as the applicable Commitments or Loans, as the case may be; and (iii) it shall make or invest in, as the case may be, its Commitments or Loans for its own account in the ordinary course and without a view to distribution of such Commitments or Loans within the meaning of the Securities Act or the Exchange Act or other federal securities laws (it being understood that, subject to the provisions of this Section 10.06, the disposition of such Commitments or Loans or any interests therein shall at all times r emain within its exclusive control).

(f) Effect of Assignment. Subject to the terms and conditions of this Section 10.06, as of the "Assignment Effective Date" (i) the assignee thereunder shall have the rights and obligations of a "Lender" hereunder to the extent of its interest in the Loans and Commitments as reflected in the Register and shall thereafter be a party hereto and a "Lender" for all purposes hereof; (ii) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned to the assignee, relinquish its rights (other than any rights which survive the termination hereof, including under Section 10.08) and be released from its obligations hereunder (and, in the case of an assignment covering all or the remaining portion of an assigning Lender's rights and obligations hereunder, such Lender shall cease to be a party hereto on the Assignment Effective Date; < U>provided, that anything contained in any of the Loan

Documents to the contrary notwithstanding, (y) the Issuing Bank shall continue to have all rights and obligations thereof with respect to such Letters of Credit until the cancellation or expiration of such Letters of Credit and the reimbursement of any amounts drawn thereunder and (z) such assigning Lender shall continue to be entitled to the benefit of all indemnities hereunder as specified herein with respect to matters arising out of the prior involvement of such assigning Lender as a Lender hereunder); (iii) the Commitments shall be modified to reflect any Commitment of such assignee and any Revolving Commitment of such assigning Lender, if any; and (iv) if any such assignment occurs after the issuance of any Note hereunder, the assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender its applicable Notes to the Administrative Agent for cancellation, and thereupon the a pplicable Borrower shall issue and deliver new Notes, if so requested by the assignee and/or assigning Lender, to such assignee and/or to such assigning Lender, with appropriate insertions, to reflect the new Revolving Commitments and/or outstanding Loans of the assignee and/or the assigning Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply the requirements of this Section 10.06 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.06(g). Any assignment by a Lender pursuant to this Section 10.06 shall not in any way constitute or be deemed to constitute a novation, discharge, rescission, extinguishment or substitution of the Indebtedness hereunder, and any Indebtedness so assigned shall continue to be the same obligation and not a new obligation.

(g) Participations.

(i) Each Lender shall have the right at any time to sell one or more participations to any Person (other than any Group Member or any of their respective Affiliates) in all or any part of its Commitments, Loans or in any other Obligation: provided, that (A) such Lender's obligations shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (C) each Borrower, the Administrative Agent, each Issuing Bank and Each of the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's agreements and obligations.

(ii) The holder of any such participation, other than an Affiliate of the Lender granting such participation, shall not be entitled to require such Lender to take or omit to take any action hereunder except with respect to any amendment, modification or waiver that would (A) extend the final scheduled maturity of any Loan, Note or Letter of Credit (unless such Letter of Credit is not extended beyond the Revolving Commitment Termination Date) in which such participant is participating or the amortization schedule therefor, or reduce the rate or extend the time of payment of interest or fees thereon (except in connection with a waiver of applicability of any post-default increase in interest rates) or reduce the principal amount thereof, or increase the amount of the participant's participation over the amount thereof then in effect (it being understood that a waiver of any Default or Event of Defau lt or of a mandatory reduction in the Commitment shall not constitute a change in the terms of such participation, and that an increase in any Commitment or Loan shall be permitted without the consent of any participant if the participant's participation is not increased as a result thereof), (B) consent to the assignment or transfer by any Loan Party of any of its rights and

obligations under this Agreement or (C) release all or substantially all of the Guarantors or the Collateral under the Security Documents (except as expressly provided in the Loan Documents) supporting the Loans hereunder in which such participant is participating.

(iii) Each Borrower agrees that each participant shall be entitled to the benefits of Sections 2.18(c), 2.19 and 2.20 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (c) of this Section; provided, that such participant agrees to be subject to Sections 2.19 and 2.20 as if it were a Lender; provided, further, that (x) a participant shall not be entitled to receive any greater payment under Section 2.19 or 2.20 than the applicable Lender would have been entitled to receive with respect to the participation sold to such participant, unless the sale of the participation to such participant is made with the Borrower Representative's prior written consent and (y) a participant shall not be entitled to the benefits of Section 2.20 unless such participant agrees, for the benefit of the Borrowers, to comply with Section 2.20 as though it were a Lender; provided, further, that, except as specifically set forth in clause (x) of this sentence, nothing herein shall require any notice to the Borrower Representative or any other Person in connection with the sale of any participation. To the extent permitted by law, each participant also shall be entitled to the benefits of Section 10.04 as though it were a Lender; provided, that such participant agrees to be subject to Section 2.17 as though it were a Lender. A participant shall not be entitled to the benefits of Section 2.20 to the extent such participant fails to comply with Section 2.20(c).

(iv) Each Lender that sells a participation shall maintain a register on which it enters the name and address of each participant and the principal amounts of each participant's interest in the Commitments, Loans and other Obligations held by it (the "Participant Register"). 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 Commitments, Loans and other Obligations as the owner thereof for all purposes of this Agreement notwithstanding any notice to the contrary. Any such Participant Register shall be available for inspection by the Administrative Agent at any reasonable time and from time to time upon reasonable prior notice.

(h) Certain Other Assignments and Participations. In addition to any other assignment or participation permitted pursuant to this Section 10.06 any Lender may pledge (without the consent of any Borrower or the Administrative Agent) all or any portion of its Loans, the other Obligations owed by or to such Lender, and its Notes, if any, to secure obligations of such Lender including any Federal Reserve Bank as collateral security pursuant to Regulation A of the Board of Governors and any operating circular issued by such Federal Reserve Bank; provided, that no Lender, as between any Borrower and such Lender, shall be relieved of any of its obligations hereunder as a result of any such assignment and pledge; provided, further, that in no event shall the applicable Federal Reserve Bank, pledgee or trustee, be considered to be a "Lender" or be entitled to require the assigning Lender to take or omit to take any action hereunder.

(i) Act on the Financial Supervision. In order to comply with the Dutch Financial Supervision Act (*Wet op het financieel toezicht*), the amount transferred under this Section 10.06 shall include a portion outstanding from the Foreign Borrower of at least € 50,000 (or its equivalent in other currencies) or such other amount as may be required from time to time by the Dutch Financial Supervision Act (or implementing legislation) or if less, the new Lender shall confirm in writing to the Loan Parties that it is a professional market party (*professionele marktpartij*) within the meaning of the Dutch Financial Supervision Act.

Section 10.07 Independence of Covenants, Etc.

. All covenants, conditions and other terms hereunder and under the other Loan Documents shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, conditions or other terms, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant, condition or other term shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

Section 10.08 Survival of Representations, Warranties and Agreements

. All representations, warranties and agreements made herein shall survive the execution and delivery hereof and the making of any Credit Extension. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Loan Party set forth in Sections 2.18(c), 2.19, 2.20, 10.02 and 10.03 and the agreements of Lenders set forth in Sections 2.17, 9.03(b), 9.06 and 9.09 shall survive the payment of the Loans, the cancellation or expiration of the Letters of Credit and the reimbursement of any amounts drawn thereunder, and the termination hereof.

Section 10.09 No Waiver; Remedies Cumulative

. No failure or delay or course of dealing on the part of any Agent or any Lender in the exercise of any power, right or privilege hereunder or under any other Loan Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to each Agent and each Lender hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Loan Documents or any of the Hedge Agreements. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy. Without limiting the generality of the foregoing, the making of any Credit Extension shall not be construed as a waiver of any Default or Event of Default, regardless of whether any Agent, Issuing Bank or Lender may have had notice or knowledge of such Default or Event of Default at the time of the making of any such Credit Extension.

Section 10.10 Marshalling; Payments Set Aside

. Neither any Agent nor any Lender shall be under any obligation to marshal any assets in favor of any Loan Party or any other Person or against or in payment of any or all of the

Obligations. To the extent that any Loan Party makes a payment or payments to the Administrative Agent or Lenders (or to the Administrative Agent, on behalf of Lenders), or any Agent or Lenders enforce any security interests or exercise their rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

Section 10.11 Severability

. In case any provision in or obligation hereunder or under any other Loan Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby (it being understood that the invalidity, illegality or unenforceability of a particular provision in a particular jurisdiction shall not in and of itself affect the validity, legality or enforceability of such provision in any other jurisdiction). The parties hereto shall endeavor in good faith negotiations to replace any invalid, illegal or unenforceable provisions with valid, legal and enforceable provisions the economic effect of which comes as close as reasonably possible to that of the invalid, illegal or unenforceable provisions.

Section 10.12 Obligations Several; Independent Nature of Lenders' Rights

. The obligations of Lenders hereunder are several and no Lender shall be responsible for the obligations or Commitment of any other Lender hereunder. Nothing contained herein or in any other Loan Document, and no action taken by Lenders pursuant hereto or thereto, shall be deemed to constitute Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

Section 10.13 Table of Contents and Headings

. The Table of Contents hereof and Article and Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose, modify or amend the terms or conditions hereof, be used in connection with the interpretation of any term or condition hereof or be given any substantive effect.

Section 10.14 **APPLICABLE LAW**

. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW

YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

Section 10.15 **CONSENT TO JURISDICTION**

. SUBJECT TO CLAUSE (E) OF THE FOLLOWING SENTENCE, ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY PARTY ARISING OUT OF OR RELATING HERETO OR ANY OTHER LOAN DOCUMENT, OR ANY OF THE OBLIGATIONS, SHALL BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE, COUNTY AND CITY OF NEW YORK. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH LOAN PARTY, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, HEREBY EXPRESSLY AND IRREVOCABLY (A) ACCEPTS GENERALLY AND UNCONDITIONALLY THE EXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS (OTHER THAN WITH RESPECT TO ACTIONS BY ANY AGENT IN RESPECT OF RIGHTS UNDER ANY SECURITY AGREEMENT GOVERNED BY A LAWS OTHER THAN THE LAWS OF THE STATE OF NEW YORK OR WITH RESPECT TO ANY COLLATERAL SUBJECT THERETO); (B) WAIVES (I) JURISDICTION AND VENUE OF COURTS IN ANY OTHER JURISDICTION IN WHICH IT MAY BE ENTITLED TO BRING SUIT BY REASON OF ITS PRESENT O R FUTURE DOMICILE OR OTHERWISE AND (II) ANY DEFENSE OF FORUM NON CONVENIENS; (C) AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE APPLICABLE LOAN PARTY AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH SECTION 10.01; (D) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (C) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER THE APPLICABLE LOAN PARTY IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT; AND (E) AGREES THAT THE AGENTS AND THE LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY SECURITY DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

Section 10.16 **WAIVER OF JURY TRIAL**

. EACH OF THE PARTIES HERETO HEREBY AGREES TO WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING HEREUNDER OR UNDER ANY OF THE OTHER LOAN DOCUMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION OR THE LENDER/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS

TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 10.16 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER WILL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICA TIONS HERETO OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

Section 10.17 Confidentiality

. Each Agent and each Lender (which term shall for the purposes of this Section 10.17 include the Issuing Bank) shall hold all non-public information regarding the Group and their businesses identified as such by the Borrower Representative and obtained by such Agent or such Lender pursuant to the requirements hereof in accordance with such Agent's and such Lender's customary procedures for handling confidential information of such nature, it being understood and agreed by the Borrower Representative that, in any event, the Administrative Agent may disclose such information to the Lenders and each Agent and each Lender may make (i) disclosures of such information to Affiliates or Related Funds of such Lender or Agent and to their respective officers, directors, employees, representatives, agents and advisors (and to other Persons authorized by a Lender or Agent to organize, present or dis seminate such information in connection with disclosures otherwise made in accordance with this Section 10.17); provided, that, prior to any disclosure, such Affiliates, Related Funds, officers, directors, employees, representatives, agents and advisors and other persons be instructed to preserve the confidentiality of any confidential information relating to the Loan Parties received by it from any Agent or any Lender, (ii) disclosures of such information reasonably required by (A) any pledgee referred to in Section 10.06(h), (B) any bona fide or potential assignee, transferee or participant in connection with the contemplated assignment, transfer or participation of any Loans or any participations therein, (C) any bona fide or potential direct or indirect contractual counterparties (or the professional advisors thereto) to any swap or derivative transaction relating to any Borrower and its obligations or (D) any direct or indirect investor or prospective investor in a Related Fund; provided, that such pledgees, assignees, transferees, participants, counterparties, advisors and investors are advised of and agree to be bound by either the provisions of this Section 10.17 or other provisions at least as restrictive as this Section 10.17, (iii) disclosure to any rating agency when required by it; provided, that, prior to any disclosure, such rating agency be instructed to preserve the confidentiality of any confidential information

relating to the Loan Parties received by it from any Agent or any Lender, (iv) disclosures in connection with the exercise of any remedies hereunder or under any other Loan Document and (v) disclosures required or requested by any governmental agency or representative thereof or by the NAIC or pursuant to legal or judicial process; provided, that unless specifically prohibited by applicable law or court order, each Lender and each Agent shall make reasonable efforts to notify the Borrower Representative of any request by any governmental agency or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Lender by such governmental agency) for disclosure of any such non-public information prior to disclosure of such information. In addition, each Agent and each Lender may disclose the existence of this Agreement and the informati on about this Agreement to market data collectors, similar services providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration and management of this Agreement and the other Loan Documents.

Section 10.18 Usury Savings Clause

. Notwithstanding any other provision herein, the aggregate interest rate charged with respect to any of the Obligations, including all charges or fees in connection therewith deemed in the nature of interest under applicable law, shall not exceed the Highest Lawful Rate. If the rate of interest (determined without regard to the preceding sentence) under this Agreement at any time exceeds the Highest Lawful Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Highest Lawful Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect; provided, that in no event shall the amount paid pursuant hereto be in excess of the amount of interest that would have been due if the state rates of interest set forth in this Agre ement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, such Borrower shall pay to the Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Highest Lawful Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of Lenders and each Borrower to conform strictly to any applicable usury laws. Accordingly, if any Lender contracts for, charges, or receives any consideration which constitutes interest in excess of the Highest Lawful Rate, then any such excess shall be cancelled automatically and, if previously paid, shall at such Lender’s option be applied to the outstanding amount of the Loans made hereunder or be refunded to the applicable Borrower.

Section 10.19 Counterparts

. This Agreement may be executed in any number of counterparts (and by different parties hereto on different counterparts), each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or other electronic transmission will be effective as delivery of a manually executed counterpart thereof.

Section 10.20 Effectiveness; Entire Agreement; No Third Party Beneficiaries

. This Agreement shall become effective upon the execution of a counterpart hereof by each of the parties hereto and receipt by the Borrowers and the Administrative Agent of written notification of such execution and authorization of delivery thereof. With the exception of those terms contained in Sections 3, 5, 8 and 9 of the Commitment Letter, dated March 15, 2010, between the Arrangers, the Bookrunners and the U.S. Borrower (the "Commitment Letter"), which by the terms of the Commitment Letter remain in full force and effect, all of the Arrangers', the Bookrunners' and their respective Affiliates' obligations under the Commitment Letter shall terminate and be superseded by the Loan Documents and the Arrangers, the Bookrunners and their respective Affiliates shall be released from all liability in connection therewith, including any claim for injury or damage s, whether consequential, special, direct, indirect, punitive or otherwise. This Agreement, the other Loan Documents and any fee letter entered into in connection with the Commitment Letter represent the entire agreement of the Group, the Agents, the Issuing Bank, the Swing Line Lender, the Arrangers, the Bookrunners and the Lenders with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by any Agent, Issuing Bank, Swing Line Lender, Arranger, Bookrunner or Lender relative to the subject matter hereof or thereof not expressly set forth or referred to herein or in the other Loan Documents. Nothing in this Agreement or in the other Loan Documents, express or implied, shall be construed to confer upon any Person (other than the parties hereto and thereto, their respective successors and assigns permitted hereunder and, to the extent expressly contemplated hereby, Affiliates of each of the Agents and Lenders, holders of participati ons in all or any part of a Lender's Commitments, Loans or in any other Obligations, and the Indemnitees) any rights, remedies, obligations, claims or liabilities under or by reason of this Agreement or the other Loan Documents. In the event of any conflict between the provisions of this Agreement and those of any other Loan Document, the provisions of this Agreement shall control; provided that the inclusion of supplemental rights or remedies in favor of any Agent, the Issuing Bank or the Lenders in any other Loan Document shall not be deemed a conflict with this Agreement.

Section 10.21 PATRIOT Act

. Each Lender and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that shall allow such Lender or the Administrative Agent, as applicable, to identify such Loan Party in accordance with the PATRIOT Act.

Section 10.22 "Know Your Customer" Checks

. If in connection with (a) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation made after the date hereof, (b) any change in the status of a Loan Party after the date hereof, (c) the addition of any Guarantor pursuant to Section 5.12 or (d) any proposed assignment or transfer by a Lender of any of its rights and obligations under this Agreement to a party that was not previously a Lender hereunder, the

Administrative Agent or any Lender (or, in the case of clause (d) above, any prospective Lender) requires additional information in order to comply with "know your customer" or similar identification procedures, each Loan Party shall, promptly upon the request of the Administrative Agent or such Lender, provide such documentation and other evidence as is reasonably requested by the Administrative Agent (for itself or on behalf of any Lender) or such Lender (for itself or, in the case of the event described in clause (d) above, on behalf of any prospective Lender) in order for the Administrative Agent, such Lender or such prospective Lender to carry out and be satisfied it has complied with all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Loan Documents.

Section 10.23 Electronic Execution of Assignments

. The words “execution,” “signed,” “signature,” and words of like import in any Assignment Agreement 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.

Section 10.24 No Fiduciary Duty

. Each Agent, each Lender, each Arranger, each Bookrunner, each Issuing Bank, the Swing Line Lender and their respective Affiliates (collectively, solely for purposes of this paragraph, the “Lenders”), may have economic interests that conflict with those of each Borrower, its stockholders and/or its Affiliates. Each Borrower agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Borrower, its stockholders or its Affiliates, on the other; provided that each Loan Party acknowledges that one or more Affiliates of Barclays Bank, DBSI and BAS (collectively, the “Borrower Financial Advisor”) has been retained by the Borrower as a buy-side financial advisor in connection with the Acquisition. The Borrowe rs, on behalf of themselves and their respective Subsidiaries and Affiliates, agree not to assert any claim that the Borrowers and their respective Subsidiaries and Affiliates might allege based on any actual or potential conflict of interest that might be asserted to arise or result from, on the one hand, the engagement of the Borrower Financial Advisor and, on the other hand, Barclays Bank’s, DBSI’s or BAS’s or their respective Affiliates’ respective relationships as Agent, Lender, Arranger, Bookrunner, Issuing Bank or Swing Line Lender, as applicable, described herein. The Loan Parties acknowledge and agree that (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm’s-length commercial transactions between the Lenders, on the one hand, and the Borrowers, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary respon sibility in favor of any Borrower, its stockholders or its Affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any

Borrower, its stockholders or its Affiliates on other matters) or any other obligation to any Borrower except the obligations expressly set forth in the Loan Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of any Borrower, its management, stockholders, creditors or any other Person. Each Borrower acknowledges and agrees that such Borrower has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Borrower agrees that it will not claim that any Lender has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Borrower, in connection with such transaction or the process leading thereto.

Section 10.25 Judgment Currency

. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan 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 in given. The obligation of any Borrower in respect of such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan 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 of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent 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 from the applicable Borrower in the Agreement Currency, such Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to such Borrower (or to any other Person who may be entitled thereto under applicable Law).

Section 10.26 Ancillary Borrowers

. Subject to the terms of this Agreement, a Restricted Subsidiary of the Foreign Borrower may, with the approval of any relevant Ancillary Lender, become a borrower with respect to an Ancillary Facility. The Borrower Representative shall specify the relevant Restricted Subsidiary in a written notice delivered by it to the Administrative Agent pursuant to Section 2.26. Such Restricted Subsidiary shall become an Ancillary Borrower when such Restricted Subsidiary has delivered the following to the Administrative Agent and the relevant Ancillary Lender: (i) a Counterpart Agreement in the form of Exhibit F-2, (ii) all such information required by the Administrative Agent or the relevant Lender with respect to the regulations described in Section 10.21 or 10.22 and (iii) such documentation and certificates as are similar to those described in Sections 3.01(b), 3.01(h) and 3.01(m) and s uch other legal opinions as the Administrative Agent or the relevant Ancillary Lender may request.

[Remainder of page intentionally left blank**]**

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

PHILLIPS-VAN HEUSEN CORPORATION, as U.S. Borrower

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

TOMMY HILFIGER B.V., as Foreign Borrower

By: /s/ Ludo Onnink /s/ Fred Gehring
Name: Ludo Onnink Fred Gehring
Title: Amsterdam

Guarantor:

PVH PUERTO RICO, INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

PHILLIPS VAN HEUSEN PUERTO RICO LLC

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

PVH PRINCE C.V. HOLDING CORPORATION

By: /s/ Michael Shaffer
Name: Michael Shaffer
Title: Executive Vice President

Guarantor:

BASSNET, INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

PVH RETAIL STORES, INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

IZOD.COM INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

PVH WHOLESALE CORP.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

PVH FOREIGN HOLDINGS CORP.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

PVH WHOLESALE NEW JERSEY, INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

CALVIN KLEIN, INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

CK SERVICE CORP.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

CLUETT PEABODY RESOURCES CORPORATION

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

CLUETT, PEABODY & CO., INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

PVH EUROPE, INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

PVH REALTY CORP.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

PVH NECKWEAR, INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

KARL LAGERFELD LLC

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

TOMMY HILFIGER U.S.A., INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

TOMMY HILFIGER RETAIL, LLC

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

TOMMY HILFIGER WHOLESALE, INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

TOMMY HILFIGER LICENSING LLC

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

TOMCAN INVESTMENTS INC.

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

Guarantor:

TRUMPET C.V.
Represented by its general partner
BassNet, Inc.

By: /s/ Mark D. Fischer
Name:
Title:

PRINCE 1 B.V.

By:	/s/ A.R. van der Veen	/s/ J. Haneveer
	Name: A.R. van der Veen	J. Haneveer
	Title: Managing Director of ATC Management B.V.	Proxyholder of ATC Management B.V.

PRINCE 2 B.V.

By:	/s/ A.R. van der Veen	/s/ J. Haneveer
	Name: A.R. van der Veen	J. Haneveer
	Title: Managing Director of ATC Management B.V.	Proxyholder of ATC Management B.V.

BARCLAYS BANK PLC,
as Administrative Agent, Collateral Agent, Swing Line Lender, Issuing Bank and a Lender

By: /s/ Diane Rolfe
Name: Diane Rolfe
Title: Director

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,
as a Lender

By: /s/ Shaheen Malik
Name: Shaheen Malik
Title: Vice President

By: /s/ Kevin Buddhdew
Name: Kevin Buddhdew
Title: Associate

Royal Bank of Canada,
as a Lender

By: /s/ Gordon MacArthur
Name: Gordon MacArthur
Title: Authorized Signatory

DEUTSCHE BANK AG NEW YORK BRANCH,
as a Lender

By: /s/ Mary Kay Coyle
Name: Mary Kay Coyle
Title: Managing Director

DEUTSCHE BANK AG NEW YORK BRANCH,
as a Lender

By: /s/ Scottye Lindsey
Name: Scottye Lindsey
Title: Director

BANK OF AMERICA, N.A.,
as Issuing Bank and a Lender

By: /s/ Thomas Kainamura
Name: Thomas Kainamura
Title: VP, Bank of America, N.A.

JPMorgan Chase Bank, N.A.,
as Issuing Bank and a Lender

By: /s/ James A. Knight
Name: James A. Knight
Title: Vice President

FORTIS BANK (NEDERLAND), N.V.,
as Issuing Bank and a Lender

By: /s/ P. Booij
Name: P. Booij
Title: Senior Banker

Compass Bank,
as a Lender

By: /s/ Ramon Garcia
Name: Ramon Garcia
Title: Vice President

Caja De Ahorros Y Monte de Piedad de Madrid,
as a Lender

By: /s/ Manuel Nunez Fernandez
Name: Manuel Nunez Fernandez
Title: General Manager

By: /s/ Juan Pablo Hernandez de la Merced
Name: Juan Pablo Hernandez de la Merced
Title: Director – North American Corporate Banking

Crédit Agricole Corporate & Investment Bank

By: /s/ Pamela Donnelly
Name: Pamela Donnelly
Title: Managing Director

By: /s/ Yuri Muzichenko
Name: Yuri Muzichenko
Title: Director

HSBC Bank USA, N.A.

By: /s/ Darren Pinsker
Name: Darren Pinsker
Title: Senior Vice President

THE BANK OF NOVA SCOTIA,
as a Lender

By: /s/ Todd S. Miller
Name: Todd S. Miller
Title: Managing Director

Sumitomo Mitsui Banking Corporation,
as a Lender

By: /s/ Yasuhiko Imai
Name: Yasuhiko Imai
Title: Senior Vice President

SunTrust Bank,
as a Lender

By: /s/ Donald Besch Jr.
Name: Donald Besch Jr.
Title: Managing Director

U.S. Bank National Association,
as a Lender

By: /s/ Blake Malia
Name: Blake Malia
Title: Vice President

General Electric Capital Corporation,
as a Lender

By: /s/ Marie G. Mollo
Name: Marie G. Mollo
Title: Duly Authorized Signatory

Mediobanca International (Luxembourg) S.A.,
as a Lender

By: /s/ Andrew O'Rourke
Name: Andrew O'Rourke
Title: Associate

DZ Bank AG - Deutsche Zentral-Genossenschaftsbank,
as a Lender

By: /s/ Spangenberg /s/ Romer
Name: (Spangenberg) Romer
Title: Vice President

ICBC (London) Ltd,
as a Lender

By:	/s/ Ko Jung	/s/ Junlei Xu
	Name: Ko Jiang	Junlei Xu
	Title: DGM	MD

TORONTO DOMINION (NEW YORK) LLC,
as a Lender

By: /s/ Jackie Barrett
Name: Jackie Barrett
Title: Authorized Signatory

DBS Bank Ltd., Los Angeles Agency,
as a Lender

By: /s/ James McWalters
Name: James McWalters
Title: General Manager

RAYMOND JAMES BANK, FSB,
as a Lender

By: /s/ Thomas F. Macina
Name: Thomas F. Macina
Title: Executive Vice President

PNC Bank, National Assoc.,
as a Lender

By: /s/ Edward M. Tessalune
Name: Edward M. Tessalune
Title: Senior Vice President

CREDIT INDUSTRIEL ET COMMERCIAL,
as a Lender

By: /s/ Brian O'Leary
Name: Brian O'Leary.
Title: Managing Director

By: /s/ Anthony Rock
Name: Anthony Rock.
Title: Managing Director

Israel Discount Bank of New York,
as a Lender

By: /s/ George Commander
Name: George Commander
Title: Senior Vice President

By: /s/ Esther Lainis
Name: Esther Lainis
Title: First Vice President

State Bank of India,
as a Lender

By: /s/ Mr. Ashok Gulia
Name: Mr. Ashok Gulia
Title: Vice President & Head (Credit)

BANK LEUMI USA,
as a Lender

By: /s/ Joung Hee Hong
Name: Joung Hee Hong
Title: Vice President

BORROWING NOTICE

Reference is made to the Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among **Phillips-Van Heusen Corporation**, a Delaware corporation (the "U.S. Borrower"), **Tommy Hilfiger B.V.**, a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, **Barclays Bank PLC**, as Administrative Agent and Collateral Agent, **Deutsche Bank Securities Inc.**, as Syndication Agent, and **Banc of America Securities LLC**, **Credit Suisse Securities (USA) LLC** and **Royal Bank of Canada**, as Co-Documentation Agents.

Pursuant to Section(s) [2.01] [2.02] [2.03] [2.24][1] of the Credit Agreement, [Borrower Representative] [U.S. Borrower] [Foreign Borrower] desires that Lenders make the following Loans to [U.S. Borrower] [Foreign Borrower] in accordance with the applicable terms and conditions of the Credit Agreement on **[mm/dd/yy]** (the "Credit Date"):

U.S. Tranche A Term Loans

☐ Base Rate Loans: $ **[___,___,___]**

☐ Eurocurrency Rate Loans, with an initial Interest Period of _____ month(s): $ **[___,___,___]**

Foreign Tranche A Term Loans

☐ Eurocurrency Rate Loans, with an initial Interest Period of _____ month(s): € **[___,___,___]**

U.S. Tranche B Term Loans

☐ Base Rate Loans: $ **[___,___,___]**

☐ Eurocurrency Rate Loans, with an initial Interest Period of _____ month(s): $ **[___,___,___]**

Foreign Tranche B Term Loans

☐ Eurocurrency Rate Loans, with an initial Interest Period of _____ month(s): € **[___,___,___]**

U.S. Revolving Loans

☐ Base Rate Loans: $ **[___,___,___]**

☐ Eurocurrency Rate Loans, with an initial Interest Period of _____ month(s): $ **[___,___,___]**

[1] Indicate below Incremental Term Loan or Incremental Revolving Loan as applicable.

Canadian Revolving Loans

□ Base Rate Loans or Canadian Prime Rate Loans: **[$][**CAD**] [___,___,___]**

□ Eurocurrency Rate Loans, with an initial Interest Period of _____ month(s): **[$][**CAD**] [___,___,___]**

Foreign Revolving Loans

□ Eurocurrency Rate Loans, with an initial Interest Period of _____ month(s): **[€] [£] [¥] [___,___,___]**

U.S. Swing Line Loans: $ **[___,___,___]**

Canadian Swing Line Loans: **[$][**CAD**] [___,___,___]**

The proceeds of the Loans under this Borrowing Notice should be credited to [*account defaults to be inserted*]. This Borrowing Notice is irrevocable. [U.S. Borrower] [Foreign Borrower] [Borrower Representative] hereby certifies that:

(i) after making the Loans requested on the Credit Date, (x) the Total Utilization of U.S. Revolving Commitments shall not exceed the U.S. Revolving Commitments then in effect, (y) the Total Utilization of Foreign Revolving Commitments shall not exceed the Foreign Revolving Commitments then in effect and (z) the Total Utilization of Canadian Revolving Commitments shall not exceed the Canadian Revolving Commitments then in effect;

(ii) as of the Credit Date, the representations and warranties contained in each of the Loan Documents are true, correct and complete in all material respects on and as of such Credit Date to the same extent as though made on and as of such date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties are true, correct and complete in all material respects on and as of such earlier date, provided that, in each case, to the extent that any such representation and warranty is already qualified by materiality or Material Adverse Effect, such representation and warranty shall be true and correct in all respects; and

(iii) as of the Credit Date, no event has occurred and is continuing or would result from the consummation of the borrowing contemplated hereby that would constitute an Event of Default or a Default.

Date: **[mm/dd/yy]**

[PHILLIPS-VAN HEUSEN CORPORATION, as Borrower Representative

By: _____
Name:
Title: **]**

[PHILLIPS-VAN HEUSEN CORPORATION

By: _____

Name:
Title: **]**

[TOMMY HILFIGER B.V.

By: _____
Name:
Title: **]**

EXHIBIT A-1-3

CONVERSION/CONTINUATION NOTICE

Reference is made to the Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among **Phillips-Van Heusen Corporation**, a Delaware corporation (the "U.S. Borrower"), **Tommy Hilfiger B.V.**, a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, **Barclays Bank PLC**, as Administrative Agent and Collateral Agent, **Deutsche Bank Securities Inc.**, as Syndication Agent, and **Banc of America Securities LLC**, **Credit Suisse Securities (USA) LLC** and **Royal Bank of Canada**, as Co-Documentation Agents.

Pursuant to Section 2.09 of the Credit Agreement, the Borrower Representative desires to convert or to continue the following Loans, each such conversion and/or continuation to be effective as of **[mm/dd/yy]**:

1. **U.S. Tranche A Term Loans:**

$[___,___,___]	Eurocurrency Rate Loans to be continued with Interest Period of [____] month(s)
$[___,___,___]	Base Rate Loans to be converted to Eurocurrency Rate Loans with Interest Period of ____ month(s)
$[___,___,___]	Eurocurrency Rate Loans to be converted to Base Rate Loans

2. **Foreign Tranche A Term Loans:**

€ [___,___,___]	Eurocurrency Rate Loans to be continued with Interest Period of [____] month(s)

3. **U.S. Tranche B Term Loans:**

$[___,___,___]	Eurocurrency Rate Loans to be continued with Interest Period of [____] month(s)
$[___,___,___]	Base Rate Loans to be converted to Eurocurrency Rate Loans with Interest Period of ____ month(s)
$[___,___,___]	Eurocurrency Rate Loans to be converted to Base Rate Loans

4. **Foreign Tranche B Term Loans:**

€ [___,___,___]	Eurocurrency Rate Loans to be continued with Interest Period of [____] month(s)

5. **U.S. Revolving Loans**

$[___,___,___]	Eurocurrency Rate Loans to be continued with Interest Period of [____] month(s)

$**[___,___,___]** Base Rate Loans to be converted to Eurocurrency Rate Loans with Interest Period of ____ month(s)

$**[___,___,___]** Eurocurrency Rate Loans to be converted to Base Rate Loans

6. Canadian Revolving Loans

[$][CAD] **[___,___,___]** Eurocurrency Rate Loans to be continued with Interest Period of [____] month(s)

[$][CAD] **[___,___,___]** Base Rate Loans or Canadian Prime Rate Loans to be converted to Eurocurrency Rate Loans with Interest Period of ____ month(s)

[$][CAD] **[___,___,___]** Eurocurrency Rate Loans to be converted to Base Rate Loans or Canadian Prime Rate Loans

7. Foreign Revolving Loans:

[€] [£] [¥] **[___,___,___]** Eurocurrency Rate Loans to be continued with Interest Period of [____] month(s)

This Conversion/Continuation Notice is irrevocable. Borrower Representative hereby certifies that as of the date hereof, no event has occurred and is continuing or would result from the consummation of the conversion and/or continuation contemplated hereby that would constitute an Event of Default or a Default.

Date: **[mm/dd/yy]**

PHILLIPS-VAN HEUSEN CORPORATION, as Borrower Representative

By: _____
Name:
Title:

ISSUANCE NOTICE

Reference is made to the Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among **Phillips-Van Heusen Corporation**, a Delaware corporation (the "U.S. Borrower"), **Tommy Hilfiger B.V.**, a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, **Barclays Bank PLC**, as Administrative Agent and Collateral Agent, **Deutsche Bank Securities Inc.**, as Syndication Agent, and **Banc of America Securities LLC**, **Credit Suisse Securities (USA) LLC** and **Royal Bank of Canada**, as Co-Documentation Agents.

Pursuant to Section 2.04(a)[(i)][(ii)][(iii)] of the Credit Agreement, the [U.S. Borrower] [Foreign Borrower] or one of its Restricted Subsidiaries desires a [U.S. Letter of Credit] [Canadian Letter of Credit] [Foreign Letter of Credit] to be issued in accordance with the terms and conditions of the Credit Agreement on **[mm/dd/yy]** (the "Credit Date") in an aggregate face amount of **[___,___,___]**[1]**.**

Attached hereto for each such Letter of Credit are the following:

(a) the stated amount of such Letter of Credit;

(b) the name and address of the beneficiary;

(c) the expiration date; and

(d) either (i) the verbatim text of such proposed Letter of Credit, or (ii) a description of the proposed terms and conditions of such Letter of Credit, including a precise description of any documents to be presented by the beneficiary which, if presented by the beneficiary prior to the expiration date of such Letter of Credit, would require the Issuing Lender to make payment under such Letter of Credit.

This Issuance Notice is irrevocable. [U.S. Borrower] [Foreign Borrower] hereby certifies that:

(i) after issuing such Letter of Credit requested on the Credit Date, (x) the Total Utilization of U.S. Revolving Commitments shall not exceed the U.S. Revolving Commitments then in effect, (y) the Total Utilization of Foreign Revolving Commitments shall not exceed the Foreign Revolving Commitments then in effect and (z) the Total Utilization of Canadian Revolving Commitments shall not exceed the Canadian Revolving Commitments then in effect;

(ii) as of the Credit Date, the representations and warranties contained in each of the Loan Documents are true, correct and complete in all material respects on and as of such Credit Date to the same extent as though made on and as of such date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties are true, correct and complete in all material respects on and as of such earlier date, provided that, in each case, to the extent that any such representation and warranty is already qualified by materiality or Material Adverse Effect, such representation and warranty shall be true and correct in all respects; and

[1] Indicate currency denomination: Dollars or Canadian Dollars for U.S. Letters of Credit; Euros, Japanese Yen or Pounds Sterling for Foreign Letters of Credit.

(iii) as of such Credit Date, no event has occurred and is continuing or would result from the consummation of the issuance contemplated hereby that would constitute an Event of Default or a Default.

Date: **[mm/dd/yy]** **[PHILLIPS-VAN HEUSEN CORPORATION**

By: _____
Name:
Title: **]**

[TOMMY HILFIGER B.V.

By: _____
Name:
Title: **]**

TRANCHE A TERM LOAN NOTE

[$][€]**[___,___,___]**
[_____], 2010 New York, New York

[FOR VALUE RECEIVED, **Phillips-Van Heusen Corporation**, a Delaware corporation ("U.S. Borrower"), promises to pay **[Name of Lender]** ("Payee") or its registered assigns the principal amount of **[_____]** ($**[___,___,___]**) in the installments referred to below.**]**

[FOR VALUE RECEIVED, **Tommy Hilfiger B.V.**, a Dutch private limited liability company ("Foreign Borrower"), promises to pay **[Name of Lender]** ("Payee") or its registered assigns the principal amount of **[_____]** (€**[___,___,___]**) in the installments referred to below.**]**

[U.S. Borrower] [Foreign Borrower] also promises to pay interest on the unpaid principal amount hereof, from the date hereof until paid in full, at the rates and at the times which shall be determined in accordance with the provisions of that certain Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among **Phillips-Van Heusen Corporation**, a Delaware corporation (the "U.S. Borrower"), **Tommy Hilfiger B.V.**, a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, **Barclays Bank PLC**, as Administrative Agent and Collateral Agent, **Deutsche Bank Securities Inc.**, as Syndication Agent, and **Banc of America Securities LLC**, **Credit Suisse Securities (USA) LLC** and **Royal Bank of Canada**, as Co-Documentation Agents.

[U.S. Borrower] [Foreign Borrower] shall make principal payments on this Note as set forth in Section 2.12 of the Credit Agreement.

This Note is one of the Tranche A Term Loan Notes for [U.S.] [Foreign] Tranche A Term Loans in the aggregate principal amount of [$**367,700,000**] [**€100,000,000**] and is issued pursuant to and entitled to the benefits of the Credit Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Loan evidenced hereby was made and is to be repaid.

All payments of principal and interest in respect of this Note shall be made in [lawful money of the United States of America] [the single currency of the European Union] in same day funds at the Principal Office of Administrative Agent designated for [U.S. Tranche A Term Loans] [Foreign Tranche A Term Loans] or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Credit Agreement. Unless and until an Assignment Agreement effecting the assignment or transfer of the obligations evidenced hereby shall have been accepted by Administrative Agent and recorded in the Register, [U.S. Borrower] [Foreign Borrower], each Agent and Lenders shall be entitled to deem and treat Payee as the owner and holder of this Note and the obligations evidenced hereby. Payee hereby agrees, by its acceptance hereof, that before disposing of this Note or any part hereof it will make a notat ion hereon of all principal payments previously made hereunder and of the date to which interest hereon has been paid; provided, the failure to make a notation of any payment made on this Note shall not limit or otherwise affect the obligations of the [U.S. Borrower] [Foreign Borrower] hereunder with respect to payments of principal of or interest on this Note.

This Note is subject to mandatory prepayment and to prepayment at the option of [U.S. Borrower] [Foreign Borrower], each as provided in the Credit Agreement.

THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF [U.S. BORROWER] [FOREIGN BORROWER] AND PAYEE HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

Upon the occurrence of an Event of Default, the unpaid balance of the principal amount of this Note, together with all accrued and unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement.

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

No reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligations of [U.S. Borrower] [Foreign Borrower], which are absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

The [U.S. Borrower] [Foreign Borrower] promises to pay all costs and expenses, including reasonable attorneys' fees, all as provided in the Credit Agreement, incurred in the collection and enforcement of this Note. The [U.S. Borrower] [Foreign Borrower] and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive diligence, presentment, protest, demand notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, [U.S. Borrower] [Foreign Borrower] has caused this Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

[PHILLIPS-VAN HEUSEN CORPORATION

By: _____
Name:
Title: **]**

[TOMMY HILFIGER B.V.

By: _____
Name:
Title: **]**

TRANCHE B TERM LOAN NOTE

[$][€]**[___,___,___]**
[_____], 2010 New York, New York

[FOR VALUE RECEIVED, **Phillips-Van Heusen Corporation**, a Delaware corporation ("U.S. Borrower"), promises to pay **[Name of Lender]** ("Payee") or its registered assigns the principal amount of **[_____]** ($**[___,___,___]**) in the installments referred to below.**]**

[FOR VALUE RECEIVED, **Tommy Hilfiger B.V.**, a Dutch private limited liability company ("Foreign Borrower"), promises to pay **[Name of Lender]** ("Payee") or its registered assigns the principal amount of **[_____]** (€**[___,___,___]**) in the installments referred to below.**]**

[U.S. Borrower] [Foreign Borrower] also promises to pay interest on the unpaid principal amount hereof, from the date hereof until paid in full, at the rates and at the times which shall be determined in accordance with the provisions of that certain Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among **Phillips-Van Heusen Corporation**, a Delaware corporation (the "U.S. Borrower"), **Tommy Hilfiger B.V.**, a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, **Barclays Bank PLC**, as Administrative Agent and Collateral Agent, **Deutsche Bank Securities Inc.**, as Syndication Agent, and **Banc of America Securities LLC**, **Credit Suisse Securities (USA) LLC** and **Royal Bank of Canada**, as Co-Documentation Agents.

[U.S. Borrower] [Foreign Borrower] shall make principal payments on this Note as set forth in Section 2.12 of the Credit Agreement.

This Note is one of the Tranche B Term Loan Notes for [U.S.] [Foreign] Tranche B Term Loans in the aggregate principal amount of [$**1,003,100,000**] [**€300,000,000**] and is issued pursuant to and entitled to the benefits of the Credit Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Loan evidenced hereby was made and is to be repaid.

All payments of principal and interest in respect of this Note shall be made in [lawful money of the United States of America] [the single currency of the European Union] in same day funds at the Principal Office of Administrative Agent designated for [U.S. Tranche B Term Loans] [Foreign Tranche B Term Loans] or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Credit Agreement. Unless and until an Assignment Agreement effecting the assignment or transfer of the obligations evidenced hereby shall have been accepted by Administrative Agent and recorded in the Register, [U.S. Borrower] [Foreign Borrower], each Agent and Lenders shall be entitled to deem and treat Payee as the owner and holder of this Note and the obligations evidenced hereby. Payee hereby agrees, by its acceptance hereof, that before disposing of this Note or any part hereof it will make a notat ion hereon of all principal payments previously made hereunder and of the date to which interest hereon has been paid; provided, the failure to make a notation of any payment made on this Note shall not limit or otherwise affect the obligations of the [U.S. Borrower] [Foreign Borrower] hereunder with respect to payments of principal of or interest on this Note.

This Note is subject to mandatory prepayment and to prepayment at the option of [U.S. Borrower] [Foreign Borrower], each as provided in the Credit Agreement.

THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF [U.S. BORROWER] [FOREIGN BORROWER] AND PAYEE HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

Upon the occurrence of an Event of Default, the unpaid balance of the principal amount of this Note, together with all accrued and unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement.

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

No reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligations of [U.S. Borrower] [Foreign Borrower], which are absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

The [U.S. Borrower] [Foreign Borrower] promises to pay all costs and expenses, including reasonable attorneys' fees, all as provided in the Credit Agreement, incurred in the collection and enforcement of this Note. The [U.S. Borrower] [Foreign Borrower] and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive diligence, presentment, protest, demand notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, [U.S. Borrower] [Foreign Borrower] has caused this Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

[PHILLIPS-VAN HEUSEN CORPORATION

By: _____
Name:
Title: **]**

[TOMMY HILFIGER B.V.

By: _____
Name:
Title: **]**

REVOLVING LOAN NOTE

[$][€]**[___,___,___]**
[_____], 2010. New York, New York

[FOR VALUE RECEIVED, **Phillips-Van Heusen Corporation**, a Delaware corporation ("U.S. Borrower"), promises to pay **[Name of Lender]** ("Payee") or its registered assigns, on or before **[mm/dd/yy]**, the lesser of (a) **[_____]** ([$]**[___,___,___]**) [(or its Canadian Dollar equivalent, as applicable)] and (b) the unpaid principal amount of all advances made by Payee to the U.S. Borrower as Revolving Loans under the Credit Agreement referred to below.**]**

[FOR VALUE RECEIVED, **Tommy Hilfiger B.V.**, a Dutch private limited liability company ("Foreign Borrower"), promises to pay **[Name of Lender]** ("Payee") or its registered assigns, on or before **[mm/dd/yy]**, the lesser of (a) **[_____]** ([€]**[___,___,___]**) (or its equivalent in any Other Foreign Currency, as applicable) and (b) the unpaid principal amount of all advances made by Payee to the Foreign Borrower as Revolving Loans under the Credit Agreement referred to below.**]**

[U.S. Borrower] [Foreign Borrower] also promises to pay interest on the unpaid principal amount hereof, from the date hereof until paid in full, at the rates and at the times which shall be determined in accordance with the provisions of that certain Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among **Phillips-Van Heusen Corporation**, a Delaware corporation (the "U.S. Borrower"), **Tommy Hilfiger B.V.**, a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, **Barclays Bank PLC**, as Administrative Agent and Collateral Agent, **Deutsche Bank Securities Inc.**, as Syndication Agent, and **Banc of America Securities LLC**, **Credit Suisse Securities (USA) LLC** and **Royal Bank of Canada**, as Co-Documentation Agents.

This Note is one of the Revolving Loan Notes for [U.S.] [Canadian] [Foreign] Revolving Loans in the aggregate principal amount of [**$265,000,000**] [**$10,000,000** (or its Canadian Dollar equivalent)] [**€132,275,132.28**] and is issued pursuant to and entitled to the benefits of the Credit Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Loans evidenced hereby were made and are to be repaid.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds at the Principal Office of Administrative Agent or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Credit Agreement. Unless and until an Assignment Agreement effecting the assignment or transfer of the obligations evidenced hereby shall have been accepted by Administrative Agent and recorded in the Register, [U.S. Borrower] [Foreign Borrower], each Agent and Lenders shall be entitled to deem and treat Payee as the owner and holder of this Note and the obligations evidenced hereby. Payee hereby agrees, by its acceptance hereof, that before disposing of this Note or any part hereof it will make a notation hereon of all principal payments previously made hereunder and of the date to which interest hereon has been paid; < U>provided, the failure to make a notation of any payment made on this Note shall not limit or otherwise affect the obligations of the [U.S. Borrower] [Foreign Borrower] hereunder with respect to payments of principal of or interest on this Note.

This Note is subject to mandatory prepayment and to prepayment at the option of [U.S. Borrower] [Foreign Borrower], each as provided in the Credit Agreement.

THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF [U.S. BORROWER] [FOREIGN BORROWER] AND PAYEE HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

Upon the occurrence of an Event of Default, the unpaid balance of the principal amount of this Note, together with all accrued and unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement.

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

No reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligations of [U.S. Borrower] [Foreign Borrower], which are absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

The [U.S. Borrower] [Foreign Borrower] promises to pay all costs and expenses, including reasonable attorneys' fees, all as provided in the Credit Agreement, incurred in the collection and enforcement of this Note. The [U.S. Borrower] [Foreign Borrower] and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive diligence, presentment, protest, demand notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, [U.S. Borrower] [Foreign Borrower] has caused this Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

[PHILLIPS-VAN HEUSEN CORPORATION

By: _____
Name:
Title: **]**

TOMMY HILFIGER B.V.

By: _____
Name:
Title: **]**

TRANSACTIONS ON REVOLVING LOAN NOTE

Date	Amount of Loan Made This Date	Amount of Principal Paid This Date	Outstanding Principal Balance This Date	Notation Made By

EXHIBIT B-3-4

SWING LINE NOTE

[$]**[___,___,___]**
[_____], 2010 New York, New York

FOR VALUE RECEIVED, **Phillips-Van Heusen Corporation**, a Delaware corporation ("U.S. Borrower"), promises to pay **Barclays Bank PLC**, as Swing Line Lender ("Payee"), on or before **[mm/dd/yy]**, the lesser of (a) **[_____]** ([$][___,___,___]) [(or its Canadian Dollar equivalent, as applicable)] and (b) the unpaid principal amount of all advances made by Payee to U.S. Borrower as Swing Line Loans under the Credit Agreement referred to below.

The U.S. Borrower also promises to pay interest on the unpaid principal amount hereof, from the date hereof until paid in full, at the rates and at the times which shall be determined in accordance with the provisions of that certain Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among **Phillips-Van Heusen Corporation**, a Delaware corporation (the "U.S. Borrower"), **Tommy Hilfiger B.V.**, a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto fr om time to time, **Barclays Bank PLC**, as Administrative Agent and Collateral Agent, **Deutsche Bank Securities Inc.**, as Syndication Agent, and **Banc of America Securities LLC**, **Credit Suisse Securities (USA) LLC** and **Royal Bank of Canada**, as Co-Documentation Agents.

This Note is the "Swing Line Note" and is issued pursuant to and entitled to the benefits of the Credit Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Swing Line Loans evidenced hereby were made and are to be repaid.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds at the Principal Office of Swing Line Lender or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Credit Agreement.

This Note is subject to mandatory prepayment and to prepayment at the option of the U.S. Borrower, each as provided in the Credit Agreement.

THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF THE U.S. BORROWER AND PAYEE HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THEREOF.

Upon the occurrence of an Event of Default, the unpaid balance of the principal amount of this Note, together with all accrued and unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement.

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

No reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligations of the U.S. Borrower, which are absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

The U.S. Borrower promises to pay all costs and expenses, including reasonable attorneys' fees, all as provided in the Credit Agreement, incurred in the collection and enforcement of this Note. The U.S. Borrower and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive diligence, presentment, protest, demand notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

[Remainder of page intentionally left blank]

EXHIBIT B-4-2

IN WITNESS WHEREOF, U.S. Borrower has caused this Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

PHILLIPS-VAN HEUSEN CORPORATION

By:_____
Name:
Title:

EXHIBIT B-4-3

Date	TRANSACTIONS ON SWING LINE NOTE Amount of Loan Made This Date	Amount of Principal Paid This Date	Outstanding Principal Balance This Date	Notation Made By

EXHIBIT B-4-4

INCREMENTAL TERM LOAN NOTE

[$][€]**[___,___,___]**
[_____], 20[_] New York, New York

[FOR VALUE RECEIVED, **Phillips-Van Heusen Corporation**, a Delaware corporation ("U.S. Borrower"), promises to pay **[Name of Lender]** ("Payee") or its registered assigns the principal amount of **[_____]** ($**[___,___,___]**) in the installments referred to below.**]**

[FOR VALUE RECEIVED, **Tommy Hilfiger B.V.**, a Dutch private limited liability company ("Foreign Borrower"), promises to pay **[Name of Lender]** ("Payee") or its registered assigns the principal amount of **[_____]** (€**[___,___,___]**) in the installments referred to below.**]**

[U.S. Borrower] [Foreign Borrower] also promises to pay interest on the unpaid principal amount hereof, from the date hereof until paid in full, at the rates and at the times which shall be determined in accordance with the provisions of that certain Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among **Phillips-Van Heusen Corporation**, a Delaware corporation (the "U.S. Borrower"), **Tommy Hilfiger B.V.**, a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, **Barclays Bank PLC**, as Administrative Agent and Collateral Agent, **Deutsche Bank Securities Inc.**, as Syndication Agent, and **Banc of America Securities LLC**, **Credit Suisse Securities (USA) LLC** and **Royal Bank of Canada**, as Co-Documentation Agents.

[U.S. Borrower] [Foreign Borrower] shall make principal payments on this Note as set forth in Section 2.24 of the Credit Agreement.

This Note is one of the "Incremental Term Loan Notes" made to the [U.S. Borrower] [Foreign Borrower] in the aggregate principal amount of [$**[___,___,___]**][€**[___,___,___]**] and is issued pursuant to and entitled to the benefits of the Credit Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Term Loan evidenced hereby was made and is to be repaid.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds at the Principal Office of Administrative Agent or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Credit Agreement. Unless and until an Assignment Agreement effecting the assignment or transfer of the obligations evidenced hereby shall have been accepted by Administrative Agent and recorded in the Register, the Borrowers, each Agent and Lenders shall be entitled to deem and treat Payee as the owner and holder of this Note and the obligations evidenced hereby. Payee hereby agrees, by its acceptance hereof, that before disposing of this Note or any part hereof it will make a notation hereon of all principal payments previously made hereunder and of the date to which interest hereon has been paid; provided, the f ailure to make a notation of any payment made on this Note shall not limit or otherwise affect the obligations of the [U.S. Borrower] [Foreign Borrower] hereunder with respect to payments of principal of or interest on this Note.

This Note is subject to mandatory prepayment and to prepayment at the option of [U.S. Borrower] [Foreign Borrower], each as provided in the Credit Agreement.

THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF [U.S. BORROWER] [FOREIGN BORROWER] AND PAYEE HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

Upon the occurrence of an Event of Default, the unpaid balance of the principal amount of this Note, together with all accrued and unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement.

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

No reference herein to the Credit Agreement and no provision of this Note or the Credit Agreement shall alter or impair the obligations of [U.S. Borrower] [Foreign Borrower], which are absolute and unconditional, to pay the principal of and interest on this Note at the place, at the respective times, and in the currency herein prescribed.

The [U.S. Borrower] [Foreign Borrower] promises to pay all costs and expenses, including reasonable attorneys' fees, all as provided in the Credit Agreement, incurred in the collection and enforcement of this Note. The [U.S. Borrower] [Foreign Borrower] and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and hereby waive diligence, presentment, protest, demand notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the [U.S. Borrower] [Foreign Borrower] has caused this Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

[PHILLIPS-VAN HEUSEN CORPORATION

By: _____
Name:
Title: **]**

[TOMMY HILFIGER B.V.

By: _____
Name:
Title: **]**

COMPLIANCE CERTIFICATE

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am the Principal Financial Officer of the **Phillips-Van Heusen Corporation**, a Delaware corporation (the "Borrower Representative**"**).

2. I have reviewed the terms of that certain Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein (including in Annex A hereto) being used herein (and in Annex A hereto) as therein defined), by and among **Phillips-Van Heusen Corporation**, a Delaware corporation (the "U.S. Borrower"), **Tommy Hilfiger B.V.**, a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, **Barclays Bank PLC**, as Administrative Agent and Collateral Agent, **Deutsche Bank Securities Inc.**, **< /B>as Syndication Agent, and Banc of America Securities LLC, Credit Suisse Securities (USA) LLC and Royal Bank of Canada, as Co-Documentation Agents.**

3. The examination described in paragraph 2 above did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes an Event of Default or Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth in a separate attachment, if any, to this Certificate, describing in detail, the nature of the condition or event, the period during which it has existed and the action which any Borrower has taken, is taking, or proposes to take with respect to each such condition or event.

The foregoing certifications, together with the computations set forth in Annex A hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered [mm/dd/yy] pursuant to Section 5.01(c) of the Credit Agreement.

PHILLIPS-VAN HEUSEN CORPORATION, as Borrower Representative

By: _____
Name:
Title: Principal Financial Officer

ANNEX A TO
COMPLIANCE CERTIFICATE

FOR THE FISCAL [QUARTER] [YEAR] ENDING [mm/dd/yy].

1. Consolidated Net Income[1]: (i) - (ii) =
$[___,___,___]

(i) **the net income (or loss) of the Group on a consolidated basis for the applicable period taken as a single accounting period determined in conformity with GAAP:**
$[___,___,___]

(ii) **minus (a) + (b) + (c) + (d) + (e) + (f) =**
$[___,___,___]

(a) **the income (or loss) of any Person (other than a Group Member) in which any other Person (other than a Group Member) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to any Group Member by such Person during the applicable period:**
$[___,___,___]

(b) **to the extent included in net income, the income (or loss) of any Person accrued prior to the date it becomes a Group Member or is merged into or consolidated with the Group or that Person's assets are acquired by any Group Member:**
$[___,___,___]

(c) **the income of any Subsidiary of the U.S. Borrower to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary:**
$[___,___,___]

(d) **any after-tax non-cash gains (or losses) attributable to Asset Sales or returned surplus assets of any Pension Plan:**
$[___,___,___]

(e) **the CKI Amount and the Itochu Amount to the extent not already reducing net income; provided that, if during the applicable period, the U.S. Borrower or any of its Subsidiaries repaid the Itochu Amount in whole, then for the applicable period, this amount shall be calculated to exclude the excess of the amount of such amounts repaid over the regularly scheduled payment of the Itochu Amount for the applicable period:**
$[___,___,___]

(f) **to the extent not included in clauses (ii)(a) through (ii)(e) above,**

[1] For the avoidance of doubt, cash amounts used by the Borrowers to make purchases of debt (including purchases of Loans under Section 2.13(c) of the Credit Agreement and purchases of the 2023 Debentures) shall not reduce Consolidated Net Income, nor will any non-cash gain associated with the cancellation of such purchased debt increase Consolidated Net Income.

any net extraordinary gains or net extraordinary losses:
$[___,___,___]

2. Consolidated Adjusted EBITDA[2]: (i) + (ii) - (iii) =
$[___,___,___]

(i) Consolidated Net Income (see Section 1 above):
$[___,___,___]

(ii) plus, to the extent reducing Consolidated Net Income, the sum without duplication, of amounts for:

(a) consolidated interest expense:
$[___,___,___]

(b) provisions for taxes based on income, profits or capital:
$[___,___,___]

(c) total depreciation expense:
$[___,___,___]

(d) total amortization expense:
$[___,___,___]

(e) other non-cash charges (including, without limitation, any non-cash charges related to writing up inventory in connection with the Acquisition, but excluding any non-cash charge to the extent that it represents an accrual of or reserve for cash expenditures in any future period):
$[___,___,___]

(f) net cash charges associated with or related to any contemplated restructurings related to the Acquisition in an aggregate amount not to exceed $90,000,000:
$[___,___,___]

(g) all amounts in respect of extraordinary, unusual or non-recurring losses, expenses or charges (including, without limitation, (A) restructuring charges (other than those described in clause (ii)(f)), (B) any fees, expenses or charges relating to plant shutdowns and discontinued operations, (C) acquisition integration costs and (D) any expenses or charges relating to any offering of Equity Interests, Permitted Acquisition, or any Investment or Indebtedness permitted under the Credit Agreement, in each case under clause (D), whether or not successful):
$[___,___,___]

(h) any financial advisory fees, accounting fees, legal fees and other similar advisory and consulting fees and related out-of-pocket expenses incurred by any Group Member as a result of the Acquisition, in an aggregate amount not to exceed $55,000,000:
$[___,___,___]

(i) with respect to any four-Fiscal Quarter measurement period ending on or prior to the end of the eighth full Fiscal Quarter following the Closing Date, the amount of cost savings and other operating improvements and synergies projected

[2] Determined for the Group on a consolidated basis. For the avoidance of doubt, Consolidated Adjusted EBITDA shall be calculated to exclude any gain resulting from any debt repurchase (including, for the avoidance of doubt, repurchases of Loans under Section 2.13(c) of the Credit Agreement or repurchases of the 2023 Debentures).

by the U.S. Borrower in good faith to be realized as a result of the Acquisition (calculated on a pro forma basis as though such cost savings and other operating improvements and synergies had been realized on the first day of the applicable period), without duplication of the amount of actual benefits realized during the applicable period from such actions to the extent already included in the Consolidated Net Income for the applicable period, in an aggregate amount not to exceed $40,000,000: $[___,___,___] $[___,___,___] $[___,___,___] $[___,___,___] to the extent included in calculating

(j) losses on agreements with respect to Hedge Agreements and any related tax gains, in each case incurred in connection with or as a result of the Acquisition:

(k) non-cash losses on agreements with respect to Hedge Agreements:

(l) pro forma adjustments[3]:

(iii) Consolidated Net Income, the sum of:

(a) all amounts in respect of extraordinary, unusual or nonrecurring gains: $[___,___,___]

(b) gains on agreements with respect to Hedge Agreements and any related tax gains, in each case incurred in connection with or as a result of the Acquisition:
$[___,___,___]

(c) non-cash gains on agreements with respect to Hedge Agreements:
$[___,___,___]

(d) cash payments made during the applicable period with respect to non-cash charges that were added back pursuant to clause (ii)(e) above in a prior period:
$[___,___,___]

(e) other non-cash gains increasing Consolidated Net Income for the applicable period (excluding any such non-cash gain to the extent it represents the reversal of an accrual or reserve for potential cash gain in any prior period):
$[___,___,___]

[3] For purposes of making the calculation of Consolidated Adjusted EBITDA, acquisitions (including the Acquisition), Investments, dispositions, mergers, consolidations, operational improvements and discontinued operations (as determined in accordance with GAAP) that have been made by any Group Member, including through mergers or consolidations and including any related financing transactions, during the relevant period or subsequent to such period and on or prior to the date of such calculation (the "relevant transaction"), shall be deemed to have occurred on the first day of the relevant period and (without duplication of the pro forma adjustments provided for in the immediately preceding paragraph with respect to the Acquisition) such calculation shall be made giving pro forma effect to any cost savings and other operating improvements and synergies in connection with such relevant transaction (without duplication of actual benefits rea lized during such period from the same) that are (a) factually supportable and determined in good faith by the U.S. Borrower, as certified in an officer's certificate signed by an Authorized Officer and (b) do not exceed the actual cost savings expected in good faith to be realized by the Group over the twelve-month period following such relevant transaction.

3. Consolidated Cash Interest Expense: (i) – (ii) =
$[___,___,___]

(i) **total interest expense payable in cash in the applicable period (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) of the Group on a consolidated basis with respect to all outstanding Indebtedness of the Group (net of cash interest income):**
$[___,___,___]

(ii) **less, to the extent included in clause (i) for the applicable period, any one time financing fees:**
$[___,___,___]

4. Consolidated Total Debt[4]: (i) + (ii) =
$[___,___,___]

(i) **the aggregate stated balance sheet amount of all Indebtedness of the Group (or, if higher, the par value or stated face amount of all such Indebtedness (other than zero coupon Indebtedness) determined on a consolidated basis in accordance with GAAP, exclusive of any contingent liability in respect of any Letter of Credit:**
$[___,___,___]

(ii) **plus, to the extent not included in clause (i), Indebtedness relating to securitization of receivables generated by the Group (whether or not such Indebtedness is on the balance sheet of the Group):**
$[___,___,___]

5. Interest Coverage Ratio: (i)/(ii) =

(i) **Consolidated Adjusted EBITDA:**
$[___,___,___]

(ii) **Consolidated Cash Interest Expense:**
$[___,___,___]

Actual: _.__:1.00
Required: _.__:1.00

6. Leverage Ratio: (i)/(ii) =

(i) **Consolidated Total Debt:**
$[___,___,___]

(ii) **Consolidated Adjusted EBITDA:**
$[___,___,___]

Actual: _.__:1.00
Required: _.__:1.00

Include the following calculations for the annual Compliance Certificate:

7. Material Companies: [to be provided]

[4] For the avoidance of doubt, Consolidated Total Debt will be calculated to exclude all Indebtedness of the Group to ITOCHU Corporation pursuant to the Itochu Agreement or otherwise related to such agreement and all Indebtedness of the Group pursuant to the CKI Documents.

8. Consolidated Capital Expenditures: (i) – (ii) =
$[___,___,___]

(i) aggregate expenditures of the Group during the applicable Fiscal Year determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of the Group:
$[___,___,___]

(ii) less, to the extent included in clause (i): (a) + (b) =
$[___,___,___]

(a) expenditures for replacements and substitutions for fixed assets, capital assets or equipment to the extent made with Net Cash Proceeds invested pursuant to Section 2.14(a) or 2.14(b) of the Credit Agreement:
$[___,___,___]

(b) expenditures which constitute a Permitted Acquisition permitted under Section 6.08 of the Credit Agreement:
$[___,___,___]

9. Maximum Consolidated Capital Expenditures[5]:

Actual:
$[___,___,___]

Permitted:[6]
$[___,___,___]

(a) Rollover Amount:

the excess, if any, of the scheduled amount for the immediately preceding Fiscal Year (with the amount of any rollover from the prior Fiscal Year being deemed to be used first) over the actual amount of Consolidated Capital Expenditures for such previous Fiscal Year:
$[___,___,___]

(b) Acquired Permitted CapEx Amount: (i) + (ii) =
$[___,___,___]

(i) an amount equal to 5% of the Acquisition Consideration with respect to any Permitted Acquisition prior to the applicable Fiscal Year:
$[___,___,___]

(ii) plus, an amount equal to 5% of the Acquisition Consideration with respect to any Permitted Acquisition during the applicable Fiscal Year, multiplied by the fraction (a) / (b) with respect to such Permitted Acquisition: (ii) x (a) / (b) =
$[___,___,___]

(a) the number of days remaining in such Fiscal Year after the date such Permitted Acquisition is consummated

(b) the actual number of days in such Fiscal Year

[5] Notwithstanding the foregoing, for purposes of determining compliance with Section 6.07(c) of the Credit Agreement for any given Fiscal Year, the actual amount of Consolidated Capital Expenditures that are made or incurred in such Fiscal Year and that are denominated in any currency other than Dollars will be converted into Dollars based on the relevant currency exchange rate in effect on the Closing Date.

[6] Including Rollover Amount and the Acquired Permitted CapEx Amount calculated below.

10. Consolidated Current Assets:

the total assets of the Group on a consolidated basis that may properly be classified as current assets in conformity with GAAP, excluding cash and Cash Equivalents:
$[___,___,___]

11. Consolidated Current Liabilities:

the total liabilities of the Group on a consolidated basis that may properly be classified as current liabilities in conformity with GAAP, excluding the current portion of long term debt:
$[___,___,___]

12. Consolidated Working Capital as of the beginning of the applicable period: (i) - (ii) =
$[___,___,___]

(i) Consolidated Current Assets of the Group:
$[___,___,___]

(ii) Consolidated Current Liabilities of the Group:
$[___,___,___]

13. Consolidated Working Capital as of the end of the applicable period: (i) - (ii) =
$[___,___,___]

(i) Consolidated Current Assets of the Group:
$[___,___,___]

(ii) Consolidated Current Liabilities of the Group:
$[___,___,___]

14. Consolidated Working Capital Adjustment[7]: (i) - (ii) =
$[___,___,___]

(i) Consolidated Working Capital as of the beginning of such period:
$[___,___,___]

(ii) Consolidated Working Capital as of the end of such period:
$[___,___,___]

15. Consolidated Excess Cash Flow: (i) - (ii) =
$[___,___,___]

(i) the sum, without duplication, for the applicable period of (a) + (b) + (c) =
$[___,___,___]

(a) Consolidated Net Income:
$[___,___,___]

(b) to the extent reducing Consolidated Net Income, the sum, without duplication, of amounts for non cash charges reducing Consolidated Net Income, including for depreciation and amortization (excluding any such non cash

[7] In calculating the Consolidated Working Capital Adjustment there shall be excluded the effect of reclassification during such period of current assets to long term assets and current liabilities to long term liabilities and the effect of any Permitted Acquisition during such period; provided, that there shall be included with respect to any Permitted Acquisition during such period an amount (which may be a negative number) by which the Consolidated Working Capital acquired in such Permitted Acquisition as at the time of such acquisition exceeds (or is less than) Consolidated Working Capital at the end of such period.

charge to the extent that it represents an accrual or reserve for potential cash charge in any future period or amortization of a prepaid cash charge that was paid in a prior period): $[___,___,___]

(c) Consolidated Working Capital Adjustment: $[___,___,___]

(ii) less, the sum without duplication, of: (a) + (b) = $[___,___,___]

(a) the amounts for the applicable period paid in cash of: (1) + (2) + (3) = $[___,___,___]

(1) scheduled repayments of Indebtedness to the extent actually made (excluding for the avoidance of doubt, repayments of revolving loans or swing line loans except to the extent the related revolving commitments are permanently reduced in connection with such repayments and any purchases (or repayments in connection therewith) of Loans pursuant to Section 2.13(c) of the Credit Agreement) and scheduled repayments of obligations under Capital Leases (excluding any interest expense portion thereof): $[___,___,___]

(2) Consolidated Capital Expenditures: $[___,___,___]

(3) to the extent actually declared, Restricted Payments permitted by Section 6.04(d) of the Credit Agreement: $[___,___,___]

(b) other non-cash gains increasing Consolidated Net Income for such period (excluding any such non-cash gain to the extent it represents the reversal of an accrual or reserve for potential cash gain in any prior period): $[___,___,___]

EXHIBIT C-2 TO
CREDIT AND GUARANTY AGREEMENT

GUARANTOR COVERAGE CERTIFICATE

To: Barclays Bank PLC as Administrative Agent (as defined below)

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am the principal financial officer of the Phillips-Van Heusen Corporation, a Delaware corporation (the "Borrower Representative").

2. I have reviewed the terms of the Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "U.S. Borrower"), Tommy Hilfiger B.V., a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, Barclays Bank PLC, as Administrative Agent and Collateral Agent, Deutsche Bank Securities Inc., as Syndication Agent, and Banc of America Securities LLC< /B>, Credit Suisse Securities (USA) LLC and Royal Bank of Canada, as Co-Documentation Agents.

3. Terms defined in the Credit and Guaranty Agreement and not otherwise defined herein shall have the meaning given to them in the Credit and Guaranty Agreement.

4. Reference is made to Sections 5.01(c) and 5.18 of the Credit and Guaranty Agreement, and in accordance with such sections, pursuant to which the undersigned hereby certifies as follows:

(a) as at [_____], the aggregate (without duplication) Group Member Adjusted EBITDA attributable to the Loan Parties as a group is [_____], being [__] percent of the Consolidated Adjusted EBITDA; and

(b) as at [_____], the aggregate (without duplication) Group Member Assets of the Loan Parties as a group are [_____], being [__] percent of the Consolidated Total Assets.

The foregoing certifications, are made and delivered [mm/dd/yy] pursuant to Section 5.01(c) of the Credit Agreement.

PHILLIPS-VAN HEUSEN CORPORATION, as Borrower Representative

By: _____

Name:

Title: Principal Financial Officer

EXHIBIT D TO
CREDIT AND GUARANTY AGREEMENT

CERTIFICATE RE NON-BANK STATUS

Reference is made to the Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "U.S. Borrower"), Tommy Hilfiger B.V., a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, Barclays Bank PLC, as Administrative Agent and Collateral Agent, Deutsche Bank Securities Inc., as Syndication Agent, and Banc of America Securities LLC, Credit Suisse Securities (USA) LLC and Royal Bank of Canada, as Co-Documentation Agents. Pursuant to Section 2.20(c) of the Credit Agreement, the undersigned hereby certifies that it is not a "bank" or other Person described in Section 881(c)(3) of the Internal Revenue Code of 1986, as amended.

[NAME OF LENDER]

By: _____
Name:
Title:

EXHIBIT D-1

EXHIBIT E-1 TO
CREDIT AND GUARANTY AGREEMENT

CLOSING DATE CERTIFICATE

THE UNDERSIGNED HEREBY CERTIFY AS FOLLOWS:

1. I am an Authorized Officer of Phillips-Van Heusen Corporation, a Delaware corporation (the "Borrower Representative").

2. I have reviewed the terms of Section 3 of the Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "U.S. Borrower"), Tommy Hilfiger B.V., a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, Barclays Bank PLC, as Administrative Agent and Collateral Agent, Deutsche Bank Securities Inc., as Syndication Agent, and Banc of A merica Securities LLC, Credit Suisse Securities (USA) LLC and Royal Bank of Canada, as Co-Documentation Agents, and the definitions and provisions contained in such Credit Agreement relating thereto, and in our opinion we have made, or have caused to be made under our supervision, such examination or investigation as is necessary to enable us to express an informed opinion as to the matters referred to herein.

3. Based upon my review and examination described in paragraph 2 above, I certify, on behalf of each Borrower, that as of the date hereof:

(i) since (a) January 31, 2010, with respect to the U.S. Borrower and any Subsidiary of the U.S. Borrower prior to giving effect to the Acquisition and (b) March 31, 2009 with respect to the Acquired Business, no event, circumstance or change has occurred that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect;

(ii) each of the conditions precedent described in Section 3.01 and Section 3.02 of the Credit Agreement has been satisfied on the Closing Date (except that no opinion is hereby expressed as to Administrative Agent's or Required Lenders' satisfaction with any document, instrument or other matter); and

(iii) no terms or conditions of the Acquisition Agreement have been amended, waived or terminated without the consent of the Administrative Agent, except to the extent it does not materially affect the interests of the Lenders.

The foregoing certifications are made and delivered as of [_____], 2010.

PHILLIPS-VAN HEUSEN CORPORATION, as

Borrower Representative

_____
Name:
Title:

EXHIBIT E-2 TO
CREDIT AND GUARANTY AGREEMENT

SOLVENCY CERTIFICATE

THE UNDERSIGNED HEREBY CERTIFIES AS FOLLOWS:

1. I am the chief financial officer of the U.S. Borrower.

2. Reference is made to that certain Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "U.S. Borrower"), Tommy Hilfiger B.V., a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, Barclays Bank PLC, as Administrative Agent and Collateral Agent, Deutsche Bank Securities Inc., as Syndication Agent, and Banc of America Secur ities LLC, Credit Suisse Securities (USA) LLC and Royal Bank of Canada, as Co-Documentation Agents.

3. I have reviewed the terms of Sections 3 and 4 of the Credit Agreement and the definitions and provisions contained in the Credit Agreement relating thereto, and, in my opinion, have made, or have caused to be made under my supervision, such examination or investigation as is necessary to enable me to express an informed opinion as to the matters referred to herein.

4. Based upon my review and examination described in paragraph 3 above, I certify that as of the date hereof, after giving effect to the consummation of the Transactions, the related financings and the other transactions contemplated by the Loan Documents, the Group Members are, on a consolidated basis, Solvent.

The foregoing certifications are made and delivered as of [_____], 2010.

PHILLIPS-VAN HEUSEN CORPORATION

_____
Name: Michael Shaffer
Title: Chief Financial Officer

EXHIBIT F-1 TO
CREDIT AND GUARANTY AGREEMENT

COUNTERPART AGREEMENT
(Guarantor)

This COUNTERPART AGREEMENT, dated [mm/dd/yy] (this "Counterpart Agreement") is delivered pursuant to that certain Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "U.S. Borrower"), Tommy Hilfiger B.V., a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, Barclays Bank PLC, as Administrative Agent and Collateral Agent, Deutsche Bank Securities Inc., as Syndication Agent, and Banc of America Securities LLC, Credit Suisse Securities (USA) LLC and Royal Bank of Canada, as Co-Documentation Agents.

Section 1. Pursuant to Section 5.12 of the Credit Agreement, the undersigned hereby:

(a) agrees that this Counterpart Agreement may be attached to the Credit Agreement and that by the execution and delivery hereof, the undersigned becomes a Guarantor under the Credit Agreement and agrees to be bound by all of the terms thereof;

(b) represents and warrants that each of the representations and warranties set forth in the Credit Agreement and each other Loan Document and applicable to the undersigned is true and correct both before and after giving effect to this Counterpart Agreement, except to the extent that any such representation and warranty relates solely to any earlier date, in which case such representation and warranty is true and correct as of such earlier date;

(c) hereby irrevocably and unconditionally guarantees the due and punctual payment in full of all Obligations (or, in the case of any Foreign Subsidiary part hereto, solely in respect of the Foreign Obligations) when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)) and in accordance with Article VII of the Credit Agreement (subject, in the case of any Foreign Subsidiary party hereto, to the limitations applicable to certain Foreign Guarantors set forth in the Credit Agreement or as set forth below [*insert relevant guarantee limitation language for any jurisdictions not referenced in the Credit Agreement]*) subject to the terms and conditions of the Credit Agreement ; and

(d) [the undersigned hereby (i) agrees that this counterpart may be attached to the U.S. Pledge and Security Agreement, (ii) agrees that the undersigned will comply with all the terms and conditions of the U.S. Pledge and Security Agreement as if it were an original signatory thereto, (iii) grants to Collateral Agent a security interest in all of the undersigned's right, title and interest in and to all "Collateral" (as such term is defined in the U.S. Pledge and Security Agreement) of the undersigned, subject to the terms of Section 2 of the U.S. Pledge and Security Agreement, in each case whether now or hereafter existing or in which the undersigned now has or hereafter acquires an interest and wherever the same may be located and (iv) delivers to Collateral Agent supplements to all schedules attached to the U.S. Pledge and Security Agreement with respect to assets owned by it. All such Col lateral shall be deemed to be part of the "Collateral" as defined in and hereafter subject to each of the terms and conditions of the U.S. Pledge and Security Agreement.][the undersigned hereby acknowledges that it has executed and delivered or is, simultaneously with the execution of this Counterpart Agreement, executing and delivering such other Security Documents, if any, as shall be required pursuant to the terms of the Credit Agreement.]

Section 2. The undersigned agrees to execute, acknowledge and deliver such further documents as it is required to pursuant to Section 5.16 of the Credit Agreement. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated, except as provided pursuant to the Credit Agreement. Any notice or other communication herein required or permitted to be given shall be given pursuant to Section 10.01 of the Credit Agreement, and for all purposes thereof, the notice address of the undersigned shall be the address as set forth on the signature page hereof. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

[Remainder of page intentionally left blank]

EXHIBIT F-1-2

IN WITNESS WHEREOF, the undersigned has caused this Counterpart Agreement to be duly executed and delivered by its duly authorized officer as of the date above first written.

[NAME OF SUBSIDIARY]

By:_____
Name:
Title:

Address for Notices:

_____
_____
_____
Attention:
Telecopier

with a copy to:

_____
_____
_____
Attention:
Telecopier

ACKNOWLEDGED AND ACCEPTED,
as of the date above first written:

BARCLAYS BANK PLC,
as Administrative Agent and Collateral Agent

By:_____
Name:
Title:

EXHIBIT F-1-3

EXHIBIT F-2 TO
CREDIT AND GUARANTY AGREEMENT

COUNTERPART AGREEMENT
(Ancillary Borrower)

This COUNTERPART AGREEMENT, dated [mm/dd/yy] (this "Counterpart Agreement") is delivered pursuant to that certain Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "U.S. Borrower"), Tommy Hilfiger B.V., a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, Barclays Bank PLC, as Administrative Agent and Collateral Agent, Deutsche Bank Securities Inc., as Syndication Agent, and Banc of America Securities LLC, Credit Suisse Securities (USA) LLC and Royal Bank of Canada, as Co-Documentation Agents.

Section 1. Pursuant to Sections 2.26 and 10.26 of the Credit Agreement, the undersigned hereby:

(a) agrees that this Counterpart Agreement may be attached to the Credit Agreement and that by the execution and delivery hereof, the undersigned becomes a Borrower, an Ancillary Borrower [and a Guarantor][1] under the Credit Agreement and agrees to be bound by all of the terms thereof as though it had executed the Credit Agreement as a Borrower [and a Guarantor];

(b) represents and warrants that each of the representations and warranties set forth in the Credit Agreement and each other Loan Document and applicable to the undersigned is true and correct both before and after giving effect to this Counterpart Agreement, except to the extent that any such representation and warranty relates solely to any earlier date, in which case such representation and warranty is true and correct as of such earlier date;

(c) [hereby irrevocably and unconditionally guarantees the due and punctual payment in full of all Foreign Obligations when the same shall become due, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including amounts that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a)) and in accordance with Article VII of the Credit Agreement (subject to the limitations applicable to certain Foreign Loan Parties set forth in the Credit Agreement or as set forth below [*insert relevant guarantee limitation language for any jurisdictions not referenced in the Credit Agreement*];][1] and

(d) [acknowledges that it has delivered to the Administrative Agent and, if applicable, executed, or is, simultaneously with the execution of this Counterpart Agreement, delivering to the Administrative Agent and, if applicable, executing (i) all information required by the Administrative Agent or the relevant Ancillary Lender with respect to the regulations described in Sections 10.21 and 10.22 of the Credit Agreement, (ii) documents and certificates similar to those described in Sections 3.01(b), 3.01(h) and 3.01(n) of the Credit Agreement and (iii) such other Security Documents (and such other documents and instruments) as shall be required pursuant to the Credit Agreement.][1]

Section 2. The undersigned agrees to execute, acknowledge and deliver such further documents as it is required to pursuant to Section 5.16 of the Credit Agreement. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated, except as provided pursuant to the Credit Agreement. Any notice or other communication herein required or permitted to be given shall be given pursuant to Section 10.01 of the Credit

[1] To be included if the signing party is not already party to the Credit Agreement as a Guarantor.

Agreement, and for all purposes thereof, the notice address of the undersigned shall be the address as set forth on the signature page hereof. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned has caused this Counterpart Agreement to be duly executed and delivered by its duly authorized officer as of the date above first written.

[NAME OF ANCILLARY BORROWER]

By:_____
Name:
Title:

Address for Notices:

_____
_____
_____
Attention:
Telecopier

with a copy to:

_____
_____
_____
Attention:
Telecopier

ACKNOWLEDGED AND ACCEPTED,
as of the date above first written:

BARCLAYS BANK PLC,
as Administrative Agent and Collateral Agent

By:_____
Name:
Title:

EXHIBIT G TO
CREDIT AND GUARANTY AGREEMENT

U.S. PLEDGE AND SECURITY AGREEMENT

(to be provided separately)

EXHIBIT H TO
CREDIT AND GUARANTY AGREEMENT

MORTGAGE

(to be provided separately)

Exhibit H-1

RECORDING REQUESTED BY:
Latham & Watkins LLP

AND WHEN RECORDED MAIL TO:

Latham & Watkins LLP
885 Third Avenue
New York, New York 10022
Attn: Melissa S. Alwang, Esq.

Re: Phillips-Van Heusen Corporation

Space above this line for recorder's use only

LANDLORD WAIVER AND CONSENT AGREEMENT

This LANDLORD WAIVER AND CONSENT AGREEMENT (this "Agreement") is dated as of [mm/dd/yy] and entered into by [NAME OF LANDLORD] ("Landlord"), to and for the benefit of BARCLAYS BANK PLC, as collateral agent for Lenders and Lender Counterparties (in such capacity "Collateral Agent").

RECITALS:

WHEREAS, [NAME OF GRANTOR], a [Type of Person] ("Tenant"), has possession of and occupies all or a portion of the property described on Exhibit A annexed hereto (the "Premises");

WHEREAS, Tenant's interest in the Premises arises under the lease agreement (the "Lease") more particularly described on Exhibit B annexed hereto, pursuant to which Landlord has rights, upon the terms and conditions set forth therein, to take possession of, and otherwise assert control over, the Premises;

WHEREAS, reference is made to that certain Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, supplemented or otherwise modified, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "U.S. Borrower"), Tommy Hilfiger B.V., a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the Lenders party thereto from time to time, Barclays Bank PLC, as Administrative Agent and Collateral Agent, Deutsche Bank Securities Inc., as Syndication Agent, and Banc of Americ a Securities LLC, Credit Suisse Securities (USA) LLC and Royal Bank of Canada, as Co-Documentation Agents, pursuant to which Tenant has executed a security agreement, mortgages, deeds of trust, deeds to secure debt and assignments of rents and leases, and other collateral documents in relation to the Credit Agreement;

WHEREAS, Tenant's repayment of the extensions of credit made by Lenders under the Credit Agreement will be secured, in part, by all Inventory of Tenant (including all Inventory of Tenant now or hereafter located on the Premises (the "Subject Inventory" or the "Collateral"); and

WHEREAS, Collateral Agent has requested that Landlord execute this Agreement as a condition to the extension of credit to Tenant under the Credit Agreement.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord hereby represents and warrants to, and covenants and agrees with, Collateral Agent as follows:

1. Landlord hereby (a) waives and releases unto Collateral Agent and its successors and assigns any and all rights granted by or under any present or future laws to levy or distraint for rent or any other charges which may be due to Landlord against the Collateral, and any and all other claims, liens and demands of every kind which it now has or may hereafter have against the Collateral, and (b) agrees that any rights it may have in or to the Collateral, no matter how arising (to the extent not effectively waived pursuant to clause (a) of this paragraph 1), shall be second and subordinate to the rights of Collateral Agent in respect thereof. Landlord acknowledges that the Collateral is and will remain personal property and not fixtures even though it may be affixed to or placed on the Premises.

2. Landlord consents to the placement of the Collateral on the Premises, and Landlord grants to Collateral Agent a revocable license to enter upon and into the Premises to do any or all of the following with respect to the Collateral: assemble, have appraised, display, remove, maintain, prepare for sale or lease, repair, transfer, or sell (at public or private sale). In entering upon or into the Premises, Collateral Agent hereby agrees to indemnify, defend and hold Landlord harmless from and against any and all claims, judgments, liabilities, costs and expenses incurred by Landlord caused solely by Collateral Agent's entering upon or into the Premises and taking any of the foregoing actions with respect to the Collateral. Such costs shall include any damage to the Premises made by Collateral Agent in severing and/or removing the Collateral therefrom.

3. Landlord agrees that it will not prevent Collateral Agent or its designee from entering upon the Premises at all reasonable times to inspect or remove the Collateral. In the event that Landlord has the right to, and desires to, obtain possession of the Premises due to the default of Tenant thereunder, Landlord will deliver to Collateral Agent a copy of the notice (the "Landlord's Notice") that it delivered to the Tenant to that effect. Within the 30 day period after Collateral Agent receives the Landlord's Notice, Collateral Agent shall have the right, but not the obligation, to cause the Collateral to be removed from the Premises. During such 30 day period, Landlord will not remove the Collateral from the Premises nor interfere with Collateral Agent's actions in removing the Collateral from the Premises or Collateral Agent's actions in otherwise enforcing its secu rity interest in the Collateral. Notwithstanding anything to the contrary in this paragraph, Collateral Agent shall at no time have any obligation to remove the Collateral from the Premises.

4. Landlord shall send to Collateral Agent a copy of any notice of default under the Lease sent by Landlord to Tenant.

5. All notices to Collateral Agent under this Agreement shall be in writing and sent to Collateral Agent at its address set forth on the signature page hereof by telefacsimile, by United States mail, or by overnight delivery service.

6. The provisions of this Agreement shall continue in effect until Landlord shall have received Collateral Agent's written certification that all amounts advanced under the Credit Agreement have been paid in full.

7. This Agreement and the rights and obligations of the parties hereunder shall be governed by, and shall be construed and enforced in accordance with, the internal laws of the State of New York, without regard to conflicts of laws principles.

[Remainder of page intentionally left blank]

EXHIBIT I-3

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be duly executed and delivered as of the day and year first set forth above.

[NAME OF LANDLORD]

By: _____
Name:
Title:

_____
_____
_____
Attention:
Telecopier:

By its acceptance hereof, as of the day and year first set forth above, Collateral Agent agrees to be bound by the provisions hereof.

BARCLAYS BANK PLC,
as Collateral Agent

By: _____
Name:
Title:

_____
_____
_____
Attention:
Telecopier:

[APPROPRIATE NOTARY BLOCKS]

EXHIBIT I-4

EXHIBIT A TO
LANDLORD WAIVER AND CONSENT

Legal Description of Premises:

EXHIBIT I-A-1

EXHIBIT B TO
LANDLORD WAIVER AND CONSENT

Description of Lease:

EXHIBIT I-B-1

EXHIBIT J TO
CREDIT AND GUARANTY AGREEMENT

JOINDER AGREEMENT

THIS JOINDER AGREEMENT, dated as of [mm/dd/yy] (this "Agreement"), by and among Phillips-Van Heusen Corporation, a Delaware corporation (the "U.S. Borrower"), Tommy Hilfiger B.V., a Dutch private limited liability company with its corporate seat in Amsterdam, The Netherlands (the "Foreign Borrower" and, together with the U.S. Borrower, the "Borrowers"), certain subsidiaries of the U.S. Borrower, as Guarantors, the financial institution[s] party hereto as [Incremental Revolving Lender[s]] [Incremental Term Loan Lender[s]] (the "Incremental Lender[s]"), and Barclays Bank PLC, as Administrative Agent and Collateral Agent.

RECITALS:

WHEREAS, reference is hereby made to the Credit and Guaranty Agreement, dated as of May 6, 2010 (as it may be amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"; the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among the Borrowers, the Guarantors, the Lenders party thereto from time to time, Barclays Bank PLC, as Administrative Agent and Collateral Agent, Deutsche Bank Securities Inc., as Syndication Agent, and Banc of America Securities LLC, Credit Suisse Securities (USA) LLC and Royal Bank of Canada, as Co-Documentation Agents.

WHEREAS, subject to the terms and conditions of the Credit Agreement, the Borrowers may increase the existing Revolving Loan Commitments and/or provide Incremental Term Loan Commitments by entering into one or more Joinder Agreements with the Incremental Term Loan Lenders and/or Incremental Revolving Loan Lenders, as applicable.

NOW, THEREFORE, in consideration of the premises and agreements, provisions and covenants herein contained, the parties hereto agree as follows:

Each Incremental Lender party hereto hereby agrees to commit to provide its respective Commitment as set forth on Schedule A annexed hereto, on the terms and subject to the conditions set forth below:

Each Incremental Lender (i) confirms that it has received a copy of the Credit Agreement and the other Loan Documents, together with copies of the financial statements referred to therein and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Joinder Agreement (this "Agreement"); (ii) agrees that it will, independently and without reliance upon the Administrative Agent or any other Lender or Agent and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement; (iii) appoints and authorizes Administrative Agent to take such action as agent on its behalf and to exercise such powers under the Credit Agreement and the other Loan Documents as are delegated to Administrative Agent, as the case may be, by the terms ther eof, together with such powers as are reasonably incidental thereto; and (iv) agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Credit Agreement are required to be performed by it as a Lender.

Each Incremental Lender hereby agrees to make its Commitment on the following terms and conditions[1]:

1. Incremental Term Loan Maturity Date. The Incremental Term Loan Maturity Date for the Series [__] Incremental Term Loan shall be [ ].

[1] Insert completed items 1-7 as applicable, with respect to Incremental Term Loans with such modifications as may be agreed to by the parties hereto to the extent consistent with Section 2.24 of the Credit Agreement.

2. Applicable Margin.

i. Base Rate Loans: The Applicable Margin for each Series [__] Incremental Term Loan that is a Base Rate Loan shall mean, as of any date of determination, [___]% per annum.

ii. Eurodollar Rate Loans: The Applicable Margin for each Series [__] Incremental Term Loan that is a Eurodollar Rate Loan shall mean, as of any date of determination, [___]% per annum.

3. Principal Payments. [U.S. Borrower] [Foreign Borrower] shall make principal payments on the Series [__] Incremental Term Loans in accordance with Section 2.12 of the Credit Agreement in installments on the dates and in the amounts set forth below:

(A) Payment Date	(B) Scheduled Repayment of Series [__] Incremental Term Loans
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
	[$] [€]_____
TOTAL	[$] [€]_____

4. Voluntary and Mandatory Prepayments. Scheduled installments of principal of the [Series [__]] Incremental Term Loans set forth above shall be reduced in connection with any voluntary or mandatory prepayments of the [Series [__]] Incremental Term Loans in accordance with Sections 2.13, 2.14 and 2.15 of the Credit Agreement as applicable.

5. Other Fees. [U.S. Borrower] [Foreign Borrower] agrees to pay each [Incremental Term Loan Lender] [Incremental Revolving Lender] party hereto its Pro Rata Share of an aggregate fee equal to [_____ __, ____] on [_____ __, ____].

6. Proposed Borrowing. This Agreement represents [U.S. Borrower's] [Foreign Borrower's] request to borrow [Series [__] Incremental Term Loans] from the Incremental Term Loan Lenders party hereto as follows (the "Proposed Borrowing"):

a. Business Day of Proposed Borrowing: _____, ____

b. Amount of Proposed Borrowing: [$][€]_____

c. Interest rate option: ☐ **a. Base Rate Loan(s)**

☐ **b. Eurocurrency Rate Loans with an initial Interest Period of ____ month(s)**

7. [Incremental Lenders. Each [Incremental Term Loan Lender] [Incremental Revolving Loan Lender] party hereto acknowledges and agrees that upon its execution of this Agreement [and the making of [Series [__] Incremental Term Loans][Incremental Revolving Loans]] that such [Incremental Term Loan Lender] [Incremental Revolving Loan Lender] shall become a "Lender" under, and for all purposes of, the Credit Agreement and the other Loan Documents, and shall be subject to and bound by the terms thereof, and shall perform all the obligations of and shall have all rights of a Lender thereunder.][2]

8. Credit Agreement Governs. Except as set forth in this Agreement, [Series [__] Incremental Term Loans] [Incremental Revolving Loans] shall otherwise be subject to the provisions of the Credit Agreement and the other Loan Documents.

9. [U.S. Borrower's] [Foreign Borrower's] Certifications. By its execution of this Agreement, the undersigned officer, to the best of his or her knowledge, and [U.S. Borrower] [Foreign Borrower] hereby certifies that:

i. The representations and warranties contained in the Credit Agreement and in the other Loan Documents are true and correct in all material respects on and as of the date hereof to the same extent as though made on and as of the date hereof, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties were true and correct in all material respects on and as of such earlier date; provided, that to the extent any such representation or warranty is already qualified by materiality or Material Adverse Effect, such representation or warranty is true and correct in all respects;

ii. No Default or Event of Default exists on the Increased Amount Date before or after giving effect to the Incremental Revolving Commitments or Incremental Term Loan Commitments, as applicable, provided for hereby; and

10. [U.S. Borrower] [Foreign Borrower] Covenants. By its execution of this Agreement, [U.S. Borrower] [Foreign Borrower] hereby covenants that:

[2] Insert bracketed language if the lending institution is not already a Lender.

i. **[[U.S. Borrower] [Foreign Borrower] shall make any payments required pursuant to Section 2.11[(a)][(b)] of the Credit Agreement in connection with the Incremental Revolving Loan Commitments;][3]**

ii. **[U.S. Borrower] [Foreign Borrower] shall deliver or cause to be delivered the following legal opinions and documents: [_____], together with all other legal opinions and other documents reasonably requested by Administrative Agent in connection with this Agreement; and**

iii. **Set forth on the attached Officers' Certificate are the calculations (in reasonable detail) demonstrating that the U.S. Borrower is in pro forma compliance with each of the covenants set forth in Section 6.07 of the Credit Agreement as of the last day of the most recently ended Fiscal Quarter after giving effect to the Incremental Revolving Commitments or Incremental Term Loan Commitments, as applicable, provided for hereby.**

11. **Eligible Assignee. By its execution of this Agreement, each Incremental Lender represents and warrants that it is an Eligible Assignee.**

12. **Notice. For purposes of the Credit Agreement, the initial notice address of each [Incremental Term Loan Lender] [Incremental Revolving Loan Lender] shall be as set forth below its signature below.**

13. **Non-US Lenders. For each Incremental Lender that is a Non-U.S. Lender, delivered herewith to Administrative Agent are such forms, certificates or other evidence with respect to United States federal income tax withholding matters as such Incremental Lender may be required to deliver to Administrative Agent pursuant to subsection 2.20(c) of the Credit Agreement.**

14. **Recordation of the Incremental Loans. Upon execution and delivery hereof, Administrative Agent will record the [Series [__] Incremental Term Loans] [Incremental Revolving Loans] made by the Incremental Lenders in the Register.**

15. **Amendment, Modification and Waiver. This Agreement may not be amended, modified or waived except by an instrument or instruments in writing signed and delivered on behalf of each of the parties hereto.**

16. **Entire Agreement. This Agreement, the Credit Agreement and the other Loan Documents constitute the entire agreement among the parties with respect to the subject matter hereof and thereof and supersede all other prior agreements and understandings, both written and verbal, among the parties or any of them with respect to the subject matter hereof.**

17. **GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

18. **Severability. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, the provision shall be interpreted to be only so broad as would be enforceable.**

[3] Select this provision in the circumstance where Loans are Incremental Revolving Loans.

19. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same agreement.

[Remainder of page intentionally left blank]

EXHIBIT J-5

IN WITNESS WHEREOF, each of the undersigned has caused its duly authorized officer to execute and deliver this Joinder Agreement as of [_____, _____].

[NAME OF INCREMENTAL LENDER]

By:_____
Name:
Title:

Notice Address:

Attention:
Telephone:
Facsimile:

PHILLIPS-VAN HEUSEN CORPORATION

By: _____
Name:
Title:

TOMMY HILFIGER B.V.

By: _____
Name:
Title:

[GUARANTORS]

By: _____
Name:
Title:

EXHIBIT J-6

Consented to by:

BARCLAYS BANK PLC
as Administrative Agent

By: _____
Name:
Title:

EXHIBIT J-7

SCHEDULE A
TO JOINDER AGREEMENT

Name of Lender	Type of Commitment	Amount
[_____]	[Incremental Term Loan Commitment] [Incremental Revolving Loan Commitment]	[$][€]_____
		Total: [$][€]_____

EXHIBIT J-8

EXHIBIT 10.2

EXECUTION VERSION

FIRST AMENDMENT
TO CREDIT AND GUARANTY AGREEMENT

THIS FIRST AMENDMENT TO CREDIT AND GUARANTY AGREEMENT (this "Amendment") is dated as of July 26, 2010 and is entered into by and among Phillips Van-Heusen Corporation, a Delaware corporation (the "U.S. Borrower"), and the Lenders party hereto, and is made with reference to that certain CREDIT AND GUARANTY AGREEMENT dated as of May 6, 2010 (the "Credit Agreement") by and among the Borrower, the subsidiaries of the U.S. Borrower named therein, the Lenders, the Administrative Agent, and the other Agents named therein. Capitalized terms used herein without definition shall have the same meanings herein as set forth in the Credit Agreement after giving effect to this Amendment.

RECITALS

WHEREAS, the Loan Parties have requested that Lenders holding Revolving Commitments and the Required Lenders agree to amend certain provisions of the Credit Agreement as provided for herein; and

WHEREAS, the Lenders holding Revolving Commitments and the Required Lenders are willing to agree to such amendment relating to the Credit Agreement.

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

SECTION I. AMENDMENTS TO CREDIT AGREEMENT

1.1 Amendments to Section 1: Definitions.

(a) The definition of "Adjusted Eurocurrency Rate" set forth in Section 1.01 of the Credit Agreement is hereby amended by adding the following sentence at the end thereof: "Notwithstanding the foregoing, with respect to any determination of the Adjusted Eurocurrency Rate with respect to Revolving Loans, the Adjusted Eurocurrency Rate shall be determined without giving effect to the rate floor set forth in clause (I) above."

(b) The definition of "Base Rate" set forth in Section 1.01 of the Credit Agreement is hereby amended by adding the following sentence at the end thereof: "Notwithstanding the foregoing, with respect to any determination of the Base Rate with respect to Revolving Loans and Swing Line Loans, the Base Rate shall be determined without giving effect to the rate floor set forth in clause (iii) above."

(c) The definition of "Interest Payment Date" set forth in Section 1.01 of the Credit Agreement is hereby amended by inserting the phrase "or any Canadian Prime Rate Loan (including any Canadian Swing Line Loan)" immediately after the phrase "(including any Swing Line Loan)" in clause (i) therein.

SECTION II. CONDITIONS TO EFFECTIVENESS

This Amendment shall become effective as of the date hereof upon the receipt by the Administrative Agent of a counterpart signature page of this Amendment duly executed by the (a) U.S. Borrower, (b) each of the Lenders holding Revolving Commitments and (c) such additional Lenders that, together with the Lenders described in the foregoing clause (b), constitute the Required Lenders (the date of satisfaction of such conditions being referred to herein as the "Effective Date").

SECTION III. □□ÞÞÞ□□□□□□□□ MISCELLANEOUS

A. Reference to and Effect on the Credit Agreement and the Other Loan Documents.

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

(ii) Except as specifically amended by this Amendment, the Credit Agreement and the other Loan Documents shall remain in full force and effect and are hereby ratified and confirmed. This Amendment shall be a "Loan Document" for purposes of the definition thereof in the Credit Agreement.

(iii) Except as specifically provided by this Amendment, the execution, delivery and performance of this Amendment shall not constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of any Agent or Lender under, the Credit Agreement or any of the other Loan Documents.

B. Headings. Section and Subsection headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose or be given any substantive effect.

C. Applicable Law. THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

D. Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document.

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

U.S. BORROWER: **PHILLIPS VAN-HEUSEN CORPORATION**

By: /s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: SVP Treasurer

BARCLAYS BANK PLC,
as Administrative Agent

by: /s/ Diane Rolfe
name: DIANE ROLFE
title: DIRECTOR

BARCLAYS BANK PLC,
as Lender

by: /s/ Diane Rolfe
name: DIANE ROLFE
title: DIRECTOR

DZ BANK AG Deutsche Zentral-Genossenschaftsbank,
Frankfurt am Main
as Lender

by: [NOT READABLE]
name: [NOT READABLE]
title: [NOT READABLE]

Crèdit Agricole Corporate & Investment Bank,
as Lender

by: /s/ Rod Hurst
name: Rod Hurst
title: Managing Director

by: /s/ Gina Harth-Cryde
name: Gina Harth-Cryde
title: Managing Director

DBS Bank Ltd., Los Angeles Agency
as Lender

by: /s/ James McWalters
name: James McWalters
title: General Manager

ABN AMRO BANK N.V.,
as Lender

by: [NOT READABLE]
name: [NOT READABLE]
title: [NOT READABLE]

Caja de Ahorros y Monte de Picdad de Madrid
as Lender

by: /s/ Juan Pablo Hernadez de la Merced
name: Juan Pablo Hernadez de la Merced
title: Director – North American Corporate Banking

by: /s/ Manuel Nuñez Fernandez
name: Manuel Nuñez Fernandez
title: General Manager

CRÉDIT INDUSTRIEL ET COMMERCIAL,
as Lender

by: /s/ BrianO'Leary
name: Brian O'Leary
title: Managing Director

by: /s/ Marcus Edward
name: Marcus Edward
title: Managing Director

PNC Bank N.A.,
as Lender

by: /s/ Leslie Turkington
name: Leslie Turkington
title: Vice President

JPMORGAN CHASE BANK, N.A.,
as Lender

by: /s/ James A. Knight
name: James A. Knight
title: Vice President

Bank Leumi USA
as Lender

by: /s/ Joung Hee Hong
name: Joung Hee Hong
title: First Vice President

State Bank of India
as Lender

by: /s/ Ashok Gulla
name: Ashok Gulla
title: VP Head (Credit)

Bank of America, N.A.
as Lender

by: /s/ Thomas Kainamura
name: Thomas Kainamura
title: Vice President

Deutsche Bank AG, New York Branch
as Lender

by: /s/ Mary Kay Coyle
name: Mary Kay Coyle
title: Managing Director

by: /s/ Marguerite Sutton
name: Marguerite Sutton
title: Director

TORONTO DOMINION (NEW YORK) LLC,
as Lender

by: /s/ Jackie Barrett
name: Jackie Barrett
title: Authorized Signatory

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH
as Lender

by: /s/ Shaheen Malik
name: Shaheen Malik
title: Vice President

by: /s/ Kevin Buddhdew
name: Kevin Buddhdew
title: Associate

Sumitomo Mitsui Banking Corporation,
as Lender

by: /s/ Yasuhiko Imai
name: Yasuhiko Imai
title: Senior Vice President

General Electric Capital Corporation,
as Lender

by: /s/ Marie G. Mollo
name: Marie G. Mollo
title: Duly Authorized Signatory

Israel Discount Bank of New York
as Lender

by: /s/ George Commander
name: George Commander
title: Senior Vice President

by: /s/ Esther Lainis
name: Esther Lainis
title: First Vice President

Sun Trust Bank,
as Lender

by: /s/ E. Donald Besch, Jr.
name: E. DONALD BESCH, JR.
title: MANAGING DIRECTOR

THE BANK OF NOVA SCOTIA
as Lender

by: /s/ Todd Meller
name: Todd Meller
title: Managing Director

HSBC Bank USA, N.A.,
as Lender

by: /s/ Darren Pinsker
name: Darren Pinsker
title: Senior Vice President

Mediobanca International (Luxembourg) S.A.,
as Lender

by: /s/ Luca Maccari – /s/Peter Gerrard
name: Luca Maccari – Peter Gerrard
title: Managing Director

ICBC (LONDON) LIMITED,
as Lender

by:___[NOT READABLE]_____
name: [NOT READABLE]
title: [NOT READABLE]

Compass Bank
as Lender

by: /s/ Ramon Garcia
name: Ramon Garcia
title: Vice President

ROYAL BANK OF CANADA,
as Lender

by: /s/ G. David Cole
name: G. DAVID COLE
title: AUTHORIZED SIGNATORY

Fortis Flexi III Senior Secured Bank Loan Fund Mogliano,
with BNP Paribas Investment Partners Netherlands N.A.
acting as Investment Manager
as Lender

by: /s/ Ralf van Baast
name: Ralf van Baast
title: Portfolio Manager

Global Credit Return Fund N.V. (in relation to the series 2009-1 Notes),
By: BNP Paribas Investment Partners Netherlands N.V.
as Lender

by: /s/ Ralf van Baast
name: Ralf van Baast
title: Portfolio Manager

RAYMOND JAMES BANK, FSB
as Lender

by: /s/ Mark E. Moody
name: Mark E. Moody
title: Senior Vice President

U.S. Bank National Association
as Lender

by: /s/ Blake Malia
name: Blake Malia
title: Vice President

Eaton Vance CDO VII PLC
By: Eaton Vance Management
as Interim Investment Advisor,
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

Eaton Vance CDO VIII, Ltd.
By: Eaton Vance Management
As Investment Advisor
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

Eaton Vance CDO IX Ltd.
By: Eaton Vance Management
as Investment Advisor
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

Eaton Vance CDO X PLC
By: Eaton Vance Management
As Investment Advisor
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

EATON VANCE SENIOR
FLOATING-RATE TRUST
By: EATON VANCE MANAGEMENT
AS INVESTMENT ADVISOR
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

EATON VANCE FLOATING-RATE INCOME TRUST
By: EATON VANCE MANAGEMENT AS INVESTMENT ADVISOR
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

Eaton Vance Medallion
Floating-Rate Income Portfolio
By: Eaton Vance Management
As Investment Advisor,
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

EATON VANCE SENIOR INCOME TRUST
By: EATON VANCE MANAGEMENT
AS INVESTMENT ADVISOR,
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

EATON VANCE INSTITUTIONAL SENIOR LAW FUND
By: EATON VANCE MANAGEMENT
AS INVESTMENT ADVISOR
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

EATON VANCE
LIMITED DURATION INCOME FUND
By: EATON VANCE MANAGEMENT
AS INVESTMENT ADVISOR
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

GRAYSON & CO
BY: BOSTON MANAGEMENT AND RESEARCH
AS INVESTMENT ADVISOR
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

INNOVATION TRUST 2009
By: EATON VANCE MANAGEMENT
AS INVESTMENT ADVISOR
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

MET INVESTORS SERIES TRUST
MET/EATON VANCE FLOATING RATE PORTFOLIO
BY EATON VANCE MANAGEMENT
AS INVESTMENT SUB-ADVISOR
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

PACIFIC SELECT FUND
FLOATING-RATE LOAN PORTFOLIO
By: EATON VANCE MANAGEMENT
AS INVESTMENT ADVISOR,
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

RIVERSOURCE VARIABLE SERIES TRUST-
VARIABLE PORTFOLIO
EATON VANCE FLOATING RATE INCOME FUND
By: EATON VANCE MANAGEMENT
AS INVESTMENT ADVISOR
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

SENIOR DEBT PORTFOLIO
By: Boston Management and Research
as Investment Advisor
as Lender

by: /s/ Craig P. Russ
name: Craig P. Russ
title: Vice President

Avenue CLO II, Ltd.
Avenue CLO III, Ltd.,
as Lender

by: /s/ Sriram Balakrishnan
name: Sriram Balakrishnan
title: Portfolio Manager

Del Mar CLO 1, Ltd
By: Caywood-Scholl Capital Management
As Collateral Manager

by: /s/ Tom Saake
name: Tom Saake
title: Managing Director

ALM Loan Funding 2010-1, Ltd.
as Lender

By: Apollo Credit Management, LLC, its collateral manager

by: /s/ Joseph Moroney
name: JOSEPH MORONEY
title: Authorized Signatory

ALM LOAN FUNDING 2010-2 LLC,
as Lender

By: Apollo Credit Management, LLC, as Portfolio Manager

by: /s/ Joseph Moroney
name: JOSEPH MORONEY
title: Vice President

GE Capital Financial Inc.,
as Lender

by: /s/ Alison P. Trapp
name: Alison P. Trapp
title: Duly Authorized Signatory

Ariel Reinsurance Company Ltd.
BlackRock Senior High Income Fund, Inc.
BlackRock Defined Opportunity Credit Trust
BlackRock Limited Duration Income Trust
BlackRock Senior Income Series
BlackRock Senior Income Series II
BlackRock Senior Income Series IV
BlackRock Senior Income Series V Limited
BlackRock Debt Strategies Fund, Inc.
BlackRock Diversified Income Strategies Fund, Inc.
BlackRock Floating Rate Income Strategies Fund, Inc.
BlackRock Floating Rate Income Strategies Fund II, Inc.
BlackRock Global Investment Series: Income Strategies Portfolio
Master Senior Floating Rate LLC
Missouri State Employees' Retirement System
BlackRock Senior Floating Rate Portfolio
BlackRock Floating Rate Income Trust

as Lender

by: /s/ Ann Marie Smith
name: Ann Marie Smith
title: Authorized Signatory

LightPoint CLO III, Ltd.,
as Lender
By Neuberger Berman Fixed Income LLC as collateral manager

by: /s/ Colin Donlan
name: Colin Donlan
title: Authorized Signatory

LightPoint CLO IV, Ltd.,
as Lender
By Neuberger Berman Fixed Income LLC as collateral manager

by: /s/ Colin Donlan
name: Colin Donlan
title: Authorized Signatory

LightPoint CLO V, Ltd.,
as Lender
By Neuberger Berman Fixed Income LLC as collateral manager

by: /s/ Colin Donlan
name: Colin Donlan
title: Authorized Signatory

LightPoint CLO VII, Ltd.,
as Lender
By Neuberger Berman Fixed Income LLC as collateral manager

by: /s/ Colin Donlan
name: Colin Donlan
title: Authorized Signatory

LightPoint Pan-European CLO 2006 Plc.,
as Lender
By Neuberger Berman Fixed Income LLC as collateral manager

by: /s/ Colin Donlan
name: Colin Donlan
title: Authorized Signatory

LightPoint Pan-European CLO 2007-1 Plc.,
as Lender
By Neuberger Berman Fixed Income LLC as collateral manager

by: /s/ Colin Donlan
name: Colin Donlan
title: Authorized Signatory

Marquette US/European CLO, Plc.,
as Lender
By Neuberger Berman Fixed Income LLC as collateral manager

by: /s/ Colin Donlan
name: Colin Donlan
title: Authorized Signatory

Neuberger Berman – Floating Rate Income Fund,
as Lender

by: /s/ Colin Donlan
name: Colin Donlan
title: Authorized Signatory

QUEEN STREET CLO 1 BV
QUEEN STREET CLO 2 BV
as Lender

by: /s/ Ujjaual Desai
name: UJJAUAL DESAI
title: Managing Partner
Indicus Advisors

[NOT READABLE]
Axa Investment Managers Paris S.A. on behalf of the funds it manages:

Ø Confluent 5 Limited
Ø Matignon Derivatives Loans
Ø Matignon Leveraged Loans Limited
Ø Stichting Depositary APG Fixed Income Credits Pool
Ø AXA IM European Loan Limited

as Lenders

NAVIGATOR CDO 2005, LTD., as a Lender

By: GE Asset Management Inc., as Collateral Manager

By: /s/ John Campos
Name: John Campos
Title: Authorized Signatory

GENERAL ELECTRIC PENSION TRUST, as a Lender

By: GE Capital Debt Advisors, LLC, as Investment Advisor

By: /s/ John Campos
Name: John Campos
Title: Authorized Signatory

AIB Debt Management Limited
as Lender

by: /s/ Roisin O'Connell
name: Roisin O'Connell
title: Vice President
Investment Advisor to
AIB Debt Management, Limited

by: /s/ Shreya Shah
name: Shreya Shah
title: Vice President
Investment Advisor to
AIB Debt Management, Limited

APIDOS CDO I,
as Lender

by: /s/ Gretchen Bergstresser
name: Gretchen Bergstresser
title: Senior Portfolio Manager

APIDOS CDO II,
as Lender

by: /s/ Gretchen Bergstresser
name: Gretchen Bergstresser
title: Senior Portfolio Manager

APIDOS CDO III,
as Lender

by: /s/ Gretchen Bergstresser
name: Gretchen Bergstresser
title: Senior Portfolio Manager

APIDOS CDO IV,
as Lender

by: /s/ Gretchen Bergstresser
name: Gretchen Bergstresser
title: Senior Portfolio Manager

APIDOS CDO V,
as Lender

by: /s/ Gretchen Bergstresser
name: Gretchen Bergstresser
title: Senior Portfolio Manager

APIDOS CDO Quattro,
as Lender

by: /s/ Gretchen Bergstresser
name: Gretchen Bergstresser
title: Senior Portfolio Manager

APIDOS CDO Cinco,
as Lender

by: /s/ Gretchen Bergstresser
name: Gretchen Bergstresser
title: Senior Portfolio Manager

ACA CLO 2006-1,
as Lender

by: /s/ Gretchen Bergstresser
name: Gretchen Bergstresser
title: Senior Portfolio Manager

LeverageSource III S.A.R.L.,
as Lender

by: /s/ Stephen Gloria
name: Stephen Gloria
title: Authorized Signatory

Denali Capital LLC, managing member of
DC Funding Partners LLC, portfolio manager for
DENALI CAPITAL CLO IV, LTD.
as Lender

by: /s/ Kelli C. Marti
name: Kelli C. Marti
title: Senior Vice President

Denali Capital LLC, managing member of
DC Funding Partners LLC, portfolio manager for
DENALI CAPITAL CLO V, LTD.
as Lender

by: /s/ Kelli C. Marti
name: Kelli C. Marti
title: Senior Vice President

Denali Capital LLC, managing member of
DC Funding Partners LLC, portfolio manager for
DENALI CAPITAL CLO VI, LTD.
as Lender

by: /s/ Kelli C. Marti
name: Kelli C. Marti
title: Senior Vice President

Denali Capital LLC, managing member of
DC Funding Partners LLC, portfolio manager for
DENALI CAPITAL CLO VII, LTD.
as Lender

by: /s/ Kelli C. Marti
name: Kelli C. Marti
title: Senior Vice President

Denali Capital LLC, managing member of
DC Funding Partners LLC, Collateral Manager for
Spring Road CLO 2007-1, LTD.
as Lender

by: /s/ Kelli C. Marti
name: Kelli C. Marti
title: Senior Vice President

ARES IIIR/IVR CLO LTD.
ARES VR CLO LTD.
ARES X CLO LTD.
ARES XII CLO LTD.
Ares NF CLO XIII Ltd
Ares NF CLO XIV Ltd
Ares NF CLO XF Ltd
CONFLUENT 2 LIMITED
ARES ENHANCED CREDIT OPPORTUNITIES FUND LTD.
AREX ENHANCED LOAN INVESTMENT STRATEGY IR LTD.
FUTURE FUND BOARD OF GUARDIANS
ARES INSTITUTIONAL LOAN FUND B.V.
ARES EURO CLO I.B.V.
ARES EUROPEAN CLO II B.V., as Lenders

ARES IIIR/IVR CLO LTD.

BY: ARES CLO MANAGEMENT IIIR/IVR, L.P., ITS ASSET MANAGER

BY: ARES CLO GP IIIR/IVR, LLC, ITS GENERAL PARTNER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

ARES VR CLO LTD.

BY: ARES CLO MANAGEMENT VR, L.P., ITS INVESTMENT MANAGER

BY: ARES CLO GP VR, LLC, ITS GENERAL PARTNER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

ARES X CLO LTD.

BY: ARES CLO MANAGEMENT X, L.P., ITS INVESTMENT MANAGER

BY: ARES CLO GP X, LLC, ITS GENERAL PARTNER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

ARES XII CLO LTD.

BY: ARES CLO MANAGEMENT XII, L.P., ITS ASSET MANAGER

BY: ARES CLO GP XII, LLC, ITS GENERAL PARTNER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

Ares NF CLO XIII Ltd

By: Ares NF CLO XIII Management, L.P., its collateral manager

By: Ares NF CLO XIII, Management LLC, its general partner

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

Ares NF CLO XIV Ltd

By: Ares NF CLO XIV Management, L.P., its collateral manager

By: Ares NF CLO XIV, Management LLC, its general partner

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

Ares NF CLO XV Ltd

By: Ares NF CLO XV Management, L.P., its collateral manager

By: Ares NF CLO XV, Management LLC, its general partner

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

CONFLUENT 2 LIMITED

BY: ARES PRIVATE ACCOUNT MANAGEMENT I, L.P., AS SUB-MANAGER

BY: ARES PRIVATE ACCOUNT MANAGEMENT I GP, LLC, ITS GENERAL PARTNER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

ARES ENHANCED CREDIT OPPORTUNITIES FUND LTD.

BY: ARES ENHANCED CREDIT OPPORTUNITIES FUND MANAGEMENT, L.P., ITS MANAGER

BY: ARES ENHANCED CREDIT OPPORUNITIES FUND MANAGEMENT GP, LLC, AS GENERAL PARTNER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

ARES ENHANCED INVESTMENT STRATEGY IR LTD.

BY: ARES ENHANCED LOAN MANAGEMENT IR, L.P., AS PORTFOLIO MANAGER

BY: ARES ENHANCED LOAN IR GP, LLC, ITS GENERAL PARTNER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

FUTURE FUND BOARD OF GUARDIANS

BY: ARES ENHANCED LOAN INVESTMENT STRATEGY ADVISOR IV, L.P., ITS INVESTMENT MANAGER (ON BEHALF OF THE ELIS IV SUB ACCOUNT)

BY: ARES ENHANCED LOAN INVESTMENT STRATEGY ADVISOR IV GP, LLC, ITS GENERAL PARTNER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

GLOBAL LOAN OPPORTUNITY FUND B.V.

BY: ARES MANAGEMENT LIMITED, ITS PORTFOLIO MANAGER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

ARES INSTITUTIONAL LOAN FUND B.V.

BY: ARES MANAGEMENT LIMITED, AS MANAGER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

ARES EURO CLO I B.V.

BY: ARES MANAGEMENT LIMITED, ITS MANAGER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

ARES EUROPEAN CLO II B.V.

BY: ARES MANAGEMENT LIMITED, ITS MANAGER

By: /s/ Americo Cascella
Name: Americo Cascella
Title: Vice President

ERSTE GROUP BANK AG,
as Lender

By: /s/ Paul Judicke
name: Paul Judicke
title: Director

By: /s/ Bryan Lynch
name: Bryan Lynch
title: Executive Director

EXHIBIT 10.3

PHILLIPS-VAN HEUSEN CORPORATION
2006 STOCK INCENTIVE PLAN
RESTRICTED STOCK UNIT AWARD AGREEMENT
(Director)

NOTICE OF RESTRICTED STOCK UNIT AWARD

Phillips-Van Heusen Corporation (the "Company") grants to the Grantee named below, in accordance with the terms of the Phillips-Van Heusen Corporation 2006 Stock Incentive Plan (the "Plan") and this restricted stock unit agreement (this "Agreement"), the number of restricted stock units (the "Restricted Stock Units& #148; or the "Award") provided as follows:

GRANTEE	
RESTRICTED STOCK UNITS GRANTED	
DATE OF GRANT	
VESTING SCHEDULE	Restricted Stock Units will vest in full on the first anniversary of the date of grant, subject to the Grantee's continued service as a director of the Company.

AGREEMENT

1. **Grant of Award. The Company hereby grants to the Grantee the Restricted Stock Units, subject to the terms, definitions and provisions of the Plan and this Agreement. All terms, provisions, and conditions applica ble to the Restricted Stock Units set forth in the Plan and not set forth herein are incorporated by reference. To the extent any provision hereof is inconsistent with a provision of the Plan the provisions of the Plan will govern. All capitalized terms that are used in this Agreement and not otherwise defined herein shall have the meanings ascribed to them in the Plan.**

2. **Vesting and Settlement of Award.**

   a. **Right to Award. This Award shall vest in accordance with the vesting schedule set forth above (the "Vesting Schedule") and with the applicable provisions of t he Plan and this Agreement.**

   b. **Settlement of Award. Except as otherwise validly elected by the Grantee on a form prescribed by the Company for such elections and timely filed with the Company, the vested portion of this Award shall be settled as soon as practicable following the vesting date set forth in the Vesting Schedule, but in no event later than March 15 of the year following the year in which the Award vests. Notwithstanding anything in the foregoing to the contrary, the Award may vest and be payable upon termination of service as provided in Paragraph 3 or upon a Change in Control as provided in Paragraph 4.**

      The Company may require the Grantee to furnish or execute such documents as the Company shall reasonably deem necessary (i) to evidence such settlement and (ii) to comply with or satisfy the requirements of the Securities Act of 1933, as amended, the Exchange Act or any Applicable Laws.

   c. **Method of Settlement. The Company shall deliver to the Grantee one Share for each vested Restricted Stock Unit. Share certificates shall be issued in the name of the Grantee (or of the person or persons to whom such Restricted Stock Units were transferred in accordance with Paragraph 5 of this Agreement).**

   d. **Dividend Equivalents. If a cash Dividend is declared on the Shares, the Grantee shall be credited with a Dividend Equivalent in an amount of cash equal to the number of Restricted Stock Units held by the Grantee as of the dividend record date, multiplied by the amount of the cash dividend paid per Share. Such Dividend Equivalent shall be paid if and when the underlying Restricted Stock Units are settled. If a Share Dividend is declared on the Shares, the Grantee shall be**

credited with a Dividend Equivalent in an amount of Shares equal to the number of Restricted Stock Units held by the Grantee as of the dividend record date, multiplied by the amount of the Share di vidend distributed per Share. Such Dividend Equivalent shall be settled if and when the underlying Restricted Stock Units are settled, rounded down to the nearest whole share. Dividend Equivalents shall not accrue interest prior to the date of payment or settlement, as applicable.

3. Termination of Service. In the event the Grantee's service with the Company and its Subsidiaries is terminated prior to the vesting date set forth in the Vesting Schedule due to the Grantee's death, the Award shall become 100% vested on the date of the Grantee's death and shall be settled on the 31st day following the date of the Grantee's death, or as soon as practicable after such 31st day, but in no event later than Dec ember 31st of the calendar year in which such 31st day occurs.

When the Grantee's service with the Company and its Subsidiaries terminates (except when due to death), this Award shall be forfeited immediately with respect to the number of Restricted Stock Units for which the Award is not yet vested. If the Grantee dies after termination of service, but before the settlement of the Award, all or part of this Award may be settled by payment to the personal representative of the Grantee or by any person who has acquired this Award directly from the Grantee but only to the extent that the Award was vested upon termination of the Grantee's service.

4. Settlement on Change in Control. Notw ithstanding anything herein to the contrary, upon a Change in Control, the Award shall become 100% vested and non-forfeitable and shall be settled within 30 days following such Change in Control.

5. Transferability of Award.

The Award may not be transferred, pledged, assigned, or otherwise disposed of, except (i) by will or the laws of descent and distribution or (ii) for no consideration, subject to such rules and conditions as may be established by the Committee, to a member or members of the Grantee's Immediate Family. For purposes of this Award Agreement, the Grantee's "Immediate Family" means the Grantee's children, stepchildren, grandchildren, parents , stepparents, grandparents, spouse, former spouse, siblings, nieces, nephews, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, including adoptive relationships or any person sharing the Grantee's household (other than a tenant or employee).

6. Miscellaneous Provisions.

a. Rights as a Stockholder. Neither the Grantee nor the Grantee's representative shall have any rights as a stockholder with respect to any Shares subject to this Award, except as provided in Paragraph 2(d), until the Award has vested and Share certific ates, if any, have been issued to the Grantee, transferee or representative, as the case may be.

b. Regulatory Compliance and Listing. The issuance or delivery of any certificates representing Shares issuable pursuant to this Agreement may be postponed by the Committee for such period as may be required to comply with any applicable requirements under the federal or state securities laws, any applicable listing requirements of the New York Stock Exchange, and any applicable requirements under any other Applicable Law, and the Company shall not be obligated to deliver any such Shares to the Grantee if either delivery thereof would constitute a violation of any provision of any law or of any regulation of any governmental authority or the New York Stock Exchange. The Company s hall not be liable to the Grantee for any damages relating to any delays in issuing the certificates to the Grantee, any loss of the certificates, or any mistakes or errors in the issuance of the certificates or the certificates themselves.

c. Choice of Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, excluding any conflicts or choice of law rule or principle that might otherwise refer construction or interpretation of this Agreement to the substantive law of another jurisdiction.

d. Modification or Amendment. Th is Agreement may only be modified or amended by written agreement executed by the parties hereto; provided, however, that the adjustments permitted

pursuant to Section 16 and Section 18(b) of the Plan may be made without such written agreement.

e. Severability. In the event any provision of this Agreement shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining provisions of this Ag reement, and this Agreement shall be construed and enforced as if such illegal or invalid provision had not been included.

f. References to Plan. All references to the Plan shall be deemed references to the Plan as may be amended.

g. Headings. The captions used in this Agreement are inserted for convenience and shall not be deemed a part of this Award for construction or interpretation.

h. Interpretation. Any dispute regarding the interpretation of this Agreement shall be submitted by the Grantee or by the Company forthwith to the Board or the Committee, which shall review such dispute at its next regular meeting. The resolution of such dispute by the Board or the Committee shall be final and binding on all persons.

i. Section 409A of the Code. The provisions of this Agreement and any payments made herein are intended to comply with, and should be interpreted consistent with, the requirements of Section 409A of the Code, and any related regulations or other effective guidance promulgated thereunder by the U.S. Department of the Treasury or the Internal Revenue Service.

j. Signature in Counterparts. This Agreement may be signed in counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

[*signatures on following page*]

PHILLIPS-VAN HEUSEN CORPORATION

By: _____
Name:
Title:

< br>

The Grantee represents that s/he is familiar with the terms and provisions thereof, and hereby accepts this Agreement subject to all of the terms and provisions thereof. The Grantee has reviewed the Plan and this Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Agreement and fully understands all provisions of this Agreement. The Grantee hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Committee upon any questions arising under the Plan or this Agreement.

Dated:_____
Signed:_____
Grantee

EXHIBIT 10.4

PHILLIPS-VAN HEUSEN CORPORATION

SCHEDULE OF NON-MANAGEMENT DIRECTORS' FEES

EFFECTIVE JUNE 24, 2010

BOARD

Annual retainer	$45,000	
Meeting fee	$2,000	If attended in person Plus expenses
	$1,000	If telephonic or director participates by phone
Equity Award – Restricted Stock Units	$125,000	This award is targeted to equal the number of restricted stock units with a value of approximately $125,000 as of the date of grant.
Presiding director fee	$20,000	

AUDIT COMMITTEE

Fee to chair	$15,000	
Meeting fee	$2,500	If attended in person Plus expenses
	$1,250	If telephonic or director participates by phone

COMPENSATION COMMITTEE

Fee to chair	$10,000	
Meeting fee	$1,500	If attended in person Plus expenses
	$750	If telephonic or director participates by phone

NOMINATING & GOVERNANCE COMMITTEE

Fee to chair	$10,000	
Meeting fee	$1,500	If attended in person Plus expenses
	$750	If telephonic or director participates by phone

CORPORATE SOCIAL RESPONSIBILITY COMMITTEE

Fee to chair	$10,000	
Meeting fee	$1,500	If attended in person Plus expenses
	$750	If telephonic or director participates by phone

The above fees are for non-management directors not designated by stockholders. Any nominee of a stockholder pursuant to the terms of a stockholder agreement does not receive fees, if elected, unless the stockholder agreement provides otherwise.

EXHIBIT 10.5

Execution Copy


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SECOND AMENDED AND RESTATED CREDIT AGREEMENT

dated as of

July 10, 2007

among

PHILLIPS-VAN HEUSEN CORPORATION,
THE IZOD CORPORATION
PVH WHOLESALE CORP.
PVH RETAIL CORP.
IZOD.COM INC.
G.H. BASS FRANCHISES INC.
CD GROUP INC.,
PVH CK STORES, INC.,
PVH OHIO, INC.,
PVH MICHIGAN, INC.,
PVH PENNSYLVANIA, INC.,
PVH WHOLESALE NEW JERSEY, INC.,
PVH RETAIL MANAGEMENT COMPANY,
PVH SUPERBA/INSIGNIA NECKWEAR, INC.
as Borrowers,

The Lenders Party Hereto,

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent and Collateral Agent,

J.P. MORGAN SECURITIES INC.,
as Joint Lead Arranger and Sole Bookrunner

BANK OF AMERICA, N.A.
as Joint Lead Arranger and Co-Syndication Agent,

SUNTRUST BANK,
as Co-Syndication Agent;

and

WACHOVIA BANK, NATIONAL ASSOCIATION,
as Co-Documentation Agent

and

THE CIT GROUP/COMMERCIAL SERVICES, INC.
as Co-Documentation Agent

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SCHEDULES

EXHIBITS

SECOND AMENDED AND RESTATED CREDIT AGREEMENT dated as of July 10, 2007, among PHILLIPS-VAN HEUSEN CORPORATION, a Delaware corporation, THE IZOD CORPORATION, a Pennsylvania corporation, PVH WHOLESALE CORP., a Delaware corporation, PVH RETAIL CORP., a Delaware corporation, IZOD.COM INC., a Delaware corporation, G.H. BASS FRANCHISES INC., a Delaware corporation, CD GROUP INC., a Delaware corporation, PVH CK STORES, INC., a Delaware corporation, PVH OHIO, INC., a Delaware corporation, PVH MICHIGAN, INC., a Delaware corporation, PVH PENNSYLVANIA, INC., a Delawar e corporation, PVH WHOLESALE NEW JERSEY, INC., a Delaware corporation, PVH RETAIL MANAGEMENT COMPANY, a Delaware corporation, and PVH SUPERBA/INSIGNIA NECKWEAR, INC., a Delaware corporation, as joint and several borrowers, the LENDERS party hereto, JPMORGAN CHASE BANK, N.A., as Administrative Agent and Collateral Agent, J.P. MORGAN SECURITIES INC. as Joint Lead Arranger and Sole Bookrunner, BANK OF AMERICA, N.A. as Joint Lead Arranger and Co-Syndication Agent, SunTrust Bank as Co-Syndication Agent, Wachovia Bank, National Association as Co-Document Agent and The CIT Group/Commercial Services, Inc. as Co-Documentation Agent.

The Borrowers are party to the Existing Credit Agreement (such term and all other capitalized terms used in this paragraph having the respective meanings ascribed to such terms hereinafter) and desire to amend and restate the Existing Credit Agreement to provide for Loans up to a maximum aggr egate principal amount not in excess of $325,000,000 (subject to increases as provided in Section 2.19) at any time outstanding during the Availability Period. The proceeds of the Loans shall be used for the Borrowers' and their Subsidiaries' working capital, permitted acquisitions, Capital Expenditures and general corporate purposes. The Borrowers and Guarantors will provide Collateral in accordance with the provisions of this Agreement and the other Financing Documents. The Lenders are severally, and not jointly, willing to amend and restate the Existing Credit Agreement and to extend such Loans to the Borrowers subject to the terms and conditions hereinafter set forth. Accordingly, the Borrowers, the Lenders and the Administrative Agent hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. **Defined Terms. As used in this Agreement, the following terms have the meanings specified below:**

"ABR", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

"Act" has the meaning set forth in Section 9.14.

"Adjusted LIBO Rate" means, with respect to any Eurodollar Borrowing for any Interest Period, a n interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

"Administrative Agent" means JPMorgan Chase Bank, N.A., in its capacity as administrative and collateral agent for the Lenders hereunder.

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

"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.

"Alternate Base Rate" means, for any day, a rate per annum equal to the greater of (a) the Prime Rate in effect on such day, (b) the Base CD Rate in effect on such day plus 1% and (c) the Federal Funds Effective Rate in effect on such day plus ½ of 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective from and including the effective date of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"< u>Applicable Rate" means, for any date of determination with respect to any ABR Loan (including any Swingline Loan), Eurodollar Loan or with respect to the Revolving Credit Commitment Fee or with respect to participation fees for any Trade Letter of Credit, the applicable rate per annum set forth below under the caption "ABR Spread", "Eurodollar Spread", "Revolving Credit Commitment Fee" or "Trade Letter of Credit Fee", as the case may be, based upon the Interest Coverage Ratio as of the most recent determination date, provided that until the first day of the month after delivery to the Administrative Agent, pursuant to Section 5.01, of the financial statements required to be delivered pursuant to Section 5.01(b) for the fiscal quarter ended August 5, 2007, the "Applicable Rate" shall be the applicable rate per annum set forth below in Category 4:

Interest Coverage Ratio	ABR Spread	Eurodollar Spread	Revolving Credit Commitment Fee	Trade Letter of Credit Fee
Category 1 Less than or equal to 1.25:1.00	0.125%	1.625%	0.300%	0.500%
Category 2 Greater than 1.25:1.00 but less than or equal to 1.50:1.00	0.00%	1.375%	0.275%	0.450%
Category 3 Greater than 1.50:1.00 but less than or equal to 1.75 :1.00	0.00%	1.125%	0.250%	0.400%
Category 4 Greater than 1.75:1.00	0.00%	1.000%	0.225%	0.400%

For purposes of the foregoing, (a) the Applicable Rate shall be determined as of the end of each fiscal quarter based upon the Interest Coverage Ratio of the Borrowers and their Subsidiaries on a consolidated basis as of the last day of, and for, the four consecutive fiscal quarters most recently ended prior to such day for which financial statements shall have been delivered to the Administrative Agent as required pursuant to Sections 5.01(a) or (b), together with the corresponding Compliance Certificate required pursuant to Section 5.01(d) and (b) each change in the Applicable Rate resulting from a change in the Interest Coverage Ratio shall be effective during the period commencing on and including the date of delivery to the Administrative Agent of such financial statements and related Compliance Certificate indicating such change and ending on the date immediately preceding the effective date of the next such change; provided that the Interest Coverage Ratio of the Borrowers and their Subsidiaries shall be deemed to be in Category 1 (i) at any time that an Event of Default has occurred and is continuing or (ii) if the

Borrowers shall fail to timely deliver the financial statements and related Compliance Certificate required to be delivered for any such fiscal quarter period, during the period (x) from and including the date upon which such financial statements and related Compliance Certificate were required to be delivered to but excluding the date upon which suc h financial statements and related Compliance Certificate, in each case, complying with Section 5.01(a) or (b) and Section 5.01(d) are delivered.

To the extent that a change in the Applicable Rate occurs during the pendency of an Interest Period for an existing Eurodollar Loan, the Applicable Rate shall remain the same for the remainder of the Interest Period for such existing Eurodollar Loan.

"Assessment Rate" means, for any day, the annual assessment rate in effect on such day that is payable by a member of the Bank Insurance Fund classified as "well-capitalized" and within supervisory subgroup "B" (or a comparable successor risk classification) within the meaning of 12 C.F.R. Part 327 (or any successor provision) to the Federal Deposit Insurance Corporation for insurance by such Corporation of time deposits made in dollars at the offices of such member in the United States; provided that if, as a result of any change in any law, rule or regulation, it is no longer possible to determine the Assessment Rate as aforesaid, then the Assessment Rate shall be such annual rate as shall be determined by the Administrative Agent to be representative of the cost of such insurance to the Lenders.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A.

"Assumption Agreement" has the meaning set forth in Section 2.1 8(b)(ii).

"Availability" means at any time (i) the lesser at such time of (x) the aggregate Commitments of all Lenders at such time and (y) the Borrowing Base at such time, minus (ii) the sum at such time of (w) the unpaid principal balance of the Loans at such time, (x) all accrued interest, fees and expenses, (y) the LC Exposure at such time and (z) all Availability Reserves and Dilution Reserves.

"Availability Event" means each period commencing on the date on which Availability shall have been less than the Availability Event Trigger Amount for three consecutive days and ending on the date that Availability has remained greater than the Availability Event Trigger Amount for 60 consecutive days; it being understood and agreed that there shall be no limit to the number of Availability Events that may occur d uring the Availability Period.

"Availability Event Trigger Amount" means, as of any date of determination, an amount equal to 10% of the aggregate amount of the Lenders' Commitments as of such date.

"Availability Period" means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

"Availability Reserves" means, as of any date of determination, such reserves in amounts as the Administrative Agent may from time to time establish (upon five days' notice to the Borrowers in the case of new reserve categories established after the Effective Date) and revise (upward or downwa rd) in good faith in accordance with its customary credit policies: (a) to reflect events, conditions, contingencies or risks which, as determined by the Administrative Agent, do, or are reasonably likely to, materially adversely affect either (i) the Collateral or its value or (ii) the security interests and other rights of the Administrative Agent or any Lender in the Collateral (including the enforceability, perfection and priority thereof), (b) to reflect the Administrative Agent's belief that any collateral report or financial information furnished by or on behalf of the Borrowers is or may have been incomplete, inaccurate or misleading in

any material respect, (c) in respect of any state of facts which the Administrative Agent determines in good faith constitutes a Default or (d) to reflect any Derivative Obligations entered into with a Lender or an Affiliate thereof. On the Effective Date, the initial reserve categories shall include reserves with respect to royalty payments and other payments that are required to be made in connection with any licensing agreements. At any time that Availability is less than the Threshold Amount, there shall be a reserve with respect to the Design Services Payments in the amount of $5,000,000.

"Base CD Rate" means the sum of (a) the Three-Month Secondary CD Rate multiplied by the Statutory Reserve Rate plus (b) the Assessment Rate.

"Board" means the Board of Governors of the Federal Reserve System of the United States of America.

"Borrowers" means each of PVH, The IZOD Corporation, a Pennsylvania corporation, PVH Wholesale Corp., a Delaware corporation, PVH Retail Corp., a Delaware corporation, izod.com, inc., a Delaware corporation, G.H. Bass Franchises, Inc., a Delaware corporation, CD Group, Inc., a Delaware corporation, PVH CK Stores, Inc., a Delaware corporation, PVH Ohio, Inc., a Delaware corporation, PVH Michigan, Inc., a Delaware corporation, PVH Pennsylvania, Inc., a Delaware corporation, PVH Wholesale New Jersey, Inc., a Delaware corporation, PVH Retail Management Company, a Delaware corporation, and PVH Superba/Insignia Neckwear, Inc., a Delaware corporation.

"Borrowing" means (a) Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect and (b) any Swingline Loan.

"Borrowing Base" means, as of any date of determination, an amount equal to the sum of:

(i) 80% of the Net Amount of Eligible Receivables; plus

(ii) 90% of Eligible Credit Card Receivables ; plus

(iii) the lesser of (a) up to 85% of the amount of Eligible Domestic Licensing Receivables and (b) $60,000,000; provided that the amount of Eligible Domestic Licensing Receivables relating to Minimum Guaranteed Fundings included in this clause (iii) shall not, to the extent unearned on the date of determination, exceed $15,000,000 or such lesser amount as the Administrative Agent may determine in its sole discretion during an Availability Event; plus

(iv) the lesser of (a) up to 35% of the amount of Eligible For eign Licensing Receivables and (b) $25,00,000; provided that no Eligible Foreign Licensing Receivables relating to Minimum Guaranteed Fundings included in this clause (iv) shall be included in the Borrowing Base, to the extent that such Receivables are unearned on the date of determination; plus

(v) the lesser of (a) 85% (or, during the period commencing on the first day of the Fiscal Month of June through and including the last day of the Fiscal Month of October of each year, 90%) of the Net Orderly Liquidation Value of Eligible Inventory and (b) 70% (or, during the period from the first day of the Fiscal Month of June through and including the last day of the Fiscal Month of October of each year, 75%) of the Net Amount of Eligible Inventory during any period of June 1st through and including October 31st; plus

(vi) the lesser of (a) 85% (or, during the period from the first day of the Fiscal Month of June through and including the last day of the Fiscal Month of October of each year, 90%) of the Net Orderly Liquidation Value of Eligible LC Inventory and (b) 70% (or, during the period the first day of the Fiscal Month of June through and including the last day of the Fiscal Month of October of each year, 75%) of the aggregate undrawn amount of Trade Letters of Credit; plus

(vii) an amount equal to the Fixed Assets Component as of such date of determination; plus

(viii) Invested Cash as of such date of determination; provided that, to the extent that less than 50% of all Invested Cash is invested with or through the Administrative Agent, only such portion of Invested Cash which is invested with or through the Administrative Agent shall be i ncluded in the Borrowing Base; minus

(ix) The aggregate principal amount of the Debentures outstanding on such date of determination.

"Borrowing Base Certificate" has the meaning set forth in Section 5.01(j).

"Borrowing Request" means a request by the Borrower for a Borrowing in accordance with Section 2.03.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

"Capital Expenditures" shall mean all expenditures for the acquisition or leasing (pursuant to a capital lease) of assets or additions to equipment (including replacements, capitalized repairs and improvements) which should be capitalized under GAAP.

"Capital Lease Obligations" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are re quired to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"Cash Interest Expense" means with respect to the Borrowers for any period, Interest Expense for such period less all non-cash items constituting Interest Expense during such period (including amortization of debt discounts and payments of interest on Indebtedness by issuance of Indebtedness).

"Casualty Event" shall mean, with respect to any property of the Borrowers or any of their Subsidiaries, any loss of title with respect to such property or any loss or damage to or destruction of, or any condemnation or other taking (including by any Governmental Authority) of, su ch property or any interruption of the business of the Borrowers or any Subsidiary which is covered by business interruption insurance.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

"Change in Control" means (a) the occurrence of any change in control or similar event (however denominated) with respect to the Borrowers under and as defined in the Senior Note Indentures, as in effect on the Effective Date, or any other indenture or agreement in respect of Material Indebtedness to which the Borrowers or a Subsidiary is a party or (b) PVH shall cease to own (directly or indirectly through one or more other Borrowers) 100% of all Equity Interests of any of the other Borrowers.

"Change in Law" means (a) the adoption of any law, rule or regulation after the date of this Agreement, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender or the Issuing Bank (or, for purposes of Section 2.14(b), by any lending office of such Lender or Issuing Bank or by such Lender's or the Issuing Bank's holding company, if any) with any request, guideline or directive (whether or not having the forc e of law) of any Governmental Authority made or issued after the date of this Agreement.

"CKI" means Calvin Klein Inc., a New York corporation.

"CKI Affiliates" means the following entitles: Calvin Klein (Europe), Inc., CK Service Corp. and Calvin Klein (Europe II) Corp.

"CKI Intercreditor Agreement" means the intercreditor agreement dated February 12, 2003 among Calvin Klein, the Administrative Agent and certain other parties thereto, confirming the intercreditor arrangements between the parties, as such agreement may be amended, restated supplemented and otherwise modified from time to time.

"CKI Stock Purchase Agreement" means the Stock Purchase Agreement dated as of December 17, 2002, among PVH, CKI, the CKI Affiliates and the sellers named therein.

"CKI Trust" means the trust established pursuant to the Delaware Business Trust Act, as amended, and the Trust Agreement dated as of March 14, 1994 between CKI and Wilmington Trust Company."

"Class", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans or Swingline Loans.

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

"Collateral" means all collateral on which a Lien is granted or purported to be granted pursuant to any Financing Document.

"Collateral Availability" means, at any time, an amount equal to (a) the Borrowing Base at such time minus (b) the sum at such time of (i) the Revolving Credit Exposure of all Lenders at such time and (ii) all Availability Reserves and Dilution Reserves.

"Commitment" means, with respect to each Lender, the commitment of such Lender to make Loans and to acquire participations in Letters of Credit and Swingline Loans hereunder, expressed as an amount representing the maximum aggregate amount of such Lender's Revolving Credit Exposure hereunder, as such commitment may b e (a) reduced from time to time pursuant to Section 2.08 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Sections 2.19 and 9.04. The amount of each Lender's Commitment as of the Effective Date is set forth on Schedule 2.01, or, if such Lender shall have assumed its Commitment after the Effective Date, the amount of such Lender's Commitment shall be set forth in the Assignment and Assumption pursuant to which

such Lender shall have assumed its Commitment. The aggregate amount of the Lenders' Commitments as of the Effective Date is $325,000,000. Effective upon the assignment of an interest pursuant to Section 9.04, Schedule 2.01 may be amended by the Administrative Agent to reflect such assignment.

"Compliance Certificate" has the meaning set forth in Section 5.01(d).

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Customer" means and includes the account debtor or obligor with respect to any Receivable.

"Debentures" means the 7-3/4% Debentures Due 2023 of PVH issued under the Debentures Indenture.

"Debentures Indenture" means the Indenture dated as of November 1, 1993, by and between PVH and the Debentures Trustee, governing the Debentures.

"Debentures Trustee" means The Bank of New York, as Trustee under the Debentures Indenture, and its successors in such capacity.

"Default" means any event or condition which constitutes an Event of Default or which upon notice, lapse of tim e or both would, unless cured or waived, become an Event of Default.

"Derivative Obligations" means every obligation of a Person under any forward contract, futures contract, swap, option, caps, floors, collars and similar agreements, the value of which is dependent upon interest rates, currency or exchange rates or valuations.

"Design Service Payments" means the payments under the CKI Stock Purchase Agreement pursuant to which PVH has agreed to pay Mr. Calvin Klein 1.15% of worldwide sales of products under the Calvin Klein trademarks for a period of 15 years..

"Dilution Factors" means with respect to the Borrowers' and Guarantors' Receivables for any period, the aggregate amount of all credit memos, returns, adjustments, allowances, bad debt write-offs, volume rebates (issued either as a credit to the Customer's account balance or as a cash disbursement), other non-cash credits and all other items that could dilute the value of the Borrowers' or the Guarantors' Receivables.

"Dilution Ratio" means with respect to the Borrowers at any date, the amount (expressed as a percentage) equal to (a) the aggregate amount of the applicable Dilution Factors for the 12 most recently completed fiscal months divided by (b) total gross sales for the 12 most recently completed fiscal months.

"Dilution Reserve" means at any date of calculation by the Administrative Agent, the applicable Dilution Ratio multiplied by the Eligible Receivables on such date. A Dilution Reserve shall be calculated to the extent that the Dilution Ratio, at any date, is in excess of 5% with respect to Eligible Licensing Receivables or 10% with respect to all other Eligible Receivables. The Dilution Reserve shall equal the calculated Dilution Ratio in excess of 5% or 10%, as applicable.

"Disclosed Matters" means the actions, suits and proceedings and the environmental matters disclosed in Schedules 3.05 and 3.08.

"Distribution Centers" means (a) the Effective Date Distribution Centers and (b) each other distribution center acquired by PVH after the Effective Date that is subject to a Mortgage in favor of the Administrative Agent and for which the Administrative Agent shall have received Post-Effective Date Appraisal/Assessment Documents.

"dollars" or "$" refers to lawful money of the United States of America.

"EBITDA" means with respect to the Borrowers for any period (a) the sum of (i) Net Income, (ii) Interest Expense, (iii) Federal, state, local and foreign income taxes, depreciation and amortization and other non-cash items properly deductible in determining Net Income, in each case on a consolidated basis for PVH and its subsidiaries for such period, calculated in accordance with GAAP, minus (b) non-cash items properly added in determining Net Income for such period minus (c) the aggregate amount of all payments made under the Design Service Agreement during such period.

"EBITDAR" means with respect to the Borrowers for any period (a) the sum of (i) Net Income, (ii) Interest Expense, (iii) Federal, state, local and foreign income taxes, depreciation and amortization and other non-cash items properly deductible in determining Net Income and (iv) all rental obligations or other commitments thereunder to make any direct or indirect payment, whether as rent or otherwise, for fixed or minimum rentals or percentage rentals, in each case on a consolidated basis for PVH and its subsidiaries for such period, calculated in accordance with GAAP, minus (b) non-cash items properly added in determining Net Income for such period minus (c) the aggregate amount of all Design Service Payments made during such period.

"Eligible Credit Card Receivables" means Receivables due to the Borrowers on a non-recourse basis (other than standard chargebacks and standard fees due to the credit card issuer or processor) from (i) Visa, MasterCard, American Express Co. or Discover, and (ii) other credit card issuers and/ or processors acceptable to the Administrative Agent, arising in the ordinary course of business for the purchase of goods sold by the Borrowers; provided, however, that Eligible Credit Card Receivables shall in no event include:

(i) any Receivable that is past due or that has been outstanding for more than five (5) days from the date of sale;

(ii) any Receivable with respect to which the Borrowers do not have good, valid and marketable title, free and clear of any Lien (other than the Security Interests);

(iii) any Receivable that is not subject to a first priority security interest in favor of the Administrative Agent (it being the intent that standard fees due by the Borrowers and standard chargebacks in the ordinary course by such credit card issuers and/or processors shall not violate this clause (iii));

(iv) any Receivable that is disputed, are with recourse, or with respect to which a claim, counterclaim, offset or chargeback has been asserted (to the extent of such claim, counterclaim, offset or chargeback);

(v) any Receivable from a credit card issuer or processor that the Administrative Agent reasonably determines to be unlikely to be collected; and

(vi) any Receivable with respect to which either (x) a Processor Control Agreement has not been obtained or (y) a copy of the credit card processing agreement between the applicable Borrower and the applicable Processor has not been delivered to the Administrative Agent;

provided, further, that no Receivable arising out of the sale of goods by any of the Borrowers' retail stores which otherwise meets the criteria set forth in this definition of Eligible Credit Card Receivables shall be included in Eligible Credit Card Receivables until such time as the Borrowers shall have delivered to the Administrative Agent a true, correct and complete list (in form and substance reasonably satisfactory to the Adminstrative Agent) of all Processors that provide any Borrower with credit card or debit card processing services in connection with the Borrowers' retail business.

"Effective Date" means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

"Effective Date Distribution Centers< /u>" means PVH's four distribution centers located at (i) 17972 1062 Macarthur Road, Reading, Pennsylvania, (ii) 350 Rt. 61 South, Schuylkill Haven, Pennsylvania, (iii) Hway 67 & 77, Jonesville, North Carolina, and (iv) 3915 Volunteer Drive, Chattanooga, Tennessee.

"Eligible Domestic Licensing Receivables" means that portion of Eligible Licensing Receivables owing from (a) Customers that are (i) United States or Canadian natural persons or (ii) entities organized under the laws of one of the fifty United States, the District of Columbia, Puerto Rico or one of the Canadian provinces, or (b) Customers that do not meet the criteria set forth in clause (a) of this definition but for which applicable Receivables are covered by a letter of credit or credit insurance in favor of, or assigned to, the Administrative Agent in form and substance reasonably satisfactory to the Administrative Agent .

"Eligible Foreign Licensing Receivables" means Receivables which (a) satisfy all criteria set forth in the definition of "Eligible Licensing Receivables", (b) are owing from Customers that are not (i) United States or Canadian natural persons or (ii) entities organized under the laws of one of the fifty United States, the District of Columbia, Puerto Rico or one of the Canadian provinces and (c) are not covered by a letter of credit or credit insurance in favor of, or assigned to, the Administrative Agent in form and substance satisfactory to the Administrative Agent.

"Eligible Inventory" means inventory of the Borrowers and the Guarantors comprised solely of finished goods (and specifically excluding raw materials, work in process, supplies and foreign inventory) which is, in the reasonable judgment of the Administrative Agent, not obsolete, slow-moving or unmerchantable and is and at all times shall continue to be acceptable to the Administrative Agent in all respects; provided, however, that Eligible Inventory shall in no event include inventory which:

(i) is on consignment, is not in conformity with the representations and warranties made by the Borrowers and the Guarantors under the Financing Documents or is not located at one of the addresses for locations of Collateral set forth on Annex C to the Security Agreement and with respect to which the Administrative Agent has not been granted and has not perfected a valid, first priority security interest (subject to Permitted Encumbrances) and, if such location is a property leased by the Borrowers or the Guarantors or is an outside warehouse or processor, with respect to which the Administrative Agent has not received a landlord waiver or warehouseman's or processor's agreement, as the case may be, executed by the landlord of such location or such warehouseman or processor, as the case may be, all in form and substance satisfactory to the Administrative Agent or appropriate rent escrow arrangements shall have been made with the Administrative Agent covering at least three months' rent; provided, however, (a) landlord waivers shall not be required with respect to inventory located at a retail store in a state that does not have a statutory landlord lien and (b) landlord waivers or warehouseman's agreements shall not be required with respect to inventory located in self-storage facilities to the extent the aggregate value of such inventory does not exceed $1,000,000;

(ii) which is in transit, other than goods on the high seas having a value (based on invoiced amounts) not exceeding $45,000,000 at any time outstanding during the Fiscal Months of June, July, August, December, January and February and $40,000,000 at all other times, which are not subject to Trade Letters of Credit and for which payment has been made; provided that upon the occurrence and during the continuance of an Availability Event, such goods will remain as Eligible Inventory only to the extent that the Administrative Agent is in receipt of the original bills of lading and any other documents of title; or

(iii) has been returned or rejected by a Customer and has been determined to be unmerchantable. Standards of eligibility may be adjusted from time to time solely by the Administrative Agent in the Administrative Agent's exclusive judgment exercised in good faith in accordance with its customary credit policies.

In determining eligibility, the Administrative Agent may, but need not, rely on reports and schedules furnished by the Borrowers, but reliance by the Administrative Agent thereon from time to time shall not be deemed to limit the right of the Administrative Agent to revise standards of eligibility at any time as to both present and future inventory of the Borrowers. If the inventory is sold under a licensed trademark, for such inventory to constitute Eligible Inventory, the Administrative Agent shall have entered into a licensor consent letter, in form and substance reasonably satisfactory to the Administrati ve Agent, with the licensor with respect to the rights of the Administrative Agent to use the trademark to sell or otherwise dispose of such inventory.

"Eligible LC Inventory" means inventory of the Borrowers and the Guarantors that would be Eligible Inventory but for the fact that it is subject to a Trade Letter of Credit and is and at all times shall continue to be acceptable to the Administrative Agent in all respects.

"Eligible Licensing Receivables" means Receivables created by the Borrowers and the Guarantors in the ordinary course of business arising out of the licensing of goods or trademarks by the Borrowers and the Guarantors to Customers which are, and at all times shall continue to be, acceptable to the Administrative Agent in all respects. Standards of eligibility may be adjusted from time to time solely by the Administrative Agent in the Administrative Agent's exclusive judgment exercised in good faith in accordance with its customary credit policies. In general, without limiting the foregoing, a Receivable shall in no event be deemed to be an Eligible Licensing Receivable unless:

(a) the amount of such Receivable (i) represents a fixed contractual minimum amount irrevocably payable under the applicable licensing agreement, payable at least quarterly (a "Minimum Guaranteed Funding") or (ii) represents a contractual amount based on net sales by the Customer licensee and is payable at such times and on such terms and conditions as is acceptable to the Administrative Agent in all respects (an "Excess Payment Due"), and in each case under clauses (i) and (ii), does not represent an amount that would be more than the amount of on e Minimum Guaranteed Funding or more than three (3) Excess Payments Due included in the Borrowing Base at any one time;

(b) the payment is not more than 30 days past its due date;

(c) the Customer licensee has not asserted a dispute, offset, deduction or setoff;

(d) such Receivable is denominated in dollars and payable in the United States;

(e) such Receivable arises under a licensing agreement that (i) cannot be canceled by the Customer licensee during its stated term, (ii) is assignable by the applicable Borrower or Guarantor and (iii) has at least six (6) months remaining on the term of the agreement;

(f) such Receivable arose from a completed and bona fide transaction;

(g) such Receivable is in conformity in all material respects with the representations and warranties made by the Borrowers and the Guarantors to the Administrative Agent and the Lenders with respect thereto and is free and clear of all security interests and Liens of any nature whatsoever other than any security interest deemed to be held by the Borrowers or the Guarantors or any security interest created pursuant to the Security Agreement or permitted by Section 6.02 hereof;

(h) such Receivable constitutes an "account" or "chattel paper" within the meaning of the Uniform Commercial Code of the state in which the applicable Borrower or Guarantor is located;

(i) the Customer has not asserted that such Receivable, and/or the Borrowers and the Guarantors are not aware that such Receivable is subject to any setoff, contras, net-out contract, offset, deduction, dispute, credit, counterclaim or other defense arising out of the transactions represented by such Receivable or independently thereof (but such Receivable shall be ineligible only to the extent of such setoff, contras, net-out contract, offset, deduction, dispute, credit, counterclaim or other defen se), or such Customer has contractually waived any right of offset;

(j) such Receivable arose in the ordinary course of business of the Borrowers or the Guarantors;

(k) the Customer is not (x) the United States government or the government of any state or political subdivision thereof or therein, or any agency or department of any thereof (unless there has been full compliance to the satisfaction of the Administrative Agent with any applicable assignment of claims statute) or (y) an army, navy, marine, air force, coast guard post or a post of another similar service corps (unless there has been full compliance to the satisfaction of the Administrative Agent with any applicable assignment of claims statute) or (z) an Affiliate of PVH or any subsidiary of any thereof or a supplier or creditor of PVH or any subsidiar y thereof (provided that such Receivable shall only be ineligible to the extent of amounts payable by PVH or any subsidiary to such supplier or outstanding to such creditor);

(l) such Receivable complies with all material requirements of all applicable laws and regulations, whether Federal, state or local (including usury laws and laws, rules and regulations relating to truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy);

(m) to the knowledge of the Borrowers and the Guarantors, such Receivable is in full force and effect and constitutes a legal, valid and binding obligation of the Customer enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, moratorium and other simil ar laws affecting the enforcement of creditors' rights generally and by general equity principles;

(n) such Receivable is denominated in and provides for payment by the Customer in dollars (unless a currency swap or similar hedge approved by the Administrative Agent has been entered into with respect to such Receivable the effect of which is to cause payment to be denominated in dollars) and is payable within the United States;

(o) such Receivable has not been and is not required to be charged off or written off as uncollectible in accordance with GAAP or the customary business practices of the Borrowers or the Guarantors;

(p) the Administrative Agent on behalf of the Lenders possesses a valid, perfected first priority security interest in such Receivable as security for payment of the obligations, subject to Permitted Encumbrances;

(q) such Receivable is not owing from a Customer located in a jurisdiction denying creditors access to its courts in the absence of a Notice of Business Activities Report or other similar filing, unless the Borrowers or the Guarantors, as applicable, either have qualified as a foreign corporation authorized to transact business in such jurisdiction or have filed a Notice of Business Activities Report or similar filing with the applicable state agency for the then current year;

(r) an event as described in paragraph (g) or (h) of Article VII has not occurred with respect to the Customer; and

(s) the Administrative Agent is satisfied with the credit standing of the Customer in relation to the amount of credit extended.

Notwithstanding the foregoing, all Eligible Licensing Receivables of any single Customer which, in the aggregate, exceed 20% of the sum of total Eligible Receivables and total Eligible Licensing Receivables at the time of any such determination, shall be deemed not to be Eligible Licensing Receivables to the extent of such excess.

"Eligible Receivables" means Receivables created by the Borrowers and the Guarantors in the ordinary course of business arising out of the sale of goods or rendition of services by the Borrowers and the Guarantors, which are and at all times shall continue to be acceptable to the Administrative Agent in all respects, other than Eligible Credit Card Receivables or Eligible Licensing Receivables. Standards of eligibility may be adjusted from time to time solely by the Administrative Agent in the Administrative Agent's exclusive judgment exercised in good faith in accordance with its customary credit policies. In general, without limiting the foregoing, a Receivable shall in no event be deemed to be an Eligible Receivable unless:

(a) all payments due on the Receivable have been invoiced and the underlying goods shipped or services performed, as the case may be;

(b) the payment due on the Receivable is not more than the lesser of (i) 60 days past the due date and (ii) 150 days past the invoice date in the case of Receivables due from Wal-Mart or Sam's Club and 120 days past the invoice date in the case of all other Receivables;

(c) the payments due on more than 50% of all Receivables from the same Customer are less than (i) 60 days past the due date or (ii) 150 days past the invoice date in the case of Receivables due from Wal-Mart or Sam's Club and 120 days past the invoice date in the case of all other Receivables;

(d) the Receivable arose from a completed and bona fide transaction (and with respect to a sale of goods, a transaction in which title has passed to the Customer) which requires no further act under any circumstances on the part of the Borrowers or the Guarantors in order to cause such Receivable to be payable in full by the Customer;

(e) the Receivable is in conformity in all material respects with the representations and warranties made by the Borrowers and the Guarantors to the Administrative Agent and the Lenders with respect thereto and is free and clear of all security interests and Liens of any nature whatsoever other than any security interest deemed to be held by the Borrowers or the Guarantors or any security interest created pursuant to the Security Agreement or permitted by Section 6.02 hereof;

(f) the Receivable constitutes an "account" or "chattel paper" within the meaning of the Uniform Commercial Code of the state in which the applicable Borrower or Guarantor is located;

(g) the Customer has not asserted that the Receivable, and/or the Borrowers and the Guarantors are not aware that the Receivable, arises out of a bill and hold, consignment or progress billing arrangement or is subject to any setoff, contras, net-out contract, offset, deduction, dispute, credit, counterclaim or other defense arising out of the transactions represented by the Receivables or independently thereof (but such Receivable shall be ineligible only to the extent of such setoff, contras, net-out contract, offset, deduction, dispute, credit, counterclaim or other defense) and the Customer has finally accepted the goods from the sale out of which the Receivable arose and has not objected to its liability thereon or returned, rejected or repossessed any of such goods, except for complaints made or goods returned in the ordinary course of business for which, in the case of goods returned, goods of equal or greater value have been shipped in return;

(h) the Receivable arose in the ordinary course of business of the Borrowers or the Guarantors;

(i) the Customer is not (x) the United States government or the government of any state or political subdivision thereof or therein, or any agency or department of any thereof (unless there has been full compliance to the satisfact ion of the Administrative Agent with any applicable assignment of claims statute) or (y) an army, navy, marine, air force, coast guard post or a post of another similar service corps (unless there has been full compliance to the satisfaction of the Administrative Agent with any applicable assignment of claims statute) or (z) an Affiliate of PVH or any subsidiary of any thereof or a supplier or creditor of PVH or any subsidiary thereof (provided that such Receivable shall only be ineligible to the extent of amounts payable by PVH or any subsidiary to such supplier or outstanding to such creditor);

(j) the Customer is a United States or Canadian person or an obligor in the United States, Puerto Rico or Canada or an obligor located in another jurisdiction if the applicable Receivable is covered by a letter of credit or credit insurance in favor of, or assigned to, the Administrative Agent in form and substance rea sonably satisfactory to the Administrative Agent;

(k) the Receivable complies with all material requirements of all applicable laws and regulations, whether Federal, state or local (including usury laws and laws, rules and regulations relating to truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy);

(l) to the knowledge of the Borrowers and the Guarantors, the Receivable is in full force and effect and constitutes a legal, valid and binding obligation of the Customer enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting the enforcement of creditors' rights generally and by general equity principles;

(m) the Receivable is denominated in and provides for payment by the Customer in dollars (unless a currency swap or similar hedge approved by the Administrative Agent has been entered into with respect to such Receivable the effect of which is to cause payment to be denominated in dollars) and is payable within the United States;

(n) the Receivable has not been and is not required to be charged off or written off as uncollectible in accordance with GAAP or the customary business practices of the Borrowers or the Guarantors;

(o) the Administrative Agent on behalf of the Lenders possesses a valid, perfected first priority security interest in such Receivable as security for payment of the obligations, subject to Permitted Encumbrances;

(p) the Receivable is not owing from a Customer located in a jurisdiction denying creditors access to its courts in the absence of a Notice of Business Activities Report or other similar filing, unless the Borrowers or the Guarantors, as applicable, either have qualified as a foreign corporation authorized to transact business in such jurisdiction or have filed a Notice of Business Activities Report or similar filing with the applicable state agency for the then current year;

(q) an event as described in paragraph (g) or (h) of Article VII has not occurred with respect to the Customer;

(r) the Receivable is not for accrued coop advertising;

(s) the Receivable is not related to an invoice that is less than 60 days past the due date for which the Borrowers or the Guarantors have received payment but have not yet applied such payment;

(t) the Receivable is not related to a gift certificate sold by a Borrower or a Guarantor; and

(u) the Administrative Agent is satisfied with the credit standing of the Customer in relation to the amount of cr edit extended.

Notwithstanding the foregoing, (i) except as provided in clause (ii) of this sentence, all Receivables owing from any single Customer which, in the aggregate, exceed 35%, of the total Eligible Receivables at the time of any such determination shall be deemed not to be Eligible Receivables to the extent of such excess and (ii) so long as Federated Department Stores Inc. (or any successor thereto) maintains corporate credit ratings of Baa2 or better from Moody's and BBB or better from Standard & Poor's, all Receivables owing from Federated Department Stores Inc. (or any successor thereto) which, in the aggregate, exceed 40% of the total Eligible Receivables at the time of any such determination shall be deemed not to be Eligible Receivables to the extent of such excess.

"Environmental Laws" mea ns all laws, rules, regulations, codes, ordinances, orders or decrees issued, promulgated or entered into by any Governmental Authority, and any judgments, injunctions, notices or binding agreements entered against or into by PVH or any of its subsidiaries, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Materials or to health and safety matters.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of any Borrower or any Subsidiary 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.

"Equity Interests" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with the Borrowers, is treated as a single employer under Section 4 14(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"ERISA Event" means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the existence with respect to any Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 4 12(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrowers or any of their ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrowers or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Borrowers or any of their ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; or (g) the receipt by the Borrowers or any ERISA Affiliate of any notice, or the receipt by any Multie mployer Plan from the Borrowers or any ERISA Affiliate of

any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

"Eurodollar", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

"Event of Default" has the meaning assigned to such term in Article VII.

"Excess Payments Due" has the meaning set forth in the definition of Eligible Licensing Receivables.

"Excluded Taxes" means, with respect to the Administrative Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of a Borrower hereunder, (a) income, franchise or similar taxes imposed on (or measured by) its net income by the United States of America, or by the jurisdiction (or any political subdivision thereof or taxing authority therein) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction described in clause (a) above and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrowers under Section 2.18(b)), any withholding or similar tax that (i) is in effect and would apply to amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party to this Agreement (or designates a new lending office), except to the extent that such Foreign Lender (or its assignor, if any) would have been entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrowers with respect to any withholding tax pursuant to Section 2.15(a) or (ii) is attributable to such Foreign Lender's failure to comply with Section 2.16(e).

"Existing Credit Agreement" means the Amended and Restated Credit Agreement dated as of December 15, 2004, as amended, among PVH and certain of its subsidiaries, the financial institutions

named therein, JPMorgan Chase Bank, N.A., as administrative agent and collateral agent, Bank of America, N.A. (formerly named Fleet Retail Group, Inc.), as Joint Lead Arranger and Co-Syndication Agent, Sun Trust Bank, as Co-Syndication Agent, The CIT Group/Commercial Services, Inc., as Co-Documentation Agent and General Electric Capital Corporation, as Co-Documentation Agent.

"Existing Letter of Credit" means any letter of credit that (a) was issued under the Existing Credit Agreement by an Issuing Bank, (b) is outstanding on the Effective Date and (c) is listed in Schedule 1.01.

"Facility Letter" means the letter agreement among the Borrowers and the Administrative Agent effective on the Effective Date authorizing certain employees to handle certain of the credit operations contemplated by this Agreement.

"Federal Funds Effective Rate" means, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Fe deral funds brokers of recognized standing selected by it.

"Fee Letter" means the letter dated July 9, 2007 among the Borrowers and the Administrative Agent setting forth certain fees to be paid by the Borrowers to the Administrative Agent.

"Financial Officer" means the chief executive officer, president, chief financial officer, principal accounting officer, treasurer, assistant treasurer, controller or assistant controller of PVH.

"Financing Documents" means this Agreement (including the Schedules and Exhibits hereto), the Notes evidencing Loans, the Letters of Credit, the Security Agreement, the Mortgages, any Guarantee, the Fee Letter and any other agreement hereaft er created to which the Borrowers or any Guarantor is a party that provides for collateral security for any of the obligations of the Borrowers or any such Guarantor under any of the foregoing.

"FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended from time to time.

"Fiscal Month" means each period of four or five weeks ending on the dates set forth on Schedule 1.02. Except as indicated on Schedule 1.02, "Fiscal Months" are designated by the calendar month in which such Fiscal Month commences.

"Fixed Asset Component" means:

(a) as of any date of determination prior to the Administrative Agent's receipt of Post-Effective Date Appraisal/Assessment Documents for the Distribution Centers, an amount equal to (i) $13,888,888.95 minus (ii) the product of (x) $111,111.11 multiplied by (y) the number of complete calendar months elapsed since May 31, 2007; or

(b) as of any date of determination after the Administrative Agent's receipt of Post-Effective Date Appraisal/Assessment Documents for the Distribution Centers, an amount equal to the product of (i) 75% multiplied by (ii) the aggregate fair market value o f the Distribution Centers as determined by the Administrative Agent based upon the Post-Effective Date Appraisal/Assessment Documents for the Distribution Centers multiplied by (iii) (x) 180 minus (y) the number of complete calendar months

elapsed since the date of receipt by the Administrative Agent of the Post-Effective Date Appraisal/Assessment Documents for the Distribution Centers, multiplied by (iv) 1/180;

provi ded that (A) in no event shall the Fixed Asset Component as of any date of determination exceed 10% of the aggregate amount of the Lenders' Commitments as of such date, (B) if, at any time, Suppressed Availability shall be less than $13,888,888.95, the Fixed Asset Component shall equal $0 unless and until such time as the Administrative Agent shall have received Post-Effective Date Appraisal/Assessment Documents for all Distribution Centers, and (C) if any Distribution Center is sold by PVH, the Fixed Asset Component shall be reduced by an amount equal to the portion of the Fixed Asset Component attributable to such Distribution Center as of the date of sale as reasonably determined by the Administrative Agent.

"Fixed Charge Coverage Ratio" means, with respect to PVH and its subsidiaries on a consolidated basis for any period, the ratio of (i) the remainder of (a) EBITDAR f or such period minus (b) Capital Expenditures paid in cash minus (c) cash dividends and other cash distributions of PVH to the extent permitted by Sections 6.06(c) and 6.06(d) during such period minus (d) Federal, state, local and foreign income taxes paid in cash minus (e) management fees paid during such period, if any, to (ii) Fixed Charge Expense for such period.

"Fixed Charge Expense" means, with respect to PVH and its subsidiaries for any period, the aggregate of (i) regularly scheduled principal payments of all Funded Debt made or to be made by the Borrowers and their Subsidiaries on a consolidated basis during such period (other than payments made with the proceeds of Indebtedness permitted hereby used to refinance such Funded Debt), (ii) Cash Interest Expense during such period, and (iii) in respect of leases of real and personal property (other than finance leases), the aggregate amount of rental obligations or other commitments thereunder to make any direct or indirect payment, whether as rent or otherwise, for fixed or minimum rentals or percentage rentals for such period, in each case determined on a consolidated basis in accordance with GAAP.

"Foreign Lender" means any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is located. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Funded Debt" means, with respect to PVH and its subsidiaries as of the date of determination thereof, all Indebtedness of PVH and its subsidiaries on a consolidated basis outstanding at such t ime (including the current portion thereof and amounts outstanding in the final year of any Funded Debt) which matures more than one year after the date of calculation, and any such Indebtedness maturing within one year from such date of calculation which is renewable or extendable at the option of the obligor to a date more than one year from such date and including in any event the Loans.

"GAAP" means generally accepted accounting principles in the United States of America.

"Governmental Authority" means the government of the United States of America, any other nation or 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, regu latory or administrative powers or functions of or pertaining to government.

"Guarantee" of or by any Person (the "guarantor") means, without duplication any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or

to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

"Guarantor" means, collectively, each domestic Subsidiary that executed and delivered a Guarantee on the Original Effective Date and is not currently a Borrower, each domestic Subsidiary executing and delivering a Guarantee on the Effective Date and each domestic Subsidiary which becomes a Guarantor after the Effective Date.

"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, including any material listed as a hazardous substance under Section 101(14) of CERCLA.

"Increase Date" has the meaning set forth in Section 2.19(a).

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, co ntingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person and obligations in respect of synthetic leases, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (j) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances and (k) all Derivative Obligations. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Interest Coverage Ratio" means, with respect to PVH and its subsidiaries on a consolidated basis for any four consecutive fiscal quarter period, the ratio of (i) EBITDA, less Capital Expenditures paid in cash for such period to (ii) the Cash Interest Expense for such period. In computing the Interest Coverage Ratio, to the extent applicable, there shall be excluded in the computation of Capital Expenditures assets acquired as part of Permitted Acquisitions, even though the acquisition of such assets may be treated as Capital Expenditures under GAAP.

"Interest Election Request" means a request by the Borrowers to convert or continue a Borrowing in accordance with Section 2.07.

"Interest Expense" means, with respect to the Borrowers for any period, the interest expense of PVH and its subsidiaries during such period determined on a consolidated basis in accordance with GAAP, and shall in any event include (i) the amortization of debt discounts, (ii) the amortization of all fees payable in connection with the incurrence of Indebtedness to the extent included in interest expense and (iii) the portion of any Capitalized Lease Obliga tion allocable to interest expense.

"Interest Payment Date" means (a) with respect to any ABR Loan (other than a Swingline Loan), the first day of each month for the prior month then ended and the Maturity Date, (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period and the Maturity Date, and (c) with respect to any Swingline Loan, the day that such Loan is required to be repaid, and the Maturity Date.

"Interest Period" means, with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter; provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless, such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period that commences on the last 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 Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of s uch Borrowing.

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, or any successor statute.

"Invested Cash" means cash invested in Permitted Investments of the type described in clauses (c) and (d) of such definition in which the Administrative Agent has a valid first priority perfected Lien.

"Issuing Bank" means (a) each of JPMorgan Chase Bank, N.A., Bank of America, N.A., and The Bank of New York, in its capacity as an issuer of Letters of Credit hereunder and (b) any other Lender designated by the Borrowers from time to time with the consent of the Administrative Agent and such Lender, which consent shall not be unreasonably withheld, pro vided that the total number of Issuing Banks at any time under this Agreement shall not exceed three (3). Each Issuing Bank may arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

"LC Disbursement" means a payment made by any Issuing Bank pursuant to a Letter of Credit issued by such Issuing Bank.

"LC Exposure" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrowers at such time. The LC Exposure of any Lende r at any time shall be its pro rata share (based on its Commitment) of the total LC Exposure at such time.

"Lenders" means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases

to be a party hereto pursuant to an Assignment and Assumption, and, unless the context otherwise requires, the term & #147;Lenders" shall also include a New Lender, and the Swingline Lender.

"Letter of Credit" means any letter of credit (whether a Stand-by Letter of Credit or a Trade Letter of Credit) issued or deemed to have been issued by any Issuing Bank, including each Existing Letter of Credit, pursuant to this Agreement. For purposes of clarification, letters of credit issued by PVH as permitted by Section 6.01(h) hereof shall not be deemed to be "Letters of Credit" hereunder.

"LIBO Rate" means, with respect to any Eurodollar Borrowing for any Interest Period, the rate appearing on Page 3750 of the Dow Jones Market Service (or on any successor or substitute page of such Service, or any successor to or substitute for such Service, providing rate quotations comparable to th ose currently provided on such page of such Service, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, as the rate for dollar deposits with a maturity comparable to such Interest Period. In the event that such rate is not available at such time for any reason, then the "LIBO Rate" with respect to such Eurodollar Borrowing for such Interest Period shall be the rate at which dollar deposits of $5,000,000 and for a maturity comparable to such Interest Period are offered by the principal London office of the Administrative Agent in immediately available funds in the London interbank market at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period.

"Lien" means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

"Loans" means the loans made by the Lenders to the Borrowers pursuant to this Agreement, including Revolving Loans and Swingline Loans.

"Material Adverse Effect" means a material adverse effect on (a) the business, assets, operations, properties, prospects or condition (financial or otherwise), contingent liabilities or material agreements of the Borrowers and their Subsidiaries taken as a whole, (b) the ability of a Borrower or any Guarantor to perform any of its obligations under this Agreement and the other Financing Documents, taken as a whole, (c) the rights of or benefits available to the Lenders or the Administrative Agent under this Agreement and the other Financing Documents, taken as a whole, or (d) the Administrative Agent's Lien on any material portion of the Collateral or the priority of such Lien.

"Material Indebtedness" means Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Derivative Obligations, of any one or more of the Borrowers and their Subsidiaries in an aggregate principal amount exceeding $25,000,000. For purposes of determining Material Indebtedness, the "principal amount" of the obligations of a Borrower or any Subsidiary in respect of any Derivative Obligation at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Borrower or such Subsidiary would be required to pay if such Derivative Obligation were terminated at such time.

"Material Subsidiary" means any Subsidiary either (x) whose total assets (based on book value) exceed $15,000,000 or (y) whose Net Income in any fiscal year exceeds $5,000,000. On the Effective Date, the Material Subsidiaries are identified on Schedule 3.16 hereto.

"Maturity Date" means July 10, 2012.

"Minimum Guaranteed Funding" has the meaning set forth in the definition of Eligible Licensing Receivables.

"Mortgage" means (a) with respect to each Effective Date Distribution Center, the real property mortgage dated the Original Effective Date, executed by PVH in favor of the Administrative Agent with respect to such Effective Date Distribution Center, as the same may be amended from time to time and (b) with respect to any other Distribution Center acquired by PVH after t he Effective Date, a real property mortgage in form and substance acceptable to the Administrative Agent executed by PVH in favor of the Administrative Agent with respect to such Distribution Center, as the same may be amended from time to time.

"Mortgaged Property" has the meaning set forth in Section 4.01(f).

"Multiemployer Plan" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Net Amount of Eligible Inventory" means, at any time, the aggregate value, computed at the lower of cost (on a FIFO basis) and current market value, of Eligible Inventory of the Borrowers and the Guarantors.

"Net Amount of Eligible Receivables" means, at any time, without duplication, the gross amount of Eligible Receivables at such time less to the extent included in Eligible Receivables, (i) sales, excise or similar taxes and (ii) to the extent not otherwise excluded from Eligible Receivables, discounts, claims and allowances of any nature at any time issued, owing, granted, outstanding, available to or claimed by the Customers in respect of such Eligible Receivables.

"Net Income" means with respect to PVH and its subsidiaries for any period, the consolidated income (or loss) of PVH and its subsidiaries for such period which shall be an amount equal to net revenues and other proper items of income for PVH and its subsidiaries less Federal, state, local and foreign income taxes, but excluding any extraordinary gains or losses or any gains or losses from the sale or disposition of assets other than in the ordinary course of business, all computed and calculated in accordance with GAAP.

"Net Orderly Liquidation Value" means, with respect to Eligible Inventory and Eligible LC Inventory, the orderly liquidation value thereof as determined by an appraisal dated May, 2007 by Great American Appraisal & Valuation Services, LLC, as modified in a manner acceptable to the Administrative Agent by subsequent appraisals performed by an appraiser acceptable to the Administrative Agent, net of all costs of liquidation thereof.

"Net Proceeds" means (a) with respect to the sale or other disposition of any asset the excess, if any, of (i) the aggregate amount received in cash (including any cash received by way of deferred payment pursuant to a note receivable, other non-cash consideration or otherwise, but only as and when such cash is so received) in connection with such sale or other disposition, over (ii) the sum of (A) the amount of any Indebtedness which is secured by any such asset or which is required to be, and is, repaid in connection with the sale or other disposition thereof (other than Indebtedness hereunder), (B) the reasonable out-of-pocket expenses and fees incurred with respect to legal, investment banking, brokerage, advisor and accounting and other professional fees, sales commissions and disbursements and all other reasonable fees, expenses and charges, in each case actually incurred in connection with such sale or disposition, (C) all income and transfer taxes payable in connection with such sale or other disposition, whether actually paid or estimated to be payable in cash in connection with such disposition or the

payment of dividends or the making of other distributions of the proceeds thereof and (D) reserves, required to be established in accordance with GAAP or the definitive agreements relating to such disposition, with respect to such disposition, including pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations; (b) with respect to the issuance, sale or other disposition of any stock or debt securities the excess of (i) the aggregate amount received in cash (including any cash received by way of deferred payment pursuant to a note receivable, other n on-cash consideration or otherwise, but only as and when such cash is so received) in connection with such issuance, sale or other disposition, over (ii) the sum of (A) the reasonable fees, commissions, discounts and other out-of-pocket expenses including related legal, investment banking and accounting fees and disbursements incurred in connection with such issuance, sale or other disposition, and (B) all income and transfer taxes payable in connection with such issuance, sale or other disposition, whether payable at such time or thereafter; and (c) with respect to a Casualty Event, the aggregate amount of proceeds received with respect to such Casualty Event, over the sum of (i) the reasonable expenses incurred in connection therewith, (ii) the amount of any Indebtedness (other than Indebtedness hereunder) secured by any asset affected thereby and required to be, and in fact, repaid in connection therewith and (iii) all income and transfer taxes payable, whether actually paid or estimated to be payable, in connection therewith.

"New Lender" has the meaning set forth in Section 2.19(a).

"Note" means any of the promissory notes executed pursuant to Section 2.09(e).

"Obligations" has the meaning assigned to such term in Section 2.09(f).

"Original Effective Date" means October 17, 2002.

"Other Taxes" means any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Financing Document.

"Participant" has the meaning assigned to such term in Section 9.04(c) hereof.

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Permitted Acquisitions" means the acquisition of all or any portion of the assets or stock or other equity interests of any Person engaged in a business that would be permitted under 6.03(b)(i), including pursuant to a merger or consolidation; provided that all such acquisitions are approved by the Board of Directors and stockholders, if required, of the applicable Borrower and the acquiree and are not otherwise hostile and such Borrower is the surviving entity; and provided further, that (i) both before and after giving effect to such acquisition, Availability shall be equal to or greater than the Threshold Amount, (ii) based on projections provided to, and in form and substance satisfactory to, the Administrative Agent, Availability for the 90 day period following the closing date of such acquisition, after giving effect to such acquisition, shall be equal to or greater than the Threshold Amount and (iii) on the closing date of such acquisition, both before and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing, (iv) the Administrative Agent shall have had the opportunity to perform a field examination and appraisal through its examiners or through representatives that it may retain with respect to the assets being acquired pursuant to such acquisition in order to determine whether any adjustments should be made to the Borrowing Base and (v) the Administrative Agent, for the benefit of the Secured Parties, shall be granted a first priority security interest in all assets (including Equity

Interests) acquired by the Borrowers as part of such acquisition and the Borrowers shall, and shall cause any applicable Subsidiary to, execute any documents and take all actions that may be required under applicable law or that the Administrative Agent may reasonably request, in order to grant, preserve, protect and perfect such security interest, and otherwise comply with Section 5.11 herein, all in form and substance satisfactory to the Administrative Agent.

"Permitted Encumbrances" means:

(a) Liens imposed by law for taxes that are not yet due or are being contested in compliance with Section 5.07;

(b) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordin ary course of business and securing obligations that are not overdue by more than 30 days or are being contested in compliance with Section 5.07 and (ii) landlord's Liens arising by operation of law which are subordinated to the Liens in favor of the Administrative Agent;

(c) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security laws or regulations or letters of credit or guarantees issued in respect thereof;

(d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business or letters of credit or guarantees issued in respect thereof;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (j) of Article VII;

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property (i) imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the v alue of the affected property or interfere with the ordinary conduct of business of the Borrowers or any Subsidiary or (ii) in the case of any real property subject to a Mortgage, encumbrances disclosed in the title insurance policy issued to, and reasonably approved by, the Administrative Agent;

(g) liens arising from UCC financing statements in respect of leases permitted by this Agreement;

(h) liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods so long as such Liens attach only to the imported goods; and

(i) liens in favor of vendors of goods arising as a matter of law securing the payment of the purchase price therefor so long as such Liens attach only to the purchased goods.

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness.

"Permitted Investments" means:

(a) direct obligations of, or oblig ations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such

obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, a credit rating of at least A2 from Standard & Poor's or P2 from Moody's Investors Service, Inc.;

(c) investments in certificates of deposit, banker's acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than $500,000,000;

(d) investments in money market mutual funds having portfolio assets in excess of $2,000,000,000 that comply with the criteria set forth in Securities and Exchange Commission Rule 2a-7 under the Investment Company Act of 1940 and are rated at least A by Standard & Poor's and at least A by Moody's Investors Services, Inc.;

(e) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(f) securities with maturities of one year or less from the date of acquisition issued or fully guaranteed by any state, commonwealth or territory of the United States of America, or any political subdivision or taxing authority thereof, and rated at least A by Standard & Poor's or Moody's Investors Service, Inc.;

(g) with respect to any Person organized or conducting operations outside of the United States, investments denominated in the currency of the jurisdiction in which such Person is organized or conducting business which are similar to the items specified in clauses (a) through (f) above (other than the nationality of the governmental or non-governmental issuer or counterparty involved); and

(h) auction rate student loan securities and other auction rate securities which, in each case, are rated at least AA by Standard & Poor's and at least Aa by Moody's Investor Services, Inc. and which are unconditionally guaranteed by the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America).

"Permits" has the meaning assigned to such term in Section 3.08(i) hereof.

"Person" means any natural person, corporation, limited liability c ompany, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Post-Effective Date Appraisal/Assessment Documents" means with respect to all Effective Date Distribution Centers and all other Distribution Centers acquired by PVH after the Effective Date, the following documents, each dated after the Effective Date: (a) an appraisal report in form, scope and substance reasonably satisfactory to the Administrative Agent setting forth the fair market value of such

Distribution Center as of a specified date after the Effective Date; (b) an environmental assessment report in form, scope and substance satisfactory to the Administrative Agent; and (c) such other information, if any, relating to such Distribution Center as the Administrative Agent may reasonably request.

"Primary Issu ing Bank" means (a) JPMorgan Chase Bank, N.A., in its capacity as issuer of Letters of Credit hereunder, and (b) any Lender or Lenders becoming its successor or successors in such capacity as provided in Section 2.05(i).

"Prime Rate" means the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A., as its prime rate in effect at its principal office in New York City; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

"Processor" means a Person that provides credit card or debit card processing services for any merchant, including without limitation, the establishment of one or more credit card or debit card merchant accounts on behalf of such merchant to acc ept payments for retail transactions.

"Processor Control Agreement" means, with respect to any Processor providing credit or debit card processing services for or on behalf of any Borrower, an agreement in form and substance satisfactory to the Administrative Agent, executed and delivered by the applicable Borrower, such Processor and the Administrative Agent, pursuant to which such Processor shall agree, among other things, to follow instructions originated by the Administrative Agent regarding amounts payable by such Processor to such Borrower pursuant to the applicable credit card processing agreement without the further consent of such Borrower, as such agreement may be amended, supplemented or otherwise modified from time to time.

"PVH" means Phillips-Van Heusen Corporation, a Delaware corporation.

"Receivables" means and includes all of a Person's accounts, instruments, documents, chattel paper and general intangibles, whether secured or unsecured, whether now existing or hereafter created or arising, and whether or not specifically assigned to the Administrative Agent for its own benefit and/or the ratable benefit of the Lenders.

"Register" has the meaning set forth in Section 9.04(b)(iv).

"Regulation U" means Regulation U of the Board, as the same is from time to time in effect, and all official rulings and interpretations thereunder or thereof.

"Related Parties" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person's Affiliates.

"Required Lenders" means, at any time, Lenders holding Loans, LC Exposure and unused Commitments representing at least 51% of the aggregate of the unpaid principal amount of Loans, LC Exposure and unused Commitments, all after giving effect to the terms of Section 2.17(e).

"Restricted Payment" means any dividend or other distribution (whether in cash securities or other property) with respect to any Equity Interests in a Borrower or any Subsidiary, 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 any option, warrant or other right to acquire any such Equity Interests.

"Revolver Increase" has the meaning set forth in Section 2.19(a).

"Revolving Credit Commitment Fee" has the meaning set forth in Section 2.11(a).

"Revolving Credit Exposure" means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender's Loans and its LC Exposure and an amount equal to its Applicable Percentage of the aggregate principal amount of Swingline Loans at such time.

"Revolving Loan" means a Loan made pursuant to Section 2.01.

"Security Agreement" means the Omnibus Pledge and Security Agreement dated as of the Original Effective Date, between and among the Borrower, the Guarantors and the Administrative Agent, for its own benefit and for the ratable benefit of the Lenders and the other Secured Parties, as amended, modified or supplemented from time to time.

"Secured Parties" has the meaning assigned to such term in the Security Agreement.

"Security Interests" means the security interests in the Collateral granted under the Security Agreement to secure the Secured Obligations (as defined therein) and the Lien granted under the Mortgages.

"Senior Notes" means the 7-1/4% Senior Notes due February 15, 2011 of PVH and the 8-1/8% Senior Notes due 2013 of PVH issued under the Senior Notes Indentures.

"Senior Notes Indentures" means the Indenture dated as of May 5, 2003 and the Indenture dated as of February 18, 2004, in each case, by and between PVH and the Seni or Notes Trustee, governing the Senior Notes.

"Senior Notes Trustee" means SunTrust Bank, as Trustee under the Senior Notes Indentures, and its successors in such capacity.

"Settlement" has the meaning set forth in Section 2.04(d).

"Settlement Date" has the meaning assigned to such term in Section 2.04(d).

"Special Agent Advance" has the meaning set forth in Article VIII.

"Stand-by LC Exposure" means, at any time, the sum of (a) the aggregate u ndrawn amount of all outstanding Stand-by Letters of Credit at such time plus (b) the aggregate amount of all LC Disbursements with respect to Stand-by Letters of Credit that have not yet been reimbursed by or on behalf of the Borrowers at such time.

"Stand-by Letter of Credit" means a Letter of Credit other than a Trade Letter of Credit.

"Statutory Reserve Rate" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject (a) with respect to the Base CD Rate, for new negotiable nonpersonal ti me deposits in dollars of over $100,000 with maturities approximately equal to three months and (b) with respect to the Adjusted LIBO Rate, for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board). Such reserve

percentages shall include those imposed pursuant to such Regulation D. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets th at may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"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 (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnersh ip, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent; provided, however, that for the purposes of this Agreement, the CKI Trust shall not be deemed a subsidiary.

"Subsidiary" means any subsidiary of a Borrower, except that the Borrowers (other than PVH) shall be deemed to be Borrowers and not Subsidiaries of PVH.

"Suppressed Availability" means, as of any date of determination, the positive difference, if any, between (a) (i) the Borrowing Base as of such date minus (ii) all Availability Reserves and Dilution Reserves and (b) the aggregate amou nt of the Lenders' Commitments as of such date.

"Swingline Lender" means JPMorgan Chase Bank, N.A., in its capacity as lender of Swingline Loans hereunder.

"Swingline Loan" means a Loan made pursuant to Section 2.04.

"Taxes" means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

"Three-Month Secondary CD Rate" means, for any day, the secondary market rate for three-month certificates of deposit reported as being in effect on such day (or, if such day is not a Business Day, the ne xt preceding Business Day) by the Board through the public information telephone line of the Federal Reserve Bank of New York (which rate will, under the current practices of the Board, be published in Federal Reserve Statistical Release H. 15(519) during the week following such day) or, if such rate is not so reported on such day or such next preceding Business Day, the average of the secondary market quotations for three-month certificates of deposit of major money center banks in New York City received at approximately 10:00 a.m., New York City time, on such day (or, if such day is not a Business Day, on the next preceding Business Day) by the Administrative Agent from three negotiable certificate of deposit dealers of recognized standing selected by it.

"Threshold Amount" means, as of any date of determination, an amount equal to 15% of the aggregate amount of the Lenders' Commitm ents as of such date.

"Trade Letter of Credit" means any Letter of Credit that (a) is issued in support of trade obligations incurred in the ordinary course of business and (b) includes, as a condition to drawing thereunder, the presentation to the applicable Issuing Bank of negotiable bills of lading, invoices and related documents sufficient, in the judgment of such Issuing Bank, to create a valid and perfected first priority security interest in the goods covered thereby.

"Transactions" means the execution, delivery and performance by the Borrowers and the Guarantors of the Financing Documents to which it is to be a party, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

"Type", when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERI SA.

Section 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a "Revolving Loan"), Type (e.g., a "Eurodollar Loan") or by Class and Type (e.g., a "Eurodollar Revolving Loan"). Borrowings also may be classified and referred to by Class (e.g., a "Revolving Borrowing"), Type (e.g., an "ABR Borrowing") or by Class and Type (e.g., a "Revolving ABR Borrowing").

Section 1.03. 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 other 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 s uccessors 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 and (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.

Section 1.04. Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an acco unting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if the Borrowers notify the Administrative Agent that the Borrowers request an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrowers that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. In calculating compliance with any of the financial covenants (and related definitions), any amounts taken into account in making such ca lculations that were paid, incurred or accrued in violation of any provision of this Agreement shall be added back or deducted, as applicable, in order to determine compliance with such covenants.

ARTICLE II

The Credits

Section 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender agrees to make Revolving Loans to the Borrowers from time to time during the Availability Period in an aggregate principal amount that will not result in such Lender's Revolving Credit Exposure exceeding such Lender's Commitment. Notwithstanding the foregoing, the aggregate principal amount of Loans outstanding at any time to the Borrowers shall not exceed (1) the lesser of (A) the Commitment and (B) the Borrowing Base minus (2) the LC Exposure at such time. The Borrowing Base will be computed with such frequency as shall be required pursuant to Section 5.01(j) hereof, and a compliance certificate from a Financial Officer of the Borrowers presenting its computation will be delivered to the Administrative Agent in accordance with Section 5.01(j) hereof. The Net Orderly Liquidation Value of Eligible Inventory and Eligible LC Inventory was established as a percentage of cost on the Effective Date as reflected in the opening Borrowing Base. If by reason of any subsequent appraisals conducted pursuant to Section 5.04, Net Orderly Liquidation Values have declined, the Administrative Agent shall, in good faith and in accordance with its customary practices, reduce the effective advance rates (subject to further adjustments, downward or upward (but not above those in effect on the Effective Date)) by reducing the Net Orderly Liquidation Value of Eligible Inventory and/or Eligible LC Inventory used in the calculation of the Borrowing Base consistent with the results of such subsequent appraisals. Subject to the foregoing and within the foregoing limits, the Borrowers may borrow, repay (or prepay) and reborrow Revolving Loans, on and after the date hereof through the Availability Period, subject to the terms, provisions and limitations set forth herein, including the requirement that no Loan shall be made hereunder if the amount thereof exceeds Availability at such time (in e ach case, after giving effect to the application of the proceeds of such Loan).

Section 2.02. Loans and Borrowings.

(a) Each Loan (other than a Swingline Loan) shall be made as part of a Borrowing consisting of Loans made by the Lenders ratably in accordance with their respective Commitments. Any Swingline Loan shall be made in accordance with the procedures set forth in Section 2.04. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its ob ligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.07, each Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrowers may request in accordance herewith. Each Swingline Loan shall be an ABR Loan. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrowers to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in a minimum amount of $5,000,000 and an aggregate amount that is an integral multiple of $100,000. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of $100,000 and not less than $100,000 (except that the foregoing limitation shall not be applicable to the extent that the proceeds of such Borrowing are requested, or deemed to be requested, to be disbursed to the Borrowers' loan account maintained with the Administrative Agent); provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the total Commitments or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(e). Each Swingline Loan shall

be in an amount that is an integral multiple of $100,000 and not less than $200,000. Borrowings of more than one Type may be outstanding at the same time; provided that there shall not at any time be more than a total of seven (7) Eurodollar Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrowers shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

Section 2.03. Requests for Borrowings. To request a Revolving Borrowing, the Borrowers shall notify the Administrative Agent of such request by writing, facsimile or telephone (a) in the case of a Eurodollar Borrowing, not later than 12:00 noon, New York City time, three Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, including an ABR Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(e), not later than 12:00 noon, New York City time, on the same Business Day of the pr oposed Borrowing. Each such Borrowing Request shall be irrevocable and if given by telephone shall be confirmed (except that no such confirmation will be required, unless requested by the Administrative Agent, to the extent the proceeds of such Borrowing are requested, or deemed to be requested, to be disbursed to the Borrowers' loan account maintained with the Administrative Agent, in which event Borrowing and repayment procedures shall be in accordance with the cash management agreement between the Borrowers and the Administrative Agent and as contemplated by Section 4.4(b) of the Security Agreement) promptly by writing or fax to the Administrative Agent of a written Borrowing Request in a form attached as Exhibit D and signed by an authorized signer of the Borrowers as set forth in the Facility Letter. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

(a) the aggregate amount of the requested Borrowing;

(b) the date of such Borrowing, which shall be a Business Day;

(c) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;

(d) in th e case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(e) the location and number of the Borrowers' account to which funds are to be disbursed, which shall comply with the requirements of Section 2.06.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, then the Borrowers shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accor dance with this Section, the Administrative Agent shall advise each applicable Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.04. Swingline Loans.

(a) Subject to the terms and conditions set forth herein, the Swingline Lender agrees to make Swingline Loans to the Borrowers from time to time during the Availability Period, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Loans excee ding $30,000,000 or (ii) the aggregate Revolving Credit Exposures of all Lenders exceeding the lesser of the total Commitments and Availability; provided that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding

Swingline Loan. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Swingline Loans. To request a Swingline Loan, the Borrowers shall notify the Administrative Agent of suc h request by writing, facsimile or telephone, not later than 2:00 p.m., New York time, on the day of a proposed Swingline Loan. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Business Day) and amount of the requested Swingline Loan. The Administrative Agent will promptly advise the Swingline Lender of any such notice received from the Borrowers. The Swingline Lender shall make each Swingline Loan available to the Borrowers by means of a credit to the Borrowers' loan account maintained with the Administrative Agent (or, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.05(e), by remittance to the applicable Issuing Bank, by 3:00 p.m., New York time, on the requested date of such Swingline Loan.

(b) The Swingline Lender may by written notice given to the Administrative Agent not later than 11:00 a.m., New York time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unco nditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Revolving Lenders. The Administrative Agent shall notify the Borrowers of any participations in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amoun ts received by the Swingline Lender from the Borrowers (or other party on behalf of the 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 Lenders that shall have made their payments pursuant to this paragraph and to the Swingline Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to the Swingline Lender or to the Administrative Agent, as applicable, if and to the extent such payment is required to be refunded to the Borrowers for any reason. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve the Borrowers of any default in the payment thereof.

(c) Upon the making of a Swingline Loan (whether before or after the occurrence of a Default and regardless of whether a Settlement has been requested with respect to such Swingline Loan), each Lender shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably purchased from the Swingline Lender or the Administrative Agent, as the case may be, without recourse or warranty, an undivided interest and participation in such Swingline Loan in proportion to its Applicable Percentage of the Revolving Commitment. The Swingline Lender or the Administrative Agent may, at any time, require the Lenders to fund their participations. From and after the date, if any, on which any Lender is required to fund its participation in any Swingline Loan purchased hereunder, the Administrative Agent shall promptly distribute to such Lender, such Lender's

Applicable Percentage of all payments of principal and interest and all proceeds of Collateral received by the Administrative Agent in respect of such Loan.

(d) The Administrative Agent, on behalf of the Swingline Lender, shall request settlement (a "Settlement") with the Lenders on at least a weekly basis or on any d ate that the Administrative Agent elects, by notifying the Revolving Lenders of such requested Settlement by facsimile, telephone, or e-mail no later than 2:00 p.m. New York time on the date of such requested Settlement (the "Settlement Date"). Each Lender (other than the Swingline Lender, in the case of the Swingline Loans) shall transfer the amount of such Lender's Applicable Percentage of the outstanding principal amount of the applicable Loan with respect to which Settlement is requested to the Administrative Agent, to such account of the Administrative Agent as the Administrative Agent may designate, not later than 3:00 p.m., New York time, on such Settlement Date. Settlements may occur during the existence of a Default and whether or not the applicable conditions precedent set forth in Section 4.02 have then been satisfied. Such amounts transferred to the Administrative Agent shall be applied against the amounts of the Swingline Lender's Swingline Loans and, together with Swingline Lender's Applicable Percentage of such Swingline Loan, shall constitute Revolving Loans of such Lenders, respectively. If any such amount is not transferred to the Administrative Agent by any Lender on such Settlement Date, the Swingline Lender shall be entitled to recover such amount on demand from such Lender together with interest thereon as specified in Section 2.04.

Section 2.05. Letters of Credit.

(a) General. Subject to the terms and conditions set forth herein, the Borrowers may reques t the issuance of Letters of Credit for their own account, in a form reasonably acceptable to the Administrative Agent and the applicable Issuing Bank, at any time and from time to time during the Availability Period. 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 agreement 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.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Trade Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Bor rowers shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Bank) to the applicable Issuing Bank (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Trade Letter of Credit, or identifying the Trade Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Trade Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Trade 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 Trade Letter of Credit. The Borrower shall deliver to the Administrative Agent no later than 3:30 p.m., New York City time, on each Business Day a written report, in form and substance reasonably s atisfactory to the Administrative Agent, of all Trade Letters of Credit issued, amended, renewed or extended on such Business Day. To request the issuance of a Stand-by Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrowers shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Bank) to the applicable Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Stand-by Letter of Credit, or identifying the Stand-by Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Stand-by Letter of Credit is to expire (which shall comply

with paragraph (c) of this Section), the amount of such Stand-by 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 Stand-by Letter of Credit. If requested by the applicable Issuing Bank, the Borrowers also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit. 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 Borrowers shal l be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the Stand-by LC Exposure shall not exceed $50,000,000 and (ii) after giving effect to the issuance of such Letter of Credit, Availability shall not be less than zero.

(c) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension); provided that a Letter of Credit may provide that its expiration date shall be automatically extended (but not beyond the date specified in clause (ii) below) to a date not more than one year after the then outstanding expiration date unless, at least a specified number of days prior to such then existing expiration date, the applicable Issuing Bank shall have given the beneficiary thereof notice, in a form that may be specified in such Letter of Credit, that such expiration date shall not be so extended, and (ii) the date that is thirty Business Days prior to the Maturity Date.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing Bank or the Lenders, such Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from the Issuing Bank, a participation in such Letter of Credit equal to such Lender's pro rata (based on its Commitment) portion o f the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the applicable Issuing Bank, such Lender's pro rata (based on its Commitment) portion of each LC Disbursement made by such Issuing Bank and not reimbursed by the Borrowers on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrowers for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If the applicable Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrowers shall reimburse such LC Disbursement by paying to such Issuing Bank (with confirmation of such payment to the Administrative Agent) an amount equal to such LC Disbursement not later than 12:00 noon, New York City time, on the date that such LC Disbursement is made, if the Borrowers shall have received notice of such LC Disbursement prior to 10:00 a.m., New York City time, on such date, or, if such notice has not been received by the Borrowers prior to such time on such date, then not later than 12:00 noon, New York City time, on (i) the Business Day that the Borrowers receive such notice, if suc h notice is received prior to 10:00 a.m., New York City time, on the day of receipt, or (ii) the Business Day immediately following the day that the Borrowers receive such notice, if such notice is not received prior to such time on the date of receipt; provided that, if such LC Disbursement is not less than $100,000, the Borrowers may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with an ABR Revolving Borrowing or Swingline Loan. If the Borrowers fail to make such payment when due and the Issuing Bank has so informed the Administrative Agent, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Borrowers in respect thereof

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and such Lender's pro rata (based on its Commitment) portion thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its pro rata (based on its Commitment) portion of the payment then due from the Borrowers, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrowers pursuant to this paragraph, the Administrative Agent shall distribute such pa yment to the applicable Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse an Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans or a Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Borrowers of their obligation to reimburse such LC Disbursement.

(f) Obligations Absolute. The Borrowers' obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall, to the fullest extent permitted under applicable law, be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect (other than under circumstances which constitute gross negligence or willful misconduct on the part of the Issuing Bank as finally determined by a court of competent jurisdiction), (iii) payment of the applicable Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit (other than under circumstances which constitute gross negligence or willful misconduct on the part of the Issuing Bank as finally determined by a court of competent jurisdiction), or (iv) any other event or circumstance whatso ever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrowers' obligations hereunder. None of the Administrative Agent, the Lenders, any Issuing Bank, or any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of such Issuing Bank; provided that the foregoing shall not be construed to ex cuse the applicable Issuing Bank from liability to the Borrowers to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrowers to the extent permitted by applicable law) suffered by the Borrowers that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the applicable Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in compliance with the terms of a Letter of Credit, the applicable Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. Each Issuing Bank shall, promptly followin g its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The applicable Issuing Bank shall promptly notify the Administrative Agent and the Borrowers by telephone (confirmed by telecopy) or by electronic communication (if arrangements for doing so have been approved by the applicable Issuing Bank) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrowers of their obligation to reimburse such Issuing Bank and the Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If any Issuing Bank shall make any LC Disbursement, then, unless the Borrowers sha ll reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrowers reimburse such LC Disbursement, at the rate per annum then applicable to ABR Loans; provided that, if the Borrowers fail to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.12(c) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (c) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Resignation of Issuing Banks. Any Issuing Bank (other than, except if a Default has occurred and is continuing, the Primary Issuing Bank) may resign at any time upon not less than 30 days' prior written notice to the Borrowers and the Administrative Agent. At the time any such resignation shall become effective, the Borrowers shall pay all unpaid fees accrued for the account of the resigning Issuing Bank pursuant to Section 2.11(b). After the resignation of an Issuing Bank hereunder, such Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such resignation, but shall not be required to amend to increase the principal amount of, extend beyond the expiration date or renew existing, or to issue additional, Letters of Credit.

(j)Replacement of the Primary Issuing Bank. The Primary Issuing Bank may be replaced at any time by written agreement among the Borrowers, the Administrative Agent and the successor Primary Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of the Primary Issuing Bank. At the time any such replacement shall become effective, the Borrowers shall pay all unpaid fees accrued for the account of the replaced Primary Issuing Bank pursuant to Section 2.11(b). From and after the effective date of any such replacement, (i) the successor Primary Issuing Bank shall have all the rights and obligations of the Primary Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Primary Issuing Bank" shall be deemed to refer to such successor or to any pre vious Primary Issuing Bank, or to such successor and all previous Primary Issuing Banks, as the context shall require. After the replacement of a Primary Issuing Bank hereunder, the replaced Primary Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of a Primary Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to amend to increase the principal amount of, extend beyond the expiration date or renew existing, or to issue additional, Letters of Credit.

(k) Cash Collateralization. If any Default shall occur and be continuing, on the Business Day that the Borrowers receive notice from the Administrative Agent or the Required Lenders (or, if the matu rity of the Loans has been accelerated, Lenders with LC Exposure representing at least 51% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Borrowers shall deposit in an account with the Administrative Agent, in the name of the Administrative

Agent and for the benefit of the Lenders, an amount in cash equal to 105% of the LC Exposure as of such date plus any accrued and unpaid interest thereon, provided that the obligation to deposit such cash collateral shall beco me effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Default with respect to a Borrower described in clause (g) or (h) of Article VII. Each such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrowers under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made, to the extent practicable, at the written request of the Borrowers at the Borrowers' risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the applicable Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing at least 51% of the total LC Exposure), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrowers are required to provide an amount of cash collateral hereunder as a result of the occurrence of a Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrowers within three Business Days after all Defaults have been cured or waived.

(l) Issuing Bank Reporting Requirements. Each Issuing Bank agrees to provide to the Borrowers and the Administrative Agent (i) no later than the close of business on each Business Day, a written notice of the aggregate outstanding Trade Letters of Credit issued by such Issuing Bank as of the previous Business Day and (ii) any other information the Administrative Agent may reasonably request from time to time with respect to Letters of Credit issued by such Issuing Bank.

Section 2.06. Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of im mediately available funds by 2:00 p.m., New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders in an amount equal to such Lender's Applicable Percentage; provided that Swingline Loans shall be made as provided in Section 2.04. The Administrative Agent will make such Loans available to the Borrowers by promptly wiring the amount so received, in like funds, to an account of the Borrowers maintained with Bank of New York in New York City or any other Lender reasonably acceptable to the Administrative Agent and designated by the Borrowers either one Business Day prior to the Effective Date or in the applicable Borrowing Request; provided that ABR Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.05(e) shall be remitted by the Administrative Agent to the applicable Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and 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 Administrative Agent, then the applicable Lender and the Borrowers severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrowers to but excluding the date of pay ment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank

compensation or (ii) in the case of the Borrowers, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing, and the Borrowers shall be relieved of their obligation t o make such payment.

Section 2.07. Interest Elections.

(a) Each Borrowing shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. The Borrowers may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrowers may elect different options with respect to different po rtions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. This Section shall not apply to Swingline Borrowings, which may only be borrowed as ABR Borrowings.

(b) To make an election pursuant to this Section, the Borrowers shall notify the Administrative Agent of such election in writing or by facsimile transmission or by telephone (confirmed in writing or by fax) by the time that a Borrowing Request would be required under Section 2.03 if the Borrowers were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest El ection Request shall be irrevocable and shall be confirmed promptly by hand delivery or telecopy to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the Borrowers (or any Borrower).

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02;

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof t o be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrowers shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each applicable Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrowers fail to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, i f a Default has occurred and is continuing, then, so long as a Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) each Eurodollar Borrowing, unless repaid as provided herein, shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.08. Termination and Reduction of Commitments.

(a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b)

The Borrowers may at any time terminate, or from time to time reduce, the Commitments, without penalty or premium; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of $100,000 and not less than $500,000 and (ii) the Borrowers shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.10, Availability would be less than zero.

(c) The Borrowers shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three Business Days pr ior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each notice delivered by the Borrowers pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrowers may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrowers (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders with Commitments in accordance with their respective Commitments.

Section 2.09. Repayment of Loans; Evidence of Debt.

(a) The Borrowers hereby unconditionally promise to pay to (i) the Administrative Agent for the account of each Lender the then unpaid principal amount of each Loan on the Maturity Date and (ii) to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the earlier of the Maturity Date and the first date after such Swingline Loan is made that is the 15th or last day of a calendar month and is at least two Business Days after such Swingline Loan is made; provided that on each date that a Revolving Loan is made, the Borrower shall repay all Swingline Loans then outstanding.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrowers to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) **The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Loans in accordance with the terms of this Agreement.**

(e) **Any Lender may request that Loans made by such Lender be evidenced by a promissory note. In such event, the Borrowers shall execute and deliver to such Lender a promissory note substantially in the form of Exhibit C (each, a "Note") payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns). Thereafter, the Loans evidenced by such Note and interest thereon shall at all times (including after assignment pursuant to Se ction 9.04) be represented by one or Notes payable to the order of the payee named therein (or, if such Note is a registered note, to such payee and its registered assigns).**

(f) **Each of the Borrowers shall be jointly and severally liable with the other Borrowers for the payment of the principal of and interest on the Loans, the LC Exposure, the Revolving Credit Commitment Fee, all other fees and all other amounts payable under this Agreement and the other Financing Documents and all Derivative Obligations to which a Lender is a party (collectively, the "Obligations"), and each of the Obligations shall be secured by all of the Collateral. Each of the Borrowers acknowledges that it is a co-borrower hereunder and is jointly and severally liable under this Agreement and the other Financing Documents. All credits extended to any of the Borrowers or requested by any of the Borrowers shall be deemed to be credits extended for each of the Borrowers, and each of the Borrowers hereby authorizes each other of the Borrowers to effectuate Loans or Letters of Credit on its behalf. Notwithstanding anything to the contrary contained in this Agreement or any of the other Financing Documents, the Administrative Agent, the Issuing Banks and the Lenders shall be entitled to rely upon any request, notice or other communication received by them from any of the Borrowers on behalf of all Borrowers, and shall be entitled to treat their giving of any notice hereunder to any of the Borrowers as notice to each and all Borrowers. Each of the Borrowers agrees that the joint and several liability of the Borrowers provided for in this subsection (f) shall not be impaired or affected by any modification, supplement, extension or amendment or any contract or agreement to which the other B orrowers may hereafter agree (other than an agreement signed by the Administrative Agent and the Lenders specifically releasing such liability), nor by any delay, extension of time, renewal, compromise or other indulgence granted by the Administrative Agent or any Lender with respect to any of the Obligations, nor by any other agreements or arrangements whatsoever with the other Borrowers or with any other person, each of the Borrowers hereby waiving all notice of such delay, extension, release, substitution, renewal, compromise or other indulgence, and hereby consenting to be bound thereby as fully and effectually as if it had expressly agreed thereto in advance. The liability of each of the Borrowers is direct and unconditional as to all of the Obligations, and may be enforced without requiring the Administrative Agent or any Lender first to resort to any other right, remedy or security. Each of the Borrowers hereby expressly waives promptness, diligence, notice of acceptance and any other noti ce with respect to any of the Obligations and any requirement that the Administrative Agent or any Lender protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right or take any action against any of the Borrowers or any other person or any collateral. Each of the Borrowers hereby irrevocably subordinates and makes junior to the Obligations each of the other Borrower's "claims" (as defined in Section 101(5) of the Bankruptcy Code) to which such Borrowers are or would be entitled by virtue of the provisions of this subsection (f) or the performance of such Borrower's obligations thereunder including any right of subrogation (whether contractual, under Section 509 of the Bankruptcy Code or otherwise), reimbursement, contribution, exoneration or similar right, or indemnity, or any right of recourse to security for any of the Obligations unless and until all of the Obligations to the Administrative Agent and the Lenders have been indefeasibly paid in full.**

Section 2.10. Prepayment of Loans.

(a) The Borrowers shall have the right at any time and from time to time to prepay any Borrowing in w hole or in part, subject to prior notice in accordance with paragraph (b) of this Section; provided, however, that the Borrowers shall make prepayments of the Loans from time to time such that the Availability equals or exceeds zero at all times.

(b) The Borrowers (or any Borrower) shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by telephone (confirmed by telecopy) of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Borrowing, not later than 12:00 noon, New York City time three Business Days before the date of prepayment or (ii) in the case of prepayment of an ABR Borrowing or a Swingline Loan, not later than 12:00 noon, New York City time, one Business Day before the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given under the circumstances in which a conditional notice of termination of the Commitments is permitted as contemplated by Section 2.08, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.08. Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.02 (except that the foregoing shall not be applicable (i) to the extent that the payment is made from the operation of Borrowers' controlled disbursement account maintained with the Administrative Agent, (ii) to a p repayment in full of the aggregate principal amount of a Borrowing then outstanding or (iii) to a prepayment of Loans required to be made pursuant to the proviso to paragraph (a) of this Section). Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12.

(c) Within three Business Days of (i) the sale or other disposition (including those arising from a Casualty Event) of any assets of the Borrowers or any of their Subsidiaries, (ii) the consummation of the issuance of any equity interests of any Borrower or any Subsidiary (other than the issuance of Equity Interests by a Borrower or a Subsidiary to another Borrower or a Subsidiary or Equity Inte rests issued pursuant to any option or similar plans to employees of a Borrower or a subsidiary) or (iii) the consummation of the issuance of any debt securities of a Borrower or any Subsidiary (other than Indebtedness permitted pursuant to Section 6.01), the Borrowers shall make a mandatory prepayment of the Loans in an amount equal to 100% of the Net Proceeds received, any prepayment to be applied in accordance with subparagraph (d).

(d) Each prepayment of Loans required by subsection (c) of this Section shall be made ratably among the Loans of the Lenders (including Swingline Loans), and such prepayments shall be made with respect to such Types of Loans as the Borrower may specify by notice to the Administrative Agent at or before the time of such prepayment and shall be applied to prepay t he Loans comprising each such Type pro rata; provided that, if no such timely specification is given by the Borrower, such payment shall be allocated to such Type or Types as the Administrative Agent may determine.

Section 2.11. Fees.

(a) The Borrowers agree to pay to the Administrative Agent for the account of each Lender a commitment fee (the "Revolving Credit Commitment Fee"), which shall accrue at the Applicable Rate on the daily amount of the unused Commitment of such Lender during the period from and including t he Effective Date to but excluding the date on which such Commitment terminates. Accrued Revolving Credit Commitment Fees shall be payable monthly in arrears on the first day of each

month and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof. All Revolving Credit Commitment Fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrowers agree to pay (i) to the Administrative Agent for the account of each Lender (x) a participation fee with respect to its participations in Trade Letters of Credit, which shall accrue at the Applicable Rate, in each case on the average daily amount of such Lender's LC Exposure with respect to Trade Letters of Credit (excluding any portion thereof attributable to unreimbursed LC Disbursements) and (y) a participation fee with respect to its participations in Standby Letters of Credit, which shall accrue at the Applicable Rate used to determine the interest rate applicable to Eurodollar Loans, in each case on the average daily amount of such Lender's LC Exposure with respect to Standby Letters of Credit (excluding any portion thereof attributable to unreimbursed LC Disbursements) durin g the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to each Issuing Bank, a fronting fee, which shall accrue at the rate or rates per annum separately agreed upon between the Borrowers and such Issuing Bank on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) attributable to Letters of Credit issued by such Issuing Bank, in each case during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure, as well as such Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of Ja nuary, April, July and October of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to an Issuing Bank pursuant to this paragraph shall be payable to such Issuing Bank on demand. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(c) The Borrowers agree to pay to the Administrative Agent, for its own account, f ees in the amounts set forth in the Fee Letter and any other fees in the amounts and at the times separately agreed upon in writing among the Borrowers and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to the applicable Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders. Absent any error in the calculation thereof, fees paid shall not be refundable under any circumstances.

Section 2.12. Interest.

(a) The Loans comprising each ABR Borrowing (including each Swingline Loan) shall bear interest for each day on which any principal of such Loans remains outstanding at the Alternate Base Rate for such day plus the Applicable Rate for such day.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest for each day during each Interest Period applicable thereto at the Adjusted LIBO Rate for such Interest Period plus the Applicable Rate for such day.

(c) **Notwithstanding the foregoing, if a Default shall have occurred and be continuing, then unless and until such Default shall have been cured or waived, all outstanding Loans and Letters of Credit shall bear interest, after as well as before judgment, at a rate per annum equal to 2% plus the rate otherwise applicable to such Loan or Letter of Credit as provided in the preceding paragraphs of this Section.**

(d) **Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan, on the Maturity Date and, upon termination of the Commitments; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Eurodollar Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Eurodollar Loan shall be payable on the effective date of such conversion.**

(e) **All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, Adjusted LIBO Rate or LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.**

(f) **In the event that any financial statement or Compliance Certificate delivered pursuant to Section 5.01 is inaccurate (regardless of whe ther this Agreement or the Commitments are in effect when such inaccuracy is discovered), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Rate for any period than the Applicable Rate actually used to determine interest rates for such period, then (a) the Borrowers shall promptly deliver to the Administrative Agent corrected financial statements and related Compliance Certificate for such period, (b) the Applicable Rate for such period shall be retroactively determined based on the Interest Coverage Ratio as set forth in the corrected financial statements and related Compliance Certificate and (c) the Borrower shall promptly pay to the Administrative Agent (for the account of the Lenders during such period or their successors and assigns) the accrued additional interest owing as a result of such increased Applicable Rate for such period. This Section 2.12(f) shall not limit the rights of the Administrative Agent under this Section 2.12 or Article VII, and shal l survive the termination of this Agreement.**

Section 2.13. **Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurodollar Borrowing:**

(a) **the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate, for such Interest Period; or**

(b) **the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate, for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;**

then the Administrative Agent shall give notice thereof to the Borrowers and the Lenders by telephone or telecopy, as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrowers and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a

Eurodollar Borrowing shall be ineffective and (ii) if any Borrowing Request or Interest Election Request requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing.

Section 2.14. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets or deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate) or any Issuing Bank; or

(ii) impose on any Lender or any Issuing Bank or the London interbank market any other condition affecting this Agreement or Eurodollar Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Eurodollar Loan) or to increase the cost to such Lender or such Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or such Issuing Bank hereunder (whether of principal, interest or otherwise with respect to its Eurodollar Loans or its maintenance of, or participation in, Letters of Credit), then the Borrowers will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or any Issuing Bank determines that any Change in Law regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's or such Issuing Bank's capital or on the capital of such Lender's or such Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to capital adequacy), then from time to time the Borrowers will pay to such Lender or such Issuing Bank, as the case may be, such additional amoun t or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or an Issuing Bank setting forth in reasonable detail the calculation of 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 paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrowers shall pay such Lender or such Issuing Bank, as the case may be, the amount shown as due on any such certificate on demand.

(d) Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation; provided that the Borrowers shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 270 days 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 such Issuing Bank's intention to claim compensation therefor; provided further that, if the

Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.15. Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of th e Interest Period applicable thereto or (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.10(b) and is revoked in accordance therewith), then, in any such event, the Borrowers shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurodollar Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrowers and shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof. Notwithstanding the foregoing, the Borrowers shall not be required to make any prepayment of a Eurodollar Borrowing pursuant to Section 2.10(c) until the last day of the Interest Period with respect thereto so long as an amount equal to such prepayment is deposited by the Borrowers into a cash collateral account with the Administrative Agent and applied to such prepayment on the last day of such Interest Period.

Section 2.16. Taxes.

(a) Any and all payments by or on account of any obligation of the Borrowers hereunder or under any other Financing Document shall be made free and clear of and without deduction for any Indemnified Taxes or Other Taxes; provided that if the Borrowers shall be required to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applic able to additional sums payable under this Section) the Administrative Agent, Lender or Issuing Bank (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrowers shall make such deductions and (iii) the Borrowers shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) In addition, the Borrowers shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Borrowers shall indemnify the Administrative Agent, each Lender and the Issuing Bank, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent, such Lender or the Issuing Bank, as the case may be, on or with respect to any payment by or on account of any obligation of the Borrowers hereunder (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other 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 Lender or the Issuing Bank, or by the Administrative Agent on its own behalf or on behalf of a Lender or the Issuing Bank, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrowers to a Governmental Authority, the Borrowers 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 th e Administrative Agent.

(e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which a Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to such Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law or reasonably requested by such Borrower as will permit such payments to be made without withholding or at a reduced rate.

(f) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrowers or with respect to which the Borrowers have paid additional amounts pursuant to Section 2.16, it shall pay over such refund to the Borrowers (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrowers under this Section 2.16 with respect to the Taxes or Other Taxes giving rise to such refund); provided, that the Borrowers, upon the request of the Administrative Agent or such Lender, agree to repay the amount paid over to the Borrowers (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event that the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This Section shall not be construed to require the Administrativ e Agent or any Lender to make available its tax returns (or other information relating to its taxes which it deems confidential) to the Borrowers or any other Person.

Section 2.17. Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) The Borrowers shall make each payment required to be made by them hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.14, 2.15 or 2.16, or otherwise) prior to 12:00 noon, New York City time, on the date when due, in immediately a vailable funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. At the option of the Administrative Agent, in its sole discretion, subject only to the terms of this Section 2.17, all payments of principal, interest, fees, reimbursement of LC Disbursements and other items, including reimbursement of expenses pursuant to Section 9.03, owing to the Administrative Agent, the Issuing Banks or the Lenders on or with respect to this Agreement and/or Loans and other Financing Documents may, when due and payable, be paid from the proceeds of Loans made hereunder, whether made following a request by the Borrower pursuant to Section 2.03 or a deemed request as provided in this Section 2.17. The Borrower hereby irrevocably authorizes the Administrative Agent to charge the Borrowers' loan account with the Administrative Agent for the purpose of paying principal, interest, fees, reimbursement of LC Disbursements and other items, including reimbursement of expenses pursuant to Section 9.03, and agrees that all such amounts charged shall constitute Loans and that all such Loans so made shall be deemed to have been requested by Borrower pursuant to Section 2.03. All such payments shall be made to the Administrative Agent at its offices at 120 South LaSalle Street, Chicago, Illinois, except payments to be made directly to the Issuing Bank or Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.14, 2.15, 2.16 and 9.03 shall be made directly to the Persons entitled

thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension; provided that, in the case of any prepayment of principal of or interest on any Eurodollar Loan, if such next succeeding Business Day would fall in the next calendar month, the date for payment shall instead be the next preceding Business Day. All payments hereunder shall be made in dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in LC Disbursements of other Lenders to the extent necessary 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 participations in LC Disbursements; 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 re scinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement or 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 LC Disbursements to any assignee or participant, other than to the Borrowers or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). The Borrowers consent to the foregoing and agrees, to the extent they may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrowers rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Borrowers prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or any Issuing Bank hereunder that the Borrowers will not make such payment, the Administrative Agent may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the applicable Issuing Bank, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or such Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from a nd including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.05(d) or (e) , 2.06(b) or 2.17(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid. Until such Lender's unsatisfied obligations are fully paid, such Lender shall be excluded from any determination of Required Lenders under this Agreement.

(f) On the Effective Date, the Administrative Agent shall (i) effect a settlement of all Revolving Credit Exposures to reflect the adjustments to the Commitments of the Lenders as of the Effective Date and (ii) notify the Lenders and the Borrowers, on or before noon (New York City time) the day foll owing the Effective Date, by telecopier or telex, of all such adjustments.

Section 2.18. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.14, or if any Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14 or 2.16, 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.

(b) If any Lender requests compensation under Section 2.14, or if the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.16, or if any Lender defaults in its obligation to fund Loans hereunder, or if any Lender fails to approve an amendment or waiver to this Agreement requiring its consent, which amendment or waiver is approved by the Required Lenders, 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 Section 9.04), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) the Borrowers, shall have received the prior written consent of the Administrative Agent, which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, 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) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.14 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply.

Section 2.19. Increase in the Aggregate Commitments.

(a) The Borrowers may at any time, by written notice to the Administrative Agent, request that the Administrative Agent increase the Maximum Revolver Amount (a "Revolver Increase") by (i) adding one or more new lenders to the revolving credit facility under this Agreement (each a "New

Lender") who wish to participate in such Revolver Increase and/or (ii) increasing the Commitments of one or more Lenders party to this Agreement who wish to participate in such Revolver Increase; provided, however, that (v) no Default shall have occurred and be continuing as of the date of such request or as of the effective date of such Revolver Increase (the "Increase Date") or shall occur as a result thereof, (w) the CKI Intercreditor Agreement shall have been amended so that any Loan made hereunder after the Increase Date shall constitute "Working Capital Debt" under and as defined in the CKI Intercreditor Agreement and shall be senior to and have priority over all obligations of the Borrowers to Calvin Klein for Design Service Payments, (x) such Revolver Increase, and all Loans made hereunder after the Increase Date, shall not conflict with any limitations on the incurrence of Indebtedness or the granting of the Security Interests contained in either the Senior Notes Indentures or the Debentures Indenture, (y) any New Lender that becomes part y to this Agreement pursuant to this Section 2.19 shall satisfy the requirements of Section 9.04(b) hereof and shall be acceptable to the Administrative Agent and consented to by the Borrowers and (z) the other conditions set forth in this Section 2.19 are satisfied. The Administrative Agent shall use commercially reasonable efforts to arrange for the syndication of any Revolver Increase. The Administrative Agent shall promptly inform the Lenders of any such request made by the Borrowers. The aggregate amount of Revolver Increases shall not exceed $100,000,000 and no single such Revolver Increase shall be for an amount less than $10,000,000.

(b) On each Increase Date, (i) each New Lender that has chosen to participate in such Revolver Increase shall, subject to the conditions set forth i n Section 2.19(a) hereof, become a Lender party to this Agreement as of such Increase Date and shall have a Commitment in an amount equal to its share of the Revolver Increase and (ii) each Lender that has chosen to increase its Commitment pursuant to this Section 2.19 will have its Commitment increased by the amount of its share of the Revolver Increase as of such Increase Date; provided, however, that the Administrative Agent shall have (y) received from the Borrowers all out-of-pocket costs and expenses incurred by the Administrative Agent or any Lender in connection with such Revolver Increase, including pursuant to Section 2.15 hereof, and (z) received on or before such Increase Date the following, each dated such date:

(i) certified copies of resolutions of the governing body of each Borrower approving the Revolver Increase and the corresponding modifications, if any, to the Financing Documents required under subclause (vi) below, together with a certificate of each Borrower certifying that there have been no changes to the constitutive documents of such Borrower since the Effective Date, or if there have been changes, copies certified by such Borrower of all such changes;

(ii) an assumption agreement from each New Lender participating in the Revolver Increase, if any, in form and substance satisfactory to the Administrative Agent (each, an "Assumption Agreement"), duly executed by such New Lender, the Administrative Agent and the Borrowers;

(iii) confirmation from each Lender participating in the Revolver Increase of the increase in the amount of its Commitment, in form and substance satisfactory to the Administrative Agent;

(iv) a certificate of PVH certifying that (a) no Default or Event of Default shall have occurred and be continuing or shall occur as a result of such Revolver Increase, (b) all Loans made hereunder after the Increase Date shall constitute "Working Capital Debt" under and as defined in the CKI Intercreditor Agreement and shall be senior to and have priority over all obligations of the Borrowers to Calvi n Klein for Design Service Payments, and (c) such Revolver Increase and all Loans made hereunder after the Increase Date shall not conflict with any limitations on the incurrence of

Indebtedness or the granting of the Security Interests contained in either the Senior Notes Indentures or the Debentures Indenture;

(v) a certificate of PVH certifying that the representations and warranties made by each Borrower herein and in the other Financing Documents are true and complete in all material respects with the same force and effect as if made on and as of such date (or, to the extent any such representation or warranty specifically relates to an earlier date, such representation or warranty is true and complete in all material respects as of such earlier date);

(vi) supplements or modifications to the Financing Documents and such additional Financing Documents, including, without limitation, amendments to the Mortgages, endorsements to the existing ALTA title policies for each Mortgaged Property, as well as any new Notes to New Lenders and replacement Notes to Lenders that agree to participate in such Revolver Increase, that the Administrative Agent reasonably deems necessary in order to document such Revolver Increase and otherwise assure and give effect to the rights of the Administrative Agent and the Lenders in the Financing Documents; and

(vii) such other documents, instruments and information as the Administrative Agent or its counsel shall reasonably deem necessary in connection with the Revolver Increase.

(c) On each Increase Date, upon fulfillment of the conditions set forth in this Section 2.19, the Administrative Agent shall (i) effect a settlement of all outstanding Loans among the Lenders that will reflect the adjustments to the Commitments of the Lenders as a result of the Revolver Increase and (ii) notify the Lenders, any New Lenders participating in the Revolver Increase and the Borrowers, on or before noon (New York City time), by telecopier or telex, of the occurrence of the Revolver Increase to be effected on such Increase Date.

ARTICLE III

Representations and Warranties

Each of the Borrowers represents and warrants to the Lenders that:

Section 3.01. Existence and Power. Each of PVH, PVH Wholesale Corp., PVH Retail Corp., izod.com, inc., G.H. Bass Franchises, Inc., CD Group, Inc., PVH CK Stores, Inc., PVH Ohio, Inc., PVH Michigan, Inc., PVH Pennsylvania, Inc., PVH Wholesale New Jersey, Inc., PVH Retail Management Corp. and PVH Superba/Insignia Neckwear, Inc. is a corporation organized, validly existing and in good standing under the laws of the State of Delaware, and The IZOD Corporation is a corporation organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania, and each of the Borrowers has all necessary powers required to carry on its business as now conducted and, except where the failure to do so could not be reasonably expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

Section 3.02. Corporate and Governmental Authorization; No Contravention. The execution, delivery and performance by each of the Borrowers of the Financing Documents to which it is a party are within its corporate powers, have been duly authorized by all necessary corporate action, require no action by or in respect of, or filing with, any Governmental Authority (except as contemplated by the Security

Agreement) and do not contravene, or constitute a default under, any provision of material applicable law or material regulation or of its charter or bylaws or of any material agreement, judgment, injunction, order, decree or other material instrument binding upon each or result in the creation or imposition of any Lien on any material asset of any Borrower or any of its Subsidiaries (except the Security Interests).

Section 3.03. Binding Effect. This Agreement and the other Financing Documents to which it is a party constitute valid and binding agreements of each Borrower, in each case enforceable in accordance with their respective terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar laws relating to the enforcement of creditors' rights generally and by general equitable principles.

Section 3.04. Financial Information. i) The Borrowers have heretofore furnished to the Administrative Agent consolidated financial statements of PVH and its subsidiaries for the fiscal quarter ended May 6, 2007, prepared by management and for the fiscal years ended February 4, 2007 and January 29, 2006, audited by Ernst & Young LLP, independent public accountants. Such financial statements present fairly in all material respects the financial condition and results of operations of PVH and its subsidiaries as of the dates and for the periods indicated, and such financial statements disclose in accordance with GAAP all material liabilities, direct or contingent, of PVH and its subsidiaries as of the dates thereof.

(b) The Borrowers have heretofore furnished to the Administrative Agent for the 2007 fiscal year, and annually thereafter, projected income statements, balance sheets and cash flows for PVH and its Subsidiaries. The projections are based upon reasonable estimates and assumptions, all of which are reasonable in light of the conditions which existed at the time the projections were made, have been prepared on the basis of the assumptions stated therein, and reflect as of the Effective Date the good faith estimate of the Borrowers of the results of operations and other information projected therein, provided that no representation is made that the assumptions w ill prove to be correct.

(c) Since February 4, 2007, there has been no material adverse change in the business, prospects, assets, operations or financial condition of the Borrowers and their consolidated Subsidiaries, considered as a whole.

Section 3.05. Litigation. Except for the Disclosed Matters, there is no action, suit or proceeding pending against, or to the knowledge of the Borrowers threatened against or affecting, the Borrowers or any of their Subsidiaries before any arbitrator or any Governmental Authority, that (i) could reasonabl y be expected, individually or in the aggregate, to result in a Material Adverse Effect, or (ii) which would in any material respect draw into question the enforceability of any of the Financing Documents, taken as a whole.

Section 3.06. Compliance with ERISA. Each Borrower and its Subsidiaries and each ERISA Affiliate has fulfilled its obligations under the minimum funding standards of ERISA and the Internal Revenue Code with respect to each Plan and is in compliance in all material respects with the presently applicable provisions of ERISA and the Code with respect to each Plan, and has not incurred any liability under Title IV of ERISA (i) to the PBGC other than a liability to the PBGC for premiums under Section 4007 of ERISA or (ii) in respect of a Mult iemployer Plan which has not been discharged in full when due.

Section 3.07. Taxes. To the extent applicable, each Borrower and its Subsidiaries has filed all United States Federal income tax returns and all other material tax returns which are required to be filed by it and has paid all taxes stated to be due in such returns or pursuant to any assessment received by it, except for taxes the amount, applicability or validity of which is being contested in good faith by appropriate proceedings. The charges, accruals and reserves on the books of the Borrowers and their

Subsidiaries in respect of taxes or other similar governmental charges, additions to taxes and any penalties and interest thereon are, in the opinion of the Borrowers, adequate.

Section 3.08. Environmental Compliance.

(a) Except for Disclosed Matter s,

(i) the Borrowers and their Subsidiaries have, obtained, or made timely application for, all permits, certificates, licenses, approvals, registrations and other authorizations (collectively "Permits") which are required under all applicable Environmental Laws and are necessary for their operations and are in compliance with the terms and conditions of all such Permits, except where the failure to obtain such Permits or to comply with their terms would not have, individually or in the aggregate, a Material Adverse Effect;

(ii) no notice, notification, demand, request for information, citation, summons, complaint or order has been issued, no complaint has been filed, no penalty has been assessed and no investigation or review is pending, or to the Borrowers' knowledge, threatened by any governmental entity or other Person with respect to any (A) alleged violation by the Borrowers or any Subsidiary of any Environmental Law, (B) alleged failure by the Borrowers or any Subsidiary to have any Permits required in connection with the conduct of its business or to comply with the terms and conditions thereof, (C) any generation, treatment, storage, recycling, transportation or disposal of any Hazardous Materials or (D) release of Hazardous Materials, except where such event or events would not have, individually or in the aggregate, a Material Adverse Effect;

(iii) to the knowledge of the Borrowers, all oral or written notifications of a release of Hazardous Materials required to be filed under any applicable Environmental Law have been filed or are in the process of being filed by or on behalf of the Borrowers or any Subsidiary;

(iv) no property now owned by the Borrowers or any Subsidiary and, to the knowledge of the Borrowers, no such property previously owned or now or previously leased or any property to which the Borrowers or any Subsidiary has, directly or indirectly, transported or arranged for the transportation of any Hazardous Materials, is listed or, to the Borrowers' knowledge, proposed for listing, on the National Priorities List promulgated pursuan t to CERCLA, or CERCLIS (as defined in CERCLA) or any similar state list or is the subject of federal, state or local enforcement actions or, to the knowledge of the Borrowers, other investigations which may lead to claims against the Borrowers or any Subsidiary for clean-up costs, remedial work, damage to natural resources or personal injury claims, including, but not limited to, claims under CERCLA, except where such listings or investigations would not have, individually or in the aggregate, a Material Adverse Effect;

(v) there are no Liens under or pursuant to any applicable Environmental Laws on any real property or other assets owned or leased by the Borrowers or any Subsidiary, and no government actions have been taken or, to the knowledge of the Borrowers, are in pr ocess which could subject any of such properties or assets to such Liens.

(b) For purposes of this Section, the terms "Borrowers" and "Subsidiary" shall include any business or business entity (including a corporation) which is a predecessor, in whole or in part, of the Borrowers or any Subsidiary.

Section 3.09. Properties.

(a) Each of the Borrowers and its Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes.

(b) Each of the Borrowers and its Subsidiar ies owns, or is licensed to use, all trademarks, trade names, copyrights, patents and other intellectual property material to its business, and the use thereof by such Borrower and its Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(c) Schedule 3.09 sets forth the address of each real property that is owned or leased by the Borrowers or any of their Subsidiaries as of the Effective Date other than those properties leased for use as a retail store.

(d) As of the Effective Date, neither the Borrowers nor any of their Subsidiaries has received notice of, or has knowledge of, any pending or contemplated condemnation proceeding affecting any property that is the subject of a Mortgage that, if determined adversely to the Borrowers, would materially impair the value of such property, or any sale or disposition thereof in lieu of condemnation. Neither any property that is the subject of a Mortgage nor any interest therein is subject to any right of first refusal, option or other contractual right to purchase such property or interest therein.

Section 3.10. Compliance with Laws and Agreements. Each of the Borrowers and its Subsidiaries is in compliance with all laws, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, and each has all material governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted, in each case, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

Section 3.11. Investment and Holding Company Status. None of the Borrowers or any of their Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

Section 3.12. Full Disclosure. All information furnished by the Borrowers to the Administrative Agent or any Lender for purposes of or in connection with this Agreement or any of the Transactions is, taken as whole and in light of the circumstances under which such information is furnished, true and accurate in all material respects on the date as of which such information is furnished, and true and accurate in all material respects on the date as of which such information is stated or certified. It is understood that the foregoing is limited to the extent that (i) projections have been made in good faith by the management of the Borrowers and in the view of the Borrowers' management are reasonable in light of all information known to management as of the Effective Date, and (ii) no representation or warranty is m ade as to whether the projected results will be realized.

Section 3.13. Security Interest. Each of the Security Agreement and the Mortgages creates and grants to the Administrative Agent, for its own benefit and for the benefit of the Lenders, a legal, valid and

perfect ed first priority (except as permitted pursuant to Section 6.02 hereof) Lien in the Collateral identified therein. Such Collateral is not subject to any other Liens whatsoever, except Liens permitted by Section 6.02 hereof.

Section 3.14. Solvency.

(a) The fair salable value of the business of the Borrowers and their consolidated Subsidiaries is not less than the amount that will be required to be paid on or in respect of the probable liability on the existing debts and other liabilities (including contingent liabilities) of the Borrowers and their consolidated Subsidiaries, as they become absolute and mature.

(b) The assets of the Borrowers and their Subsidiaries do not constitute unreasonably small capital for the Borrowers and their Subsidiaries to carry out their business as now conducted and as proposed to be conducted including the capital needs of the Borrowers and their Subsidiaries, taking into account the particular capital requirements of the business conducted by the Borrowers and their Subsidiaries and projected capital requirements and capital availability thereof.

(c) None of the Borrowers or any of their S ubsidiaries intends to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be received by the Borrowers and any of their Subsidiaries, and of amounts to be payable on or in respect of debt of the Borrowers and any of their Subsidiaries).

(d) None of the Borrowers or any of their Subsidiaries believes that final judgments against them in actions for money damages presently pending will be rendered at a time when, or in an amount such that, they will be unable to satisfy any such judgments promptly in accordance with their terms (taking into account the maximum reasonable amount of such judgments in any such actions and the earliest reasonable time at which such judgments might be rendered). The cash flow of the Borrowers a nd their consolidated Subsidiaries, after taking into account all other anticipated uses of the cash of the Borrowers and their consolidated Subsidiaries (including the payments on or in respect of debt referred to in paragraph (c) of this Section), will at all times be sufficient to pay all such judgments promptly in accordance with their terms.

Section 3.15. Employee Matters. There are no strikes, slowdowns, work stoppages or controversies pending or, to the knowledge of the Borrowers threatened between the Borrowers and their Subsidiaries and their respective employees, other than employee grievances arising in the ordinary course of business, none of which could have, either individually or in the aggregate, a Material Adverse Effect.

Section 3.16. Subsidiaries. As of the Effective Date, Schedule 3.16 sets forth the name of, and the ownership interest of PVH in, each Subsidiary and identifies each Subsidiary that is a Guarantor and each Subsidiary that is a Material Subsidiary.

Section 3.17. No Change in Credit Criteria or Collection Policies. There has been no material change in credit criteria or collection policies concerning Receivables of the Borrowers and their Subsidiaries since October 1, 2006.

Section 3.18. Processors. As of the Effective Date, Schedule 3.18 lists all Processors that provide any Borrower with credit card or debit card processing services in connection with such Borrower's wholesale business, and such Schedule correctly identifies the name and address of each such Processor, and the name in which such services are provided. To the extent requested by the Administrative Agent, true and complete copies of each agreement listed on Schedule 3.18 have been

delivered to the Administrative Agent, together with all amendments, waivers and other modifications thereto. All such agreements are valid, subsisting, in full force and effect, are currently binding and will continue to be binding upon each Borrower that is a party thereto and, to the best knowledge of the Borrowers, binding upon the other parties thereto in accordance with their terms. The Borrowers are not in default under any such agreements, which default could reasonably be expected have a Material Adverse Effect.

Section 3.19. Senior Notes Indentures; Debentures Indentu re. Neither the Senior Notes Indentures, nor the Debentures Indenture, prohibits the Borrowing of the Loans or the issuance of Letters of Credit hereunder.

ARTICLE IV

Conditions

Section 4.01. Effective Date. The obligations of the Lenders to make Loans and of any Issuing Bank to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence reasonably satisfactory to the Administrative Agent (which may include telecopy transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of (i) Katten Muchin Rosenman LLP, counsel for the Borrowers, substantially in the form of Exhibit B, and (ii) local counsel in each jurisdiction where a property that is t he subject of a Mortgage is located, in the case of each such opinion required by this paragraph, covering such other matters relating to the Borrowers, the Guarantors, the Financing Documents or the Transactions as the Required Lenders shall reasonably request. The Borrowers hereby request such counsel to deliver such opinions.

(c) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Borrowers and any Guarantors, the authorization of the Transactions and any other legal matters relating to the Borrowers and any Guarantors, the Financing Documents or the Transactions, all in form and substance reasonably satisfactory to the Administrat ive Agent and its counsel.

(d) The Borrowers and each Processor providing any credit or debit card processing services to any Borrower shall have entered into Processor Control Agreements with respect thereto, in form and substance reasonably satisfactory to the Administrative Agent;

(e) The Administrative Agent shall have received a fully executed and notarized amendment to each of the existing Mortgages (each, a "Mortgage Amendment") relating to the Effective Date Distribution Centers, together with such other documents as the Agent may reasonably require, eac h in form and substance satisfactory to the Administrative Agent and in proper form for recording in all appropriate places;

(f) the Agent shall have received (A) an endorsement to the existing ALTA mortgagee title insurance policy for each Effective Date Distribution Center for which Mortgage Amendments are being delivered in connection with this Agreement, or unconditional commitment

therefor (each, a "Policy Endorsement") issued by the Borrowers' title company (the "Title Company") in form reasonably acceptable to the Administrative Agent, which Policy Endorsement shall not otherwise modify or amend the existing mortgagee policy of title insurance except as may be acceptable to the Administrative Agent in its sole discretion; and (B) evidence satisfactory to the Administrative Agent that the Borrowers have (I) delivered to the Title Company all certificates and affidavits required by the Title Company in connection with the issuance of the Policy Endorsements and (II) paid to the Title Company or to the appropriate public authority all expenses and premiums of the Title Company in connection with the issuance of the Policy Endorsements and all recording and stamp taxes (including mortgage recording and intangible taxes) payable in connection with recording the Mortgag e Amendments in the appropriate real estate records;

(g) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by the Chairman of the Board, President, a Vice President or a Financial Officer of each Borrower, confirming compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02.

(h) The Administrative Agent shall have received all fees and other amounts due and payable, on or prior to the Effective Date, including, to the extent invoiced, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or pai d by the Borrowers hereunder under any other Financing Document.

(i) The Administrative Agent (or its counsel) shall have received the other Financing Documents and all such confirmations of guarantees as the Administrative Agent shall request, all in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

(j) With respect to any Liens not permitted pursuant to Section 6.02 hereof, the Administrative Agent shall have received termination statements in form and substance satisfactory to it.

(k) Each document (including each Uniform Commercial Code financing statement) required by law or requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent for its own benefit and for the benefit of the Lenders a first priority perfected Lien in the Collateral shall have been properly filed, registered or recorded in each jurisdiction in which the filing, registration or recordation thereof is so required or requested, or arrangements reasonably satisfactory to the Administrative Agent for the filing, registering or recording thereof shall have been made.

(l) The A dministrative Agent shall have received the results of a search of tax and other Liens, and judgments and of the Uniform Commercial Code filings made with respect to the Borrowers and each other grantor of Collateral in the jurisdictions in which the Borrowers and each such grantor is located (as defined in the Uniform Commercial Code), doing business and/or in which any Collateral is located, and in which Uniform Commercial Code filings have been, or are to be, made against the Borrowers, and each such grantor pursuant to paragraph (h) above.

(m) The Administrative Agent shall have received and determined to be in form and substance satisfactory to it:

(i) the most recent (dated within forty-five (45) days of the Effective Date) aging of accounts receivable of the Borrowers;

(ii) an opening Borrowing Base and evidence that the Borrowers have not less than $100,000,000 in unused Commitments on the Effective Date after giving effect to the transactions occurring on that date;

(iii) evidence of the compliance by the Borrowers with Section 5.02(b) hereof;

(iv) the financial statements described in Section 3.04 hereof;

(v) if a Borrowing is proposed for the Effective Date, a Borrowing Request executed by the Borrowers; and

(vi) the Facility Letter.

(n) The Administrative Agent shall have had the opportunity to conduct a pre-closing audit.

(o) If a Borrowing is proposed for the Effective Date, the Borrowers shall have executed and delivered to the Administrative Agent a disbursement authorization letter with respect to the disbursement of the proceeds of the Loans made on the Effective Date.

(p) The Administrative Agent shall have received such other documents, including a tri-party lockbox agreement, and completed such other reviews, including material

leases (including the obtaining of landlord waivers) and contracts, litigation and taxes, as the Administrative Agent or its counsel shall reasonably deem necessary.

Section 4.02. Each Credit Event. The obligation of any Lender to make a Loan on the occasion of any Borrowing, and of any Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction on such date of the following conditions:

(a) The representations and warranties of the Borrowers set forth in this Agreement shall be true and correct in all material respects on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable; provided that any such representations and warranties that by their express terms are made as of a specific date shall have been true and correct as of such specific date.

(b) At the time of and immediately after giving effect to such Borrowing or t he issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing and the Borrowers shall otherwise be in compliance with the provisions of Section 2.01 or 2.05(b), as applicable.

(c) If no Borrowing Base Certificate has been delivered to the Administrative Agent during the period of thirty (30) days prior to the date of any Borrowing, the Borrowers shall have delivered to the Administrative Agent, prior to 10:00 a.m., New York City time, on the Business Day prior to the date of such Borrowing, a Borrowing Base Certificate demonstrating compliance with the Availability requirements as of Friday of the week immediately preceding the date of such Borrowing.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrowers on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

ARTICLE V

Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or been terminated and all LC Disbursements have been reimbursed, the Borrowers covenant and agree with the Lenders that:

Section 5.01. Information. The Borrowers will furnish to the Administrative Agent and each of the Lenders:

(a) within 105 days after the end of each fiscal year, (i) a consolidated balance sheet and consolidated income statement showing the financial position of PVH and its subsidiaries as of the close o f such fiscal year and the results of their operations during such year, and (ii) a consolidated statement of stockholders' equity and a consolidated statement of cash flow, as of the close of such fiscal year, comparing such financial position and results of operations to such financial condition and results of operations for the comparable period during the immediately preceding fiscal year, all the foregoing financial statements to be audited by Ernst & Young LLP or other independent public accountants of recognized national standing selected by PVH in compliance with applicable Securities and Exchange Commission rules and regulations (which report shall not contain any going concern or similar qualification or exception as to scope), as being fairly stated in relation to such audited financial statements taken as a whole and together with management's discussion and analysis presented to the management of PVH and its subsidiaries (the Borrowers being permitted to satisfy the requirements of thi s clause (a) by delivery of PVH's annual report on Form 10-K (or any successor form), and all supplements or amendments thereto, as filed with the Securities and Exchange Commission);

(b) within 60 days after the end of each of the first three fiscal quarters of each fiscal year of PVH, unaudited consolidated balance sheets of the PVH and its subsidiaries as of the end of such fiscal quarter, together with the related consolidated statements of income for such fiscal quarter and for the portion of the PVH's fiscal year ended at the end of such fiscal quarter and the related consolidated statements of cash flows for the portion of the PVH's fiscal year ended at the end of such fiscal quarter, and in comparative form the corresponding financial information as at the end of, and fo r, the corresponding fiscal quarter of the PVH's prior fiscal year and the portion of the PVH's prior fiscal year ended at the end of such corresponding fiscal quarter, in each case certified by a Financial Officer as presenting fairly in all material respects the financial position and results of operations and cash flow of PVH and its subsidiaries in accordance with GAAP (except the absence of footnote disclosure), in each case subject to normal year-end audit adjustments (the Borrowers being permitted to satisfy the requirements of this clause (b) by delivery of PVH's quarterly report on Form 10-Q (or any successor form), and all supplements or amendments thereto, as filed with the Securities and Exchange Commission);

(c) Upon the occurrence and during the continuance of an A vailability Event, within 25 days after the end of each calendar month (other than any such month that corresponds to the end of a fiscal quarter or fiscal year of PVH), an unaudited consolidated balance sheet of PVH and its subsidiaries as at the end of such month, together with the related unaudited consolidated statement of income for such month and the portion of PVH's fiscal year ended at the end of such month and the related consolidated statements of cash flows for the portion of PVH's fiscal year ended at the end of such month, setting forth in comparative form the corresponding financial information as at the end of, and for, the corresponding month of PVH's prior fiscal year and the portion of PVH's prior fiscal year ended at the end of such corresponding month, in each case certified by a Financial Officer as presenting fairly in all material

respects the financial position and results of operations and cash flows of PVH and its subsidiaries as at the date of, and for the periods covered by, such financial statements, in accordance with GAAP (except for the absence of footnotes), in each case subject to normal year-end audit adjustments;

(d) (i) concurrently with any delivery under (a) or (b) a certificate (each, a "Compliance Certificate") of the firm or Person referred to therein (x) which certificate shall, in the case of the certificate of a Financial Officer, certify that to the best of his or her knowledge no Default has occurred (including calculations demonstrating compliance, as of the dates of the financial statements being furnished, with the covenants set forth in Sections 6.03, 6.06 and 6.09 hereof) and, if such a Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto and (y) which certificate, in the case of the certificate furnished by the independent public accountants in connection with the annual financial statements, may be limited to accounting matters and disclaim responsibility for legal interpretations, but shall in any event state that to the best of such accountants' knowledge, as of the dates of the financial statements being furnished no Default has occurred under any of the covenants set forth in Sections 6.03, 6.06 and 6.09 hereof and, if such a Default has oc curred, specifying the nature and extent thereof; provided, however, that any certificate delivered by the independent public accountants in accordance herewith shall be accompanied by a supplemental certificate confirming the accuracy of the accountants' certificate (and shall in any event include calculations demonstrating compliance with the covenants set forth in 6.03, 6.06 and 6.09 hereof) and signed by a Financial Officer;

(e) promptly after the same become publicly available, copies of such registration statements, annual, periodic and other reports, and such proxy statements and other information, if any, as shall be filed by PVH or any of its Subsidiaries with the Securities and Exchange Commission pursuant to the requirements of the Securities Act of 1933, as amend ed, or the Securities Exchange Act of 1934, as amended, if any;

(f) concurrently with any delivery under (a) above, a management letter prepared by the independent public accountants who reported on the financial statements delivered under (a) above, with respect to the internal audit and financial controls of PVH and its subsidiaries;

(g) (i) within 25 days of the end of each fiscal month, (x) an aging schedule of Receivables and reconciliation and accounts payable listing and (y) an executive summary with respect to the Borrowers' top five accounts for which Receivables a re more than 90 days past due, comparing the total of such past due Receivables for the month then ended to the total of past due Receivables for the previous month and the Borrowers' plan with respect to the collection of such past due Receivables, executed by a Financial Officer, (ii) within 30 days after the end of each fiscal quarter, a current customer list which shall include addresses and (iii) within 25 days of the end of each fiscal month, a report showing sales, collections and debit and credit adjustments to Receivables and any inventory designation, in each case in form and detail reasonably satisfactory to the Administrative Agent; provided, that (A) notwithstanding the foregoing, for any fiscal quarter during which when no Loans are outstanding hereunder, the Borrowers shall not be required to deliver the items described in clauses (i) and (iii) of this Section 5.01(g) monthly, but instead shall deliver such items within 25 days after the end of such fiscal quarter and (B) upon the occurrence and during the continuance of an Availability Event, the items described in clauses (i) and (iii) of this Section 5.01(g) shall be delivered within three Business Days after the end of each week (but in no event later than Wednesday);

(h) concurrently with any delivery under (a) or (b) above, a certificate signed by a Financial Officer calculating the Applicable Rate test as of the date of the financial statements being furnished;

(i) within 75 days after the beginning of each fiscal year, a summary of business plans and financial operation projections (including with respect to Capital Expenditures) for the Borrowers and their Subsidiaries for such fiscal year (including quarterly balance sheets, statements of income and of cash flow) and annual projections through the Maturity Date prepared by management and in form, substance and detail (including principal assumptions provided separately in writing) satisfactory to the Administrative Agent;

(j) within 25 d ays after the end of each fiscal month, a certificate substantially in the form of Schedule 5.01(j) hereto (each, a "Borrowing Base Certificate") executed by a Financial Officer of the Borrowers demonstrating compliance as at the end of each month with the Availability requirements, which shall include a Borrowing Base calculation, and such information regarding Eligible Licensing Receivables as the Administrative Agent may reasonably request, including, without limitation, a schedule of Minimum Guaranteed Fundings with respect to Eligible Licensing Receivables and a schedule of Excess Payments Due with respect to Eligible Licensing Receivables; provided, that (i) notwithstanding the foregoing, for any fiscal quarter during which when no Loans are outstanding hereunder, the Borrowers shall not be required to deliver Borrowing Base Certificates monthly, but instead shall deliver a Borrowing Base Certificate within 25 days after the end of such fiscal quarter demonstrating compliance with the Availability requirements as at the end of such fiscal quarter and (ii) upon the occurrence and during the

continuance of an Availability Event, Borrowing Base Certificates shall be delivered no later than the close of business on Wednesday of each week demonstrating compliance with the Availability requirements as at the end of the previous week; provided further, that upon the occurrence and during the continuance of an Event of Default, Borrowing Base Certificates shall be delivered with such greater frequency as the Administrative Agent shall request.

(k) **as soon as practicable, copies of all material financial reports, forms, filings, loan documents and financial information submitted to governmental agencies and material financial reports distributed to its equity holders;**

(l) **promptly upon becoming aware thereof, notice to the Administrative Agent of the occurrence of any Default then continuing; and**

(m) **such other information as the Administrative Agent or any Lender may reasonably request, including any financial information required to be delivered under (a) or (b) as of the Effective Date but no longer required to be delivered as a result of a change under the Securities Act of 1933, as amended or the Securities Exchange Act of 1934, as amended.**

Section 5.02. **Maintenance of Property; Insurance.**

(a) **The Borrowers will keep, and will cause each Subsidiary to keep, all property useful and necessary in its business as then conducted in good working order and condition, ordinary wear and tear excepted.**

(b) **The Borrowers will maintain, to the extent commercially available on commercially reasonably terms, (i) physical damage insurance on substantial ly all its real and personal property in the United States (including all Collateral) on an "All Risks" form subject to normal exclusions (including the perils of flood and quake) on a replacement cost basis (or, in the case of idle properties, actual cash value basis) for all such property in an amount not less than $100,000,000 (subject to a deductible amount or retention not to exceed $500,000) and consequential loss coverage for extra expense, (ii) public liability insurance (including products liability coverage) in an amount not less than $25,000,000, and (iii) such other insurance coverage in such amounts and with respect to such risks relating to the Borrowers' Collateral as the Required Lenders may reasonably request. All such insurance**

shall be provided by insurers having an A.M. Best policyholders rating of not less than A-. Prior to the Effective Date, the Borrowers will cause the Administrative Agent to be named as an insured party and loss payee, on behalf of the Secured Parties, on each insurance policy covering risks relating to any of the Collateral and books and records relating to any proceeds of Collateral and as an additional insured on all other insurance. Each such insurance policy in effect during the term of this Agreement shall include effective waivers by the insurer of all claims for insurance premiums against the Administrative Agent or any other Person entitled to the benefits of the Security Agreement, provide that all insurance proceeds in excess of dedu ctible amounts or retentions which are payable in respect of losses relating to Collateral and books and records shall be adjusted with and payable to the Administrative Agent (except so long as no Default has occurred and is continuing any loss which is less than $1,000,000 may be adjusted with and payable to the Borrowers), and provide that no cancellation or termination thereof shall be effective until at least 30 days after receipt by the Administrative Agent of written notice thereof. The Administrative Agent will consult with the Borrowers before agreeing to any adjustment of insurance proceeds covered by the preceding sentence. Net Proceeds of insurance shall be applied to prepay Loans in accordance with Section 2.10(d) hereof. During the occurrence and continuance of a Default, the Net Proceeds of insurance shall be maintained in a cash collateral account with the Administrative Agent and may be, upon notice to the Borrowers, setoff and applied to prepay outstanding principal and in terest on the Loans. The Borrowers will deliver to the Administrative Agent (i) on the date of the first Borrowing hereunder and within 91 days after the end of each fiscal year of the Borrowers, a certificate dated such date showing the total amount of insurance coverage as of such date, (ii) from time to time true and complete copies of such insurance policies of the Borrowers (or, if the Borrowers do not have such insurance policies in their possession, evidence thereof) relating to such insurance coverage as the Required Lenders through the Administrative Agent may request, (iii) within 15 days of receipt of notice from any insurer, a copy of any notice of cancellation or material adverse change in coverage from that existing on the date of this Agreement and (iv) within 15 days of any cancellation or nonrenewal of coverage by the Borrowers, notice of such cancellation or nonrenewal.

Section 5.03. Compliance with Laws. The Borrowers will comply, and cause each Subsidiary to comply, with all applicable laws, ordinances, rules, regulations, and requirements of governmental authorities (including Environmental Laws and ERISA and the rules and regulations thereunder) except where failure to comply would not have a Material Adverse Effect, or where the necessity of compliance therewith is being contested in good faith by appropriate proceedings.

Section 5.04. Inspection of Property, Books and Records. The Borrowers will keep, and will cause each Subsidiary to keep, proper books of record and account reflecting its b usiness and activities; and will permit, and will cause each Subsidiary to permit, upon reasonable prior notice, representatives of any Lender at such Lender's expense to visit and inspect any of their respective properties, to examine and make abstracts from any of their respective books and records and to discuss their respective affairs, finances and accounts with their respective officers, senior employees and independent public accountants, all during normal business hours and as often as may reasonably be desired; provided that the Borrowers may, at their option, have one or more employees or representatives present at any such inspection, examination or discussion. At the Borrowers' expense, the Administrative Agent (x) shall have the right to audit, upon reasonable prior notice, once each fiscal year (or as often as it may request upon the occurrence and continuance of a Default), the existence and condition of the Collateral and to review compliance with the Financing Document s and (y) shall have the right to retain an inventory appraiser to appraise the inventory Collateral once each fiscal year (or as often as it may request upon the occurrence and continuance of a Default); provided, that if at any time, the aggregate Revolving Credit Exposure of all Lenders is less than $150,000,000 and Collateral Availability is greater than $200,000,000, then until such time as the aggregate Revolving Credit Exposure of all Lenders is greater than or equal to $150,000,000 and Collateral Availability is less than or equal to $200,000,000, no field audit examinations or appraisals shall be required unless a Default shall have occurred and be continuing.

Section 5.05. Use of Proceeds. The proceeds of the Loans made under this Agreement will be used by the Borrowers for working capital, Permitted Acquisitions, Capital Expenditures and general corporate purposes, and on the Effective Date to repay Indebtedness. None of such proceeds will be used, directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of buying or carrying any "margin stock" within the meaning of Regulation U.

Section 5.06. Environmental Matters. The Borrowers will promptly give to the Lenders notice in writing of any complaint, order, citation or notice of violation with respect to, or if a Borrower becomes aware of, (i) the existence or alleged existence of a violation of any applicable Environmental Law, (ii) any release into the environment, (iii) the commencement of any cleanup pursuant to or in accordance with any applicable Environmental Law of any Hazardous Materials, (iv) any proceeding pending against a Borrower for the termination, suspension or non-renewal of any permit required under any applicable Environmental Law, (v) any property of the Borrowers or any Subsidiary that is or will be subject to a Lien imposed pursuant to any Environmental Law and (vi) any proposed acquisitions or leasing of property, which, in each of cases (i) through (vi) above, individually or in the aggregate, would have a Material Adverse Effect.

Section 5.07. Taxes. The Borrowers will, and will cause each of its Subsidiaries to, pay and discharge promptly when due all taxes, assessments and governmental charges or levies imposed upon the Borrowers and their Subsidiaries or upon their respective income or profits or in respect of their respective properties before the same shall become delinquent or in default, as well as all lawful claims for labor, materials and supplies or otherwise, which, if unpaid, would give rise to Liens upon such properties or any part thereof; provided, however, that such payment and discharge shall not be required with respect to (i) any such tax, assessment, charge, levy or claim so long as the validity or amount thereof shall be contested in good faith by appropriate proceedings and the applicable party, sha ll have set aside on its books reserves with respect thereto as required by GAAP, and such contest operates to suspend collection of the contested tax, assessment, charge, levy or claims and enforcement of a Lien or (ii) any tax, assessment, charge, levy or claims, the failure to pay and discharge when due which, individually or in the aggregate would not have a Material Adverse Effect.

Section 5.08. Security Interests. The Borrowers will at all times take, or permit to be taken, all actions necessary for the Administrative Agent to maintain the Security Interests as valid and perfected Liens, subject only to Liens permitted under Section 6.02, and supply all information to the Administrative Agent necessary for such maintenance.

Section 5.09. Existence; Conduct of Business. The Borrowers will, and will cause each of their Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges, franchises, patents, copyrights, trademarks and trade names material to the conduct of its business; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03.

Section 5.10. Litigation and Othe r Notices. The Borrowers will give the Administrative Agent prompt written notice of the following:

(a) the issuance against a Borrower or a Guarantor by any court or Governmental Authority of any injunction, order, decision or other restraint prohibiting, or having the effect of prohibiting, the making of the Loans, or invalidating, or having the effect of invalidating, any provision of this Agreement or the other Financing Documents that would materially adversely affect the Lenders' ability to enforce any payment obligations hereunder, or the initiation of any litigation or similar proceeding seeking any such injunction, order, decision or other restraint;

(b) the filing or commencement of any action, suit or proceeding against the Borrowers or any of their Subsidiaries, whether at law or in equity or by or before any arbitrator or Governmental Authority, (i) which is material and is brought by or on behalf of any Governmental Authority, or in which injunctive or other equitable relief is sought or (ii) as to which it is probable (within the meaning of Statement of Financial Accounting Standards No. 5) that there will be an adverse determination in each case and which , if adversely determined, would (A) reasonably be expected to result in liability of any Borrower or a Subsidiary thereof in an aggregate amount of $6,000,000 or more, not reimbursable by insurance, or (B) materially impairs the right of any Borrower or a Subsidiary thereof to perform its material obligations under this Agreement, any Note or any other Financing Document to which it is a party;

(c) any Default, specifying the nature and extent thereof and the action (if any) which is proposed to be taken with respect thereto;

(d) notices given or received (with copies thereof) with respect to the Senior Notes Indentures; and

(e) any development in the business or affairs of any Borrower or any of its Subsidiaries which has had or which is likely to have, in the reasonable judgment of such Borrower, a Material Adverse Effect.

Section 5.11. Additional Grantors and Guarantors. The Borrowers will, and will cause their Subsidiaries to, promptly inform the Administrative Agent of the creation or acquisition of any direct or indirect Subsidiary (subject to the provisions of Section 6.04) and cause each direct or indirect domestic Subsidiary not in existence on the date hereof to enter into a Guarantee in substantially the form of the Guarantee executed on the Effective Date, and to execute the Security Agreement, as applicable, as a grantor, and cause the direct parent of each such Subsidiary to pledge all of the Equity Interests of such Subsidiary pursuant to the Security Agreement and cause each such Subsidiary to pledge its accounts receivable and all other assets pursuant to the Security Agreement. In connection therewith, the Borrowers or any applicable Subsidiary shall provide such resolutions, certificates and opinions of counsel as shall be reasonably requested by the Administrative Agent.

Section 5.12. Maintain Operating Accounts. The Borrowers will, and will cause each of their Subsidiaries to, maintain all of their operating accounts and cash management arrangements (including the establishment of lockboxes but exclusive of operating accounts for retail stores) with the Administrative Agent or other Lenders acceptable to the Administrative Agent to the extent provided for in the Security Agreement and on terms (which shall include obtaining tri-party lockbox agreements) reasonably satisfactory to the Administrative Agent in its sole discretion.

Section 5.13. Processors. The Borrowers (a) shall comply in all material respects with all obligations of the Borrowers under each credit or debit card processing agreement to which any Borrower is a party, (b) shall maintain each credit or debit card processing agreem ent set forth on Schedule 3.18 in full force and effect and take or cause to be taken all actions necessary to maintain, preserve and protect the rights and interests of the Administrative Agent with respect to all such agreements, (c) shall cause all Processors providing any credit card or debit card processing services for or on behalf of any Borrower to enter into a Processor Control Agreement with respect thereto, in form and substance satisfactory to the Administrative Agent and (d) shall not enter into any other credit or debit card processing agreements with any Processor (other than the agreements set forth on Schedule 3.18) or consent to any amendment, supplement or waiver of any credit or debit card processing agreement without the Administrative Agent's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned.

ARTICLE VI

Negative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or been terminated and all LC Disbursements have been reimbursed, the Borrowers covenant and agree with the Lenders that:

Section 6.01. Indebtedness. The Borrowers will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Indebtedness, provided, that the Borrowers and their Subsidiaries may incur additional Indebtedness if (i) both before and after giving effect to such incurrence, Availability is equal to or greater than the Threshold Amount, (ii) based on projections provided to, and in form and substance satisfactory to, the Administrative Agent, Availability for the 90 day period following such incurrence, after giving effect thereto, shall be equal to or greater than the Threshold Amount and (iii) on the date of such incurrence, both before and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing. Notwithstanding the foregoing, the Borrowers and their Subsidiaries may incur the following types of Indebtedness regardless of whether Availability exceeds the Threshold Amount:

(a) Indebtedness created under the Financing Documents;

(b) Indebtedness existing on the date hereof and set forth in Schedule 6.01 and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof or interest thereon or fees related thereto and otherwise on substantially similar terms to such existing Indebtedness;

(c) Indebtedness of the Borrowers incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof or interest thereon or fees related thereto or result in an earlier maturity date or decreased weighted average life thereof; provided that such Indebtedness is incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement;

(d) Indebtedness among (i) the Borrowers, (ii) the Borrowers and their wholly-owned Subsidiaries which are Guarantors arising as a result of intercompany loans pledged under the Security Agreement; provided that the aggregate principal amount of all Indebtedness owing to the Borrowers or any such Guarantor shall not exceed $10,000,000 at any time outstanding and (iii) among the Borrowers and their foreign Subsidiaries arising as a result of intercompany loans pledged under the Security Agreement, provided that the aggregate principal amount of all Indebtedness owing to the Borrowers shall not exceed $15,000,000 at any time outstanding;

(e) Guarantees permitted by Section 6.04;

(f) Indebtedness subject to Liens permitted under Section 6.02(a) through (f);

(g) Indebtedness owing to any insurance company in connection with the financing of any insurance premiums permitted by such insurance company in the ordinary course of business;

(h) Indebtedness of PVH in respect of letters of credit issued by PVH for its own account or for the account of any other Borrower, provided that neither the Agent nor any Lender shall have any direct or indirect liability with respect to any such letter of credit, whether as a guarantor, confirming bank or otherwise;

(i) other unsecured Indebtedness (and if by Guarantee, without duplicate counting of the amount guaranteed and the underlying Indebtedness) in an aggregate principal amount not exceeding $100,000,000 at any time outstanding; and

(j) Derivative Obligations entered into in the ordinary course of business to hedge or mitigate risks to which PVH or any subsidiary is exposed in the conduct of its business or the management of its liabilities with any Lender or an Affiliate of any Lender in an aggregate principal amount for all such Obligations not to exceed $150,000,000 at any one time outstanding.

Section 6.02. Liens. The Borrowers will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (includi ng accounts receivable) or rights in respect of any thereof, except:

(a) Permitted Encumbrances;

(b) any Lien on any property or asset of the Borrowers or any Subsidiary existing on the date hereof and set forth in Schedule 6.02; provided that (i) such Lien shall not apply to any other property or asset of the Borrowers or any Subsidiary and (ii) such Lien shall secure only those obligations which it secures on the date hereof and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof or the interest rate thereon or fees related thereto (except pursuant to the instrument creating such Lien) and are on substantially similar terms;

(c) any Lien existing on any property or asset prior to the acquisition thereof by the Borrowers or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrowers or any Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidi ary, as the case may be and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof or interest thereon or fees related thereto or otherwise alter the terms of such Lien in any material respect;

(d) Liens on fixed or capital assets acquired, constructed or improved by the Borrowers or any Subsidiary; provided that (i) such security interests secure Indebtedness permitted by clause (c) of Section 6.01, (ii) such security interests and the Indebtedness secured thereby are incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed 90% of the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such se curity interests shall not apply to any other property or assets of the Borrowers or any Subsidiary;

(e) Liens created by the Financing Documents in favor of the Administrative Agent and the Lenders and, so long as such Liens continue in favor of the Administrative Agent, the Debenture Trustee on behalf of the holders of the Debentures;

(f) licenses, leases or subleases permitted hereunder granted to others not interfering in any material respect in the business of the Borrowers or any of their Subsidiaries; and

(g) a Lien junior to the Lien in favor of the Administrative Agent on the Equity Interests in CKI and the CKI Affiliates and on any other assets of CKI and the CKI Affiliates as to which the Administrative Agent is granted a first priority Lien to secure the obligations under the Design Service Payments.

Section 6.03. Fundamental Changes.

(a) The Borrowers will not, and will not permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with any of them, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) any of their assets, or the stock or other equity units of any of their Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve other than Permitted Acquisitions, except that (i) each of C.A.T. Industrial S.A. de C.V., Confeciones Imperio S.A., Caribe M&I Ltd., Camisas Modernas, S.A. and G HB (Far East) Limited may be liquidated, so long as in connection with such liquidation no liabilities are transferred to any Borrower or any other subsidiary of PVH, (ii) any domestic subsidiary may merge with or into another domestic subsidiary, (iii) any domestic subsidiary may merge with or into a Borrower in a transaction in which such Borrower is the surviving Person, (iv) any Borrower (other than PVH), may merge with or into any other Borrower, provided that PVH would be the surviving Person in any merger involving PVH, and (v) a foreign subsidiary may merge with or into another foreign subsidiary; provided that, in each case (under clauses (i) through (v)), after giving effect to such merger, no Material Adverse Effect has occurred.

(b) Each Borrower will not, and will not permit any of its Subsidiaries to, (i) engage to any material extent in any business other than businesses of the type conducted by such Borrower and its Subsidiaries on the date hereof and businesses reasonably related thereto or (ii) change its fiscal year as disclosed on Schedule 6.03.

(c) Notwithstanding the foregoing, the Borrowers and their Subsidiaries may make:

(i) purchases and sales of inventory in the ordinary course;

(ii) (x) sales of assets (excluding capital stock of a Subsidiary) not to exceed $25,000,000 in the aggregate in any fiscal year and (y) sales of worn out, obsolete, scrap or surplus assets not to exceed for (x) and (y) together $30,000,000 in the aggregate in any fiscal year and $50,000,000 during the Availability Period and (z) sales of other assets, in the Administrative Agent's discretion, with a value of not more than $5,000,000 in the aggregate during the Availability Period;

(iii) Capital Expenditures;

(iv) liquidations of Permitted Investments;

(v) Investments and Guarantees permitted by Section 6.04; and

(vi) dispositions of assets resulting from a Casualty Event.

Section 6.04. Investments, Loans, Advances, Guarantees and Acquisitions. Each Borrower will not, and will not permit any of its Subsidiaries to, purchase, hold or acquire (including pursuant to

any merger with any Person) any capital stock, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purc hase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit (collectively, "Investments"), unless (i) both before and after giving effect to each such Investment, Availability is equal to or greater than the Threshold Amount, (ii) based on projections provided to, and in form and substance satisfactory to, the Administrative Agent, Availability for the 90 day period following each such Investment, after giving effect to such Investment, shall be equal to or greater than the Threshold Amount and (iii) on the date of each such Investment, both before and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing. Notwithstanding the foregoing, the Borrowers and their Subsidiaries may make, hold or acquire the following types of Investments regardless of whether Availability exceeds the Threshold Amount:

(a) Permitted Investments and Investments that were Permitted Investments when made;

(b) Investments outstanding on the Effective Date and, in the case of any such Investment, identified in Schedule 6.04, and any renewals, amendments and replacements thereof that do not increase the amount thereof;

(c) Guarantees constituting Indebtedness permitted by Section 6.01 up to the aggregate sum of $25,000,000;

(d) indemnities made and surety bonds issued in the ordinary course of business;

(e) indemnities made in the Financing Documents;

(f) Guarantees made in the ordinary course of business; provided that such Guarantees are not of Indebtedness for borrowed money except to the extent permitted pursuant to Section 6.01 and otherwise could not in the aggregate reasonably be expected to h ave a Material Adverse Effect;

(g) Investments received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and supplier arising in the ordinary course of business;

(h) advances, loans or extensions of credit by the Borrowers or any Subsidiary to officers, directors, employees and agents of the Borrowers or any Subsidiary (i) in the ordinary course of business for travel, entertainment or relocation expenses, (ii) other advances, loans or extensions of credit by the Borr owers or any Subsidiary to officers, directors, employees or agents of the Borrowers or any Subsidiary in compliance with all applicable laws not to exceed $2,000,000 in the aggregate at any one time outstanding and (iii) relating to indemnification or reimbursement of such officers, directors, employees and agents in respect of liabilities relating to their service in such capacities;

(i) accounts, chattel paper and notes receivable arising from the sale or lease of goods or the performance of services in the ordinary course of business;

(j) Capital Expenditures and Liens not p rohibited by this Agreement;

(k) Permitted Acquisitions; and

(l) other Investments not permitted under the foregoing clauses (a) through (k) in an aggregate amount at any time outs tanding not to exceed $5,000,000.

Section 6.05. Prepayment or Modification of Indebtedness; Modification of Operating Documents.

(a) The Borrowers will not, and will not permit any of their Subsidiaries to, directly or indirectly prepay, redeem, purchase or retire, or enter into any transaction that has a substantially similar effect with respect to, any Indebtedness, including the Debentures and the Senior Notes, other than Indebtedness incurred hereunder, and except that PVH may prepay, redeem, purchase or retire any of the Senior Notes or the Debentures prior to the final maturity thereof; provided, however, that (i) both before and after giving effect to such prepayment, redemption, purchase or retirement, Availability is equal to or greater than the Threshold Amount, (ii) based on projections provided to, and in form and substance satisfactory to, the Administrative Agent, Availability for the 90 day period following such prepayment, redemption, purchase or retirement, after giving effect to thereto, shall be equal to or greater than the Threshold Amount and (iii) on the date of such prepayment, redemption, purchase or retirement, both before and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing.

(b) The Borrowers will not, and will not permit any of their Subsidi aries to, modify, amend or alter the Debentures, the Debentures Indenture, the Senior Notes, the Senior Notes Indentures or any other document evidencing or governing the Debentures or the Senior Notes or providing for any Guarantee or other right in respect thereof in a manner which is reasonably likely to have a Material Adverse Effect or would otherwise be materially disadvantageous to the Lenders, and shall not modify, amend or alter any subordination provisions contained in any such documents.

(c) The Borrowers will not, and will not permit any of their Subsidiaries to, modify, amend or alter their operating agreements, certificates or articles of incorporation or other constitutive documents in a manner which is reasonably likely to have a Material Adverse Effect or would otherwise be ma terially disadvantageous to the Lenders.

Section 6.06. Restricted Payments. The Borrowers will not, and will not permit any of their Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly (including, without limitation, on a synthetic basis through Derivative Obligations), any Restricted Payment unless (i) both before and after giving effect to such Restricted Payment, Availability is equal to or greater than the Threshold Amount, (ii) based on projections provided to, and in form and substance satisfactory to, the Administrative Agent, Availability for the 90 day period following such Restricted Payment, after giving effect to thereto, shall be equal to or greater than the Threshold Amount and (iii) on the date of such Restricted Payment, both before and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing. Notwithstanding the foregoing, so long as no Default shall be continuing or would occur after giving effect to any of the following the Borrowers and their Subsidiaries may make the following Restricted Payments regardless of whether Availability exceeds the Threshold Amount:

(a) any Borrower may declare and pay dividends with respect to its Equity Interests payable solely in additional Equity Interests;

(b) Subsidiaries may declare and pay dividend s ratably with respect to their Equity Interests;

(c) **PVH may make Restricted Payments, pursuant to and in accordance with stock option plans or other benefit plans for management or employees of PVH and its subsidiaries, or issue options or warrants as otherwise approved by the Board of Directors of PVH or a committee thereof; and**

(d)

PVH may declare and pay cash dividends with respect to its common stock in an aggregate amount not to exceed $16,000,000 during any fiscal year (excluding any and all cash dividends paid during any fiscal year if at the time such dividends were paid, the conditions set forth in clauses (i), (ii) and (iii) of this Section 6.06 were satisfied); provided that on the date of each such dividend payment, both before and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing.

Section 6.07. **Transactions with Affiliates. The Borrowers will not, and will not perm it any of their Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of their Affiliates, except (a) in the ordinary course of business at prices and on terms and conditions not less favorable to a Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among PVH and its Subsidiaries in the ordinary course of business, (c) any Restricted Payment permitted by Section 6.06, (d) loans and advances to officers, directors, employees and agents permitted under Section 6.04(h), (e) fees and compensation paid to, and customary indemnity and reimbursement provided on behalf of, officers, directors, employees and agents of the Borrowers or any of their Subsidiaries and (f) employment agreements entered into by the Borrowers or any of their Subsidiaries in the ordinary course of business.**

Section 6.08. **Restrictive Agreements. The Borrowers will not, and will not permit any of their Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Borrowers or any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets, or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any shares of its capital stock or to make or repay loans or advances to the Borrowers or any other Subsidiary or to Guarantee Indebtedness of the Borrowers or any other Subsidiary; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by law or by this Agreement, (ii) the foregoing shall not apply to restrictions and conditions existing on the date hereof identified on Schedule 6.08 (but shall apply to any amendment or modification expanding the scope of, any such restriction or condition), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary or any asset pending such sale, provided such restrictions and conditions apply only to the Subsidiary or asset that is to be sold and such sale is permitted hereunder, (iv) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to Liens permitted by this Agreement if such restrictions or conditions apply only to the property or assets subject to such permitted Lien and (v) clause (a) of the foregoing shall not apply to customary provisions in leases, licenses and other contracts restricting the assignment thereof.**

Section 6.09. **Fixed Charge Coverage. If at any time after Availability is less than the Availability Event Trigger Amount, the Borrowers shall not permit the Fixed Charge Coverage Ratio as of the last day of any fiscal quarter, commencing with the fiscal quarter most recently ended prior to the first date on which Availability was less than the Availability Event Trigger Amount, for the four consecutive fiscal quarter period then most recently ended to be less than 1.00:1.00. In computing compliance with this Section 6.09, to the extent applicable, there shall be excluded in the computation of Capital Expenditures assets acquired as part of Permitted Acquisitions, even though the acquisition of such assets may be treated as Capital Expenditures under GAAP.**

ARTICLE VII

Events of Default

If any of the following events ("Events of Default") shall occur:

(a) the Borrowers shall fail to pay any principal of any Loan or any re imbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrowers shall fail to pay any interest on any Loan, the Revolving Credit Commitment Fee or any other fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Financing Document, when and as the same shall become due and payable;

(c) any representation or warranty made or deemed made by the Borrowers or a Guarantor in the Financing Documents, or in any report, certificate, financial statement or other document furnished pursuant to the Financing Documents, shall prove to have been incorrect in any material respect as of the date when made or deemed made;

(d) the Borrowers shall fail to observe or perform any covenant, condition or agreement contained in Section 5.01, 5.02 (with respect to insurance), 5.04 (with respect to audits), 5.05, 5.08, 5.09 (with respect to a Borrower's existence), 5.10(c) or 5.12 or in Article VI;

(e) the Borrowers or any Guarantor shall fail to obs erve or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d) of this Article) or any other Financing Document, and such failure shall continue unremedied for a period of 30 days;

(f) default shall be made with respect to any Material Indebtedness of the Borrowers or any Subsidiary or Guarantor (excluding Indebtedness outstanding hereunder) if the effect of any such default shall be to accelerate, or to permit (with or without the giving of notice, the lapse of time or both) the holder or obligee of such Indebtedness (or any trustee on behalf of such holder or obligee) at its option to accelerate the maturity of such Indebtedness;

(g) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of any Borrower or any Subsidiary or Guarantor or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Borrower or any Subsidiary or Guarantor or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 90 days or an order or decree approving or ordering any of the foregoing shall be entered;

(h) any Borrower or any Subsidiary or Guarantor shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (g) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Borrower or any Subsidiary or Guarantor or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed

against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(i) any Borrower or any Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(j) one or more judgments for the payment of money in an aggregate amount in excess of $6,000,000 (not covered by insurance where the carrier has accepted responsibility) shall be rendered against any Borrower, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of 45 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any material assets of any Borrower or any Subsidiary to enforce any such judgment;

(k) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect;

(l) a Change in Control shall occur;

(m) any of the Financing Documents shall for any reason cease to be, or shall be asserted by any Person obligated thereunder not to be, a legal, valid and binding obligation of such Person, including the improper filing by such Person of an amendment or termination statement relating to a filed financing statement describing the Collateral, or any Lien on any material portion of the Collateral purported to be created by any of such Financing Documents shall for any reason cease to be, or be asserted by any Person granting any such Lien not to be a valid, first priority perfected Lien (ex cept to the extent otherwise permitted under any of the Financing Documents);

(n) any material damage to, or loss, theft or destruction of, any material Collateral, not covered by insurance where the carrier has accepted responsibility, or any strike, lockout, labor dispute, embargo, condemnation, act of God or public enemy, or other casualty continuing for more than 30 consecutive days beyond the coverage of any applicable business interruption insurance, if in the case of any of the foregoing, any such event or circumstance could reasonably be expected to have a Material Adverse Effect;

(o) the filing of any Lien for taxes exceeding individually or in the aggregate $2,000,000; or

(p) (i) an event described in subsections (g), (h) or (j) shall occur with respect to the CKI Trust or (ii) the trust agreement or other operative documents with respect to the CKI Trust shall be modified, amended or altered in a manner which could have a material adverse effect on the CKI Trust or otherwise be materially disadvantageous to the Lenders or (iii) the provisions of the CKI Intercreditor Agreement shall for any reason be revoked or invalidated or the validity or enforceability thereof be contested in any manner;

then, and in every such event (other than an event with respect to any Borr owers described in clause (g) or (h) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrowers, take any one or more of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to

be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers, (iii) require that the Borrowers deposit cash collateral to the extent of the L/C Exposure or (iv) exercise any other rights or remedies available under the Financing Documents or applicable law; and in case of any event with respect to any Borrowers described in clause (g) or (h) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers.

ARTICLE VIII

The Administrative Agent

Each of the Lenders and each of the Issuing Banks hereby irrevocably appoints the Administrative Agent as its agent both as administrative agent and collateral agent and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof and the other Financing Documents, together with such actions and powers as are reasonably incidental thereto.

The bank serving as the Administrative Agent hereunder and under the other Financing Documents shall have the same rights and powers in its capa city as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with any Borrower or any Subsidiary or other Affiliate thereof as if it were not the Administrative Agent hereunder.

The Administrative Agent shall not have any duties or obligations except those expressly set forth herein or in the other Financing Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or thereby that the Administrati ve Agent is required to exercise in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02), and (c) except as expressly set forth herein, the Administrative Agent shall not have any duty to disclose, and shall not be liable for any failure to disclose, any information relating to the Borrowers or any of their Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is gi ven to the Administrative Agent by the Borrowers or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement, (ii) the contents of any certificate, report or other document delivered hereunder or in connection herewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrowers), 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 ad vice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all of its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

With respect to the release of Collateral, the Lenders hereby irrevocably authorize t he Administrative Agent, at its option and in its discretion, to release any Lien granted to or held by the Administrative Agent upon any property covered by this Agreement or the other Financing Documents (i) upon termination or expiration of the Commitments, the payment and satisfaction of all obligations arising with respect to the Loans, all fees and expenses, the expiration or termination of all the Letters of Credit and the reimbursement of all LC Disbursements; or (ii) constituting property being sold or disposed of in compliance with the provisions of the Financing Documents (and the Administrative Agent may rely in good faith conclusively on any certificate stating that the property is being sold or disposed of in compliance with the provisions of the Financing Documents, without further inquiry); provided, however, that (x) the Administrative Agent shall not be required to execute any release on terms which, in the Administrative Agent's opinion, would expose the Administrative A gent to liability or create any obligation or entail any consequence other than the release of such Liens without recourse or warranty, and (y) such release shall not in any manner discharge, affect or impair any Liens upon all interests retained, all of which shall continue to constitute part of the property covered by the Financing Documents.

With respect to perfecting security interests in Collateral which, in accordance with Article 9 of the Uniform Commercial Code or any comparable provision of any Lien perfection statute in any applicable jurisdiction, can be perfected only by possession, each Lender hereby appoints each other Lender its agent for the purpose of perfecting such interest. Should any Lender (other than the Administrative Agent) obtain possession of any such Collateral, such Lender shall notify the Administrative Agent, and, promptly upon the Administrative Agent's request, shall d eliver such Collateral to the Administrative Agent or in accordance with the Administrative Agent's instructions. Each Lender agrees that it will not have any right individually to enforce or seek to enforce this Agreement or any other Financing Document or to realize upon any Collateral for the Loans, it being understood and agreed that such rights and remedies may be exercised only by or with the approval of the Administrative Agent.

In the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale, the Administrative Agent or any Lender may be the purchaser of any and all of such Collateral at any such sale and the Administrative Agent, as agent for and representative of the Lenders (but not any Lender or Lenders in its or their respective individual capacities) shall be entitled, for the purpose of bidding and making settlement or payment of th e purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Loans as a credit on account of the

purchase price for any collateral payable by the Agent at such sale. The Administrative Agent shall not be required to foreclose under, or otherwise exercise any rights and remedies under, any Mortgage if at the time that the Administrative Agent is required or directed to do so, (a) the Administrative Agent has not received environmental assessment reports reasonably satisfact ory to it with respect to the property encumbered by such Mortgage, prepared by environmental testing firms reasonably satisfactory to it, indicating that the property encumbered by such Mortgage and the operations at such property are not in material violation of applicable Environmental Laws or (b) the Administrative Agent is not otherwise reasonably satisfied that there is no material environmental liability with respect to the applicable property or the operations at such property.

In the event that a petition seeking relief under Title 11 of the United States Code or any other Federal, state or foreign bankruptcy, insolvency, liquidation or similar law is filed by or against any Borrower or any other Person obligated under the Financing Document, the Administrative Agent is authorized, to the fullest extent permitted by applicable law, to file a proof of claim on behalf of itself and the Lenders in such pro ceeding for the total amount of obligations owed by such Person. With respect to any such proof of claim which the Administrative Agent may file, each Lender acknowledges that without reliance on such proof of claim, such Lender shall make its own evaluation as to whether an individual proof of claim must be filed in respect of such obligations owed to such Lender and, if so, take the steps necessary to prepare and timely file such individual claim.

Subject to the limitations set forth below, the Administrative Agent may, at its option, from time to time, at any time on or after a Default and for so long as the same is continuing or upon any other failure of a condition precedent to providing Loans and Letters of Credit hereunder, make such disbursements and advances ("Special Agent Advances") which the Administrative Agent, in good faith, (a) deems necessary or desirable either to preserv e or protect the Collateral or any portion thereof or (b) enhance the likelihood of, or maximize the amount of, repayment by the Borrowers and Guarantors of the Loans and other Obligations; provided, that, the aggregate principal amount of the Special Agent Advances pursuant to this clause (b) shall not exceed 10% of the Commitment or result in the total amount of Obligations outstanding to exceed the Commitment or (c) to pay any other amount chargeable to any Borrower or Guarantor pursuant to the terms of this Agreement or any of the other Financing Documents consisting of (i) costs, fees and expenses and (ii) payments to any Issuing Bank. Special Agent Advances shall be repayable on demand and together with all interest thereon shall constitute Obligations secured by the Collateral; provided, that if a Special Agent Advance remains outstanding for more than 60 days, the Required Lenders may revoke the Administrative Agent's authorization to make Special Agent Advances. Any su ch revocation must be in writing and shall become effective prospectively upon the Agent's receipt thereof. Special Agent Advances shall not constitute Loans but shall otherwise constitute Obligations hereunder. Interest on Special Agent Advances shall be payable at the interest rate then payable on Alternate Base Rate Loans from time to time and shall be payable on demand. Without limitation of its obligations pursuant to the first sentence of Section 2.01, each Lender agrees that it shall make available to the Administrative Agent, upon the Administrative Agent's demand, in immediately available funds, the amount equal to such Lender's pro rata share of each such Special Agent Advance. If such funds are not made available to the Administrative Agent by such Lender, the Administrative Agent shall be entitled to recover such funds, on demand from such Lender together with interest thereon for each day from the date such payment was due until the date such amount is paid to the Administrative Agent at the Federal Funds Effective Rate for each day during such period and if such amounts are not paid within three (3) days of the Administrative Agent's demand, at an interest rate equal to the LIBO Rate plus 2.5% per annum.

Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time by notifying the Lenders, the Issuing Banks and the Borrowers. Upon any such resignation, the Required Lenders shall have the right, with the

approval of the Borrowers (not to be unreasonably withheld, except that no such approval shall be required upon the occurrence and continuance of a Default), to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank with such an office. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrowers to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrowers and such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent.

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender 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 also acknow ledges that it will, independently and without reliance upon the Administrative Agent or any other Lender 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 related agreement or any document furnished hereunder or thereunder. Each Lender acknowledges the potential conflict of interest of each other Lender as a result of Lenders holding disproportionate interests in the Loans, and expressly consents to and waives any claim based upon such conflict of interest.

The parties hereto agree that the titles Co-Syndication Agent and Co-Documentation Agent are honorary and confer no duties upon such agents except as a Lender hereunder, provided that each Co-Syndication Agent and Co-Documentation Agent shall be entitled to the rights and benefits specifically provid ed for herein.

ARTICLE IX

Miscellaneous

Section 9.01. Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) 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 telecopy, as fo llows:

(i) if to the Borrowers, to them at 200 Madison Avenue, New York, New York 10016, Attention of Pamela Hootkin (Telecopy No. 212-381-3970) with copies for informational purposes only to Mark Fischer, Esq., Phillips-Van Heusen Corporation, 200 Madison Avenue, New York, New York 10016 (Telecopy No. 212-381-3970) and Jeffrey L. Elegant, Esq., Katten Muchin Rosenman LLP 525 W. Monroe Street, Suite 1600, Chicago, Illinois 60661-3693 (Telecopy No. 312-577-4676);

(ii) if to the Administrative Agent or the Swingline Lender, to JPMorgan Chase Bank, N.A., 530 Fifth Avenue, 8th Floor New York, NY 10036, Attention of Donna DiForio, Account Officer (Telecopy No. 212-837-3301) with copies for information purposes only to David L. Ruediger, Esq., Edwards Angell Palmer & Dodge LLP, 111 Huntington Avenue at Prudential Center, Boston, MA 02199 (Telecopy No. 617-227-4420); and

(iii) if to any other Lender, to it a t its address (or telecopy number) set forth in its Administrative Questionnaire.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrowers may, in their discretion, agree to accept notices and other communications to them hereunder by electronic communications pursuant to procedures approved by them; provided that approval of such procedures may be limited to particular notices or communications.

(c) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

Section 9.02. Waivers; Amendments.

(a) No failure or delay by the Adminis trative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder 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 Administrative Agent, the Issuing Banks and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Borrowers therefrom shall in any event be effective unless given in accordance with paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a wa iver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders or by the Borrowers and the Administrative Agent with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan, Note or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender directly affected thereby, (ii i) postpone the Maturity Date or the scheduled date of payment of the principal amount of any Loan (other than pursuant to Section 2.10(c) hereof) or LC Disbursement, or any interest thereon, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby, (iv) change Section 2.17(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) increase any percentage or amount contained in the definition of Borrowing Base, release all or substantially all of

the Collateral or make overadvances without the written consent of each Lender, (vi) release any Guarantee (other than in accordance with its terms) without the written consent of each Lender or (vii) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender; provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Issuing Banks or the Swingline Lender hereunder without the prior written consent of the Administrative Agent, each of the Issuing Banks or the Swingline Lender, as the case m ay be.

Section 9.03. Expenses; Indemnity; Damage Waiver.

(a) The Borrowers shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent, in connection with the syndication of the credit facilities provided for herein, the preparation of this Agreement or any amendments, modifications or waivers requested by the Borrowers of the provisions hereof (whether or not the transactions contemplated hereby or thereby sh all be consummated), (ii) all reasonable out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) during the continuance of a Default, all out-of-pocket expenses incurred by the Administrative Agent, any Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for the Administrative Agent, any Issuing Bank or any Lender, in connection with the enforcement or protection of its rights in connection with this Agreement, including its rights under this Section, or 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.

(b) The Borrowers shall indemnify the Administrative Agent, each Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement or any agreement or instrument contemplated hereby, the performance by the parties hereto of their respective obligations hereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by an 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), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrowers or any of its Subsidiaries, or any Environmental Liability related in any way to the Borrowers or any of their Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory 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, claim, damages, liabilities or related expenses are attributable to an action brought by one Indemnitee against another Indemnitee or 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.

(c) To the extent that the Borrowers fail to pay any amount required to be paid by it to the Administrative Agent, any Issuing Bank or the Swingline Lender under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent, the applicable Issuing Bank or

the Swingline Lender, 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 and based upon the Revolving Credit Exposure) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent, any Issuing Bank or the Swingline Lender in its capacity as such.

(d) To the extent permitted by applicable law, the Borrowers shall not assert, and hereby waive, 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, thi s Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable promptly after written demand therefor.

Section 9.04. Successors and Assigns.

(a) The provisions of this Agreement shall be b inding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of any Issuing Bank that issues any Letter of Credit), except that (i) other than in accordance with Section 6.03, the Borrowers may not assign or otherwise transfer any of their rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrowers without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. 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 (including an Affiliate of any Issuing Bank that issues any Letter of Credit) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld) of:

(A) the Borrowers, provided that no consent of the Borrowers shall be required for an assignment to a Lender, an Affiliate of a Lender, or, if a Default under Article VII has occurred and is continuing, any other assignee; and

(B) the Administrative Agent (such consent not to be unreasonably withheld).

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than $5,000,000 unless each of the Borrowers and the Administrative Agent otherwise consent, provided that no such

consent of the Borrowers shall be required if a Default under Article VII has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $5,000; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obli gations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.14, 2.15, 2.16 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrowers, shall maintain at one of its offices 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 Commitment of, and principal amount of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrowers, the Administrative Agent, the Issuing Banks and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers, any Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its rece ipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section, any Note or Notes subject to such assignment and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph. Upon notice to the Borrowers, at the Borrowers' expense, the Borrowers shall execute and deliver to the Administrative Agent in exchange for such surrendered Notes, new Notes to the order of the assignee in an

amount equal to the portion of the Commitments assumed by it pursuant to such Assignment and Assumption and, if the assigning Lender has retained any Commitment hereunder, new Notes to the order of the assigning Lender in an amount equal to the Commitment retained by it hereunder.

(c) (1) Any Lender may, without the consent of the Borrowers, the Administrative Agent, any Issuing Bank or the Swi ngline Lender, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and 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 Banks 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. 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 ins trument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrowers agree, to the fullest extent permitted under applicable law, that each Participant shall be entitled to the benefits of Sections 2.14, 2.15 and 2.16 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.17(c) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.14 or 2.16 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrowers' prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.16 unless the Borrowers are notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrowers, to comply with Section 2.16(e) as though it were a Lender.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement and the No tes issued to such Lender to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 9.05. Survival. All covenants, agreements, representations and warranties made by the Borrowers herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the executi on and delivery of this Agreement and the making of any Loans and the issuance of any Letters of Credit regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender 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 this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections

2.14, 2.15, 2.16 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

Section 9.06. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together sha ll constitute a single contract. This Agreement, the other Financing Documents and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. 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 which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 9.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof, and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 9.08. Right of Setoff. If an Event of Default shall have occurre d and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Borrowers or their Subsidiaries against any of and all the obligations of the Borrowers or their Subsidiaries now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

Section 9.09. GOVERNING LAW; JURISDICTION; CONSENT TO SERVICE OF PROCESS. ii) THIS AGREEMENT, IN ACCORDANCE WITH SECTION 5-1401 OF THE GENERAL OBLIGATION LAW OF THE STATE OF NEW YORK, SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ANY CONFLICTS OF LAWS PRINCIPLES THEREOF THAT WOULD CALL FOR THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION.

(b) Each of the Borrowers hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court for the Southern District of New York, and any appellat e court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that the Administrative Agent, any Issuing Bank or any

Lender may otherwise have to bring any action or proceeding relating to this Agreement against the Borrowers or their properties in the courts of any jurisdiction.

(c) Each of the Borrowers hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which 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 in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. 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 9.10. 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 ANY LEGAL P ROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, 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 9.11. Headings. 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 n ot affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 9.12. Confidentiality. Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, rating agencies, portfolio management servicers, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority, (c) to the extent requir ed by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement, (g) with the consent of the Borrowers or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, any Issuing Bank or any Lender on a nonconfidential basis from a source other than the Borrowers. For the purposes of this Section, "Information" means all information received from the Borrowers relating to the Borrowers or their businesses, other than any such in formation that is available to the Administrative Agent, any Issuing Bank or any Lender on a nonconfidential basis prior to disclosure by the Borrowers; provided that, in the case of information received from the Borrowers after the date hereof, such information is clearly identified at the time of delivery as confidential. Should a party be required to disclose Information pursuant to a subpoena, similar legal process or applicable law or regulations, such party shall, to the extent permitted by

applicable law, notify the Borrowers. 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 9.13. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, char ged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Section 9.14. USA P atriot Act. Each Lender hereby notifies the Borrowers that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies each Borrower, which information includes the name and address of each Borrower and other information that will allow such Lender to identify such Borrower in accordance with the Act.

Section 9.15. Acknowledgement.

(a) This is an amendment and res tatement of, and is in substitution and replacement for, the Existing Credit Agreement. Each of the Borrowers agrees that the obligations of such Borrower to the Administrative Agent and each of the Lenders as evidenced by or otherwise arising under the other Financing Documents, except as otherwise expressly modified in this Agreement upon the terms set forth herein, are, by such Borrower's execution of this Agreement, ratified and confirmed in all respects. The Security Agreement and each other Financing Document to which such Borrower is a party and all security interests and Liens granted thereunder shall continue in full force and effect and is and shall continue to be applicable to all of the Obligations and to this Agreement. Each of the Borrowers acknowledges and agrees that as of the Effective Date, the aggregate outstanding principal amount of the Loans is an amount equal to $0 and the aggregate outstanding principal amount available for drawing under outstanding Letters of C redit is $134,526,148.24.

(b) Each of the Borrowers acknowledges and agrees that, as of the Effective Date: (i) none of the Borrowers has any claim or cause of action against any of the Lenders or the Administrative Agent (or any of their directors, officers, employees, attorneys or agents); (ii) none of the Borrowers has offset rights, counterclaims or defenses of any kind against any of their obligations, indebtedness or liabilities to any of the Lenders or the Administrative Agent; and (iii) each of the Lenders and the Administrative Agent have heretofore properly performed and satisfied in a timely manner all of their obligations to the Borrowers. Therefore, each of the Borrowers, on its own behalf and on behalf of each of its respective successors and assigns, hereby waive, release and discharge the Lenders and the Administrative Agent and all of their directors, officers, employees, attorneys and agents, from any and all claims, demands, actions or causes of action arising out of or in any way relating to the Financing Documents.

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

PHILLIPS-VAN HEUSEN CORPORATION, Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: Sr. V.P.

THE IZOD CORPORATION, Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

PVH WHOLESALE CORP., Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

PVH RETAIL CORP., Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

IZOD.COM. INC., Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

G.H. BASS FRANCHISES INC., Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

CD GRO UP INC., Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

PVH CK STORES, INC., Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

PVH OHIO, INC., Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

PVH MICHIGAN, INC., Borrower

By:
/s/ Pamela N. Hootkin

Name: Pamela N. Hootkin
Title: V.P.

PVH PENNSYLVANIA, INC., Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

PVH WHOLESALE NEW JERSEY, INC., Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

PVH RETAIL MANAGEMENT COMPANY,
Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

PVH SUPERBA/ INSIGNIA NECKEWEAR, INC.,
Borrower

By:/s/ Pamela N. Hootkin
Name: Pamela N. Hootkin
Title: V.P.

[Signature Page to PVH Credit Agreement]

JPMORGAN CHASE BANK, N.A., individually and as Administrative and Collateral Agent and Swingline Lender

By: /s/ Donna M. DiForio
Name: Donna M. DiForio
Title: Vice President

[Signature Page to PVH Credit Agreement]

BANK OF AMERICA, N.A., individually and as Joint Lead Arranger and Co-Syndication Agent,

By: /s/ Christine Hutchinson
Name: Christine Hutchinson
Title: Vice President

[Signature Page to PVH Credit Agreement]

SUNTRUST BANK, individually and as Co-Syndication Agent,

By: /s/ Mark Picketing
Name: Mark Picketing
Title: Director

[Signature Page to PVH Credit Agreement]

WACHOVIA BANK, NATIONAL ASSOCATION,
individually and as Co-Documentation Agent,

By:/s/ Constantine Kikos
Name: Constantine Kikos
Title: Associate

[Signature Page to PVH Credit Agreement]

THE CIT GROUP/COMMERCIAL SERVICES, INC., individually and as Co-Documentation Agent,

By: /s/ James Bodie
Name: James Bodie
Title: VP Account Executive

[Signature Page to PVH Credit Agreement]

THE BANK OF NEW YORK

By:/s/ Erin Morissey
Name: Erin Morissey
Title: Assistant Vice President

[Signature Page to PVH Credit Agreement]

PNC BANK, NATIONAL ASSOCIATION

By:/s/ Edward Chonko
Name: Edward Chonko
Title: Vice President

[Signature Page to PVH Credit Agreement]

WEBSTER BUSINESS CREDIT CORPORATION

By:/s/ Daniel Stampfel
Name: Daniel Stampfel
Title: V.P.

[Signature Page to PVH Credit Agreement]

BANK LEUMI USA

By:/s/ Joel Koenigsberg
Name: Joel Koenigsberg
Title: First Vice President

By:/s/ Nancy Pulla
Name: Nancy Pulla
Title: Assistant Treasurer

[Signature Page to PVH Credit Agreement]

SCHEDULE 1.02

Fiscal Months of the Borrowers

< td width=319 style="BORDER-RIGHT:#000000 1px solid; MARGIN-TOP:0px; BORDER-BOTTOM:#000000 1px solid" valign=top>
July 6, 2008

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Fiscal Month	Month End Date
May 2007	June 3, 2007
June 2007	July 8, 2007
July 2007	August 5, 2007
August 2007	September 2, 2007
September 2007	October 7, 2007
October 2007	November 4, 2007
November 2007	December 2, 2007
December 2007	January 6, 2008
January 2008	February 3, 2008
February 2008	March 2, 2008
March 2008	April 6, 2008
April 2008	May 4, 2008
May 2008	June 1, 2008
June 2008	
July 2008	August 3, 2008
August 2008	August 31, 2008
September 2008	October 5, 2008
October 2008	November 2, 2008
November 2008	November 30, 2008
December 2008	January 4, 2009
January 2009	February 1, 2009
February 2009	March 1, 2009
March 2009	April 5, 2009
April 2009	May 3, 2009
May 2009	May 31, 2009
June 2009	July 5, 2009
July 2009	August 2, 2009
August 2009	August 30, 2009
September 2009	October 4, 2009
October 2009	November 1, 2009
November 2009	November 29, 2009
December 2009	January 3, 2010
January 2010	January 31, 2010
February 2010	February 28, 2010
March 2010	April 4, 2010
April 2010	May 2, 2010
May 2010	May 30, 2010
June 2010	July 4, 2010
July 2010	August 1, 2010
August 2010	August 29, 2010
September 2010	October 3, 2010

Fiscal Mont h	Month End Date
October 2010	October 31, 2010
November 2010	November 28, 2010
December 2010	January 2, 2011
January 2011	January 30, 2011
February 2011	February 27, 2011
March 2011	April 3, 2011
April 2011	May 1, 2011
May 2011	May 29, 2011
June 2011	July 3, 2011
July 2011	July 31, 2011
August 2011	August 28, 2011
September 2011	October 2, 2011
October 2011	October 30, 2011
November 2011	November 27, 2011
December 2011	January 1, 2012
January 2012	January 29, 2012
Feb ruary 2012	February 26, 2012
March 2012	April 1, 2012
April 2012	April 29, 2012
May 2012	May 27, 2012
June 2012	July 1, 2012
July 2012	July 29, 2012
August 2012	August 26, 2012
September 2012	September 30, 2012
October 2012	October 28, 2012
November 2012	November 25, 2012
December 2012	December 30, 2012
January 2013	February 3, 2013

SCHEDULE 2.01

Commitments

$10,000,000

Lender	Commitment
JPMorgan Chase Bank, N.A.	$65,000,000
Bank of America, N.A.	$65,000,000
Sun Trust Bank	$40,000,000
Wachovia Bank, National Association	$50,000,000
The CIT Group/Commercial Services, Inc.	$35,000,000
PNC Bank, National Association	$30,000,000
The Bank of New York	$20,000,000
Webster Business Credit Corporation	
Bank Leumi USA	$10,000,000

EXHIBIT A

FORM OF ASSIGNMENT AND ASSUMPTION

Reference is made to the Second Amended and Restated Credit Agreement dated as of July ___, 2007 (as amended and in effect on the date hereof, the "Credit Agreement"), among Phillips-Van Heusen Corporation, The IZOD Corporation, PVH Wholesale Corp., PVH Retail Corp., izod.com inc., G.H. Bass Franchises Inc., CD Group Inc., PVH CK Stores, Inc., PVH Ohio , Inc., PVH Michigan, Inc., PVH Pennsylvania, Inc., PVH Wholesale New Jersey, Inc., PVH Retail Management Company, PVH Superba/Insignia Neckwear, Inc., the Lenders named therein, and JPMorgan Chase Bank, N.A., as Administrative and Collateral Agent for the Lenders. Terms defined in the Credit Agreement are used herein with the same meanings.

The Assignor named on the reverse hereof hereby sells and assigns, without recourse, to the Assignee named on the reverse hereof, and the Assignee hereby purchases and assumes, without recourse, from the Assignor, effective as of the Assignment Date set forth on the reverse hereof, the interests set forth on the reverse hereof (the "Assigned Interest") in the Assignor's rights and obligations under the Credit Agreement, including, without limitation, the interests set forth on the reverse hereof in the Commitment of the Assignor on the Assignment Date and Loans owing to the Assignor which are outstanding on the Assignment Date, together with the participations in Letters of Credit and LC Disbursements held by the Assignor on the Assignment Date, but excluding accrued interest and fees to and excluding the Assignment Date. The Assignee hereby acknowledges receipt of a copy of the Credit Agreement and the other Financing Documents. From and after the Assignment Date (i) the Assignee shall be a party to and be bound by the provisions of the Credit Agreement and, to the extent of the Assigned Interest, have the rights and obligations of a Lender thereunder and (ii) the Assignor shall, to the extent of the Assigned Interest, relinquish its rights and be released from its obligations under the Credit Agreement.

This Assignment and Assumption is being delivered to the Administrative Agent together with (i) if the Assignee is a Foreign Lender, any documentation required to be d elivered by the Assignee pursuant to Section 2.16(e) of the Credit Agreement, duly completed and executed by the Assignee, and (ii) if the Assignee is not already a Lender under the Credit Agreement, an Administrative Questionnaire in the form supplied by, the Administrative Agent, duly completed by the Assignee. The Assignee shall pay the fee payable to the Administrative Agent pursuant to Section 9.04(b) of the Credit Agreement.

This Assignment and Assumption shall be governed by and construed in accordance with the laws of the State of New York.

Date of Assignment: _____, 200

Legal Name of Assignor:

Legal Name of Assignee:

Assignee's Address for Notices:

Effective Date of Assignment ("Assignment Date"): _____, 200

Facility	Principal Amount Assigned	Percentage (set forth to at least 8 decimals) that the Assigned Interest represents of the Commitments
Commitment Assigned:	$	%
Loans Assigned:	$	%

The terms set forth above and on the reverse side hereof are hereby agreed to:

[_____], as Assignor

By:

Name:

Title:

[_____], as Assignee

By:

Name:

Title:

The undersigned hereby consent to the within assignment:

JPMORGAN CHASE BANK, N.A.,
as Administrative and Collateral Agent

By:

Name:

Title:

BORROWERS:

PHILLIPS-VAN HEUSEN CORPORATION

By:

Name:

Title:

THE IZOD CORPORATION

By:

Name:

Title:

PVH WHOLESALE CORP.

By:

Name:

Title:

PVH RETAIL CORP.

By:

Name:

Title:

IZOD.COM INC.

By:

Name:

Title:

G.H. BASS FRANCHISES INC.

By:

Name:

Title:

CD GROUP INC.

By:

Name:

Title:

PVH CK STORES, INC.

By:

Name:

Title:

PVH OHIO, INC.

By:

Name:

Title:

PVH MICHIGAN, INC.

By:

Name:

Title:

PVH PENNSYLVANIA, INC.

By:

Name:

Title:

PVH WHOLESALE NEW JERSEY, INC.

By:

Name:

Title:

PVH RETAIL MANAGEMENT COMPANY

By:

Name:

Title:

PVH SUPERBA/INSIGNIA NECKWEAR, INC.

By:

Name:

Title:

EXHIBIT B

July 10, 2007

JPMorgan Chase Bank, N.A., as

Administrative and Collateral Agent

530 Fifth Avenue, 8th Floor
New York, NY 10036

and

The Lenders listed on Schedule A hereto

Re: Phillips-Van Heusen Corporation
Second Amended and Restated Revolving Credit Agreement

Ladies and Gentlemen:

We have acted as special counsel to Phillips-Van Heusen Corporation, a Delaware corporation (the "Company&# 148;), in connection with the preparation, execution and delivery of the Second Amended and Restated Revolving Credit Agreement dated as of July 10, 2007 (the "Credit Agreement"), among the Company, certain of its subsidiaries listed on Schedule B hereto as co-borrowers, the parties identified on Schedule A hereto (the "Lenders"), JPMorgan Chase Bank, N.A., as Administrative and Collateral Agent (in such capacities, the "Agent"), J.P. Morgan Securities, Inc., as Joint Lead Arranger and Sole Bookrunner, Bank of America, N.A., as Joint Lead Arranger and Co-Syndication Agent and certain other agreements, instruments and documents related to the Credit Agreement. This opinion is being delivered pursuant to Section 4.01(b) of the Credit Agreement. Terms used herein and defined in the Credit Agreement, but not otherwise defined herein, shall have the same meanings herein as ascribed thereto in the Credit Agreement. The Com pany, its subsidiaries listed on Schedule B hereto as co-borrowers and its subsidiaries listed on Schedule C hereto as Guarantors are collectively referred to herein as the "Opinion Parties" and individually as an "Opinion Party."

In rendering the opinions set forth herein, we have examined such certificates of public officials, certificates of officers of the Opinion Parties and copies certified to our satisfaction of corporate documents and records of the Opinion Parties, and have made such other investigations, as we have deemed relevant and necessary as a basis for such opinions. As to questions of fact material to the opinions set forth herein, we have relied, to the extent we have deemed reliance appropriate, without investigation, upon said certificates of public officials and of officers of the Opinion Parties and representations and warranties of the Opinion Parties in the Transaction Agreements.

In rendering the opinions set forth herein, we have examined and relied on originals or copies of the following all dated as of July 10, 2007, unless otherwise indicated:

(a) the Credit Agreement;

(b) the Notes;

(c) the Security Agreement (as confirmed by the Confirmation of Omnibus Pledge and Security Agreement dated as of the date hereof);

(d) the Guarantee (as confirmed by the Omnibus Confirmation of Subsidiary Guaranty dated as of the date hereof);

(e) the Mortgages (as amended by the Mortgage Amendments dated as of the date hereof);

(f) Subsidiary Guarantee dated as of July 10, 2007, by PVH Realty Corp. in favor of Agent;

(g) Pledge Amendment dated as of July 10, 2007, by the Company in favor of Agent ("Pledge Amendment");

(h) Pledgor Addendum dated as of July 10, 2007, by PVH Realty Corp. in favor of Agent ("Pledgor Addendum");

(i) certified copies of the Certificate of Incorporation, Certificate of Formation, Operating Agreement and By-laws, as applicable, of each Opinion Party;

(j) certified copies of certain resolutions of the Boards of Directors or Managers of each of the Opinion Parties;

(k) certificates from the Secretary of State of the States of Delaware, Pennsylvania and New York as to each Opinion Party's existence and good standing in the State of Delaware, New York or Pennsylvania, as applicable;

(l) copies of financing statements (collectively, the "Financing Statements") identifying each Opinion Party as debtor and JPMorgan Chase Bank, N.A., as Administrative Agent as secured party, which have been filed or in the case of PVH Realty Corp., Phillips-Van Heusen Puerto Rico LLC and PVH Europe, Inc., which we understand will be filed by the Agent within ten (10) days of the transfer of the security interest in the Office of the Secretaries of State of the States of Delaware and New York, as applicable (such filing offices the "Filing Offices"); and

(m) such other documents as we have deemed necessary or appropriate as a basi s for the opinions set forth below herein.

The documents listed in clauses (a) through (h) above shall hereinafter be referred to collectively as the "Transaction Agreements." "Applicable Laws" shall mean those laws, rules and regulations of the State of New York, the corporation and limited liability company laws of the State of Delaware and the laws, rules and regulations of the United States of America which, in our experience, are normally applicable to transactions of the type contemplated by the Transaction Agreements, without our having made any special investigation as to the

applicability of any specific law, rule or regulation, and which are not the subject of a specific opinion herein referring expressly to a particular law or laws. "Governmental Approval" means any consent, approval, license, authorization or validation of, or filing, recording or registration with, any governmental authority pursuant to an Applicable Law. "Applicable Contracts" means those agreements or instruments listed on Schedule D hereto. "New York UCC" means the Uniform Commercial Code as in effect on the date hereof in the State of New York (without regard to laws referenced in Section 9-201 thereof). "Delaware UCC" means the Uniform Commercial Code as in effect on the date hereof in the State of Delaware (without regard to laws referenced in Section 9-201 thereof). "UCC" means the New York U CC and the Delaware UCC, as applicable. "UCC Collateral" means that portion of the following collateral to the extent such collateral is of a type subject to Article 9 of the UCC: (a) the Collateral (as such term is defined in the Security Agreement) and (b) the Equity Interests as listed on Schedule E hereto.

Based upon the foregoing and subject to the limitations, qualifications, exceptions and assumptions set forth herein, we are of the opinion that:

1. Based solely on our review of the certificates described in clause (k) above, each Opinion Party is validly existing and in good standing under the corporation or limited liability company laws of the States of De laware, New York and Pennsylvania.

2. Each Opinion Party (other than The IZOD Corporation) has the corporate or limited liability company power and authority, as applicable, to execute, deliver and perform all of its obligations under each of the Transaction Agreements to which it is a party. The execution and delivery of each of the Transaction Agreements and the consummation by each Opinion Party (other than The IZOD Corporation) of the transactions contemplated thereby have been duly authorized by all requisite corporate or limited liability company action on the part of each Opinion Party (other than The IZOD Corporation). Each of the Transaction Agreements has been duly executed and delivered by each Opinion Party (other than The IZOD Corporation).

3. Each of the Transaction Agreements (other than the Mortgages and the Mortgage Amendments) constitutes the valid and binding obligation of each Opinion Party enforceable against such Opinion Party in accordance with its terms under the Applicable Laws of the State of New York.

4. The execution and delivery by the Opinion Parties of each of the Transaction Agreements to which they are a party and the performance by the Opinion Parties of their respective obligations under each of the Transaction Agreements to which they are a party, each in accordance with its terms, does not (i) conflict with the Certificates of Incorp oration or Certificates of Organization, as applicable, of the Opinion Parties (except we give no opinion with respect to The IZOD Corporation), (ii) constitute a violation of, or a default under, any Applicable Contracts or (iii) cause the creation of any security interest or lien (other than the liens granted under, or created by, the Security Agreement and the Mortgages) upon any of the property of the Opinion Parties pursuant to any Applicable Contracts.

5. Neither the execution, delivery or performance by the Opinion Parties of the Transaction Agreements nor compliance by the Opinion Parties with the terms and

provisions thereof will contravene any provision of any Applicable Law.

6. No Governmental Approval, which has not been obtained or taken and is not in full force and effect, is required to authorize, or is required in connection with, the execution or delivery of any of the Transaction Agreements by the Opinion Parties or the enforceability of any of the Transaction Agreements against the Opinion Parties, except those Governmental Approvals set forth on Schedule F attached hereto.

7. To our knowledge, neither the execution, delivery or performance by each Opinion Party of its obligations under the Transaction Agreements nor compliance by each Opinion Party with the terms hereof will contravene any order or decree of any Governmental Authority against such Opinion Party.

8. The Opinion Parties are not and, solely after giving effect to the Transaction Agreements and the application of the proceeds thereof as described in the Credit Agreement, will not be subject to registration and regulation as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

9. Under the New York UCC, the provisions of the Security Agreement and Pledgor Addendum are effective to create a valid security interest in each Opinion Party's rights in the UCC Collateral granted by such Opinion Party in favor of the Agent to secure the Secured Obligations (as defined in the Security Agreement).

10. Pursuant to the provisions of the Security Agreement, each Opinion Party, other than PVH Realty Corp., previously authorized, and pursuant the Pledgor Addendum, PVH Realty Corp. has authorized, the filing of its respective Financing Statement for purposes of Section 9-509 of the Delaware UCC.

11. To the extent that the filing of a financing statement can be effective to perfect a security interest in the UCC Collateral under the Delaware UCC and New York UCC, the security interests of the Agent (i) in each Opinion Party's (other than The IZOD Corporation's, PVH Realty Corp.'s and PVH Europe, Inc.'s) rights in the UCC Collateral granted by such Opinion Parties to Agent are perfected and (ii) in PVH Realty Corp's, Phillips-Van Heusen Puerto Rico LLC's and PVH Europe, Inc.'s rights in the UCC Collateral granted by such Opinion Parties to Agent will be perfected, upon the later of the attachment of the security interest and the filing of the Financing Statements in the Filing Offices, subject, in the case of proceeds, to the limitations discussed below.

12. In the case of Equity Interests of an Opinion Party previously pledged to Agent pursuant to the Security Agreement where the Equity Interests (other than LLC Interests) have been delivered to Agent in the State of New York, indorsed, by an effective indorsement, either in blank or to Agent, Agent has a valid and perfected security interest in such Equity Interests. In the case of Equity Interests of an Opinion Party being pledged to Agent where the security interest has not yet attached or the Equity Interests have not been delivered to Agent in the State of New York, upon the later of the attachment of the security interest and the delivery of the Equity Interests (other than the LLC Interests) to the Agent in the State of New York, indorsed, by an effective indorsement, either in blank or to the Agent, the Agent will obtain a

valid and perfected security interest in such Equity Interests.

13. Based solely upon our review of the Operating Agreement of G.H. Bass Caribbean LLC (the "LLC Guarantor") such LLC Guarantor has not elected to treat its membership interests (the "LLC Interests") as certificated securities under Applicable Laws.

14. To our knowledge, except as disclosed in the Credit Agreement, there are no actions, suits or proceedings pending or threatened against or affecting any Opinion Party before any court, arbitrator or governmental or administrative body or agency that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Our opinions are subject to the following assumptions and qualifications:

(a) Members of our firm are admitted to the bar of the State of New York. We express no opinion as to the laws of any jurisdiction other than (i) the laws of the State of New York, (ii) the Corp oration Code and the Limited Liability Company Act of the State of Delaware, (iii) the federal laws of the United States of America and (iv) solely with respect to our opinions in paragraphs 10 and 11, the provisions of the Delaware UCC which opinions are based solely on our review of the Commerce Clearing House, Inc. Secured Transactions Guide (Dated January, 2007). Our opinions in paragraph 1 with respect to "good standing" are based solely on our review of good standing certificates from the Secretaries of States of the applicable States referred to in such paragraph. In addition, we express no opinion herein concerning any statutes, ordinances, administrative decisions, rules or regulations of any county, town, municipality or special political subdivision (whether created or enabled through legislative action at the federal, state or regional level).

(b) We have assumed the accuracy and completeness of all documents and records that we have reviewed, the genuineness of all signatures (other than those of the Opinion Parties), the legal capacity of natural persons, the authenticity of all records, documents and instruments submitted to us as originals, the conformity to original records, documents and instruments of all records, documents and instruments submitted to us as certified or photostatic copies, and the authenticity of the originals of such copies.

(c) We have assumed each of the Transaction Agreements constitute the legal, valid and binding obligation of each party (other than the Opinion Par ties) to such Transaction Agreement, enforceable against such party in accordance with its terms.

(d) We have assumed that: (i) the conduct of the parties to the Transaction Agreements complies with any requirement of good faith, fair dealing and conscionability; (ii) there has not been any mutual mistake of fact or misunderstanding, fraud, duress or undue influence; and (iii) all statutes, judicial and administrative decisions, and rules and regulations of governmental agencies applicable to our opinions are generally available to lawyers practicing in New York and are in a format that makes legal research feasible.

(e) Our opinions are subject to the effect of (i) laws relating to bankruptcy, reorganization, insolvency, receivership, moratorium, fraudulent conveyance, or other similar laws now or hereafter in effect relating to or limiting creditors rights generally, (ii) the

application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), and (iii) the exercise of judicial discretion. The use of the term "enforceable" in this opinio n letter does not imply any opinion as to the availability of equitable remedies.

(f) Applicable state and federal laws, court decisions and constitutional requirements may limit or render unenforceable certain of the rights, provisions and remedies purportedly available under the Transaction Agreements or delay or increase the costs of the enforcement thereof. It is our opinion, however, that none of the foregoing laws, decisions or requirements will materially interfere with the practical and ultimate realization of the material benefits intended to be provided by the Transaction Agreements.

(g) In basing the opinions and other matters set forth herein to "our knowledge", the words "our knowledge" signify that, in the course of our representation of the Opinion Parties in connection with the Transaction Agreements, no information has come to our attention that would give us actual existing knowledge or actual existing notice that any such opinions or other matters are not accurate or that any of the documents, certificates, reports, and information on which we have relied are not accurate and complete. We have undertaken no independent investigation or verification of such matters. The words "our knowledge" are intended to be limited to the actual knowledge of the lawyers within our firm having, in connection with our representation in this matter, detailed knowledge of the transaction evidenced by the Transaction Agreements and the substance of this opinion.

(h) No opinion is given with regard to the priority of any security interests in any UCC Collateral, Equity Interests or other property.

(i) No opinion is given with regard to the creation, attachment or perfection of any security interests in any UCC Collateral, Equity Interest or property except as expressly set forth in paragraphs 9, 10, 11 and 12 above.

(j) No opinion is given with respect to the effect of any (A) federal or state securities laws or regulations, (B) antitrust or unfair competition laws or regulations, (C) pension or employment benefit laws or regulations or (D) construction, environmental, subdivision, zoning, health, safety or land use laws or regulations.

The opinions expressed in paragraphs 9 through 12 above are subject to the following additional qualifications:

(i) We have assumed that the UCC Collateral and Equity Interests exist and that each Opinion Party has sufficient rights in the UCC Collateral and Equity Interests pledged by it for the security interest of the A gent to attach, and we express no opinion as to the nature or extent of any rights in, or title to, any of the UCC Collateral, Equity Interests or other property.

(ii) Our security interest opinions are limited to Article 9 of the New York UCC and Delaware UCC (as qualified by subsection (a) above), and therefore such opinions do not address: (i) laws of jurisdictions other than New York or Delaware; and (ii) collateral of a type not subject to Article 9 of the Delaware UCC.

(iii) We call your attention to the fact that the Agent's security interest in the UCC Collateral may be subject to the rights of account debtors in respect of such UCC Collateral, claims and defenses of such account debtors and the terms of agreements with such account debtors.

(iv) We have assumed that none of the UCC Collateral arises or will arise under agreements that prohibit, restrict or condition the assignment of any portion of such UCC Collateral. We express no opinion as to the effect of any such prohibitions or restrictions on assignment contained in any account, lease, instrument, chattel paper, payment intangible, health care receivable or letter of credit right. We note that any such prohibitions or restrictions are subject to the provisions of Sections 9-406, 9-407, 9-408 and 9-409 of the New York UCC.

(v) We express no opinion regarding the security interest of the Agent in any items of UCC Collateral which are subject to a statute, regulation or treaty of the United States of America which provides for a national or international registration or a national or international certificate of title for the perfection of a security interest therein or which specifies a place of filing different from the place specified in the Delaware UCC for filing to perfect such security interest.

(vi) We express no opinion regarding the security interest of the Agent in any of the UCC Collateral consisting of claims against any government or governmental agency (including without limitation the United States of America or any state thereof or any agency or department of the United States of America of any state thereof).

(vii) We express no opinion regarding the security interest of the Agent or perfection thereof in any UCC Collateral that constitutes cash or cash equivalents, exc ept to the extent that they constitute proceeds under Section 9-315 of the New York UCC, during any period of time when they are not held by Agent.

(viii) In the case of goods, we express no opinion regarding the security interest of the Agent in any goods that are: (i) an accession to, or commingled or processed with other goods to the extent the security interest of the Agent is limited by Section 9-315, 9-335 or 9-336 of the New York and Delaware UCC; or (ii) subject to a certificate of title or document of title.

(ix) In the case of an y instrument, chattel paper, account, payment intangible or general intangible which is itself secured by other property or which evidences the lease of other property, we express no opinion with respect to the Agent's rights in and to such underlying property.

(x) We express no opinion regarding the attachment or perfection of any security interests with respect to any of the UCC Collateral consisting of goods which are or are to become fixtures or with respect to any real property interests.

(xi) We express no opinion as to the appl icable choice of law rules that may affect the interpretation or enforcement of any of the Transaction Agreements or the attachment or enforcement of any security interests created, or purported to be created, by any of the

Transaction Agreements.

(xii) We express no opinion with respect to distributions on, or proceeds of, the UCC Collateral or Equity Interests.

(xiii) We have assumed that the Agent acquired its interest in the UCC Collateral and Equity Interests for value, in good faith, and without notice of any adverse claim thereon or any knowledge of any financing statement filed in respect of the UCC Collateral or Equity Interests (other than the Financing Statements and those disclosed in the schedules to the Credit Agreement).

(xiv) We call your attention to the fact that any security interests of the Agent in chattel paper, instruments, deposit accounts, negotiable documents, investment propert y or letter-of-credit rights that are perfected by a method other than filing, conflicting perfected security interests in proceeds of such collateral rank according to the priority in time of filing with respect to collateral in which a security interest of another creditor is perfected by filing.

(xv) We have assumed that each certificate representing the Equity Interests (other than the LLC Interests) is the sole original certificate, that the Equity Interests (other than the LLC Interests) constitute "certificated securities" under the New York UCC, that the Equity Interests (other than the LLC Interests) will be maintained in the continuous possession of Agent in the State of New York and that all Equity Interests (other than the LLC Interests) are indorsed to or reg istered in the name of the Agent or indorsed in blank.

(xvi) The Agent's security interest is subject to the rights of buyers of the goods which comprise the UCC Collateral under Section 9-320 of the New York UCC.

(xvii) The Agent's security interest in any item of UCC collateral will terminate upon a disposition of such item authorized by the Agent free of such security interest.

(xviii) In the case of any interest in or claim under any policy of insurance, the Agent's security interest is limited to proceeds payable to the Opinion Parties or the Agent (and not to any other party named as loss payee under such policies).

(xix) In the case of all property as to which the security interest attaches after the date hereof, Section 552 of the Federal Bankruptcy Code limits the extent to which property acquired by a debtor after the commencement of a case under the Federal Bankruptcy Code may be subject to a security interest arising from a security agreement entered into by the debtor before commencement of such case.

This opinion is bein g furnished to you as of the date hereof and we assume no obligation to advise you of changes that may hereafter be brought to our attention. This opinion is being furnished only to you in connection with the Transaction Agreements and is solely for your benefit and is not to be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by any other person or entity for any purpose without our prior written consent; provided, that each assignee of a Lender that hereafter becomes a "Lender" under the Credit Agreement pursuant to Section 9.04 thereof may rely on this opinion with the same effect

as if it were originally addressed to such assignee.

Very truly yours,

KATTEN MUCHIN ROSENMAN LLP

SCHEDULE A TO OPINION LETTER

Lenders

JPMorgan Chase Bank, N.A.
Sun Trust Bank
The CIT Group/Commercial Services, Inc.
Bank of America, N.A.
The Bank of New York
PNC Bank National Association
Webster Business Credit Corporation
Bank Leumi USA
Wachovia Bank, National Association

SCHEDULE B TO OPINION LETTER

Co-Borrowers

The IZOD Corporation
PVH Wholesale Corp.
PVH Retail Corp.
izod.com inc.
G. H. Bass Franchises Inc.
CD Group Inc.
PVH CK Stores, Inc.
PVH Ohio, Inc.
PVH Michigan, Inc.
PVH Pennsylvania, Inc.
PVH Wholesale New Jersey, Inc.
PVH Retail Management Company
PVH Superba/Insignia Neckwear, Inc.

SCHEDULE C TO OPINION LETTER

Guarantors

BassNet, Inc.
G.H. Bass Caribbean LLC
Phillips-Van Heusen Puerto Rico LLC
PVH Foreign Holdings Corp.
PVH Realty Corp.
Calvin Klein, Inc.
Calvin Klein (Europe), Inc.
Calvin Klein (Europe II) Corp.
CK Service Corp.
PVH Superba Retail Management Company
PVH Europe, Inc.
Cluett Peabody & Co., Inc.
Cluett Peabody Resources Corporation
PVH CK Stores, Inc.
PVH Europe, Inc.

SCHEDULE D TO OPINION LETTER

Applicable Contracts

Indenture dated as of November 1, 1993 by and between the Company and The Bank of New York as Trustee relating to the 7-3/4% Debentures issued by the Company due 2023.

Indenture dated as of May 5, 2003 between the Company and SunTrust Bank as Trustee relating to the 8 1/8% Senior Notes issued by the Company due May 5, 2013.

Indenture dated as of February 18, 2004 between the Company and SunTrust Bank as Trustee relating to the 7 1/4% Senior Notes issued by the Company due February 15, 2011.

Pledge and Security Agreement dated February 12, 2003 among the Company, certain of its Subsidiaries and Calvin Klein.

SCHEDULE E TO OPINION LETTER

Equit y Interests

Name of Issuer	Type of Interests
The IZOD Corporation	Stock
izod.com inc.	Stock
PVH Foreign Holdings Corp.	Stock
PVH Wholesale Corp.	Stock
BassNet, Inc.	Stock
G.H. Bass Franchises Inc.	Stock
PVH Retail Corp.	Stock
New Sidney's, Inc	Stock
CD Group Inc.	Stock
G.H. Bass Caribbean LLC	uncertificated membership interest
CK Service Corporation	Stock
PVH Retail Corp.	Stock
PVH Foreign Holdings Corp.	Stock
CK Service Corporation	Stock
Cluett Peabody & Co., Inc.	Stock
Cluett Peabody Resources Corporation	Stock

Calvin Klein (Europe II), Inc.	Stock
Calvin Klein (Europe), Inc.	Stock
Calvin Klein, Inc.	Stock
Phillips-Van Heusen Puerto Rico, LLC	Certificated Membership Interest
PVH Realty Corp.	Stock
PVH Superba/Insignia Neckwear, Inc.	Stock
PVH Superba Retail Management Corp.	Stock
EBS Litigation, L.L.C.	Certificated
EBS Building, L.L.C.	Certificated
EBS Pension, L.L.C.	Certificated
PVH Europe, Inc.	Stock
PVH Ohio, Inc.	Stock
PVH Michigan, Inc.	Stock
PVH Pennsylvania, Inc.	Stock
PVH Wholesale new Jersey, Inc.	Stock
PVH Retail Management Corp.	Stock

SCHEDULE F TO OPINION LETTER

Governmental Approvals

To the extent not currently on file with the applicable Filing Offices with respect to any Opinion Party, Agent will need to file Financing Statements with the applicable Filing Offices and pay all fees associated therewith. Additionally, Agent will need to record the Mortgage Amendments in the appropriate filing jurisdictions and pay all fees and taxes associated therewith.

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EXHIBIT C

FORM OF PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned, PHILLIPS-VAN HEUSEN CORPORATION, a Delaware corporation, THE IZOD CORPORATION, a Pennsylvania corporation, PVH WHOLESALE CORP., a Delaware corporation, PVH RETAIL CORP., a Delaware corporation, IZOD.COM INC., a Delaware corporation, G.H. BASS FRANCHISES INC., a Delaware corporation and CD GROUP INC., a Delaware corporation, PVH CK STORES, INC., a Delaware corporation, PVH OHIO, INC., a Delaware corporation, PVH MICHIGAN, INC., a Delaware corporation, PVH PENNSYLVANIA, INC., a Delaware corporation, PVH WHOLESALE NEW JERSE Y, INC., a Delaware corporation, PVH RETAIL MANAGEMENT COMPANY, a Delaware corporation and PVH SUPERBA/INSIGNIA NECKWEAR, INC., a Delaware corporation (together, the "Makers"), hereby jointly and severally promise to pay to the order of _____ (the "Lender"), at the office of JPMORGAN CHASE BANK, NA, (the "Agent"), at 120 South LaSalle Street, Chicago, Illinois, 60603, at the expiration of the Availability Period as defined in the Second Amended and Restated Credit Agreement dated as of July __, 2007, among the Makers, the Lenders named therein and the Agent (as the same may be amended, modified or supplemented from time to time in accordance with its terms, the "Credit Agreement") or earlier as provided for in the Credit Agreement, the lesser of the principal sum of _____ DOLLARS ($_____) or the aggregate unpaid principal amount of all Loans to the Makers from the Lender pursuant to th e terms of the Credit Agreement, in lawful money of the United States of America in immediately available funds, and to pay interest from the date thereof on the principal amount hereof from time to time outstanding, in like funds, at said office, at a rate or rates per annum and, in each case, and payable on such dates as determined pursuant to the terms of the Credit Agreement.

The Makers promise to pay interest, on demand, on any overdue principal and fees and, to the extent permitted by law, overdue interest from their due dates at a rate or rates determined as set forth in the Credit Agreement.

Except as provided in the Credit Agreement, the Makers hereby waive diligence, presentment, demand, protest and notice of any kind whatsoever. The non-exercise by the holder of any of its rights hereunder in any particular instance shall not constitute a waiver thereof in that or any subsequent instance.

All borrowings evidenced by this Promissory Note and all payments and prepayments of the principal hereof and interest hereon and the respective dates thereof shall be endorsed by the holder hereof on the schedule attached hereto and made a part hereof, or on a continuation thereof which shall be attached hereto and made a part hereof, or otherwise recorded by such holder in its internal records; provided, however, that the failure of the holder hereof to make such a notation or any error in such a notation shall not in any manner affect the obligation of the Makers to make payments of principal and interest in accordance with the terms of this Promissory Note and the Credit Agreement.

This Promissory Note is one of the Notes referred to in the Credit Agreement (and is secured by the Collateral referred to therein), which, among other things, contains provisions for the acceleration of the maturity hereof upon the happening of certain events, for optional and mandatory prepayment of the principal hereof prior to the maturity hereof and for the amendment or waiver of certain provisions of the Credit Agreement, all upon the terms and conditions therein specified. THIS PROMISSORY NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO ANY CONFLICTS OF LAWS PRINCIPLES THEREOF THAT WOULD CALL FOR THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION AND ANY APPLICABLE LAWS OF THE UNITED STATES OF AMERICA.

PHILLIPS-VAN HEUSEN CORPORATION

By:

Name:

Title:

THE IZOD CORPORATION

By:

Name:

Title:

PVH WHOLESALE CORP.

By:

Name:

Title:

PVH RETAIL CORP.

By:

Name:

Title:

IZOD.COM INC.

By:

Name:

Title:

G.H. BASS FRANCHISES INC.

By:

Name:

Title:

CD GROUP INC.

By:

Name:

Title:

PVH CK STORES, INC.

By:

Name:

Title:

PVH OHIO, INC.

By:

Nam e:

Title:

PVH MICHIGAN, INC.

By:

Name:

Title:

PVH PENNSYLVANIA, INC.

By:

Name:

Title:

PVH WHOLESALE NEW JERSEY, INC.

By:

Name:

Title:

PVH RETAIL MANAGEMENT COMPANY

By:

Name:

Title:

PVH SUPERBA/INSIGNIA NECKWEAR, INC.

By:

Name:

Title:

Loans and Payment

Date	Amount and Type of Loan	Payments Principal Interest	Unpaid Principal Balance of Note	Name of Person Making Notation

EXHIBIT D

FORM OF BORROWING REQUEST

Date:
JPMORGAN CHASE BANK, N.A.
as Administrative Agent
530 Fifth Avenue
8th Floor
New York, NY 10036
Attention: Donna DiForio

Ladies and Gentlemen

Reference is made to the Second Amended and Restated Credit Agreement dated as of July __, 2007 (as amended and in effect on the date hereof, the "Credit Agreement< /u>"), among Phillips-Van Heusen Corporation, The IZOD Corporation, PVH Retail Corp., PVH Wholesale Corp., izod.com inc., G.H. Bass Franchises Inc., CD Group Inc., PVH CK Stores, Inc., PVH Ohio, Inc., PVH Michigan, Inc., PVH Pennsylvania, Inc., PVH Wholesale New Jersey, Inc., PVH Retail Management Company, PVH Superba/Insignia Neckwear, Inc. (individually and collectively and jointly and severally herein the "Borrower"), the Lenders named therein, and JPMorgan Chase Bank, NA., as Administrative and Collateral Agent, J.P. Morgan Securities Inc., as Joint Lead Arranger and Sole Bookrunner and Bank of America, N.A. as Joint Lead Arranger and Co-Syndication Agent. Capitalized terms used herein and not otherwise defined herein shall have the meanings attributed thereto in the Credit Agreement.

The undersigned Borrower hereby gives you notice pursuant to Section 2.03 of the Credit Agreement that it reque sts a Borrowing under the Credit Agreement, and in that connection, set forth below are the terms on which such Borrowing is requested to be made:

1. **Date of Borrowing:**
2. **Principal Amount of Borrowing:[1]**
3. **Interest Rate Basis:[2]**
4. **Interest Period:[3]**

[1] (a) With respect to any Eurodollar Borrowing, not less than $5,000,000 and in an integral multiple of $100,000 or (b) with respect to any ABR Borrowing, not less than $100,000 and in an integral multiple of $100,000, but in any event not exceeding the available total Commitments.

[2] Specify whether ABR Borrowing or a Eurodollar Borrowing.

[3] Which shall be subject to the definitions of "Interest Period" and no later than the Maturity Date (applicable for Eurodollar Borrowings only).

5. Funds are requested to be disbursed to the Borrowers Account with:
Bank Name:

ABA Number:

Account Number:

Account Name:

Upon Acceptance of any or all Loans offered by the Lenders in response to this request, the Borrower shall be deemed to have represented and warranted that the conditions to lending specified in [Section 4.01]/[Section 4.02][4] of the Credit Agreement have been satisfied.

[BORROWER]

By:

Name:
Title:

[4] In the case of an Initial Borrowing Request, Section 4.01 applies; for subsequent Borrowing Requests, Section 4.02 applies.

EXHIBIT 10.6

SECOND AMENDMENT TO SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT

SECOND AMENDMENT TO SECOND AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this "Amendment"), dated as of May 27, 2010, between PHILLIPS-VAN HEUSEN CORPORATION, a Delaware corporation ("PVH" and, together with its affiliates and subsidiaries, the "Company"), and EMANUEL CHIRICO (the "Executive").

W I T N E S S E T H

WHEREAS, the Company has previously entered into that Second Amended and Restated Employment Agreement with the Executive, dated as of December 23, 2008, and amended as of January 29, 2010 (the "Employment Agreement");

WHEREAS, Section 2(a) of the Employment Agreement provides that the Executive's base salary shall be reviewed for increase at least annually by the Board of Directors of the Company pursuant to its normal review policies for senior executives;

WHEREAS, on May 6, 2010, the Company completed its acquisition of Tommy Hilfiger B.V. and certain affiliated companies (the "Acquisition");

WHEREAS, because of the significantly increased responsibilities of the Executive due to the Acquisition, the Company has determined to increase the Executive's base salary;

WHEREAS, in light of emerging best practices with respect to executive compensation, the Company has determined that it will not include in the Executive's calculation of severance payable upon certain terminations of employment occurring during the two-year period following a Change in Control (as defined in the Employment Agreement) an amount equal to the cash payments made under the Company's Long Term Incentive Plan (or any successor cash-based long term incentive plan);

WHEREAS, in light of emerging best practices with respect to executive compensation, the Company has determined that it will not provide a Gross-Up Payment (as defined in the Employment Agreement) to the Executive should he become subject to the excise tax (the "Excise Tax") imposed by Section 4999 of the Internal Revenue Code of 1986, as amended; and

WHEREAS, to mitigate the potential adverse effect of having to pay the Excise Tax, the Company has determined to amend the Employment Agreement to provide that if the severance to be received by the Executive would subject him to the Excise Tax, his severance would be reduced by the amount required to avoid the Excise Tax if such a reduction would give the Executive a better after-tax result than if he had received the full severance amount; and

WHEREAS, the parties desire to amend the Employment Agreement to effect the foregoing.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. **Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Employment Agreement.**

2. **Amendment of Section 2(a). The first sentence of Section 2(a) of the Employment Agreement is hereby deleted in its entirety and the following is substituted in lieu thereof:**

Effective June 1, 2010, the Company shall pay the Executive a base salary at an annual rate of $1,250,000 (the "Base Salary"), payable in accordance with the normal payroll procedures of the Company in effect from time to time.

3. **Amendment of Section 3(f)(ii).**

(a) **The first sentence of Section 3(f)(ii) of the Employment Agreement is hereby deleted in its entirety and the following is substituted in lieu thereof:**

If within two years after the occurrence of a Change in Control, the Executive terminates his employment with the Company for Good Reason or the Company terminates the Executive's employment for any reason other than death, Disability or Cause, the Company (or the then former Company subsidiary employing the Executive), or the consolidated, surviving or transferee Person in the event of a Change in Control pursuant to a consolidation, merger or sale of assets, shall pay to the Executive, in a lump sum immediately subsequent to the date of such termination, (A) the portion of the Base Salary for periods prior to the effective date of termination accrued but unpaid (if any); (B) all unreimbursed expenses (if any), subject to Section 2(d); (C) an aggregate amount equal to three times the sum of (I) the Base Salary plus (II) an amount equal to the same percentage of the Executive's Base Salary that the Executive's "target" level pa yout was set at under the Company's annual bonus plan (if any) in respect of the fiscal year prior to the fiscal year during which the termination occurs; and (D) the payment or provision of any Other Benefits.

(b) **The fifth sentence of Section 3(f)(ii) of the Employment Agreement is hereby deleted in its entirety.**

4. **Amendment of Section 3(f)(iii). Section 3(f)(iii) of the Employment Agreement is hereby deleted in its entirety and the following is substituted in lieu thereof:**

(iii) Excise Taxes. Notwithstanding anything in the foregoing to the contrary, if Independent Tax Counsel (as that term is defined below) determines that the aggregate payments and benefits provided or to be provided to the Executive pursuant to this Agreement, and any other payments and benefits provided or to be provided to the Executive from the Company or affiliates or any successors thereto constitute "parachute payments" as defined in Section 280G of the Code (or any successor provision thereto) ("Parachute Payments") that would be subject to the excise tax imposed by Section 4999 of the Code (the "Excise Tax"), then, except as otherwise provided in the next sentence, such Parachute Payments shall be reduced to the extent the Independent Tax Counsel shall determine is necessary (but not below zero) so that no portion thereof shall be subject to the Excise Tax. If Independent Tax Counsel determines that the Executive would receive in the aggregate greater payments and benefits on an after tax basis if the Parachute Payments were not reduced pursuant to this Section 3(f)(iii), then no such reduction shall be made. The determination of which payments or benefits shall be reduced to avoid the Excise Tax shall be made by the Independent Tax Counsel, provided that the Independent Tax Counsel shall reduce or eliminate, as the case may be, payments or benefits in the order that it determines will produce the required reduction in total Parachute Payments with the least reduction in the after-tax economic value to the Executive of such payments. If the after-tax economic value of any payments are equivalent, such payments shall be reduced in the inverse order of when the payments would have been made to the Executive until the reduction specified herein is achieved. The determination of the Independent Tax Counsel under this Section 3(f)(iii) shall be final and binding on all part ies hereto. For purposes of this Section 3(f)(iii), "Independent Tax Counsel" shall mean a lawyer, a certified public accountant with a nationally recognized accounting firm, or a compensation consultant with a nationally recognized actuarial and benefits consulting firm with expertise in the area of executive compensation tax law, who shall be selected by the Company and shall be acceptable to the Executive (the Executive's acceptance not to be unreasonably withheld), and whose fees and disbursements shall be paid by the Company. Notwithstanding anything herein to the contrary, this Section 3(f)(iii) shall be interpreted (and, if determined by the Company to be necessary, reformed) to the extent necessary to fully comply with Section 409A of the Code; provided that the Company agrees to maintain, to the maximum extent practicable, the original intent and economic benefit to the Executive of the applicable provision without violating the provisions of Section 409A of the Code.

5. Miscellaneous.

(a) This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

(b) This Amendment shall be construed without regard to any presumption or other rule requiring construction against the drafting party.

IN WITNESS WHEREOF, the parties have executed this Amendment on the date first set forth above.

PHILLIPS-VAN HEUSEN CORPORATION

By: /s/ Mark D. Fischer
Name: Mark D. Fischer
Title: Senior Vice President

/s/ Emanuel Chirico
Emanuel Chirico

EXHIBIT 15

Acknowledgement of Independent Registered Public Accounting Firm

We are aware of the incorporation by reference in

- **(i) Post-Effective Amendment No. 2 to Registration Statement (Form S-8, No. 2-73803), which relates to the Phillips-Van Heusen Corporation Employee Savings and Retirement Plan,**
- **(ii) Registration Statement (Form S-8, No. 33-50841), which relates to the Phillips-Van Heusen Corporation Associates Investment Plan for Residents of the Commonwealth of Puerto Rico,**
- **(iii) Registration Statement (Form S-8, No. 333-29765), which relates to the Phillips-Van Heusen Corporation 1997 Stock Option Plan,**
- **(iv) Registration Statement (Form S-8, No. 333-41068), which relates to the Phillips-Van Heusen Corporation 2000 Stock Option Plan,**
- **(v) Registration Statement (Form S-8, No. 333-109000), which relates to the Phillips-Van Heusen Corporation 2003 Stock Option Plan,**
- **(vi) Registration Statement (Form S-8, No. 333-125694), which relates to the Phillips-Van Heusen Corporation Associates Investment Plan for Residents of the Commonwealth of Puerto Rico,**
- **(vii) Registration Statement (Form S-8, No. 333-143921), Registration Statement (Form S-8, No. 333-151966) and Registration Statement (Form S-8, No. 333-160382), each of which relates to the Phillips-Van Heusen Corporation 2006 Stock Incentive Plan,**
- **(viii) Registration Statement (Form S-8, No. 333-158327), which relates to the Phillips-Van Heusen Corporation Associates Investment Plan for Salaried Associates, and**
- **(ix) Registration Statement (Form S-3, No. 333-166190), which relates to an unlimited amount of debt securities, common stock and preferred stock and pursuant to which Phillips-Van Heusen Corporation has issued (i) 7 3/8% Senior Notes due 2020; and (ii) 5,750,000 shares of common stock to the public,**

of our report dated September 10, 2010 with respect to the unaudited consolidated financial statements of Phillips-Van Heusen Corporation that are included in its Form 10-Q for the thirteen week period ended August 1, 2010.

Pursuant to Rule 436(c) of the Securities Act of 1933, our report is not a part of the registration statements or post-effective amendments prepared or certified by accountants within the meaning of Section 7 or 11 of the Securities Act of 1933.

/s/ ERNST & YOUNG LLP

New York, New York
September 10, 2010

EXHIBIT 31.1

I, Emanuel Chirico, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Phillips-Van Heusen Corporation;

2. Based on my knowledge, this Quarterly 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 Quarterly Report;

3. Based on my knowledge, the financial statements, and other financial information included in this Quarterly 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 Quarterly 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 we 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 Quarterly 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.

Dated: September 10, 2010

/s/ EMANUEL CHIRICO

Emanuel Chirico
Chairman and Chief Executive Officer

EXHIBIT 31.2

I, Michael Shaffer, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Phillips-Van Heusen Corporation;

2. Based on my knowledge, this Quarterly 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 Quarterly Report;

3. Based on my knowledge, the financial statements, and other financial information included in this Quarterly 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 Quarterly 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 we 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 Quarterly 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.

Dated: September 10, 2010

/s/ MICHAEL SHAFFER

Michael Shaffer
Executive Vice President and
Chief Financial Officer

EXHIBIT 32.1

CERTIFICATE PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Phillips-Van Heusen Corporation (the "Company") for the quarterly period ended August 1, 2010 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Emanuel Chirico, Chairman and Chief Executive Officer of the Company, certify, pursuant to section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

(i) **the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and**

(ii) **the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.**

Dated: September 10, 2010

By: /S/ EMANUEL CHIRICO
Name: Emanuel Chirico
Chairman and Chief Executive Officer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

EXHIBIT 32.2

CERTIFICATE PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report on Form 10-Q of Phillips-Van Heusen Corporation (the "Company") for the quarterly period ended August 1, 2010 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Michael Shaffer, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to section 906 of the Sarbanes-Oxley Act of 2002, 18 U.S.C. Section 1350, that:

(i) **the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and**

(ii) **the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.**

Dated: September 10, 2010

By: /s/ MICHAEL SHAFFER
Name: Michael Shaffer
Executive Vice President and
Chief Financial Officer

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.